

STATE OF TASMANIA v MARYANN WALL
COMMENTS ON PASSING SENTENCE

2 JULY 2021
GEASON J

Ms Wall you appear for sentence on your pleas of guilty to three counts of dealing with the proceeds of crime.

You have entered those pleas on the basis that you were reckless as to the possibility that the money you handled were the proceeds of crime.

This particular charge can encompass a wide range of activities and in my view your conduct is at the lower end of the scale of seriousness for such matters. Foolish, but not possessing a high degree of criminality.

The facts are that when you were aged between 49 and 50, you were on a dating website called Scope and you met a person called John. You spoke regularly with him until February 2018. He told you that he worked with an oil company in the United Kingdom and that working offshore meant that he could not bank money himself. In early 2018 after being asked to do so by John, you opened an account at the Adelaide branch of the Bendigo Bank. It was opened in your name with a deposit of \$2. Some time prior to 5 February that year, he told you that a sum of money which was to be used to pay for some materials, was going to be put into that bank account and that he wanted you to transfer it to the bank accounts of two of his clients. He told you that he would pay you \$100 for completing those transfers and that you had permission to withdraw another \$3000 to put aside for him when he arrived in Tasmania. On 22 December 2017 a property situated at Clayton South in Victoria was sold on behalf of a vendor, a Mr Buddy Lowe. The vendors conveyancer was a business trading as "Low Cost Conveyancing". On 31 January 2018 the office manager a Ms Snell, received a legitimate email which confirmed the time and date of settlement for that particular property, and provided the vendors bank account details in order for the funds to be transferred at settlement. Twenty minutes later an email purportedly from the same conveyancing company was sent to Ms Snell. It confirmed the date and time for settlement but advised that the settlement funds should be transferred to a *different* bank account from that advised in the earlier email. The details provided in the second fraudulent email were those for the Bendigo Bank account that you had opened in Adelaide.

Settlement occurred on 2 February. Between 2 and 5 February three emails were sent to Ms Snell, advising that the settlement funds had not been received and requesting transfer of those funds to the bank account in your name. On 5 February 2018 Ms Snell transferred \$45,502 to that account. The following day you went to the Rosny branch of the Bendigo Bank and arranged for the money to be sent to two overseas bank accounts by way of telegraphic transfer – one for \$20,070 was sent to an account in the name of Marilene Billings, and another for \$22,030 to an account in the name of a James Bambo.

On the same day you withdrew \$100 and then \$3000 from the account. These were cash withdrawals. Two further withdrawals were made: on 9 February 2018 for \$200, and on 20 February for \$100. In the result there was \$3.92 left in that account. Bendigo Bank closed that account on 22 March 2018 because they suspected that you had been a victim of internet fraud. You spoke to the bank's fraud department on 22 March and you were told that the money credited to your account had come from an internet bank fraud committed on a business in Victoria. On 19 February 2018 Mr Buddy Lowe had contacted the conveyancing officer who had forwarded the money to you, querying why *he* had not received it. The matter was referred

to the financial institution, and in turn police. On 19 December 2018 you attended the Hobart Police Station and participated in a video record of interview. Under caution you made full admissions to opening the Bendigo Bank account in Adelaide, being aware of \$45,502 being deposited, and having been instructed by "John" to wire the money overseas. You told police that you were not aware that the money was stolen. You stated that John never arrived in Tasmania as he had promised and that you had kept \$3100 as payment for your services. The State asserts that you made a financial benefit of \$3400, being the sum of \$3100, and an additional sum of \$300 withdrawn on 9 February 2018 and 20 February 2018, by way of two withdrawals, one of \$200 and one of \$100.

In relation to counts 2 and 3 on the indictment you opened an "Everyday Basics" savings account with Suncorp on 30 November 2018.

On 15 January 2019 a Ms Butchard who resides in Queensland received a message via Facebook Messenger from a person purporting to be her friend Betty Brewer. The Facebook profile used for that communication was fraudulently created and depicted a photograph of the person known to Ms Butchard as Betty Brewer. The fake profile of Betty Brewer told Ms Butchard she (Betty) had had a \$300,000 Powerball jackpot win and that Ms Butchard had also won money. She believed what she was being told. She sent a text message to the person identified as the claim agent, a Jonathon Price, to see if she had won any money. She was told by that person that she had won \$250,000. She was then told by Mr Price to "friend" a Facebook profile of a person known as Mary Desley Johnson. The profile was fake. The following day "Mary Johnson" contacted Ms Butchard claiming to be the delivery agent for the money that she had won. She convinced Ms Butchard that she was required to send \$4850 to her in order for the winnings to be released. She was advised to transfer the money to the account that you had set up with Suncorp. That transaction was completed by Ms Butchard on 16 January 2019. After that payment was made, Mary Johnson informed her that the amount of her winnings was actually \$330,000 and that she was required to send a further \$3000 in order for the winnings to be processed. She also sent a certificate which purported to certify the prize. On 25 January 2019 Ms Butchard transferred \$3000 to the same bank account held in your name.

Around then Ms Butchard became suspicious given the amounts of money she had been asked to transfer and after looking on the internet discovered there was a Powerball jackpot scam. She spoke to the real Betty Brewer who confirmed that she had not sent her any messages about a Powerball win. Thereupon the matter was reported to police.

Once the \$4850 was credited to your Suncorp account on 17 January 2019 you withdrew \$1000 cash from the Mystate ATM at Risdon Road in New Town, and on the same day you attended the Suncorp Hobart branch and arranged for \$3800 to be sent to an overseas bank account by way of telegraphic transfer. Thirty dollars of the funds remaining in that account were used by you to make a purchase at a petrol station.

Upon receipt of the \$3000 transferred by Ms Butchard, you went to the Suncorp Hobart branch and arranged for \$2980 to be sent to an account in the name of a Mr Lawal in South Africa. On the same day you withdrew \$40 in cash from the ATM in Risdon Road, leaving the account with a zero balance.

The State asserts that your financial benefit in relation to counts 2 and 3 was \$1070. That is, the \$1000 you withdrew from the Mystate ATM at Risdon Road, the \$30 spent at the United service station, and the \$40 withdrawn from the ATM in Risdon Road on 29 January 2019.

When police executed a search warrant at your home in New Town they located some of the banking documents, receipts and hand-written overseas account numbers evidencing the transactions. An examination of your mobile phone revealed that you were in an online relationship with the male using the alias Kelvin George, the person who asked you to open the bank account at Suncorp and transfer money on his behalf. A 2018 diary belonging to you was located with notations in it including "I love Kelvin George" and his phone number.

The money transacted by you was gained fraudulently by third parties through online scams. You were not a party to those scams. You participated in a video record of interview with police on 9 July 2019. You agreed that you had opened the Suncorp account but did not recall any of the transactions in question and denied making any telegraphic transfers from the account. You told police that you had an online relationship with a Kelvin George but did not consider him a boyfriend. You said you knew his father a George George who has previously lived in Moonah. You told police that you no longer spoke to Kelvin George and that you had never transferred money on his behalf. You did however tell police that you had transferred money for a Stephen Jones who lives in the Gulf and you said that the \$4850 was, to your understanding, probably for his daughter. You said you thought that the money was legitimate and from a company owned by the said Stephen Jones. You said you made 2 or 3 transfers for him. You denied being a money mule, but in fact you were exactly that.

It is clear that advantage has been taken of you, through your involvement in online dating, which has exposed you to the risk of predatory behaviour by third parties. I was told by Ms Monk that the extent of such fraudulent activity through online scams is significant. She referred me to a figure published by the ACCC which indicates that within the first three months of 2021 in excess of \$17 million has been procured through online scamming such as this. You were particularly vulnerable because you were looking for a relationship. Your last relationship was in 2007.

I am told that you suffer from anxiety and depression, and a post-traumatic stress disorder. You are lonely. That is not something about which you should feel ashamed, nor should you be embarrassed about falling for the promises of the online scammers. You were vulnerable to these people.

You allowed yourself to be seduced by their promises and no doubt invigorated by the prospect of a relationship you willingly did whatever was asked of you.

Insofar as the State alleges that you had a financial gain as a result of your behaviour - the overall financial benefit to you is said to be \$4470 - Ms Monk says her instructions are that that cash that was withdrawn mainly to purchase "Steamcards", for the people with whom you were engaging. These Steamcards provide codes which can be used for online games. Her instructions are that you purchased those cards as directed with those funds, and provided the codes so that they could be entered by these third parties on the gaming websites to obtain the credits that enabled them to continue gaming. Accordingly, her submission is that you made no meaningful financial gain at all. In my view it is not necessary to resolve the benefit issue, a proposition with which Mr Odgen who appeared for the State agrees. That is because your blameworthiness attaches to your reckless participation in the transactional activities, which

formed part of a larger and more sophisticated course of offending by third parties. At its highest if you made any gain it was only a modest one.

You receive a Disability Support Pension of about \$1000 per fortnight, and in addition to usual living expenses have rent of \$350 per fortnight. You appear to lead a modest existence.

I note your pleas of guilty. They evidence your remorse and they have saved the cost of a trial. I do not ignore that the exposure of the facts will have caused you a significant degree of embarrassment, a matter which I think will serve to deter you from similar reckless behaviour in the future. You do not appear before the Court with any relevant prior convictions. The process that has followed the detection of these crimes, your participation in interviews with police, enduring the wait for the matter to come to Court, and appearing at Court, will have had a significant effect upon you.

Yours is not a case which is an appropriate vehicle for general deterrence.

Accordingly, in all the circumstances I take the view that it is sufficient to record convictions without further sanction. The effect of that Ms Wall is that convictions are recorded in respect of these matters but there is no other penalty.