

**IN THE DISTRICT COURT
AT AUCKLAND**

CRI-2013-004-006770

COMMERCE COMMISSION
Informant

v

SONIA PARDEEP KAUR KLAIR
Defendant

Hearing: 12 September 2013
Appearances: Alysha McClintock and Lewis Mills for the Informant
R Chambers for the Defendant
Judgment: 12 September 2013

NOTES OF JUDGE C J FIELD ON SENTENCING

[1] Ms Klair, you can remain seated while I deal with this matter. You have pleaded guilty and are to be sentenced today in respect of 17 charges of causing a document to be made that was a reproduction of another document, it is a charge which carries a maximum potential penalty of 10 years' imprisonment; and 47 charges of dishonestly using a document, each of those charges carrying a maximum potential penalty of seven years' imprisonment.

[2] This was sophisticated offending which occurred over a substantial period of time. It involved a turnover, and I stress that this was a turnover figure only, of something over \$700,000 and both counsel have addressed me on that particular issue.

[3] The offending itself, as the informant submits, divides into two main categories. Your offending between 2008 and August 2010 involved the sending of

special offer documents, and subsequently invoices and notices, that gave recipients an opportunity to “renew”, and I place that word in inverted commas, as did the informant, their listings with NZ Look, even though these recipients had no previous listing with NZ Look, which did not even exist until April of 2008.

[4] You acquired the details of these recipients from a previous existing business database with approximately 20,000 listings, known as the NBO database. That was run by you and your husband at the time, a Mr Singh. Under a matrimonial settlement it was arranged for the NBO database to be transferred to NZ Look. That was the first main category of offending.

[5] The second offending occurred in early 2010; the same pro forma invoicing scheme with one significant highly aggravating difference, in the informant’s submission, that you employed forged offer documents in an attempt to convince recipients they had previously agreed to acquire NZ Look’s services, when they had not.

[6] To do this you commissioned an India based company, called GK InfoTech, to make forged documents by transferring customer signatures from NBO documents to NZ Look documents, and this evidence came to light as a result of forensic analysis of NZ Look’s computer that was seized by the Commission under search warrant on 4 May 2010. So this cutting and pasting is a matter of particular concern obviously.

[7] When interviewed, you admitted that the customers of NBO were told they had listings with NBO when they did not and you knew this conduct was wrong. Further, that you organised the NBO database to be transferred to NZ Look and that after the database was in the name of NZ Look you personally phoned customers and told them they already had listings.

[8] You indicated that you developed the NZ Look offer documentation used in the offending. You admitted that using the NBO database was wrong but that this was a chance for you to make some money. You admitted also that you contacted the

India based company and supplied them with NBO documents so they could create offer documents in the name of NZ Look.

[9] I have summarised in a few paragraphs the informant's position concerning your offending. It generated a considerable number of charges and you now face the total of 64 separate informations.

[10] The informant submits, and I accept, that the offending contains a number of significantly aggravating features. It was a sophisticated scheme. Over 20,000 listings were transferred from NBO to NZ Look and approximately 9800 invoices were found as a result of search warrants. There was particular planning and preparation required to effect the forgery offending. There were a significant number of victims. The motivation for the offending, in my view, was pure greed and the amount of established losses at this point seem to have been about \$1800, reparation being sought at this stage for some \$1747.63, but it must be said that that \$1700 can in no way adequately reflect the magnitude of your offending. I have to say that the true extent of the offending, and the losses, will never be accurately known. The offending occurred over a significant period of time and involved a good deal of annoyance and inconvenience to a large number of people.

[11] I have compared the facts in your case, as best I can, with the authorities presented to me by both informant and your counsel. The informant submits that a starting point of imprisonment of around three years is appropriate. Counsel suggests that something closer to two years meets the needs of this situation.

[12] I have, of course, considered the sentencing remarks of Judge Behrens in the case of *Coughlan & McKenzie* and have compared, as best I can, your situation with the other cases referred to me.

[13] I come to the view that a starting point of two and a half years' imprisonment most adequately meets the needs of this situation. There are no mitigating features that I can discern which would cause the Court to adopt a lower starting point.

[14] You are a first offender. You are entitled to some credit for your previous good record but one must off-set against that the fact that this was repeated offending over a considerable period of time and such allowance as I can give in that regard is slight. However, I am prepared to deduct two months from the two and a half year starting point for your previous good record and for your expressions of remorse, although they are somewhat tempered by the comments that you have made to the probation officer. I just wonder the extent to which the remorse might be seen as situational rather than a genuine expression of concern for your victims.

[15] You are, in my view, entitled to a further reduction of 25 percent for your pleas of guilty to these charges. That would then leave an effective sentence of 21 months' imprisonment and the issue is whether, in the circumstances of this case, a sentence of either home detention, community detention or, indeed, a suspended sentence would be appropriate.

[16] I cannot deal with you in a way which does not involve an electronically monitored sentence. I am required, of course, to impose the least restrictive outcome in the circumstances and, in terms of s 16 Sentencing Act 2002, effectively a sentence of imprisonment is imposed as a last resort.

[17] I consider that the needs of this case can be met, only just, by a sentence, and a significant sentence, of home detention and reparation. I take on board the health issues referred to in the pre-sentence report and the other matters that have been raised on your behalf, but I consider that a sentence of anything less than 10 months' home detention would not adequately meet the needs of this situation.

[18] In respect of each charge, therefore, you are sentenced to home detention for a period of 10 months. That sentence will commence on 13 September. You will proceed to the address of 167 Everglade Drive, Totara Heights, Manurewa, for the duration of your sentence and not leave that address without the prior permission of your probation officer. You will undertake any counselling, programmes or treatment as directed by the probation officer. You are sentenced to pay reparation in the sum of \$1747.63 in respect of the complainants identified in the reparation schedule submitted to the Court.

[19] There has been a suggestion that you should not be permitted access to a computer for the duration of your sentence but I do not consider that you should be deprived of access to the computer. You know, as well as I do, what will follow from any improper use of the computer that might follow from this sentence.

[20] The sentence, therefore, as I have said, is one of 10 months' home detention, with reparation as directed.

A handwritten signature in blue ink, appearing to read 'C J Field', is written over the typed name.

C J Field
District Court Judge