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Target had to be hit some way, Nortel trial told

[Jamie Sturgeon](#) Jan 20, 2012 – 2:45 PM ET | **Last Updated: Jan 20, 2012 6:56 PM ET**



Aaron Lynett/National Post

Brian Harrison, the Crown's first witness in the Nortel trial, leaves the courthouse in Toronto, January 20, 2012. Harrison was a financial planning and analysis manager at the Toronto company at the time of the alleged fraud in the early part of the past decade.

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TORONTO • Former Nortel Networks Corp. chief executive Frank Dunn and his two most senior officers weren't alone in their pursuit of ill-gotten bonuses — but they steered the alleged plot, a Toronto courtroom heard Friday.

Crown examination of Brian Harrison, Nortel's former director of planning and analysis, pieced together a scenario of wilful conspiracy amongst a cohort of top executives to hit bonus targets by falsely inflating profits.

“You were given a target and you [had] to get it some way,” lead prosecutor Robert Hubbard said after detailing several exchanges between the witness and the accused, Mr. Dunn, former CFO Douglas Beatty and former corporate controller Michael Gollogly.

The Crown lawyer focused his questioning on the first quarter of 2003 to depict how, while several high-ranking personnel abetted the three men, the executives guided the scheme to improperly trigger \$73-million in performance-based rewards.

The court was told about a Feb. 19, 2003 conference call Mr. Beatty and Mr. Gollogly held with senior vice-presidents of finance from across the telecom equipment giant's four major operating units. Mr. Harrison kept notes of the discussion.

Nortel at the time was barreling toward a \$249-million loss in the period, Mr. Harrison's projections show. Seeking to narrow that, the two accused executives instructed unit vice-presidents to submit some \$99-million out of a billion-dollar-plus mountain of unused reserves sitting on Nortel's balance sheet and apply it to divisional income. And they did.

The effect was to help Nortel swing to a \$54-million profit and to release “return to profitability” bonuses onto senior management.

The example is one of many Crown prosecutors have dredged up from some four million documents and 18 sets of financial data that in sum accuse the former executives of two counts of fraud over \$5,000 for misleading shareholders and defrauding their company. The men deny the charges. The case is being heard in Ontario Superior Court of Justice.

Mr. Hubbard argued that critical financial information was kept from Nortel's board and its auditor so as to conceal management's "earnings management scheme." Bi-weekly "roadmaps" produced by Mr. Harrison at the time in which performance metrics and targets tied to bonuses were updated were never shared with the company's auditors from Deloitte and Touche LLC, for instance, he said.

Lawyers for the three accused rejected the notion in their opening statements on Thursday, arguing that Nortel's external auditors were "fully engaged" with the company and its reporting commitments.

On Friday, Mr. Harrison said concerns were raised at a meeting in April 2003 by auditors who were "uncomfortable" with a plan to release and book as income accruals from Nortel's corporate operations. "It wasn't smooth," the witness said about the tone of the meeting.

Yet another \$80-million was applied to Nortel's quarterly earnings, the Crown says.

On May 9, 2003, as Nortel was filing its quarterly results with regulators, the firm sent Deloitte a letter affirming the company's responsibility to proper accounting. The letter's signatories were Mr. Dunn, Mr. Beatty and Mr. Gollogly.

The sources of the accruals-turned-earnings in the period date back to previous quarters when Nortel was undergoing massive downsizing and reorganization. As a result, a \$5-billion reserve of cash liabilities had amassed on its balance sheet by 2002 that had to be unwound somehow.

Following an RCMP investigation in 2008, the Crown alleged hundreds of millions of dollars in unused provisions were improperly applied to Nortel's income in late 2002 and 2003.

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