

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**HER MAJESTY THE QUEEN**

**Appellant**

- AND -

**ANDREW RANKIN**

**Respondent**

**NOTICE OF APPEAL UNDER SECTION 116 OF THE  
*PROVINCIAL OFFENCES ACT***

1. Ontario Superior Court of Justice at Toronto
2. Appellant is:  
 Defendant  
 Prosecutor  
 Attorney General
3. Name of Appellant: Ontario Securities Commission  
Address for service: 20 Queen Street West  
Suite 1900  
Box 55  
Toronto ON M5H 3S8
4. Counsel for Appellant: Kelley M. McKinnon and Gregory W. MacKenzie  
Address for service: 20 Queen Street West  
Suite 1900  
Box 55  
Toronto ON M5H 3S8

5. Name of Respondent: Andrew Rankin
- Address for service c/o Brian H. Greenspan  
Greenspan Humphrey Lavine  
15 Bedford Road  
Toronto ON M5R 2J7
6. Counsel for Respondent: Brian H. Greenspan and Joanne K. Stuart
- Address for service Greenspan Humphrey Lavine  
15 Bedford Road  
Toronto ON M5R 2J7
7. Decision of: Mr. Justice Ramez Khawly of the Ontario Court of Justice Provincial Division.
8. Date of decision: October 27, 2005 (Sentence) and July 15, 2005 (Judgment)
9. The Appellant appeals against:
- conviction
- dismissal
- finding as to ability to conduct a defence
- sentence
- order (s. 161 of the P.O.A.)
- by the Ontario Court of Justice at Old City of Hall, 60 Queen St. West, Toronto, ON M5H 2M5.
10. If Defendant is in custody, place where held: Defendant released from custody on October 27, 2005 pursuant to an Order for release pending appeal to the Ontario Superior Court of Justice.
11. (a) Description of offence: 10 counts of insider tipping, as more particularly set out in the Information.
- (b) Information Number: 4811 999 0400 1231 00

12. (1) Statute: *Securities Act*, R.S.O. 1990, c.S.5
- (2) Sections: 76(2) and 122(1)(c)
13. Dates of offences: Between December 1999 and March 2001, as more particularly described in the Information.
14. Plea at trial: Not Guilty.
15. The grounds for this appeal against sentence are that:
  - (1) the trial judge imposed a demonstrably unfit sentence of six months, where the maximum sentence was two years on each of the ten counts, in light of the repeated insider tipping by the Defendant and his senior position of trust.
  - (2) the trial judge erred in law by failing to give paramount consideration or any consideration to the principle of general deterrence in determining the Defendant's sentence.
  - (3) the trial judge erred in rejecting the applicability of sentencing principles from criminal breach of trust cases which emphasize general deterrence as the paramount sentencing consideration for a case of this nature.
  - (4) the trial judge erred by giving undue weight to the following mitigating factors:
    - i. the limited benefits enjoyed by the Defendant relative to Daniel Duic who traded on the insider tips provided by the Defendant;
    - ii. the Defendant's previous reputation and good character; and
    - iii. the Defendant's support of friends and family.
  - (5) the trial judge improperly applied the principle of parity by having undue regard for the sanctions imposed on Duic for the following reasons:
    - i. the sanctions imposed on Duic were by an administrative tribunal, the Ontario Securities Commission, rather than the Court;
    - ii. Duic's sanction by the Commission reflected his early cooperation, admission of liability and agreement to cooperate with the authorities, including giving testimony at the Defendant's trial; and
    - iii. having concluded that Duic's sanctions were unduly lenient, His Honour failed to disregard them for purposes of determining the Defendant's sentence.

- (6) the trial judge erred by giving undue weight to the following factors as favouring leniency and mercy:
    - i. the Defendant's humiliation at being disbelieved by His Honour;
    - ii. the dispiriting effect on the Defendant of being betrayed by Duic who co-operated with authorities; and
    - iii. the "ignoble" termination of the Defendant's lucrative employment position at RBC Dominion Securities whose clients were the subject of the Defendant's illegal tips.
  - (7) by imposing concurrent sentences, the trial judge failed to properly assess the separate and distinct aspects of the Defendant's conduct in relation to the 10 counts of insider tipping and the 14 month period of time over which the misconduct took place which warrant consecutive sentences.
  - (8) Such further and other grounds as counsel may advise and this Honourable Court may permit.
16. In support of this appeal, the Appellant relies on the following:
- (1) The Information
  - (2) The transcript of the evidence
17. The relief sought is:
- That the appeal of the Defendant's sentence be allowed, and that this Honourable Court impose a fit sentence greater than 6 months per count to be served consecutively.
18. The Appellant intends:
- [ X ] to be present in person or by counsel and to present the issues and the Appellant's arguments orally.
- [ ] not to be present in person or by counsel and to present the issues and the Appellant's arguments in writing.
19. Does the Appellant intend to make a motion for an order that the appeal be heard by way of a new trial in the appeal court?

Yes     No

20.    Date: November 25, 2005

21.    Signature of Counsel for Appellant:

---

Kelley M. McKinnon

---

Gregory W. MacKenzie

Counsel to the Appellant

Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> Floor  
Box 55  
Toronto, ON M5H 3S8