

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CRIMINAL DIVISION**



Neutral Citation Number: [2025] CIGC (Crim) 45

Case Number: IND. 67 of 2022

THE KING

V.

RACHEL EBANKS

Appearances: **Mr. Brian Treadwell, Counsel for the Prosecution**
 Mr. Oliver Grimwood, Counsel for the Defence

Before: **Hon. Justice Emma Peters**

Sentence Ruling: **9th October 2025**

SENTENCE RULING

Background

1. This defendant pleaded guilty to the charge of false accounting (count 3 of the indictment) on the 11th July 2025. That plea followed discussions that had taken place over a protracted period of 3 years since her case arrived in the Grand Court. It also followed the receipt of forensic accounting reports by both parties which it would appear cast a different complexion on the case to that which was the case at the start. In essence, it is now accepted by the Crown that Ms. Ebanks did not profit personally in any way from her offence of false accounting.



Credit for Plea

2. I shall deal at the outset with credit for plea. The Crown accepts that the plea entered (and accepted) is on a basis substantially different to how they presented the case at the outset. They observe that the acceptability of this plea to the prosecution was only clear from the end of May 2025. That being the case, in all fairness to the defence, the alteration in the complexion of the case is such that I agree that, exceptionally, credit of 20% is nonetheless appropriate in this case.

The Facts

3. The charge to which the defendant has pleaded guilty is one of False Accounting contrary to s.255(1)(b) Penal Code [2024] Revision. The duration of the offence so far as the indictment is concerned is between August 2013 and January 2018 although the plea is accepted on the basis of the defendant's account in interview which is that this offending spanned a period of approximately two years. The Crown accepts that the plea is entered, in accordance with the defendant's interview on the basis of this narrower period of offending and all of it, it is accepted, not for any personal gain whatsoever.
4. Rachel Ebanks was employed as an 'accounts receivable officer' at the Cayman Turtle Centre (CTC) from December 2009 until she was suspended in January 2018 and then eventually dismissed in April 2018. The income at the Cayman Turtle Centre came from three sources - box office, retail, food and beverage.
5. Accounting systems in operation at different times during the indictment period were Counterpoint, Aloha and Sage 300. At the end of each working day a reconciliation would occur by the cashier/manager at the various departments and cash and credit card receipts would be 'dropped' in the safe deposit box.
6. Rachel Ebanks (RE) was required to confirm /verify the sales reports for each day, she would then write up the deposit slips for the bank. If there was an issue, RE would be required to raise this with Sean Glidden (Finance Manager). Although the reconciliations were required to be completed daily, it was commonplace that this was not undertaken, and a backlog formed. It is accepted that it would be wrong to ascribe full responsibility to Rachel Ebanks for this. Throughout the period with which this case is



involved it is clear that the systems in place at the CTC were sub-optimal. This has now apparently been resolved.

7. Bank deposits were supposed to take place on a weekly basis although this did not often occur. Peggy Hamilton was the Chief Operating Officer employed at the CTC. When she took over in January 2018 she enquired about financial protocols and was assured all were adhered to.
8. In January 2018 the Defendant was asked about the outstanding cash deposits and she stated that due to the heavy workload, she was 'a little behind with the cash reconciliations and deposits to the bank'. Further enquiry revealed no reconciliations or banking deposits had taken place in December 2017. Peggy Hamilton completed the checks, supported by Rachel Ebanks – this backlog was an immediate cause for concern.
9. Later that month Rachel Ebanks was asked to look into some discrepancies on the accounts found whilst an audit was taking place. At that point Rachel Ebanks admitted to Sean Glidden that there was cash missing and that she accepted 'covering up' for the missing cash as she did not want to be called a thief. Ms. Hamilton called Rachel Ebanks in to discuss this and during that employment-based interview with Rachel Ebanks, the defendant confirmed that there were losses and that she had taken out three personal loans to cover those losses and was not responsible for the theft of any of the money. Her plea now is in accordance with those admissions made at that early stage.
10. CTC reported the matter to the police that day and police arrested Rachel Ebanks on 28/09/18 and, following a search of her property, she was bailed to attend the police station for interview at a later date. She was interviewed by the police on 01/08/19 (nearly a whole year later) during which she answered all questions asked of her.
11. She confirmed that she has a degree in accounting and that the problems had started in 2016 when she discovered a shortfall on the monies. Thereafter, she took out loans from Fidelity, Cayman National Bank, Credit Union and a personal loan from a named individual and paid this into the Cayman Turtle Centre to cover shortfalls in the banking reconciliations. She did this to preserve her reputation as she did not want suspicion to fall upon her for involvement in theft.



12. The prosecution case is that if the loans taken were part of the false accounting, then the assertion by the defendant that this had been ongoing for a couple of years may be an underestimate, but the prosecution do not assert that the timeframe materially affects the approach on sentence. The two years asserted by the defendant is still a 'substantial period' (per guidelines).
13. Accounting evidence is not conclusive evidence of loss in this case. Accountants instructed on behalf of the Prosecution and those engaged by the Defence appear in agreement that there were 241 lines on the general ledger that were not banked. The extent of loss to CTC cannot accurately be stated without a fuller forensic accounting investigation, however, it is accepted that whatever losses were caused to the CTC, they were not as a result of any dishonesty by Rachel Ebanks. The exact figures as found by the forensic accountants cannot be asserted with any certainty.
14. Mr. Grimwood on behalf of Rachel Ebanks observes that the Defendant raised concerns about financial irregularities which she had come across in her employment at the CTC and when the problems persisted over a longer period the defendant sought to address these issues and rectify them – in effect by attempting to rebalance the books.
15. She was not helped by the fact that cash reconciliation was not done in a timely manner. If Rachel Ebanks was on holiday, no one was put in place to take over her role. All tasks assigned to the defendant, including reconciliation, went unaddressed and upon her return she would be faced with the backlog. Cash deposits were not made and large quantities of cash accumulated.
16. They say that Rachel Ebanks would take cash that should have been part of a different deposit, or cash from her own money, and create banking records that did not reflect the true position in an attempt to introduce additional funds into the banking deposits to make up the losses. Importantly the defence note that the Crown now accept that and do not pursue the original theft counts.
17. The defence dispute the figures put forward by the Crown and point to the assumptions made by PwC in their report which, say the defence, are not safe assumptions on which to base the case.

18. The PwC approach was to compare line Items with the General Ledger (something RE was not in charge of and had no control over) to ascertain the expected cash deposits for each day. Where there was no GL entry then daily sales reports or drawer summary history reports were used.
19. These expected deposits were compared to the bank deposits, and the discrepancies are totalled to create the figures in the Crown's submissions. But the defence forensic accountants highlight that PwC had taken the GL at face value when identifying and attributing value to missing line items.
20. The FTI (defence) report compared the source material to the entry in the GL for one month at random (June 2017) and found that the difference between sales and cash deposits was over USD\$25,000, with this difference being an overage not a shortfall. This raises significant doubts as to the accuracy of the GL and raises doubts about it being relied upon for the purpose of calculating loss at the Turtle Centre. There has been no report challenging these findings.

Sentencing Guidelines

21. So far as culpability is concerned, the Crown's submissions are that there are a number of Culpability 'A' factors present:

- (i) Sophisticated nature of offence
- (ii) Abuse of position of power or trust or responsibility
- (iii) Fraudulent activity conducted over a sustained period of time



22. But they also concede that there is a significant Culpability 'C' factor present:

- (i) Not motivated by personal gain

23. The prosecution submissions on the guidelines are that the harm is Category two (based on CI \$25,000 to CI \$200,000) on the basis that the accounting report estimates loss at KYD \$82,299.89 and USD \$288,203.54, but they accept that the exact accounting in that regard cannot be not relied upon.



24. They accept that placement within the guidelines is not an easy task, being faithful to the plea entered, as the defendant did not operate for financial gain and was engaged in false accounting for 2 years, in contrast to the date range on the indictment. But if they are correct, then the range for a B2 offence has a Starting point of 2 years 6 months imprisonment within a range of 15 months to 3 years 6 months. They do not assert any aggravating factors and agree that delay and the defendant's previous good character are mitigating factors.
25. On the other hand, the defence submit that this is an almost unique case, which the guidelines are unlikely to have envisaged and that therefore, they submit, that limits the assistance to the Court that can be derived from the Guidelines and that therefore the guidelines should only provide only a loose structure within which to frame the approach to this case.
26. The defence point to the case of *R v Muirhead* [2003] EWCA Crim 2891 where Hughes LJ said:

“...given particularly the accepted basis of fact that the appellant had not personally benefited from what he had done, we are persuaded that the Recorder fell into error. There had of course been the falsification of records and abstractions over a period of 18 months. The absence of benefit to the appellant does not make it other than criminal, it does not make it other than dishonest and it does not mean that punishment is not required. It did mean however, as it seems to us, that it was a series of offences which could properly have been met by punishment by way of a Community Punishment Order.’

27. The defence submit that there are some similarities, and in fact Rachel Ebanks, they submit, is in a significantly more favourable position to that of Mr. Muirhead who had falsified documents with the aim of obtaining funds that were not due to be paid, thereby putting his employers at a loss, and spent it on items for the public house for which he was unable to get clearance – so spending that was against the wishes of his employer, even if it were from legitimately obtained sources, which it was not.



28. Importantly, the defence submits that if any proposition can be taken from this authority it is that when the offence is not committed for personal gain, there are full admissions, and the defendant is of good character a non-custodial sentence should be considered, even in cases of breach of trust.
29. Whilst the defence accepts that this offending took place over a sustained period of time, they submit that it was not sophisticated in nature. Further, whilst they accept that the defendant was in a position of trust they suggest that it is important that her actions demonstrate an abuse of that trust which, they submit, they do not but that rather she was simply trying to fix the problems created by others, and to make the company whole again thereby placing it in a better position.
30. That being so, overall they suggest that this case falls within lower culpability once one carries out the required balancing considerations given the significance of the fact that she was not acting for personal gain.
31. So far as harm is concerned, I am pointed by the defence to the words in the guidelines “Harm is assessed by reference to the actual or intended financial loss...” and the observation is made that there was no actual or intended financial loss caused by the actions of the defendant. Therefore, they submit that this should be considered a category 3 matter, in the absence of any category addressing the specific circumstances of this case.
32. I am further pointed to paragraph 7 on page 4 of the guidelines which states that in cases where an offender has caused a risk of loss but no actual loss the normal approach is to move down to the corresponding point in the next category.
33. If the defence submissions are correct and this is a Category 3C case then it carries a starting point of a community-based sentence, with a range of community-based sentence to 36 weeks’ custody.

Personal Mitigation

34. It is noted that Miss Ebanks is a lady of good character and that the offence is out of character, given that the defendant has been in trusted position in the finance industry since 1978 without complaint or concern.



35. There have been significant delays in this matter, not of the defendant's making whilst she has been subject to and struggled with the impact of a Restraint Order (in place since 2018) which has resulted in significant hardship for the defendant.
36. Furthermore, the long-term stress of the investigation and proceedings are said to have had a significantly detrimental effect on the defendant's life.

Social Inquiry Report

37. Rachel Ebanks is a 67 year old lady who was born and bred in Cayman and brought up in a religious house where her father, a seafarer, was often away for long periods. She had 3 children, two are grown up and one is sadly deceased.
38. She is an accountancy graduate. She does not use alcohol or drugs. She has a number of health conditions. Her aunt speaks as to the impact of these proceedings on the defendant. She is said to have acknowledged limited responsibility and demonstrated limited remorse.
39. Ms. Ebanks is assessed in the SIR as having a low risk of re-offending. The report suggests that she would like to be Conditionally Discharged. Such a sentence is well below the appropriate sentence in this case, and I shall consider that option no further.

The Court's Conclusions

40. The CTC is a much loved and revered institution in Grand Cayman. The public will no doubt be extremely concerned to hear that, at the time, the financial management of the Centre was in such a parlous state as to have led to a situation where for two years accounts were being falsified whilst the reality is that no one can know for sure what losses were resulting from the manner in which the Centre was managed.
41. I am glad to hear and hope the public will be reassured that significant changes and improvements have been made to ensure that is no longer the case.



42. That a woman of decades of experience in the accounting world did not bring this situation properly to the attention of her superiors with the Centre is a dreadful position to have allowed to persist. That Ms. Ebanks accounted falsely to hide the real failings and mismanagement that was taking place should be to her eternal shame. But it is very significant that it is accepted that Ms. Ebanks made no personal financial gain at all.
43. Two sets of forensic accountants have been through this case with a fine toothed comb. It is not clear – through no real fault of the defendant – how much money was lost but it is now accepted that whatever it may have been, it did not go into Rachel Ebanks’ pocket. Furthermore, she took out personal loans to at least try and hide what was going on as she was so terrified as to the reputational impact upon her if it was thought that she had stolen from the Centre.
44. Years have passed and as soon as the final expert report was served and the case was reassessed, she pleaded guilty and that must be such as she ought to derive at least 20% credit for that final acceptance that she had acted dishonestly albeit not for personal gain.
45. The position of trust she was in as the accounts receivable officer was significant. She was not in charge and she did not cause the losses, but her actions in falsifying the accounts to hide them has cost the Centre dearly not least in terms of their reputation. So, I do consider that in that position she did abuse the trust placed in her – she may not have stolen the money, but she did use her position to commit the offence to which she has pleaded guilty. That factor combined with the two-year period in which she accepts she committed this offence are both clearly higher culpability factors. In the context of the position that she was in, the offence itself is not in my view an especially sophisticated one.
46. I entirely accept that the fact that she was not motivated by personal gain and that that is a factor that should bring the overall culpability assessment down, but I do not consider that it wholly extinguishes those two Culpability A factors. I conclude that this case falls within Culpability B albeit at the lower end when one considers the weight to be attached to the Culpability C factor.



47. With regard to harm, given that she caused and intended no actual financial loss I do conclude that the factors the defence point to should reduce the harm factor down a category and so therefore, for the reasons the defence fairly set out, I agree this is a harm 3 case.
48. Having reached that conclusion, that leads me to a start point of 15 months custody with a range from a Community Order to 2 years and 6 months custody.
49. I have already said that the weight of the culpability C factor is significant and takes me down within that range to a start point that, whilst still over the custody threshold, is below that start point.
50. When I apply to that my assessment of the relevant mitigation most particularly:
- a. The credit for plea
 - b. The delay
 - c. Her previous excellent character
51. I then reach the conclusion that the words of Hughes LJ in Muirhead (even where the England and Wales guidelines are slightly different in their categorisation and start points to the Cayman Islands guidelines) are relevant. The absence of benefit to the defendant does not make it other than criminal, it does not make it other than dishonest, and it does not mean that punishment is not required. It does however mean that when considering all of the mitigation I have heard and having reached the conclusion as to the guidelines that I have that, exceptionally in this case, a sentence short of one that crosses the custody threshold is a justified course.

The Sentence

52. I sentence the defendant to a Probation Order for two years during which time she must comply with any requirements that the DCR place upon her. Given her age and her health conditions I do not add any form of Community Service Order to that sentence.

Costs

53. An application is made for \$1,000 in costs. In my view, given that the defendant has now got access to the money that has otherwise been restrained and since this was such a significant investigation I order that she in fact pay \$2000 KYD towards costs.

Dated the 9th day of October 2025

A handwritten signature in blue ink, consisting of several overlapping loops and lines, positioned above the name of the judge.

**The Hon. Justice Emma Peters
Judge of the Grand Court**