

Ms Fawdry, you have pleaded guilty to three counts of dealing with property suspected of being the proceeds of crime contrary to s 66B of the *Crime (Confiscation of Profits) Act* 1993.

The offences were committed between 10 October and 15 October 2019. At the time, you were in financial hardship and had a lot of debt. A long-standing personal friend put you in contact via the internet with what purported to be, and whom you believed to be, a female person. Your friend told you that this person could help you with your finances. This online identity was, in fact, an entity (or one or more people) intending to perpetrate a scam against two companies. The scam, in essence, involved the companies being tricked by the entity into paying money, due to employees for wages, into a false bank account. You had nothing to do with the companies nor the trickery, but it was your bank account that this entity intended to use to receive the money. Their plan was that you would then pay that money into another account identified by the online entity. After a lengthy period of grooming over the internet, you agreed to receive the money into your account and then on-pay it to the other account. Three payments were made into your account before the companies in question realised that they were the victim of the scam. In total, the sum of \$14,355.99 passed through your account. None of this money, except for the sum of \$108.04, which you retained, has been recovered. That sum of \$108.04, I assume to be the amount permitted by the entity for you to retain for your assistance.

You are 49 years of age and married. You have a 12-year-old child. You are in employment, but your financial circumstances remain modest. Your only prior convictions are two minor traffic offences committed in the 1990s. You are obviously a person of good character, who was vulnerable to the trickery of these scammers because of your circumstances at the time. It is difficult to identify the basis of your moral culpability. The offence in question does not contain an element of knowledge, recklessness or even negligence. These are the subject of the more serious crimes specified in s 66A. It is enough, under s 66B, that there were objectively reasonable grounds to suspect that the property was the proceeds of crime, and you have accepted this by your plea of guilty. Your counsel agrees that there may have been a degree of wilful blindness in your approach to this, but I think that is as far as your moral culpability goes. Clearly, the offence is designed to cast a duty on those in your situation to be vigilant against being used in this way. However, in the circumstances of this case, my view is that you were also a victim of this scam. The result for you is that you have been charged with criminal conduct, put through the processes of arrest and prosecution, and now face criminal sanction. In my view, you should not be punished further. The significant punishment should be reserved for the real criminals, those who utilise the anonymity offered by the internet to prey on the naiveté and vulnerability of others for criminal gain.

Accordingly, pursuant to s 7(g) of the *Sentencing Act*, I record convictions and order that you be discharged. There will be no other sanction.

The prosecution has requested a compensation order pursuant to s 68(1) of the *Sentencing Act* in respect of the entire amount which was subject of the offences. I have no intention of making you pay for this. You did not trick these companies and although you played a part in the execution of the scam, the fact that each company was prepared to pay this money into your account on the basis of a simple email to its payroll department, without any further checks or confirmation, demonstrates naiveté on their part comparable to your own. In my view, it would be unjust and unduly onerous to place the full financial weight of providing compensation on

your shoulders. I think, though, that it is appropriate that you repay the money which you actually retained from each transaction, but I have been told by the prosecutor that this has already been recovered, so I do not intend to make any compensation order.