

**IN THE DISTRICT COURT
AT CHRISTCHURCH**

**CRI-2017-009-002321
[2018] NZDC 7473**

INLAND REVENUE DEPARTMENT
Prosecutor

v

LIBOR LASEK
Defendant

Hearing: 18 April 2018

Appearances: V Diefenbach for the Prosecutor
J Rapley for the Defendant

Judgment: 18 April 2018

NOTES OF JUDGE S J O'DRISCOLL ON SENTENCING

[1] Mr Lasek, you appear before me today for sentence on some 44 charges that have been laid under the Income Tax Act 2007. There were 36 charges where you failed to account for \$1.377 million to the Commissioner for PAYE and other associated tax payments and then there were some eight further charges where there was similar offending amounting to some \$140,000.

[2] You came before me earlier and sought a sentence indication as to what sentence would be imposed on you, should you plead guilty to the charges. I considered the submissions that were filed by your lawyer and also by the Commissioner of Inland Revenue. I gave a sentence indication to you on 16 February. You accepted that sentence indication and pleaded guilty.

[3] I was provided with a number of cases where both the Commissioner and your counsel argued showed similarities with your offending to other cases and differences between your case and other cases. I took into account a number of factors in reaching the sentence indication that I gave you. I took into account the extent of your offending, the extent of the loss, the length of time over which your offending took place. I took into account the breach of trust, the premeditation that occurred and I also took into account that there was continued offending after the Commissioner had given you a warning.

[4] The offending took place between May 2013 and January 2017. The amount involved amounts in total to approximately \$1.5 million. There were a number of periods and significant periods over which no payments were made to the Commissioner. I have also taken into account that you really now have no ability to pay reparation or to mitigate the loss.

[5] I took the view that the appropriate length and the appropriate sentence was one of 40 months' imprisonment. That is a sentence of three years and four months' imprisonment. I took a starting point of four years and nine months' imprisonment which amounts to 57 months. I gave you a discount for good character of three months and then a discount for your guilty plea of 14 months and that is how I arrived at the decision that the appropriate sentence was one of three years and four months' imprisonment.

[6] I have now had the benefit of a pre-sentence report. You are aged 47. You are now bankrupt. You have no assets, no income, no savings. You have explained to the writer of the pre-sentence report how this offending took place, that you had cash flow problems and you attempted to keep your business operating by deferring tax payments.

[7] You have indicated to the writer of the pre-sentence report that your focus is now to use the best use of your time in prison while trying to maintain contact with your family. Imprisonment is recommended which was part of the sentence indication.

[8] I am not going to lecture you, Mr Lasek, on what you have done wrong and I am not going to lecture you or anyone else, on the need to comply with the tax legislation and to make tax payments as and when required under the legislation. Everyone knows what their obligations are.

[9] I intend to now follow the sentence indication that I gave you. You have pleaded guilty on that basis and what I now do on each of the charges that are before me, you will now be sentenced to imprisonment and that will be for a period of 40 months, a sentence of three years and four months' imprisonment.

[10] I impose no release conditions because you will come before the Parole Board when it is time for parole to be considered and in light of you having no means or savings, I make no order for reparation.

S J O'Driscoll
District Court Judge