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Independent Commissioner
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SOUTH AUSTRALIA

IN THE DISTRICT COURT

CRIMINAL JURISDICTION

ADELAIDE

WEDNESDAY, 5 JULY 2017 AT 2.01 P.M.

BEFORE HIS HONOUR JUDGE MILLSTEED

NO.DCCRM-16-2561

R V JAMES RICHARD ANDREW BEAUMONT AND JOSEPHINE MARIA
CRAY

HIS HONOUR IN SENTENCING SAID:

Josephine Maria Cray, you have pleaded guilty to 30 counts of abuse of public office, an offence contrary to s.251 of the *Criminal Law Consolidation Act*. You have asked that I take into consideration a further 44 such offences when assessing penalty.

James Richard Andrew Beaumont, you pleaded guilty to 30 counts of aiding, abetting, counselling, or procuring Ms Cray to commit the offence of abuse of public office. You too have asked that I take into consideration a further 44 such offences when assessing penalty.

The offences were committed over a four-year period between July 2012 and July 2016. At the time you, Ms Cray, held public office in your capacity as education manager with TAFE SA. You initially took up that position in 2006. You were responsible for approximately 30 full-time staff and 30-odd instructors spread across 12 campuses. Your work included overseeing the services for staff and authorising payment of invoices for such services.

You abused your position by dishonestly authorising staff to process 74 invoices totalling \$153,310. The invoices falsely claim that services had been provided by 'Beaumont Consultancy Services', a business name created by Mr Beaumont. In the main, the invoices claim that you, Ms Cray, had received performance, mentoring and coaching from Beaumont Consultancy Services.

In the result, 72 payments totalling \$150,910 were made by TAFE to Beaumont Consultancy Services. Two invoices, each for \$1,200, were not paid out by TAFE.

You, Mr Beaumont, aided abetted, counselled or procured the commission of each of the 74 offences committed by Ms Cray by emailing to her the relevant

bogus invoice. I am satisfied that the frauds were the product of a plan formulated by the two of you but for your sole financial benefit, Mr Beaumont.

The evidence shows that the two of you had lived together in a de facto relationship for about 10 years. After the relationship ended in about 1999 the two of you maintained a close friendship. Throughout that friendship you, Ms Cray, although you were in a relationship with another man, provided significant financial assistance to Mr Beaumont. That assistance later extended to committing the present offences for his benefit.

Mr Richard Balfour, who prepared a psychological report in relation to you, is of the opinion that you acted out of pathological altruism. I will say more about that in a moment.

The fraudulent scheme came to the attention of TAFE on 26 June 2016 when the Director of Finance, Mr Jason Eastwood, received through Basware, a computerised system, two invoices from Beaumont Consultancy Services, each in the amount of \$1,200 for coaching services, purportedly provided by you, Ms Cray. Apparently Basware is designed in part to identify invoices which have not been expeditiously processed.

Upon inspecting the invoices Mr Eastwood became suspicious for various reasons, including the format of the invoice, and the absence of any reference in it to GST. He drew his concerns to the attention of Mr Chris McCann, TAFE's director of Community Services.

On 5 July 2016. Mr McCann spoke to you, Ms Cray, about the two invoices. You lied to Mr McCann. You told him that you commenced receiving coaching and mentoring from Beaumont Consultancy Services towards the end of 2015 because you were dealing with a number of complex work issues. You said that you knew Mr Beaumont through professional and informal networks.

You admitted that you breached TAFE protocols in authorising and processing the two invoices. However, you failed to mention that there were numerous other invoice from the Beaumont Consultancy Services that you had already authorised and processed.

On the following day, the TAFE audit section searched Basware and located a further 14 Beaumont Consultancy Services invoices dated between 21 December 2015 and 16 May 2016 which had been processed and resulted in a total payment from TAFE of about \$23,000. Inquiries established that Beaumont Consultancy Services was not an authorised vendor of services to TAFE.

On 21 July 2016, Ms Cherise Round, TAFE's workforce relations manager, questioned you, Ms Cray, about the additional 14 invoices located by the audit section. You claimed that you were suffering work-related stress. You falsely asserted that you had met Mr Beaumont at a gym and by chance saw him at a

coffee shop where you discussed your problems at work. You said he told you about his consultancy services business and offered to assist you. The two of you agreed that he should be paid \$150 per hour. You said that you consulted Mr Beaumont after hours and on weekends and that sometimes the meetings occurred in a coffee shop. You told Ms Round that you believed that TAFE should pay the fees as it was a matter related to your performance at work.

As I have said, the statements you made to Ms Round were lies. Furthermore, you failed to mention that there were additional, numerous invoices dating back to 2012. However, five days later, on 26 July 2016, a further audit of Basware was conducted which established the full extent of your offending.

Following your interview with Ms Round, you resigned. She agreed that your last day of service would be 8 September 2016, in accordance with the six week notice period specified in TAFE regulations.

On 8 September 2016, the last official day of your service, TAFE advised you, Ms Cray, by email that there will be withholding your long service leave entitlements because the extent of the fraud had been ascertained.

On the same day the police had obtained warrants authorising the interception of communications on your mobile phone, Ms Cray, and your mobile phone, Mr Beaumont. Later that day, police intercepted a call from you, Ms Cray, to Mr Beaumont. You told him that the two of you were in trouble. You explained that you had received a letter from TAFE, stating your entitlements would be withheld because TAFE believed that you were guilty of transactions that exceeded the amount to which you were entitled.

You both said in the course of the telephone call that the situation was 'A worse case scenario'. You, Mr Beaumont, then suggested that you had found another storage place on Daws Road and that you needed to 'Get stuff out of here' and that it was 'Going for a walk'. Unbeknownst to you, the police had both of you under surveillance. On the following day, 9 September 2016, the police saw you, Mr Beaumont, drive your motor vehicle into U-Store on Daws Road where storage units are leased.

On 12 September 2016, the police attended U-Store and searched the storage unit leased by you, Mr Beaumont. They recovered from the unit computers and documents. Some of the documents included banking records recording TAFE payments to Beaumont Consultancy Services. On the same day, police arrested the two of you. You both declined to answer questions.

On 4 November 2016, you were both charged in the Magistrates Court with the present offences. Ms Cray, you were charged with 74 counts of abuse of public office and you, Mr Beaumont, were charged with 74 counts of aiding, abetting, counselling or procuring Ms Cray's offences.

On 2 December 2016, the two of you, each pleaded guilty in the Magistrates Court to 30 counts. Following negotiations between the prosecution and your legal representatives, it was agreed that each of you would ask for the remaining 44 counts to be taken into consideration.

On 20 January 2017 you were committed to this court for sentence. There is no dispute that, by reason of your early guilty pleas, both of you are entitled to a discount of up to 40% on any sentence of imprisonment I consider appropriate.

I note that neither of you have spent any time in custody in relation to this matter.

I turn to your personal circumstances. I begin with you, Ms Cray. In addition to the helpful submissions made by your counsel, Mr Ey, I have taken into account a considerable body of material tendered on your behalf including the psychological report prepared by Mr Balfour dated 15 March 2017, a psychological report prepared by Mr James Tucsok dated 21 April 2017 and several character references from former work colleagues.

You are 62 years of age and single. You have a limited criminal history. In 1990 you committed a minor offence of larceny which resulted in you being placed on a bond to be of good behaviour for six months without a conviction being recorded.

On 7 December 1992 you were convicted of seven counts of false pretences and one count of stating a false personal detail. With respect to one count of false pretences you were sentenced to two months imprisonment suspended upon you entering into a good behaviour bond for 12 months. With respect to each of the other charges you were discharged without penalty.

The conduct involved you opening a temporary credit card at John Martin's, Marion, in the name of another person using an RAA card which had been stolen from that other person. You produced the credit card at John Martin's for identification purposes. You then proceeded to use the temporary credit card to purchase a number of goods from that store. Mr Ey submitted that you were suffering from depression at the time due to the passing of your father. I am prepared to accept that was the case.

The psychological reports before me indicate that you had a complex relationship with your father. He suffered from emphysema, chronic alcoholism and post-traumatic stress disorder due to his service in the army in New Guinea in World War Two. He regularly required treatment at the Daw Park Repatriation Hospital. Though not physically violent, he was verbally and emotionally aggressive towards you, your mother and your two sisters when he became intoxicated. This resulted in you and the other members of your family living in a climate of fear.

You eventually left the home when you were 21. The psychological report suggests that your concept of relationship was modelled on your parents' dysfunctional marriage. Your mother never abandoned your father despite the great difficulties that he presented. Indeed, the whole family became dedicated to caring for him under trying circumstances. Mr Balfour believes that this led to you developing low self-esteem, lack of assertiveness and a pathological form of altruism in your relationships with men and, in particular, Mr Beaumont.

When you were 19 years of age you fell pregnant as a result of a casual liaison. The child was separated from you immediately after birth and adopted out. To this day, you have never seen your son. Not surprisingly, you harbour unresolved maternal grief.

You have never married but you have been in two significant relationships. From 1990 until about 2000, you lived in a de facto relationship with Mr Beaumont. He terminated the relationship because he wanted to start a family. However, you were premenopausal and unlikely to give him children. His desire to start a family was also complicated by the fact that he was, largely, unemployed and relied on you financially.

Following the termination of that relationship you formed a relationship with a retired sales manager who I will refer to as 'John'. You maintained separate residences but enjoyed a good relationship. John terminated that relationship upon learning of your arrest in relation to the present matter.

Ms Cray, you are clearly an intelligent person. You performed well at school and later obtained a Bachelor of Education at Sturt CAE and a Masters in Business Administration at the University of South Australia. You have an impressive work history.

Between the ages of 21 and 34 you worked as a full-time teacher at various primary schools.

At the age of 34 you were appointed to the position of education consultant with the Education Department.

When you were 41 you resigned from the Education Department to work as an insurance sales manager with Mr Beaumont. The business failed within a few months and you obtained employment as a sales representative with a book company.

At the age of 44 you rejoined the public sector as Manager of Training and Development at the Daw Park Repatriation Hospital conducting staff development programs for non-clinical staff. You worked at the hospital for a couple of years. Two of the references that I received are from Mr Paul Neil and Mr Peter Footner who both held positions during the period that you worked

there. They spoke highly of you as a person and as an administrator during the time that you worked there.

Following your departure from the hospital you worked as a Manager in Training and Development at the Housing Trust. You supervised a team and, in part, were responsible for budget and expenditure. You worked for the Trust until you joined TAFE in 2006.

Ms Sharon Herrick, who was one of your colleagues during that time, has provided a letter in which she describes you as a 'manager with excellent skills'. Like the other referees she regards your offending as out of character.

However, I note that in 2001 findings of improper conduct were made against you by the Chief Executive of the Department of Human Services because you authorised photocopy contracts between the Trust and a business run by Mr Beaumont called Hot Copy. You authorised those contracts without disclosing the nature of your relationship with him.

As I have said, you took up your position as Education Manager with TAFE in 2006. You appeared to have performed your responsibilities in a conscientious and professional manner. A further referee attests to that fact. You performed those responsibilities well until your offending commenced in 2012.

Consistent with your counsel's submissions you told Mr Balfour that Mr Beaumont was a bogus consultant and that the two of you developed a plan to financially support him while he looked for work. None of the money which you misappropriated was used by you to fund an opulent lifestyle. I accept that submission.

As I have said, these offences were committed well after your relationship with Mr Beaumont had ended and while you were in a relationship with John. You claimed that there was no lingering romantic attachment to Mr Beaumont and that your relationship with John was a happy one.

When you were questioned by Mr Balfour about your reasons for helping Mr Beaumont, you broke down and denied that you were still in love with him. You suggested that you learned from your mother that you must not walk away from someone who has been your partner when they rely on you. Mr Balfour believes, based on the history that you provided, that your conduct was driven solely by what he described as pathological altruism.

However, I do not discount the possibility despite your protestations to the contrary that you harboured the desire to please Mr Beaumont in the hope that you might reconcile or because you had some lingering romantic attachment to him. You might shake your head but that is a possibility that I do not discount. Be that as it may, I accept that you derived no financial gain from the fraudulent scheme that was set up for his benefit.

I note that in addition to committing the present offences, you assisted Mr Beaumont with payments totalling about \$189,000 between 2009 and 2016. Those payments came from your personal savings and your share of your mother's estate.

The psychological reports indicate that in addition poor self-esteem you suffer severe depressive symptoms. Both psychologists believe that incarceration would exacerbate these problems. Mr Balfour further observed that if you were to be imprisoned, your mental state should be closely monitored to ensure that you do not become acutely suicidal, though you deny any current suicidal ideation. I take into account their views.

You read a letter of apology to the court. You apologised for the dishonesty and breach of trust placed in you by TAFE and your colleagues. You appeared to me to be genuine. Despite your ongoing deceit over four years, the strength of the case against you and the lies that you told when TAFE began investigating your conduct, I am prepared to accept that you genuinely regret your behaviour. This is consistent with your early guilty pleas.

Furthermore, I note that on 17 March 2017 you paid TAFE \$103,742 from your superannuation entitlements which, in conjunction with the long service leave entitlements withheld by TAFE, constitute full restitution. I regard this as a very important mitigating factor in your case.

I have been told that since your arrest in this matter you have been trying to run an online consultancy business.

I turn to your personal circumstances, Mr Beaumont.

In addition to submissions made by your counsel Mr Woods, which I also found to be very helpful, I have been assisted by the psychological report prepared by Ms Darmania dated 28 March 2017, a medical report from your GP, Dr Crawford, dated 15 March 2017.

You are 63 years of age and single. You have convictions in 1973 for disorderly behaviour and in 1986 for damaging property. The only convictions of note have been recorded in the Adelaide Magistrates Court, first, in 2002 for failing to lodge an annual return for which you were fined \$300; second, in 2003 for four counts of failing to furnish further information as required by taxation law which you were fined \$2,500 and third, in 2003, for failing to comply with an order for which you were fined \$2,800.

Mr Beaumont, you too, were raised in a dysfunctional home. Your father was a violent drunk who physically abused you and your mother. You also had a poor relationship with your mother. She blamed you for her unhappy marriage and you critical of her for failing to protect you.

You reported to Ms Darmania that you were also the victim of a sexual assault when you were in your early teens. The offender was a male visitor to your home. Your father caught the offender in the act and beat him. You were not offered any ongoing support by your parents with respect to that incident.

You told Ms Darmania that you regarded yourself as a top student, however you left high school during your final year to join the army. You returned home six months later and worked in a variety of jobs including a foundry and petrol station. You saved enough money to purchase a home when you were 19. You further told Ms Darmania that you later returned to school to complete your matriculation and then, over the years, commenced three courses of study at university but none were completed.

You reported that you attempted to open a commodity trading business when you were in your 20s but this resulted in financial and emotional stress and the loss of your home. Throughout your 30s and 40s you worked, primarily, as a mortgage broker and life insurance agent. It would appear that you were largely unsuccessful. Since then your working life has been highly unstable.

You told Ms Darmania that during the 10 years preceding your arrest for the present offences you struggled to maintain employment due to work redundancy, businesses going into liquidation, and the stress of what you described as 'hostile working environments'. I note that you informed Dr Crawford that you have a high opinion of yourself and that you have trouble being employed by anyone who you feel is intellectually inferior to you often leading to the loss of jobs. Whether justified or not, your high opinion of yourself might explain, to some extent, the way that you viewed your relationship with Ms Cray.

After you and Ms Cray separated you maintained a friendship but it was one which, in my view, had an unwholesome parasitic and exploitive element to it. You saw no difficulty in accepting, for your purposes, substantial amounts of money from Ms Cray which included a significant part of her personal monetary assets and the very large amount of money that she misappropriated from TAFE.

In relation to the moneys that were misappropriated from TAFE, you told Ms Darmania that you used some of the money to purchase a car, that you spent approximately \$15,000 per annum on general living costs and spent about \$10,000 per annum supporting a woman in the Ukraine, named Marina.

Apparently, you met Marina on an online dating service about seven years ago and visited her in the Ukraine on several occasions. She visited you in 2013 and returned in April of this year to marry you. The relationship has now ended.

Given your financial circumstances, it is reasonable to infer that the costs of your trips to the Ukraine and her trips to Adelaide were paid for wholly or, in part, from money you had received from Ms Cray over the years.

Ms Darmania's report discloses that you explained to her that you became involved in the offending because Ms Cray was under pressure at work and needed encouragement and assistance. To help her manage her roles you undertook some general market research at your own instigation. Ms Cray suggested that you should be paid for the help that you provided.

You further told Ms Darmania that over the ensuing months you and Ms Cray would have periodic meetings where you would give her advice on work-related issues. You told Ms Darmania 'I was hoping to be of value, but I didn't feel that I was always providing a service of value equivalent to the charge'.

I am satisfied that what you told Ms Darmania was simply not true. You did not receive any money for services rendered. Consistent with the submissions made on Ms Cray's behalf no service was provided in relation to the invoices submitted to TAFE. It was a complete scam from beginning to end and one contrived by the two of you. Your counsel, Mr Woods, conceded this, as I understood his submissions, but sought to characterise your statements to Ms Darmania as self-justification. I take that as a euphemism for you telling lies.

You deserve credit for your very early guilty pleas and I note your apology to the court, but I find your statements to Ms Darmania worrying because they reflect a failure on your part to acknowledge the enormity of your wrongdoing.

With respect to your personal circumstances I note that Dr Crawford considers that over the years you have had issues with self-esteem and depression. He has also recorded you as having claustrophobia and panic attacks. I take that all into account. Ms Darmania also indicated that you had symptoms of depression and experienced anxiety in times of stress or occupational problems. You also reported to Ms Darmania that you suffered from claustrophobia, though she noted that you have not received any specific treatment or intervention to date.

I also note and take into account that you have mobility issues and that you are, apparently, due for a hip replacement.

Ms Cray and Mr Beaumont, the offending in which you engaged was very serious. In your case, Ms Cray, I accept that you did not act out of personal greed. However, the fact that you committed these offences to compensate in some way for lack of self-esteem, or to please Mr Beaumont or due to some lingering affection or pathological altruism, or a combination of such factors, diminishes your moral blameworthiness only to a small extent: see the remarks of King CJ in *The Queen v Chisholm* (1985) 122 LSJS 230 at pp.232-233.

The intractable facts are that you held a position of trust with TAFE. You abused your position to engage in premeditated, deliberate and repetitive criminal conduct over a period of four years which effectively involved stealing from your

employer and indeed the public purse. You stole over \$150,000. Furthermore, your criminal behaviour came to an end only because it was detected.

In your case, Mr Beaumont, it was submitted by Mr Woods that your conduct was less serious than Ms Cray's because you did not hold a position of trust with TAFE. I do not accept that submission. First, it should be noted that s.251 of the *Criminal Law Consolidation Act* provides that a person who counsels or procures the commission of an offence is liable to be prosecuted and punished as a principal offender. But more than that you knew the nature of the position that Ms Cray held at TAFE. You intentionally and repeatedly assisted her to defraud her employer for your personal gain. For purely selfish reasons, you were prepared to put in jeopardy her career, a career which has now been destroyed.

In my opinion, no meaningful distinction can be drawn between your offending and hers. If anything, the fact that you were prepared to use Ms Cray to suck money from TAFE for your personal gain may be viewed as somewhat more serious than her behaviour. Furthermore, unlike Ms Cray, you do not seem, for the reasons discussed earlier, to be fully prepared to acknowledge the enormity of your conduct. Also she has made full restitution and you have not made any form of restitution, though that may be attributable to your limited finances.

I turn to the sentences to be imposed. I begin with you, Ms Cray. The starting point is a sentence of imprisonment of 5 years and 6 months, which I reduce by 40% on account of your early guilty pleas. I reduce the sentence to 3 years, 3 months and 18 days. You have criminal convictions but you do not have a bad record. The weight of the evidence suggests that you have been a hardworking person over many years. I believe that you enjoy good prospects of rehabilitation, accordingly I will fix a relatively light non-parole period of 18 months.

I turn to the question of whether I should suspend the sentence. Your personal circumstances and the factors which caused you to commit these offences excite sympathy, however the gravity of your offending and the importance of general deterrence in cases where a public officer abuses his or her position in order to misappropriate public moneys outweigh those factors as well as your contrition and guilty pleas. The sentence will not be suspended.

The home detention report is favourable to you but issues of deterrence remain important. In my view, home detention is inappropriate. You will serve the sentence I have imposed in gaol.

I turn to you, Mr Beaumont. The starting point is a sentence of 5 years and 6 months imprisonment which I reduce by 40% on account of your early guilty pleas to 3 years, 3 months and 18 days. You too have criminal convictions but not a bad record. However, I do not believe that your personal circumstances are

as meritorious as Ms Cray's who, as I said, has made full restitution and fully accepted the enormity of her misconduct. In your case I fix a non-parole period of 25 months.

In my view, despite all that has been said on your behalf, there is no good reason to suspend the sentence. Furthermore, issues of general deterrence make home detention inappropriate. You will serve your sentence in gaol.

ADJOURNED 2.39 P.M.