



Sentencing Remarks & Judgments

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ICAC

Independent Commissioner
Against Corruption
SOUTH AUSTRALIA

Settled by His Honour Judge Tilmouth 9 November 2016 – Internet version

IN THE DISTRICT COURT

CRIMINAL JURISDICTION

ADELAIDE

WEDNESDAY, 9 NOVEMBER 2016 AT 9 A.M.

BEFORE HIS HONOUR JUDGE TILMOUTH

NO.DCCRM-15-1891

R V ADRIAN HATCH

HIS HONOUR IN SENTENCING SAID:

Adrian Hatch, you are before the court for sentence following your plea of guilty to a charge of dishonestly performing public duties, which as you have heard carries maximum penalties of four years imprisonment and/or a fine of \$15,000.

This charge was downgraded from five more serious charges of abusing public office with the intention of securing a benefit, which attracts seven years imprisonment.

The circumstances surrounding the present charge relate to events occurring in July 2013 which are both complex and involved. They need not be repeated in any detail again, since they are the subject of a statement of agreed facts and of extensive submissions in open court yesterday.

The gist of the offence is that you were in a senior position at the time with Forestry SA, on the cusp of becoming its chief executive. You allowed the cost of a scanner upgrade that had gone unnoticed during the sale of the business, to be impermissibly offset against discounts for the price of wood and which had the effect of creating a credit in the sum of just under \$10,000.

It is not at all immediately apparent why you allowed this to happen. Your counsel put that it occurred in the context of far more pressing issues, which was no doubt true enough so far as it goes. Nevertheless, it is inexplicable why such a relatively minor and otherwise lawful transaction was not disclosed. To outward appearances, you foolishly and rather impulsively dealt with the matter in this way in the hope and expectation that it would go unnoticed. That proved to be far from the case. As a consequence a good deal of public time and resources were no doubt spent investigating the matter and it has served to damage the reputation and standing of Forestry SA.

Even so, it is very clear that you stood to gain nothing personally, either financially or otherwise and that your motivation was one of 'convenience', for want of any better appreciation of what was motivating you at the time.

You come before the court as a 58-year-old married man with four adult children who have done well. You are without blemish as far as the criminal law is concerned. The focus of your lifelong work over three decades was in the forestry industry. Your employment was initially terminated without cause, not for any wrongdoing, and these events have no doubt severely compromised the chances of obtaining employment in the industry again. The financial detriment for you and your family is a significant one.

In the statement of agreed facts, both the prosecution and the defence consider it appropriate to proceed by way of recording a conviction and imposing a fine rather than a sentence of imprisonment, suspended or otherwise. Whilst it is not appropriate to accept that stance uncritically, in the unusual circumstances of this case, that disposition accords with the proper application of the sentencing principles to the mitigating facts of the case.

There is nevertheless, a need to impose a penalty to mark the fact that this impropriety was serious enough in the context of performing public duties.

In the combined and distinctly unique circumstances, you are convicted and fined \$4,800, reduced from \$8,000, which is the maximum 40% available because of the early plea and because of the obvious regret you have expressed and the cooperation since given to those involved.

ADJOURNED 9.04 A.M.