

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

4 **INDICTMENT NO: 66 and 67 of 2023**
5

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9
10 **V.**
11

12 **JUDITH FRANCIEA DOUGLAS**
13
14

15 **Appearances:** **Ms. Nimesh Jani, Senior Crown Counsel, Office of the Director**
16 **of Public Prosecutions for the Prosecution**

17
18 **Mr. Jonathon Hughes of Samson Law for the Defence**
19

20 **Before:** **The Hon. Justice Cheryll Richards KC**
21

22 **Submissions Heard:** **21st February 2024**
23

24 **Sentence Judgment:** **28th February 2024**
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29 ***Criminal Law - Obtaining Property by Deception contrary to s.247 of the Penal Code (2022***
30 ***Revision) - Sentencing following guilty plea – Totality Principle and Principles on Sentencing.***
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SENTENCE JUDGMENT

1. The defendant is before the Court for sentencing following guilty pleas to 32 counts of Obtaining Property by Deception contrary to s.247 of the *Penal Code* (2022 Revision).
2. In each case the particulars are that the defendant on or between certain dates from December 2022 to March 2023, dishonestly obtained a sum of money being property belonging to a named victim with the intention of permanently depriving the said victim thereof by deception, namely by falsely representing that premises known as #55 Diaz Lane were available for rental and exclusive possession upon payment of the said amount. The total amount of loss to the victims is \$52,355.00.
3. The prosecution has provided a table setting out the particulars of each count as below:

| INDICTMENT | DATES | VICTIM | LOSS (KYD) |
|------------|------------------------|--------------------|------------|
| 1 | 9-14 Dec 2022 | Sarah Oficial | 1300 |
| 3 | 6 Jan 2023 | Maria Almonte | 300 |
| 5 | 11-13 Jan 2023 | Ingrid Findley | 1900 |
| 6 | 16-20 Jan 2023 | Shaleen Ebanks | 1800 |
| 26 | 31 Jan 2023 | Milena Moltalvan | 1350 |
| 8 | 31 Jan – 1 Feb 2023 | Nicola Reynolds | 1900 |
| 9 | 2 Feb 2023 | Carlton Windith | 4600 |
| 11 | 7 Feb 2023 | Rajinder Kumar | 1900 |
| 12 | 8 Feb 2023 | Jorge Segura | 1900 |
| 7 | 11 Feb 2023 | Shivendra Singh | 1500 |
| 13 | 11 Feb 2023 | Juanito Mayuga | 1000 |
| 14 | 13 – 23 Feb 2023 | Justin Frivaldo | 1900 |
| 15 | 13 Feb 2023 | Nicolo Del-Rosario | 3400 |

| | | | |
|----|-----------------------|---------------------------------|-----------------|
| 16 | 13 Feb 2023 | Govind Sunwar | 1900 |
| 17 | 16 Feb 2023 | Sharoj Katuwal | 2200 |
| 19 | 16 Feb – 3 March 2023 | Dorla Williams | 1600 |
| 23 | 16 Feb – 4 March 2023 | Nikichung Chin | 1000 |
| 20 | 18-19 February 2023 | Nadia-Maria Lazaro | 1800 |
| 27 | 23 Feb 2023 | Nathan Edwards | 800 |
| 28 | 23 Feb 2023 | Ramesh Welsh | 840 |
| 29 | 23-24 Feb 2023 | Shnique and Shashane lettman | 1775 |
| 24 | 25 Feb 2023 | Njao Dorcas | 840 |
| 25 | 26 Feb 2023 | Maurice Angus | 700 |
| 21 | 28 Feb 2023 | Ken Labarda | 2900 |
| 22 | 28 Feb 2023 | Marvin Matuguinas | 1200 |
| 31 | 1 March 2023 | Cliphor Gordon | 1700 |
| 33 | 1 March 2023 | Wendy Marriott | 1200 |
| 34 | 2 March 2023 | Jason Richards | 1500 |
| 35 | 2 March 2023 | Jermaine Swaby | 1200 |
| 30 | 1-3 March 2023 | Dwayne Callum | 1800 |
| 32 | 1-4 March 2023 | Veannie Paterson | 1750 |
| 8 | 3 March 2023 | Zakisha Young | 900 |
| | | | |
| | | | \$52,355 |

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4. The maximum penalty for the offence is 10 years imprisonment on each count.



1 **HISTORY OF THE PROCEEDINGS**

- 2
- 3 5. The defendant first appeared before the Summary Court on the 8th March 2023. The
- 4 case was committed to the Grand Court following a short form preliminary inquiry
- 5 which was held on the 27th June 2023.
- 6
- 7 6. The first appearance before the Grand Court was on the 7th July 2023. On that date
- 8 defence Counsel indicated that pleas had been offered and a basis was to be considered
- 9 by the prosecution. There followed various mentions dates where the indication was
- 10 that the basis of plea was still being reviewed and discussed.
- 11
- 12 7. On the date of the plea, a basis was submitted, the amounts were agreed to be reduced
- 13 in respect of some counts and there were not guilty pleas entered to counts 2, 4, 10 and
- 14 36 of the Indictment. The pleas as offered are acceptable to the prosecution.
- 15
- 16 8. On those counts where pleas of not guilty are recorded, the prosecution offers no
- 17 evidence, formal verdicts of not guilty are entered and the defendant is discharged on
- 18 each count.
- 19
- 20 9. Defence Counsel asks that the defendant receive full credit given her prepared
- 21 statement in which certain admissions were made to the police and the very early
- 22 indication of a plea.
- 23
- 24 10. Following the entry of guilty pleas on the 25th August 2023, a psychological report was
- 25 ordered.

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27 **BASIS OF PLEA**

- 28
- 29 11. In the basis of plea submitted to the Court, most of which is not accepted by the
- 30 prosecution, the defendant stated: -
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- 1. *"I, Judith Douglas, plead guilty to counts 5, 8, 9, 11, 12, 14 to 25 & 27 to 35.*
- 2. *In addition, I plead guilty to the following counts in the corresponding amounts:-*

- Count 1 - \$1,300*
- Count 3 - \$300*
- Count 6 - \$1,800*
- Count 7 - \$1,560*
- Count 13 - \$1,000*
- Count 26 - \$1,350*



Although I appreciate that the Crown will not be in a position to agree or gainsay [] account, my guilty pleas are all on the basis that:

- a. *I initially agreed to rent out the apartment on Diaz Lane in good faith, however the incumbent tenants did not move out as expected.*
- b. *I was unable to return the deposit to the prospective tenants, as I had already spent it feeding a pernicious gambling addiction.*
- c. *In order to pay back the prospective tenants, I agreed to rent the property to further new tenants, in the hope that I could recover my gambling losses and pay everyone back. Unfortunately, this started a vicious cycle of taking from Peter to pay Paul.*
- d. *I always had the intention of paying everyone back in full, and indeed I did pay many people back as recognised in the witness statements of the complainants in Counts 1, 2, 3, 4, 6, 7, 10, 13, 26 and 36.*
- e. *I accept, however, that when I took funds from these individuals that I disposed of it as if it was my own and without permission.*



1 *f. I enter these pleas of my own free will.”*
2

3 **THE FACTS**
4

5 12. The main facts are not disputed. Over a three-month period, the defendant obtained
6 money from prospective tenants by pretending that an apartment at # 55 Diaz Lane in
7 George Town which is family property, was available for rent when it was not. The
8 potential tenants were shown the property. If a potential tenant wished to rent the
9 property, they would be asked to provide a deposit and or advance rent payment and
10 given a date to move in. The defendant collected deposits or advance rent payments on
11 each of the 32 occasions. When the move in date was proximate, in some cases the
12 tenants would be advised of a delay. In other cases, they would not be contacted again.
13

14 13. The prosecution’s case is that messages obtained in the course of the investigation show
15 that the defendant with the low rental cost offered, deliberately targeted non-
16 Caymanian work permit holders on low incomes. This is a vulnerable group of people
17 for whom the loss of the deposit money had a disproportionate impact. The loss of
18 rental amounts paid led to some victims having to leave the Island and left others
19 without financial resources.
20

21 14. The total sum obtained by the defendant excludes the sum of \$14,050.00 which is
22 calculated as the sum returned by the defendant to victims.
23

24 15. According to the prosecution the evidence indicates that over the period the defendant
25 spent \$11,684.69 on the following:
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| | | | | |
|----|-------|------------------|---|------------|
| 27 | (i) | Amazon purchases | - | \$1,764.15 |
| 28 | (ii) | Heath superfoods | - | \$4,092.40 |
| 29 | (iii) | Shopping | - | \$1,484.59 |
| 30 | (iv) | ATM withdrawals | - | \$3,100.00 |

1 16. According to the prosecution there is no trace of how the remaining sum of \$40,670.31
2 was spent. The defendant's phone records indicate that during the period of the
3 offending the defendant visited gambling sites 1,060 times. There is no record of wins.
4

5 **VICTIM IMPACT REPORT**
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7 17. The Department of Community Rehabilitation ("DCR") has provided a
8 Victim Impact Report ("VIR") dated 11th January 2024. Two of the victims gave victim
9 impact statements.
10

11 18. Mr. Nicolo Del Rosario is from the Philippines. He paid over \$3,400.00 to the
12 defendant on behalf of himself and five others in order to secure the apartment for them
13 to live in. He said that the impact of what happened was very stressful for him. He
14 became depressed and could not sleep for months. At the time it happened he had been
15 supporting his family in the Philippines and his fiancée who had lost her job. He seeks
16 compensation.
17

18 19. A second victim, Mr. Carlton Windith states that he saw the advertisement for the rental
19 of the apartment on a social media site. After making contact and viewing the
20 apartment, he paid \$4,600.00 from his savings and a loan from a friend to secure the
21 rental. He was given a lease start date of 1st March 2023 which kept being pushed back.
22 He states that the amount which he paid is the equivalent of \$805,000.00 Jamaican
23 dollars which is a significant sum for him and his family. He had to seek a further loan
24 from his employer in order to find alternative accommodation. His view is that the
25 defendant preyed on vulnerable expatriates who were searching for reasonably priced
26 properties.
27

28 **ANTECEDENT HISTORY**
29



30 20. The defendant has an antecedent history of six previous convictions, four of these are
31 spent.

1 21. On the 26th April 2016, the defendant was sentenced to 2 ½ years' imprisonment for 9
2 counts of Obtaining Property by Deception. The deception involved is described as a
3 scheme with another person where victims were told that payment of \$2,500.00 would
4 secure Caymanian permanent residence. While the total amount taken as part of the
5 scheme was \$104,500.00, the total benefit which the defendant obtained according to
6 defence Counsel was \$20,500.00.

7
8 22. The defendant was in custody on this offence from the 25th February 2016 and released
9 from custody on the 28th August 2017.

10
11 23. Conviction 10 relates to Obtaining Property by Deception between the 2nd of November
12 2010 and the 30th of January 2016 of \$1,946,437.00 from a single victim by pretending
13 that the money was required for a legitimate application for permanent residency status
14 and a Caymanian passport.

15
16 24. Following a trial and an appeal which resulted in a retrial, the defendant pleaded guilty.
17 On the 8th of June 2021, the defendant was sentenced to 5 years imprisonment. The
18 defendant was in custody on this offence from the 29th June 2018 and was released
19 from custody on the 23rd June 2022. This was about 6 months before the instant
20 offending. At the time of this offending the defendant was on a conditional release
21 license.

22
23 **THE SOCIAL INQUIRY REPORT**



24
25 25. The DCR has provided a Social Inquiry Report (“SIR”) dated 18th October 2023. The
26 Court has read the Report in its entirety and takes into account everything said therein
27 in favour of the defendant.

28
29 26. The defendant is 57 years old. She has one child who is an adult who is resident
30 overseas. She is married but the marriage is said to have broken down since her release

1 from prison in 2022. Her mother passed away in May 2023 which is said to have had
2 a significant impact upon her. She describes her mother as supportive and says that they
3 would communicate every day.
4

5 27. Under background history, the Probation Officer refers to an earlier report in 2021 in
6 which the defendant denies any form of abuse in her childhood. The defendant
7 described her teenage years as seeking the attention of her stepfather and feeling left
8 out because of the presence of his biological children. She disclosed to the Officer that
9 she would get into more trouble in order to get his attention. The Officer records that
10 collateral information confirms that the defendant was consistently being punished by
11 her stepfather for “taking what was not hers from a young age”.
12

13 28. At the age of 14 years the defendant was arrested for taking and using her sister’s
14 cheque book. She was expelled from high school and sent to rehabilitative institutions
15 locally and overseas.
16

17 29. The Officer states that there is likely to be some childhood trauma and notes that at the
18 age of 15 years the defendant was involved in a sexually abusive relationship.
19

20 30. After leaving high school the defendant worked at several jobs before working for ten
21 years as a Special Needs Support Assistant through to 2012. Since then, she has been
22 unemployed. However, while in Prison serving her previous sentence and now on
23 remand, she is productively employed in the laundry. She is earning \$30.00 per week
24 from this. No concerns have been raised in relation to her work. She also receives
25 \$200.00 per month from her pension.
26

27 31. The defendant suffered from anxiety in April 2023 and received treatment by way of
28 medication to treat anxiety, depression and sleeplessness.
29



1 32. Under the heading Community Institutional Functioning collateral contacts are
2 recorded as referring to her stealing from a young age from her family to give to her
3 friends. She is also reported to buy “numbers” a lot.

4
5 33. Under the heading Attitude Towards Offending the defendant is reported to have said
6 that she had been buying “numbers” since 2009 but only realised that she had an
7 addiction two months before the present offending. She is recorded as expressing
8 remorse for her behaviour and stated that:

9
10 *“...her actions would be ‘traumatising’ for the victims and disclosed that one (1)*
11 *victim had to sleep in his car as he did not have anywhere to go after she had lied*
12 *to [t]his landlord about the property being available.*

13
14 *Client informed that one (1) victim was very “compassionate because of [my] lies”*
15 *as when she realised she was not going to get the property, she gave Ms. Douglas*
16 *a payment plan to pay back the money.”*

17
18 *Ms. Douglas expressed that she recognised the pattern of her behaviour and that*
19 *the impact on the victims “makes [me] want to change”. She acknowledged the*
20 *impact of her behaviou on the wider community and stated that the community*
21 *would have “no trust” due to the “things being abused”. Client expressed the*
22 *impact on herself and said that she felt “ashamed” and “bad” for her actions.*
23 *Furthermore, she stated that “it will be hard for the victims to forgive [me] but [I]*
24 *am sorry”.*

25
26 34. The defendant was assessed using the Level of Service /Case Management Inventory
27 instrument. Her overall risk of re-offending was assessed as high with six of the eight
28 criminogenic factors in the Very High and High categories. She is described as
29 demonstrating pro-criminal thinking and a pattern of generalised trouble. Her repeat

1 offending while on conditional release is said to indicate a pattern of dishonest
2 offending behaviour and entrenched beliefs that foster a criminal lifestyle.

3
4 35. Since being in custody, the defendant has enrolled and successfully completed various
5 online courses with good grades.



6
7 **PSYCHOLOGICAL REPORT**

8
9 36. Dr. Dominic Basson is a clinical psychologist. He has provided a psychological report
10 dated 4th December 2023. The defendant provided her background history to him which
11 was not corroborated. She described her childhood to him as involving sexual and
12 physical abuse at the hands of a family member. She learned about the game of
13 “numbers” by observing the same family member. Doctor Basson states that it seems
14 that gambling became a pleasurable escape for the defendant and a distraction from an
15 unpleasant and abusive home environment. The defendant was also abused by other
16 males and would be paid money.

17
18 37. A psychometric test which measures patterns associated with personality disorders
19 produced invalid test results due to random responding.

20
21 38. The doctor states that the defendant displayed some traits associated with antisocial
22 personality disorder. These include failure to observe laws, lying, deception and
23 manipulation for profit, self-amusement, and impulsive behaviour.

24
25 39. In the doctor’s opinion it is possible that the defendant is also experiencing bipolar
26 disorder because of the periods of mania which she described. These have involved
27 excessive spending and gambling followed by feelings of low mood. Additionally, she
28 presented as pressured in speech with racing thoughts which is consistent with bipolar
29 presentation.

1 40. There does not appear to be an intellectual disability, but the tests performed with her
2 were not clear due to what is described as low-test effort.

3
4 41. The doctor concludes that the defendant is likely suffering from a bipolar type mood
5 disorder. She displays traits of antisocial personality disorder and would appear to have
6 a gambling addiction. He states that she would benefit from a psychological
7 intervention.

8

9 **THE SUBMISSIONS**

10

11 42. Both Counsel referred the Court to the *United Kingdom Sentencing Council*
12 *Guidelines* for the offence of Fraud in the absence of offence specific guidelines in the
13 Cayman Islands.

14

15 43. Under those *Guidelines*, Category A – High culpability is demonstrated by any one of
16 a number of factors including: -

17

- 18 • A leading role where offending is part of a group activity.
- 19 • Involvement of others through pressure, influence.
- 20 • Abuse of position of power or trust or responsibility.
- 21 • Sophisticated nature of offence/significant planning.
- 22 • Fraudulent activity conducted over sustained period of time.
- 23 • Large number of victims.
- 24 • Deliberately targeting victim on basis of vulnerability.

25

26 44. Harm is determined by loss caused or intended in monetary value. Category 3 is GBP
27 20,000.00 to GBP 100,000.00 with a starting point of GBP 50,000.00. The *Guidelines*
28 provide that there should be movement up a category where the impact of the harm is
29 high because of one or more of the following: -

30



- Serious detrimental effect on the victim whether financial or otherwise, for example substantial damage to credit rating.
- Victim particularly vulnerable (due to factors including but not limited to their age, financial circumstances, mental capacity).

45. Counsel for the prosecution submitted that under the *United Kingdom Sentencing Council Guidelines* for the offence of Fraud this is a Category 1 offence because the defendant had the intention to cause harm to thirty-two victims and planned her actions to ensure that the victims lost their monies.

46. Defence Counsel referred to the case of *R. v. Douglas and Hamilton*, the first case involving the defendant in which the Grand Court (Quin J.) adopted a starting point of 4 years with a range of sentence from 18 months to 7 years.

47. Counsel submitted that the appropriate approach to sentencing in this case is to begin with that starting point of 4 years and range and then consider the aggravating and mitigating features as per the *United Kingdom Sentencing Council Guidelines*.

48. Alternatively, Counsel submitted that the *Guidelines* can be applied directly without the need for adjustment as the maximum penalties are the same in both jurisdictions. It is submitted that under those *Guidelines* this is a Higher Culpability case and a Category 3 Harm based on value. Counsel notes that the *Guidelines* recommend that the sentencer move up a category if there is evidence of ‘high impact’. Counsel said that it is not disputed that there is in this case the presence of high impact and suggests that the case should be sentenced as a Category 2A case, with a starting point of 5 years and a range of sentence of 3 to 6 years.



1 49. Counsel for the prosecution submits that there are six aggravating factors present in
2 this case: -

3

- 4 1. Large number of victims and offences in a short period of time.
- 5 2. Previous convictions for dishonesty offences of a similar nature.
- 6 3. High level of financial loss.
- 7 4. Limited remorse in actions.
- 8 5. Leading/sole role for the offence.
- 9 6. Detrimental impact on victims from loss of funds.

10

11 50. Defence Counsel submits that under the *United Kingdom Guidelines* treating the
12 factors of large number of victims and offences in a short period of time, high level of
13 financial loss and detrimental impact on victims from loss of funds would amount to
14 double counting. Counsel disagrees with the suggestion that there is limited remorse in
15 the actions of the defendant and submits that as the offending involved a single person,
16 the leading/sole role for the offence does not apply.

17

18 51. It is accepted by defence Counsel that there are present aggravating factors of previous
19 offending and offence committed while on license.

20

21 **SUBMISSIONS IN MITIGATION**

22

23 52. Defence Counsel submits that the defendant's case is that she stole an average of
24 \$1,636.00 from thirty-two separate victims in order to fund a debilitating addiction to
25 playing "numbers" which is a form of illegal gambling.

26

27 53. There is disagreement with one factual aspect of the prosecution's case in that the
28 defendant maintains that events began with a genuine rental opportunity which did not
29 progress because the existing tenants did not leave the property. The prosecution's
30 case is that the defendant never had the right to lease the property in the first place.



1 54. According to the defence, the defendant tried to secure another deposit from a second
2 prospective renter intending that by gambling the money received, the winnings could
3 then be used to pay back both prospective tenants. What is described by Counsel as a
4 vicious debt cycle thereafter followed.

5
6 55. Counsel submits that the defendant's version of events is supported by the efforts made
7 by her to pay back some of the renters, the fact that she remained in contact with the
8 renters, the amount of times she visited gambling sites which announce the results of
9 gambling, and the evidence of the psychologist.

10
11 56. Counsel submits that the defendant was hiding her addiction from herself and her
12 family, that she has now accepted it and has come to the realisation of her illness for
13 the first time in her life. Given that acceptance she can now access treatment. Counsel
14 said that the defendant has reached out for help within the prison and is frustrated at
15 not receiving targeted rehabilitation. Of her own volition she has taken online courses
16 in clinical psychology and criminology in an effort to understand and address her
17 issues. Counsel asked the Court to take into account the following factors in
18 mitigation:-

- 19
20 a. Her remorse and efforts made to pay back victims.
21 b. There was little or no prospect of success of the scheme.
22 c. Her mental disorder or learning disability.
23 d. The early admissions made in interview.
24 e. She has taken demonstrable steps to address her addiction or offending
25 behaviour.
26 f. The activity originally began as legitimate.
27 g. Her personal circumstances/history as set out in the psychological report.



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1 **LETTER OF APOLOGY**

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3 57. Through her Counsel the defendant has provided a letter of apology dated 21st February
4 2024 which was read into the record. The defendant pleads for help with her gambling
5 addiction and states that she feels overwhelming shame and guilt. She states that she is
6 genuinely sorry for what she did and understands the harm caused. She seeks
7 understanding and compassion.

8
9 **THE SENTENCE**

10
11 58. The *Cayman Islands Sentencing Guidelines* provides general guidance as to the aims
12 of sentencing, assessing the seriousness of an offence, the custody threshold and the
13 principle of proportionality. The Court reminds itself of this guidance including that
14 in sentencing an offender, the Court has to balance a number of competing interests
15 and objectives and to tailor the punishment to the individual circumstances of the
16 offender while ensuring that it is in line with the seriousness of the offence. The Court
17 should consider which of the aims which govern the sentencing process will be best
18 served by the sentence to be passed.

19
20 59. The aims which are set out in the *Alternative Sentencing Act* (2008 Revision) include
21 deterrence, punishment, rehabilitation, and restitution. The *Guidelines* also provide
22 that a custodial sentence should not be passed unless the offence is so serious that no
23 other sentence can be justified for the offence. Custody should be reserved for the most
24 serious offences. Even where the custody threshold is passed, custody can still be
25 avoided in light of personal mitigation or if there is a suitable community intervention
26 which would meet the aims of punishment and rehabilitation.

27
28 60. The offending in this case is serious given the high level of culpability and harm. It
29 firmly and unequivocally passes the custody threshold. There is nothing in the personal
30 circumstances of the defendant which would make a non-custodial sentence avoidable.



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2
3 61. Defence Counsel has urged upon this Court in effect that a sentence should be arrived
4 at which focuses to a large extent on rehabilitation. It is said that this offending is the
5 turning point for the defendant that she now admits for the first time that she has an
6 addiction to gambling and that admission is the first step to addressing the problem and
7 working towards rehabilitative change.

8
9 62. The Court accepts that this is a positive and encouraging first step taken by the
10 defendant and that one of the aims of sentencing in cases such as this must be
11 rehabilitation in order to reduce the prospect of repeat offending. However, this cannot
12 be the only or even the primary aim of sentencing in this case. The *Alternative*
13 *Sentencing Act* provides in s.4: -

14
15 *“4. A court shall, in imposing a punishment under this Law, take into account the*
16 *following principles —*

17
18 *(a) that the fundamental purpose of punishment is to contribute, along with crime*
19 *prevention initiatives, to respect for the law and the maintenance of a just, peaceful*
20 *and safe society by imposing just sanctions that have one or more of the following*
21 *objectives —*

22
23 *(i) to denounce unlawful conduct;*

24 *(ii) to deter the convicted person and other persons from committing offences;*

25 *(iii) to separate convicted persons from society, where necessary;*

26 *(iv) to assist in rehabilitating convicted persons;*

27 *(v) to provide reparations for harm done to victims or to the community; and*

28 *(vi) to promote a sense of responsibility in convicted persons, and acknowledgment*
29 *of the harm done to victims and to the community;*
30

1 (b) that a punishment must be proportionate to the gravity of the offence and the
2 degree of responsibility of the convicted person;”
3

4 63. The Court considers that in this case one of the primary aims of sentencing must be
5 punishment and deterrence with the lesser aim of rehabilitation.
6

7 64. Even accepting that the offending began in this case innocently, by the third or fourth
8 victim, the die had clearly been cast. The offending was targeted at the most vulnerable
9 in the community. It affected not only the victims themselves but their families waiting
10 in their home countries for financial support. The defendant spoke of one victim having
11 to sleep in his car as a result of what she had done. The harm and mental trauma caused
12 is at the highest level.
13

14 65. The defendant must have been aware of the cruel impact of her actions, yet she
15 continued to act nevertheless and did not seek help. There was a wanton disregard for
16 the harm being done to others and a focus on self and financial gain.
17

18 66. The defendant is not without intelligence or insight given the statements made to the
19 Probation Officer by her. While this sentence addresses her instant offending, the
20 pattern of her behaviour means that there was no seeking of help over many years,
21 forty-two victims and close to two million dollars obtained.
22

23 67. In respect of the instant case the level of offending must be adequately reflected in the
24 sentence passed. The Court is enjoined to pass a just and proportionate sentence where
25 guidelines are not tram lines. There are features of this case which are out of the
26 ordinary.
27

28 68. By reference to the *United Kingdom Sentencing Guidelines*, this is an offence of high
29 Culpability A and Harm up one category from 3 to 2 because of the significant level of
30 harm. The starting point is 5 years custody.
31



1 69. From this starting point this Court considers the two previous offences to be significant
2 aggravating factors, not least because of the similarities and the nature of the offending.
3 These serve to increase the sentence to one of 9 years.

4
5 70. The fact that this offending was committed whilst on license serves to further increase
6 the sentence by one year to 10 years or 120 months.

7
8 71. The other factors urged by the prosecution (items 1, 3 and 6) are not treated as
9 aggravating factors as these may already be properly reflected in the categorisation of
10 the offending and thus in order to avoid possible double counting. Items 4 and 5 are not
11 accepted as aggravating factors in this case.

12
13 72. In mitigation this Court takes into account everything said in favour of the defendant
14 by her Counsel and in the reports before the Court. These include: -

- 15
16 (i) Her remorse.
17 (ii) Attempt at rehabilitation.
18 (iii) Gambling addiction and personality disorders as identified in the
19 psychological report detailed above.
20 (iv) Her early admissions made in interview.
21 (v) Her childhood issues and trauma.
22 (vi) Attempts to pay back some victims.
23 (vii) Her personal circumstances.
24 (viii) The fact that there was little or no prospect of success of the scheme.



25
26 73. All the circumstances taken together serve to decrease the sentence by 18 months to
27 102 months.

28
29 74. The defendant is given full credit for her guilty plea of one third for a reduced sentence
30 of 68 months.

31
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1 **CONCURRENT /CONSECUTIVE SENTENCES**
2

3 75. The Court accepts as agreed by Counsel that concurrent sentences would be appropriate
4 because the case involves a series of offences of the same kind and arise out of related
5 facts. The prosecution has made the added submission that this is a matter where the
6 Court ought to apply an appropriate level of uplift to reflect the totality of the offending.
7

8 76. The *Cayman Islands Sentencing Guidelines* provide: -
9

10 *“Where concurrent sentences are passed, the sentence should reflect the overall*
11 *criminality involved. The sentence should be appropriately aggravated by the*
12 *presence of the associated offences and thus the court may increase sentence for*
13 *the principal offence to reflect the gravity of conduct.”*
14

15 77. Given the totality and gravity of the offending in this case, in line with the *Guidelines*
16 an uplift of 12 months is added for a total sentence of 80 months on each count. The
17 Court is satisfied that this would not amount to double counting. The overall criminality
18 involved is wider than multiple victims in a single count.
19

20 78. The Court should also add that consideration has been given to the alternative starting
21 point utilised in the earlier case of 4 years as submitted by defence Counsel. The Court
22 considers that there are stark differences in the two cases, the multiplicity of victims,
23 the method, the targeting of vulnerable victims, the impact on those victims among
24 others, would all mean that a more appropriate starting point would be one of 6 years.
25

26 79. The Court considers that the proposed sentence is proportionate to the offending, given
27 the serious nature of it. The Court notes that the defendant is at high risk of reoffending.
28 This is a case where the defendant needs to be protected from herself and the
29 community needs to be protected from the defendant.
30

1 80. It is evident that there is a clear need for rehabilitative treatment and the Court makes
2 the Order that during her incarceration, assistance must be provided to her to address
3 her gambling addiction and the other issues identified by the psychologist.
4

5 **ANCILLARY ORDERS - COMPENSATION**
6

7 81. Each victim seeks compensation as noted in the VIR. At this stage there is no evidence
8 that the defendant has the means to pay a compensation order. However, the
9 prosecution has given notice that it intends to bring confiscation proceedings under the
10 *Proceeds of Crime Act*. The issue of a compensation order is therefore deferred
11 pending the outcome of the proceedings under that *Act*.
12

13 **CONCLUSION**
14

15 82. The sentence is therefore 80 months imprisonment on each count to run concurrently
16 with time served to be taken into account.
17

18 **Dated this the 28th February 2024**

A handwritten signature in blue ink, appearing to be 'Cheryll Richards', written in a cursive style.

19
20 **The Hon. Justice Cheryll Richards KC**
21 **Judge of the Grand Court**