

## **Opportunity Creation by Entrepreneurship: A Case Study of Convenience in White-Collar Crime**

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### **Abstract**

The theory of convenience suggests that white-collar crime is dependent on a financial motive to explore possibilities and avoid threats, an organizational opportunity to commit and conceal financial crime, and a personal willingness for deviant behavior. This article presents a case study where the organizational setting was symbolic rather than real, and where the entrepreneurial offender was able to attract investors based on trustworthy allies, impressive business plans, and global locations. Convenience theory is applied to the case study by identification of themes relevant to the case. The convicted offender is an interesting example of an entrepreneurial individual who created opportunities for deviant behavior.

**Keywords:** Convenience theory; investment fraud; criminal entrepreneurship; financial motive; organizational opportunity; deviant behavior.

### **Introduction**

Investors believed in the message presented by advisor Declan Lennon in his “White Paper on Metonit Expansion Plans”, where the current position of the business was described as follows (Tingretten, 2018: 6):

The business is currently run by two successful entrepreneurs who have extensive business experience in both running a business and investing in projects. Olav is the technical expert in the bond trading environment and Jarl’s expertise is in company structures and other projects. Both are extremely busy managing the day to day activities and travelling extensively across Europe and North America.

Jarl Moe had previously served time in prison for Ponzi fraud. Two decades later, a district court in Norway convicted Olav Egil Borgemoen to prison for investment fraud (Tingretten, 2018). Among the investors were Cormac Mohan and Molly Slattery, a married couple in Ireland, who had trusted the white paper produced by Declan Lennon in Spain.

Moe and Borgemoen are interesting examples of entrepreneurial individuals who create opportunities for deviant behavior (Gottschalk and Smith, 2011; McElwee and Smith, 2015; Ramoglou and Tsang, 2016; Smith, 2009; Tonoyan et al., 2010; Welter et al., 2017). The sentencing of Borgemoen by Tingretten (2018) serves in this article as a case study of convenience in white-collar crime. According to the

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theory of convenience, organizational opportunity is at the core of convenience for white-collar offenders (Gottschalk, 2019; Vasiu and Podgor, 2019). The organizational context represents an opportunity for elite members to both commit and conceal financial crime, as illustrated in this case study.

This article deals with a most relevant topic, white-collar crime, especially in entrepreneurship. It uses a Norwegian case study which is important to broaden examples in the sense that much literature on white-collar crime is still from the United States. The article uses the case study to illustrate how convenience theory might be used to better understand white-collar offenders, with a special focus on the organizational context. The theory of convenience is a new theoretical approach that was first introduced by Gottschalk (2017).

### **White-Collar Convenience**

Convenience is the state of being able to proceed with something with little effort or difficulty, avoiding pain and strain (Mai and Olsen, 2016). Convenience is savings in time and effort (Farquhar and Rowley, 2009), as well as avoidance of pain and obstacles (Higgins, 1997). Convenience is a relative concept in comparing alternative paths, both legal and illegal, concerned with the efficiency in time and effort as well as reduction in pain and solution to problems (Engdahl, 2015). Convenience is an advantage in favor of a specific action to the detriment of alternative actions. White-collar offenders choose the most convenient path to reach their goals (Wikstrom et al., 2018).

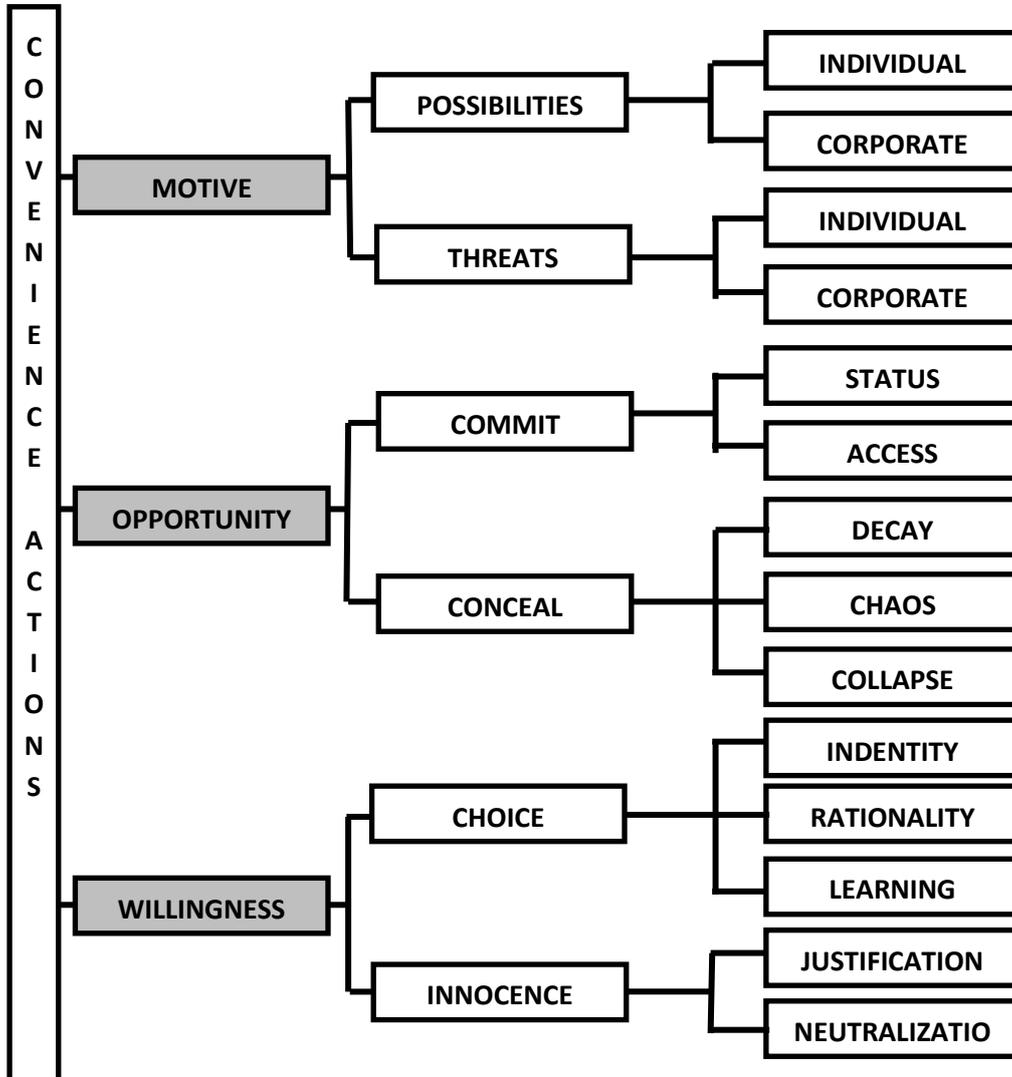
White-collar crime is financial crime committed by individuals in privileged positions in business and public organizations (Sutherland, 1983). White-collar offenders commit and conceal their crime in a professional setting where they have legitimate access to premises, resources and systems (Logan et al., 2017). White-collar crime includes all categories of financial crime, such as fraud, corruption, manipulation and theft (Piquero, 2018).

The theory of convenience suggests that white-collar misconduct and crime occurs when there is a financial motive benefitting the individual or the organization, an organizational opportunity to commit and conceal crime, and a personal willingness for deviant behavior (Vasiu and Podgor, 2019). The theory of convenience is an umbrella term for many well-known perspectives from criminology, strategy, psychology, and other schools of thought. Motive, opportunity and willingness are the three dimensions in convenience theory. Since convenience is a relative concept, convenience theory is a crime-as-choice theory. Shover et al. (2012) suggest that it is a conscious choice among alternatives that leads to law violation.

The organizational opportunity to commit and conceal crime is dependent on a number of factors, such as offenders enjoying high social status in privileged positions (Pontell et al., 2014) and having legitimate access to crime resources (Benson and Simpson, 2015; Cohen and Felson, 1979). Furthermore, offenders may work in an environment of disorganized institutional deterioration (Rodriguez et al., 2005), where there is a lack of oversight and guardianship (Bosse and Phillips, 2016; Hoffmann, 2002).

An element of the opportunity structure is opportunity creation by entrepreneurship. The entrepreneurship perspective emphasizes that entrepreneurs discover and create innovative and entrepreneurial opportunities. However, Ramoglou and Tsang (2017: 738) argue that opportunities are not the result of innovation, discovery or creation: "They are objectively existing propensities to be creatively actualized". Criminal entrepreneurs thus mobilize illegal opportunities in the shadow economy (Gottschalk and Smith, 2011; McElwee and Smith, 2015). Criminal entrepreneurship represents the dark side of entrepreneurialism. To understand entrepreneurial behavior by white-collar criminals, important behavioral areas include "modus essendi", "modus operandi", and "modus vivendi". Modus essendi is a philosophical term relating to modes of being. Modus operandi is method of operating, which is an accepted criminological concept for classifying generic human actions from their visible and consequential manifestations. Modus vivendi represents the shared symbiotic relationship between different entrepreneurial directions (Smith, 2009).

Entrepreneurs are often important economic agents, driving forward employment, opportunities, and economic development. Entrepreneurship is associated with innovation, adaptation, change and dynamism, hard work, willpower, and overcoming challenges and struggles. According to Welter et al. (2017), entrepreneurship is a broadly available social technology for creating organizations that may pursue a myriad of goals. Tonoyan et al. (2010) found that viewing illegal business activities as a widespread business practice provides the rationale for entrepreneurs to justify their fraud activities.



**Figure 1** Structural model of convenience theory

Figure 1 illustrates the structure of white-collar convenience. The extent of white-collar crime convenience manifests itself by motive, opportunity and willingness. In the financial motive, profit might be a goal in itself or an enabler to exploit possibilities and to avoid threats. Possibilities and threats exist both for individual members of the organization as well as for the corporation. It is convenient to exploit possibilities and to avoid threats by financial means (Agnew, 2014; Blickle et al., 2016; Goldstraw-White, 2012; Langton and Piquero, 2007; Maslow, 1943; Piquero, 2012).

In the organizational opportunity dimension, convenience can exist both to commit white-collar crime and to conceal white-collar crime. Offenders have high social status in privileged positions, and they have legitimate access to crime resources. Disorganized institutional deterioration causes decay, lack of oversight and guardianship causes chaos, and criminal market structures cause collapse (Benson and Simpson, 2015; Cohen and Felson, 1979; Gottschalk, 2017; Pontell et al., 2014; Qiu and Slezak, 2019).

The personal willingness for deviant behavior manifests itself by offender choice and perceived innocence. The choice of crime can be caused by deviant identity, rational consideration, or learning from others. The perceived innocence at crime manifests itself by justification and neutralization, where justification implies admitting to wrongdoing. Identity, rationality, learning, justification, and neutralization all contribute to making white-collar crime action a convenient behavior for offenders (Craig and Piquero, 2017; Engdahl, 2015; Pratt and Cullen, 2005; Sutherland, 1983; Sykes and Matza, 1957).

The convenience triangle consisting of motive, opportunity, and willingness is similar to the traditional fraud triangle suggested by (Cressey, 1972), which covers incentives and pressures, opportunities, and attitudes and rationalization. However, there are two distinct differences. First, convenience is a relative concept, indicating that offenders have the option of alternative actions to reach their goals that do not represent illegitimate behavior. Second, it is the organizational setting where offenders have access to resources so that opportunity arises to commit and conceal crime. While a street criminal tends to hide after an offense, a white-collar criminal tends to stay after having hidden the offense. In addition, the theory of convenience applies the offender-based rather than the offense-based perspective on white-collar crime.

### **Borgemoen Metonit Case**

Borgemoen in Norway promised investors a return of 10 percent per month if they entered into a joint venture agreement with his company Mentonit SL in Spain. Borgemoen told them that the money should be invested in various projects, and boosted that he previously had invested in successful projects involving water, energy, nanotechnology, cruise business, insurance and development aid, and that he had a network of investment partners in Scandinavia, Europe and the USA. Crucial to the Irish investors was a joint contact person who they knew and who they considered credible. The joint contact person was Declan Lennon in Ireland (Tingretten, 2018).

In addition, the terms for investment implied that funds was secured in an account managed by a lawyer who was obliged to give notice if funds were

exposed to risks. The lawyer was Sabine Hohn in Germany. Investors also believed in Jarl Moe who was located on Cyprus.

Two of the investors, a married couple, who had entered with Euro 200,000, entered with Euro 300,000 after a few months, when they had seen symbolic evidence of the ten-percent-return rate. The agreement for the second investment was that Mentonit would repay the money within 60 days with 100 percent return, but this did not happen. Instead, Borgemoen bombarded investors with emails, where he promised that they would get the money back. With the exception of Euro 60,000 – which was the symbolic evidence of the ten-percent-return rate – the married couple never recovered their money. Rather, Borgemoen spent most of the money on himself by his travels and his expensive lifestyle (Tingretten, 2018).

Borgemoen «allured with a royal castle in the air – scammed couple for four million». (Finansavisen, 2018). The man from the valley of Gudbrandsdalen north of the capital Oslo in Norway received a sentence in district court of two years in prison for cheating the Irish couple to invest close to NOK 4 million in an “air castle”.

Police officers from the Norwegian national authority for investigation and prosecution of economic and environmental crime (Økokrim) took Borgemoen into custody at Gardermoen airport outside Oslo, as he was to travel to Hong Kong in 2014. Tingretten (2018) announced the verdict against him in the district court of Sør-Gudbrandsdal in 2018. Borgemoen, who according to the verdict has 20 years behind him in the advertising business, received a prison sentence for gross fraud against the Irish married couple who invested a total of Euro 500,000 (around NOK 3.9 million) in his company in 2011.

“-We have just received the verdict and have not been able to discuss it with our client. We will spend the next few days assessing whether the verdict should be appealed. Both we and the client are disappointed with the outcome, says defense attorney Eli Johanne Apold in law firm Sands” (Finansavisen, 2018). However, the appeal did not change the verdict in 2019, and Borgemoen went to prison.

According to the verdict, the 49-year-old worked with Jarl Moe, who was central to the (The 5 Percent Community (T5PC) pyramid scandal. The police were calling for Jarl Moe who had disappeared. He had not testified in the Borgemoentrial (Finansavisen, 2018).

In addition to two years imprisonment, Borgemoen was sentenced to asset recovery of 3.9 million Norwegian kroner. He also was sentenced to a loss of business rights for five years. That is, he cannot run a business, be part of management or be part of a business board. The punishment was in line with the request from the prosecution (Tingretten, 2018).

### **Corporate Crime Convenience**

Corporate white-collar crime in the organizational dimension in terms of embezzlement of investments funds into Metonit was convenient for Borgemoen because of all his helpers, who enjoyed trust by investors. The advisor Declan Lennon used his network in Ireland to create interest by presenting his white paper. The attorney Sabine Hohn promised to safeguard and protect investments placed in bank accounts at Volksbank. The ex-convict Jarl Moe emerged as a charismatic visionary.

In addition, there was the retired airplane captain TormodEspedal with whom Borgemoen established the firm Blue Cargo Carrier. The firm never had an airplane and never went into operation. Nevertheless, Espedal wrote a letter used by Borgemoen to get funding from investors, where Espedal confirmed business cooperation with Borgemoen (Tingretten, 2018: 7):

By this we confirm our cooperation and the business relationship we have formed with you and your organization for the purpose of establishing and developing a Licensed Air Cargo company with the name Blue Cargo Carrier headquartered in Europe. We can confirm that you have invested time, resources and funds into our project to facilitate the establishment of the company. We confirm that we have the resources and organizational capacity to operate and maintain the investments in the Airline Business which has been calculated to an amount of not less than Twenty Million US Dollars as the initial investment in the business. Our detailed investment, operation and maintenance calculations are available upon request from the investor and advisory board.

We can confirm that our proposed business relationship was established in 2008 and that our business concept is built on a humanitarian perspective where the focus is to work for individual rights and collective solidarity to sustain growth and human development for the future.

The court was convinced Borgemoen had written this letter himself and made former flight captain TormodEspedal sign it.

To help Declan Lennon recruit investors in Ireland, Borgemoen wrote several letters such as this one (Tingretten, 2018: 8):

Dear Declan,

Enclosed please find the small cap placement of funds for investors. This best effort basis investment placement opportunity will invest funds from the fiduciary bank account at Volksbank in Germany. The payment will come out from Deutsche Bank in Berlin to the appointed bank account of the client. Please ask the client to read the enclosed documentation

carefully and give us the bank coordinates he wants the disbursement to be paid to.

Borgemoen also wrote letters to potential investors such as this one (Tingretten, 2018: 8):

We refer to our communication regarding the private placement of funds for best effort basis and enclose the terms and conditions for this short time private placement opportunity. We are looking forward for your reply and hope to complete the transaction upon mutual satisfaction.

In Germany, attorney Hohn opened several bank accounts at Volksbank. Some of these accounts were secured, while others were at the private disposal of Borgemoen. Over time, funds from investors were moved from secured accounts to private accounts. Sabine Hohn did what she was told (Tingretten, 2018: 13):

Thank you Sabine, you have now received €350,000 from my contacts. I would appreciate if you inform me when the funds are put into a placement.

After a while, some of Borgemoen's helpers expressed concern. For example, Declan Lennon wrote in an email (Tingretten, 2018: 14):

Hi Olav,

Sorry to take so much of your time on this placement, but it is my family and close friends who have invested on my trust. For this reason I want to ensure that there is no risk to the investment and they get a contract and see returns coming in the near future. I will be a lot more relaxed on the next one. I trust you totally on this, it is just my insecurity until it happens. Hope you understand.

Best Regards, Declan.

### **Crime Convenience Themes**

Figure 2 emphasizes the likely convenience themes in the entrepreneurial white-collar crime by offender Olav Egil Borgemoen. In the financial motive, he had a drive to gain from illegitimate profit to improve his individual life style (Chatterjee and Pollock, 2017; Leigh et al., 2010; Maslow, 1943; Schoepfer and Piquero, 2006). At the same time, he faced an entrepreneurial threat of his enterprises collapsing before ever moving into operations (Blickle et al., 2016; Goncharov and Peter, 2019; Leonard and Weber, 1970).

In the organizational opportunity, Borgemoen enjoyed support from many helpers that created trust among fraud victims. When things went visibly wrong, Borgemoen could blame his helpers. The blame game is concerned with a group of people when something goes wrong. They all try to place the blame on each

other, they are looking for a scapegoat, and one of them may typically end up with the blame (Keaveney, 2008; Lee and Robinson, 2000; Sonnier, 2015).

White-collar crime can be distinguished from ordinary crime (“street crime”) based on the status of offenders, their access to legitimate professions, the common presence of an organizational form, and the extent of the costs and harmfulness of such crime. While street criminals hide themselves after an offense, white-collar criminals hide the offense while staying in the same positions (Michel, 2016). This is because they have legitimate access to premises and systems to commit financial crime (Benson and Simpson, 2015).

Bergermoen, as an entrepreneurial individual, created opportunities for deviant behavior (Ramoglou and Tsang, 2016). The entrepreneurship perspective emphasizes that entrepreneurs discover and create innovative and entrepreneurial opportunities (Smith, 2009; Tonoyan et al., 2010; Welter et al., 2017). Criminal entrepreneurs actualize illegal opportunities in the shadow economy (McElwee and Smith, 2015).

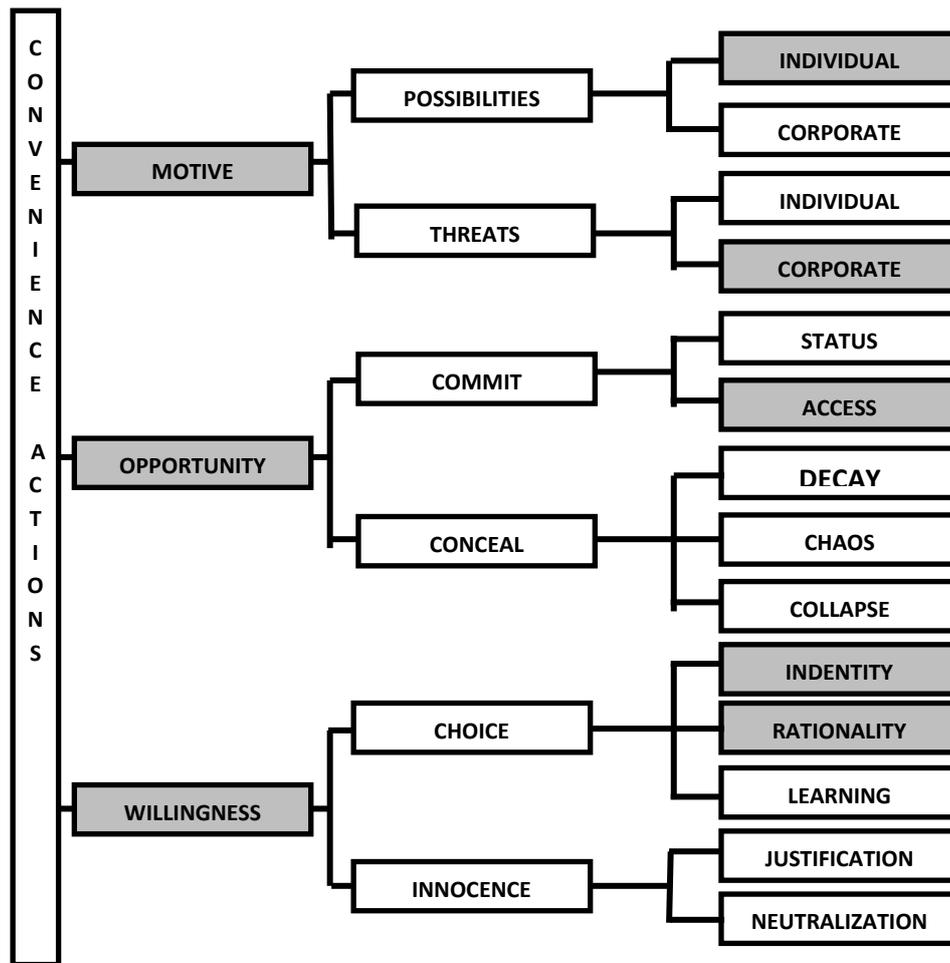


Figure 2 Convenience themes in investment fraud

Specialized access in the routine activity perspective suggests that crime is convenient since there is an absence of a capable or moral guardian. The absence of a likely guardian represents a facilitator for crime (Cohen and Felson, 1979; Williams et al., 2019).

The helpers represented valuable resources to the offender, where a resource is defined as an enabler applied and used to satisfy human and organizational needs. A resource has utility and limited availability. According to Petrocelli et al. (2003), access to resources equates access to power.

The personal willingness dimension of convenience theory focuses on the willingness for deviant behavior among white-collar offenders. Personal willingness for deviant behavior implies a positive attitude towards violating social norms, including formally enacted laws, rules and regulations (Aguilera et al., 2018). Deviance is a term to describe behavior that contravenes accepted norms, values, and ethical standards (Smith and Raymen, 2018). Deviance is “the failure to obey group rules” (Becker, 1963: 8). Deviance is “a form of behavior that violates organizational norms and that consequently negatively impacts the well-being of the organization and its members” (Michalak and Ashkanasy, 2013: 20). Deviance is detrimental to organizational performance in several ways, including damaged reputation, exposure to lawsuits, and financial loss (Dilchert et al., 2007).

The willingness can either be based on an active choice to commit and conceal crime, or on the perception of personal innocence when committing and concealing crime. Offender Borgemoen chose to commit crime based on identity and rationality as illustrated in Figure 2.

Narcissistic identification is a special type of narcissism, where the offender sees little or no difference between self and the corporation. The company money is personal money that can be spent whatever way the narcissist prefers (Galvin et al., 2015). A pervasive pattern of grandiosity, need for admiration, and empathy deficit characterize narcissism. While grandiosity and admiration belong to the motivational dimension of convenience theory, empathy deficit belongs to the willingness dimension of convenience theory where the offender possesses a sense of entitlement (Nichol, 2019). The offender shows unreasonable expectations to receive and obtain preferential treatments (Zvi and Elaad, 2018).

Some white-collar offenders take on a professional deviant identity (Obodaru, 2017). The identity perspective suggests that individuals develop professional identities where they commit to a chosen identity. Deviant behavior finds an anchor in a person’s professional identity. The deviant identity person is increasingly likely to become involved in social groups that consist of social deviants and unconventional others without feeling any doubt or regret since the

behavior is in accordance with the identity label glued to the person also by others (Bernburg et al., 2006).

Borgemoen acted rational. It is considered rational to commit crime if benefits exceed costs. Individual preferences thus determine whether crime is committed (Pratt and Cullen, 2005). The greater benefits of crime and the less costs of crime, the more attractive it is to commit criminal acts. According to Berghoff and Spiekermann (2018: 293), potential white-collar offenders “act on cost-benefit calculations involving the expected utility, the likelihood of being caught, and punishment costs”.

The choice of crime can also be caused by sensation seeking. Craig and Piquero (2017) suggest that the willingness to commit financial crime by some white-collar offenders has to do with their inclination for adventure and excitement. Offenders are not only seeking new, intense, and complicated experiences and sensations, as well as exciting adventures, they are also accepting the legal, physical, financial and social risks associated with these adventures. They attempt to avoid boredom by replacing repetitive activities such as regular meetings with thrill and adventures. They search risky and exciting activities and have distaste for monotonous situations. Borgemoen seems to belong to this category.

### **Discussion**

Getting ten percent return on an investment every month was for some potential investors simply “too good to be true” (Tingretten, 2018: 12). One motive for the married couple’s involvement was to recover from a negative life event. The perspective of negative life events suggests that events such as divorce, accident, lack of promotion, and cash problems can cause individuals to consider options that they normally would ignore (Engdahl, 2015). The couple had invested in the housing market in Ireland when the market collapsed and there was a mortgage crisis in the country.

The deviant entrepreneurial skills of Borgemoen included convincing business plans, trustworthy allies, charismatic agitators, and fake business locations all over the world. His behavior illustrates negative aspects of social exchange (Gibney et al., 2009). Unfortunately for him, among defrauded investors there was a couple willing to report the fraud to Norwegian police. Also unfortunate for him, Økokrim became interested in the case and prosecuted the case successfully in court. The couple testified in court, while Declan Lennon stayed away from the court hearings.

### Conclusion

This article presented a case study where the organizational setting was symbolic rather than real, and where the entrepreneurial offender was able to attract investors based on trustworthy allies, impressive business plans, and global locations. The offender composed a network of persons used unknowingly and indirectly to reinforce the validity of the investments and to establish the alleged resources, credibility, and ultimately, the trust for potential investors to part with their money for a highly suspect 10% return per month. Convenience theory was applied to the case study by identification of themes relevant to the case. The motive theme was a combination of personal greed and threat of business failure. The opportunity theme was dominated by access to key individuals who represented the business enterprise. The personal willingness theme was a choice of crime that was rational as benefits seemed to exceed costs. The convicted offender is an interesting example of an entrepreneurial individual who created opportunities for deviant behavior.

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