

**PUBLIC PROSECUTOR**

**- v -**

**JACKLYNE TARIMIALA**

*Mr Leon Malatugun for the Public Prosecutor*

*Mr Andrew Bal for Defendant*

**SENTENCE**

Defendant Jacklyne Tarimiala, you are charged with One Count of Obtaining Money by deception, contrary to section 130B (1) of Penal Code Act [Cap135].

On 5 November 2013, you entered a guilty plea on that count. The brief facts are provided by the prosecution. You and your lawyer accept those facts before you entered your guilty plea. They are as follow:-

The complainant had a relative who was in the plane that crashed off Pango point in 1999.

The complainant, after several attempts searching for her younger sister and the rest of those that were in the plane, met you in town (Port Vila). You told her that you had found her sister and you were able to help her.

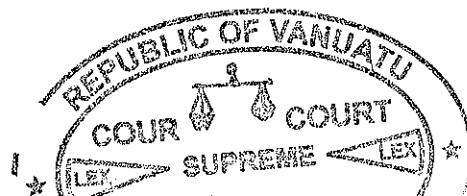
You then told the complainant to give you VT25,000 so as to assist her in bringing back her younger sister.

You then told the complainant to return to her home and wait. When nothing happened the complainant went to see you where she was told by you to give another VT8,000. Another VT7,000 as her younger sister and those in the plane crash were being held captive by one strong custom.

These continued where you continued to ask for more money as follows:

VT 3,000  
VT 5,000  
VT15,000  
VT30,000  
VT60,000  
VT10,000  
VT10,000

You kept on changing your stories all the time and giving false statements about where the complainant's younger sister was and why she was not able to come home.



The complainant and her family after waiting for a long time for you to bring her younger sister back home as you told her, realized that you were using them to get money for your personal use, and pretending to have powers to be able to help people with their problem.

The complainant after realising that you were using her to get money for your personal use then lodged a complaint to the police on the 2<sup>nd</sup> of October, 2008.

When you made your statement to the police, you admitted getting money off the complainant for your own personal use. The total money you obtained by deception from this complainant is 335,000 Vatu.

This offence is prohibited by section 130B (1). It provides:

**"OBTAINING MONEY ETC BY DECEPTION**

130B (1) A person must not by any deception dishonestly obtain for himself or herself or another person any money or valuable thing or any financial advantage of any kind whatsoever.

Penalty: Imprisonment 12 years."

This is a serious offence. You have committed a serious offence as reflected in the maximum penalty imposed by law.

When I consider your sentencing, I consider and take into account of the submissions made on behalf of the Public Prosecutor and the submissions made by your lawyer on your behalf.

I also consider the pre-sentence report filed by the Probation office to assist the court in your sentencing.

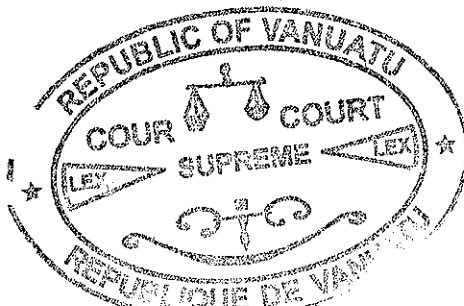
Your offending is aggravated by the following factors:

- Repetition of the deceit to dishonestly obtain money
- The total amount of vatu dishonesty obtained is of Vatu 335,000

You are sentenced to 24 months as a starting point.

The Pre-sentence report shows that you are 45 years of age from Makira Island and you reside at Fresh Water 3 area. You have five children and nine grand children. You did not complete your primary education. You told the writer of the report that the only skill you have is sewing from which you earn an income. You have the support of your husband, family and community.

You have also experienced chronic epilepsy crisis. It is said only your husband and children know how to handle and treat you when you experience an epileptic attack.



In mitigation, you are a first time offender. You plead guilty at the first opportunity given to you by the Court. You do not have previous conviction. You blame yourself for your actions which led you before the court. You regretted committing the offence and you say you will not commit such an offence or any other offence again in the future.

It is hoped that you will learn from this. You have performed a custom reconciliation ceremony. You have already repaid an amount of 160,000 to the complainant Wendy Garae.

You still owe the complainant (Wendy Garae) VT140,000.

Your husband (Mr Eria Tarimiala) is willing to undertake compensation to the victim by instalments.

Mr Sandy Thomas (your cousin) told the writer that he is willing to assist you to compensate the victim/complainant to total amount of money you still owe the complainant. I am told by your lawyer that you have made an arrangement with the complainant to repay all the money you dishonestly obtained from her.

It is noted that the allegation against you dated back from October 2008. You are convicted and sentenced in November 2013. Some 5 years later which has to be taken into account in your sentencing.

On balance after cross-referencing between the aggravating and mitigating factors, you are sentenced to 8 months imprisonment suspended for 2 years.

I consider making a compensation order. I order you to repay VT140,000 to the complainant Wendy Garae.

### **SENTENCING ORDER**

1. Jacklyne Tarimiala is sentenced to 8 Months Imprisonment suspended for a period of 2 years. During suspension period, she must not re-offend. If re-offend the 8 months imprisonment shall be re-activated.
2. Defendant Jacklyne Tarimiala is ordered to repay to complainant/victim Mrs Wendy Garae the amount of VT140,000 before 30<sup>th</sup> March 2014.
3. You have 14 days to appeal your sentence if you are not happy with it.

**DATED at Port-Vila this 3<sup>rd</sup> day of December 2013**

**BY THE COURT**

**Vincent LUNABEK  
Chief Justice**

