

Allison Leslie, you plead guilty to ten counts of fraud. On 490 separate occasions between 10 November 2016 and 26 February 2020 you committed acts of fraud which resulted in a total loss to your employer, Optimo Awnings, of \$352,085.65. For the purposes of your plea it has been agreed that those crimes be dealt with in ten rolled up charges grouped by category of conduct.

The Optimo Group conducts business in Victoria and Tasmania manufacturing and installing external awnings and roofing systems. It is a family business commenced in a home based workshop in Longford in 2000 by Paul Smith. The business grew in size and scale such that it employed about 20 staff and was conducted from a large purpose based facility. In 2014 you were employed to work in the administration office. By 2016 your duties and responsibilities included to pay creditors, maintain accounting records, process wages and general office administration. Business creditors were paid by direct bank deposit, or by credit card or PayPal, which acts as a banking intermediary.

During the relevant period you used your knowledge of and access to the payments systems to use your employer's money to pay yourself or your personal expenses. The payments were made from the accounts of two business entities, Optimo Awnings Manufacturing Pty Ltd and Optimo Awnings Northern Pty Ltd. You recorded the payments in the accounting system as having been made on behalf of those companies but the payments were, in fact, for goods you falsely recorded you had sold to the company on eBay, for things you had purchased on the internet, your energy bills, air fares, motor vehicle repairs and maintenance, car and house insurance and phone bills and in reduction of a debt you owed. Most of the money, \$270,574.08, was paid by you directly to your own bank accounts.

The fraud was discovered in early 2020 by chance when suspicious transactions were noticed. The company accountant was asked to look into the matter and some discrepancies and irregularities were identified. You were summoned to a meeting on 12 March 2020. You declined to attend but sent an email in which you admitted some irregularity and requested an opportunity to repay the money. Your employment was promptly terminated. What then followed was a detailed investigation which discovered a very large number of fraudulent transactions over more than three years.

You are now aged 39. You are married and now have a four year old child. Your plea of guilty is in your favour. It avoids the need for a long and expensive trial and indicates some acceptance of responsibility. An indication of the plea was given early enough so that there was never a need to fully prepare the matter for trial. As you were entitled to do, you sought further details of the charge and the amount the State alleged you took. Even though you were responsible for all of the thefts, this suggests that you had not real idea of how much you had taken. Moreover, the careful way in which you concealed the frauds meant that a great deal of work was required to extract the required information. You are now sorry for what you have done, but it is only remorse which has developed after you were caught and following years of repeated dishonesty. Nothing has been paid back and the amount of the fraud is such that there is very little chance that you will ever be able to repay anything other than a very small portion of it.

This is not the first time that you have committed a crime of this nature. In 2010 and 2011, when you were in your mid 20's, you were employed by an eye hospital in Launceston. You had been employed there for about six years. You were trusted with access to the computer system. Over

about 15 months, on 168 separate occasions, you manipulated the computer system to enable you to steal cash payments made by clients of the practice totalling \$36,135. You claimed that the dishonesty arose through financial hardship. You were sentenced to imprisonment for ten months, seven months of which was suspended. Thus, in contrast to the great majority of cases of this nature which come before the courts, you are not entitled to the mitigation that the absence of any previous conviction or prior good character may have attracted.

On your behalf, your counsel submitted three reports relevant to your mental health. The first was written by a consultant psychiatrist, Dr Naki Radhakrishna, and is dated 15 March 2021. The second report is written by your general practitioner, Dr Sharon Fitzpatrick, and is dated 31 July 2024. The third is written by a forensic psychologist, Julia Lane, and is dated 6 August 2024. None of the reports expressly address how the principles discussed by the Victorian Court of Appeal in *R v Verdins* [2007] VSCA 102, 16 VR 269 may apply to you. In fairness, the authors were not asked to. Dr Radhakrishna's report is written to your general practitioner in response to a referral for treatment. Dr Fitzpatrick's letter is a brief summary of Dr Radhakrishna's diagnosis and your engagement with Dr Fitzpatrick since then. Ms Lane's report describes her treatment of you since you were referred to her in January 2021, including psychotherapy sessions.

Dr Radhakrishna described you as presenting with features of kleptomania as well as bipolar affective disorder type 1. She noted the history you gave of high and low moods, with the high moods coinciding with an escalating urge to steal and a sense of relief after having done so. She described your past thefts as having occurred impulsively and compulsively. Beyond that, there is no examination of the nature and effect of kleptomania or the possible link between these crimes and your mental health conditions. Her report focusses on treatment in the form of medication and therapy. In July 2024 Dr Fitzpatrick refers to the 2021 "diagnosis" of bipolar affective disorder and kleptomania, untreated until then, leading to "impulsive behaviours and very low mood", and states the proposition that "it is generally accepted that these mental health conditions can result in unmediated, impulsive and compulsive actions such as theft." Ms Lane's August 2024 report focusses on treatment of your bipolar disorder following referral to her in January 2021.

I would accept that diagnosis and treatment of your conditions since 2021 has assisted your rehabilitation, likely reduced the risk of re-offending and somewhat reduced the need for specific deterrence. You are better able to regulate your life so as to avoid a repetition. However the reality is that the chance of you ever again being in a position to re-offend in a similar way is very low in any event. There is nothing in the reports to justify the inference that your mental conditions mean that imprisonment should not be imposed or would weigh more heavily on you or adversely affect your mental health. On a separate matter, the fact that you now have a child may mean that prison may be more difficult for you and I take that into account. As to your moral culpability and the need for general deterrence, it is not suggested that you did not, at the time, fully appreciate the wrongfulness of your conduct. The reports refer to one possible effect of your conditions to be impulsivity, but there was nothing impulsive about your dishonesty. I am left to infer that the conduct may have, through some compulsivity, left you less able to exercise appropriate judgment, impaired your ability to make calm and rational choices, or in some unidentified way caused you to act as you did. To justify such an inference cogent evidence is usually required which must be scrutinised with rigour. I would be prepared to infer that your conditions may have reduced your ability, in some largely unexplained way, to resist the urge to steal. However, there was ample time for you to reflect on and judge your own conduct. When your offending extended over such a lengthy period of time, was so calculated, and was a

repetition of what had gone before, the evidence of the nature and effect of your mental impairment should, as it may affect the need for general deterrence and the assessment of your moral culpability, be attributed very little weight in the exercise of a sentencing discretion which requires all matters relevant to sentence to be taken into account.

The sentence imposed in 2012 did not deter you. Punishment, general deterrence and denunciation are now the dominant sentencing factors. A victim impact statement from Mr Smith details the considerable personal, financial, commercial and reputational damage you have done to him and his wife and family. You became a trusted employee and friend. When you were employed your prior conviction was not disclosed. It is safe to assume that had it been so you would not have been engaged in this role or at all, and you took advantage of your appointment to commit another gross breach of trust on an even greater scale. You acted in a sustained, deliberate and considered way while maintaining the false appearance of honesty and responsibility. Although you are to be sentenced for ten counts, you committed almost 500 acts of dishonesty over more than three years. Quite apart from the fraudulent payments there were many dishonest acts by which you falsified accounting records. You did not stop offending until it was discovered. Apart from the resources required for these proceedings it took an enormous amount of work to analyse the extent of your fraud, reconstruct the accounts and deal with the business and taxation fallout. The business was insured. That ameliorated the personal impact on Mr Smith and his businesses to some extent, but means also that the burden of the loss falls elsewhere. In summary, it is a case of a serious fraud involving a very substantial amount taken over a long period of time by a trusted employee. A substantial term of imprisonment must be imposed.

Allison Leslie, you are convicted on each count on the indictment. I make compensation orders in favour of Optimo Awnings Manufacturing Pty Ltd and Optimo Awnings Northern Pty Ltd and adjourn the further terms of those orders to a date to be fixed. You are sentenced to imprisonment for three and a half years from 31 October 2024, the date you were remanded in custody. I order that you not be eligible for parole until you have served half of that term.