

IN THE CROWN COURT IN NORTHERN IRELAND

SITTING AT BELFAST

THE QUEEN

-v-

HON YAU CHEUNG  
AND  
SUI LING MO

Bill No. 13/073669

**WEIR J**

[1] Mr Cheung and Ms Mo, you have each pleaded guilty to counts of Removing Criminal Property from Northern Ireland in the form of bank drafts made payable to each of you. In your case, Mr Cheung, the single count to which you have pleaded guilty replaced and is intended to reflect 27 individual accounts which have been left on the books not to be proceeded with without leave of the Court. The criminal acts which formed the basis of that ultimate single count occurred on repeated occasions between 7 August 2003 and 23 July 2010. In your case, Ms Mo, the single criminal act alleged against you and to which you have pleaded guilty is that between 21 June 2009 and 1 October 2009 you removed from Northern Ireland a bank draft in the sum of £60,000 which was made payable to you.

[2] You are married to each other and have three quite grown up daughters. The substantial monies which were the subject of your dishonesty appear to have been earned by you, Mr Cheung, in your various restaurant and food businesses and the prosecution has accepted that the criminality which rendered them criminal property was your failure to declare those earnings to HM Revenue and Customs for the purposes of tax assessment. I am satisfied that you, Mr Cheung, were the moving party in the creation of a sophisticated fraud that involved the opening of several bank accounts in the name of a relative ("P") who then fed the monies given

to him by you into those accounts, sometimes using for that purpose the details of individuals who had no idea that their identities were being used in this way. Having thereby concealed yourself as being the provider of the monies you then had P withdraw them in the form of bank drafts which were taken to Hong Kong where they were lodged in bank accounts controlled by you or by you and Ms Mo. Thereafter, having laundered the monies in this way, you then brought some of them back to the United Kingdom where you used them to buy properties knowing that the provenance of their purchase monies could not be easily discovered, if at all. In all, more than £800,000 was spirited out of Northern Ireland in this way over a period of some seven years. It has been agreed that the estimated tax liability due but avoided on the amount is in the region of £300,000. In your case, Ms Mo, the single amount of £60,000 also came from the monies supplied by your husband and laundered through P's bank accounts and it is agreed that the estimated tax liability avoided on that sum is about £24,000.

[3] I treat each of you as being of good character and I commend the way in which, having come to Northern Ireland with very little, you have by your own considerable efforts succeeded in creating good businesses which provide employment and have made comfortable lives for yourselves and for your children who have succeeded academically as neither of you had the opportunity to do.

[4] Having said that however, I have to make it clear to you and to anyone else who might think of following in your footsteps in trying to conceal from the Revenue monies, whether legally or illegally gained, that the courts take a very serious view of conduct of this sort. In this case a large sum of money was involved. The methods used were ingenious and several other persons were used by you Mr Cheung, including Ms Mo, to achieve your objective. In those circumstances I am obliged to take a serious view of your offending.

[5] Several previous cases were cited to me, the closest to which on the facts was the decision of Hart J in R v Small and Small [2010] NICC 6. Much emphasis was placed by your counsel upon the undoubted fact that the sums of money involved in that case were much larger than in this. However, as that decision makes clear, the size of the amount involved is only one of the factors to be weighed; others include the length of time over which the crime took place, the efforts made to conceal it, whether others were drawn in and corrupted, the extent of the personal gain and the amount of any recovery.

[6] Reference was also made by both prosecution and defence to the guidelines issued by the Sentencing Council for England and Wales - "*Sentencing for Fraud - Statutory Offences*". Whilst not directly applicable in this jurisdiction, the discussion and range of sentences suggested provides useful material to inform a sentencer here even if the guidance is, characteristically, rather narrowly prescriptive. It refers to the considerations which I have already mentioned and adds to those further determinants of seriousness namely whether the fraud was a single transaction or a

multiple fraud, a number of people acting co-operatively as an indicator of planning or professional activity and the use of another person's identity.

[7] Mr Ronan Lavery QC on your behalf Mr Cheung submitted that this was not "professional" activity because no professional person was involved in devising or implementing the fraud. I cannot accept that submission. The expression "planning or professional activity" is in my view descriptive of the sophistication of the method used. The Concise Oxford Dictionary has as one definition of "professional" - "a person having impressive competence in a particular activity". I consider that this fraud as directed and controlled by you, Mr Cheung, fully accords with that description.

[8] All of the aggravating factors identified in the preceding paragraphs are present so far as you Mr Cheung are concerned. I therefore take as a starting point a term of four years imprisonment in your case.

[9] As to mitigation, I have already referred to your lack of any relevant criminal record and your hard work over many years. I was disappointed to note from the probation report that after all that has been done and said about this case and all the harm that you have caused to the individuals whom you used to launder and remove this money, several of whom have now acquired criminal convictions and sentences as a result, you have told the probation officer that you understood that these were legitimate transactions and you minimised the nature of the offence as well as the extent of your culpability. As I have said, several people have been harmed by your drawing them into this fraud of which you were the beneficiary and thus the Revenue was by no means the only victim of your dishonest and selfish behaviour.

[10] You did ultimately plead guilty to a composite count and thereby spared the need for a lengthy and complex trial. However the Court of Appeal has made it clear and the message should by now have been received that the maximum discount for an admission of guilt accrues only if it is made at the police interview stage and thereafter it progressively diminishes with the passage of time. I have, with some hesitation, acceded to your counsel's submission that your credit should not be as little as the one sixth contended for by the prosecution given the particular circumstances leading to the consolidation of the offences and the agreement of the amount of the monies lost to the Revenue. Accordingly I have reduced my starting point of four years to three years. I consider that the offence to which you have pleaded is so serious that only a custodial sentence can be justified in respect of it. Accordingly I sentence you, as I emphasise I am obliged to do by legislation, to a custodial period on each count of 18 months concurrently on which you will receive no remission under prison rules followed by a licence period, also of 18 months, during which you will be supervised by a probation officer.

[11] Dealing now with you Ms Mo, the offence to which you have pleaded guilty is also a serious one even though, according to your probation report, you seem to have the same difficulty as your husband in recognising that fact. Your culpability is appreciably greater than that of some others who were used to carry money away in the form of bank drafts because your draft found its way into the joint account of you and Mr Cheung in Hong Kong so that you were a direct beneficiary of the fraud. However I accept that you were not the moving party and that it was your husband who orchestrated this fraudulent scheme. I am disappointed that, like him, you told the probation officer that you did not intentionally commit a criminal act. I do not understand how you could have lived and worked so successfully in this country for so many years without knowing very well that you are committing a criminal offence and I do not believe this protestation of innocence which sits oddly with your plea of guilty.

[12] Fitting your culpability into the broad scale that has emerged from these cases I consider that you fall somewhat above others such as Ms McCluskey and Mr Law as they merely acted as messengers without reward while you were an actual beneficiary of the fraudulent behaviour. I therefore take as my starting point in your case a term of 30 months imprisonment which I reduce by approximately the same proportion as for Mr Cheung. The sentence I arrive at in your case is therefore one of 24 months imprisonment on each count concurrently which, given the seriousness of the offences is in my view entirely justified.

[13] However I take account of the fact that you work hard to support and educate your family and that, were you to be immediately imprisoned, your business might well fail since you personally work long hours within it. I have been urged by your counsel, Mr Barlow, in the course of his admirably crisp and realistic submissions, to consider suspending your sentence and that course is also supported by the probation officer who considers that such a sentence would place responsibility directly upon you not to re-offend. After careful consideration I have concluded that I should follow that course and I therefore impose upon you a sentence of two years imprisonment on each count concurrently suspended for three years. That means that you will not immediately have to go to prison and that if you keep out of trouble for three years from today you will hear no more about this matter. If, on the other hand, you should commit another offence within that period you will be liable to have the suspended sentence put into operation together with any sentence for that further offence that may be imposed.

[14] The prosecution has applied against each of you for confiscation orders. You, Mr Cheung, have agreed to repay £300,000 and I do not understand that you, Ms Mo contest the application that you repay £24,000 from the recoverable amounts available to you which in the case of each of you far exceed the amounts sought to be recovered. I make those orders accordingly. The sums are to be paid in full within six months of this date and if they are not paid I order that you, Mr Cheung, will be liable to imprisonment for a further four years and you, Ms Mo, to imprisonment for

twelve months. You both have ample recoverable assets available to pay those sums and I urge you do so without delay. You need not expect a sympathetic response if the amounts are not paid in full within that time and the matter therefore has to come back before me.

[15] Finally, in relation to you, Mr Cheung, the prosecution has applied to me to make a Financial Reporting Order to oblige you, when released from prison, to make regular reports of your financial affairs as a means of closely monitoring your financial activities. Before making such an order I must be satisfied that the risk you committing another offence of the kind specified in Section 76(3) of the Serious Organised Crime and Police Act 2005 is sufficiently high to justify the making of the Order applied for. I am fully satisfied that the risk is sufficiently high and I do not understand your counsel to have contended otherwise. Accordingly I make the Order sought, reporting to commence with effect from 1 June 2014 and thereafter on the first day of each quarter for a period of ten years. Each report is to be made within one calendar month of each due date.

[16] I wish to say one last thing in conclusion. If, as appears to be the case, there is some idea among some of the Chinese business community here or elsewhere in the United Kingdom that fraudulent behaviour of the type exemplified by these prosecutions is not criminal or is less culpable because it involves concealing earnings from the Revenue and placing the tax due on them beyond reach. Then those who have held that view should now be quickly disabused. This conduct is serious and when detected will be severely punished by the courts.