***R. v.* Bawania, Ejtehad, and Jani, 18 December 2009, Newmarket, Ontario Court of Justice (four years each for offences for conspiracy to make counterfeit money/ possession of counterfeit money)**

On 25 February 2008, the defendants pleaded guilty to an array of offences in relation to their roles in the operation of an illegal business that manufactured, produced, and printed counterfeit money.

The complex investigation lasted ten months and involved the participation of a police undercover officer who purchased in excess of $125,000 in counterfeit money, extensive physical surveillance, and the execution of twelve search warrants on businesses, residences, and vehicles. A total of 383,634 bank notes totalling $6,765,770 in counterfeit value were printed by the defendants and recovered from circulation.

On 22 June 2006, the accused were arrested with three other individuals. The Crown submitted that each defendant should receive a sentence in the range of six to seven years, less credit for pretrial custody. The defence argued that the defendants should receive a sentence in the range of three to four years. The court received detailed submissions on the facts, including the testimony of a representative from the Bank of Canada.

The court considered the scope of the illegal operation, the quality of the counterfeiting, the quantity of the money, the impact of counterfeit money in the economy, as well as the plea of guilty.

The court sentenced Mr. Jani to four years for the charge of conspiracy to make counterfeit money plus an additional six months for failing to comply with a recognizance. The sentence was reduced to 18 months, taking into account the 18 months of pretrial custody. The court imposed an identical sentence on Mr. Bawania and Mr. Ejtehad, respectively, for making counterfeit money and for conspiracy to make counterfeit money.

The court stated that: “money in a democratic capitalist society such as Canada is the medium of exchange both personally and in our commercial world. The production and distribution of the quantities of money involved in this case infect and compromise the ability of decent, honest, hard-working people to conduct business by destroying the very fabric of the value of the money they work so hard to obtain.”

***R. v.* Bawania and Ejtehad, 20 January 2010, Newmarket, Ontario Court of Justice (twelve years and eight years for offences of conspiracy to make counterfeit money/ possession of counterfeit money)**

On 15 January 2010, the defendants pleaded guilty to a series of offences, including conspiracy to make counterfeit money and possession of instruments used in the making of counterfeit money. In addition, Mr. Bawania pleaded guilty to two counts of possession of counterfeit money. Counsel presented the following joint submission:

> - for Mr. Bawania, a sentence of twelve years in custody less credit for pretrial custody, which results in a net sentence of nine years in custody, concurrent with any sentence presently being served.
>
> - for Mr. Ejtehad, a sentence of eight years in custody less credit for pretrial custody, which results in a net sentence of five years in custody, concurrent with any sentence presently being served.

The investigation, named Project OPHIR II, focused on a highly organized and sophisticated crime group responsible for printing and distributing counterfeit money. The investigation revealed that the criminal organization, of which the accused were members, was using various means to conduct business in a covert manner to avoid detection.

A 78-page statement of fact was filed by the parties. The document detailed the defendants' involvement as printers and manufacturers, as well as the magnitude of the criminal organization and illegal business operations. The Bank of Canada filed a victim impact statement. Among the significant factors, the Court noted that:

- The police seized a total of $4.2 million in counterfeit Canadian $20 notes during the execution of a search warrant.
- The accused were awaiting their sentence for the offences investigated in OPHIR I when they were arrested a second time and detained in custody in May and June 2008.
- The accused conducted their business in a covert manner to avoid detection by authorities.
- The quality of the counterfeit money was extremely high. The Court noted that the difference between the counterfeit money and real currency was virtually "undetectable."
- The defendants' operation was sophisticated and large.

The judge adopted the joint sentencing submissions.

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

REHAN BAWANIA

TAIMAZ EJTEHAD

****

R E A S O N S F O R S E N T E N C E

BEFORE THE HONOURABLE JUSTICE P. WRIGHT

On January 20, 2010,

at NEWMARKET, Ontario

****

Rehan Bawania and Taimaz Ejtehad:

s. 465(1)(c) C.C. Conspiracy to make counterfeit money

s. 458(d) C.C. Possession of instruments for counterfeit money

s. 403(a) C.C. Fraudulent personation

s. 145(3) Breach of recognizance (x2)

Additional charges Rehan Bawania:

s. 450 C.C. Possession of counterfeit money (x2)

s. 376(2)(b) C.C. Possession of counterfeit stamps and dyes

APPEARANCES

J. Miller	Counsel for the Federal Crown
A. Bryant	Counsel for Rehan Bawania
S. Goldstein	Counsel for Taimaz Ejtehad

WEDNESDAY, JANUARY 20, 2010

R E A S O N S F O R S E N T E N C E

Wright, J. (Orally)

Overview

Rehan Bawania and Taimaz Ejtehad are before the Court to be sentenced on an array of offences in relation to their roles to conspire to operate and to operate an illegal business that manufactured, produced, printed and distributed counterfeit money.

The Charges

The Defendants have plead guilty to the following charges:

Rehan Bawania

1. Conspiracy to make counterfeit money, s. 465(1)(c) C.C.
2. Possession of instruments used in the making of counterfeit money, s. 458(d) C.C.
3. Possession of counterfeit money(x2), s. 450 C.C.
4. Fraudulent personation, s. 403(a) C.C.
5. Possession of counterfeit stamps and dyes (x2), s. 376(2)(b) C.C.
6. Breach of recognizance(x2), s. 145(3) C.C.

Taimaz Ejtehad

1. Conspiracy to make counterfeit money, s. 465(1)(c) C.C.
2. Possession of instruments used in the making of counterfeit money, s. 458(d) C.C.
3. Fraudulent personation, s. 403(a) C.C.
4. Breach of recognizance(x2), s. 145(3) C.C.

The Procedure

Following the Defendants' plea of guilty January the 15th, 2010, to the offences specified, this Court received evidence in the form of a series of numbered exhibits: Exhibit 1, an agreed upon Statement of Fact sub-divided into a series of tabbed categories; Exhibit 2(a), a DVD of Mr. Bawania printing money; Exhibit 2(b), a DVD of Mr. Bawania printing money; Exhibit 3, a DVD of the search warrant. These exhibits, and in particular Exhibit 1, were detailed and extensive. This Court has received comprehensive joint submissions from counsel in written and oral form recommending the appropriate sentence to be imposed and supporting case authority.

Submissions of Counsel

Crown counsel and defence counsel have placed before the Court a joint submission as to the recommended sentence that this Court should

consider imposing upon both Defendants. That joint submission is as follows:

Rehan Bawania

Twelve years in custody less credit for pre-trial custody of 18 months on the standard of two days credit for each one day spent in pre-trial custody. This results in a net sentence of nine years in custody, concurrent to any sentence presently being served.

Taimaz Ejtehad

Eight years in custody less credit for pre-trial custody of 18 months on the standard of two-for-one credit in pre-trial custody. This results in a net sentence of five years in custody, concurrent to any sentence presently being served.

The Facts

The facts in relation to the charges against the Defendants are set out in a comprehensive 78-page brief filed in these proceedings as Exhibit Number 1 which details the Defendants' involvement as printers and manufacturers of counterfeit money which they conspired to make and did make. Reference to excerpts in Exhibit Number 1 provide an insightful commentary as to the magnitude of the Defendants criminal organization and illegal business operations.

Project OPHIR 1

On June 22, 2006 the Integrated Counterfeit Enforcement Team's Project OPHIR culminated with the dismantlement of one of Canada's largest counterfeit plants, the seizure of more than $250,000 Canadian counterfeit currency and the arrest of nine members of this organization. The investigation during which a police agent and an undercover operator purchased in excess of $125,000 counterfeit Canadian currency, identified, amongst other, Rehan Bawania and Taimaz Ejtehad as the manufacturers of various counterfeit instruments, including Canadian and American currency, debit cards, driver's licences and social insurance cards. The principals in this investigation, which include the two Defendants before the Court today, pled guilty to counterfeit-related offences as pertaining to OPHIR 1 on February 25th, 2008. All principals, including the two before the Court, were released on bail on strict, stringent conditions while awaiting sentence on these matters to have been imposed in September of 2008, when these current offences occurred.

Project OPHIR II

The Royal Canada Mounted Police Integrated Counterfeit Enforcement initiated an investigation into the production and distribution of Canadian counterfeit money in the greater Toronto area. This investigation, dubbed Project OPHIR II, focused on a highly

organized and sophisticated crime group responsible for printing and distributing counterfeit money. This investigation also revealed that the organization was utilizing various means to conduct business in a covert manner so as to avoid detection by authorities. Techniques such as utilizing fictitious companies, manufacturing and utilizing false identifications to purchase products from suppliers, pre-paid cell phones and pre-paid payment/credit cards were all utilized by this organization to facilitate the offences. This organization, of course, included the membership of the two Defendants who are before the Court.

Amongst the significant factors that were identified in Exhibit Number 1 was the fact that on the 31st of May, 2008, the RCMP executed search warrants on the premises at 230 Don Park Road, Unit 13, Markham. The contents of that site were seized and the total dollar value obtained at that time was $4.2 Million in counterfeit Canadian twenty-dollar notes.

On May the 30th, 2008, Rehan Bawania was arrested a second time and detained in custody. On June the 9th, 2008, Taimaz Ejtehad was arrested a second time and detained in custody.

Details of the extensive network of criminal activity carried on by these Defendants and others, and of the extensive police

investigative steps taken to apprehend the Defendants, are all set out in the Exhibits filed. Details of the impact that counterfeiting has made upon Canadian economy, and its impact upon the direct victims and society, generally, are set out in a nine-page, 26 paragraph, affidavit signed the 25th of August, 2009, by Manuel Parreira as a Senior Regional Representative of the Bank of Canada filed as part of Exhibit Number 1.

The Aggravating Factors

1. Scope of the illegal operation

The Defendants' business was sophisticated. Care was taken by the Defendants at all levels to ensure that they had only the best equipment, printers, cutters, computers and dyes. The operation centered its production on the Canadian counterfeit currency, but included a series of other illegal activities rooted in the production of counterfeit documentation for financial gain.

2. Quality of the counterfeit documents notes

The quality of the various counterfeit documents, but particularly the money, was extremely high. The counterfeit money was virtually undetectable. Only those persons with extensive training using the most

sophisticated techniques were able to identify this counterfeit money. The Court can easily infer that the vast majority of retail sector, individuals and companies would be defenceless from the invasive attack of counterfeit money produced by these Defendants. The facts that the counterfeit notes earlier produced in OPHIR I had sold for as high as 30 cents on the dollar is a strong testament to the high quality of these counterfeit notes.

3. The Quantity of the money

In relation to OPHIR I, as of September the 30th, 2009, it has been determined that $383,634 counterfeit bank notes with a face value of over $6.7 Million were produced at the Defendants' business location. On May the 31st, 2008, in relation to OPHIR II, the RCMP seized over $4.2 million of additional dollars from the Defendants' illegal business operations at 230 Don Park Road that was being readied for distribution into the market place. The Defendants' operation was huge. It produced large numbers of high-quality counterfeit money.

4. Impact of counterfeit money in our economy

The effect that counterfeit money, particularly of the magnitude involved in

this particular case, has upon the economy of our country has been set out in a detailed impact statement which was been composed by a senior representative of the Bank of Canada, filed as Exhibit Number 1.

The Royal Canadian Mounted Police in this country have a segregated or seconded platoon that works directly with the Bank of Canada to ferret out those who would inveigle our monetary system by the infusion of counterfeit money.

Money is the medium of exchange in our commercial world. The production and distribution of the quantities of money involved in this case infect and compromise the ability of decent, honest, hard-working people to conduct business by destroying the very fabric and value of the money that they work so hard to obtain.

5. Breach of recognizance of bail

Both Defendants were engaged in a separate and earlier counterfeit operation described as OPHIR I. Both Defendants were arrested, detained and released in relation to their involvement in that particular project on strict, stringent terms involving a recognizance. On February 25, 2008, both Defendants pleaded guilty in relation to

their roles in the counterfeit-related offences set out as OPHIR I with sentence adjourned, at their request, to September, 2008. While awaiting sentence on those offences set out in OPHIR I, and while on strict conditions of bail, they engaged in further criminal activity summarized herein as OPHIR II.

Mitigating Factors

1. The plea of guilty

Each of the Defendants has entered a plea of guilty. These pleas of guilty must be given recognition by the courts. The pleas of guilty demonstrate remorse by the Defendants and that they accept responsibility for their wrongdoing and are accountable for it. Those pleas also have saved the state additional requirement of having to prove the Defendants' guilt.

The Offenders

In sentencing proceedings for these two Defendants in relation to Project OPHIR I concluded on January the 15th, 2010, this Court was provided with much information and evidence relating to both Defendants. The Court draws on that information and that evidence from those proceedings concluded on January 15th, 2010, to

assist in assessing the Defendants.

Rehan Bawania

Rehan Bawania was born on the 19th of March, 1984. He was 21 years old when these offences took place. He is now 25 years of age. His life has largely been placed on hold over the past 18 months since he was re-arrested and detained in custody on the 10th of June, 2008. Exhibit Number 14 filed in the earlier proceedings, OPHIR I, concluded on January the 15th, consist of a series of documents and letters which speak positively about Rehan Bawania and his commitment to education, his family, his friends, his work ethic and his character. He has been in University and has spent most of his free time working in volunteer organizations. Numerous letters of support from school and work confirm this about Rehan Bawania.

Taimaz Ejtehad

Taimaz Ejtehad was born on the 28th of April, 1982. He was 23 years of age when these offences were committed. He is now 27 years of age. His life has largely been on hold since he was arrested on June the 10th, 2008, and detained in custody. Exhibit Number 15 on the earlier proceedings, OPHIR I, concluded on January the 15th, 2010, is made up of a series

of letters from friends supporting Taimaz Ejtehad. All report that he is a hard-working, well-liked and respected young man. All report shock that Taimaz Ejtehad would have been mixed up in this kind of criminal activity. In addition, Taimaz Ejtehad filed and delivered into the Court a letter of apology written by himself.

Sentencing Principles

The fundamental purpose of sentencing is set out in s. 718 of *The Criminal* Code. The objectives of sentence is to achieve a balance of denunciation, deterrence, protection of society, reformation and rehabilitation of the offender.

Section 718.1 provides that sentences must always be proportionate to the gravity of the offence and the degree of responsibility of the offender.

Finally, section 718.2 sets out a collection of other sentencing principles which include the balancing of aggravating and mitigating circumstances and, in relation to these proceedings, proportionality of the sentence to be imposed.

Denunciation, deterrence and protection of the public are the paramount sentencing objectives in cases involving the production, distribution

and conspiracy to do the same with respect to counterfeit money. The case law provided in earlier proceedings and referred to in these proceedings supports this view.

In cases such as:

R. v Al Saidi, [2006] N.B.J. 348 (N.B. Prov Ct.)

R. v Christophersen, [2002] A.J. 1330 (Alta Prov Ct.)

R. v Todorov, [2006] O.J. 5637 (Ont. S.C.J.)

R. v Mihalkov, [2005] O.J. 4178 (O.C.J.)

R. v Caporale, [2005] O.J. 1509 (O.C.J.)

R. v Kiss, [1995] O.J. 5002 (Ont. Ct., G.D.)

R. v Sentihilkumar, [2007] O.J. 4681 (O.C.J.)

R. v Weber, [2001] O.J. 6103 (O.C.J.)

Courts at every level in this country have confirmed their view. One case which is particularly helpful is the case of *R. v Al Saidi, supra,* in which Justice Ferguson of the Provincial Court of New Brunswick expressed the manner in which the Courts should engage sentence principles when dealing with counterfeit money. He said this at paragraph 68:

> "The crime of counterfeiting crosses a rather wide sentence spectrum. That principally owes to the maximum penalty for both of the counterfeiting offences involved here of fourteen years imprisonment. Broadly speaking, these offences fall into three general categories from most serious to least serious. High

> sentences are reserved for those found to have manufactured bills and possessed the equipment to manufacture bills. Not far removed are high and moderately high sentences for those who possess or transact large quantities of counterfeit bills. At the low end of the scale are those offenders who possess or transact only a few bills and cannot be considered to be engaging in a commercial criminal enterprise."

Penitentiary sentences are not uncommon, indeed they are the rule. *R. v Mihalkov, R. v Caporale, R. v Kiss, R. v Senthilkumar, R. v Weber.*

Proportionality is also an important sentencing principle. The Defendants committed these present offences while in each others company and in the company of others. Each had specific roles to play in the criminal activity which comprised OPHIR II. To express the role played by Rehan Bawania over the role played by Taimaz Ejtehad counsel have jointly recommended that this Court consider a distinction in the sentence with respect to each of these two Defendants.

I have considered the charges, the facts, the evidence, the submissions of counsel, the plea of guilty by each of the two Defendants, the aggravating and mitigating circumstances, pre-trial custody, the sentencing principles generally, a set out in s. 718 of *The Criminal Code* and, particularly, as those principles relate specifically to counterfeit money.

Mr. Bawania, the global sentence will be twelve years in custody. I have considered the 18 months that you have spent in pre-trial custody. Giving you credit on a factor of two-for-one, the 18 months in pre-trial custody provides you with a three-year deduction from the twelve-year global sentence, with a resultant net sentence of nine years in a federal penitentiary. This sentence will be concurrent to any sentence which you are presently serving.

Mr. Taimaz Ejtehad, the global sentence is eight years in custody. I have considered the 18 months that you have spent in pre-trial custody, affording you credit on a factor of two-for-one, the 18 months of pre-trial custody provides you with a three-year reduction in your eight year global sentence with a resultant net sentence of five years in a federal penitentiary. This sentence will be concurrent to any sentence which you are presently serving.

...DISCUSSIONS WITH COUNSEL

In relation to those charges under s. 145(3) the sentence will be two years which is the maximum in relation to each of those concurrent to each other and concurrent to any other sentence being served.

...DISCUSSIONS WITH COUNSEL

So without putting too fine a point on it, you are suggesting that the pre-trial custody, then, should be enhanced to three years and six

months. That would, then, reduce the net sentence for Mr. Bawania to 8.5 years, or eight and a half years.

....DISCUSSIONS WITH COUNSEL

Mr. Taimaz Ejtehad will receive credit, then, of three years, six months for his pre-trial custody and, therefore, his net sentence will be four and a half years in the Federal penitentiary.

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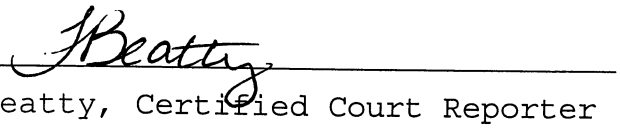
FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

Evidence Act

I, TRACEY BEATTY, certify that this document is a true and accurate transcript of the recording of *R. v. Rehan Bawania and Taimaz Ejtehad* in the Ontario Court of Justice held at 50 Eagle Street West, Newmarket, Ontario, on January 20, 2010, taken from my Recording No. JM-4911-202-0045/2010 which has been certified in Form 1.



Tracey Beatty, Certified Court Reporter
January 28, 2010

Transcript Ordered: January 20, 2010
Transcript Completed: January 27, 2010
Ordering Party Notified: January 28, 2010

Information No. 09 07473

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

REHAN BAWANIA
TAIMAZ EJTEHAD
ADIT JANI

****

REASONS FOR SENTENCE

BEFORE THE HONOURABLE MR. JUSTICE P.J. WRIGHT
on, December 18, 2009 at Newmarket, Ontario

****

CHARGES: S. 465(1)(c) C.C. - Conspire to Commit Indictable Offence x 11
S. 467.11 C.C. - Participate in Criminal Organization
S. 458(d) C.C. - Possess Instruments for Counterfeiting x 2
S. 449 C.C. - Make Counterfeit Money
S. 450(b) C.C. - Possess Counterfeit Money x 3
S. 403(a) C.C. - Personate With Intent x 5
S. 376(2)(b) C.C. - Possess Counterfeit Stamp x 2
S. 369(b) C.C. - Possess Instruments/Forgery x 2
S. 92(1) C.C. - Possess Firearm Without Licence x 7

S. 92(2) C.C. - Possess Prohibited Device x 4
S. 95(1) C.C. - Possess Firearm with Ammunition
S. 100(1) C.C. - Possess Firearm/Purpose Transfer
S. 104(1)(a) C.C. - Unauthorized Import/Firearm
S. 108(1)(b) C.C. - Possess Firearm/Altered Serial Number x 2
S. 354(1)(a) C.C. - Possession Over $5000 x 2
S. 5(2) C.D.S.A. - Possession/Purpose Trafficking x 2
S. 145(3) C.C. - Fail to Comply/Recognizance x 36

****

APPEARANCES:

C. Rhinelander, Ms.	Counsel for the Crown
J. Miller, Esq.	Counsel for the Crown
Rehan Bawania	Appearing for Self
Taimaz Ejtehad	Appearing for Self
Adit Jani	Appearing for Self

****

FRIDAY, DECEMBER 18, 2009

R E A S O N S F O R S E N T E N C E

WRIGHT, O.C.J. (Orally):

OVERVIEW

Adit Jani, Rehan Bawania and Taimaz Ejtehad are all before the court today to be sentenced on an array of offences in relation to their roles in the operation of an illegal business that manufactured, produced and printed counterfeit money.

THE CHARGES

The defendants have pled guilty to the following offences:

Adit Jani:

On the 25th of February 2008, Adit Jani pled guilty to the following charges:

1. Conspiracy to make counterfeit money, contrary to section 465(1)(c) of the Criminal Code.
2. Conspiracy to possess a government mark on forged Ontario drivers' licences, contrary to section 465(1)(c) of the Criminal Code.
3. On August the 27, 2009, Adit Jani pled guilty to the charge of failing to comply with a recognizance by meeting with Taimaz Ejtehad, Ibrahim Abkashak-Joghati and Rehan Bawania,

contrary to section 145(3) of the Criminal Code.

Rehan Bawania:

On February the 25th, 2008, Rehan Bawania pled guilty to:

1. Making counterfeit money, contrary to section 449 of the Criminal Code.
2. Making, selling, or affixing a counterfeit mark, contrary to section 376(2) of the Criminal Code.

Taimaz Ejtehad:

On February the 25th, 2008, Taimaz Ejtehad pled guilty to:

1. Conspiracy to make counterfeit money, contrary to section 465(1)(c) of the Criminal Code.
2. Conspiracy to possess a government mark on forged Ontario drivers' licences, contrary to section 465(1)(c) of the Criminal Code.

THE PROCEDURE

Following the defendants' plea of guilty on February 25, 2009 to the offences under section 465(1)(c), section 449 and section 376(2), this court received viva voce evidence from Manuel Parreira, Senior Regional Representative from the Bank of Canada,

Marcel M. LeBel, Examiner of Counterfeit, RCMP Forensic Laboratory, sixteen (16) numbered exhibits, many of which were detailed and extensive, comprehensive submissions, both oral and written from counsel, and substantial case authority briefs.

THE CROWN POSITION

The Crown position can be summarized shortly. The Crown submitted that each defendant receive a sentence in the range of six to seven years in a federal penitentiary, less credit for 18 months spent in pre-trial custody, on a two for one basis or 36 months, with the resulted net sentence of between three to four years in the federal penitentiary.

THE DEFENCE POSITION

The defence submits that each defendant receive a sentence in the range of three to four years, less credit for the 18 months spent in pre-trial custody on a two for one basis, totalling three years, or 36 months, with a resultant net sentence of time served and suspended sentence to one year.

THE FACTS

The facts in relation to the charges under section 465(1)(c), section 449 and section 376(2) against Adit Jani, Rehan Bawania and Taimaz Ejtehad are set out in a comprehensive 63 page brief, filed as

Exhibit Number 1, which details the defendants' involvement as printers and manufacturers of counterfeit money, which was distributed through a series of transactions December the 13th, 2005, February the 9th, March the 3rd, April the 21st, May the 12th, May the 15th, May the 25th, May the 26th, June the 7th, June the 15th, June the 19th and June the 22nd, 2006.

Reference to the synopsis set out in Exhibit Number 1 provides am insightful summary of the defendants illegal business operations:

"The Royal Canadian Mounted Police ("RCMP") Greater Toronto Area Commercial Crime Section initiated an investigation into the production and distribution of Canadian counterfeit currency in the Greater Toronto Area. This investigation focused on a highly organized and sophisticated crime group responsible for printing and distributing counterfeit currency.

This investigation involved the use of a Police Agent, an undercover operator, extensive physical surveillance, the execution of twelve search warrants on businesses, six residences and five vehicles, together with seven production orders for telephone companies and private postal outlets. During this investigation the Police Agent and undercover operator purchased in excess of $125,000 in counterfeit money.

On June the 22nd, 2006 this ten month investigation culminated in the search and seizure of one of Canada's largest counterfeit suppressions to date. This commercial organization utilized complex equipment capable of manufacturing large quantities of Canadian and American currency, forged payment cards, drivers' licences and SIN numbers.

Six other residential searches were conducted on this date. In excess of $250,000 of currency, which was counterfeit, was seized from all locations. In total there were six individuals arrested in connection with this investigation; the three defendants before the court, Adit Jani, Rehan Bawania and Taimaz Ejtehad, together with Ibrahim Abkashak-Joghati, all of whom were identified as the manufacturers of various counterfeit mediums, including currency, both Canadian and American, debit cards, drivers' licences and SIN cards. They supplied these various counterfeit mediums to a vast distribution network, including Manoharan Subramaniam and Mohammad-Ali Syed, also arrested as a result of evidence attained during this investigation.

Examination of the Canadian counterfeit currency by the Bureau of Counterfeit Document Examination has determined that the source of these notes can be attributed to over $6,000,000 of counterfeit currency removed from circulation across Canada."

Exhibit Number 10, filed December the 10th, 2009 in

evidence and authored by Marcel LeBel, Examiner of Counterfeits at the RCMP National Anti-Counterfeiting Bureau, set out the cumulative total of counterfeit bank notes recovered in Canada as at September the 30th, 2009 and which were printed by the defendants.

Mr. LeBel testified in support of Exhibit Number 10, to indicate that there were 383,634 bank notes, totaling $6,765,770 in counterfeit value printed by the defendants and recovered from circulation.

THE AGGRAVATING FACTORS

1. The Scope of the Illegal Operation:

   The defendants business was a sophisticated one in nature. Care had been taken by the defendants at all levels to ensure that they had only the best equipment, printers, cutters, computers and dyes. The operation was centered on the production of counterfeit Canadian currency, but Ontario derivers' licences and social insurance cards were also produced.

2. The Quality of the Counterfeit Documents and Notes:

   The quality of the various counterfeit documents, but particularly the money, was extraordinarily high. The counterfeit money

was virtually undetectable. Only those persons with extensive specialized training, using the most sophisticated techniques, were able to actually identify the counterfeit money. This court can easily infer that the vast majority of the retail sector was defenceless from the invasive attack of the counterfeit money produced by these defendants. The fact that these counterfeit notes sold for 30 to 40 cents per dollar is a testament to the high quality of these counterfeit bank notes.

3. The Quantity of the Money:

As at September the 30th, 2009 it has been determined that 383,634 counterfeit bank notes with face values of $6,765,000 were produced by the defendants at their business location. The defendants' operation was huge. It produced huge numbers of high quality counterfeit money.

4. The Impact of Counterfeit Money in our Economy:

The effect that this counterfeit money, particularly of the magnitude involved in this particular case, has upon the economy of our country has been set out in a detailed impact statement written by a senior analyst at the Bank of Canada, and filed as Exhibit Number 2.

The Royal Canadian Mounted Police in this country have a segregated or seconded platoon that works directly with the Bank of Canada to ferret out those who would inveigle our monetary system by the infusion of counterfeit money.

Money, in a democratic capitalist society such as Canada, is the medium of exchange both personally and in our commercial world. The production and distribution of the quantities of money involved in this case infect and compromise the ability of decent, honest, hard-working people to conduct business by destroying the very fabric in the value of the money that they work so hard to obtain.

THE MITIGATING FACTORS

The Plea of Guilty:

Each of the three defendants has entered a plea of guilty. These pleas of guilt must be given and will be given recognition by the courts. A plea of guilty demonstrates remorse by the defendants and the fact that they accept responsibility for their criminal wrongdoing and are accountable for it. These pleas have saved the state the additional requirement of having to prove the defendants' guilt, with all of the attendant time and cost considerations.

THE OFFENDERS

Adit Jani:

Adit Jani was born on the 23rd of July 1984. He was 21 years old when these offences took place. He is now 25 years old. His life has largely been on hold for over the last 18 months as he was rearrested and detained in custody on June the 10th, 2008.

Exhibit Number 13 is made up of a series of documents which speak very positively about Adit Jani, his commitment to education, to his family, to his friends, his work ethic and his character. It is shocking and disappointing that a man of such ability would allow himself to become involved in this sort of criminal behaviour.

Mr. Jani was in university and succeeding. He completed a Canadian Securities course on December the 27th, 2007. He has been involved in the web transcript development. He has developed several companies which conduct business and has received various positive reviews in a number of trade journals.

Mr. Jani is a bright young man with a tremendous future. He has the support of his mother and his father. His father, in fact, wrote a lengthy letter in support of his son and Mr. Jani himself wrote a letter explaining how he became involved in these matters, what it has meant to him and how sorry he

is for having done so.

Rehan Bawania:

Rehan Bawania was born on the 19th of March 1984. He was 21 years old when these offences took place. He is now 25 years old. His life has also largely been on hold over the last 18 months, since he too was rearrested and detained in custody on June the 10th, 2008.

Exhibit Number 14 is made up of a series of documents and letters, which speak positively about Rehan Bawania. His commitment to education, to his family, to his friends, to his community, his work ethic and his character, are equally impressive in the same fashion as that of which I have spoken in terms of Adit Jani.

Mr. Bawania had been in university and had spent most of his free time working and volunteering. Letters of support from school and work confirm that this outstanding young man has all the potential in the world, but allowed himself to become seduced into criminal behaviour of a magnitude perhaps even beyond his capability of fully understanding and appreciating.

Taimaz Ejtehad:

Taimaz Ejtehad was born on the 28th of April 1982. He was 23 years old when these offences occurred.

He is now 27 years old. His life has largely been on hold since he was arrested June the 19th, 2008 and detained in custody.

Exhibit Number 15 is made up of a series of letters from friends supporting Taimaz. All report that Taimaz is a hard-working, well liked and highly respected young man. All reports show that Taimaz would never have been mixed up in this sort of activity on the word of those who authored the reports in his support. Most impressive.

As well, Taimaz Ejtehad has delivered a very sincere letter of apology for his involvement in this criminal behaviour.

Another bright young man's future is soiled by becoming involved in this sort of criminal behaviour.

BREACH OF RECOGNIZANCE AND THE REGINA V. EDWARDS APPLICATIONS

Each of the defendants was originally released on the substantive offences before the court under section 465, 449 and 376(2) of the Criminal Code. Each was released on a number of terms, which was secured by their recognizance, their promise to the court that included a term that they were not to have any communication with each other, no contact with each other and others.

Following an investigation each of the defendants was arrested and has remained in custody since approximately June the 10th, 2008. At the core of the arrest was the failure by each of these young men to abide by the very specific term that they promised to the court they would obey: not to have communication with each other. Yet they did so willingly on a number of occasions over and over and over again.

On the 27th of August 2009, Adit Jani entered a plea to an amended single count of breach of recognizance. He asks the court to sentence him at this time.

The facts were straightforward and not at all complicated. Adit Jani was talking on his cell phone with Mr. Ejtehad and Mr. Bawania and as I have indicated, on a multiple of occasions, in violation of the court document upon which he placed his solemn promise and word to obey.

Sentence for Mr. Jani was put over to December the 18th, 2009.

Taimaz Ejtehad and Rehan Bawania have also been charged with the same offences. In the Edwards hearing it was determined that each of Taimaz Ejtehad and Rehan Bawania were also talking with each other and with Mr. Jani on a multiple of occasions, all in violation of the same recognizance of bail that they too had placed their solemn word

upon to this court.

Unlike Adit Jani, however, neither Taimaz Ejtehad nor Rehan Bawania have entered a plea of guilty and those charges remain outstanding.

The Crown argues that under the principles set out in R. v. Edwards I have the jurisdiction to consider the conduct of Taimaz Ejtehad and Rehan Bawania, as set out in that case and the principles referred to by Mr. Justice Rosenberg. In doing so I may enhance the sentence that I might otherwise give and impose a greater sentence upon those individuals in accordance with the principles set out in R. v. Edwards.

Evidence presented at the Edwards hearing has allowed this court to conclude that Taimaz Ejtehad and Rehan Bawania used a cell device or cell phone a number of times, in fact, over a very wide period of time, in violation of their recognizances. As a result this court can and will impose an enhanced sentence upon Mr. Ejtehad and Mr. Bawania in regard to the substantive offences under the sections to which I have earlier made reference.

SENTENCING PRINCIPLES

The fundamental purpose of sentencing in our criminal justice system is set out in section 718 of the Criminal Code. The objective of sentencing is to achieve a balance of denunciation, deterrence,

protection of society, reformation and rehabilitation of the offender.

Section 718.1 provides that sentences must always be proportionate to the gravity of the offence and the degree of responsibility of the offender.

Finally, section 718.2 sets out a collection of other sentencing principles, but so far as this case is concerned, two or three of which are quite important, the balancing of the aggravating and mitigating circumstances, parody of sentence and totality of sentence, each has application to the three defendants before the court in these sentencing proceedings.

Denunciation, deterrence and protection of the public are without question the paramount sentence objectives in this case as it involves counterfeit money.

The case law provided by counsel supports this view in cases such as:

R. v. Al Saidi, [2006] N.B.J. 348 (N.B. Prov. Ct.)
R. v. Christophersen, [2002] A.J. 1330 (Alta. Prov. Ct.)
R. v. Todorov, [2006] O.J. 5637 (Ont. S.C.J.)
R. v. Mihalkov, [2005] O.J. 4178 (O.C.J.)
R. v. Caporale, [2005] O.J. 1509 (O.C.J.)
R. v. Kiss, [1995] O.J. 5002 (Ont. Ct., G.D.)
R. v. Senthilkumar, [2007] O.J. 4681 (O.C.J.)

R. v. Weber, [2001] O.J. 6103 (O.C.J.)

Courts at every level in this country have confirmed this view.

One case which was particularly helpful is the case of R. v. Al Saidi - supra in which Justice Ferguson, a Provincial Court Judge in the Province of New Brunswick, expressed the manner in which the court should engage sentence principles when dealing with counterfeit money at paragraph 68:

"The crime of counterfeiting crosses a rather wide sentence spectrum. That principally owes to the maximum penalty for both of the counterfeiting offences involved here of fourteen years imprisonment. Broadly speaking these offences fall into three general categories from most serious to least serious. High sentences are reserved for those who have been found to manufacture bills and possess the equipment to manufacture bills. Not far removed are high and moderately high sentences for those who possess or transact large quantities of counterfeit bills and at the low end of the scale those offenders who possess or transact only a few bills and cannot be considered to be engaging in a commercial criminal enterprise."

Penitentiary sentences are not only not uncommon, they are the rule.

R. v. Mihalkov

R. v. Caporale
R. v. Kiss
R. v. Senthilkumar, and
R. v. Weber

Parity is also an important sentencing principle.

These defendants committed offences while in the company of another defendant, Abkashak-Joghati, with whom they were associated. The sentence imposed upon Mr. Abkashak-Joghati was four years in the penitentiary. I consider the parity principle to be pivotal in the consideration of determining the sort of penalty I should impose upon these three defendants in this case.

I have considered the charges, the facts, the evidence, the submissions of counsel, the pleas of guilty of each of the defendants, the aggravating and mitigating circumstances. The sentencing principles specific to counterfeit cases, and just as importantly, the sentencing principles in general dealing with totality and parity, as I have referred to them.

Adit Jani:

Would you stand up, please?

The sentence that I impose upon you for the substantive offences upon which you have entered a plea of guilty is four years in the penitentiary.

In addition, in relation to the offence of breach of recognizance, six months consecutive, which brings it to a total of 54 months. I am going to reduce that sentence by the amount of pretrial custody that you have spent of 18 months on a two for one basis or 36 months. This reduces the 54 month sentence by 36 months, to 18 months.

In addition, Mr. Jani, you are going to be placed on probation for a period of two years upon your release from prison. The terms of your probation will be as follows:

- you will keep the peace and be of good behaviour;
- appear before the court when required to do so by the court;
- notify the court or your probation officer in advance of any change of name or address;
- promptly notify the court or probation officer of any change of employment or occupation;
- report forthwith upon your release to a probation officer and thereafter as required and during the currency of the two years;
- you will report once a month during the entire period of that two year probation order;
- you will reside at an address approved of by your probation officer;
- you will make reasonable efforts to seek and maintain gainful employment, if not enrolled fulltime in school and provide proof to your probation officer in written form;

- you will have no contact or communication directly or indirectly with Rehan Bawania, Taimaz Ejtehad, Manoharan Subramaniam, Mahammadali Syed, Sajjad Wadiwalla, Kursn Rasanayagam or Abkashak-Joghati;
- you are not to have in your possession any computer equipment or printers, except in a supervised workplace or educational facility upon the approval of your probation officer;
- you will not attend any internet cafes;
- you will seek and maintain employment or an educational program and provide this information to your probation officer;
- you will attend, participate and complete such counseling or programming as directed by your probation officer and you will sign such releases as are required by your probation officer to confirm compliance with the provisions of this order.

This is a probation order, Mr. Jani. You are a very intelligent young man. You understand that we govern ourselves in this society by the rule of law. That is why you are where you are now. If you violate the terms or conditions of this probation order or are brought back before this court under charges and convicted you most certainly will go to jail and it will be for quite some time. Do not put yourself in that unenviable position.

You may sit down.

Rehan Bawania:

Mr. Bawania, the sentence that I impose upon you in regard to the substantive offences is four years in the penitentiary, but I enhance that particular sentence by an additional six months, to bring it up to 54 months, based upon my reasons set out in the R. v. Edwards application in this judgment. I will reduce that 54 months by the 18 months you have spent in pretrial custody on a factor of two for one or 36 months. Your sentence is 18 months. No probation was considered in relation to Mr. Bawania.

You may sit down, sir.

Taimaz Ejtehad:

I sentence you to four years in the penitentiary for the substantive offences that you have committed and in addition enhance that sentence by six months, based upon your involvement in breach of recognizance, which came about as a result of the R. v. Edwards application, which was heard by this court, for a total of 54 months and I reduce that sentence by the 18 months that you have spent in pretrial custody on a two for one factor, or 36 months, leaving a net residue sentence of 18 months in custody. Again as I understand it, Mr. Ejtehad is not to be the subject of a probation order.

You may sit down, sir.

Gentlemen, if you would stand up, please?

Even in what must be part of your darkest hours leading up to today's date and trailing out from today's date, every day from this day forward is a day you are closer to release.

You are, all three of you, very bright, talented young men. Everybody who comes to this country comes from somewhere in the world where things are not as good, whether it is you, whether it is your parents, whether it is your grandparents, to try and make this place a better place in which to live. There is no reason that you cannot do that. You are still in your twenties.

I hope that someday, and that is my hope, that we will read about you in very positive ways, as we did in the exhibits that were filed on your behalf. You should understand that you will have every opportunity to do so, but you must respect the rule of law and you must respect your neighbours and friends. You hurt them when you produced this counterfeit money, you hurt them badly. You cannot do that again. You are bright enough to understand that, all of you. I expect you to move ahead and make a positive contribution.

You may sit down.

All of the items that were seized in this

investigation by police services, all of which are detailed in the multiple exhibits that have been filed will all be forfeited to Her Majesty the Queen for disposition.

MR. MILLER: Your Honour, we'll just need to have a look at the informations, there are charges to be withdrawn. In relation to Mr. Jani, on information number 09-07473, which we affectionately refer to as the OPHIR II information, counts one, two, three, five, six, seven, along with counts 79 through 83 on that information are all to be withdrawn as against Mr. Jani only.

And then in relation to the other information, which is the OPHIR I information, I believe we already withdrew any remaining counts on that information, but in terms of the other information before the court if there are any counts remaining on that that have not been withdrawn they can be marked withdrawn as against all accused.

THE COURT: All right, good luck to you, gentlemen.

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FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

Evidence Act

I, Carol P. Smith, certify that this document is a true and accurate transcript of the recording of Her Majesty the Queen v. Rehan Bawania, Taimaz Ejtehad and Adit Jani, in the Ontario Court of Justice held at 50 Eagle Street West, Newmarket, Ontario, L3Y 6B1 taken from Recording No. 4911-303-0542/2009, which has been certified in Form 1.

January 30, 2010
(Date)

Carol P Smith
(Signature)

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Photostatic copies of this transcript are not certified and have not been paid for unless they bear the original signature of Carol P. Smith, and accordingly are in direct violation of the Ontario Regulation 587/91, Courts of Justice Act, January 1, 1990.

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