

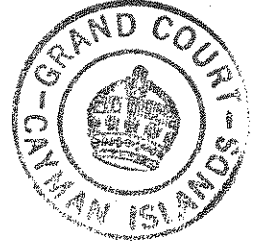
1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 CRIMINAL SIDE
3

4 INDICTMENT NO: 0114/2014; 0010/2015; 0011/2015
5

6
7 THE QUEEN

8
9 V

10 ROLAND POP
11 IANACU BOGODAN VLISMAS
12 FLORIN ROATA
13 MARIANA OPRINOIU
14



15
16 **Appearances:** Ms. Toyin Salako on behalf of the Crown

17
18 Ms. Amelia Fosuhene of Stenning &
19 Associates for the Defendant

20 **Before:** Justice Michael Mettyear (Actg.)

21 **Heard:** 27th April to the 1st May 2015
22

23 **AMENDED¹ JUDGMENT**
24

25 1. The Defendant is Mariana Oprinoiu who faces two of the nine Counts on this
26 Indictment – namely, Count 1 and Count 8.

27 *Count 1: Conspiracy to Defraud contrary to the Common Law.*

28 The particulars of this offence are that Mariana Oprinoiu between the 10th day of
29 December 2014 and the 17th day of December 2014 within the jurisdiction of the
30 Cayman Islands conspired, together with Roland Pop, Ianacu Bogodan Vlismas,
31 Florin Roata and with persons unknown, to defraud local retail banks by
32 dishonestly withdrawing cash from ATM machines with the use of cloned credit
33 cards.

¹ **ERRATUM:** In paragraphs #71, #74 and #75: “Count 8” has replaced “Count 2”. Paragraph #1 has also been amended to accurately identify the Counts on which Oprinoiu was charged.

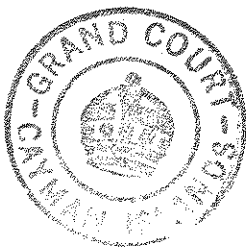
1 Count 8: Money Laundering, contrary to s.135(1)(c) of the Proceeds of Crime Law
2 (2014 Revision).

3 The particulars of this offence are that Mariana Oprinoiu on the 16th day of
4 December 2014 within the jurisdiction of the Cayman Islands, together with Florin
5 Roata, had in her possession criminal property namely approximately
6 US\$19,511.00 in cash.

7 2. I was satisfied that this is not one of those case where the Crown should be forced
8 to make an election as to whether they should proceed with either the conspiracy or
9 the substantive count. Count two is properly on the indictment. Both counsel
10 agreed.

11 3. The defendant has elected trial by judge alone and I have reminded myself of the
12 approach to be taken by a judge in such cases as described by Quin J. in the case of
13 **R v. George Dexter Evans** Indictment No 18 of 2011 paragraphs 67 to 71.

14
15 *“The Defendant elected to be tried by a Judge Alone, rather than a Judge and*
16 *Jury, pursuant to s.129 of the Criminal Procedure Code of the Cayman Islands.*
17 *Our Court of Appeal first dealt with the duties of a Judge in Judge Alone trials*
18 *in its judgment in K. Richards v. R 2001 CILR 496 when Justice Rowe stated:*
19



20 *“When a trial judge sitting alone has advised himself to the applicable*
21 *principles of law, and given himself any necessary warning, he must*
22 *indicate clearly in his judgment his reasons for acting as he did, in*
23 *order to demonstrate that he has acted with the requisite degree of*
24 *caution in mind and has therefore heeded his own warning. No specific*
25 *form of words is necessary for this demonstration, what is necessary is*
26 *that the Judge’s mind upon the matter should be clearly revealed.”*

27 *In R. v. Dave Kennedy Whittaker Cr. App. R. No. 14 of 2006, the Court of*
28 *Appeal gave some guidelines regarding the duties of a Judge in Judge Alone*
29 *trials. In the Judgment of Mottley J.A. he adopted the Judgment of the former*
30 *Lord Chief Justice of Northern Ireland Lord Lowry in R v. Thompson [1977]*
31 *NI 74 in which he stated at page 83:*

32

1 “While on the subject I might say a word on the duty of the judge when
2 giving judgment in a trial under the 1973 Act. He has no jury to charge
3 and therefore will not err if he does not state every legal proposition
4 and review every fact and argument on either side. His duty is not as in
5 a jury trial to instruct laymen as to every relevant aspect of the law or
6 to give a full and balanced picture of the facts for decision by others.
7 His task is to reach conclusions and to give reasons to support his view
8 and, preferably, to notice any difficult or unusual points of law in order
9 that if there is an Appeal, it may be seen how his view of the law
10 informed his approach to the facts.”

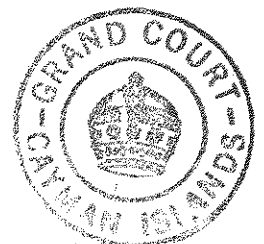
11 More recently our Court of Appeal in **Randy Martin v. R** Crim. App. R. 2 of 2010
12 delivered their reasons for dismissing the Appeal on the 7th December 2010.
13 Mottley J.A. again adopting **R v. Thompson** [1977] NI 24 also adopted **R v. Thain**
14 [1985] NI 457 where Lowry LCJ said at page 478:

15 “Where the trial is conducted and the factual conclusions are reached
16 by the same person, one need not expect every step in the reasoning to
17 be spelled out expressly, nor is the reasoning carried out in sealed
18 compartments with no inter-communication or overlapping, even if the
19 need to arrange a judgment in a logical order may give that
20 impression. It can safely be inferred that, when deliberating on a
21 question of fact with many aspects, even more certainly than when
22 tackling a series of connected legal points, a judge who is himself the
23 tribunal of fact will (a) recognize the issues and (b) view in its entirety
24 a case where one issue is interwoven with another.”

25 Following Lowry LCJ in **R v. Thompson** and **R v. Thain**, Mottley J.A. said in
26 **Randy Martin v. R** at paragraph 31:

27 “From these cases the following guidance may be discerned. A judge sitting in
28 a criminal case without a jury, in rendering his decision and giving his reasons
29 for so concluding, is not required to review every fact and to detail each
30 argument on which the prosecution and defence rely as if he were summing up
31 to a jury. The judge must set out the conclusion reached and make clear the
32 reasons for arriving at that conclusion. He is required to have regard to any
33 difficult or unusual points of law and to show how those points of law have in
34 any way impacted the conclusion that he has reached.””

35
36 4. I have reminded myself that the Crown have brought the case and that they must
37 prove it. The standard of proof that they must achieve is to make me sure of guilt.

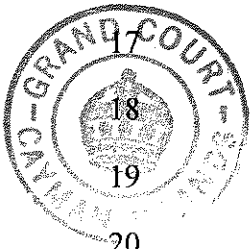


1 5. I am aware that three other defendants have pleaded guilty to the conspiracy count.
2 That establishes that the conspiracy existed, but the evidence of that was in any
3 event overwhelming and not disputed. Their guilty pleas go no way to establishing
4 that the defendant is also guilty. Indeed the main thrust of her defence is that she
5 knew nothing at all about their illegal activities. If that is true or might be true she
6 cannot be guilty.

7 6. I am aware that the other three defendants have also pleaded guilty to Money
8 Laundering offences. The considerations set out in relation to their pleas to
9 conspiracy apply equally to these pleas. They do not help the Crown in any way
10 with their task of proving the Defendant's guilt.

11 7. I need to give separate consideration to the two counts faced by the Defendant. It is
12 not necessarily the case that they stand or fall together.

13 8. The issue of character arose in an unusual way.
14 Nothing had been said about it during the evidence. It was mentioned first in Miss
15 Fosuhene's closing address. She has accepted that it should have been raised by her
16 earlier. It was also canvassed in an unusual way, by Miss Fosuhene saying that the
17 Crown had checked and found nothing recorded against the defendant. The Crown
18 have said that they accept this statement. There may be reasons why it was dealt
19 with in that way, but it would not be appropriate for me to enquire into that. It
20 seems to me that I should simply proceed on the basis that the defendant is of good
21 character and direct myself in the conventional way. I therefore direct myself that
22 her good character means that I should be prepared to give more weight to her word
23 than would otherwise be the case and that her good character makes it less likely
24 that she would have behaved in the way claimed by the Crown.



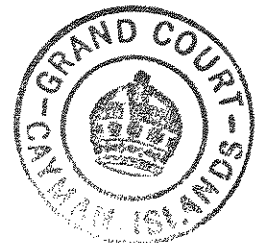
1 9. The defendant and her witness do not speak English and have given evidence and
2 answered questions to the police through interpreters. I have borne in mind the
3 possibility that disadvantage can flow from that and I made allowances, in
4 particular so far as police interviews are concerned.

5 10. The law concerning the offences alleged has not been in dispute and I can deal with
6 it very briefly.

7 11. The defendant is guilty of the conspiracy alleged if she agreed with those named on
8 the indictment, or any one of them to dishonestly withdraw cash from ATM
9 machines in Grand Cayman with the use of cloned credit cards. That such a
10 conspiracy existed is not in issue. The question is: Have the Crown proved that the
11 defendant was part of it?

12 12. So far as the second count is concerned the law is contained in s.135(1)(c) of the
13 Proceeds of Crime Law (2014 Revision) which reads:

14 “135. (1) A person commits an offence if he:
15 (a) acquires criminal property;
16 (b) uses criminal property; or
17 (c) has possession of criminal property.”
18



19 13. In practice counsel agree, as do I, that the issues are firstly have the Crown proved
20 that the defendant was in possession of the money recovered, it being agreed that
21 she cannot have been in possession if she did not know it was there. Secondly, was
22 the money, or part of it, criminal property? Thirdly was the defendant aware that
23 the money, or part of it, was criminal property?
24

THE FACTS

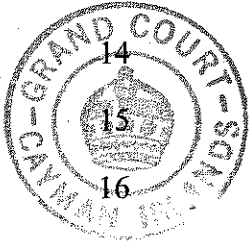
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2 14. It is clear that in December 2014 there existed a conspiracy in the terms set out in
3 Count 1 of the indictment, namely a conspiracy to defraud local retail banks by
4 dishonestly withdrawing cash from ATM machines with the use of cloned credit
5 cards. The evidence of such a conspiracy is overwhelming and three of the
6 defendants have already pleaded guilty to being a part of it.

7 15. The precise mechanics of how the conspiracy worked is not important for present
8 purposes and it is sufficient to say that fake debit or credit cards with the true
9 information from genuine cards imported on to them, were used in various ATM
10 machines in Grand Cayman. The fraudsters had other necessary information about
11 the genuine cards, e.g., PIN numbers so as to ensure that many of the transactions
12 were successfully completed.

13 16. The main issue in the present case is whether the Crown have made me sure that the
14 defendant was one of the conspirators. Virtually all the Crown's evidence is
15 undisputed and the case turns on what inferences can properly be drawn from the
16 facts.

17 17. The Defendant is a Romanian citizen who claims to be living in Switzerland, close
18 to the border with Italy. She is the girlfriend of a co-accused Florin Roata, who
19 gave evidence on her behalf during the trial. His evidence was that he is a
20 Romanian living in Italy close by to the defendant's place of work. They claim to
21 have known each other a long time and that, nine years ago she had a son who now
22 lives with her family in Romania.



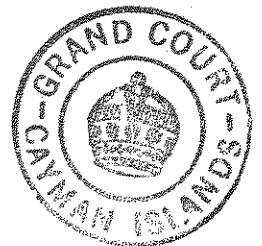
1 She said that Roata was the boy's father, although his name is not on the birth
2 certificate. She said she did not tell Roata that the boy was his son until two years
3 ago. She said that she had not registered Roata on the birth certificate and not told
4 him that he had a son because he was married at the time. Over the last year or so
5 they had, in effect, lived together as man and wife.

6 18. They both claimed in evidence that Roata's marriage was coming to an end with the
7 expectation (at the end of last year) of a divorce which would enable the two to
8 marry. They thought that the divorce would be granted in February 2015. In the
9 event, because of their arrest, he is still married.

10 19. The Defendant is 34 and said she had parents and four sisters living in Romania.
11 They do not work, she claims, and so she does what she can to help them by
12 working as a prostitute in a Swiss Night Club. This, she said, brings her an income
13 of about 100,000 Swiss Francs per annum. In her evidence I formed the clear view
14 that she is no simple Romanian village woman. She is fluently trilingual and highly
15 intelligent. Roata, at the relevant time, was a barman working in a small tourist bar.

16 There is no easy way of verifying this account, but in any event, that is not
17 necessary as I am content to work on the assumption that it is substantially true.

18 20. When he was interviewed following his arrest on the 16th December 2014 Roata
19 stated that he had been drawn into the conspiracy whilst he was in Jamaica, shortly
20 before his trip to Grand Cayman. He said that his recruiter was a Russian called
21 Sasha.



1 21. In evidence before me he said that the suggestion that he be part of the fraud came
2 not from "Sasha" but from Ovidiu Milalache (referred to in evidence as Ovidiu and
3 I will continue to so describe him). Roata said that any reference in the interview to
4 Sasha should be read as a reference to Ovidiu. His reason for the lie to the police
5 was, he said, that he was fearful of the consequences of giving information about
6 Ovidiu.

7 22. Ovidiu has not been here to meet this allegation and give his side of the story, so I
8 can reach no firm conclusions about him. However, for the purposes of this hearing,
9 his participation in the conspiracy fits into the overall picture given by the evidence
10 and I will work on the assumption that he was part of it.

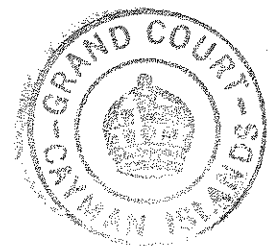
11 23. Put in the broadest terms the defendant's case is that she went away with Roata on
12 what she described as a honeymoon. She took a large amount of US\$ with her,
13 about 7000, with a view to doing some shopping. She also took a large amount
14 Euros. This she said was to have available when she returned to Europe. The trip
15 was intended to be to Jamaica only although the plan changed. She said that she did
16 not know and had never heard of Pop, Vlismas or Ovidiu before she travelled.
17 Further, she never met or heard of them in Jamaica or Grand Cayman. She claims
18 that she had no knowledge of the existence of any of the incriminating items that
19 were found after the arrest of her and Roata.

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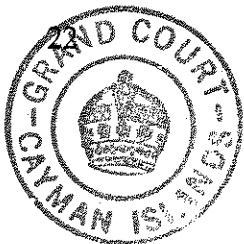
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THE BOOKING OF THE FLIGHT TO JAMAICA

2 24. The couple began their trip by flying to Belgium. The main part of the journey was
3 the leg from Belgium to Jamaica. The booking of that trip is not without interest.
4 The booking information was recovered in the search of 17 Cobalt Coast where the
5 couple was staying at the time of their arrest.

6 25. The flight from Belgium to Jamaica was booked through “lastminute.com”. Roata
7 said that the booking had actually been made by another, but on his instructions.
8 The documents are in the exhibits bundle beginning at page 157. Those on the
9 booking are the defendant, Roata and Ovidiu. The three were due to fly out and
10 return on the same dates, namely, out on the 3rd December and back on the 17th
11 December. They did all fly to Jamaica on the 3rd of December.

12 26. Roata’s evidence was that Ovidiu was a man he had known for only about a year
13 having met him on the Black Sea. He had only seen him on a few occasions
14 thereafter, always at the same place. He said that Ovidiu was a Romanian who was
15 living in Romania. He said that the joint booking came about because he had told
16 Ovidiu that he was going to Jamaica on Honeymoon and Ovidiu had said that he
17 had friends there who he was planning to see. Therefore, the joint booking was
18 made. He claimed that the conspiracy was not the reason for the joint booking or
19 for the same dates and departure points for travel being chosen. He said that he did
20 not tell the defendant that an acquaintance of his was travelling on the same flight
21 and he didn’t introduce the defendant to Ovidiu. He went on to say that they didn’t
 all sit together and he didn’t socialise at the airport or on the plane with Ovidiu.



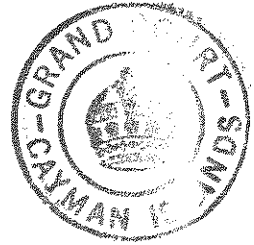
1 27. His attempt to justify or explain this rather peculiar situation represented, in my
2 view, the low point of his evidence. He was throughout a poor, although confident,
3 witness, but in answering questions about this aspect of the case he was hopeless.

4 28. Asked why he did not introduce the two if this was an innocent trip he said it was
5 because the defendant was shy. In fact she had told us before that how she made her
6 money. It was partly by encouraging those in the club to drink as much champagne
7 as possible to earn a share of the proceeds and partly by the amount she charged the
8 men for having sex with her. The idea that he feared that she was too shy to be
9 introduced to a fellow Romanian acquaintance of his was quiet absurd. It was a
10 deliberate lie.

11 29. Asked why he hadn't even informed her that there was an acquaintance of his on
12 the plane, he spoke of his masculine ideas that women did not have to know
13 everything and even bizarrely said that there was "*....no reason for me to tell a*
14 *woman who was not my wife*".

15 30. His account was completely false and unreliable. The truth must be that either the
16 defendant knew Ovidiu was travelling with them or that information was
17 deliberately held from her by Roata because he knew that the two of them were
18 going to act dishonestly whilst abroad and didn't wish the defendant to know. I will
19 come back to this later, but for the moment I will simply say that so far as Roata is
20 concerned I am sure that an understanding between Roata and Ovidiu that credit
21 card fraud would be committed by them on this trip was reached before they left
22 Europe, I reject Roata's evidence that he was recruited in Jamaica.

23



1 *JAMAICA*

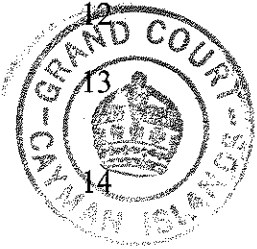
2 31. According to the defendant very little occurred in Jamaica. The couple checked into
3 their hotel and she remained there throughout the period they were there. According
4 to her she never went out and all meals were taken without leaving the premises.
5 She said that Roata was with her throughout their stay, venturing out only to buy
6 cigarettes, which he did for a short time each day. She said her money remained
7 essentially intact, because the shopping was not good. In fact, according to her she
8 never tried. She said that the weather in Jamaica was poor and Roata told her that
9 they were moving to Grand Cayman where the weather would be better.

10 32. Roata's evidence that he was recruited in Jamaica I have already rejected. His
11 evidence that in Jamaica he saw Pop, Vlismas and Ovidiu and that plans about what
12 was to be done in Grand Cayman were made and that some practical steps were
13 taken may well be true.

14 *GRAND CAYMAN*

15 33. The defendant and Roata arrived in Grand Cayman on a flight from Jamaica on the
16 11th December 2014. Pop had arrived here from Jamaica on the 10th December and
17 was due to return on the 14th. Vlismas arrived from Jamaica on the 12th December
18 and was due to depart on the 26th. Ovidiu arrived from Jamaica on the 10th
19 December and departed on the 14th. The prosecution suggests that the staggered
20 arrivals were an attempt by the conspirators to fool the authorities into thinking that
21 they were not connected. That is surely the case.

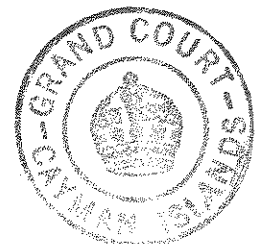
22 34. The Defendant and Roata were stopped by customs officials at the airport. They
23 were searched and then released to go on their way.



1 35. Evidence of the search was given by Senior Customs Officer Dudley Dorvic. He
2 was accompanied at the search by Customs Officer Troy Wood. Mr Dorvic said
3 that the object of the search was to check them for credit cards and electronic
4 devices. He said that the contents of all bags was removed until just dregs at the
5 bottom were left and all that was found was one credit card and one electronic
6 device. He said that the only money was some cash in the man's wallet. The sum
7 was not counted but it was he said that it was "not a large amount." In cross
8 examination he was shown a photograph of the red bag that was recovered when 17
9 Cobalt Coast was searched and which at that stage contained, amongst other things
10 US\$ 6000 and 1685 Euros. Mr. Dorvic said that he had no recollection of that bag
11 and so could not say one way or the other whether she had it with her. He added
12 that if she did have it at the time it would have been searched.

13 36. What was not put to Mr. Dorvic was the defence case on that bag, namely, that she
14 did have it when she arrived at the airport, that it contained the money and that it
15 had been seen by the younger customs officer (presumably Troy Wood) who had
16 made a comment about the amount, but let her go through without further action.
17 That case, which was given in evidence by the defendant and supported by Mr.
18 Roata, should have been put to Mr. Dorvic. Miss Fosuhene's response after the
19 close of evidence when I raised this issue was to say that the Crown should have
20 called Troy Wood. Miss Salako retorted that she would have sought to do so had
21 the defence case on this issue been properly put.

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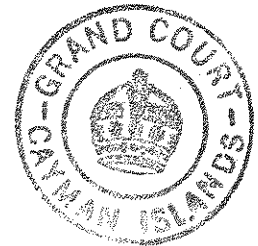


1 37. I do not suggest for one moment that Miss Fosuhene deliberately held back putting
2 her case so as to cause this problem. She may have assumed that because the
3 defendant had mentioned in interview that the money had been shown to customs,
4 that the issue had been raised sufficiently. Be that as it may the absence of the
5 chance for Crown witnesses to deal with that which is asserted is unfortunate.

6 38. The couple stayed firstly in the Comfort Suites Hotel. There the defendant said all
7 was well and, just as in Jamaica, Roata was her near constant companion. On the
8 13th December they moved to 17 Cobalt Coast because she said Roata had said that
9 Comfort Suites was too expensive. During their time at Cobalt Coast the defendant
10 claimed that things were different. In particular Roata was frequently absent and
11 she was left alone for too long. She remained at the resort moving between their
12 room and the beach. Shopping remained elusive.

13 39. The Defendant said that Roata's long absences caused friction between them and
14 she produced a text exchange which seems to corroborate that. She said that she
15 was suspicious that he was seeing another woman.

16 40. On the 16th December Sunshine Suites Hotel received a booking via the internet for
17 8 days in the name of Roata. The credit card used to secure the booking was
18 declined, but Roata and Oprinoiu arrived and paid US\$773.80 in cash for the
19 reservation. The defendant said that it was necessary to move from Cobalt Close
20 because the room was required by the hotel which had no other accommodation
21 available.



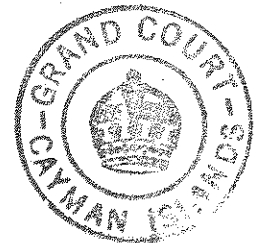
1 41. The Crown suggests that the moves were made in the hope of keeping the police off
2 their trail. Why an eight day booking was made on the 16th when the two were due
3 to fly back to Brussels on the 17th was never explained.

4 42. In the event the booking was not taken up because of the arrest of the defendant and
5 Roata.

6 *THE ARRESTS*

7 43. The defendant and Roata were arrested whilst they sat and had coffee outside the
8 Agua Restaurant on the 16th December. They had arrived there in a white Mustang
9 convertible car. The defendant in evidence said that she had never seen or heard
10 about the car before that day. She said that Roata told her that he had hired it for
11 that day to move them from the Cobalt Coast Resort to Sunshine Suites.

12 44. In fact the history of hire cars is as follows. Pop had hired a different car from
13 Andy's Rent-a-car on the 10th December. He had paid CI\$854 in cash for his hotel
14 and US\$ 2069.32 in cash for the car. I mention these sums merely to illustrate that
15 there seems to have been a good deal of cash available to those connected with the
16 conspiracy and that it was available before the ATMs on Grand Cayman were
17 attacked. Anyway, the car was returned to Andy's on the 17th December with three
18 gift cards with a 16 digit number, a country code and a PIN number written on, left
19 in it.

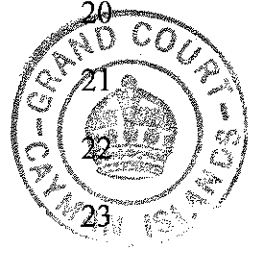


1 45. In the meantime the white Mustang was rented from Andy's Rent-a-car on the 14th
2 December when Pop, Vlismas and an unidentified man appeared at the car hire
3 premises. Vlismas hired the car and asked that Roata's name be added to the
4 contract as a "named driver". Vlismas paid US\$ 2140 for the hire. When the car
5 was searched on the arrest of the defendant and Roata their passports were inside.

6 46. At the scene of the arrest the two were searched and the results and the defendant's
7 comment are recorded at paragraphs 12 and 13 of the "Admissions". There was
8 cross examination and submissions about who had the bag and how it was carried
9 or held. I do not need to consider that further as I am content to accept, for present
10 purposes, the defence case that it was in the possession of Roata.

11 47. Of much more significance is the search of 17 Cobalt Coast. I will not set out here
12 what was found as that would simply repeat paragraph 15 of the "Admissions".
13 Suffice it to say that what was found provided the clearest proof possible that the
14 conspiracy existed and that, at least one of the occupants of that room, was a
15 conspirator. Two suitcases contained the possessions of the couple. The
16 preponderance of prosecution evidence is that male and female clothing was mixed
17 between both cases. That was also the defence evidence and I accept it as accurate.

18 48. There was considerable cross examination by the defence as to the details of the
19 execution and logging of the search, but on the crucial issues of what was found
20 and where, there was no challenge. No doubt it would have been better to have
21 photographs or notes about exactly where a particular item was located in a
22 suitcase, but such information would not, I am satisfied, have made any difference
23 to my findings.



24

1 49. The search findings particularly relied on by the Crown as demonstrating that the
2 defendant was a conspirator are:

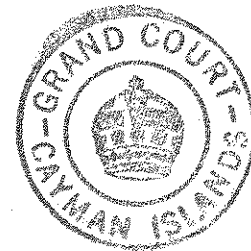
3 a. US\$9,300 and CI\$1,700.00 wrapped in the leg of neatly folded jeans belonging
4 to the defendant;

5 b. The red wallet which I have referred to already in paragraphs 35-37. Besides
6 the cash it also contained two credit cards in the defendant's name and identity
7 documents for both of them;

8 c. The black bra containing paper with credit card information on plus memory
9 cards;

10 d. A white mesh bag (variously described as a laundry or lingerie bag) containing
11 female underwear and 23 gift cards 20 of which had genuine credit card
12 information imported into the magnetic strips on the gift cards.

13 50. The defendant said that she knew nothing of these items (except the red wallet) and
14 had not put any of them where they were found. Roata claimed that he had put them
15 where they were found.



INTERVIEWS

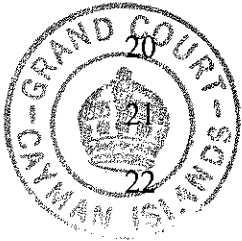
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2 51. Unfortunately I was not supplied with a transcript of the defendant's interview,
3 which took place on the 18th December. A summary appears in paragraph 20 of the
4 "Admissions" and that is all I have been supplied with. She denied, as she has
5 consistently done, that she had any knowledge of or involvement in any conspiracy
6 to steal from ATMs. There is no point in setting out paragraph 20 in this judgment,
7 but I have re-read it and particularly noted the sub-paragraphs dealing with her
8 conduct in Grand Cayman.

9 52. I have been provided with even less detail of the interview with Roata which took
10 place on the 19th December. That was particularly inconvenient when there arose in
11 his cross examination a dispute as to what he had said in interview about his
12 relationship with Ovidiu. Roata deal with this by saying that he had no precise
13 memory of what he said to the police, but that in any event the translator at the
14 interview was so hopeless that no reliance could be placed on anything recorded as
15 being said. On the information provided it is impossible to come to any conclusion
16 about what was or was not said and I put aside the limited information I have, other
17 than the admission that Roata made about lies he told concerning "Sasha".

18 53. Vlismas and Pop were arrested on the 17th December. Searches on arrest and at
19 their hotel produced the same sort of items that had been recovered from 17 Cobalt
20 Coast. Details are set out in paragraphs 23 to 25 of the "Admissions". Of particular
21 note there was recovered approximately US\$90,000.00 CI\$9,536.00, a large
22 quantity of gift cards and a card swipe device.

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DEFENCE EVIDENCE

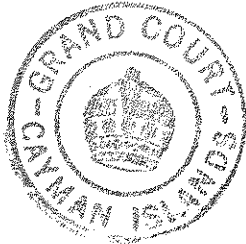
54. In my review of the evidence I have frequently referred to what the defendant or Roata said about a particular piece of evidence or Crown suggestion. Nevertheless, it is appropriate, in the circumstances of this case, that I now give an overall summary of what the defendant and her witness said in their evidence.

55. I begin by reminding myself not to hold it against them that they come to the witness box from the dock and prison. All witnesses begin their evidence as equals.

THE DEFENDANT

56. The defendant gave evidence about her background and life in Switzerland which I have dealt with already. She gave evidence about her trip to Jamaica and who paid for what. She claimed she did not know Ovidiu, did not know he was on the booking or on the plane. She said that she first heard of him two weeks ago from her lawyers. She also said that she knew nothing of Pop or Vlismas.

57. In Jamaica Roata was her constant companion, leaving her for only 10 to 15 minutes each day to get cigarettes. Otherwise they remained in the hotel or on the beach. It was simply a holiday which they were regarding as, in effect, an early honeymoon. The weather in Jamaica was not good and so Roata told her that they would leave for Grand Cayman where the weather would be better. She would rather have gone home and told her friend Roxanne so, but went along with the plan to go to Grand Cayman.

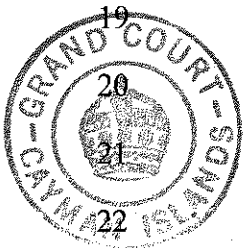


1 58. They were searched at the airport and she showed the younger customs officer the
2 money she had with her. She had cash, she said, because she always uses cash and
3 she was planning to go shopping whilst on the trip. She had packed for both of them
4 for the trip from Jamaica but did not properly unpack. They instead lived from the
5 cases.

6 59. She gave an account of the two of them arguing in Grand Cayman because he was
7 spending too much time away from her after the first couple of days. She read out a
8 text message exchange which demonstrated that they did argue. By then they had
9 moved to 17 Cobalt Coast and he was out for much of the day whilst she was left
10 on the beach or in the hotel.

11 60. She said that on the day of the arrest they had argued and he went out. On his return
12 he tried to make up and they went out for coffee. She had asked him where he had
13 been and he told her that it was none of her business. It was whilst they were
14 drinking coffee that they were arrested. The bag that was recovered was on the table
15 at which they were sitting and belonged to Roata,

16 61. So far as items connected with the conspiracy, found by the police in the search of
17 Cobalt Coast is concerned, she said that she had no connection with any of them
18 and no knowledge of them. In particular she said she was unaware of there being
19 money in the leg of her jeans and did not know the source of it. She only used the
20 jeans for the flight from Europe. She said that the items in her bra had not been put
21 there by her. She said she had two bras with her which she only used for long
22 flights when they helped in some way with the silicone implants that she had.



1 The bra in question had been used by her for the flight to Jamaica and would not be
2 used by her again during the trip. She claimed that in Jamaica she had told Roata
3 this when he had asked her about her not wearing a bra. She said that the white
4 mesh bag was hers and was for keeping her and sometimes his used underwear. She
5 had no idea the cards were in there and had never seen them before the arrest.

6
7 62. I have already dealt in some detail with what she said about the money in the red
8 purse and will not repeat it. She added that she has substantial savings. She was
9 cross examined about the writing on the various pieces of paper recovered and said
10 that they was not hers and that she did not recognise the writing, which was
11 somewhat curious as we heard from Roata that much of the writing was his.

12 *ROATA*

13 63. Roata gave an account very similar to that given by the defendant. The trip was a
14 honeymoon before what was intended to be their wedding in the New Year. The
15 intention was to go to Jamaica only. He gave the account of Ovidiu being included
16 on the booking and said that there was no connection between the defendant and
17 Ovidiu on the day of the flight or at any other time. He gave his account, which I
18 have already rejected, of being recruited into the conspiracy in Jamaica.

19 64. He said that in Jamaica Ovidiu, Pop and Vlismas were in different hotels from his
20 and there was no contact between any of them and the defendant. Ovidiu suggested
21 they move to Grand Cayman and he persuaded the defendant that the weather
22 would be better. He gave a similar account to the defendants about the search at the
23 airport and supported her evidence that she had brought the money with her from
24 Europe. He admitted dishonestly withdrawing money from ATMs.



1 65. He said that the defendant knew nothing about the conspiracy and was not part of it.
2 He said that he had hidden the money in the leg of the jeans, the cards in the white
3 mesh bag and the list and memory card showing video recordings of ATM
4 machines, etc., in the bra. He said that he had chosen these places having
5 ascertained that the jeans and the bra would not be used by her. The purpose of
6 hiding these and other items was to keep them out of the sight of the defendant. He
7 said that he feared that if she found them she would go to the police.

8 66. He insisted that the defendant knew nothing about what was going on and is
9 completely innocent. He produced a letter that he had written to the Governor of the
10 Cayman Islands saying as much. Curiously that is also signed by Pop and Vlismas,
11 who it is claimed, do not know the defendant.

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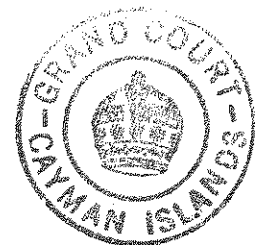
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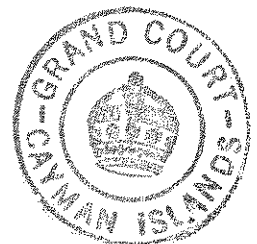


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MY CONCLUSIONS

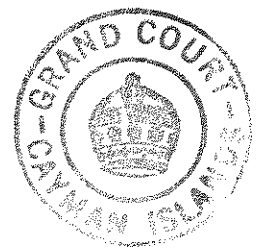
67. In paragraph 30, I concluded that the agreement involving Ovidiu and Roata had been reached in Europe and that they flew to Jamaica pursuant to that agreement. I left over until now my conclusions concerning the defendant. My conclusion is that she too knew what was going to happen in the Caribbean. I reject her evidence that this trip was an early honeymoon. The conspiracy was a well organised and carefully planned international crime. Its execution was determined. I cannot believe that other conspirators would be content for Roata to take with him a girlfriend who knew nothing. It would be far too risky. At any moment she might discover the truth and how she would react would be unpredictable. In truth, they were, at least, content for her to go because she already knew what was to take place.

68. I conclude that she knew the flight booking included Ovidiu and that he was on the plane with them. I have already dealt with the booking and the evidence of the flight to Jamaica. I rejected Roata's evidence on these subjects and I reject the defendant's. The evidence, simply, does not make sense. No sensible innocent reason has been put forward for why Ovidiu was on the booking, why he flew from the same airport, why he planned to be in Jamaica for the same dates or why there was no contact between him and the couple at the airport or on the plane. I am wholly unconvinced by the argument put forward by Roata that as Ovidiu was sitting away from them on the plane that was some indication that they were travelling separately.



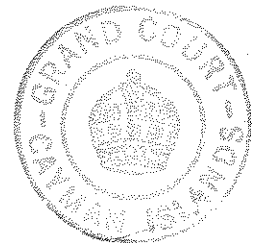
1 If Ovidiu did sit apart from them it was almost certainly another attempt to fool
2 anyone taking an interest in them into believing they were not connected. In the
3 absence of any sensible innocent explanation I believe that the obvious conclusion
4 is that they were travelling together with the knowledge of all three.

5 69. I am unsure of the situation concerning the money in the red handbag. In particular,
6 whether it was brought into Grand Cayman by the defendant on the 11th December.
7 I think it most likely that the money was not brought in on that flight. I doubt that it
8 came from Europe and if it was I reject the evidence of the defendant that it was
9 cash for shopping. She never showed a moments interest in shopping even when in
10 Grand Cayman where the opportunities are plentiful. However, I hesitate on the
11 question of the money, because of the evidential gap described in paragraphs 36 to
12 38, because the focus of the search at the airport was credit cards and electrical
13 devices rather than cash and because it is an odd feature that a considerable amount
14 of Euros were found in the bag. I accept the Crowns submission that Euros can be
15 obtained in Grand Cayman, but it seems unlikely that the defendant would seek to
16 do so. So although I think it likely that the dollars in the red handbag were acquired
17 in Grand Cayman I cannot be sure. Even if I believed that the money in the red
18 handbag legitimately belonged to the defendant and that she had brought it into
19 Grand Cayman it would not have changed my view of the case against the
20 defendant. As can be seen from paragraph 44 to 45, others involved in the
21 dishonesty had large sums of cash available to them prior to the ATMs being
22 attacked.



1 70. I conclude that the Defendant knew that the items and money connected with the
2 fraud found at 17 Cobalt Coast were there, and she knew where the money had
3 come from. 17 Cobalt Coast was described as having a living room, bathroom,
4 kitchen and bedroom. Their personal items were in two suitcases to which they had
5 equal access. The defendant is an intelligent woman who on her own account was
6 left for much of her time alone at the resort. So much so that she started to think
7 that Roata was seeing another woman. The money and other items were there to be
8 easily seen or felt. I do not accept that she was unaware of their existence on the
9 contrary she knew exactly what was going on. I reject Roata's evidence that he was
10 hiding the money and items from the Defendant. The money and cards were hidden
11 not from her but placed where they were less likely to be observed by for instance a
12 maid who was tidying the room. It is difficult to think of worst places to hide things
13 from a woman than her own jeans, her bra and a mesh bag holding her used
14 underwear, even if, as claimed, he had reason to think she was not planning to use
15 those items in the immediate future. The accounts of both of them on this topic are,
16 in my judgment, complete fiction. The defendant knew what was happening, knew
17 where the money and items were being kept and knew the money was criminal
18 property. She had either put the items, where they were found, herself, or, she knew
19 that Roata put them there and was content with the situation.

20 71. These findings lead me to be sure that the ingredients of the offence in Count 8
21 have been proved by the Crown. The defendant had joint possession of at least the
22 money found in her jeans and she was aware that it was criminal property.



1 72. I now turn to the important question as to whether it has been proven that the
2 defendant was a conspirator. The findings that I have made already are a string
3 pointer to her being such. However, there is no direct evidence that she played any
4 active role pursuant to the conspiracy at any stage. There is no fingerprint evidence,
5 no CCTV evidence, no observation evidence, no forensic evidence and no
6 admissions. To this I add the Defendant's good character in finding that the Crown
7 have not made me sure on Count 1.

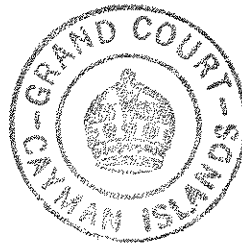
8 73. Stand up Mariana Oprinoiu.

9 74. On count 1, I find you Not Guilty. On count 8, I find you Guilty.

10 75. You are remanded in custody to come for sentence with the others on Count 8 on
11 the 21st May 2015.

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14 **Dated this the 19th May 2015**

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17 **Honourable Justice Michael Mettyear (Actg.)**
18 **Acting Judge of the Grand Court**