

Dishonestly made false representations which you knew to be untrue to representatives of the Little Big Hotel Group Ltd, intending thereby to make financial gain contrary to Sections 1 & 2 of the Fraud (Bailiwick of Guernsey) Law, 2009.

[2022]GRC081

**ROYAL COURT
FULL COURT**

4th October, 2022

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Stephen Murray Jones OBE, David James Mortimer, Joanne Marie Wyatt,
David John Robilliard, Stuart Michael Crisp, Marilyn Jasmine King, Felicity Jane
Quevâtre-Malcic, Heather Reed, Simon Ernest Bodkin,**

THE LAW OFFICERS OF THE CROWN

- v -

ROSS STUART GLEDHILL

Crown Advocate W Giles appeared for the Crown

Advocate C J Green appeared for the Defendant

JUDGE OF THE ROYAL COURT:

Background

Mr Gledhill, you have pleaded guilty to a single count on one Indictment, namely that, between the 1st May 2020 and the 19th July 2020, you dishonestly made false representations which you knew to be untrue to representatives of the Little Big Hotel Group Ltd, (“the Group”), intending thereby to make financial gain for yourself contrary to Sections 1 & 2 of the Fraud (Bailiwick of Guernsey) Law, 2009, as amended. The maximum sentence is one of 12 years imprisonment or an unlimited fine or both.

The facts in relation to the Indictment are that you were the owner of 65% of the shareholding in White Rock Brewery Ltd, with RAS Group Ltd (“RAS”) being the owner of the remaining 35%. White Rock Brewery Ltd, (“the Company”), founded White Rock Brewery in 2013 to produce finely crafted beers and this subsequently expanded into distilling gin.

Financial pressures led you to enter into negotiations with the Group for the sale of initially of 50% of the company for £80,000, and then to the transfer of the remaining 50% of the shares as security. Within those negotiations you made false representations to the Group, first, by purporting to own 100% of the company when you only owned a 65% shareholding, secondly, by asserting that all the equipment belonged to the Company whereas the brewing equipment was owned, although subject to some dispute, by Mr Chandler, and the gin distilling equipment was owned by K. Char the sole director of RAS and thirdly, by declaring there were only two company loans totalling £8,152 whereas there was a number of other debts, as set out by the Prosecution today.

In June 2020, Advocates were instructed to draft a share purchase agreement for the first 50% of the shares based on the representations. As part of the same agreement you initially received £60,000 from

the Group, for that 50% shareholding. You used those funds to pay off a personal loan to Cherry Godfrey.

On the 3rd July, 2020 following the discovery by Mr Walker of the Group, of the Sarnia Mutual loan, the deal was restructured, so that you received the benefit of a further £25,000 by virtue of the Group settling the Sarnia Mutual loan, in consideration for which you purported to transfer the remaining 50% shares in the company as security, whereas you only owned a further 15% of the shares.

On the 20th July, 2020 you instructed an employee to tidy up the Quickbook account entries. The deletion of entries resulted in a materially inaccurate picture of the company's finances and the material over-statement of its value, information you provided to the Group. Your false representations have caused loss to the Group which paid out £85,000, although you have repaid £8,500 making the loss as agreed by the parties a net £76,500. We have not been asked to consider any other specific losses to anyone else.

You had to leave Guernsey suddenly on the 24th July, 2020 when your wife was rushed to Portsmouth Hospital. Once a true picture of the company's finances emerged it was advised that the Company be placed into voluntary liquidation. Following arrest at interview you answered questions but you sought to explain what had happened rather than accepting any responsibility.

You are an English man of 33 years of age and are married to a local, with one child and another on the way. You hold a degree in bio-medical science and have a financially based qualification. You have lived in Guernsey since 2011; you are currently working as an Operations Manager.

You have no previous convictions and you have been on conditional bail throughout the proceedings.

Sentencing Considerations

There are no sentencing guidelines in relation to Fraud offences. The English guidelines are not binding but are useful in terms of how to approach sentencing looking at aggravating and mitigating factors. They are of very limited use in terms of the starting point with the Guernsey maximum sentence being higher than the equivalent offence in England, and moreover we consider that fraud must be looked at in the context of our small community and the damage to it by such an offending.

The Court is satisfied that the custody threshold in respect of your offending has been passed. The starting point before aggravating and mitigating factors of the offence will be 24 months. There are aggravating and mitigating factors; your offending was motivated by personal gain there is a mitigating factor in that it lacks sophistication but it was planned; you were acting alone. We set the revised starting point before consideration of plea and personal mitigation at 30 months.

Plea

The Court must first consider the impact of your guilty pleas on sentence. While you were charged on the 21st July, 2021 you pleaded guilty to the revised Indictment containing one count on the 25th August, 2022, which is late in the proceedings although not on the door of the Court. Your Advocate explained the delay while various enquiries were being pursued but failed to mention the enormous amount of time in organising your trial, involving many people looking at their diaries for conflict checks and availability.

In the Probation report it indicates that you do not accept any wrongdoing and that the guilty plea was tactical. We are assured by your Advocate that the guilty plea is to be treated as "proper" guilty plea, with acceptance of the elements of the offence in the Indictment. All that said, your matter was set for a long trial, some 15 days in September and the Court gives you credit for sparing it and the public purse such a long trial. In all the circumstances the discount will be 20%.

Personal Mitigation

The Court has carefully considered the informative Probation report prepared in respect of you, though it made difficult reading. We have also listened to your Advocate's submissions; we have read the numerous references and letters from the family and others which have been provided. You are described in glowing terms, as a loving husband, father and family man and a good kind, loyal and honest, trustworthy person, with strong moral values. None of those who write in support of you truly acknowledge your dishonest conduct, which is not that surprising as you do not acknowledge it yourself. You expressed no remorse until today and even then, you have not expressed sorrow for your conduct, but as to how things have turned out. The mitigation which you instructed your Advocate to put forward continued to downplay responsibility and culpability. You are a clever, well-educated man and you have a strong work ethic and a supportive family. Your job is said to remain open to you if you receive a non-custodial sentence but otherwise it will be lost, with significant financial impact on your family and, you say, placing the family home at risk. Of course, your previous good character is a significant piece of mitigation and we have taken that fully into account. You are not assessed as needing particular intervention, or supervision. You have one child, aged approximately 2 years old and another child on the way during May, 2023.

In accordance with, *Bourgaize and the Law Officers of the Crown, 2014, Judgement 49*, the Court is required specifically to consider the Article 8 rights of the minor children and others affected by you being imprisoned, as well as yourself and the usual three questions have been carefully considered by this Court:

1. Is there any interference with family life; any sentence of immediate custody constitutes that.
2. Is it in accordance with Law and in pursuit of a legitimate aim within Article 8.2.
3. Is the interference proportionate, given the balance between the various factors.

Parents who commit serious offences face Prison like everyone else, the issue for this Court is always whether the imposition of an immediate custodial sentence would be a proportionate interference with family life, given the balance between the various factors.

The Court has been provided with information regarding the arrangements for the care of your child and the arrangements for the care of the children, should you receive an immediate custodial sentence. You play an active role in the care of your daughter; your wife works part time, so she is the main carer and you are helped, with some support from her parents; you also use nursery. The proposed arrangements in the event of you receiving an immediate custodial sentence are that your wife would have to manage the care of your daughter and the new baby, when that baby comes, with the resources which are available to her. The Court has to balance the impact of that against the legitimate aims of sentencing, in what is a serious fraud case.

You are assessed as having a very low likelihood of reoffending based on your background and the one-off nature of the circumstances in which you offended.

The Court was minded to impose an immediate custodial sentence, but in view of your previous good character and the mitigation and the impact of an immediate custodial sentence, the Court has been able to consider an alternative to immediate custody, here in the form of Community Service.

Sentence

Mr Gledhill you have acted dishonestly for your own gain and without a thought for the loss to others. Even now you cannot take responsibility, or truly show remorse. Whilst you have much familial and other support, once these people have heard the truth of your dishonesty they will feel let down. The community is let down by dishonest business dealings, such as yours. Today you have come within a whisker of going to prison; you are not but please be in no doubt as to how any Court would look at any breach or reoffending.

Taking into account all of the above and applying the appropriate discounts, the sentence will be one of 240 hours' Community Service, as a direct alternative to 18 months custody.

We note that you have signed a form stating that you understand the nature and effect of a Community Service Order, the power of the Court to review the Order and the consequences that may follow if you fail to comply with any of the requirements of the Order, or if you are convicted of a further offence whilst the Order is in force. The Court is satisfied that provision can be made for you to perform work, and that you are a suitable person to perform it. Please note, that if you fail to complete even one hour without a medical certificate or commit any other offence, you will be brought back before this Court and you will face going to Prison.

I turn now to the issue of compensation, the Prosecution has invited the Court to consider making a compensation order in favour of the Group, in the sum of £76,500 and we have detailed representations from both counsel. The Court considers that it is appropriate for a Compensation Order to be made and you yourself have acknowledged that compensation is appropriate, so the Order will be in the sum of £76,500 in favour of the Group. The Court makes no conditions as to instalments or time to pay.

Mr Gledhill, in summary, the sentence is one of 240 hours' Community Service, as a direct alternative to 18 months in custody, together with a Compensation Order in the sum of £76,500, in favour of the Group.

Catherine Maureen Fooks
Judge of the Royal Court

4th October, 2022