

PUBLIC PROSECUTOR

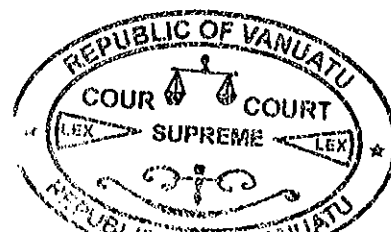
V

JOHN KALO

Hearing: 9 September 2011
Before: Justice Robert Spear
Appearances: Simcha Blessing for the State
Jacob Kausiama for the Accused

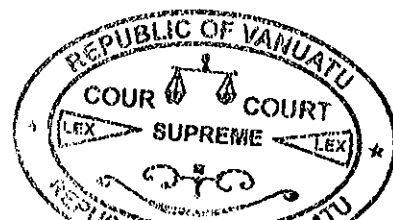
SENTENCE

1. John Kalo you are for sentence today on 10 counts of obtaining money by deception. You pleaded guilty to those charges at an early time following your committal for trial. A summary of facts is being presented by the prosecution and you take no issue with that.
2. This offending amounted to a relatively elaborate and sophisticated *con* on an unsuspecting member of the public. You (and apparently another man by the name of Solomon Bai) set up a fraudulent scheme whereby you pretended to represent an organisation called Company European Banking Currency which was presented by you as a means by which people with modest savings could receive a substantial return.
3. The complainant was deceived by your fraudulent representations. He invested money with you on 10 separate occasions to a total of Vt 1,035,000. The money was supposed to be repaid through this Solomon Bai but, of course, the whole scheme was of a fraud and there was no possibility of any recovery.
4. You now no longer have any funds by which you can make immediate reparation. You have, however, according to the probation officer, inherited a poultry farm at Teouma but, because you have been on remand in custody now for some 8 months, you are uncertain as to what income that poultry farm is generating and how much you could pay towards reparation. I note also that you take issue with the amount of reparation that is claimed and



indeed I notice also that the complainant alleges that the total amount is Vt 1,350,000. However, what is abundantly clear is that you have pleaded guilty to 10 charges which point to you defrauding the complainant of Vt 1,035,000 and that is the sum that I will consider for reparation. Be that as it may, your ability to repay or to make reparation remains in question and to a large extent that is going to depend upon how you conduct yourself and how you are able to earn a living once you are released from prison.

5. This was despicable offending because you preyed on a person who was clearly unsophisticated in monetary matters and, it would also appear, his investment with you was of his superannuation payout from his long years of work as a public servant. He was trying to make the best investment he could with that money and, naively, he was conned by you with the prospect of substantial returns for his investment.
6. The aggravating features here are that there were 10 separate investments made with you following your deceitful representations; that this happened over a period of time; that you knew that the complainant really did not understand the real risks involved and accordingly you defrauded him of his money knowing that you would have no prospect of repaying him. The scheme employed by you had some sophistication as to its deceitful presentation with formal agreements being drawn and executed. Of course, you pretending to represent an entity that in truth never existed. That entity has also been called the Vanuatu European Banking Currency.
7. The starting point for carefully planned, deceitful conduct like this targeting unsophisticated and unsuspecting members of the public, targeting their their life savings, is 3 years imprisonment. I need to give recognition to your relatively early guilty pleas, your preparedness to make reparation from what assets you can gather and what income you can receive on your release and I fix that at 1/3rd against the sentence that otherwise be imposed on you.
8. It is said that you are a man of otherwise good character and that your offending has deceived your family as well as they never suspected that you were involved in wrong doing of this nature. I cannot accept that you are of good character particularly as you have conducted yourself in such a deliberate and deceitful way against the unsophisticated and unsuspecting.
9. Making the allowance I do for your guilty pleas and your offer of reparation, on each of these 10 counts you sentenced to 2 years imprisonment.
10. I order that you pay reparation in the total sum of Vt 1,035,000 and I ask the probation officer (who will supervise you on parole) monitor the repayment arrangements.
11. As set out in the Minute given on 1 August 2011, you claimed that you are working in conjunction and indeed at the direction of another man (*SB*). The sentencing for you had been deferred so that the public prosecutor could examine this claim of which the court first became aware when reading the pre-sentence report. I am informed by Mr Blessing that *SB* has now been



arrested and that he is due to appear in the Magistrate's Court on 21 September 2011 for the preliminary hearing of charges against him. It appears, from your counsel, that you are prepared to give evidence against him and generally support the prosecution of him. If that is so, and your assistance to the prosecution is seen as both creditable and credible, then you should be given credit for that.

12. I accordingly reserve leave for you to apply for a review of the sentence in the event that you do provide creditable and credible assistance in respect of the prosecution of *SB*. You are entitled to credit for that although, at this stage, I do not know where that prosecution will go and it accordingly make sense for your sentencing hearing to take place now without further delay. Indeed, Mr Kausiama has discussed the matter with you and you have informed Mr Kausiama that you want to be sentenced today to ensure that your custodial state is confirmed.
13. You have 14 days to appeal this sentence if you are not content with it.

BY THE COURT

