

1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL DIVISION**
3

4 **INDICTMENT NO: 22 of 2024**

7 **R**

9 **V.**



11 **SAMANTHA ANGELLA MCLAUGHLIN**
12
13
14
15

16 **Appearances:** **Mr. Alexander Barbour, Crown Counsel, Office of the Director of Public**
17 **Prosecutions for the Prosecution**

18
19 **Mr. Crister Brady for the Defence**
20

21
22 **Before:** **The Hon. Justice Cheryll Richards KC**
23

24 **Submissions Heard:** **23rd August 2024**
25

26 **Sentence Judgment:** **8th November 2024**
27

28
29
30
31 ***Criminal Law - Theft contrary to s.241 of the Penal Code (2019 and 2022 Revision) Forgery***
32 ***contrary to s.285 of the Penal Code (2019 and 2022 Revision) - Sentencing following guilty pleas –***
33 ***Totality Principle and Principles on Sentencing.***
34
35
36
37
38



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

SENTENCE JUDGMENT

1. The defendant is before the Court for sentencing following her guilty pleas to fifteen counts charging two offences pursuant to the *Penal Code* (2019 and 2022 Revision).
2. **Count 1** charges the defendant with Theft contrary to s.241 of the *Penal Code*. The defendant pleaded to the lesser amount of \$42,250.56. The particulars are that the defendant between the 22nd day of November 2021 and the 25th day of March 2022 within the jurisdiction of the Cayman Islands stole KYD \$42,250.56 from Stafford Surfaces.
3. The maximum penalty is 10 years imprisonment.
4. **Counts 2 to 16** are fourteen counts of Forgery contrary to s.285 of the *Penal Code* (2019 and 2022 Revision). In each case the particulars are that the defendant on the specified date within the jurisdiction of the Cayman Islands forged a document namely a Butterfield Bank (Cayman) Limited cheque of a specified number, purporting it to be made by Randolph Stafford. The defendant falls to be sentenced for the following: -

Count	DATE:	CHEQUE NO:	Amount KYD
2	23 November 2021	0004574	2,500.00
3	25 November 2021	0004577	1,000.00
4	26 November 2021	0004579	2,500.00
6	02 December 2021	0004583	2,500.00
7	07 December 2021	0004584	3,500.00
8	17 December 2021	0004598	3,750.00
9	14 January 2022	0004606	2,800.00
10	19 January 2022	0004611	3,500.00
11	27 January 2022	0004614	3,500.00
12	04 February 2022	0004618	3,500.00

13	09 February 2022	0004621	2,700.00
14	17 February 2022	0004626	3,500.00
15	01 March 2022	0004636	3,500.00
16	24 March 2022	0004646	3,500.00
		Total	\$42,250.56

5. The maximum penalty for an offence of Forgery is 3 years imprisonment.
6. A plea of not guilty was entered on Count 5. The pleas as entered are acceptable to the prosecution. No evidence is offered on Count 5. A formal verdict of not guilty is entered and the defendant is discharged on this Count.
7. The defendant first appeared before the Grand Court on the 28th March 2024 and then on the 12th April 2024. On that date it was indicated that a basis of plea was to be offered. The plea was entered on the 24th May 2024. It is accepted that the plea was offered at the earliest reasonable opportunity and that the defendant is entitled to the full one third discount.



THE FACTS

8. The prosecution has provided a summary of facts which is not disputed and is set out below.
9. The defendant was employed from October 2021 as an Accounting and Administrative Assistant to the Company, Stafford Surfaces. Her basic salary was KYD \$2,600 per month / KYD \$31,000 per year. The Company is in the business of providing flooring and countertop products and solutions for residential and commercial clients in the Cayman Islands, as well as other countries in the Caribbean region. The manager is Randolph Stafford.
10. The defendants' tasks included updating and keeping current all transactions in the Company's QuickBooks Accounting System. She was also responsible for receiving customer payments, which were paid to the Company using a credit card, cheque or cash. She would then deposit the payments into the Company account at Butterfield Bank (Cayman) Limited.



- 1
2 11. The defendant was not given access to the business' online banking systems, but was entrusted,
3 with pre-signed cheques for the purpose of paying local vendors and purchasing products for the
4 business. The ordinary practice was that these cheques were monitored and only used where the
5 authorised signatory was unable to be physically present during the transaction, or where a
6 payment amount or payee could not be provided for a variety of reasons.
7
8 12. On the 8th April 2022, Mr. Stafford conducted a routine inspection of the business' online bank
9 account with Butterfield Bank. He noted that KYD \$3,500.00 had been debited from the account,
10 but could not reconcile the debit with any amount owing to a vendor or other creditor. The cheque
11 book stub had been struck through as though voided by the defendant. Generally, when a cheque
12 was voided, the stub was retained and a line drawn through the stub to note that it was void.
13
14 13. On further investigation, Mr. Stafford found that this was a cheque debit (cheque number 4658)
15 made payable to the defendant, which had been cashed. The defendant was not authorised to
16 make any such payment to herself.
17
18 14. Mr. Stafford met with the defendant and requested an explanation, but the defendant said that she
19 had to collect her daughter from school and would speak to him on her return. She did not return
20 that day, and there was no further discussion in relation to cheque 4658.
21
22 15. On another occasion, Mr. Stafford had cause to question a cheque for \$650.00. The defendant
23 told Mr. Stafford that it was a cheque to a vendor that had been written incorrectly and that it
24 needed to be voided. She said that she had paid the vendor using personal funds and thus needed
25 reimbursement from Company funds. Further checks revealed that the relevant invoice had been
26 settled with the correct vendor and the defendant's personal funds had not been used.
27
28 16. At a meeting on 12th April 2022, the defendant paid some money back to the Company, but it was
29 later discovered that there were other discrepancies. Jane Peck, a bookkeeper employed by
30 Stafford Surfaces, noted that a number of cheques had been cashed by the defendant in the same
31 way. These are the cheques which form the basis of the charges detailed above.
32

1 17. In June of 2022, a report was made to the Police. The defendant was arrested on the 12th July
2 2022. In interview under caution on the 9th August 2022, in the presence of her Attorney, Mr.
3 Crister Brady, the defendant accepted that she wrote her name on all the cheques identified and
4 cashed them all for her personal use, except for cheque 4582 (Count 5). She explained that the
5 funds from cheque 4582 were used to pay Mr. Stafford’s credit card, and that she had been given
6 permission to do this as he was off-Island at the time. Mr. Stafford has confirmed that this is
7 correct.

8
9 18. The defendant explained her conduct on the basis that she supported her child as a single mother
10 and her salary was insufficient. She told the Officers that she had no financial support from her
11 child’s father.



12
13 **VICTIM IMPACT REPORT**

14
15 19. The Department of Community Rehabilitation (“DCR”) has provided a Victim Impact Report
16 (“VIR”) dated 23rd July 2024. Included in this VIR is a Victim Impact Statement from Mr.
17 Stafford.

18
19 20. He states that the loss of just under \$50,000 is substantial, particularly for a small business like
20 Stafford Surfaces. The theft has affected the Company’s ability to pay increased amounts of
21 salaries and wages to employees. The acquisition of new vehicles for the business has had to be
22 delayed and short and long-term business goals have been affected because of the economic
23 deficiency created by the thefts.

24
25 21. Mr. Stafford states that the defendant was referred to him by a business associate. She integrated
26 well into the team and was liked and trusted by both management and staff. She appeared to be
27 fitting in and carrying out her duties responsibly and there was no apparent reason to question
28 her integrity.

29
30 22. Mr. Stafford travels frequently for work and as he is the sole signatory on the accounts, he would
31 pre-sign cheques for payments to vendors. This is a practice which he has now discontinued.
32

1 23. He said that upon discovery of a cheque stub that had not been removed from the cheque book
2 and upon confronting the defendant he was led by her to believe that the extent of the theft was
3 limited to two cheques.

4
5 24. Under emotional impact he states that the *“theft has not only caused significant financial strain
6 to Stafford Surfaces but has also had a profound emotional impact on my employees and me. My
7 employees, who were hopeful for raises and new equipment to support their work, now face
8 frustration and disappointment. The sense of betrayal by a colleague they trusted exacerbates
9 these emotions. For me, the emotional toll is even more intense. The trust I placed in Ms
10 McLaughlin was severely violated, leading to feelings of guilt and regret over not conducting
11 thorough background checks and relying on pre-signed cheques. I have experienced a mix of
12 anger, sadness, and self-doubt, questioning my judgment and my management practices. This
13 betrayal by someone integrated into the team adds a personal dimension to the professional
14 setback, making the recovery process both emotionally and operationally challenging.”*

15
16 25. Mr. Stafford says that had the defendant approached him for help, he would have tried his best to
17 assist her in resolving her issues, to the degree that he could. He is also disappointed that when
18 the defendant was confronted, she did not confess to everything she had stolen and continued to
19 perpetrate the fraud.

20
21 26. He asks that the Court in sentencing balances justice with leniency, allowing Ms. McLaughlin the
22 opportunity to reflect on her actions, make amends, and ultimately reintegrate into society as a
23 responsible individual.

24
25 27. The Probation Officer concludes that the offence caused a significant financial and emotional
26 impact on the victim.



27
28 **ANTECEDENT HISTORY**

29
30 28. The defendant has three previous convictions in 2008 for the offence of Theft (Charge 11393/07
31 – (1) to (3)). She was sentenced to a Probation Order for two years.

1 29. The Case Report provided indicates that the defendant was nineteen years old at the material
2 time. She was working at a summer job where she was responsible for collecting cash during a
3 registration process. The business also had on hand a number of gift certificates which had been
4 donated, the defendant stole cash and gift certificates.

5
6 30. There are also convictions for Traffic offences. The most recent was in November 2023 for
7 driving under the influence of alcohol for which the defendant received a 12-month Probation
8 Order.



9
10 **SOCIAL INQUIRY REPORT**

11
12 31. The DCR has provided a Social Inquiry Report dated 23rd July 2024 (“SIR”). The Court has read
13 this Report in its entirety and takes into account everything said therein in favour of the defendant.

14
15 32. The defendant is thirty-six years old with one child who is eleven years old. The defendant
16 described her childhood as a happy one with supportive parents. There was no experience of
17 traumatic events. She graduated high school and was employed at various administrative and
18 accounting jobs through to May 2024 when she lost her employment due to the current matter.
19 She is in financial difficulties and has no savings. She is willing to try to make compensation but
20 would need to seek help from a friend in order to do so. She co-parents with the father of her
21 child but is concerned as to her child’s welfare should she be incarcerated.

22
23 33. Community contacts who have known the defendant for five to six years describe the offending
24 as out of character for her. She is said to be intelligent and a good mother who has made a mistake
25 which is not representative of a pattern of failures.

26
27 34. With respect to her current Probation Order imposed in November 2023, her record is said by the
28 Probation Officer to be one of semi-compliance. Her initial attendance at therapy was consistent
29 but has recently been sporadic or non-existent. The defendant appears to be displaying diminished
30 levels of motivation to comply with therapeutic interventions and to be depressed.

1 35. Under the heading Attitude Towards Offending the Probation Officer states: -
2

3 *“Ms. McLaughlin disclosed that she did in fact use the pre-signed cheques for personal*
4 *use; however, she maintained that it was not for luxury items for herself, but only when*
5 *there was a pressing need and she felt that she had no other recourse. When asked what*
6 *she took the money for, the Client advised that on three occasions she used funds for travel*
7 *in order to get clothing and necessities for her daughter as well as to visit her mother who*
8 *lived in the United States at the time. Once, she shared that she paid her rent and rental*
9 *deposit. On other occasions, she stated that she paid personal bills as well as bills for her*
10 *sisters, brothers, mother and father. Client shared that she continued this behaviour over*
11 *the course of six months.*

12
13 *One April 8, 2022, Ms. McLaughlin informed that her actions were discovered after a*
14 *routine inspection of the online bank account. At the time of discovery, the Client explained*
15 *that Mr. Stafford was under the impression that only \$4,150.00 was stolen. She added that*
16 *arrangements were made to return the money to him, which she did. On April, 12, 2022*
17 *she reported that she was terminated by Mr. Stafford after he discovered other*
18 *inconsistencies. ”¹*

19
20 36. The defendant reported paying back \$4,150.00 and the proceeds of sale of the Company’s Iphone.
21 She explained that she did not steal for herself, but she found it difficult not to assist her family
22 when they approached her for money. She said that when she took the money it was always her
23 intention to reimburse Mr. Stafford; however, things got out of control. She said that although
24 she had a great relationship with Mr. Stafford and believed that he would have assisted her if she
25 had asked, she was afraid to ask him because of fear as to what his answer would have been. She
26 said that she did try legal methods, such as asking him for a salary advance; however, he
27 sometimes said no or was not on Island to assist.



¹ Page 7 of the SIR

1 37. The Probation Officer describes the defendant as remorseful for her actions and states: -

2
3 *“...although, it is noted that she did not attempt to make amends or disclose her actions to*
4 *the affected party at the first opportunity. Discussion with the Client explored her family*
5 *dynamic and it appears as if the Client often feels pressured to be a financial support*
6 *system. This pressure appears to have impacted her offending behaviour.”²*
7

8 38. The Officer concludes that although the defendant expressed responsibility for her actions, she
9 minimised and justified her behaviour as well as expressed a lack of victim empathy.

10
11 39. The defendant’s overall risk of re-offending is assessed as medium. It is recommended that she
12 could benefit from continuing to access intervention services to reduce her risk of re-offending.

13
14 **GUIDANCE ON SENTENCING**

15
16 40. The *Chief Justice’s Statement on Tariffs and Guidelines for Sentencing for Certain Offences*
17 *(2002)* provides for a tariff of 1-4 years for an offence where there is a breach of trust: -

18
19 *“For offences of THEFT or related offences, depending on the value of the property stolen*
20 *and any other aggravating factors, particularly where there is a breach of trust in the*
21 *context of a relationship of employment, an immediate term of imprisonment ranging from*
22 *1 to 4 years for a first offence, and an order for repayment, will likely be imposed. The*
23 *tariff could be higher still depending on the seriousness of the offence.”*
24

25 41. Counsel also referred the Court to the *United Kingdom Sentencing Council Guidelines*
26 *(“SGC”)* for the offence of Theft. The maximum penalty in the United Kingdom is 7 years
27 imprisonment. High and Medium Culpability are demonstrated by any one of the following
28 factors.

29
30 **“A – High culpability**



² Page 8 of SIR

- A leading role where offending is part of a group activity
- Involvement of others through coercion, intimidation or exploitation
- Breach of a high degree of trust or responsibility
- Sophisticated nature of offence/significant planning
- Theft involving intimidation or the use or threat of force
- Deliberately targeting victim on basis of vulnerability



B – Medium culpability

- A significant role where offending is part of a group activity
- Some degree of planning involved
- Breach of some degree of trust or responsibility
- Other cases that fall between categories A or C because:
 - Factors are present in A and C which balance each other out **and/or**
 - The offender’s culpability falls between the factors as described in A and C”

42. Harm is assessed by reference to the financial loss and any significant additional harm suffered by the victim to include impact of theft on the business, emotional distress and high level of inconvenience caused to the victim or others.

43. Category 2 Harm includes goods to a value between GBP 10,000 and GBP 100,000 and no significant additional harm.

44. Category 1 Harm includes high value with significant additional harm.

45. The starting point for an offence of A- High Culpability and Category 1 Harm is 3 years and 6 months custody with a sentencing range of 2 years 6 months’ to 6 years’ custody.

46. In the case of *R v. Robert Aspinall*³, the Cayman Islands Court of Appeal stated that the SGC guidelines cannot be applied in the Cayman Islands without taking into account the higher maximum sentence of theft in this jurisdiction. The Court said that the higher maximum in the

³ CICA 16/2016 Unreported Judgment dated 6th December 2016

1 Cayman Islands is an explicit statutory direction as to how seriously theft is regarded in this
2 jurisdiction.

3
4 47. The Court also stated that theft which is accompanied and facilitated by forgery is still more
5 serious than theft without forgery. This is especially so in the context of the professional world
6 of accountants and in the financial services industry where “the destruction of trust in documents
7 which forgery creates is a serious matter.”

8
9 48. Both Counsel referred the Court to the case of **R v Scott; Fyne v R**⁴. In that case the Appellate
10 Court considered two appeals against sentences imposed where there had been a breach of trust.
11 The Court said that: -

12
13 *“Although alternative sentencing options could be considered for other economic crimes,*
14 *the principle remained that a custodial sentence was appropriate for offences of theft*
15 *involving employees who abused a position of trust, even for a first offence, except in very*
16 *exceptional circumstances, which referred only to those circumstances that were unusual,*
17 *special or uncommon. This reflected both English authority and the guidelines on*
18 *sentencing given by the Chief Justice, who recommended that sentences of one to four years*
19 *would be appropriate for a first offence, depending on the amount stolen. The length of*
20 *sentence would vary according to various mitigating or aggravating factors, but in light of*
21 *the economy of the Cayman Islands, it was particularly important to impose sentences that*
22 *would act as an effective deterrent.”*

23
24 49. The Court held in respect of the First Appellant Scott that having the care of young children was
25 not an exceptional circumstance.

26
27 50. The prosecution has also drawn to the attention of the Court the case of **R v Thomas**.⁵



⁴ [2007] CILR 175

⁵ [2013] 2 CILR Note 6



1
2 **THE SUBMISSIONS**
3

4 51. The prosecution submitted that under the general principles of sentencing set out in the *Cayman*
5 *Islands Sentencing Guidelines*, this offending is at the highest level of culpability due to the
6 circumstances, including the substantial breach of trust. There is harm of financial loss coupled
7 with the impacts described by the victim.
8

9 52. By reference to the SGC Guidelines, the prosecution submits that the defendant's offending falls
10 into Category A Culpability (breach of a high degree of trust or responsibility) and Category 2
11 Harm, based on value alone, but invites consideration of Category 1 Harm based on the
12 significant additional harm as outlined in the VIR.
13

14 53. The prosecution asked the Court to consider the appropriateness of consecutive sentences with
15 respect to the charges of forgery.
16

17 54. Defence Counsel submitted that this matter could be identified as one of medium culpability
18 because there has been a breach of some degree of trust and responsibility. It is also submitted
19 that there has been a relatively high value of loss with some harm to the victim, making the
20 offence a Category 2. The appropriate starting point is said to be 1 year, with a range of sentence
21 of 26 weeks to 2 years.
22

23 **AGGRAVATING FACTORS**
24

- 25 55. The prosecution submitted that there are five aggravating factors: -
26 i. The offending began shortly after the commencement of employment.
27 ii. A significant total was stolen in a short space of time, the thefts being regular.
28 iii. The offending appears to have been committed whilst the subject of a Probation Order.
29 iv. The defendant has previous convictions for like offences.
30 v. The value of the theft is well above the defendant's annual salary.
31

1 56. Counsel for the defence asked that the Court not treat the fact of the Probation Order as an
2 aggravating feature. Counsel said that according to the SIR, the defendant was sentenced in
3 November 2023 to that Order. It was thus imposed subsequent to the instant offending.
4

5 **SUBMISSIONS IN MITIGATION**
6

7 57. In mitigation Counsel for the defence submitted that the defendant has previously led an
8 otherwise exemplary life. She regrets the decisions which she made. She was motivated by need
9 more than greed and had significant pressures to set off old demanding debts and mounting new
10 ones.
11

12 58. Counsel asked the Court to note that the defendant is at medium risk of re-offending and that her
13 previous offending was some sixteen years ago. Counsel submitted that the defendant has
14 instructed that she will never offend in this manner again. Counsel said that the thought of
15 separation from her child is enough to deter any future offending conduct. Counsel submitted
16 that:
17

18 *“The likelihood of being away from her 11 year old ... for a lengthy period of time has*
19 *filled her with the sort of horror that is only matched in intensity by the fear and anxiety*
20 *that the 11 year old has been experiencing since learning of the possibility of being*
21 *separated from ... mother for a time considered long by even an 11 year old child who has*
22 *lived exclusively with ... mother all ... life.”*
23

24 59. In response to an inquiry from this Court, Counsel advised that the child is now in the care of her
25 father.
26

27 60. Counsel said that the defendant accepts that a custodial sentence is likely and that the suffering
28 to result for herself and her child is of her own creation. Counsel asks that the sentence be as
29 short as is possible.
30
31



1 61. Counsel described the defendant as remorseful, ashamed, afraid, apprehensive and anxious. Her
2 failure to make an immediate and fulsome confession to her employer was due to being ashamed.
3 Counsel said that the defendant in recent times suffers from dangerous high blood pressure and
4 has had this case hanging over her head since 2022. This has affected her ability to secure and
5 retain employment since the matter came to light and she is presently unemployed. She has been
6 in significant financial straits since the proceedings commenced and is concerned that the real
7 consequences are likely to commence after she is released as it will affect her ability to secure
8 employment.

9
10 62. The defendant is said to be pleading for leniency and the exercise of the discretion of the Court
11 and to be anxious to put this chapter behind her.

12
13 **THE SENTENCE**



14
15 63. In the Court's view, by reference to the *SGC Guidelines*, this was a clear breach of a high degree
16 of responsibility. The defendant was employed in a financial capacity and trusted with the
17 Company's blank pre-signed cheques. The culpability is at the level of A- High Culpability.

18
19 64. The Harm would fall into Category 2 where the high value of goods stolen is between GBP10,000
20 and GBP100,000. However, given the VIR, there appears to be significant additional harm to the
21 victim and to others such that the Harm is at the level of Category 1.

22
23 65. The starting point under the *SGC Guidelines* is 42 months. Applying an uplift of one third to
24 reflect the higher sentence in the Cayman Islands, the starting point is 56 months.

25
26 66. It is an aggravating factor that the defendant has a previous conviction for a like offence albeit of
27 some age. This increases the sentence by 6 months to one of 62 months.

28
29 67. It is an additional aggravating factor that the offending was over a sustained period of time, almost
30 immediately upon the commencement of employment. There were 15 instances over a period of
31 four months. However, no additional sentence is imposed at this stage. The Court will consider
32 this at the stage of reviewing the totality principle. The additional factors submitted by the
33 prosecution are not therefore treated as aggravating factors.



1
2 68. In mitigation the Court takes into account everything said or written in the defendant's favour.
3 These include her genuine remorse, the motivation for the offending and family circumstances,
4 the fact that she is the sole or primary carer for her young child and supports her family.
5 Incarceration will mean that she will be away from her young child. She is at medium risk of re-
6 offending. Her health issues. The delay since the start of the proceedings which would have
7 placed the defendant under stress. All of these serve to reduce the sentence by 12 months to one
8 of 50 months.

9
10 69. The defendant pleaded guilty at the first reasonable opportunity and is given the full credit for
11 her guilty plea of one third thus reducing her sentence to one of 33 months imprisonment.

12
13 70. For the offences of Forgery in each case a starting point of 15 months is adopted. This is
14 considering the nature of the document forged, a cheque, that it was for gain, the abuse of trust,
15 that the activity was conducted over a sustained period of time and the multiplicity of the
16 offending and values.

17
18 71. In mitigation taking into account all the circumstances outlined above, the sentence is reduced
19 by 3 months to 12 months. Full credit is given for guilty plea leading to a further reduction to 8
20 months imprisonment.

21
22 **CONSECUTIVE / CONCURRENT SENTENCES**

23
24 72. Consideration has been given to whether the sentences should run consecutively or concurrently.

25
26 73. The *Cayman Islands Sentencing Guidelines* provides with respect to consecutive /concurrent
27 sentences

28 **“6.1 Concurrent Sentences**

29 *It is wrong in principle to impose sentences to run consecutively where those*
30 *offences, though distinct in law, arose out of a single act so that the overall*
31 *criminality for the offender can be represented by concurrent sentences.*

32 *Concurrent sentences will ordinarily be appropriate where:*

1 *Offences arise out of a related incident or facts.*

2 *There is a series of offences of the same or similar kind especially when*
3 *committed against the same victim.*

4 *Where concurrent sentence are passed, the sentence should reflect the*
5 *overall criminality involved. The sentence should be appropriately*
6 *aggravated by the presence of the associated offences and thus the court*
7 *may increase sentence for the principal offence to reflect the gravity of*
8 *conduct:*

9
10 **6.2 *Consecutive Sentences***

11 *Consecutive sentences will ordinarily be appropriate where:*

12 *Offences arise out of unrelated facts or incidents.*

13 *Offences are of the same of similar kind but where the overall criminality*
14 *will not sufficiently be reflected by concurrent sentences for example:*

15 *Where offences are committed against different victims.*

16 *Where sexual offences or domestic violence are committed against*
17 *the same individual.*

18 *Where the offender commits the same or similar offence after*
19 *being arrested for the original offence.”*



20
21 74. In *Aspinall* the Appellate Court said this:

22
23 *“49. The Judge's fourth error is connected with his third, and that was to ignore the*
24 *possibility of consecutive sentences. We have already referred to this factor in connection*
25 *with the counts of forgery. But in truth it has to be remembered that guidelines such as the*
26 *2015 Cayman Islands Guidelines recognise that consecutive sentences may be appropriate*
27 *where, even though offences are of the same or similar kind, overall criminality will not be*
28 *sufficiently reflected by concurrent sentences as where "offences are committed against*
29 *different victims" (at section 6.2). And of course all the guidelines are based on a single*
30 *offence of theft, and appropriate escalation is required to deal with a campaign of multiple*
31 *thefts even where concurrent sentences are imposed.”*
32

1 75. There are of course differences with respect to the instant case but in line with this guidance, this
2 Court does not consider that the proposed sentence on the single count of Theft is fully reflective
3 of the offending in this case. This was a campaign of multiple thefts effected by means of
4 forgeries over a sustained period of time. Regard has been had to the principle of totality.

5
6 76. The sentences of 8 months on the counts of forgeries are to run concurrently to each other but
7 one half of the sentence of 8 months is to run consecutive to the sentence of 33 months on the
8 Theft for a total sentence of 37 months imprisonment.

9
10 **CONCLUSIONS**

11
12 77. The Court has considered whether the proposed sentence is proportionate to the offending and
13 concludes that it is. The offending in this case is serious and clearly passes the custody threshold.
14 The defendant is not a first-time offender. Notwithstanding the family pressure, she was fully
15 conscious that her actions were wrong. Family pressure cannot justify or excuse criminality. This
16 was not a one-off offence. It was repeated offending over a period of time during which the
17 defendant stole more than her annual salary in the short time of four months in a course of conduct
18 which must have started almost immediately after she was hired. A high degree of trust was
19 reposed in her and the consequent betrayal of that trust must be reflected in the appropriate
20 categorisation of offending. The impact of the harm caused is not a limited one. It is extensive.
21 The sum stolen was significant for a small business and will affect business operations in the near
22 future. There is impact not only on the business itself but also on the other employees who cannot
23 now receive the pay raises which they had hoped and anticipated receiving. The aims of
24 sentencing in this case must be punishment, deterrence and rehabilitation. The defendant
25 recognises and accepts that she must face the consequences of her actions.

26
27 78. The sentence is thus 37 months imprisonment with time served to be taken into account. While
28 in custody the defendant is to receive the rehabilitative treatment recommended by the Probation
29 Officer.



1 **ANCILLARY ORDERS**

2

3 79. The prosecution submits that given the lack of means of the defendant as detailed in the SIR, a
4 compensation order would not be appropriate. There is an application for a confiscation order in
5 a nominal amount which is not opposed by the defence.

6

7 80. Pursuant to s. 15 (1) of *the Proceeds of Crime Act* (2024 Revision), a confiscation order is made
8 in the nominal amount of \$1.00 or one day imprisonment in default. Time to pay is given of three
9 months.

10

11 **Dated this the 8th November 2024**

A handwritten signature in blue ink, appearing to be 'Cheryll Richards', written over a faint horizontal line.

12

13 **The Hon. Justice Cheryll Richards KC**
14 **Judge of the Grand Court**