

**PUBLIC PROSECUTOR**

**- v -**

**ANNA SARAI WILLIAMS**

*Coram:* V. Lunabek CJ

*Counsel:* Mrs Tabisa Harrison for the Public Prosecutor  
Mr Eric Molbaleh for the Defendant

**SENTENCE**

1. Anna Sarai Williams, you appear for sentence. You are charged with the following offences under the provisions of Penal Code Act:
  - one count of forgery under s.140;
  - two counts of misappropriation under s.125 (b); and
  - two counts of attempted forgery under ss. 140 and 28.
2. On 1 October 2014, you entered guilty pleas to each of these offences.

**The Law**

3. The relevant provisions of the law are set out below:

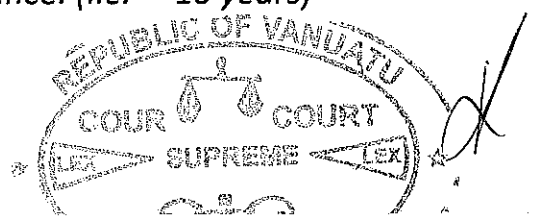
**Prohibition of Forgery (s.140)**

*S.140 provides that no person shall commit forgery. Penalty is imprisonment for 10 years.*

**Attempt Forgery (ss. 104 and 28)**

*S.28 provides that an attempt to commit a criminal offence is committed if any act is done or omitted with intent to commit that crime and such act or omission is a step towards the commission of that crime which is immediately connected with it, or would have been had facts been as the offender supposed them to be. S.140 provides that no person shall commit forgery.*

*The penalty is the same as the principal offence. (i.e. – 10 years)*



Misappropriation (s.125 (b))

S.125 provides that no person shall cause loss to another:

(b) by misappropriation. The penalty is 12 years imprisonment.

4. These offences of dishonesty are serious offences as reflected by the heavy penalties imposed by the law.
5. The brief facts of your offending are set out below. The complainant in this case is Mr David Lambuckly who submits a written statement on 29<sup>th</sup> April 2014 for forgery against you Anna Williams. The complainant is the CEO of the Vanuatu National Training Council (VNTC) in his statement he states that you were the finance officer of VNTC. He says you had been forging VNTC cheques since January 2013 to January 2014. The complainant and two other board members Mr Kalapeo Kalpat and Mrs Cathy are the signatories to the VNTC cheque account No.599783 with the ANZ bank. Any two members can sign on this cheque. This cheque account deals with VNTC outstanding bills to other companies, advance cash, airfare, meetings, tours, fuel etc. Before the complainant signs on cheque he must double check information attached on cheques like purchase order to ensure the information is correct before he signs.
6. The signed Cheques were withdrawn by you on account No.599783. The complainant confirms the signatures on cheques were withdrawn from January 2013 to January 2014 are their true signatures. A total amount of 7.672.535 vatu was forged by you.
7. On 6<sup>th</sup> May 2014, Mr. David Lambuckly filed another statement in which he states that the signature on the cheque No.002656 is not his signature because the letter L is missing from it. All Monday signed cheques on fuel and any other days cheques signed for other office bills.
8. On 14<sup>th</sup> February 2014 David Lambuckly submitted another written statement in which he states that on 20 January 2014 he called you in his office. He spoke to you and then handed to you a suspension letter.
9. Also in this meeting you were asked if you had altered the signatories' signatures to the cheques to which you admitted and also confessed that you had added numbers and figures after the cheques were signed. Two other members of the council who were also present at



the time were Enneth Damassing and Sam Samuel when you have confessed your offences.

10. Another statement is submitted by Mr David Lambuckly on 14<sup>th</sup> February 2014 which provides your job description. In this statement he says that you were an employee of Vanuatu National Training Council since 20<sup>th</sup> May 2011 and you worked as Accounts officer of VNTC. Your salary was 1,411,200 vatu and you receive a salary of 54,091 a fortnight. Mr David Lambuckly further submitted another statement on 25<sup>th</sup> January 2014 in which he was interviewing you in the presence of other staffs, Mr Samuel and Enneth.
11. You admitted you have forged the signatures and you have altered the amounts and make addition to the cheques after they were signed. You also admitted using 30,000vt out of the 50,000vt cash cheque for Christmas party. The complainant then asked Enneth Massing to prepare an Expense of 2013 this was when they found out that you would withdraw from the cheque Account and use this money for your personal use without payment of office outstanding bills.
12. A large amount of vatu 7,072,535 was spent by you in between January 2013 to January 2014. A support statement was submitted by Enneth Massing on 28th January 2014. She confirmed that on Monday 20<sup>th</sup> January 2014 you were present at the conference room at VNTC. Also present were the CEO David Lambuckly and Sam Samuel when the CEO asked you if you have altered the office staff VNPF contributions as the cheques were inconsistent to the VNTC staff's VNPF contributions payments. You admitted the allegations and a Reconciliation Finance Report are submitted to the police to confirm the offences.
13. Mrs Enneth also confirms in another statement dated 11<sup>th</sup> March 2014 for cheques she found inside your filing cabinet. Five cheques altogether – cheque no.2678 of the amount of 3000vt dated 31-01-013 with two signatures on it; cheque no.2725 of the amount of 5000vt of 27<sup>th</sup> May with no signatures on it; cheque no. 2808 of 14<sup>th</sup> October 2013 of an amount with two signatures on it; another cheque no.2778 of the amount of 3,000 vatu dated 5<sup>th</sup> September 2013 with one signature on it; and cheque dated 23<sup>rd</sup> May 2013 of an amount of 7,000 vatu with one signature on it. Enneth crossed those cheques as they were cash cheques anyone can cash them with two signature cheques. She also submitted a reconciliation table.



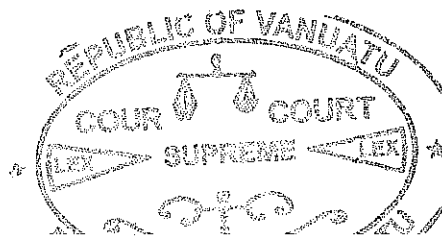
14. Alice Obed of National Provident Fund submitted also a statement. Alice is a VNPF compliance officer who received a phone call from the CEO of the VNTC enquiring on the outstanding VNPF contributions of the VNTC staff members. Alice then made investigation and called back Mr Lambuckly that there were no contributions and those VNPF contributions of some VNTC staff members have not been paid. She made a print out of the record and on Monday 20<sup>th</sup> 2014 had a meeting with Mr Lambuckly and other staff including Mr Samuel Samsam, Mrs Ennette Damassing and yourself, Anna Sarai Noviel Williams.
15. This report indicates VNTC failed to pay VNPF contributions covering the period of August 2011, December 2011, April 2012, December 2012 and whole year of 2013. The VNPF contributions of the following VNTC staff members were not paid: Samuel Samsam, Janet Kaltovei, Ennette Damassing, Anna Noviel, David Lambuckly, Jerol Arnhabat, Henry Tarililu, Clenes Lingtamat, Roselyn Bue, and Ray Natita Vakessa. There was a total outstanding amount of 929,450 Vatu. On this meeting Alice also indicated that VNPF sent out contribution schedules to all employers including VNTC or payroll check but there was no response from the VNTC. This schedule is sent to every workplace or company to use and make changes to salaries or name of work person or put new name of work person or remove any person who is no longer working before they bring it to VNPF office with staff payment.
16. Mr Lambuckly told Alice that he never knew about this big outstanding. Alice stated that on 6<sup>th</sup> March 2014, she drafted an agreement and she signed it with the Acting CEO Samuel Samsam for VNTC to make payment on this outstanding. On that day VNTC gave a cheque of 411,788 vatu for first instalment of August 2011, December 2011, April 2012 and December 2012. Surcharges and fine were also included in this VNPF and three more instalments are yet to be paid to clear the total outstanding of VNPF contributions.
17. Other statements were submitted by various business houses who claimed that you have failed to pay VNTC bills.
18. Material statements of the staff workers of casino alleged that you would spend this money. It was also alleged that you had no other income except salary employment at VNTC and three bank accounts provided by various banks showing deposits and withdrawals from



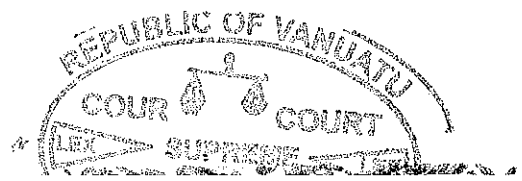
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these accounts. A large amount of money was spent in casino and poker machine. Your salary is inconsistent to your personal expenses. A statement was also submitted by one Balmet at Trifty who said that you have never paid the outstanding bill of 29,940 vatu although this bill got paid in February 2014.

19. Another statement was submitted by Mr Raj Kumur of Richoh Company. In this statement he said you did not pay the outstanding bill of 234,632 vatu of 2013. This bill was later paid in February 2014.
20. Another statement was submitted by Mr. Mark Trezise of Palms Casino who stated that you were a regular customer at the casino between January to December 2013 and you have spent a total of 3,023,000 vatu. Mr. Trezise stated you won 3 times with a total of 242,000 vatu. Other bills were not been paid by you including the office outstanding bills of 203,376 vatu.
21. A lengthy and comprehensive table containing the details of the cheques, the numbers, the amounts, the figures and the letters you have been altered through your fraudulent activities during your employ at VNTC.
22. Mr. David Lambuckly submitted another statement on 27<sup>th</sup> February 2014 against you on attempted forgery of 10,000,000vt. It is stated that on 22<sup>nd</sup> January 2014, at 9.00 am o'clock the complainant went with Sam Samuel to the ANZ bank for a meeting with Lonsdale Takor who is in charge of Vanuatu National Training Council bank account. Mr. Lonsdale is the relationship Manager of the VNTC at the ANZ bank. As they began to discuss the status of the account, Mr Lonsdale pulled out a contract of service with a letter head of UNESCO and told them that you, Anna Sarai gave this contract to the bank. This contract states VNTC has a contract and that VNTC will receive 10,000,000 vatu from UNESCO. You used this contract to allow VNTC to continue to withdraw from this account and also the bank statement showed that VNTC has an overdrawn account.
23. It was stated the CEO of VNTC was not aware of this project. Later on he found out that you have falsified this contract to make it look like a VNTC project but this project is a school based Management (MOE). You used this contract which you have falsified to allow you to continue to withdraw cheques from the VNTC bank account.

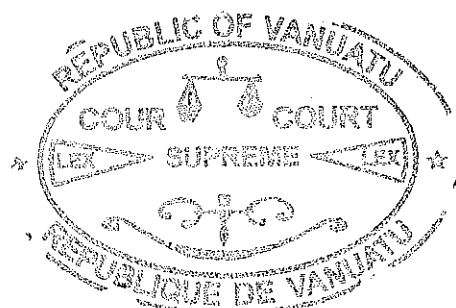


24. Mr. David Lambuckly submitted another statement stating that you drafted a fake letter to the Government through the Department of finance requesting an advance of 5 million vatu additional funding for the VNTC and you were authorized by the CEO of the VNTC. It is alleged you drafted this fake letter and forged Sam Samuel's signature who is the Assurance Officer of VNTC and you took this letter to the Finance Department without Sam Samuel's knowledge and without the authorisation of the VNTC management.
25. On 15<sup>th</sup> January 2014 at 4.30pm a finance officer, Rex Willie, from the Finance Department went to the VNTC office to enquire about this advance letter requesting 5 million vatu. Mr. David Lambuckly stated that as the CEO of the VNTC he was shocked as he was not aware of it, and he asked Rex Willie of the signature on this document to which Mr Rex Willie stated Sam Samuel's.
26. The complainant called Sam Samuel about this letter and he indicated to Sam Samuel that he was not aware of this letter and never signed this letter. As they were talking about this letter you, Anna Sarai Williams, entered the office and when the complainant asked you about it you told them that the letter was made at the beginning of January 2014, as the complainant said to you that his letter is dated 13<sup>th</sup> January 2014. Around 4.30pm on 16<sup>th</sup> January 2014 you still hadn't brought back the letter so the complainant and another officer at VNTC went to your house at Seaside (Port-Vila) to bring back the letter. The complainant says that he is the authorized person in charge of requesting funds to the government on behalf of the VNTC and not any other staff except when he is away then Sam Samuel can make this request on his behalf.
27. The complainant says that you are not the person to make this request to the government. It is not your duty. He confirms that the letter made by you did not meet the procedure and was made without his authorisation as CEO and the signature used on the letter was not an authorized signature.
28. Mr. Sam Samuel also submitted a statement on 11<sup>th</sup> March 2014 against you for misappropriation of 30,000 vatu. Mr. Samuel stated that 50,000 vatu was requested by the social Club of VNTC for staff members Christmas party which was approved. Mr. Samuel stated he advised you to write a cheque of 50,000 vatu to give to the Social Club where Ennette Damassing is the Chairperson. As you were the finance officer your responsibility is to withdraw from the account.

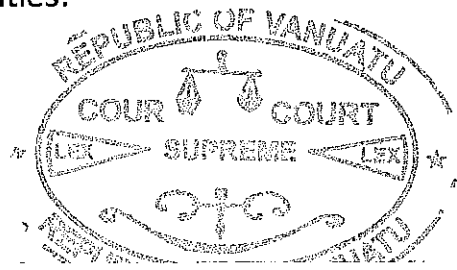


When the Chairman approved it you took the money then later gave 20,000 vatu not the whole amount.

29. You handed 20,000 vatu to Ennette and said "from we ino gat enaf mani, Boss i approvem nomo 20,000vt ikam". Later on they found out that you have misappropriated 30,000vatu. It is stated the VNTC CEO had approved 50,000vatu to use for the Christmas party.
30. A statement was also submitted by ANZ bank officer, Salome Vira confirming of having photocopied cheque No.2909 for 50,000vatu dated 17<sup>th</sup> December 2013 and this cheque was cashed by you.
31. Although you remained silent during police interview, you had previously confessed to the CEO and staff members of VNTC of the offences.
32. You have also accepted and admitted the facts of your offending as provided by the Prosecution when you entered guilty pleas on these offences.
33. When I consider the appropriate sentence I shall pass on you, I read and take into account of the prosecution submissions. I also read and consider the submissions of your lawyer. I further peruse the pre-sentence report filed by the probation office.
34. In this case you were an employee of VNTC and worked as Accounts Officer of VNTC. You were in a senior position of responsibility and trust. You abused that position of trust. You have offended against the law by committing forgery. Forgery is making a false document, knowing it to be false, with the intent that it shall in any way be used or acted upon as genuine.
35. You have been doing this by forging Vanuatu National Training Council (VNTC)'s cheques from January 2013 to January 2014. You have forged the VNTC's cheques by altering the signatures of the signatories to the cheques and you added numbers and figures after the cheques were signed. A total amount of 7,672,535 vatu was forged by you. The law punishes this offence with a maximum penalty of 10 years imprisonment. You are convicted for the offence of forgery and you are liable to this maximum penalty of 10 years imprisonment.

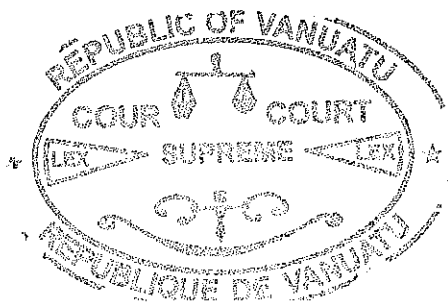


36. You have also offended against the law by attempting to forge documents you knew them to be false with the intent that others will rely, use or act on them as genuine. You did this when you falsified a contract of service with a letter head of UNESCO. The contract stated VNTC has a contract and that VNTC will receive 10,000,000 Vatu from UNESCO. You used this contract to allow VNTC to continue to withdraw from this account and the bank statement shows that the VNTC has an overdrawn account. This attempted Forgery was ultimately for your own purpose to use the falsified contract to allow you to dishonestly continue to withdraw cheques from the VNCT bank account.
37. Your attempted dishonest dealings were discovered and stopped. You have further offended against the law when knowing that you have no authority, you drafted a fake letter, you forged Mr Sam Samuel's signature who is the VNTC's Assurance officers without Samuel's knowledge and authorisation. You then brought the letter to the government through the Department of Finance for an advance payment of Vatu 5,000,000 to VNTC. Here also, your attempted forgery was discovered and stopped.
38. In respect of the two attempted forgery offences you are convicted and liable to the maximum penalty of 10 years imprisonment for each.
39. You have also offended against the law when you misappropriated a total account of Vatu 6,485,400 belonging to the VNTC for your own personal use. You are convicted and liable to the maximum penalty of 12 years imprisonment for those offences.
40. In this case, the circumstances of your offending are aggravated by the following factors:
- (i) As accounts officer of the VNTC, you have occupied a position of responsibility and trust. You have abused that trust which constitutes serious breaches of trust.
  - (ii) Your offences are planned and premeditated.
  - (iii) You have put high skills of knowledge into your dishonest and fraudulent patterns of criminal activities.





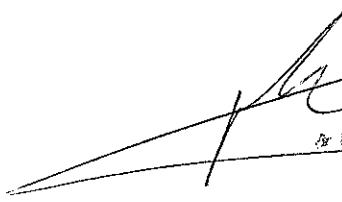
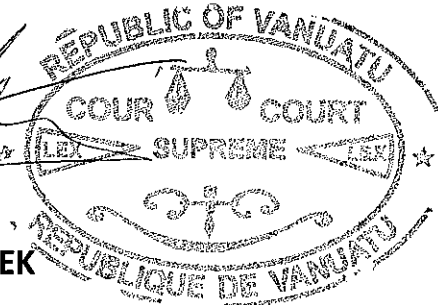
- (iv) You have consistently breached the law for a period of 1 year which is a lengthy period.
  - (v) You have misused a total amount of vatu 6,485,400.
  - (vi) You have used those monies on gambling and for your own personal use.
  - (vii) The offences of forgery, attempted forgery and misappropriation were repetitive offences.
41. In considering the appropriate sentence I will impose on you, I consider and apply the following judgments: *Gamma v. Public Prosecutor [2007] VUCA 19, criminal case 08 of 2007 (30 November 2007); Public Prosecutor v. Tureleo [1995] VUSC 16; Criminal Case 48 of 1995 (27 December 1995); Public Prosecutor v. Mala [1996] VUSC 22; Criminal case 42 of 1995 (2 January 1996); Public Prosecutor v. Mael [2010] VUSC 14; Criminal case 75 of 2009 (19 March 2010).*
42. A custodial sentence is justified and necessary in this case for the following reasons: First, it denounces and condemns you on behalf of the society of the seriousness and gravity of your dishonest and fraudulent crimes. Second, it punishes you for your crimes and third, it will deter others not to commit similar type of dishonest and fraudulent crimes in the future.
43. In this case, you are sentenced to 6 years imprisonment as the starting point sentences for offences of forgery (in count 1), Attempted forgery (in counts 4 and 5) and misappropriation (in count 2) which are to be concurrent to each other's.
44. You are further sentenced to 6 months imprisonment for misappropriation (in count 3) and this is to be concurrent to the above term of 6 years imprisonment. You therefore receive a total sentence term of 6 years imprisonment.
45. In mitigation, you are 41 years old. You originate from Tongoa Island. You are married twice. Your first and second husbands died. You got eight children aged from two years to 26 years. You are now unemployed. You are a first time offender and you do not have previous convictions.



46. You pleaded guilty at the first opportunity given to you by the court. You are entitled to one third reduction from the total sentence of 6 years imprisonment. You are remorseful and regret you committed these offences. I give you an allowance of 6 months for your other mitigating factors.
47. You have an end sentence of 3 years and 5 months imprisonment. You have already spent time in custody from 17 March 2014 to 31 March 2014. I round it up to 1 month pre-custody period already spent and I deduct it from your end term of sentence of imprisonment. Your term of sentence is 3 years and 4 months imprisonment.
48. I now consider if I can suspend your imprisonment sentence. I consider the plea of your family not to send you to custody. However, the seriousness and gravity of your crimes in the present case do not justify a suspension. I decline the suspension. I order you to serve a term of 3 years and 4 months imprisonment and this with immediate effect.
49. You have 14 days to appeal this sentence if you are not happy with it.

**DATED at Port-Vila this 16<sup>th</sup> day of June 2015**

**BY THE COURT**

**Vincent LUNABEK  
Chief Justice**