

Nova scotia ethic assignment

[Sociology](#), [Ethics](#)



Being short means that the firms sell more shares than are available in the new issue and the firm has some fire power in the after-market, meaning more liquidity. Mr. Berry was earning millions of dollars for the bank in 2004, it was seeking outside legal opinions on the ramifications of renegotiating his contract to stop paying him so much. Cumming is willing to testify that senior executives at Scotia had divulged the bank's desire to catch Berry in "something like a securities violation so Scotia could use it against him," to either severely reduce his compensation package or fire him.

The bank claimed that Berry had hidden his behavior and that his education and training was such that he should have known his "misconduct breached fundamental terms of his employment with Scotia, and was just cause for his termination." Colon (Berry's lawyer) cited the passage in COMIC that exempts the distribution of any previously uninsured securities from being entered on the exchange. Williams responded by saying, "The advice we received from counsel-?". Scotia lawyer interrupted, preventing Williams from finishing her sentence, explaining that what she was about to say was protected by solicitor-client privilege.

But the fact that Williams, herself a lawyer, had sought a legal opinion on Berry's reads begged a crucial question: if the head of compliance didn't know whether or not what Berry was doing was improper, how could they expect him to understand? An industry that's almost entirely self-regulated, Berry's case raises questions about how this monitoring is carried out. The history of Citibank and David Berry The Bank of Nova Scotia, commonly referred to as Citibank, welcomed its first customers in Halifax, Nova Scotia in 1832. Citibank continued to expand its branches across Canada, into the

U. S. ND overseas from the 19th century and onwards. In 1999, Citibank's Corporate Banking business and Scotia Capital Markets were integrated to form Scotia Capital. Citibank now serves to some 21 million customers in more than 55 countries across the world. One of the main factors for the growth and success of Citibank is that it fosters a committed team that lives their shared values and works together to provide customers with expert advice, insights and financial solutions. Citibank clearly puts great emphasis on hiring the best candidates suitable for their jobs. One individual who stood out the most was David Berry.

Berry first worked at Ernst & Young after finding out that the firm would pay for his MBA tuition if he committed to work for them for a few years. He had left Ernst & Young after receiving his MBA and chartered accountant license to join Scotia Capital in 1995. Berry was presented the opportunity to work at Citibank through his father's friend, Gordon Cheeseburger, who was the chairman of Scotia Capital Markets at the time. Berry started out as a research associate and had later moved to the Sales and Trading department. In the space of two years, he made his way up the ladder to eventually dominate Scotia Capital's preferred desk.

Berry became a commodity as other banks wanted him to leave Citibank and join them, which led to Citibank offering Berry a direct-driven deal in which he kept a certain percentage of the profits he made for the bank. He was the only trader who received a direct-drive deal as all the other traders were compensated on an annual bonus. This direct-drive deal percentage was increased a few times as Citibank aimed to keep Berry at the bank. In

2003, it was stated that he had earned \$15 million for himself , earning almost double of the CEO of Citibank.

Through his performance he developed any privileges, and his domination of the industry made Berry extremely powerful. Shortly after his rise to success, he was dismissed from Citibank then known as Scotia Capital. What is the ethical case here? The ethical case here was that Citibank had fired Berry for supposedly engaging in inappropriate trading practices, specifically, selling newly issued preferred shares to clients without printing the trades biblically on the stock exchange. However, Berry claimed that it was perfectly fine to refrain from printing the trades on the stock exchange. **There were two issues involving Cecilia Williams that we've mixed up. . Cecilia Williams questioned him about the trade regarding Balconied and Great West Life. She determined that he was wrong to do this and was going to forward the tapes to MRS.. But Berry had played the tapes to Scotia head of trading, Mark Evader, and he said that this was fine and that every trader (including him) did this. As Williams was getting ready to send the report to MRS., Berry was allowed to attach a narrative to the report explaining his actions. He told Williams that he was going to state that Evader said that what he did was common practice.

Williams reacted in shock and said " What? Our dead trader does this? " After this, there was no talk of the tapes going to RSI. This had nothing to do with the preferred shares. 2. The second issue is in regards to the preferred shares and whether or not they should have been printed on the stock exchange. RSI did their routine trade audit of Scotia, and it was during this

that they discovered the preferred shares issue. Celiac Williams wasn't sure if there practices were allowed, and Berry suggested getting opinion from another compliance expert Linda Frets who stated that he had done nothing wrong etc etc.... His is the main issue, and the reason he to fired for - not the Balconied and Great West Life trade. [Http://www. Tortellini.](http://www.Tortellini.Com/informer/random-situ-if-informer/2008/06/01/traders-revenge/4/)

[Com/informer/random-situ if-informer/2008/06/01 / traders-revenge/4/](http://www.Tortellini.Com/informer/random-situ-if-informer/2008/06/01/traders-revenge/4/) This had all started once Berry started to make millions for the firm and for himself, outpacing the earnings of top executives. Mr.. Berry had bought some shares in the Balconied mining company from a client and, in turn, sold the same client shares in Great West Life. Berry had not printed the trades on the exchange because the preferred shares were new issues (I. E. They were being offered to potential investors for the first time).

Berry justified his actions because it was understood in the firm that new issues were exempt from being printed on the exchanged. However, his actions were wrong in the eyes of Cecilia Williams, the head of Scotia Capital's compliance department. Williams had discussed to Berry that she was going to send the tapecommunicationbetween Berry and his client to the Market Regulation Services. The market regulation service had started its routine scheduled trade desk review at Citibank. Berry went on to get another opinion from his own counsel from a compliance expert, Linda Frets.

Frets ad advised that because the new issue shares in question had been sold from Berry's inventory before being listed on an exchange, they did not constitute improper off-market transactions and thus were not in violation of Universal Market Integrity Rules (EMIR). Even if they had been, Berry did not

understand why Citibank hadn't alerted him to this issue long before now. He had never been secretive about how he operated. And, as far as Berry was concerned, there was no harm to his clients by trading this way. A few weeks later, Berry was asked to meet with Scotia Capital's deputy chairman along with head Of institutional equities.

Berry was notified that he was being suspended for the time being because Citibank was undergoing its own investigation relating to the preferred shares issue. Mr.. Berry filed a \$100 million claim focusing on constructive and wrongful dismissal. In return, Citibank filed a counterclaim along with a statement of defense. Ethical Issue in the Case and ethical behavior practices transgressed: One of the issues raised in the case is professionalism. The Commission found a violation and failure of the firm's upper management to act in public interest in favor of their own. Mr..

Berry was allowed to book trades which were entered on the liquidity of the preferred stocks. These trades made money for Scotia, and the more money he made for the bank the more capital he was allocated and the bigger the inventory he could carry and the more money he made as compensation. Even though this is not illegal, integrity of the capital markets was threatened by these actions. Also, the lack of supervision from the management has led to a conflict of interest. Their actions could have had serious and lasting effects on the integrity of capital markets and public trust resulting from a lack of supervision in Scotia Capital.

What is the Ethical Issue? The main issue in this case was whether printing the trades of the newly issued preferred shares on the stock exchange

constituted unethical trading practices. Furthermore, if the practices were not deemed a violation of JIM by compliance expert Frets (and unsure by Scotia own Cecilia Williams), did Citibank act ethically in still pursuing their own investigation and terminating his contract? An identification of the key people involved, and their positions in the company Below is a list of the key people involved: 1 Cecilia Williams (head of Scotia Capital's compliance department) 2.

Linda Frets (External compliance expert) . Jim Mountain (Mr.. Berry's boss at Scotia Capital Brian Porter, Scotia Capital's deputy chairman 4. 5. Rick Hugh (Citibank CEO) 6. Marc Mannequin (Berry's assistant) David Wilson (then vice-chairman of the Bank of Nova Scotia, and chairman 7. And CEO of Scotia Capital) 8. Andrew Cumming, who, until 2002, was Berry's direct supervisor. Cumming swore an affidavit in support of Berry's lawsuit, claiming that he saw nothing wrong with how Berry was ticketing new issue shares. 9.

Mark Evader, Scotia head of trading People who have suffered David Berry David suffered as he had been out of a job for a long time, and thus has offered financially and occupationally. Although he had received many job offers, they were all contingent on the outcome of the case. His reputation has been damaged as this stigma will always stick to him. Furthermore, his absence from the industry for a significant period of time may have damaged his efficiency as a trader as he would have lost many clients and relationships, as well as the power he previously possessed.

If he were to return to the industry, it would be near impossible to continue where he left off. In addition, David has further suffered financially as he has

had to spend money on funding his case against Scotia. Citibank It is reported that the preferred desk has suffered without him since he was dismissed.

Scotia has also had to spend a lot of money in the case against Berry. David Berry's Clients David Beers clients have most likely suffered as well. If Berry, using his expertise was generating millions in income for himself, it's clear that his clients were earning great profits on their investments as well.

Although his clients can find another advisor, it is not likely that they will find one with the expertise and skill of David Berry David Berry's Family His family has also suffered because he has not worked ever since the termination from Citibank. This must have cost the family as their standard of living must've lowered with the great loss in income. They were living very lavish lifestyles with Berry's income. List of ethical behavior practices that were transgressed

1. Professionalism a. Knowledge of the law d. Misconduct 2. Integrity of Capital Markets a.

Material Nonpublic Information (not completely sure) 4. Duties to the Employers B. Additional Compensation Arrangements (Don't know if this fits) C. Responsibility of the Supervisor Description of Events, Penalties or Convictions that followed David Berry was terminated in June, 2005 from Citibank. He was alleged of committing security regulatory violations. He was accused of violating uniform market integrity rules. Berry went into a big legal battle to prove that he did not do anything wrong. Information was released to the media that higher management of Citibank were looking for opinions from alai. O,'errs to change Berry's contract and keep him from leaving for a competitor prior to his accusation and termination from Scotia

Capital. Eight years, later all allegations against Berry were dismissed by the IIRC. David Berry has a \$100 million class action law suit against his former employer for constructive and wrongful dismissal. What should have happened to prevent improper action, and Resulting changes in corporate practices: We believe that the issue was in the company incompetence to provide adequate and effective supervision programs, and procedures for the employees to abide.

Lack of supervision from Jim Mountain, as a manager towards the employees, and poor corporate culture has resulted in a failure of employee's ethics. A stricter procedural rules and more effective management control should have been imposed and fulfilled. No changes to laws or regulations were performed. The circumstances Of his dismissal for allegedly breaching trading rules and the regulator's investigation of his conduct while working at Citibank. For good measure, the bank's statement added: "[Berry's] misconduct breached fundamental terms of his employment with Scotia and was just cause for termination.

He violated the trust and responsibility that accompanied his poss. Zion. "
<http://businessfunctionalist.com/2013/02/after-allegations-against-former-top-Citibank-trader-dismissed-its-now-Mann-a-Mann/> IIRC had brought two sets of allegations against Mr.. Berry claiming that he violated uniform market integrity rules during the distribution of new securities. The panel noted that after obtaining commitments from clients to buy shares in a new issue, some of the sales went through syndication while others went through Mr..

Berry's inventory account. Because no commission was charged on all of these new-issue sales, some clients knew that the shares didn't come from syndication. And what more the trade occurred when the expression of interest was made -? even though the trade confirmations didn't show the usual new issue trailer. Everyone concerned understood that they were trading a new issue," noted the panel, adding that prior to Mr.. Berry being terminated " his employer had no written syndication process policies or procedures. " In each of the two prior years to Mr..

Berry's dismissal, he had earned \$15- million, when CEO Rick Hugh made an average of \$8-million and few on the Street would dream of making as much. Mr.. Berry, who is currently suing Citibank for constructive and wrongful dismissal Documents obtained by the Financial post suggest that, about six months before his termination under the cloud of the now-dismissed allegations, the ann. was seeking outside legal opinions on the ramifications of renegotiating his contract to stop paying him so much. The documents also said Mr..

Berry could be fired " in the event of any of a regulatory breach, trading losses, or a violation of the bank's code of conduct. " [http:// business.functionalist.Com/2013/02/21/after-allegations-against-former-top Citibank-trader-dismissed-its-now-Mann-a-Mann/](http://business.functionalist.Com/2013/02/21/after-allegations-against-former-top-Citibank-trader-dismissed-its-now-Mann-a-Mann/) [http:// business.functionalist.Com/2013/01/15/IIRC-chaw urges-against-David-berry-dismissed/](http://business.functionalist.Com/2013/01/15/IIRC-chaw-urges-against-David-berry-dismissed/) However, things turned sour after Citibank created a new contract limiting compensation up to \$1 0 million unless stated by management. Berry had not signed this new contract in April 2005.

In May 2005, a regulatory precursor to the IIRC issued a warning letter to Mr.. Berry. By the end of June 2005, Berry had been terminated with his group having chalked up about \$43-million in net income. One year later Mr.. Berry filed a \$1 00-million claim alleging constructive and wrongful dismissal. In turn, the bank has filed a statement of defense and counterclaim. Was Citibank trying to save themselves to the possible illegal trading activity conducted by Mr.. Berry, or was it the top executives' jealousy the main driver for Berry's firing?