ONTARIO COURT OF JUSTICE

DATE: 2026 02 02
COURT FILE No.: Toronto 22-12000239

BETWEEN:

HIS MAJESTY THE KING

— AND —

JAWAD RATHORE AND VINCE PETROZZA

Before Justice D. Moore
Reasons for Sentence released on February 2, 2026

Scott Patterson and Vallery Bayly ..... counsel for the Crown
Scott K. Fenton ..... counsel for the accused Jawad Rathore
Gerald Chan and Dan Goudge ..... counsel for the accused Vince Petrozza

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D. MOORE J.:

Introduction

[1] Mr. Rathore and Mr. Petrozza were found guilty after trial of one count of Fraud Over $5,000 contrary to s. 380 of the *Criminal Code*. The charge period is January 31, 2011 to July 29, 2015. The offence relates to funds raised by Mr. Rathore and Mr. Petrozza through syndicated mortgage loans [SMLs] for two construction projects known as Colliers and Sky City. The facts of the offence are set out in my Reasons for Judgment.[1]

[2] The Crown seeks a sentence of 10 years, a fine in lieu of forfeiture, restitution orders, a prohibition order pursuant to s. 380.2 of the *Criminal Code*, and a DNA order. The defence submits that conditional sentences of two years less a day would be appropriate.

[3] These reasons will explain why I have determined that a penitentiary sentence of 5 years is appropriate.

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[1] *R. v. Rathore*, 2025 ONCJ 291

I. Circumstances of the Offenders

[4] Jawad Rathore is 49 years old, married with six children between the ages of 10 and 17. Three of his children have learning disabilities and require additional and special attention. His wife has an autoimmune disorder that often limits her mobility and affects her energy levels. His parents are 82 and 78 years old and he helps care for them. His father has had multiple joint replacements, and his mother has early-onset dementia and requires assistance in caring for herself. He does not have a prior criminal record.

[5] Mr. Petrozza is 50 years old. He is university educated with degrees in Math and Computer Science. He is married with 3 children between the ages of 19-23, all of whom are attending university and appear to have bright futures ahead of them. He provides support to his parents and mother-in-law. He has the benefit of broad familial and community support and involvement. He does not have a prior criminal record.

II. Evidence and Factual Findings re: Quantum

[6] Based on the tranche schedules and tranche summary, along with the affidavit of Daniel Sobel, I am satisfied beyond a reasonable doubt that at least $16.5 million was obtained from investors in the Colliers Project during the charge period, and at least $18 million was obtained from investors in the Sky City project during the charge period. I say at least as my examination of the source documents revealed some discrepancies in the calculations, and I have accordingly significantly rounded down to give the benefit of the doubt to Mr. Rathore and Mr. Petrozza.[2]

[7] I am satisfied beyond a reasonable doubt that all investors were misled as to the value of the property. Based on the willsay of Mélanie Larouche, the investor documents contained the misrepresentations, as found in my reasons for judgment to be the basis for liability. The exception is those investors for whom no documents are available[3], and thus I am left with a reasonable doubt as to whether they were misled. This results in a reduction of $1,035,900 from the Colliers amount and $271,000 from the Sky City amount.

[8] I thus conclude beyond a reasonable doubt that the gross amount of the fraud is at least $15.4 million for Colliers and at least $17.7 million for Sky City, for a total of $33.1 million.

[9] It was unnecessary to hear *viva voce* evidence from each investor to be satisfied beyond a reasonable doubt that they were the victim of a fraud. The valuations of the properties were the very basis for the transactions. The transactions were completed based on valuations that were not what they were represented to be. The documents containing the misrepresentations are in the investor packages. They were exposed to a risk of loss as a result. That risk of loss became an actual loss when the projects did not

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[2] For example, Trial Exhibit 53 lists the total funds raised during the charge period for Colliers as $17,762,950 whereas Sentencing Exhibit 7 lists it as $16,921,950.
[3] See paragraphs 5e and 6f of Sentencing Exhibit 6.

go ahead, and the properties did not have sufficient value to protect their principal investment.

[10] Put another way, Mr. Petrozza and Mr. Rathore were in the business of raising funds for construction projects from investors. In return for their investment, they were given a promise of interest as well as a mortgage on land to secure their principal investment. The mortgages registered against the properties exceeded the value of the properties, by as much as 300%. This of course placed their principal at risk as it was not sufficiently secured.

[11] I further reduce the amount of the loss by the interest paid to the investors and recovery through civil proceedings. I rely on the calculations contained in the affidavit of Daniel Sobel. The Defence submits that I should not accept the evidence contained in the affidavit because of the limitations set out in paragraph 10 of the affidavit. I do not accept this submission. This is particularly the case as Mr. Sobel's affidavit is used to **reduce** the amount of the loss by quantifying recovery. It works to the advantage of Mr. Rathore and Mr. Petrozza by reducing the amount of the loss by $8,648,028.

[12] Given all the above I thus come to a somewhat lower number than the Crown in quantifying the outstanding loss as proven beyond a reasonable doubt as slightly more than $24.4 million. This amount far surpasses the $1 million threshold in s. 380(1.1) of the Criminal Code and Mr. Rathore and Mr. Petrozza are subject to the minimum punishment of 2 years incarceration, and a conditional sentence is unavailable to them.

III. Aggravating and Mitigating Factors

(a) Aggravating

[13] I find the following factors to be aggravating:

- The magnitude of the fraud of a gross amount of $33.1 million and a loss of $24.4 million;
- The fraud involved a high degree of planning and complexity;
- The fraud went on for almost 4.5 years;
- Almost 800 investors were defrauded;
- The fraud targeted "mom and pop" investors, upon whom the impact of the losses was much greater and in some cases were financially catastrophic. Most victims suffered some degree of psychological harm, and some suffered extremely serious deteriorations of their mental health which in turn also impacted on their physical health;

- Although I do not find that Mr. Rathore and Mr. Petrozza were in a formal legal position of trust in relation to the victims (such as their own lawyer or mortgage broker would be), I do find that they took advantage of the high regard in which they were held in the community which is aggravating pursuant to s. 380.1 (1)(d).

(b) Mitigating

[14] I find the following factors to be mitigating:

- The lack of any prior criminal record for either offender;
- Strong potential for rehabilitation given their roots in the community.

[15] I do not find the following factors relied on by the offenders to be mitigating:

- That the offenders "did not intend to cause anyone to suffer a loss". While it is less aggravating than a scam or Ponzi scheme, this is not a mitigating factor on sentence;
- The risk of loss was not low as submitted by the offenders. The overleveraging caused by the fraud virtually guaranteed there would be loss if the projects failed. Further, in this case we have actual losses of $24.4 million;
- Although Mady's[4] financial difficulties were the immediate cause of the failure of the projects, the fraud caused the investors' losses as the overleveraging meant that there was insufficient security for the investors when the default occurred;
- With respect to the offenders' efforts to prevent the collapse of the projects in the wake of Mady's bankruptcy I do not have evidence that would allow me to conclude that those efforts assisted the investors in any way. They might well have diminished whatever value they had in their security by placing other interests ahead of them in priority. For example, Mady was paid $32.7 million for it's equity in Colliers and an unknown amount for it's equity interest in Sky City, presumably as secured creditors the victims in this case would have had priority over Mady in terms of recovery had the projects gone into bankruptcy.

IV. Other Relevant Factors

[16] The following factors are neither completely aggravating nor mitigating but still relevant in assessing the seriousness of the offence and the degree of responsibly of the offenders:

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[4] Mady was the initial developer of the Colliers project and joined Fortress on the Sky City project as co-developer and construction manager

- Colliers and Sky City were real construction projects that might have been able to provide the expected returns to the investors but for the bankruptcy of Mady. The offenders also would have financially benefitted from the successful completion of the projects; and I accept that they truly wanted them to succeed. This was not a pure scam or Ponzi-type scheme where the investment does not even truly exist. That said, the fraud did allow the projects to proceed on an overleveraged basis, meaning that the losses suffered were directly attributable to the fraud, unlike the case of *R. v. Drabinsky*[5] where there was both insufficient evidence of a link and even if it had been established appears to have been much more indirect and tenuous;

- I do not have any evidence of true remorse. This is obviously not an aggravating factor, the offenders maintain their innocence as they are entitled to do, but it is an absence of a mitigating factor;

- Persons and entities other than the offenders appear to have contributed to the scale of the fraud in this case and might have failed in their professional and other obligations to the victims (although they were not on trial before me and did not have a chance to defend themselves).

V. Analysis

[17] General deterrence and denunciation must be given significant weight in determining the appropriate sentence for large scale commercial fraud. As stated by the Ontario Court of Appeal in *R. v. Drabinsky*:

> [158] Counsel for Drabinsky submit that the trial judge erred in principle by focusing on general deterrence and denunciation. They argue that there is little concrete evidence to support the contention that longer sentences provide more effective general deterrence than shorter jail terms.
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> [159] The deterrent value of any sentence is a matter of controversy and speculation. However, it would seem that if the prospect of a long jail sentence will deter anyone from planning and committing a crime, it would deter people like the appellants who are intelligent individuals, well aware of potential consequences, and accustomed to weighing potential future risks against potential benefits before taking action: *R. v. Gray*, *[1995] O.J. No. 92*, *76 O.A.C. 387* (C.A.), at pp. 398-99 O.A.C., leave to appeal to S.C.C. refused *[1995] S.C.C.A. No. 116*.
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> [160] In any event, this court and all other provincial appellate courts have repeatedly held that denunciation and general deterrence must dominate

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[5] (2011) ONCA 582

> sentencing for large-scale commercial frauds. Denunciation and general deterrence most often find expression in the length of the jail term imposed.[6]

[18] The Crown's submissions in support of the 10-year sentence it seeks are based on sentences imposed for offenders who committed Ponzi schemes or other outright scams. I do not accept that the offenders in this case committed that type of offence. In my view Mr. Rathore and Mr. Petrozza's offence is much closer to the large-scale commercial fraud committed by Mr. Drabinsky. Unlike that case, however, there is a proven and direct link between the fraud and the losses suffered by the victims in this case. The seriousness of the offence and the degree of responsibility of the offenders is also greater here in my view than in the cases of *R. v. Plange*[7] and *R. v. Davatgar-Jafarpour*[8].

[19] The range for sentence in this type of case was summarized by the Court of Appeal in *Plange*[9]:

> In *R. v. Koval*, [2001] O.J. No. 1205(Ont. S.C.J.), Watt J. (as he then was) found that large-scale commercial frauds attract sentences of 5-8 years where large sums of money are put at risk. In *R. v. Watts*, 2016 ONSC 4843, 2018 D.T.C. 5024 (note) (Ont. S.C.J.), the court set a sentencing range of 4-8 years in a case involving a large-scale fraud where $10 million was put at risk and the accused obtained $150,000 from the fraud. The fraudulent scheme involved the filing of false tax documents. Other large-scale frauds implicating loss or risk of approximately $2-40 million dollars have attracted sentences of 3.5-8 years. More recently, this court confirmed that in cases of large-scale fraud the range is generally 3-5 years: *R. v. Davatgar-Jafarpour*, 2019 ONCA 353 (Ont. C.A.), at para 34.

[20] Obviously, no sentence that I impose is going to get the investors their money back or undo the significant financial and psychological harms caused. Having considered all the relevant factors in my view the appropriate custodial sentence for each offender is 5 years in the penitentiary. I will also make a DNA order, a fine in lieu of forfeiture order in the amount of $12,200,000 for each offender with a corresponding 5-year period of incarceration in default of payment. They will each be given 10 years to pay that fine following release from custody.

[21] There will also be a 10-year prohibition order pursuant to s. 380.2 of the Criminal Code commencing today. The parties will have an opportunity to make submissions with respect to any conditions or exceptions to the standard wording of the order.

[22] I will make orders for restitution for at least some of the victims but require further submissions from the parties with respect to those orders. Restitution payments to the victims of these offences only (i.e.: Colliers and Sky City projects within the time period

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[6] Ibid, paras 158-160
[7] (2019) ONCA 646 (3 years would have been appropriate)
[8] (2019) ONCA 353 (4 years would have been appropriate)
[9] At para 40

and not including investors where documentation was missing) will reduce the fine in lieu of forfeiture. I also intend to give priority in repayment to the victims who testified at this trial.

[23] I wish to thank all counsel for their professionalism and civility throughout this proceeding. This was a difficult trial and sentencing but counsel conducted it in the finest traditions of the bar. The amount of work put in was obviously tremendous given the quality of the written materials and oral submissions.

Released: February 2, 2026

Signed: Justice Daniel Moore