

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 185 OF 2017S

STATE

VS

**ROSHEEN PRAVEENA RAJ
RINE MUNIVAI SORBY**

**Counsels : Ms. J. Prasad and Ms. M. Konrote for State
Ms. L. Ratidara for Accused No. 1
Ms. N. Mishra for Accused No. 2**

**Hearings : 27, 28, 29, 30 August, 3, 4, 5, 6, 10, 11, 12 and 13 September, 2018
Summing Up : 17 September, 2018**

SUMMING UP

A. ROLE OF JUDGE AND ASSESSORS

1. Madam and Gentlemen Assessors, it is my duty to sum up to you. In doing so, I will direct you on matters of law, which you must accept and act upon. On matters of fact however, what evidence to accept and what evidence to reject, these are matters entirely for you to decide for yourselves. So if I express my opinion on the facts of the case, or if I appear to do so, then it is entirely a matter for you whether you accept what I say or form your own opinions. You are the judges of fact.
2. State and Defence Counsels have made submissions to you, about how you should find the facts of this case. That is in accordance with their duties as State and Defence Counsels in this case. Their submissions were designed to assist you, as the judges of fact. However, you are not bound

by what they said. It is you who are the representatives of the community at this trial, and it is you who must decide what happened in this case, and which version of the evidence is reliable.

3. You will not be asked to give reasons for your opinions, but merely your opinions themselves and they need not be unanimous. Your opinions are not binding on me, but I will give them the greatest weight, when I deliver my judgment.

B. THE BURDEN AND STANDARD OF PROOF

4. As a matter of law, the onus or burden of proof rest on the prosecution throughout the trial, and it never shifts to the accuseds. There is no obligation on the accuseds to prove their innocence. Under our system of criminal justice, an accused person is presumed to be innocent until she is proved guilty.
5. The standard of proof in a criminal trial is one of proof beyond reasonable doubt. This means that you must be satisfied, so that you are sure of the accuseds' guilt, before you can express an opinion that they are guilty. If you have any reasonable doubt so that you are not sure about their guilt, then you must express an opinion, that they are not guilty.
6. Your decision must be based exclusively upon the evidence which you have heard in this court, and upon nothing else. You must disregard anything you might have heard about this case outside of this courtroom. You must decide the facts without prejudice or sympathy, to either the accuseds or the victims. Your duty is to find the facts based on the evidence, and to apply the law to those facts, without fear, favour or ill will.

C. THE INFORMATION

7. You have a copy of the information with you, and I will now read the same to you:
"... [read from the information]...."

D. THE MAIN ISSUES

8. In this case, as assessors and judges of fact, each of you will have to answer the following questions:

- (i) On count no. 1, did Accused No. 1, between 1 June 2006 and 16 February 2011, at Suva in the Central Division, engage directly or indirectly in transactions involving Pacific Theological College (PTC) Westpac Bank Account 71127300, as a finance officer of Pacific Theological Collage responsible for preparing documents in relation to payout of wages of Pacific Theological College staff, paid herself in excess of her normal salary, falsifying documents and obtaining \$96,576.86, that were proceeds of crime and she knew or ought reasonably to have known that the same were derived from some form of unlawful activity?
- (ii) On count no. 2, did Accused No. 2, between 1 June 2006 and 16 February 2011, at Suva in the Central Division, engage directly or indirectly in transactions involving Westpac Bank Account 71127300, as a finance officer of Pacific Theological College (PTC), responsible for preparing documents in relation to payment of wages of Pacific Theological College Staff, paid herself in excess of her normal salary and obtained \$73,099.95, that were proceeds of crime and she knew or ought reasonably to have known that the same were derived from some form of unlawful activity?
- (iii) On count no. 3, did Accused No. 1 and 2, between 1 March 2010 and 30 November 2012, at Suva in the Central Division, engage directly or indirectly in transactions involving Westpac Bank Account 71127300 in relation to cheques of Pacific Theological College (PTC) payable to various body corporates (i.e. Fiji National Provident Fund, Fiji Electricity Authority, Telecom, Rups Investment and Mechanical Supplies), which had the payees altered to fictitious names and en-cashed the same and obtained \$412, 567.61, that were proceeds of crime which they knew or ought reasonably to have known that the same were derived from some form of unlawful activity?

E. THE OFFENCE AND ITS ELEMENTS

- 9. Count no. 1, 2 and 3 involved the offence of “money laundering”, contrary to section 69(2)(a) and (3)(a) of the Proceeds of Crimes Act 1997. It was alleged that individually and collectively, both accuseds laundered a total of \$582,244.42 of Pacific Theological College money, between 1 June 2006 and 30 November 2012, at Suva in the Central Division, while being employed by the college, as their finance officers, responsible for paying out the college’s bills.

10. For an accused to be found guilty of "money laundering", the prosecution must prove beyond reasonable doubt, the following elements:
- (i) the accused
 - (ii) engages
 - (iii) directly or indirectly
 - (iv) in a transaction
 - (v) that involves money
 - (vi) that is, proceeds of crime
 - (vii) and the accused
 - (viii) knows or ought reasonably to know
 - (ix) that the money
 - (x) is derived
 - (xi) directly or indirectly
 - (xii) from some form of unlawful activity.
11. In order to understand the terms used in describing the elements of "Money Laundering" as described above, you must consider them within the context of this case. Here we are dealing with a complainant, which is a non-profit educational organization, that is, Pacific Theological College (PTC). Pacific Theological College is a donor funded organization. It is headed by a principal, and Pacific Theological College employs people to perform its task. In paying its employees, Pacific Theological College does the same through its Finance Section, which is headed by a Director and three finance officers. At the material time, both accuseds were Pacific Theological College finance officers. The finance officers prepares cheques for Pacific Theological College and pays out Pacific Theological College's bills, that is, the wages and Pacific Theological College's bills.
12. The phrase "engages directly or indirectly in a transaction that involves money" meant the accuseds must be involved in an activity that concerns money. The accused's involvement can either be directly or indirectly. The money involved in the activity or transaction must be proceeds of crime. It therefore follows that the activity or transaction the accuseds directly or indirectly involved themselves in must be a crime, or alternatively, an unlawful activity. The word "engages" could also mean "receiving and disposing of any money". It must also be proven by the prosecution

beyond reasonable doubt that the accuseds knew, or ought reasonably to have known that, the money, involved in the activity or transaction, was derived directly or indirectly from some form of unlawful activity.

13. In the context of this case, both accuseds are responsible for preparing the documents, the payroll details, the payments vouchers, the cheques and the instructions to the bank for the payment of wages and Pacific Theological College bills. They are in fact engaged directly or indirectly with Pacific Theological College's financial transactions that involved Pacific Theological College money. If they falsify the financial documents and Pacific Theological College cheques to overpay themselves, then the money received are proceeds of crime, and they must be shown to have known or ought to reasonably know that the overpayments were derived directly or indirectly from some form of unlawful activity. Money laundering is basically dealing with tainted money, which are proceeds of crime, and they knew or ought to have reasonably known that the money was derived from some form of unlawful activity.
14. There are three counts in the information. Please consider them separately and come to a considered separate decision on each of the count, in the light of the total evidence presented at the trial.

F. THE PROSECUTION'S CASE

15. The prosecution's case were as follows. The complainant in this matter was Pacific Theological College (PTC). It was a donor funded nonprofit educational organization. It was based in Suva. Pacific Theological College maintains a Westpac Bank Account No. 71127300 at the Suva Main Branch. In performing its functions, Pacific Theological College does employ a number of people. It also pays for goods and services supplied to the college by outside body corporates.
16. In attending to its financial obligations, Pacific Theological College has a Finance Section. The section employs both accuseds as its finance officers. They are supervised by the Director of Finance, Mr. Nilesh Sharma (PW2). Accused No. 1 was responsible for all Account Payable, while Accused no. 2 was responsible for all Accounts Receivable. For the payment of wages and bills, the procedure was somewhat similar. For the weekly wages, Accused no. 1 prepares the weekly

payroll spreadsheet, the payment voucher, the cheques and the instruction to the bank for the payment of wages into each employee's bank accounts. For Pacific Theological College's bills, Accused no. 1 prepares the payment voucher, the cheques and ensures payment to the outside body corporate. Payment of the above bills must be approved by the Director of finance and the cheques are signed by the principal (PW1) and other cheque signatory. The above system operates on the basis of trust between Pacific Theological College officers.

17. It was the prosecution's contention that both accuseds, at the material times, tampered with Pacific Theological College's financial documents and cheques, and made unlawful overpayments to themselves, as alleged in counts no 1, 2 and 3 of the information. According to the prosecution, Accused no. 1 tampered with Pacific Theological College's weekly wages payment vouchers, instructions to the Bank and cheques, and overpaid themselves, as alleged in counts no. 1 and 2 of the information. According to the prosecution, both accuseds, because of their control over Pacific Theological College's finance section and finance documents, managed to manipulate the Director of Finance and the cheque signatories, into giving themselves unauthorized overpayment. As to the payment of Pacific Theological College's bills to outside corporate bodies, the prosecution alleged that both accuseds, aided and abetted each other in tampering with Pacific Theological College cheques, to make payments to themselves, as alleged in count no. 3 of the information.
18. Because of the above, the prosecution is asking you, as assessors and judges of fact, to find both accuseds guilty as charged on all counts. That was the case for the prosecution.

G. THE ACCUSED'S' CASES

19. On 28 August 2018, the information was put to both accuseds, in the presence of their counsels. Both accuseds pleaded not guilty to all the counts. In other words, both accuseds denied the allegations against them. When a prima facie case was found against each of them, at the end of the prosecution's case, wherein they were called upon to make a defence, accused no. 1 choose to give sworn evidence and choose not to call any witness. Accused no., 2 choose to remain silent, and choose not to call any witness. The above stance was well within the accuseds' rights.

20. As for accused no 1, her case was very simple. Yes, she admitted on oath that, at the material time, she was employed as Pacific Theological College's finance officer. She admitted, she was responsible for Pacific Theological College's Accounts Payable. She admitted she prepared the weekly payroll spreadsheet, the payments vouchers, the instructions to the bank and the payment of Pacific Theological College's employees' wages into their bank accounts. She admitted she was responsible for paying out Pacific Theological College bills to outside corporates by filling in the payment vouchers and cheques. However, she denied tampering with Pacific Theological College financial documents and cheques to make overpayments to her as alleged in count no. 1 and 3. She said, any overpayment to her as alleged in count no. 1 were for overtime and maternity leave. As to the allegation in count no. 3, she said she did not alter the cheques and did not en-cash the same.
21. As to Accused no. 2, she choose to remain silent. Remember what I said in paragraph 4 hereof as to the onus or burden of proof resting on the prosecution throughout the trial, and it never shifts to the accuseds, at any stage of the trial. Accused no. 2 is well within her right to do the above. The burden of proof is not on her. It is on the prosecution. The prosecution must prove her guilt beyond reasonable doubt. She is entitled to remain silent, and demand that the prosecution prove her guilt beyond reasonable doubt. Nothing negative whatsoever should be imputed to Accused No. 2 by you, for her choosing to exercise her right to remain silent. The above therefore are the summaries of the accuseds' case for you.

H. ANALYSIS OF THE EVIDENCE

(a) Introduction:

22. In analyzing the evidence, please bear in mind the directions I gave you in paragraphs 4, 5 and 6 hereof on the burden and standard of proof. In the acceptance and/or rejection of the evidence presented at the trial and your role as assessors and judges of fact, please bear in mind the directions I gave you in paragraphs 1, 2 and 3 hereof. In analyzing the evidence, we will first discuss the Agreed Facts, then the Prosecution Exhibits and their significance, then the state's case against each of the accused; then the accuseds' cases, and finally, the need to consider all the evidence.

(b) The Agreed Facts:

23. For Accused no. 1, the parties submitted an "Agreed Facts", dated 25 May 2018. A copy of the same is with you. There were 9 paragraphs of "Agreed Facts". As for Accused No. 2, the parties submitted an "Agreed Facts", dated 31 July 2018. A copy of the same is with you. There were 11 paragraphs of "Agreed Facts". Because the parties are not disputing the above "Agreed Facts", you may take it that the prosecution had proven those facts beyond a reasonable doubt, and you may treat the same as established facts.
24. The significance of the above "Agreed Facts" was that both Accuseds did not dispute they were "Finance Officers" working for the Pacific Theological College's Finance office at the material time. They also confirm that Mr. Nilesh Avinesh Sharma (PW2) was the College's Director of Finance and Administration, at the material time. The procedure for processing cheques for wages and bills were not disputed by the parties. The admissibility of the documents tendered in the trial were not disputed.
25. During the trial, the evidence-in-chief of Rev Doctor Feleterika Nokise (PW1) was tendered by consent, as Prosecution Exhibit no. 3(A). It was dated 29 August 2018. Then on 4 September 2018, the parties tendered by consent Bereta Vuli's (PW3) evidence-in-chief. You must take these evidence into account in your deliberation. The above evidence were tendered by consent to save court's times on non-contentious facts.

(c) The Prosecution's Exhibits:

26. Given the nature of this case, the majority of the evidence were documentary evidence. The originals of these documents were tendered in evidence, and is summarized as follows

(i)	<i>Procedure for Requisition of Salary cheques</i>	-	<i>Prosecution Exhibit No. 1</i>
(ii)	<i>Procedure for Requisition of cheques for bills</i>	-	<i>Prosecution Exhibit No. 2</i>
(iii)	<i>Doctor Feleterika Nokise (PW1)'s evidence</i>	-	<i>Prosecution Exhibit No. 3(A)</i>
(iv)	<i>File 3 : Agreed Documents (FEA and IRD)</i>	-	<i>Prosecution Exhibit No. 3(B)</i>
(v)	<i>File 4 : Agreed Documents (FNPF)</i>	-	<i>Prosecution Exhibit No. 3(c)</i>
(vi)	<i>File 5 : Agreed Documents (cash cheques and other suppliers</i>		

	-	Prosecution Exhibit No. 3(D)
(vii) File 1 : Agreed Documents (salaries)	-	Prosecution Exhibit No. 4
(viii) File 2 : Agreed Documents (Salaries)	-	Prosecution Exhibit No. 5
(ix) Bereta Vuli's (PW3) evidence	-	Prosecution Exhibit No. 6

27. The originals of Pacific Theological College's (PTC) financial documents submitted in the above prosecution exhibits are primary evidence. They speak as to how the financial affairs and dealings of Pacific Theological College with its staff, when it comes to wages, are dealt with. The payment vouchers, the instructions to the banks, the cheque butts, the cheques, Pacific Theological College bank statements, the accused deposit slips, the accuseds' bank statements and the staff weekly payroll details all speak as to how Pacific Theological College's financial affairs were handled at the material time. These documents were important when considering the allegations against both accuseds. In the "Agreed Facts", both accuseds admitted they were working for Pacific Theological College as financial officers, at the material time. It was their job to control and monitor incoming financial information and outgoing financial information. According to Pacific Theological College's finance director, Mr. Nilesh Sharma (PW2), the two accuseds controlled Pacific Theological College's finance in the administrative sense. They decide, after proper approval, who gets paid out of Pacific Theological College Westpac Bank Account. So in sense, the above Pacific Theological College financial documents are a testament to how the two accuseds conducted themselves as finance officers to Pacific Theological College at the material time. You must therefore carefully examine the above financial records and cheques when deliberating on the case.

(d) The State's Case Against Both Accuseds:

28. As far as count no. 1 and 2 of the Information was concerned, the prosecution was unable to produce any witness to say that he or she saw both accuseds falsifying documents to obtain the sums of money alleged in count no. 1 and 2. Neither was the prosecution able to obtain a confession from both accuseds as to the allegations in counts no. 1 and 2. On count no. 3, the prosecution had no witness to say that he or she saw both accuseds altered the payee in the relevant Pacific Theological College cheques to fictitious names and later en-cashed the relevant

cheques and obtained the sum alleged in count no. 3. The above were obviously difficulties for the prosecution.

- 29 In Ms. Mishra's closing submission, she submitted that the prosecution's case against the accuseds were based fundamentally on circumstantial evidence. She was correct. Sometimes a jury is asked to find some fact proved by direct evidence. For example, if there is reliable evidence from a witness who actually saw a defendant commit a crime; if there is a video recording of the incident which plainly demonstrates his guilt; or if there is reliable evidence of the defendant himself having admitted it, these would all be good examples of direct evidence against him. On the other hand it is often the case that direct evidence of a crime is not available, and the prosecution relies upon circumstantial evidence to prove guilt. That simply means that the prosecution is relying upon evidence on various circumstances relating to the crime and the defendant which they say when taken together will lead to the sure conclusion that it was the defendant who committed the crime. [It is not necessary for the evidence to provide an answer to all the questions raised in a case. You may think it would be an unusual case indeed in which a jury can say "We now know everything there is to know about this case". But the evidence must lead you to the sure conclusion that the charge which the defendant faces is proved against him]. Circumstantial evidence can be powerful evidence, but is it important that you examine it with care, and consider whether the evidence upon which the prosecution relies in proof of its case is reliable and whether it does prove guilt. Furthermore, before convicting on circumstantial evidence you should consider whether it reveals any other circumstances which are or may be of sufficient reliability and strength to weaken or destroy the prosecution case. Finally, you should be careful to distinguish between arriving at conclusions based on reliable circumstantial evidence, and mere speculation. Speculating in a case amounts to no more than guessing, or making up theories without good evidence to support them, and neither the prosecution, the defence nor you should do that..."
30. We will now discuss the prosecution's circumstantial evidence relating to the crime and the accuseds, which the prosecution say when taken together will lead to the sure conclusion that it was the accuseds who committed the crimes alleged in count no. 1, 2 and 3. First of all, at the material time, both accused worked as finance officers for Pacific Theological College (PTC). At the material time, only the two controlled Pacific Theological College's incoming and outgoing

financial affairs. According to accused no. 1's evidence, Accused No. 2 was responsible for Accounts Receivable, and she was responsible for Accounts Payable. These meant that all bills payable by Pacific Theological College was received by Accused No. 2, and she communicates with Accused No. 1 to process the payment. They were answerable to Mr. Nilesch Sharma (PW2), Pacific Theological College's Director of Finance and Administration, at the material time. PW2 said, the accuseds manage and controlled the financial administration for Pacific Theological College.

31. In the payment of staff wages, Accused No. 1, in her evidence said, she prepared Payroll details spreadsheet, the payment voucher, the instruction to the banks, the cheques and she obtains the necessary approval through the Director of Finance, the Principal and/or other cheque signatories. In the Agreed Documents File 1 (Prosecution Exhibit No. 4) and File No. 2 (Prosecution Exhibit No. 5), which relate to Pacific Theological College staff wages and salaries, Accused No. 1 said, she prepared all the relevant cheque butts, cheques, payroll details spreadsheets, Pacific Theological College's instruction to the bank for the payment of staff wages into their accounts, the payment vouchers and maintains Pacific Theological College's financial records. Yet in some of the documents, for example, Pacific Theological College instructions to the Colonial National Bank (now Bank of South Pacific), the same had been tampered with. Two copies of the same were made. The correct copy was kept at Pacific Theological College Finance office, while the bank copy which contains extra \$1,000 payments to both accuseds, was kept at the bank. The bank copy was only obtained by Pacific Theological College when the Director of Finance (PW2) conducted his internal investigation after 2010. The above behavior was prevalent in how Pacific Theological College staff were paid via Pacific Theological College Westpac Bank Account No. 71127300.
32. A summary of the above financial transactions were summarized in the spreadsheet to Agreed Documents File 1 (Prosecution Exhibit no. 4) and 2 (Prosecution Exhibit no. 5). The period involved were the times involved in count no. 1 and 2. The spreadsheet showed that accused no. 1 and 2 were overpaid to the sum alleged in count no. 1 and 2. Although in her evidence, Accused No. 1 denied tampering with Pacific Theological College's financial documents, she admitted she was responsible for preparing the weekly staff payroll details, the payments vouchers, Pacific

Theological College's instruction to the bank, keeping the records and doing the daily banking for Pacific Theological College.

33. In Agreed Documents File 6 (Prosecution Exhibit no. 7), Tab 3 is shown Accused No. 1's transaction history of Bank of South Pacific (BSP) account no. 786398. The transaction history covered the period from 28 May 2006 to 11 December 2012. In the transaction history were recorded the deposits outlined in the spreadsheet to File No. 1 and 2. Tab 4 and 5 of Agreed Documents File 6 (Prosecution Exhibit no. 7) also showed Accused No. 2's BSP Bank Accounts 158488 and 4044669. In the transaction history were recorded the deposits outlined in the spreadsheet to File 1 and 2. The above financial records do appear to raise a lot of question. Did the two accused, as finance officers for Pacific Theological College at the material time, collude to make unauthorized payments to themselves, as alleged in count no. 1 and 2?
34. In Agreed Documents file 3 (Prosecution Exhibit no. 3(B), in the spreadsheet at the front, summarized the purported payment to Fiji Electricity Authority (FEA). There were approximately 28 cheques. The payee recorded in the cheque butts showed that the payee was FEA, however, in the Pacific Theological College Westpac cheques, the payee had been altered to fictitious names. The relevant cheques were cashed at Westpac Bank. A total of \$100,362.28 was cashed at the Bank. In Agreed Document File 4 (Prosecution Exhibit No. 3(c), in the spreadsheet in the front, summarized the purported payments to Fiji National Provident Fund (FNPF). There were approximately 37 cheques. The payee recorded in the cheque butts were mostly Fiji National Provident Fund. However, in the Pacific Theological College Westpac cheques, the payee had been altered to fictitious names. The relevant cheques were cashed at Westpac Bank. A total of \$138,627.32 were cashed at the Bank. In Agreed Document File 5 [Prosecution Exhibit 3(D)], in the spreadsheet in the front, Tab A summarized the purported payment to Inland Revenue, Fiji National Provident Fund, Fiji Electricity Authority and others. The payee recorded in the cheque butts were mostly the above entities. However, in the Pacific Theological College cheques, the payee were cash. Six cheques were involved and a total of \$17,861.82 were en-cashed. In Tab B, 26 cheques were involved. The payee recorded in the cheque butts were Fiji National Provident Fund, Fiji Gas, Carpenters Motors and others. However, in the Pacific Theological College Westpac cheques, the payee had been altered to fictitious names. A total of \$55,406.38 were en-

cashed at the Westpac Bank. Both Accuseds BSP Transaction History in Agreed Documents File 6, Tab 3,4 and 5 were examined. It was found that both accused deposited large sums of money into their accounts at the material time. With full time employment at Pacific Theological College, where do these money comes from? How you treat the above evidence is entirely a matter for you.

35. Eight Westpac bank officers and former bank officer's were examined in court. Ms. E. Loloma (PW4) had been a Westpac Bank Officer for 8 years. She is a teller and deals with cheque deposits and cheque withdrawals. She deals with Westpac cheque 11545 in File 4, Prosecution Exhibit 3(c), Tab 18. Ms. M. Naqasima (PW5) is a Westpac Bank Officer for 10 years. She dealt with Westpac cheque 9651 in File 4, Prosecution Exhibit 3(c), Tab 5. Ms. A. Naisivo (PW6) is a retired Westpac Bank Officer. She dealt with Westpac cheque 11516 in File 4, Prosecution Exhibit 3(c), Tab 17. Ms. V. Rokotuina (PW7) is a Westpac Bank officer. She dealt with Westpac cheque 11073 in File 3, Prosecution Exhibit 3(B), Tab 3A, 12. Ms. C. Tikoisiva (PW8) is a Westpac Bank Officer. She dealt with Westpac cheque 8307 in File 3, Prosecution Exhibit 3(B), Tab 3A, 1. Ms. R. Karan (PW9) is a Westpac Bank Officer. She dealt with Westpac cheque 10232 in File 3, Prosecution Exhibit 3(B), Tab 3B, 13. Ms. M. Samuela (PW10) is a Westpac Bank Officer. She dealt with Westpac cheque 9282 in File No. 5, Prosecution Exhibit 3(D), Tab A, 2. She also dealt with cheque 9283 in Tab A, 3. Ms. L. Railigi (PW11) was a former Westpac Bank Officer. She dealt with cheque 9274 in File 5, Prosecution Exhibit 3(D), Tab A, 1. She also dealt with cheque 10713 and 11665 in Tab 2 and Tab 3A. All the above 8 Westpac and/or former Westpac Bank Officers identified Accused No. 1 as the person en-cashing the cheques at the material time. How you treat the above evidence is entirely a matter for you.
36. Mr. Nilesh Sharma (PW2), then Pacific Theological College Director of Finance and Administration, said he was appointed as Director in 2012. He said, both accuseds were employed in the finance section of Pacific Theological College. He said, Accused no. 1 was paid \$8,000 per year, while Accused no. 2 was paid \$10,000 per year. He said, he started the audit for 2009. He said, he found some suspicious financial dealings with the finance section. He said, he looked at the available financial documents. He said, he found accused no. 1 and 2 were tampering with the financial documents and overpaying themselves as alleged in count no. 1 and 2. He also found that cheque earmarked for outside entities like Fiji Electricity Authority, Fiji National Provident Fund,

Inland Revenue Department and others were cashed by Accused no. 1 and deposited in the two Accuseds' accounts. PW2 said, he advised the principal, and a meeting was held with each accused. PW2 said, both verbally admitted stealing money from Pacific Theological College at the material time.

37. The questions that you have to ask yourselves were these. What do the above circumstantial evidence tell you? Did Accused No. 1 over paid herself as alleged in count no. 1? Did Accused No. 2 overpaid herself as alleged in count no. 2? Did the accuseds falsify the cheques and paid themselves as alleged in count no. 3? How you answer the above questions is entirely a matter for you.

(d) **The Accuseds' Cases:**

38. I have summarized the accuseds' cases for you from paragraphs 19 to 21 hereof. I repeat the same here. If you accept Accused No. 1's denial of the allegations against her, you must find her not guilty as charged. If you don't accept her denial, nevertheless consider the strength of the prosecution's case as a whole. If you are not sure of the accuseds' guilt, you must find them not guilty as charged on all counts. If you are sure of the accuseds' guilt, you must find them guilty as charged on all counts. It is matter entirely for you.

(e) **The Need to Consider All the Evidence:**

39. The prosecution called 18 witnesses. Accused No. 1 gave sworn evidence. Accused no. 2 chooses to remain silent. There are 19 witnesses altogether. You must consider all the witnesses, evidence, you must compare and analyses them together. You must also consider and compare all the documentary evidence submitted by the prosecution. They were tendered as six exhibits. You must also consider the Agreed Facts submitted by the parties.
40. If I haven't mention a piece of evidence that you consider important, please take it on board in your deliberation. If you consider a witness credible, you are entitled to accept the whole or some of his/her evidence in your deliberation. If you consider a witness not credible, you are entitled to reject the whole or some of his/her evidence in your deliberation. You the judges of facts.

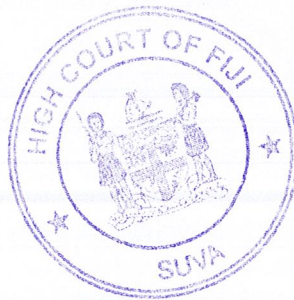
I. **SUMMARY**

41. Remember, the burden to prove the accuseds' guilt beyond reasonable doubt lies on the prosecution throughout the trial, and it never shifts to the accuseds, at any stage of the trial. The accuseds are not required to prove their innocence, or prove anything at all. In fact, they are presumed innocent until proven guilty beyond reasonable doubt. If you accept the prosecution's version of events, and you are satisfied beyond reasonable doubt so that you are sure of the accuseds' guilt, you must find them guilty as charged. If you do not accept the prosecution's version of events, and you are not satisfied beyond reasonable doubt so that you are not sure of the accuseds' guilt, you must find them not guilty as charged.

42. Your possible opinions are as follows:

(i)	Count No. 1:	Money Laundering	: Accused No. 1	Guilty or Not Guilty
	Count No. 2:	Money Laundering	: Accused No. 2	Guilty or Not Guilty
	Count No. 3:	Money Laundering	: Accused No. 1	Guilty or Not Guilty
			Accused No. 2	Guilty or Not Guilty

43. You may now retire to deliberate on the case, and once you've reached your decisions, you may inform our clerks, so that we could reconvene, to receive your decisions.




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JUDGE

Solicitor for State	:	Office of the Director of Public Prosecution, Suva
Solicitor for Accused No. 1	:	Legal Aid Commission, Suva
Solicitor for Accused No. 2	:	Legal Aid Commission, Suva