

PUBLIC PROSECUTOR

v

NERRY ANDREW ULAS

Date: 3 September 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Ms L. Lunabek
Defendant – Mrs C.T. Gesa

SENTENCE

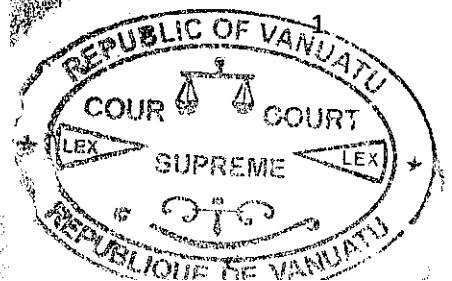
A. Introduction

1. Ms Ulas pleaded guilty to 12 charges of obtaining money by deception. She accepted the brief of facts and was accordingly convicted on her own pleas and the admitted facts.

B. Facts

2. Ms Ulas obtained money by deception as follows:
 - a. In 2015, Ms Ulas made a false statement to Arion Kaltamat that she would freight a car to Malekula if he gave her VT30,000 for the freight fee. He did. Ms Ulas did not send him a car (Count 1);
 - b. On the following dates at Port Vila, Ms Ulas dishonestly obtained the following amounts of money from the following persons after telling them that she was working with a Regional Scheme Employment agent and would send them to work in Australia (Counts 2-11):

	Dates	Amount of money	Person
Count 2	2020	VT48,000	Ida Perkon
Count 3	2020	VT17,500	Firmin Rosere
Count 4	October 2020	VT16,000	Jinnie Tavo



Count 5	November 2020	VT11,000	Augustin Mintu
Count 6	November 2020	VT19,000	Lugarde Lawac
Count 7	November 2020	VT24,000	Mary Nalawa
Count 8	November 2020	VT18,500	Aline Bini
Count 9	December 2020	VT24,000	Roger Baniel
Count 10	December 2020	VT43,000	Elphina Gurgur
Count 11	December 2020	VT52,000	Espel Batick

- c. In each case, Ms Ulas kept the money for her personal use. She did not send any of the complainants to Australia for work.
- d. On 15 and 17 February 2021, whilst on bail, Ms Ulas dishonestly obtained VT46,500 from Rose Nalauas when she told Ms Nalauas that she was working with a Regional Scheme Employment agent and would send Ms Nalauas to work in Australia. She did not (Count 12).
3. The total amount lost by the victims was VT349,500.

The specific facts relating to Counts 2-12

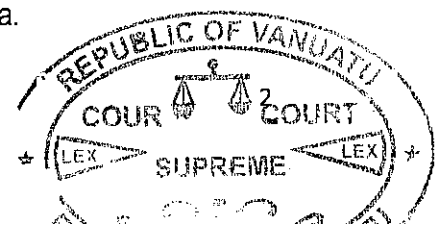
4. The specific facts of Counts 2-12 are:

Count 2: Obtaining Money by Deception

- i. On 22 November 2020, Ida Perkon met Ms Ulas behind Prouds shop while walking in town.
- ii. Ms Ulas told her she needed someone to go and work in Australia to replace a pregnant woman who could no longer go.
- iii. Ida gave her passport, the letter of her pastor and VT24,500 to Ms Ulas behind Anchor Inn.
- iv. On 1 December 2020, Ms Ulas went to see Ida at her house when she met Ida's daughter Therese Benkgon. She told Ida that her daughter should also travel.
- v. On 4 December 2020 at Western Union, Ida gave Ms Ulas VT17,000 on behalf of her daughter.
- vi. Ms Ulas approached Ida to tell her that she needed to find another man to go to Australia. Ida then went and told Harry Roy to also join in.
- vii. The next day, Ida went to see Ms Ulas and gave her VT6,500 plus Harry's passport.

Count 3: Obtaining Money by Deception

- i. In the month of November 2020, Firmin's uncle Augustin called him and told him to bring his passport to him and a woman at Seafront Area.



- ii. The next day Firmin gave his passport, birth certificate and his Chief's letter to his uncle at Seafront area.
- iii. Firmin then asked for his uncle to call Ms Ulas before he would give him the money.
- iv. His uncle did so and Ms Ulas told the uncle to obtain the money and come and give it to her at her house.
- v. Firmin gave VT17,500 to his uncle who then brought it to Ms Ulas at her house.

Count 4: Obtaining Money by deception

- i. In October 2020, Jinnie Tavoa gave VT16,000 to Ms Ulas as well as all her travelling documents.

Count 5: Obtaining Money by deception

- i. Augustin Mintu is Firmin's uncle and his wife's name is Lutgarde Lawac.
- ii. Augustin gave VT11,000 to Ms Ulas. Ms Ulas came back to him few days later and she said she needed to recruit more people.
- iii. Augustin then gave VT11,000 given by Firmin to Ms Ulas.

Count 6: Obtaining Money by deception

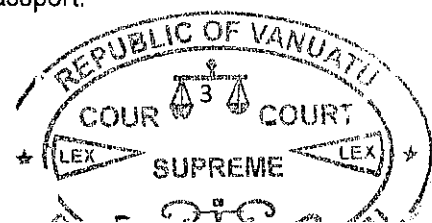
- i. In November 2020, Lutgarde Lawac met Ms Ulas through her neighbor.
- ii. Lutgarde first gave Ms Ulas VT6000 then on 15 November 2020, another VT5000.
- iii. Several days later, Ms Ulas called and asked for another VT8000 which she then gave.

Count 7: Obtaining Money by deception

- i. In November 2020, Mary Nalawas was informed by one of her relatives Therese Bengkon that Ms Ulas was looking for people to go to Australia.
- ii. Ms Ulas then went to Dash Studio and took from her VT17,500 and her papers.
- iii. Another day she took another VT6,500.

Count 8: Obtaining Money by deception

- i. On the 26 November 2020, Alline Bini was at home when Therese Bengkon and Ms Ulas came to her house to tell her to take her passport and come and meet them in town.
- ii. Alline gave VT8000 to Ms Ulas at the Grand Hotel.
- iii. On the 30 November 2020, Alline gave another VT6,500 to Ms Ulas.
- iv. On 16 December 2020, Alline gave another VT4,000 for the passport.



Count 9: Obtaining Money by deception

- i. In December 2020, Roger Baniel was told by his cousin Firmin Rosere that a woman was looking for people to go to Australia.
- ii. On 17 December 2020, he went to Seafront Area and gave Ms Ulas VT17,500.
- iii. Later on, he gave Ms Ulas another VT6,500.

Count 10: Obtaining Money by deception

- i. On 3 December 2020, Elphina Gurgur went to town with her sister Espel. They met Ms Ulas who proposed to send them both to Australia.
- ii. Elphina did not have a passport so Ms Ulas took VT13,000 from her to obtain her passport.
- iii. Elphina gave another VT17,000 to Ms Ulas for her police clearance.
- iv. On 14 December 2020, Elphina came to town and Ms Ulas told her to pay VT22,000 for half of the Airfare. She later gave Ms Ulas another VT13,000.

Count 11: Obtaining Money by deception

- i. On 3 December 2020, Espel Batick went to town with her sister Elvina Batick when she met Ms Ulas.
- ii. Ms Ulas asked her if she was interested to travel; she said she was.
- iii. Ms Ulas told her to go and get her passport on that same day. She did and she gave also to Ms Ulas an amount of VT17,000.
- iv. On 7 December 2020, Espel gave Ms Ulas VT13,000.
- v. On 11 December 2020, Espel gave another VT22,000 for the airfares.

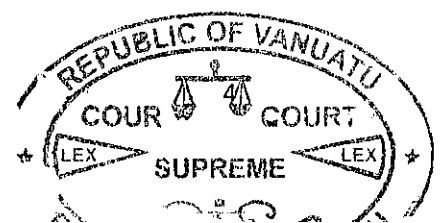
Count 12: Obtaining Money by deception

- i. On 15 February 2021, Rose Nalauas met Ms Ulas who told her she was looking for 3 women to go to Australia for seasonal work.
- ii. Rose then gave Ms Ulas her documents and VT16,500 at Au Bon Marche Fresh Water.
- iii. On 17 February 2021, Rose gave VT30,000 to Ms Ulas at Seafront Area as she said that it would be for her death certificate.

5. On 19 December 2020 and 22 March 2021, Ms Ulas made full admissions to the Police.

C. **Sentence Start Point and Personal Factors**

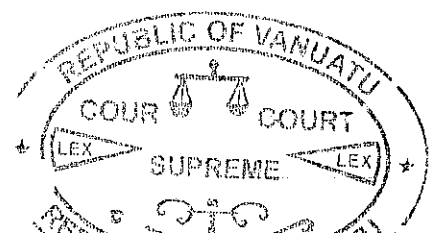
6. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.



7. The maximum sentence for obtaining money by deception is 12 years imprisonment.
8. There are no mitigating aspects of the offending.
9. The offending is aggravated by the following:
 - The number of complainants involved (12);
 - Repeated dishonest offending over a 6-year period;
 - The offending was premeditated and well planned; and
 - No prospect of reparation.
10. The factors set out above require a sentence start point of 18 months imprisonment.
11. Ms Ulas pleaded guilty at the first opportunity. I deduct 33% for the plea (6 months).
12. Ms Ulas is 26 years old. She is married and has 4 children. Ms Ulas is unemployed. She blamed her casino gambling addiction for her offending. No custom reconciliation ceremony has been performed. The complainant contacted by the pre-sentence report writer stated that the complainants simply want their money back. Ms Ulas is stated to have the support of her husband and eldest sister to repay the victims over the next 2 years. However, as information was provided as to their financial means to do so, I assess the prospects of reparation as nil.
13. Ms Ulas is stated to be remorseful however I do not accept that given her repeated dishonesty offending even after convictions in 2019 for similar offending and even whilst released on bail.
14. I deduct a further 2 months for Ms Ulas' personal factors.
15. Finally, I must take into account the aggravating personal factor of Ms Ulas' previous convictions. She has previous convictions for similar dishonest offending in the Magistrates' Court in 2019 (*Public Prosecutor v Ulas* [2019] VUMC 1) and earlier on in the Supreme Court from 1998-2006. An uplift to reflect this factor is set at 6 months imprisonment.

D. End Sentence

16. Taking all of those matters into account, the end sentences imposed concurrently on all charges (Counts 1-12) is 16 months imprisonment back-dated to commence on 8 January 2021 to take into account time already spent in custody from 19 December 2020-4 February 2021 (48 days) and since 25 February 2021 (191 days).
17. The circumstances of Ms Ulas being a repeat dishonest offender, being aware of the consequences of such offending yet continuing to offend, lying to a further 11 people even after being convicted in 2019 for similar offending, and lying to a 12th victim whilst on bail are factors against suspension of the sentence. Ms Ulas' family circumstances favour



suspension of the sentence. On balance, weighing those factors, I consider that the end sentences should not be suspended.

18. This sentence is imposed to deter Ms Ulas and others, to denounce dishonesty offending and to hold Ms Ulas accountable for her offending.

19. Ms Ulas has 14 days to appeal the sentence.

**DATED at Port Vila this 3rd day of September 2021
BY THE COURT**

UMTrief

Justice Viran Molisa Trief

