

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *R. v. Palmer*,
2019 BCSC 342

Date: 20190222
Docket: X080612
Registry: New Westminster

Regina

v.

Grace Angela Palmer

Before: The Honourable Mr. Justice Blok

Oral Reasons for Sentence

Counsel for the Crown: S.A. Hulko

Counsel for the Accused: A. Sidhu

Place and Date of Hearing: New Westminster, B.C.
December 17-18, 2018 and
January 18, 2019

Place and Date of Judgment: New Westminster, B.C.
February 22, 2019

[1] **THE COURT:** Grace Angela Palmer is before the court for sentencing, having pleaded guilty on August 30, 2018 to one count of fraud over \$5,000, which is Count 1 in the indictment.

[2] There are five other counts in the indictment, which I expect the Crown will address at the conclusion of these sentencing reasons.

[3] Ms. Palmer was the bookkeeper and office administrator for a small manufacturing company, Vision Plastics Inc. (“Vision Plastics”). Among other things, she did the payroll and the accounts payable for the company. Over the course of nearly a dozen years, Ms. Palmer stole sums totalling about \$2.2 million from her employer.

I. Circumstances of the Offence

A. Evidence of Enzo Di Gennaro

[4] At the outset of this sentencing hearing, counsel informed me there was a dispute concerning the amount involved, and so the Crown intended to call evidence on the subject. The hearing was stood down for a time so that Crown and defence could speak to the Crown's witness, Enzo Di Gennaro, with a view to perhaps coming to an agreement on the issue. When we reconvened, counsel said that the issue of the amount involved had largely been resolved, but there remained a dispute about the effect the losses had had on the fortunes of the company. Mr. Di Gennaro was therefore called as a witness for the Crown and testified both in direct and in cross-examination.

[5] Mr. Di Gennaro is the chief financial officer of Richards Packaging Inc. a co-owner of Vision Plastics. As CFO, he is responsible for all financial aspects of the company, including financial reporting and controls, and tax matters.

[6] Vision Plastics is a Langley-based company that manufactures plastic bottles and containers. It has about 50 employees. The company was started by Tom Simmons, who remains a 50% owner. The other 50% is owned by Richards

Packaging, a public company. Vision Plastics sells all of its product to Richard Packaging.

[7] During the period of time in question (2001 to 2012), Mr. Di Gennaro's role with Vision Plastics was to receive Vision Plastics' financial information, supplied primarily by Ms. Palmer, to analyze the information and to then incorporate that information into the financial statements of Richard Packaging. If there were any questions arising from the financial information supplied, inquiries would be made, either to Mr. Simmons or to Ms. Palmer. Vision Plastics otherwise operated independently from Richard Packaging.

[8] During the period of time in question, Vision Plastics incurred losses on a continuing basis. These losses caused management to question the viability of sourcing containers from Vision Plastics and to consider sourcing product from their U.S. plant instead. Although they did continue with Vision Plastics, they had to increase their prices to mitigate the losses. These increased prices created the risk that customers would not accept the increase, but ultimately Richard Packaging was able to maintain most of its market share.

[9] Management was alerted to accounting discrepancies during the course of some union negotiations. Mr. Simmons and another manager noted discrepancies in the Vision Plastics payroll register. Vision Plastics used an outside payroll service, so they requested a copy of the payroll records of that company. The Crown later noted that Ms. Palmer was the only person at Vision Plastics who had an active user name and password with that payroll service. She was also the only employee who opted to be paid by cheque rather than by a direct deposit.

[10] These outside payroll records showed payments to Ms. Palmer that were well in excess of her salary, which was about \$52,000 per annum at that time. These payments were not shown in the internal payroll records.

[11] These discrepancies caused them to investigate further. Mr. Di Gennaro came out to look at the books. He looked at all of the payroll of Vision Plastics going

back to 2001 and compared the internal records to the records of the outside payroll service. He noted that the internal records had been altered. The majority of the differences were payroll cheques shown in the internal records as having been returned, but which had actually not been returned and were instead cashed and cleared. The records were altered by utilizing a legitimate payment entry from a prior period that was superimposed and photocopied overtop the internal entry. The result was that it would look like a normal entry. Mr. Di Gennaro said the two payroll registers were different to the extent of the cheques that had not in fact been returned.

[12] Ultimately, Mr. Di Gennaro took the accounting computer and the files of Vision Plastics back to his office in Toronto. The cheque signing authorities were changed, and the cheque processing was done out of Toronto from that point on.

[13] In addition, Mr. Di Gennaro found that Ms. Palmer had processed payments to parties connected with her through cheques mostly signed by Mr. Simmons, as he had given pre-signed cheques to Ms. Palmer to be used when he was not available. These cheques had been issued to parties that were not part of the plastics manufacturing business, including cheques to ICBC, a credit card company, a Pilates studio and other persons or institutions that Vision Plastics did not deal with.

[14] Mr. Di Gennaro created a report on the misappropriations, which identified four categories of unauthorized payments:

- a) declared payroll: these were unauthorized payments, made to Ms. Palmer, that showed up as payments to her in the payroll service provider's records;
- b) undeclared payroll: these were the cheques shown in the company register as having been withdrawn but were not actually withdrawn;
- c) other cheques issued to Ms. Palmer; and
- d) cheques written to other parties for the benefit of Ms. Palmer.

[15] As noted earlier, following discussions between counsel as well as some further analysis, Mr. Di Gennaro revised somewhat the total of the amounts taken, settling on a final figure of \$2,208,714.82. Of that total, about \$1.4 million was made up of payroll overpayments and the remainder consisted of unauthorized payments to Ms. Palmer or to persons or entities for the benefit of Ms. Palmer. The latter included payments made to her husband, her mother and her brother, or companies associated with them.

[16] Mr. Di Gennaro created an analysis of the losses by year. This analysis was presented in a table that shows: (1) the amounts taken in each year; (2) the amount of money that these losses would have represented after tax; (3) the actual net income or loss of the company in each year as reported in the financial statements; and (4) the “pro forma” net income, which takes the actual net income and adjusts it for the monies (after tax) that were diverted from the company.

[16] The company's financial statements showed losses in each year from 2005 to 2012. Adding back the amounts (net of tax) taken by Ms. Palmer changes those results such that some years show a profit.

[17] Mr. Di Gennaro was asked what happens to the net income of the company. He said usually a decision is made on investment and equipment, refurbishment or new moulds, or matters of that type, and there may also be a profit paid out to the partners, Mr. Simmons and Richard Packaging. For the years in question, however, their business decisions were based on the reported results, and with significant losses in every year they did not make any investments in equipment. Instead, they questioned whether Vision Plastics was really a going concern.

[18] In cross-examination, Mr. Di Gennaro acknowledged that Mr. Simmons himself got into trouble with Richard Packaging because it emerged from the examination of the accounting records that he had charged some personal items to the company and he had run a side business utilizing employees and other resources paid for by Vision Plastics. Mr. Simmons and Richard Packaging came to

an agreement on the sums involved in these matters, and Mr. Simmons repaid that sum to the company.

[19] Mr. Di Gennaro could not say what portion of any company losses was attributable to Mr. Simmons' unauthorized charges. He acknowledged that there were some losses attributable to Mr. Simmons within the figures.

B. Further Circumstances of the Offence

[20] In outlining the other circumstances of the offence, the Crown noted that Ms. Palmer was in a position of trust within the company and she took advantage of that trust. She ingratiated herself with Mr. Simmons and his family and attended social events with them.

[21] The Crown also noted that Mr. Simmons at one point noted some payroll entries were blank against her name and she put him off by saying "you are so good to me that I didn't take a paycheque". This apparently mollified Mr. Simmons because he trusted her so completely.

[22] The Crown said the total amount identified by Mr. Di Gennaro may not be the total amount actually taken by Ms. Palmer because the accounting records only go back so far. Ms. Palmer started her employment with the company in March 1996 and she was employed throughout until her employment was terminated on September 21, 2012. However, the records of the outside payroll service only go back to 2001 and bank records were only available from 2005.

[23] The Crown noted that after suspicions were raised, it appeared that Ms. Palmer was taking steps to clear out her office. Also, she engaged a document shredding company which brought in a container and a shredder and she shredded documents for the best part of two weeks before her employment was suspended. She was fired two weeks later.

[24] Subsequently, Mr. Simmons and Mr. Di Gennaro found payroll documents that were to have been shredded. These documents had been altered in the manner described earlier.

[25] At the point she left the company, Ms. Palmer apologized by text message to Mr. Simmons for what she had done.

[26] Ms. Palmer has made no restitution in the five years since her defalcations were discovered.

II. Victim Impact

[27] The Crown filed two victim impact statements, one from Mr. Di Gennaro and the other from Mr. Simmons.

[28] Mr. Di Gennaro said that, in addition to the monies stolen from Vision Plastics, Richard Packaging incurred substantial costs to investigate this matter and assist the RCMP. The company incurred expenses to fly him to Vancouver from Toronto on at least four occasions, the cost of which totalled about \$7,200. In addition, Richard Packaging spent about \$40,000 in staff time in various activities relating to Ms. Palmer's fraud.

[29] In his victim impact statement, Mr. Simmons wrote of his profound sense of betrayal and of the betrayal felt in particular by his eldest daughter, who has some vulnerabilities, which caused her distress over many months. Mr. Simmons' wife became overwrought for those same reasons. Mr. Simmons said he had “countless sleepless nights” and was stressed to the breaking point, such that he needed medication to cope. He also said the financial struggles of the company delayed his plans for retirement, and it meant another employee, the general manager of the company, had to take on an overwhelming workload.

III. Circumstances of the Offender

[30] The circumstances of the offender were outlined, primarily, by way of a report from a psychologist, Dr. Sundeep Thinda.

[31] Ms. Palmer is currently 45 years old. She was adopted as an infant. She lived in Abbotsford for large periods of her life. There were no notable events during her upbringing. She has been married for 24 years. She lives in Langley with her husband. They have no children. Her father is deceased and her mother has dementia. She reports she is the main caregiver for her mother, and that she is a “pivotal person” in the lives of her nieces and nephews.

[32] Ms. Palmer has a high school education. She has worked at administrative jobs throughout her working life. She is currently employed in a full-time position. She has no criminal history, no prior psychiatric history, and has never had any psychological treatment prior to these events.

[33] After she was terminated from Vision Plastics, she went to work for her brother's company. That company was not doing well and she fell into depression due to the shame of the outstanding criminal charges and the burden of overwork. In June 2013 she attempted suicide by drinking antifreeze. She was hospitalized for six days as a result.

[34] Dr. Thinda noted that, early in his treatment of Ms. Palmer, she expressed anger and resentment against her employer, blaming him for her situation. Through therapy, Ms. Palmer has gained increased acceptance and responsibility for her own actions and she has reduced her resentment against her former employer. Dr. Thinda also noted that Ms. Palmer has “reconnected with her spiritual side” and has been attending church on a regular basis.

[35] Dr. Thinda said that a lengthy jail sentence would cause Ms. Palmer to regress in terms of the gains and insights she has made.

[36] When invited to address the court, Ms. Palmer apologized to Mr. Simmons and to Vision Plastics. She said she deeply regrets her actions and the pain she has caused. She also said she has made changes to her life and is now “going down the path God would like me to”.

IV. Positions of Crown and Defence

A. Crown

[37] The Crown said that the primary sentencing principles in this case are general denunciation and deterrence. This, the Crown said, is established in many court decisions.

[38] The Crown noted a number of aggravating factors including: (1) Ms. Palmer was in a position of trust; (2) the magnitude, complexity, duration and degree of planning was significant; (3) the acts that Ms. Palmer took to conceal her fraudulent activity; and (4) she concealed or destroyed records relating to the fraud.

[39] The Crown said that although Ms. Palmer has no criminal record, this is not a mitigating factor in crimes of this nature. Case authorities note that it is this very attribute that facilitates the commission of the fraud.

[40] The Crown noted that the impact on the victim has been severe. She was a trusted member of management and she was the one person that upper managers called when questions arose over finances. The company lost money and business opportunities and the employees lost out on raises and bonuses.

[41] The Crown submits that a custodial sentence is necessary to address the principles of sentencing, particularly general deterrence and denunciation, and submits that an appropriate sentence would be at the high end of the applicable sentencing range, which is four to five years. The Crown also seeks a restitution order in the amount of approximately \$2.2 million.

[42] The Crown cited the following authorities in support of its sentencing submission: *R. v. Spiller*, [1969] 4 C.C.C. 211 (B.C.C.A.); *R. v. Hoy*, [1998] B.C.J. No. 1649 (C.A.); *R. v. Dunkers*, 2018 BCCA 363; *R. v. Dreger*, 2014 BCCA 508; *R. v. Gaugler*, 2011 BCPC 412; *R. v. Slobbe*, 2010 BCPC 60, aff'd 2011 BCCA 107; *R. v. Norris*, 2013 BCSC 1366; *R. v. MacKinnon* (16 February 2018), Chilliwack No. 65862-1 (B.C.P.C.); and *R. v. Marr*, 2008 BCPC 152.

B. Defence

[43] Defence counsel did not take issue with the sentencing range identified by the Crown, although counsel identified that range as being between three and five years. Defence counsel also agreed that the Crown had accurately set out the principles to be applied and, in particular, that the primary sentencing factors here are general denunciation and deterrence. Defence counsel urged this Court to impose a four-year sentence in this case.

[44] Defence counsel noted there were no vulnerable victims, such as elderly people or non-profit organizations, as there were in other cases. Here, the fallout is to a corporate entity, which places the offending at the lower end of the scale.

[45] Counsel disagreed with the Crown's submission that the weight to be accorded to Ms. Palmer's guilty plea should be substantially reduced because she was "inescapably caught". Counsel submitted that Ms. Palmer's guilty plea was still a mitigating factor although he conceded that its weight might be reduced somewhat given the circumstances.

[46] Counsel reviewed Dr. Thinda's report and noted that Ms. Palmer has had a difficult time, including a suicide attempt made shortly after her employment was terminated. She has suffered physically in the sense of having lost weight, and she suffers from anxiety. She has used avoidance as a coping strategy. Counsel acknowledged that Ms. Palmer's personal circumstances are less important in a case like this, but noted that her father has passed away and her mother has dementia, and she is a caregiver for her mother. Counsel noted that Ms. Palmer has maintained employment since she was fired from Vision Plastics in 2012. Finally, counsel noted that Dr. Thinda concludes she is "redeemable".

[47] Defence counsel acknowledged Mr. Simmons was a "father figure" to Ms. Palmer and that her misappropriations amounted to a considerable betrayal of his trust, but counsel emphasized that Ms. Palmer did not purposely ingratiate herself to him in order to further her fraudulent activities.

[48] Defence counsel was critical of Mr. Simmons' victim impact statement insofar as Mr. Simmons had said he felt angry and betrayed but he failed to address his own behaviour. Although Mr. Simmons discussed the negative effect of Ms. Palmer's offending, his statement failed to reflect any insight about his own involvement in hampering the financial fortunes of Vision Plastics.

[49] Counsel cited the following cases: *R. v. Andersen*, 2018 BCSC 2062; *R. v. Arabsky*, 2017 BCSC 1827; *R. v. Atwal*, 2016 ONSC 3668; and *R. v. P.T.*, 2005 BCPC 55. Counsel emphasized, in particular, the cases of *Arabsky* and *Andersen*. *Arabsky*, in which a 36-month sentence was imposed, involved facts similar to those in the present case. In *Anderson*, where a CSO (that is, a conditional sentence order) of two years less a day was imposed, the victim was not entirely innocent, which counsel said is similar to the present case because Mr. Simmons was “doing his own fraud”.

[50] Counsel noted that in *Arabsky* the offender was able to make partial restitution, but Ms. Palmer is not able to make any restitution in this case. Counsel argued that an inability to effect restitution should not be a differentiating factor in sentencing.

[51] In answer to a question from the bench, counsel said it is not clear where all the money went in this case. Some went to support a failing business run by her brother and a lot went into personal purchases. It was not spent on such things as addictions or gambling. The upshot, however, is that all the money is gone.

V. Discussion

A. Statutory Provisions

[52] The purpose and principles of sentencing are set out in the *Criminal Code*, particularly ss. 718, 718.1, and 718.2. I am not going to read those in full, but I have, of course, taken them all into account.

[53] Section 718 of the *Criminal Code* says:

The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct ...;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community;
and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community.

[54] Section 718.1 states that:

A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[55] Finally, s. 718.2 set out a number of further principles including the principle that a sentence should be increased or reduced to reflect aggravating or mitigating circumstances; a sentence should be similar to sentences imposed on similar offenders for similar offences; and, where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh.

[56] The other statutory provision that I will mention is the maximum sentence. The maximum sentence in 2001, when Ms. Palmer's misappropriations began, was 10 years in jail. This was increased to 14 years in 2005.

B. Aggravating and Mitigating Circumstances

[57] As I have already mentioned, the *Criminal Code* says a sentence must be increased or reduced to reflect aggravating and mitigating circumstances.

[58] There is a section in the *Criminal Code* – s. 380.1 – that specifically addresses aggravating circumstances in fraud cases. However, as Crown concedes, that provision does not apply here because it first came into force in 2004, after Ms. Palmer's fraudulent offending had already commenced. The Crown

says, and I agree, that most of the relevant aggravating circumstances set out in that section were and are aggravating circumstances at common law, in any event.

[59] I find the aggravating circumstances to be as follows:

- a) the cumulative amount of the misappropriations. This is an enormous sum of money, and it is among the highest amounts reflected in the case authorities;
- b) the extended duration of the offending, which occurred over 12 years, the longest timespan of offending of any of the fraud cases cited. To this aggravating circumstance I would also include the number of fraudulent transactions carried out and the deliberate and at least moderately complex steps needed both to carry them out and to conceal them;
- c) Ms. Palmer was in a position of trust with Vision Plastics and its on-site principal, Mr. Simmons. Moreover, Ms. Palmer was more than a mere trusted employee as she had a close personal relationship with Mr. Simmons and his family; and
- d) Ms. Palmer took steps to destroy records once it became apparent that her misappropriations would likely be discovered.

[60] The mitigating facts are Ms. Palmer's guilty plea and her lack of a criminal record. These matters have limited weight, however. Although a guilty plea is usually a substantial mitigating factor, the weight to be accorded to it may not be significant if it was inevitable the offender would be caught: *R. v. Spiller*, [1969] 4 C.C.C. 211 (B.C.C.A.). Similarly, the lack of a criminal record or evidence of good character are not accorded substantial weight in these sorts of cases because these are the characteristics that have allowed the offender to carry out the crime: *Spiller*, at paras. 11 to 13. The Court of Appeal in *Spiller* added that previous good character is not a mitigating factor where the offence is “a series of acts, planned and carried out over a long period” (at para. 11). For those reasons, while there are

the two mitigating factors of Ms. Palmer's guilty plea and a lack of criminal record, these carry limited weight.

C. Case Authorities

[61] I now turn to the case authorities cited by counsel and will provide a brief summary of them to place them in context.

R. v. Spiller – a bank teller stole sums totalling \$835,000 from a bank in methods that involved “an extremely high degree of skill and competency”. I would note that this would have been an enormous sum in the mid-1960s. A three-year jail sentence was increased by the Court of Appeal to six years.

R. v. Dunkers – a bookkeeper for a non-profit organisation stole \$200,000 over a 2-year period, which forced the organisation to fold. Crown and defence both argued for a four-year jail sentence, but the sentencing judge imposed five years. The Court of Appeal upheld the five-year sentence.

R. v. Dreger – a bookkeeper for a small family company took a total of \$245,000 over seven years. A five-year sentence imposed by the sentencing court was reduced to four years by the Court of Appeal.

R. v. Gaugler – the executive assistant for a wealthy family stole \$2.5 million over a ten-year period. She was a trusted employee of the family. Substantial restitution was made (\$1.3 million), but she demonstrated limited insight into her behaviour. The four year sentence imposed was upheld on appeal.

R. v. Slobbe – a bookkeeper for a family-owned senior citizens’ facility misappropriated \$712,000 from the business over a three-year period. The owners were elderly. The offender also defrauded other elderly victims of amounts ranging from \$300 to \$19,000, and some of those frauds were committed after being charged with earlier frauds. The offender had a long

and related criminal record. A total sentence of eight years was imposed for the fraud offences.

R. v. Norris – a bookkeeper for a small company (35 employees) stole \$2.9 million over five years, bringing the company to the edge of bankruptcy. The offender was sentenced to 4.5 years in jail.

R. v. MacKinnon – \$2.3 million was taken over an eight-year period by an IT manager of an Indian band. The sentence imposed was 4.5 years in jail.

R. v. Marr – a business manager of a family-run company took \$913,000 over five years. The misappropriations resulted in employee layoffs and constraints on employee bonuses and raises. Although the offender claimed her offending was caused by a cocaine addiction, the sentencing judge concluded that even if cocaine use was part of the picture, the offender's motivation was essentially one of greed. A four-year jail sentence was imposed.

R. v. Anderson – the offender allowed a company he owned to accept the transfer of \$2 million in funds under an agreement which prohibited him from removing the funds from the account. Contrary to that prohibition, he transferred the money to a Spanish company in the expectation that he would receive many times that amount in return, which turned out to be a scam. The offender repaid \$450,000. The sentencing judge noted that the offender did not benefit from the fraud. A two-year conditional sentence order imposed.

R. v. Arabsky – the general manager of a company took \$1.9 million over a seven-month period. He repaid \$400,000. A three-year sentence was imposed.

R. v. Atwal – an external accountant of a large corporation forged cheques totalling about \$1 million over an eight-week period, although efforts to stop

payment on some of the cheques reduced the actual loss to \$645,000. A three-year sentence was imposed.

R. v. P.T. – a bank manager misappropriated \$1.57 million over 10 years by creating fictitious loans to pay for stock market debts. The offender had a number of tragedies and hardships during her life. A three-year sentence was imposed.

[62] From these cases I conclude that the broader range of sentence for these types of cases is from three to six years in jail. I am satisfied that the narrower range, that is to say the range reflected in the cases most similar to the present, is from four to five years in jail.

D. Analysis

[63] The authorities are clear in emphasizing that general deterrence and denunciation are the primary sentencing principles in cases such as this; *R. v. Hoy*, [1998] B.C.J. No. 1649 (C.A.).

[64] The detrimental effect on the victim may also be a factor in sentencing and it may rise to an aggravating factor: *Dreger* at para. 46. Here, although Ms. Palmer's defalcations did not have the severe effect on Vision Plastics that the offending had on the victims in *Dreger*, *Dunkers*, and *Norris*, nonetheless it put the ongoing viability of the company into question and it had adverse effects on individuals associated with the company.

[65] It is also not clear to me that Ms. Palmer is genuinely remorseful for her criminal actions. According to Dr. Thinda, her initial reaction was of the "blame the victim" type, and although therapy seems to have moved her away from that mindset at least somewhat, Dr. Thinda's report suggests she still has limited insight into her offending behaviour. I digress for a moment to quote from excerpts from Dr. Thinda's report at page 3:

In therapy, Ms. Palmer initially harboured resentment towards her boss and alleged that he was aware of the money she was drawing and allowed it at various times over the course of her employment.

...

We discussed the 'white collar' nature of her crime and acknowledging the impact on others despite the fact that she did not feel she was harming anyone at the time. Initially, it was felt she harboured anger and resentment towards her boss which I pointed out was a defense mechanism preventing her from being open and honest to herself about her role in the crime. We also discussed that by using money to help out family and friends was a way she was untruthful to herself, and thus minimized the impact of the crime she was committing. It is felt that during therapy she started understanding her psychological processes and the seriousness and impact of her actions. Therapy has been beneficial and challenging her distorted thought processes; for example, increased acceptance and responsibility for her own actions has diminished the resentment she held against her boss.

[66] Perhaps related to this point is the absence of any attempt at restitution or any reasonable explanation about where the monies went, why they are not recoverable, or why family members who benefitted from Ms. Palmer's fraud are not accounting for the ill-gotten gains they received. In fact, it took a question from the bench to get any information at all about those matters.

[67] What stands out in this case is the magnitude of the sums taken, the sheer volume of fraudulent transactions, and the extraordinary length of time over which Ms. Palmer misappropriated funds belonging to her employer. And all of that motivated by greed.

[68] The sentencing cases that are closest on point are *Gaugler*, four years; *Norris*, four-and-a-half years; *MacKinnon*, four-and-a-half years; *Marr*, four years; and *Arabsky*, three years. However, in *Arabsky* and *Gaugler*, there were substantial amounts repaid, and also in *Arabsky*, the offences took place over months, not years. In *Marr*, the offending took place over five years, less than half the time involved in the present case. For these reasons, I conclude that the appropriate sentence in this case ought to be somewhat higher than the sentences imposed in those cases.

VI. Imposition of Sentence

[69] Ms. Palmer, if you would please stand.

[70] For the offence to which you have pleaded guilty, I sentence you to four-and-a-half years in jail.

[71] There will also be a restitution order in the amount of \$2,208,714.82 pursuant to s. 738 of the *Criminal Code*.

[72] You may now be seated.

[73] The Crown also sought a DNA order. Fraud is a secondary designated offence. However, the circumstances of this case and of this offender are such that I am not satisfied that a DNA order would in any way advance the protection of society or be in any way required to aid future detection, arrest and conviction. For those reasons, I decline to make a DNA order.

[74] Those conclude my sentencing reasons.

[75] Crown, do you wish to say anything about the other counts --

[76] MS. HULKO: Yes, My Lord.

[77] THE COURT: -- reflected in the indictment?

[78] MS. HULKO: With respect to Counts 2 through 6 on the indictment, Crown directs a stay of proceedings.

“Blok J.”