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COMMERCIAL CRIME IN CANADA

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Release No. 2, March 2026

This practical service compiles information regarding criminal liability arising from white collar crime in Canada. For each offence the full text of the specific legislation is provided together with an analysis of the important case law, the form of charge and cross-references to related legislation. There is detailed coverage of modes of criminal participation and the means available for pursuing proceeds of crime and restitution.

What's New in this Release

This release features updates to the case law and commentary in the following chapters: 2 (Criminal Fraud), 3 (Theft), 12 (Proceeds of Crime), 13 (Possession of Property Obtained by Crime), 14 (Fines, Forfeiture and Restitution), and 15 (Fraudulent Trade Practices).

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Case Highlights

Recent case law introduced with this release includes the following:

- **Criminal Fraud — Offence of Fraud — Statements by Accused — Accused Suspected of Fraud in Obtaining CPP and OAS Benefits — Interviewed by Service Canada Investigator — Absence of Caution — Statements Inadmissible — Issue of Voluntariness —** While the accused was suspected of fraud in obtaining the CPP and OAS benefits, she was interviewed over the phone by a Service Canada Investigator without being cautioned, her statements were not admissible at her trial as the Crown did not meet its onus of proving beyond a reasonable doubt that the absence of a caution had no impact on the voluntariness of the statements. In this case, it was alleged that in 2002, the accused applied for and received from Service Canada the Survivor's Allowance, an allowance payable only to a widow between 60 and 64 years of age who was still single. In 2003, it was further alleged that she applied for and received the Guaranteed Income Supplement. The Crown alleged that the accused identified herself as single in her applications, but that in a later application made in 2020 she allegedly reported that she had been in a common law relationship during these earlier periods. While suspected of fraud in obtaining the CPP and OAS benefits, the accused was interviewed over the phone by a Service Canada Investigator without being cautioned. The accused gave two non-cautioned statements on March 16, 2021 and May 3, 2021 over the phone to the Investigator. The Crown applied to admit her statements under the common law confessions rule at her trial for fraud. The Crown acknowledged that when called, the accused was a fraud suspect, and the Investigator was a person in authority. The Investigator's testimony at the voir dire established that he did not make any threats or promises or provide any inducements to the accused. Furthermore, the accused was not subjected to oppressive conditions or any trickery of the sort that would shock the community. The accused had an operating mind — that is, she possessed the cognitive ability to understand what was being said and that it might be used as evidence in criminal proceedings: *R. v. Hodge*, 2026 NLSC 3, 2026 CarswellNfld 12, [2026] N.L.J. No. 6 (N.L. S.C.).
- **Fraudulent Trade Practices — Customs Act — Review of Seizure and Forfeiture — Police Investigating Manufacture of Firearms by Accused — CBSA Providing Customs Information to Police — Disclosure Amounting to Nine-Year Data Dump — Some Entries Included in ITO Used for Search Warrant — Customs Information to be Excised from ITO as Overly Broad and Privacy-Invasive Data —** Where the police were investigating the manufacture of firearms by the accused, and obtained Customs Information from the CBSA beyond goods imported into Canada by the accused, and constituting a nine-year data dump, and the police included some entries in the ITO used to obtain a search warrant of the accused's premises, the Customs Information was ordered to be excised from the ITO as the CBSA provided irrelevant, overly broad, and privacy-invasive data. In this case, in 2023, members of the Edmonton Police Service (EPS) were investigating the accused for manufacturing firearms using 3D printing technology. As part of that investigation, EPS obtained information from

a Canada Border Services Agency (CBSA) official, purportedly under the authority of s 107(5)(a) of the Customs Act, R.S.C. 1985, c. 1 (2nd Supp.), which described goods imported into Canada by the accused and others over several years (the "Customs Information"). Although EPS requested records for a 14-month period, the CBSA official disclosed a nine-year data dump comprising 114 shipments, including information about dozens of uninvolved individuals. EPS relied on only 15 entries in that Customs Information, which were included in the Information to Obtain (ITO), in obtaining the search warrant of the accused's residence. The execution of that warrant resulted in the seizure of firearms and related equipment. Based on that seizure, the accused was charged with multiple firearms offences: *R v. Tucker*, 2026 ABKB 17, 2026 CarswellAlta 38, [2026] A.J. No. 27 (Alta. K.B.).