

POLICE

v

VAKATOMO MING

Date: 11 March 2016

Counsel: Ms A Mills for Crown
 Mr W Rasmussen for Defendant

**SENTENCING NOTES OF THE HONOURABLE JUSTICE DAME JUDITH
POTTER**

[1] Ms Ming, you are before the Court for sentence on three charges of theft from your employer. Those charges carry a maximum penalty of 5 years imprisonment.

[2] You were employed by Aitutaki Escape and on the 10 September 2015 your employer found six unauthorised online bank transfers from the account of Aitutaki Escape Investment Limited to your own account. Between the 25 June and 03 August 2015 you accessed the bank account of your employer online and you transferred \$3,916 to your personal account. And between 18 August and 08 September 2015 you transferred \$3,018 to your personal account. So the total amount transferred was \$6,934. Those transfers give rise to the two charges of theft of money.

[3] You are also charged with stealing a hard disc from your employer.

[4] You admitted that on these occasions you used the office computer. You had access to the password for your employer to their account at the Bank of South Pacific and you used that knowledge in breach of the trust that you held as an employee, to steal money from your employer.

[5] It was all too easy was it not? It was all too easy to breach the trust that you had as an employee.

[6] One of the outcomes of taking such an easy opportunity is that you may well limit your future employment opportunities.

[7] I am pleased to hear that you are in employment because the Probation report confirms to me that you are a young woman with a good education who has done very well at school and has been enrolled for a nursing degree. It was most unfortunate that you had to curtail your studies. I hope you will resume them. But as a young woman of promise you have done yourself a great disservice by this offending.

[8] The aggravating factors are the amount transferred, just under \$7,000, and the planning and premeditation that was inherent in this offending. It was not opportunistic; you worked away at it and then you put your plan into action.

[9] Mitigating factors: This is your first offence; you have not previously been before the Courts, and you entered an early guilty plea.

[10] I have read helpful submissions and heard from Counsel for both the Crown and the defence and there is a very helpful Probation report which I have considered in detail.

[11] As Ms Mills for the Crown acknowledged, there is a range in sentencing that applies in a situation like this. I propose to adopt Mr Rasmussen's submission on your behalf and impose a sentence I regard as lenient. I do that in the hope that you will turn around and realise where your future lies. It certainly does not lie in a path of dishonesty.

[12] The sentence I impose on you on each of the theft of money charges to be served concurrently, is 18 months Probation supervision, the first 6 months to be served on Community service and the following special conditions are imposed:

- a) You are to pay reparation of \$6,934 to Mrs Lily Henry and to Mr Vane Henry the previous owners of Aitutaki Escape. This amount is to be paid to the people from whom you stole it, before the expiration of your Probation term, that is within 18 months.

- b) You are not to leave the Cook Islands without the approval of the High Court.
- c) You are to attend any training or workshop directed by the Probation Service.

[13] On the charge of the theft of the hard drive, you are convicted and discharged.

[14] You may stand down.

Potter, J.

Justice Dame Judith Potter