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**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**  
(Criminal Jurisdiction)

**CRIMINAL CASE No.17 OF 2012**

**PUBLIC PROSECUTOR - v - SHARON MELANIE FRANK**

**Coram:** *V. Lunabek CJ*

**Counsel:** *Mr Tristan Karae for the Public Prosecutor  
Mr Brian Livo for the Defendant*

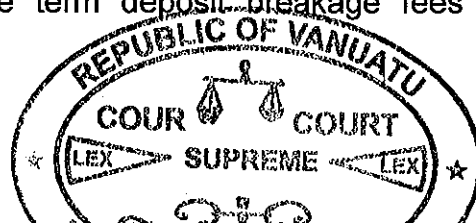
**SENTENCE**

Ms Sharon Melanie Frank appears today for sentence. You are charged with the following two counts:

- 1 count of theft, contrary to Section 125(a) of the Penal Code Act [CAP.135]; and
- 1 count of obtaining money by deception, contrary to section 130(B) of the Penal Code Act on 8 May 2012, you entered guilty pleas on the two counts as charged against her.

The brief facts are set out from the prosecution submissions. They are not disputed by your lawyer on your behalf and you accepted them before you entered guilty pleas. They are that on 9 February 2011, a complaint was lodged against you at the police station in Port-Vila for transferring funds from different accounts in the ANZ Bank to your own account, and using the proceeds for your own personal gain (benefit) without lawful permission or justification. The transferring operations happened from 12 January 2009 to 4 January 2011. They represented a total of 113 transfers altogether made by you.

The complaint statement revealed that you were found to be transferring funds from two main ANZ Accounts, Commission Account No.77124102 and the Bank Suspense Account number 327210 and the term deposit breakage fees from



different accounts in the Bank and credited to your CHAVA SS Account No.1206829, which is a joint account with your partner as the account signatories.

After transferring funds to your CHAVA SS Account, you would try and cover up your tracks or hide your activities by removing or reprinting the Bank beam journal which is a bank day to day record of every activity carried out through the system. You have admitted your wrong doing when you were interviewed by the police investigation officers and you confirmed that you:

- Transferred money from Commission Account to CHAVA SS Account;
- Transferred money from private accounts direct to your CHAVA SS Accounts;
- Transferred money from private accounts to suspense account to CHAVA SS Account.

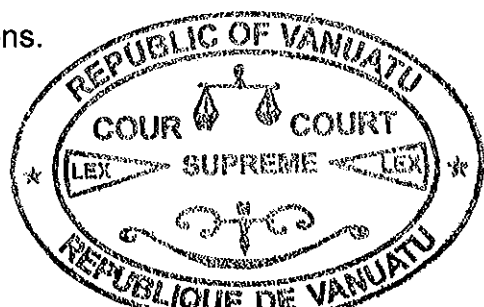
After investigations by several personals at the ANZ Bank, it was confirmed that the total amount that you had illegally transferred into your ANZ CHAVA SS Account from several ANZ Bank Accounts, amounted to VT3,464,563.

The law prohibits theft and obtaining money by deception by a maximum penalty of 12 years imprisonment for each of the offences. They are serious dishonest offences as reflected by the maximum penalty imposed by law.

The Court condemns in the strongest terms your offending as an intolerable and unacceptable behaviour in the society toward your employer (Bank) and also towards other members of the community.

In this case, the seriousness and circumstance of your offending are aggravated by the following factors:

- You have abused the trust and authority that you were entrusted with by the ANZ Bank (Vanuatu) Ltd. You were promoted as Treasurer Support Officer which has access to Commission Accounts and Suspension Account of ANZ (Vanuatu) Ltd including private accounts.
- There is a considerable degree of premeditation and planning by you.
- The offending involved a high degree of sophistication in transferring and erasing traces of the transferred transactions.



- There was repetition of the offending which occurred over the period between 2009 – 2011 (about 2 years).
- This resulted in the loss sustained by ANZ Bank (Vanuatu) Ltd of VT3,464,563.
- The likely negative impact that the public may portrait against ANZ Bank in handling its ANZ customers' accounts and its employees.
- The sum of VT VT3,464,563 which you stole for your personal gain (use).

A sentence of 3 years imprisonment is the appropriate starting point.

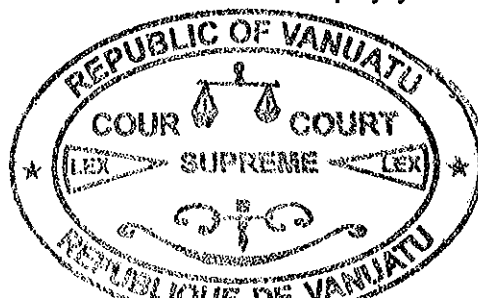
In mitigation, I consider the submissions of your lawyer, the fact that you have no previous convictions and you are a first time offender and the fact that you have cooperated well with the police authorities and the last but not the least is your early guilty plea given at the first opportunity given to you by the Court.

On balance you are sentenced to 18 months imprisonment.

The next question is whether or not your sentence of 18 months imprisonment should be suspended?

I answer this question in the affirmative in the light of the following:

- You have reached an agreement with ANZ Bank (Vanuatu) Ltd to repay back VT3,464,563 and the Bank has made a decision without prejudice to the bank's rights at law to recover the stolen funds and the Bank accepts monthly payments of VT20,000 towards your liability (Sharon Frank's) to the Bank.
- You are now employed by Hotel Sky Garden since 26 May 2012 as a Front Office Assistance and you are paid a fixed salary of VT30,000 monthly.
- I take into account the compensation report filed 18 July 2012 and I am satisfied that you have the capacity to meet a compensation order if the Court is minded to make such an order.
- If I send you to custody immediately you will not be able to repay your liability to the bank.



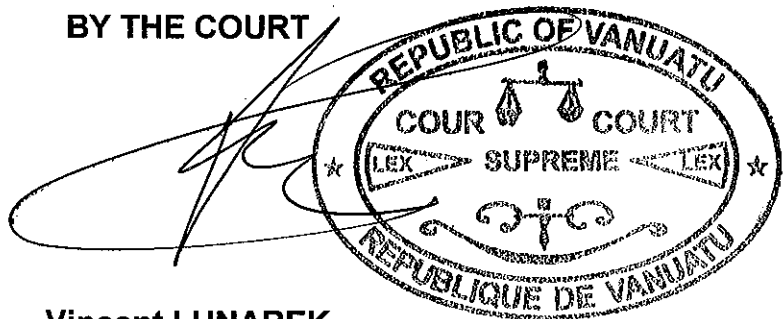
I decline to make an order for community sentence in addition to your suspended imprisonment sentence as it is not warranted in the circumstance of the present case.

You are sentenced as follows:

1. 18 months imprisonment suspended for a period of 2 years.
  - (a) During the suspension period of your imprisonment sentence of 18 months, you must not re-offend.
  - (b) If you re-offend before the expiry of suspension period of 2 years i.e. 7 August 2014, you will be dealt with and if convicted you will be sentenced accordingly; and
  - (c) In addition, your suspended imprisonment sentence of 18 months shall be re-activated.
2. In addition to your current suspended imprisonment sentence of 18 months, you are ordered to repay back VT3,464,563 to the ANZ Bank (Vanuatu) Ltd by monthly instalments of VT20,000.
3. Orders 1 and 2 operate separately from one to another.
4. If you are unsatisfied with your sentence, you have 14 days to appeal it and this from today's date.

**DATED at Port-Vila this 7<sup>th</sup> day of August 2012**

**BY THE COURT**



**Vincent LUNABEK  
Chief Justice**