

Protect Your Money

This webinar will help service providers working with older adults at risk of financial abuse

Protect Your Money - March 25, 2019
11:00am - 12:00pm

- **Evidence:** What is known about financial abuse?
- **Defining and conceptualizing financial abuse:** What is the financial abuse of older adults?
- **Complexity:** Social isolation, cognitive challenges, interdependence and undue influence
- **Financial Fraud:** What are some common frauds and scams?
- **Action:** How to recognize the warning signs.
- **Intervention:** what you can do about elder abuse, who to contact, and where to find resources.

WEBINAR STARTING SOON

Information and opinions expressed today are not necessarily those of the Government of Ontario



Protect Your Money

This webinar will help service providers working with older adults at risk of financial abuse

You can also join by telephone:

Canada: 1 888 350 1025

Access code: 205-804-809

Audio PIN: Shown after joining the training



Protect Your Money

This webinar will help service providers working with older adults at risk of financial abuse

All attendees will be muted.

Please type any questions in the “Chat/Question box” box to “Mary Mead” (that’s us!) or to “everyone”.

The session is being recorded and will be posted on the EAO website.

Our contact details will be presented at the end.

Evaluation: please complete after training.

Speakers



Christine Allum, Senior Advisor, Investor Engagement and Stakeholder Partnerships, Ontario Securities Commission (OSC)

Christine Allum is Senior Advisor, Investor Engagement and Stakeholder Partnerships in Investor Office at the Ontario Securities Commission where she partners with various groups and organizations to deliver investor education, fraud prevention workshops. Her expertise includes adult training, event coordination, curriculum resource development, relationship management and community outreach. She graduated from Ryerson University and Ontario Institute for Studies in Education of the University of Toronto.



Christine Chan, Regional Consultant, Elder Abuse Ontario (EAO)

Christine Chan works for Elder Abuse Ontario as Regional Consultant for the GTA west and Central West. She has 20 years of experience working in social services and public health. She has been a lifeline counsellor and is experienced in responding to abusive situations. Christine has a Master of Public Health in Epidemiology, a Bachelor of Commerce and Administration, and is a part-time PhD student at University of Toronto studying suicide ideation.

Agenda

- 11:00 - 11:25 am:** Christine Chan, EAO
Financial Fraud
- 11:25am - 11:50 am:** Chris Allum, OSC
Common Scams
- 11:50am:** Q & A
- Noon:** Webinar ends

Elder Abuse Ontario (EAO)

- ✓ Not-for-profit charitable organization
- ✓ Established in 2002
- ✓ Funded by the Province of Ontario via the Ministry of Seniors & Accessibility

Mission: Create an Ontario where all seniors are free from abuse through awareness, education, training, collaboration, service co-ordination and advocacy.

EAO oversees the Implementation of the Ontario Strategy to combat Elder Abuse

What is Elder Abuse?

“Elder abuse is a single or repeated act,
or lack of appropriate action,
occurring within any relationship
where there is an expectation of trust
which causes harm or distress to an older person.”

World Health Organization (WHO) definition

POWER

CONTROL



INTO THE LIGHT: NATIONAL SURVEY ON THE MISTREATMENT OF OLDER CANADIANS 2015

8.2% of older adults are victims



NICE

National Initiative for the Care of the Elderly

Initiative nationale pour le soin des personnes âgées



Financial abuse commonly reported,
together with psychological abuse

Financial abuse: what is it?

**“Any improper conduct,
done **with or** without the informed consent
of the older adult,
that results in monetary and/or personal gain
to the abuser and/or
monetary/personal loss to the older adult.”**



Financial abuse: what is it?

- Unpaid rent
- Adult child ‘borrows funds’ undocumented and never repaid
- Steals parent’s money and pension cheques and steals/borrows posses
- “Give me a gift”.
- “Make me your joint account holder”.
- **MISUSE / THEFT by Power of Attorney**



Financial abuse: what is it?

2/3rd by family, friends or other trusted individuals.

- Family members
- Caregivers
- Neighbours
- Friends and acquaintances
- Attorneys
- Banks and other financial institutions
- Health care providers



Royale's story





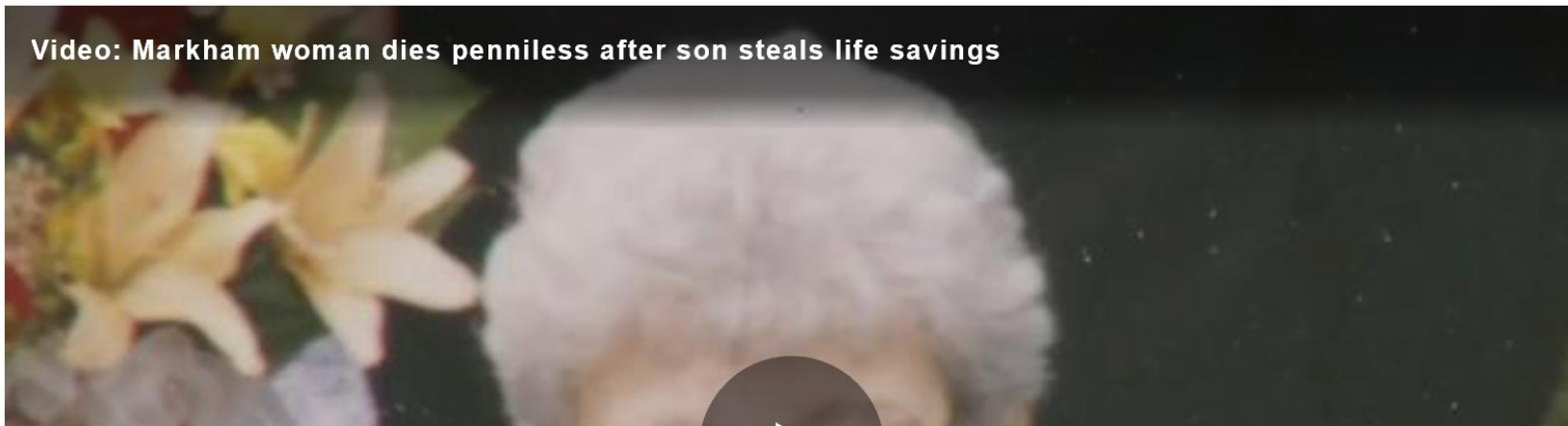
Markham woman dies penniless after son steals life savings

BY [AVERY HAINES AND CICI FAN](#)

POSTED AUG 9, 2016 5:03 PM EST LAST UPDATED AUG 10, 2016 AT 1:08 PM EST

LOCAL

Video: Markham woman dies penniless after son steals life savings



Her husband, Solomon Klinitz died in July 2007 of health issues.

At that time, Royale Klinitz become the sole owner of all the couple's accounts, worth \$557,000.

She trusted and relied on **her son David**, who had power of attorney, to look after her finances.

Between August 2007 and December 2010, David Klinitz stole the funds in his mother's TD account for his own investment purposes.

He redirected monthly statements that were previously sent to his mother to another address so she would not find out.

It wasn't until June 2010, **five months after the cash ran out**, that Royale Klimitz's other two children realized their mother's accounts were emptied and she was **five months behind on payments to the retirement home.**

Royale's story



“I know this might sound conflicting, but I still love him”

Power of Attorney

- Appoints an individual (“the attorney”) to act on your behalf.
- Must be mentally capable at the time of making a POA.
- **POA for Property:**
 - Continuing
 - Non-continuing
 - Springing

Duties of the Attorney

The person given POA (the Attorney) has a duty to act in the Grantor's best interest. The Grantor can set out in the POA document the types of transactions that they want the Attorney to do for them or insert restrictions as to what they should not do. The Attorney is required to keep detailed records of the transactions they complete on the Grantor's behalf.

What can the Attorney do?

Unless the Grantor limits their Attorney's authority, they can do almost everything with their finances and property that the Grantor could do. If they don't have any limitations in their POA document, their attorney can do their banking, sign cheques, buy or sell real state in your name, and buy consumer goods.

Their attorney does not become the owner of any of their money or property. He or she only has authority to manage it on the older adult's behalf.

Can the Grantor still make decisions?

As long as they are mentally capable, they can continue to make their own decisions about their finances after granting a POA.

Tips on minimizing abuse in Power of Attorney for Property

- Use a lawyer
- Choose powers carefully
- Triggering clause
- Be the one to initiate the POA
- Appointing POAs
- Can perform duties as per SDA
- Revoking –[note any new POAs, including a bank POA, has the effect of revoking any prior POA. Seek legal advice before creating a new POA.]

Power of Attorney Theft

The abuse of powers by an appointed attorney acting as POA is not civil; it's criminal

Theft by Person(s) Holding Power of Attorney: Section (33 I) of the Criminal Code of Canada:

Everyone commits theft who, being entrusted, whether solely or jointly with another person, with a power of attorney for the sale, mortgage, pledge or other disposition of real or personal property, fraudulently sells, mortgages, pledges or otherwise disposes of the property or any part of it, or fraudulently converts the proceeds of a sale, mortgage, pledge or other disposition of the property, or any part of the proceeds, to a purpose other than that for which he was entrusted by the power of attorney.

Attorney for Property: lack of safeguards

Often, Attorneys aren't automatically required to prove that the expenditures they make are in the principal's best interest.

Often, Attorney's are not required to show anyone the records of their financial transactions.

RED FLAGS

- Changes in living arrangements
- Unexplained inability to pay bills
- Unexplained withdrawal of \$\$
- Changes in appearance
- Changes in spending
- Being overcharged for services or products, etc.



Attorney for Property: HOW ABUSE HAPPENS

Mom/Dad adds Attorney's name to their bank account or investment certificate.

Attorney withdraws pensions and investment income as soon as they have been deposited.

Attorney uses grantor's bank card or credit card.

Attorney redirects grantor's mail.

Attorney for Property: HOW ABUSE HAPPENS

Attorney sells or liquidate grantor's home in order to get hands on cash value.



Elder Abuse Ontario
Stop Abuse - Restore Respect

CC
Ontario

So what are the bank's responsibilities?

To a bank, a legitimate Attorney is legally the same as the customer.

Therefore, the bank is obliged to respond to the Attorney's instructions.

But the Bank is not authorized to respond if the POA is not valid.

A current Attorney can request, in writing, that the Bank branch advise if any subsequent POA is filed with the branch.

So what are the bank's responsibilities?

A bank normally has no obligation to monitor transactions in customer's instructions.

Where there are 'suspicious circumstances', a bank is obliged to make such appropriate inquiries as would be made by a 'reasonable banker' but circumstances are unique to every case.

So what are the bank's responsibilities?

Where a bank's potential liability therefore lies is:

-if a bank acts on the strength of an INVALID POA, then the bank may be liable to its customer or the Estate

-if there were suspicious circumstances, and if the bank failed to make reasonable inquiries, AND if that failure led to a loss to the customer/estate, then the bank could be liable in case of fraud or breach of fiduciary duty.

Criminal offences that may be relevant

- Theft by a person holding a power of attorney (s.331)
- Theft (s.332)
- Misappropriation of money held under direction (s. 332)
- Theft or forgery of a credit card (s. 342)
- Failure to provide the necessaries of life (s.215)
- Criminal Negligence(s.219) Causing Death (s.220)
- Uttering Threats (s.264.1)
- Intimidation (s. 423)
- Criminal breach of trust (s. 336)
- *Accompanied by* Physical or Sexual Assault (ss.265&271)
- *Accompanied by* Unlawful Confinement (s.279)

Civil remedies exist

- Stop someone from acting as an Attorney under a Continuing Power of Attorney for Property
- Make an Attorney explain where the money went.
- Make the abuser repay the money taken (payment of 'damages' plus interest on money taken plus legal costs - usually only a portion of the victim's lawyer's fees)

Civil remedies exist

- Declare a transfer of property invalid
- Declare that designations are invalid
 - Attorney cannot change or revoke a beneficiary e.g. HOOPP, life insurance, Will
- Set aside a predatory marriage

Who makes your “Property” decisions if you are incapable?

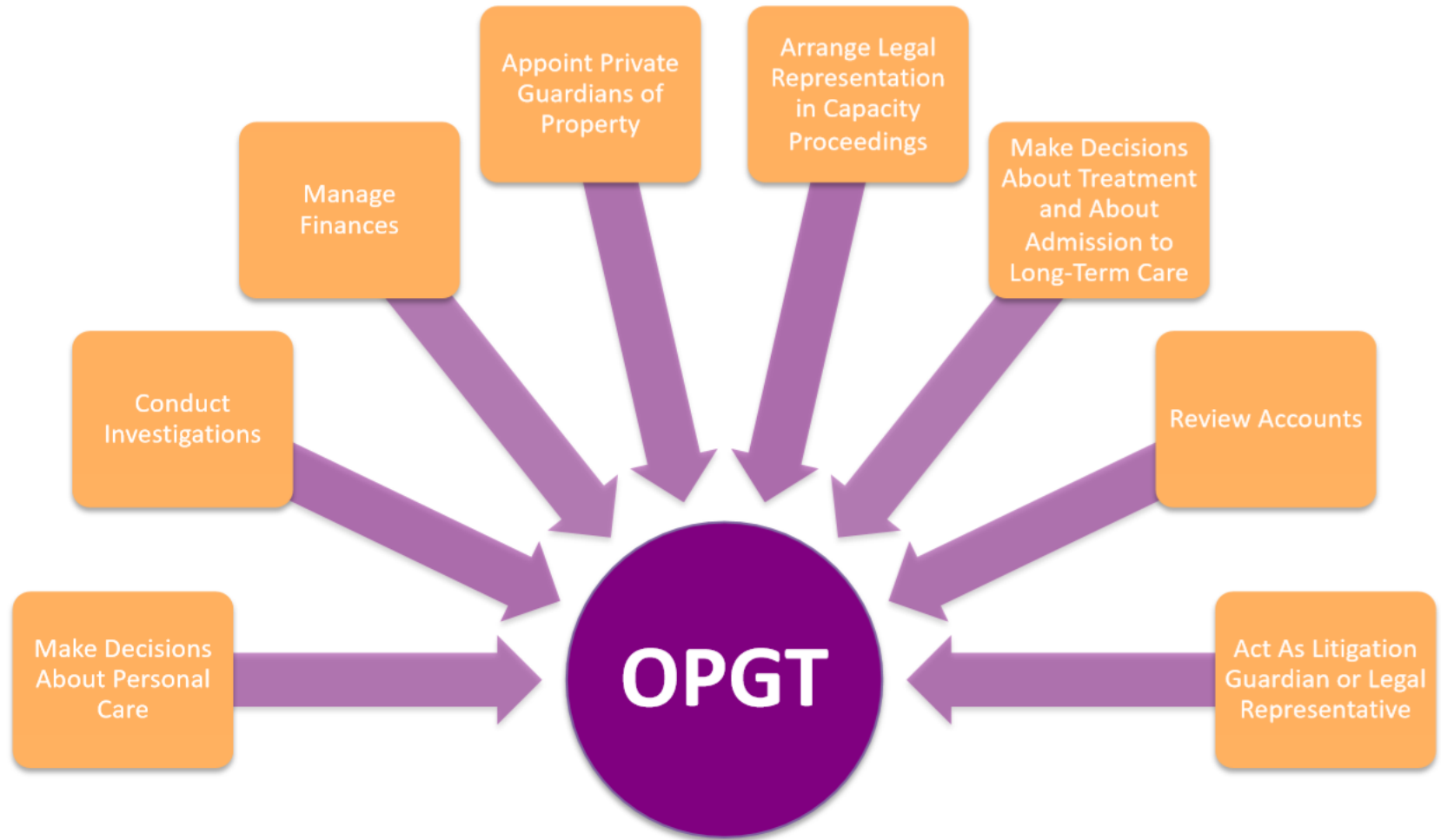
1. Guardian (by court order)
2. POA Property
3. Office of the Public Guardian and Trustee (PGT)

At its core, mental capacity is about decision making

- All adults are presumed to be mentally capable of making their own decisions unless and until the contrary has been proven.
- Unwise decisions are allowed.
- You can be capable of making personal care decisions and, at the same time, you can be considered incapable of financial decisions.

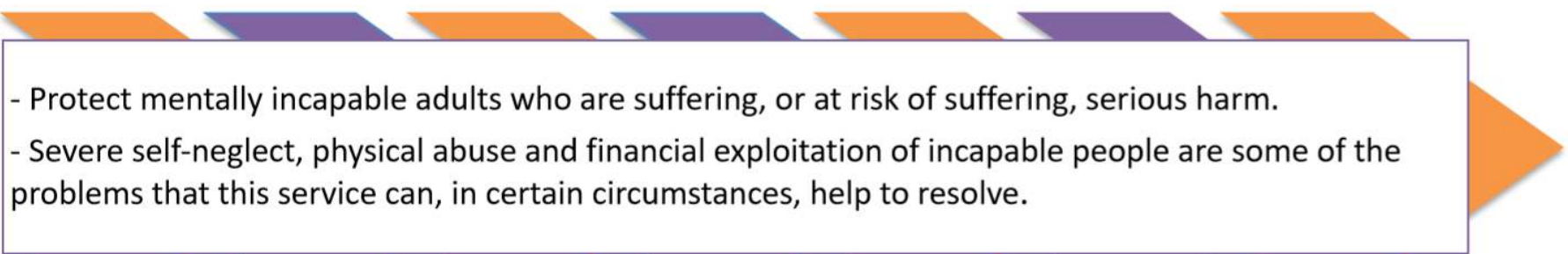
Office of the Public Guardian and Trustee (OPGT)

Protecting the Rights and Interests of Mentally Incapable Adults






What is the purpose of the OPGT's guardianship investigation service?

- 
- Protect mentally incapable adults who are suffering, or at risk of suffering, serious harm.
 - Severe self-neglect, physical abuse and financial exploitation of incapable people are some of the problems that this service can, in certain circumstances, help to resolve.

How does the OPGT become aware of these situations?

- 
- Anyone may contact the OPGT, by telephone or mail, to express concerns about a person who may be incapable and at serious risk.
 - The telephone number is 416-327-6348 or toll-free at 1-800-366-0335 or TTY: 416-314-2687.

Mandatory Reporting

In Ontario, the law says that the abuse of an older adult living in a **long-term care home** or **retirement home** must be **reported immediately** by anyone who has reasonable grounds to suspect that a resident has been harmed or will be harmed.

Retirement Home Act s.75. (1) and Long-Term Care Homes Act, 2007 s.24(1)

Ministry of Health and Long-Term Care

1-866-434-0144

Retirement Home Regulatory Authority

1-855-275-7472

Police can also be used when there is a violation of the criminal code: Assault, threats, theft, criminal negligence, murder, harassment etc.

Professional Responsibility To Report Financial Abuse

P.I.P.E.D.A. Personal Information Protection and Electronic Documents Act (Federal Legislation)

PIPEDA requires private-sector organizations to collect, use or disclose people's personal information by fair and lawful means, with their consent, and only for purposes that are stated and reasonable.

Permits disclosure of personal information without knowledge or consent “to another organization for the purposes of detecting, suppressing fraud or preventing fraud that is likely to be committed and it is reasonable to expect that the disclosure with the knowledge or consent of the individual would compromise the ability to prevent, detect or suppress the fraud (s 7 (3) (d.2)).

PIPEDA is applicable in all provinces and territories except Quebec, BC and Alberta, which have passed similar legislation. Since Ontario has passed privacy legislation with respect to *health information* that is similar to PIPEDA, PIPEDA only applies to *non-health information* in Ontario.

Professional Responsibility To Report Financial Abuse

Personal Health Information Protection Act 2004 (Provincial Legislation)

A health information custodian may *disclose personal health information* without consent where the custodian believes on **reasonable grounds** that that the *disclosure* is necessary to eliminate or reduce a significant risk of bodily harm to one or more *persons*.

Concerns about Privacy and consent

A health information custodian may disclose personal health information about an individual:

- (a) For the purpose of determining, assessing or confirming capacity under the *Health Care Consent Act, 1996*, the *Substitute Decisions Act, 1992* or this Act;
- (e) To the Public Guardian and Trustee, ...so that they can carry out their statutory functions.

Response

1. Confirm suspicions (screen, document and evaluate)
2. Report incident to MOHLTC, RHRA, and Police, if necessary
3. Intervention / Inform supervisor and care team
4. Follow up with the patient or client

Provincial Information and Support

Elder Abuse Ontario

www.elderabuseontario.com/

(416) 916-6728

Ontario Provincial Police

www.opp.ca

1-800-310-1122

Ministry of Health LTC-Action Line

1-866-434-0144

www.ontario.ca/page/long-term-care-home-complaint-process

Retirement Homes Regulatory Authority

www.rhra.ca/en/

1-855-275-7472

Senior's Safety Line

1-866-299-1011

Senior Crime Stoppers

<http://ontariocrimestoppers.ca>

1-800-222-TIPS (8477)

Office of the Public Guardian and Trustee

www.attorneygeneral.jus.gov.on.ca

1-800-366-0335

Canadian Anti-Fraud Centre

<http://www.antifraudcentre-centreantifraude.ca>

1-888-495-8501

ACE

(Advocacy Centre for the Elderly)



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- WELCOME TO ACE
- ACE LIBRARY
- EN FRANCAIS
- Consumer Protection
- Elder Abuse
- Abus des Aînés
- Health Care Consent & Advance Care Planning
- Home Care

Welcome to ACE

The Advocacy Centre for the Elderly has scheduled intake days on Mondays, Wednesdays and Fridays.

Dial **1-855-598-2656** or **416-598-2656** to reach us.

The Advocacy Centre for the Elderly is a community based legal clinic for low income senior citizens. ACE is managed by a volunteer board of directors at least half of whom are seniors. ACE is funded through Legal Aid Ontario and is the first legal clinic in Canada to specialize in the legal problems of seniors.

Thank you

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Christine Chan
Regional Consultant

Elder Abuse Ontario

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PROTECT YOUR MONEY

OSC in the Community Presentation



ONTARIO
SECURITIES
COMMISSION

INVESTOR OFFICE

ONTARIO SECURITIES COMMISSION

- A Crown corporation that regulates the securities industry in Ontario
- Mandate: provides protection to investors from unfair, improper or fraudulent practices, foster fair and efficient capital markets and confidence in capital markets, and contribute to the stability of the financial system and the reduction of systemic risk

INVESTOR OFFICE

- Leads the OSC's efforts in investor engagement, education, outreach and research
- Has a policy function and plays a key role in the oversight of the Ombudsman for Banking Services and Investments (OBSI)
- Provides leadership in the area of behavioural insights at the OSC



AVOIDING INVESTMENT FRAUD



ONTARIO
SECURITIES
COMMISSION

INVESTOR OFFICE

INVESTMENT FRAUD

- **1 in 20** Canadians is a victim of investment fraud
- **1 in 5** Canadians have been approached with a potential fraud
- Fraud is an underreported crime
- Affects mental and physical health, relationships, quality of life
- 32% of victims were more vulnerable to physical illness or panic and anxiety attacks



AFFINITY FRAUD

Target: Groups sharing a common identity (e.g. cultural, religious, occupational, sports related)

How it works:

- Fraudsters approach potential victims through a group or community organization that they belong to
- When they have developed a strong relationship or gained the groups trust, they convince people to invest in their scheme



PONZI SCHEME

Target: Investors

How it works:

- Investors are recruited and encouraged to recruit others
- Money from new investors are used to pay investment returns to earlier investors
- Returns are not earned from investments



PUMP AND DUMP, BOILER ROOM

Target: Anyone with money

How it works:

- Investors may receive an unsolicited phone call or e-mail
- Encouraged to buy promising over-the-counter or penny stock
- As demand for the stock increases, stock price increases
- When all the stock (shares) are sold, share price plummets – shares are worthless



BINARY OPTIONS

Target: Anyone with money

How it works:

- Encouraged to place **all or nothing bet** on how an asset will perform in a limited amount of time
- Usually use credit card to finance transaction

Binary options trading platforms are **not** registered to operate in Canada

DOUBLE DIP/REPEAT SCAM

Target: Fraud victims

How it works:

- Con artist will create, reuse and sell lists of victims
- Fraud victims are targeted for repeat scam
- “Initial investment will pay off if you send more money”
- “Previous investment will pay off if rolled into a new one”

3 out of 10 fraud victims are defrauded more than once

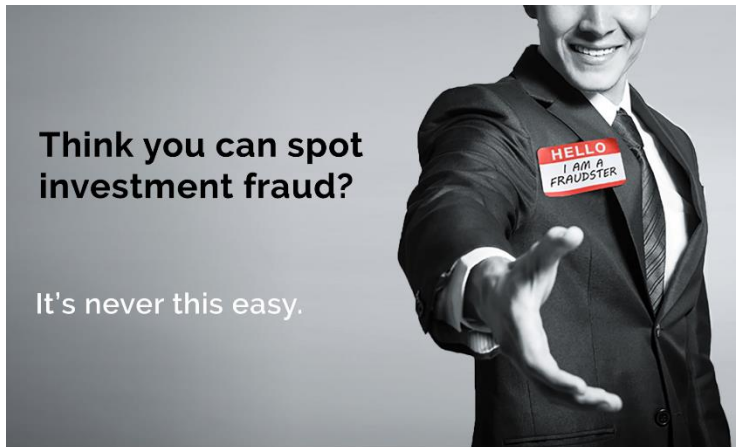


WARNING SIGNS OF FRAUD

- High pressure sales tactic – Act now!
- Phone call, email from someone you don't know
- Promise of high return with low risk
- Encouraged to recruit friends/family
- Unregistered seller
- Suggest falsifying financial information
- Tax avoidance strategy
- Company about to be listed on an exchange



DO A BACKGROUND CHECK



Always check the registration of any person or business trying to sell you an investment or give you investment advice. Take steps to better protect yourself by checking registration before you invest and knowing the common warning signs of investment fraud.

- Check registration of individual/company
- Find out what products/services the individual is registered to provide
- Learn if any disciplinary proceedings
- Get investor alerts and warnings

1. CHECK BEFORE YOU INVEST 2. LEARN THE WARNING SIGNS OF FRAUD 3. SIGN UP FOR INVESTOR NEWS



Use the Canadian Securities Administrators' National Registration Search to check the registration of any person



Investment fraud can be easy to recognize when you know what it looks like. Watch for these common warning



Get the latest updates, tools and investor warnings from the OSC's Investor Office sent right to your inbox. [MORE](#)

Visit: [CheckBeforeYouInvest.ca](https://www.checkbeforeyouinvest.ca)

Call: **1-877-785-1555**

IF YOU SUSPECT A SCAM

Contact

- Ontario Securities Commission
Toll free: 1-877-785-1555
TTY: 1-866-827-1295
Email: inquiries@osc.gov.on.ca
- Your local police
- Canadian Anti-Fraud Centre
1-888-495-8501
- Canada Revenue Agency
1-800-959-8281



Get smarter about money



QUESTIONS?



CONTACT US



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