

Ontario Divisional Court dismissed appeal by Watt Carmichael executives

Ontario's Divisional Court has upheld the convictions and penalties issued against three men and a company who were accused of Securities Act violations with regard to trading in Biovail shares earlier this decade.

On June 20, 2008, the **Ontario Securities Commission** found that investment dealers Roger Rowan, Harry Carmichael, Michael McKenney and their company, Watt Carmichael Inc., breached provincial securities law and engaged in conduct contrary to the public interest. A subsequent ruling issued Dec. 21, 2009 ordered sanctions against each of them, including penalties of more than \$1.2-million.

Biovail founder Eugene Melnyk had also been named in the case, but he settled this matter with the OSC in 2007. ... Rowan, who was both a director of Biovail and an executive with Watt Carmichael, was found to have breached s. 107 of the Securities Act by failing to file insider trading reports and trading in Biovail securities during the company's blackout periods. He was also found to have engaged in conduct contrary to the public interest by failing to disclose his Biovail investments.

The OSC found that Watt Carmichael Inc., Harry Carmichael and Michael McKenney failed to adequately supervise Rowan's trading in Biovail securities. The brokerage and the three men appealed the OSC's findings to the Divisional Court, a judicial branch that reviews provincial government actions and statutory appeals.

In an oral decision delivered last Tuesday, the Divisional Court dismissed the appeal and awarded \$25,000 in costs to the OSC.

(The Financial Post, 22 December 2010)