

STATE OF TASMANIA v ANDREW CHARLTON TONKS
COMMENTS ON PASSING SENTENCE

28 MAY 2026
CUTHBERTSON J

Andrew Charlton Tonks, you have pleaded guilty to eight counts of fraud committed by you between 3 June 2014 and 5 August 2015. Your conduct resulted in you gaining benefits totalling \$208,000 from the victims of your offending.

Your fraudulent conduct took three forms. The first form, capturing the conduct in counts 1 to 6, related to a fraudulent investment scheme you devised. You were the owner and operator of a business called "ATI Logistics Pty Ltd". You told the three victims of this offending that your company had a contract to transport all newly manufactured Harley Davidson motorcycles from the United States to Harley Davidson Australia. You told them that as part of the deal, Harley Davidson agreed to offer 10 to 15 motorcycles from each shipment for purchase at production cost. You claimed that you would then be paid the Australian dealer cost price upon delivery to Harley Davidson Australia's head office in New South Wales. You told the victims that this opportunity was available on each shipment and that you hoped to do three shipments of motorcycles each year. You advised them the process took between three to four months.

The three people who fell victim to this scheme were known to you and considered you a friend. Each provided you with cash to participate in this scheme, with the promise of receiving profits of between \$5,500 and \$6,800 per bike. The complainant, Brendan MacGregor, had known you for six to seven years prior to you pitching this scheme to him. He believed you were trustworthy and had knowledge of the transport and shipping industry. You mentioned to him that others were going to invest as part of your pitch. Mr MacGregor, acting on your representations, obtained a loan of \$48,000 to purchase four motorcycles with the aim of making approximately \$22,000 profit, that is \$5,500 per bike. He transferred the money to your business line of credit account on 3 June 2014. Count 1 on the indictment relates to this conduct.

Counts 2, 5 and 6 relate to the complainant Andrew Brannen, who was also a friend of yours. He was present during a conversation between you and Mr MacGregor about this investment opportunity. Mr Brannen decided to purchase one motorcycle based on your representations, and electronically transferred \$12,000 into your bank account on 23 July 2014 for that purpose. He was told he would receive \$18,000 once the motorcycle was sold. In September or October 2014, you asked Mr Brannen to invest in another shipment of Harley Davidsons, which were due for delivery at Christmas. You told him you expected a return of \$10,000. Mr Brannen agreed to invest another \$6,000 for "half a bike". On 20 October 2014, he gave you \$2,000 cash and on 24 October 2014, he electronically transferred the remaining \$4,000 to your bank account.

The third complainant, Ross Blaikie, was an accountant who had previously assisted you to register a business and was your friend. You sent an email to him proposing he invest in this scheme. You told him that you had two bikes available at a cost of \$12,000 each and that they would both sell for an agreed price of \$18,800. You told him that the bikes were in a container and due to arrive in Melbourne in a couple of days time. Mr Blaikie did some due diligence and asked for some more information. On 5 August 2014, you forwarded an email to him that purported to be from the asset manager of Harley Davidson Motorcycles USA and Australia. The email confirmed that your business had a contract with Harley Davidson and that your company was to be allocated ten motorcycles each shipment. The email included confirmation

of the vehicle identification numbers (VIN) of the motorcycles included in the consignment, as well as the agreed sale price of \$18,800. Based on those representations, Mr Blaikie invested \$24,000 to purchase two motorcycles. He electronically transferred two amounts of \$12,000 into your business's bank account on 5 and 22 August 2014. Counts 3 and 4 on the indictment relate to this conduct.

In each case, your representations to the complainants were false, and you knew or believed they were false because you never had any intention to use the money they provided to import Harley Davidson motorcycles into Australia. Enquiries made of Harley Davidson Australia established that the email provided to Mr Blaikie was false and that your company had never been associated with Harley Davidson. There is no record of any consignments declared as motorcycles addressed to you or your company.

All three complainants began to ask questions about the progress of the importation and sale of the motorcycles they understood they had purchased when they did not receive the money they were expecting. You fobbed them off and raised a number of excuses, such as having issues with the Australian Taxation Office, or claiming that the motorcycles were held up in customs. You also provided false information to two of the complainants that you had made significant deposits into their bank accounts, which did not eventuate. You sent those two complainants screenshots of purported transactions. In the case of Mr Blaikie, you also provided him cheques which were subsequently dishonoured.

You did make some payments to each of the three complainants. To date, you have repaid Mr MacGregor \$30,000 of the \$48,000 you obtained from him. You still owe Mr Brannen \$6,837. You owe Mr Blaikie \$8,096. An examination of your bank accounts shows that the monies deposited pursuant to the scheme were utilised by you to reduce your debt on your overdrawn accounts. The money deposited then enabled you to use those banks accounts to pay loans, insurance and other personal expenses, and to withdraw cash.

Count 7 relates to the second form of fraudulent conduct. In November 2013, you were approved by the ANZ Bank for a credit card in the name of your company. There was a \$10,000 credit limit applied to the card. Between 14 January and 2 March 2015, the credit card was constantly overdrawn. The bank's collections team had contacted you about the overdrawn account on four occasions and requested you make immediate payment. You agreed to make a branch deposit to get the account back into credit. You presented nine cheques, drawn from various cheque accounts you or your business held, in an attempt to pay the credit card debt. All of the cheques, the total value of which came to \$200,300, were dishonoured. Eventually, the bank placed a block on your account and cancelled the credit card.

While two of the deposited cheques were immediately dishonoured, the value of the other seven cheques was briefly credited to the credit card account before being dishonoured. Prior to those cheques being dishonoured, you used the cash advance facility on the credit card to electronically transfer the whole value of the soon to be dishonoured cheque to your company's business bank account which was also held with the ANZ Bank. Twelve transfers were effected between 22 January and 26 February 2015, which totalled \$80,000. As soon as the funds from the dishonoured cheques were credited to your business bank account, the money was used by you to pay personal debt or was withdrawn in cash.

At the time you presented the seven cheques, you knew or believed there was not enough money in the relevant bank accounts to honour those cheques. As a consequence, you knew

or believed that your company did not have a lawful entitlement to the money that was credited to the credit card. Your conduct in immediately utilising the funds makes that plain. As a consequence of that conduct, you obtained the benefit of the proceeds of the dishonoured cheques to the value of \$80,000. An examination of your transactions indicates that \$20,000 of that money was used by you to pay Mr MacGregor on 27 February 2015.

Count 8 relates to the third form of fraudulent conduct. On 5 August 2015, you advertised a Nissan Navara Utility for sale on Gumtree for \$45,000. The complainant, Matthew Leslie, contacted you about the vehicle. He specifically asked you if it was encumbered by any finance, telling you that he had previously been caught up in a financial battle and did not want to go through that again. You told Mr Leslie that the Nissan was free from finance as you had just paid it off and indicated you could provide documentation to prove this.

A price of \$38,000 was agreed for the purchase of the vehicle. Mr Leslie paid a \$500 deposit to your bank account on 6 August 2015 and it was agreed that he would travel to Tasmania from South Australia to collect the vehicle and pay the balance owing. On 10 August 2015, Mr Leslie travelled to Hobart and you collected him at the airport. You drove to your home where Mr Leslie looked at the vehicle and checked the service records. He again asked whether there was any finance on the vehicle. You then provided a letter from Nissan Financial Services. It purported to be addressed to you. It stated that the finance contract on the vehicle had been paid in full on 31 July 2015 and that you were now the owner. Mr Leslie agreed to purchase the vehicle based on its condition and that it was free from finance. The balance of the purchase price was paid to your bank account by electronic transfer that day. Mr Leslie then took the car back to South Australia, where he then caused it to be registered.

On 4 January 2016, Mr Leslie was contacted by Australian Commercial Services and told that the vehicle he had purchased was still subject to finance with an outstanding amount owing of \$62,795. The letter you provided was a fake, based on a default notice that had been sent to you. As a result of your false representations, you obtained the benefit of \$38,000 from Mr Leslie. When the balance of the bulk of the funds for payment for the car were credited to your account, nearly all of that money was withdrawn by you that same day. Enquiries with Nissan Financial Services revealed you had not made a payment on the finance contract since 16 June 2015. After negotiations, Mr Leslie paid Nissan Financial Services an additional \$25,000 in order to have the encumbrance on the vehicle lifted.

I have been provided with a victim impact statement from Mr Leslie. He outlines the disruption your conduct caused to his personal and family circumstances. He needed to spend significant time and effort to deal with the legal and financial consequences of your actions. For a period of time, he was unable to use the motor vehicle he purchased from you due to the risk of repossession. As already noted, Mr Leslie had to pay \$25,000 to clear the vehicle's title. He also incurred legal expenses, which placed a financial strain on himself and his family. The pressure and stress he experienced at this time has adversely affected his well-being and his family.

On 28 October 2014, prior to committing the offences involving the ANZ Bank and Mr Leslie, you appeared in the Hobart Magistrates Court on your pleas of guilty to six counts of stealing by agent. The total value of that stealing was \$21,200.65. These charges related to you failing to bank payments you had collected on behalf of Coca Cola Amatil when you were employed as a contract distribution driver for that company. You disguised your offending by manipulating the bank deposit book to include the missing cash. When the thefts were detected,

you admitted to your employer that you used the money to pay your own personal debt. Your contract of employment was cancelled. You were sentenced on those charges to six months' imprisonment, wholly suspended from 28 October 2014, on condition that for three years you be of good behaviour and not commit another offence punishable by imprisonment during the period the order was in force. You were on bail on those charges from 17 June 2014. You therefore engaged in the conduct comprising counts 2 to 6 on the indictment whilst on bail for those offences. Your offending against the ANZ Bank and Mr Leslie breached the condition of suspension of the sentence.

The State has applied pursuant to s 27(4) of the *Sentencing Act* for an order that the six month suspended sentence of imprisonment be activated and you be ordered to serve it. The State submits the activation would not be unjust in the circumstances given that the dishonest conduct comprising counts 7 and 8 commenced within three months of the sentence being imposed.

The police investigation into the Harley Davidson scheme commenced on 3 September 2015. By that time, you had admitted to Mr MacGregor that there were no motorcycles purchased and that you had used the money to pay off your debt and living expenses as you had not been working. This information was passed on to Mr Brannen by Mr MacGregor. On 12 October 2015, you left Tasmania and travelled to New Zealand where you remained for a number of years. The State asserts that you were on notice that police may become involved when you left the country. Each of the complainants had been in contact with you about repaying the money you had obtained from them and told you that they would go to police if you did not make the repayments you agreed.

The investigation relating to the sale of the motor vehicle to Mr Leslie commenced on 16 February 2016. The investigation in relation to the ANZ Bank matter commenced on 18 March 2016. A Warrant of Arrest in the first instance was obtained on 14 June 2017. It was not executed until 21 June 2022. You pleaded not guilty and elected preliminary proceedings. You were committed to trial in the Supreme Court on 5 September 2023. There have been negotiations since you were committed to this Court. The indictment was filed on 29 September 2025 and trial papers were filed on 2 October 2025. The trial was listed to commence on 18 March 2026. On 24 February 2026, it was indicated that you intended to plead guilty to the charges on the indictment. The State has not otherwise prepared this matter for trial.

While you were living in New Zealand, you engaged in further dishonest conduct. On 19 December 2016, you were sentenced in the Queenstown District Court to 22½ months' imprisonment for three counts of theft by a person in special relationship and using forged documents. This offending commenced in December 2015, shortly after you arrived in New Zealand. You had obtained work as branch manager of a rental car company. While there, you stole \$12,000 cash that you were required to bank on behalf of the business. You also sold two rental cars belonging to your employer and kept the proceeds yourself. While you were awaiting sentencing for that offending, you created fictitious documents to defraud a finance company of almost \$24,000, which you claimed to be seeking in order to repay your employer. The media report of those court proceedings indicated that you had issues with alcohol and gambling at the time. Special conditions were imposed as part of that sentence, requiring you to attend and complete alcohol, drug and gambling programs on release.

You were released from prison in November 2017. As a consequence of your offending, you had also been disqualified from being a company director in New Zealand until December 2021. Sometime in August 2018, you changed your name and began a relationship with a female. You obtained \$300,000 from your partner which you represented was to be used to invest in a bogus property development. You forged documents and made false representations to obtain those funds. You committed other frauds on other businesses at around the same time, but the relevant agreements were cancelled upon the discovery of your true identity and past fraudulent offending. Prior to being charged for these offences, you returned to Australia. Your former partner convinced you to return to New Zealand under the ruse that she wanted to maintain the relationship. You were arrested on your return. You were sentenced to 28 months' imprisonment on 3 March 2020 on charges of theft in a special relationship, relating to the \$300,000 you obtained from your former partner, two counts of using a forged document, two counts of managing a company while prohibited and making a false statement with a shareholder consent form.

You are 45 years old. At the time of committing these offences, you were aged between 33 and 34 years old. You were born in Tasmania. Your parents remain married. You had a stable and supportive childhood. You completed your education to Year 12. Since leaving school, you have worked in a range of positions, including starting your own businesses. You have exploited the positions of trust you have held in those roles on multiple occasions to steal from your employer or a business which had engaged your services. In addition to the matters I have already referred to, you were also sentenced by this Court on 19 November 2007 for stealing a car from your employer. On that occasion, no conviction was recorded and you were ordered to perform 100 hours of community service.

Since returning to Tasmania, you have formed a new relationship. You married earlier this year. You and your wife are hoping to have a family. I have been provided with letters of support from your wife, members of her family, your father and a friend who lives New Zealand. Each of the authors have indicated they are aware of your past, including your offending in New Zealand. They all describe you as helpful, kind and honest. They have expressed their support of you.

You have also provided a number of written statements to the Court. You express remorse for your offending. You state your participation in the Medium Intensity Rehabilitation Program during your second period of imprisonment in New Zealand caused you to reflect on your conduct and change your thinking styles and reset your core values and beliefs. You explain that your offending in New Zealand was motivated to try and repay the victims of your Harley Davidson scheme. In your statement, you claim to have changed your name because you were having trouble meeting people and that your probation officer suggested that a name change often allowed prisoners the opportunity of a fresh start. It is difficult to assess the reliability of that account. It appears from the material before me that your name change occurred shortly after you tried to set up a company and were spoken to about breaching the condition prohibiting you from being a company director. You were then able to set up a company and become a director after your name change. Your statement also refers to setting up a business as a sole trader since your return to Tasmania and of a civil construction contract you have recently obtained. You describe your relationship with your wife as one that is very beneficial to you and supportive of your rehabilitation. You have also outlined a proposal to repay the monies you obtained as a result of this fraudulent conduct. You claim to be able to pay Mr MacGregor, Mr Brannen, Mr Blaikie and Mr Leslie, in full, within 18 months of being sentenced. This relies on you being able to continue to undertake work in your business. You

have also suggested restructuring your finances and using your wife's home to secure funds to make reparation.

Your counsel submitted, consistently with your personal statement and the letters of support, that you are a completely changed man from the person who committed these offences in 2015 and 2016. He argues that it would be unjust to activate the suspended sentence in the circumstances. I am told you have advised your counsel that the existence of that sentence "encouraged the judge to increase the amount of time" that you were sentenced to in New Zealand. I understood the submission to be that you were, in effect, caused to serve that sentence as a consequence of it being taken into account in that way. I do not accept that assertion. It would be surprising if the courts sentencing you in New Zealand did not take into account your previous suspended sentence and its failure to deter you from similar offending. That would be an entirely orthodox approach and one relevant to the sentencing process. It was also submitted on your behalf that given the many years that have elapsed since the offending, it would be unjust to activate the sentence, particularly in view of the rehabilitative measures you have undertaken.

The State submits that I can place little weight on the character references and letters of support that have been provided. They point out they have all been provided by friends and family. In addition, the State advised that you have outstanding fraud charges which relate to alleged offending since your return to Tasmania, valued at over \$100,000. You have pleaded not guilty to those charges and have not yet been committed to this Court. You are to be presumed innocent of those charges until the contrary is proved. The existence of those charges means, however, that I must approach the assertion that you are "a changed man" with caution. It seems to me that it I cannot be satisfied one way or the other that you have, in fact, rehabilitated and changed your ways. I propose to sentence you on that basis, that is, that the information before me is neutral as to whether you have or have not rehabilitated, although I allow that there is some prospect that is the case.

The offences for which you fall to be sentenced today are serious. You persisted in a course of dishonest conduct over a period of approximately 18 months and gained the benefit of a significant amount of money as a consequence. Some of the victims of your offending were good friends and well known to you. According to your personal statement to the Court, Mr MacGregor and Mr Blaikie were two of your best friends at the time of committing the offences against them and Mr Brannen was fast becoming one. Your conduct towards them represents a gross breach of trust. The bulk of these offences were committed while you were on bail for charges of stealing during the course of your employment. You had lost that employment when your offending was discovered. You then callously obtained money from your friends and later admitted doing so to pay debts and for living expenses. The offences against Mr Leslie and the ANZ bank, were committed shortly after you were sentenced to a suspended period of imprisonment. Clearly, that suspended period of imprisonment did not deter you.

I have been provided with little by way of explanation for your offending. I am told that you were gambling, predominantly on the pokies, but little detail has been provided of the extent of that issue at the relevant time, when it commenced, and how the criminogenic programs you have undertaken address that particular issue. By the time you committed these offences, you already had been dealt with by a court on one occasion for dishonest conduct. Matters were either pending in the Magistrates Court or you had already been sentenced when you engaged in the conduct comprising counts 2 to 8 on the indictment. It could not be said that your offending was out of character. Your subsequent offending and incarceration in New Zealand

is further demonstration of that. I take into account your plea of guilty, but note it has come late in the day, and was only indicated close to the expected commencement of the trial. It has, however, saved court time.

In my view, the only appropriate sentence in respect of the indictment is one of imprisonment. As to the suspended sentence, I must activate the sentence of imprisonment that is held in suspense and order that you serve it, unless I am of the opinion that such an order would be unjust. In my view, it would not be unjust to order that you serve the period of imprisonment held in suspense. I am satisfied that you commenced further dishonest offending, namely counts 7 and 8, shortly after the suspended period of imprisonment was imposed. The only thing distinguishing the conduct comprising the charges on the indictment from those for which you were sentenced by the Magistrates Court, is that the former was not engaged in during the course of your employment. I am mindful that it has been some time since the suspended sentence was imposed and the breach offences were committed. However, you are not in a position to claim the benefit of any significant rehabilitation in that period. You committed like offences in New Zealand. I am satisfied that you left Tasmania, at least in part, to escape responsibility for your fraudulent conduct. You admitted as much in your letter to the Court where you state,

"I moved to New Zealand in late 2015 to get away from stress I had created on myself. The Media, Business, Financial and personal, as all before you today. I thought a fresh place would allow me to think stress free and give me the chance for a fresh credit rating, giving me the opportunity to borrow legally to right my wrongs with my friends and save my family and my own assets."

I accept since your return to Tasmania you have started a new life with your wife. I am mindful that you have served two significant periods of imprisonment since committing these offences. I am not, however, in a position to positively find that the sentences and programs have had the effect of rehabilitating you and deterring you for the reasons I have already identified. I allow that it is possible that you have rehabilitated but given the persistent and versatile nature of the dishonest conduct you engaged in during the period from April 2014 to April 2019, any assessment of those prospects must be guarded. The sentence of imprisonment I will impose on the indictment takes into account totality in light of the activation of the suspended sentence. I will also make an order that you be eligible for parole at the earliest opportunity in light of all of those factors.

Andrew Charlton Tonks, you are convicted of all charges on the indictment. I impose a single sentence on the indictment. You are sentenced to a period of imprisonment of 18 months, backdated to 8 May 2026. In addition, I am satisfied that you have been found guilty of an offence punishable by imprisonment committed during the period the order suspending the six month period of imprisonment imposed by the Magistrates Court in October 2014 was in force. I activate the six month sentence of imprisonment held in suspense and order that you serve it. I order that the activated sentence be served cumulatively with the term of imprisonment imposed on the indictment. In respect of both sentences, I order that you not be eligible for parole before you have served half of each sentence.

I order, pursuant to s 68 of the *Sentencing Act*, that you pay compensation to the following persons in the following amounts:

- (a) Brendan MacGregor - \$19,000.40 (made up of the \$18,000 plus interest charged on the personal loan);

- (b) Andrew Brannen - \$6,837;
- (c) Ross Blaikie - \$8,096;
- (d) Matthew Leslie - \$26,500 (\$25,000 plus \$1,500 legal fees); and
- (e) Australia and New Zealand Banking Group - \$103,148.95