

IN THE HIGH COURT OF FIJI
AT SUVA
[CRIMINAL JURISDICTION]

CRIMINAL CASE NO.HAC 99 of 2014

BETWEEN : FIJI INDEPENDENT COMMISSION AGAINST PROSECUTION
CORRUPTION ("FICAC")

AND : 1. ANA LAQERE
2. AMELIA VUNISEA
3. VACISEVA LAGAI
4. VILISI TUITAVUKI
5. LAISA HALAFI
6. TAVENISA TAVAGA
7. KINIVILIAME TAVIRAKI
8. SALESH BIKASH
9. ROSHNI LATA

ACCUSED

Counsel : Ms. F. Puleiwai for FICAC
Mr. J. Daurewa for the 1st Accused
Mr. Iqbal Khan for the 2nd Accused
Ms. S. Hazelman for the 3rd and 4th Accused
Mr. J. Daurewa for the 5th Accused
Ms. S. Hazelman for the 6th Accused
Mr. A. Rayawa for the 7th Accused
Mr. A. R. Singh for the 8th and 9th Accused

Sentence Hearing : 30 May 2018

Sentence : 27 September 2018

SENTENCE

- [1] **Amelia Vunisea and Laisa Halafi**, as per the Amended Information filed by the Fiji Independent Commission against Corruption (FICAC), on 6 February 2017, you have been charged, along with 7 others, for the following offences:

COUNT 1

Statement of Offence

ABUSE OF OFFICE: Contrary to Section 139 of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Service as an Assistant Accounts Officer with the Public Works Department at Walu Bay, in abuse of the authority of her office did arbitrary acts for the purpose of gain, namely facilitating the processing of false payments to Crazy Office Supplies and Entire Office Supplies which was prejudicial to the rights of the Public Works Department.

COUNT 2

Statement of Offence

ABUSE OF OFFICE: Contrary to Section 139 of the Crimes Decree 2009.

Particulars of Offence

AMELIA VUNISEA between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Service as an Acting Assistant Accounts Officer with the Public Works Department at Walu Bay, in abuse of the authority of her office did arbitrary acts for the purpose of gain, namely facilitating the processing of false payments to Crazy Office Supplies and Entire Office Supplies which was prejudicial to the rights of the Public Works Department.

COUNT 3

Statement of Offence

ABUSE OF OFFICE: Contrary to Section 139 of the Crimes Decree 2009.

Particulars of Offence

VACISEVA LAQAI between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Service as an Assistant Accounts Officer with the Public Works Department at Walu Bay, in abuse of the authority of her office did arbitrary acts for the purpose of gain, namely facilitating the processing of false payments to Crazy Office Supplies and Entire Office Supplies which was prejudicial to the rights of the Public Works Department.

COUNT 4

Statement of Offence

ABUSE OF OFFICE: Contrary to Section 139 of the Crimes Decree 2009.

Particulars of Offence

VILISI TUITAVUKI between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Service as a Temporary Relieving Clerical Officer with the Public Works Department at Walu Bay, in abuse of the authority of her office did arbitrary acts for the purpose of gain, namely facilitating the processing of false payments to Crazy Office Supplies and Entire Office Supplies which was prejudicial to the rights of the Public Works Department.

COUNT 5

Statement of Offence

ABUSE OF OFFICE: Contrary to Section 139 of the Crimes Decree 2009.

Particulars of Offence

LAISA HALAFI between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Service as a Clerical Officer with the Public Works Department at Walu Bay, in abuse of the authority of her office did arbitrary acts for the purpose of gain, namely facilitating the processing of false payments to Crazy Office Supplies and Entire Office Supplies which was prejudicial to the rights of the Public Works Department.

COUNT 6

Statement of Offence

ABUSE OF OFFICE: Contrary to Section 139 of the Crimes Decree 2009.

Particulars of Offence

TAVENISA TAVAGA between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Service as a Secretary with the Public Works Department at Walu Bay, in abuse of the authority of her office did arbitrary acts for the purpose of gain, namely facilitating the processing of false payments to Crazy Office Supplies and Entire Office Supplies which was prejudicial to the rights of the Public Works Department.

COUNT 7

Statement of Offence

ABUSE OF OFFICE: Contrary to Section 139 of the Crimes Decree 2009.

Particulars of Offence

KINIVILIAME TAVIRAKI between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Service as an Acting Senior Technical Officer with the Public Works Department at Walu Bay, in abuse of the authority of her office did arbitrary acts for the purpose of gain, namely facilitating the processing of false payments to Crazy Office Supplies and Entire Office Supplies which was prejudicial to the rights of the Public Works Department.

COUNT 8

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

AMELIA VUNISEA, LAISA HALAFI, VACISEVA LAQAI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payments of cheque number 656209 amounting to FJ\$2915.00 to Crazy Office

Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 9

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payments of cheque number 656379 amounting to FJ\$2915.00 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 10

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656154 amounting to FJ\$2967.24 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 11

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656391 amounting to FJ\$2967.24 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 12

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 835762 amounting to FJ\$2981.01 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 13

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 836087 amounting to FJ\$2981.01 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 14

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656209 amounting to FJ\$2936.25 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 15

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656202 amounting to FJ\$2829.38 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 16

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating

the process of payment of cheque number 656182 amounting to FJ\$2711.25 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 17

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656210 amounting to FJ\$2711.25 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 18

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, VILISI TUITAVUKI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656395 amounting to FJ\$2711.25 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 19

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656155 amounting to FJ\$2311.31 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 20

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656203 amounting to FJ\$2895.00 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 21

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, VILISI TUITAVUKI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656395 amounting to FJ\$2829.35 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 22

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, VILISI TUITAVUKI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656305 amounting to FJ\$2967.24 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 23

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656181 amounting to FJ\$2629.94 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 24

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656319 amounting to FJ\$2958.00 to

Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 25

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, KINIVILIAME TAVIRAKI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656348 amounting to FJ\$2890.00 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 26

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656418 amounting to FJ\$2909.36 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 27

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656436 amounting to FJ\$2945.00 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 28

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656436 amounting to FJ\$2994.50 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 29

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment for the sum of FJ\$2944.98 through cheque number 656448 to be made to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 30

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment for the sum of FJ\$2947.23 through cheque number 656448 to be made to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 31

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment for the sum of FJ\$2789.50 through cheque number 656448 to be made to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 32

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, TAVENISA TAVAGA, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 835761

amounting to FJ\$2915.00 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 33

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 835970 amounting to FJ\$1650.00 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 34

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 835971 amounting to FJ\$2800.00 to Crazy Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 35

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, TAVENISA TAVAGA, KINIVILIAME TAVIRAKI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656403 amounting to FJ\$2981.00 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 36

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656333 amounting to FJ\$2980.00 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 37

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, TAVENISA TAVAGA, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payments of cheque number 656168 amounting to FJ\$2677.22 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 38

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656349 amounting to FJ\$2950.10 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 39

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, KINIVILIAME TAVIRAKI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656396 amounting to FJ\$2967.24 to Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 40

Statement of Offence

CAUSING A LOSS: Contrary to Section 324 (2) of the Crimes Decree 2009.

Particulars of Offence

ANA LAQERE, AMELIA VUNISEA, VACISEVA LAQAI, LAISA HALAFI, between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department, dishonestly caused a loss to the Public Works Department by falsely facilitating the process of payment of cheque number 656426 amounting to FJ\$2954.60 to

Entire Office Supplies and knowing that the loss will occur or a substantial risk of the loss will occur to the Public Works Department.

COUNT 41

Statement of Offence

OBTAINING A FINANCIAL ADVANTAGE: Contrary to Section 326 (1) of the Crimes Decree 2009.

Particulars of Offence

SALESH BIKASH & ROSHNI LATA between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being the Directors of Crazy Office Supplies and Entire Office Supplies respectively, engaged in a conduct namely caused payments amounting to FJ\$93,512.48 to be made to the said Companies and as a result of that conduct obtained a financial advantage amounting to FJ\$93,512.48 from the Public Works Department and knowing that they were not eligible to receive the said financial advantage.

COUNT 42

Statement of Offence

OBTAINING A FINANCIAL ADVANTAGE: Contrary to Section 326 (1) of the Crimes Decree 2009.

Particulars of Offence

LAISA HALAFI between 1st February 2010 and 31st May 2010, at Suva, in the Central Division, whilst being employed in the Public Works Department as a Clerical Officer, engaged in a conduct namely falsely facilitating the process of payments to Crazy Office Supplies and Entire Office Supplies respectively, and as a result of that conduct obtained a financial advantage amounting to FJ\$27,400.00 from the said companies and knowing that she was not eligible to receive the said financial advantage.

[2] As per the Amended Information filed, the individual charges against the two of you are the following:

Amelia Vunisea- Count 2 (Abuse of Office) and Counts 8-40 (Causing A Loss).

Laisa Halafi- Count 5 (Abuse of Office), Counts 8-25 and 32-40 (Causing A Loss) and Count 42 (Obtaining a Financial Advantage).

- [3] When this matter was called before me on 29 November 2018, all nine accused were ready to take their pleas and their pleas were taken. Accordingly, Amelia Vunisea and Laisa Halafi, you both pleaded guilty to all the charges against you in the Amended Information.
- [4] Court was satisfied that you both fully understood the nature of the charges against you and the consequences of your pleas. Court also found that you pleaded guilty on your own free will and free from any influence.
- [5] Thereafter, on 7 May 2018, the State filed the Summary of Facts in respect of the two of you. The Summary of Facts were read out and explained to you and you understood and agreed to the same. Accordingly, Court found your guilty pleas to be unequivocal. I found that the facts support all elements of the several charges against you in the Amended Information, and found the said charges proved on the Summary of Facts agreed by you. Accordingly, I found you guilty on your own pleas and I convicted you of the said charges.
- [6] I now proceed to sentence you.
- [7] The Summary of Facts filed by the State against the 2nd accused, Amelia Vunisea, was the following:
1. *The 2nd Accused in this case is AMELIA VUNISEA (hereinafter referred to as the "2nd Accused").*
 2. *In 2010, the 2nd Accused held the position of "Acting Assistant Accounts Officer" EDP Number 53425 based at the Mechanical Section of the Divisional Engineer Central Eastern Office (hereinafter referred to as "DECE") of the Public Works Department (hereinafter referred to as "PWD") at Walu bay, Suva and she held this position at all material times.*
 3. *The 2nd Accused began her career at the PWD in 1990 as a Temporary Relieving Clerical Officer before being appointed as a Clerical Officer in 1991. She was transferred to the Rewa Depot in 1993 before being transferred back to the Electrical section in 1998 to work as a cashier. Subsequently, she remained in the Mechanical Section as a cashier until 2008.*
 4. *She was then transferred to DECE Accounts Section. She continued at DECE until September 2009 when she was then transferred back to Mechanical Section. In 2009 whilst at DECE Accounts Section, she held the position of Acting Assistant Accountant where she had the authority to sign cheques.*

5. *Thereafter, she remained at the Mechanical Section as an Acting Assistant Accounts Officer until March 2011 whereby she was transferred to the Ministry of Works Accounts Section (as it was then). From then on, she remained at the Headquarters until she was suspended from the Ministry of Works in November 2011.*
6. *In terms of her education, the 2nd Accused sat and passed her H(1) Exams on 20th August 1991, and in 2002, she again sat and passed her "U" Service Exams.*
7. *The 2nd Accused had been employed at the Public Works Department for 20 years at the time of the offence. As the Assistant Accounts Officer, the 2nd Accused was a mature and experienced officer. She brought with her a wealth of experience in the Accounts Section and had on previous occasions acted on the post of Assistant Accounts Officer. The 2nd Accused's experience of 20 years at the Ministry saw her being possessed with the necessary skills, competencies and knowledge to perform the duties of the post.*
8. *Prior to the 2nd Accused's appointment as an Assistant Accounts Officer, she carried out back reconciliation duties, afterwards, whilst carrying out the duties and responsibilities of an Acting Assistant Accounts Officer, she reported firstly in 2008 to one Mrs Miriama Smith and then to Mrs Ana Laqere (1st Accused) in 2009.*
9. *By reasons of her appointments and experience outlined in paragraphs 2 to 8 above, the 2nd Accused was employed in the public service as an Acting Assistant Accounts Officer within the meaning of Section 4 of the Crimes Act 2009 during all material times to the offence.*
10. *The 2nd Accused's responsibilities as an "Acting Assistant Accounts Officer" within the period material to this case included checking quotations and other source documents before processing payments, matching invoices received against the purchase orders costing or private hire dockets from various contractors, preparing schedule of bills, updating creditors ledger card, process cash requirement report and filing of payment correspondence.*
11. *The 2nd Accused's responsibilities also included submitting monthly reports, reconciliation of suspense account, preparing expenditure report, signing cheques, supervising accounts clerical officers, attending to queries regarding accounts and expenditure, banking and General Ledger*

reconciliation as well as authority of signing cheques and any other duties assigned by the Accountant.

Cheque Signatories

12. *Procedurally, cheque signatories are authorised persons either through their appointment they are vested with such duty or through their positions they held within the various Department or the Ministry. Two authorized persons are required to sign a cheque. The requirement of two signatories is a control mechanism aimed at preventing fraud of government funds.*
13. *The first person is the signatory and the second person is the counter signatory of the cheque. Both persons have a fiduciary duty to properly check the cheque with other supporting source documents are in order before they put their respective signatures. As a cheque signatory, it was the 2nd Accused duty to verify important information attached to the batch of documents submitted before she puts down her signature on the Cheques.*
14. *The 2nd Accused was an experienced and mature officer at DECE and in carrying out her duties as an Acting Assistant Accounts Officer within the time period of the offence, she was a signatory to the Government cheques for DECE Operating Fund Account and Trade & Manufacturing Accounts. At the relevant period, the 2nd Accused was not based at the Accounts Section of DECE but based at the Mechanical Section of DECE.*
15. *There were also instances in which cheques were brought to the 2nd Accused whilst she was at her residence for signing in which she would not ask to see the supporting documents before putting her signature on the Cheques. She knew this breached financial and accounting instructions and regulations, thus failing to perform her duty with due diligence and care.*

Abuse of Office (Count 2)

16. *Between the 1st day of February 2010 to the 31st day of May 2010, thirty (30) Westpac Banking Corporation (WBC) Cheques were prepared amounting to a total of \$93,512.48 before it was forwarded to the 2nd Accused for her signature. Out of the 28 Cheques received, the 2nd Accused had signed on ten(10) manual cheques whilst the remaining 18 Cheques were printed and through FMIS (Refer to "Annexure A").*

17. *With knowledge of her fiduciary duty as a Cheque signatory outlined in paragraph 12 to 15 above, and in abuse of the authority of her office, the 2nd Accused did arbitrary acts for the purpose of gain namely, facilitating the processing of false payments to Crazy Office Supplies and Entire Office Supplies Limited, which was prejudicial to the rights of the Public Works Department.*
18. *In brief summary, the various abuses done by the 2nd Accused are as follows:*
- (i) Placing her signature on all the 28 Cheques stated in Count 8 to Count 40 in the Information, amounting to a total of \$93,512.48 which was paid to the company, because the 2nd Accused failed to exercise due diligence by ensuring that all the supporting documents were in order.*
 - (ii) However, in all the 28 Cheques raised, there were about 32 transactions altogether, whereby the Purchase Orders were photocopied, and reused in other transactions making it either a double, triple or quadruple payments to the company, giving an undue advantage as reflected in the following counts and further in the Annexure A:*
 - i. Count 8 and 9 - Double payments;*
 - ii. Count 10 and 11 - Double payments;*
 - iii. Count 12 and 13 - Double payments;*
 - iv. Count 16, 17 and Count 18 - Triple payments;*
 - v. Count 20 and 21 - Double payments;*
 - vi. Count 27, 28, 29, 30 and 31 - Double, triple and quadruple payments.*
 - (iii) Furthermore, in all the payment vouchers, the procedures were not followed as to the various people who were signing in the checked column. Passed for Payment and certify column certifying the payments to be done.*
 - (iv) Apart from the discrepancies noted in the Payment Vouchers, the Requisition attached was photocopied and used twice in two of the Payment Vouchers whereby the items ordered were all the same in all three Requisitions.*
 - (v) There were no Deliver Dockets attached in any of the 32 transactions to show the delivery was done.*

- (vi) *In all the Purchase Orders attached to the Payment Vouchers, the person signing in the authorised column was not authorised and did not have the authorized limit to approve the amount for each of the PO's which the 2nd Accused could have easily picked, if she did her duty properly it could have been easily rectified, instead she willingly signed Cheques for those bogus payments.*
 - (vii) *The 2nd Accused failed to cross check the FMIS records and the printed PO's which on record showed that all orders cancelled were in the FMIS system. All payments were in breach of the Financial Management Information System (FMIS) of Government and she entirely disregarded those breaches. As a cheque signatory, it was her duty to verify if payments are done properly with FMIS compliance. (Refer to Annexure A). The Payment was done to either Crazy Office Supplies or Entire Office Supplies Limited between 1st February to the 31st May 2010 (Refer to Annexure A).*
 - (viii) *The person signing in the Payment Vouchers certified column was not authorised to be signing on behalf of DECE or the Senior Accounts Officer (SAO).*
 - (ix) *Further in the FMIS record, this Payment Voucher and the PO91011-012403 was cancelled in the system, thus no Cheque should ever had been printed. Failure to cross check the FMIS record and other details in the Payment Vouchers, the 2nd Accused failed to exercise due diligence, thus resulting in the payment being made to Crazy Office Supplies and Entire Office Supplies Limited.*
19. *Therefore, in respect of the 30 Cheques mentioned in paragraph 16, a total of FJD\$93,512.48 was paid to Crazy Office Supplies and Entire Office Supplies Limited. The gain was to be said companies due to the 2nd Accused arbitrary act of signing on the Cheques without properly checking the source documents attached with the Cheques. The 2nd Accused knew that there were a number of irregularities and breaches to the standard financial and accounting procedures and regulations, but she wilfully kept a blind eye and went ahead and signed all the 30 Cheques. (Refer to the Annexure A).*
20. *Through the 2nd Accused arbitrary act, in abusing the authority given to her as an Acting Assistant Accounts Officer, the company Crazy Office Supplies and Entire Office Supplies Limited had gained FJD\$93,512.48.*

21. *In respect of count 2 against the 2nd Accused, PWD was prejudiced when the money was paid out to Crazy Office Supplies and Entire Office Supplies Limited without the proper procedure being followed and when no delivery was done in all the 30 transactions.*

Causing a Loss – (Count 8 – Count 40)

22. *Between the 1st day of February 2010 to the 31st day of March 2010, the 2nd Accused had dishonestly caused a loss to the PWD by falsely facilitating the process of payments through 30 x WBC Cheques (Refer to Annexure A) amount to FJD\$93,512.48 to Crazy Office Supplies and Entire Office Supplies Limited and knowing that the loss will occur or a substantial risk of loss will occur to the PWD.*
23. *The 2nd Accused dishonest act is the fact that she falsely facilitated the process of payments through 30 x Westpac Banking Corporation Cheques amounting to FJD\$93,512.48 to Crazy Office Supplies and Entire Office Supplies Limited by putting her signature on the Cheques knowing that all source documents were not in order.*
24. *The 2nd Accused given her knowledge and experience in her position as Acting Assistant Accounts Officer at PWD, she knew that all the source documents should be in order, apart from the fact that it should follow the proper tender procedure; it should be signed and approved by the relevant authorised persons before the Cheque is signed by her and counter signed by another authorised signatory for the pay-out.*
25. *All the 30 x WBC cheques were accompanied by incomplete source documents and the irregularities noted were the approving and certifying signatures signing on behalf of someone else which procedurally is wrong. Delivery Dockets not attached, tender procedure not followed and many more discrepancies which should have been picked by the 2nd Accused before signing on the Cheques.*
26. *However, despite all the irregularities noted, the 2nd Accused still signed on all the 30 x WBC Cheques amount to FJD\$93,512.48 blindly which was payable to Crazy Office Supplies and Entire Office Supplies Limited, knowing that a risk or substantial risk of loss would occur to PWD.*
27. *The same amount noted in the above paragraph was then debited from PWD CFA Trading & Manufacturing Account (TMA), Westpac Banking Corporation Account No. 9800014858 through Cheques noted in Annexure A.*

28. *Summarily, the 2nd Accused through her deliberate disregard for proper execution of her duties caused a loss to PWD and the Government of Fiji.*
 29. *Lastly, the 2nd Accused's actions in failing to adhere to proper accounting standard and procedures contributed to the loss of a total of FJD\$93,512.48 from the Public Works Department and the Government of Fiji.*
 30. *The 2nd Accused was interviewed under caution on the 01/06/12, 04/06/12, 30/11/12, 04/12/12, 12/12/12, 25/11/13, 27/11/13, 01/12/13, 02/12/13, 04/12/13 and later charged on the 4th December 2013 for one (1) count of Abuse of Office contrary to Section 139 of the Crimes Decree (now known as Act) and thirty two (32) counts of Causing a Loss contrary to Section 324 (2) of the Crimes Act 2009.*
- [8]** The Summary of Facts filed by the State against the 5th accused, Laisa Halafi, was the following:
1. *The accused in this matter is Laisa Seniloli Halafi (hereinafter referred to as the 5th Accused") of Toro Village, Bau, Tailevu. She held the position of "Clerical Officer" EDP Number QM858 at the Public Works Department (hereinafter referred to as "PWD") based at Walu Bay in Suva during the time period material to this case.*
 2. *She was responsible for ensuring that tasks in relations to conventional secretarial responsibilities as assigned by the Assistant Accounts Officer ("AAO") are implemented within the set time frames and with the highest level of output quality. The 5th Accused was therefore responsible for assisting the Assistant Accounts Officer and the Senior Accounts Officer in fulfilling their roles. By reasons of the above appointment and her role as a Clerical officer, the 5th Accused was a person employed in the public service within the meaning of Section 4(1) of the Crimes Decree No. 44 of 2009 during the time material to this case.*
 3. *At all material times, the PWD was governed by the Finance Manual for Works & Energy 2005 ("FMWE") which specifically outlined the two different procurement procedures depending on the cost of the goods and/or services procured whether it is less than \$100 or more irrespective whether it is procured locally or overseas.*

Abuse of Office (Count 5)

4. *Between the 1st day of February 2010 to 31st day of May 2010 whilst the 5th Accused was employed as a clerical officer at PWD, she did the following*

arbitrary acts, which resulted in the loss to the PWD but a gain to the company called Crazy and Entire Office Supplies, despite procedures in place to guide officers in terms of procuring goods and services within PWD.

5. In summary, the various abuses done by the 5th Accused are as follows:
 - i. Raising Payment Voucher without the required documents which state that all other required procedure and signatories have approved the relevant Purchase Order and signed in the Checked by column.
 - ii. Reusing faxed copy of the same Purchase Orders which has been paid and certifying them as true copies that the items were not paid.
 - iii. Reusing Purchase Orders and without necessarily following the relevant process and procedure signed in the checked by columns and passed it for payments.
 - iv. Reusing Requisition in the FMIS without any request letter or memo as per the procedure, nor any Evaluation Form from the Tender Committee to show their recommendation on the suitable company to order the items from. The 5th Accused then raised the Payment Vouchers and signed in the Checked by column before it was forwarded to pass the payment.
 - v. However, in all the 27 transactions, whereby the 5th Accused was involved in, Purchase Orders were photocopied and reused in other transactions making it either a double, triple or quadruple payments to the company, giving an undue advantage as reflected in the following counts and further in the Annexure A:
 - i. Count 8 and 9 - Double payments;
 - ii. Count 10 and 11 - Double payments;
 - iii. Count 12 and 13 - Double payments;
 - iv. Count 16, 17 and Count 18 - Triple payments;
 - v. Count 20 and 21 - Double payments;
 - vi. Count 27, 28, 29, 30 and 31 - Double, triple and quadruple payments.
 - vi. Writing on processed and paid purchase order that such Purchase Order has not being paid by the Department.
 - vii. Furthermore, in all the payment vouchers, the procedures were not followed as the various people who were signing in the Checked by column, Passed for Payment and certify column certifying the payments to be done.

- viii. *In all the Purchase Orders attached to the Payment Vouchers, the person signing in the authorised column was not authorised and did not have the authorized limit to approve the amount for each of the PO's which the 5th Accused signed in the checked by column and passed for payments.*
6. *Therefore, in respect of the 27 transactions mentioned in paragraph 5(v) that the accused was involved in and had processed, a total of FJD\$75,981.91 was paid to Crazy Office Supplies and Entire Office Supplies Limited. The gain was to be said companies due to the 5th Accused arbitrary act of raising payment vouchers and signing in the checked by column without properly checking the source documents were attached. The 5th Accused knew that there were a number of irregularities and breaches to the standard financial and accounting procedures and regulations, but she wilfully kept a blind eye and went ahead and raised the Payment Vouchers in all the 27 transactions.*
7. *In respect of Count 5 against the 5th Accused, PWD was prejudiced when the money was paid out to Crazy Office Supplies and Entire Office Supplies Limited without the proper procedures being followed and when no delivery was done in all 27 transactions.*

Causing a Loss – (Count 8 – 25 and Count 32 – 40)

(Refer to 'Annexure A')

8. *Between the 1st day of February 2010 to the 31st day of March 2010, the 5th Accused had dishonestly caused a loss to the PWD by falsely facilitating the process of payments through 27 transactions (Refer to 'Annexure A') amounting to FJD\$75,981.91 to Crazy Office Supplies and Entire Office Supplies Limited and knowing that the loss will occur or a substantial risk of loss will occur to the PWD.*
9. *The 5th Accused dishonest act is the fact that she falsely facilitated the process of payments for 27 transactions through:*
- i. *Raising Payment Voucher without the required documents which state that all other required procedure and signatories have approved the relevant Purchase Order and signed in the Checked by column.*
 - ii. *Reusing faxed copy of the same Purchase orders which has been paid and certifying them as true copies that the items were not paid.*
 - iii. *Reusing Purchase orders and without necessarily following the relevant process and procedure signed in the checked by columns and passed it for payments.*

- iv. *Raising Requisition in the FMIS without any request letter or memo as per the procedure, nor any Evaluation form from the Tender Committee to show their recommendation on the suitable company to order the items from.*
 - v. *the 5th Accused raising the Payment Vouchers and signed in the Checked by column before it was forwarded to pass the payment. When she signed in the checked by column, it will indicate that all the source documents were in order and the delivery was made, yet that was not the case in all the 27 transactions made.*
 - vi. *Writing on processed and paid purchase order that such Purchase Order has not being paid by the Department.*
 - vii. *Furthermore, in all the payment vouchers, the procedures were not followed as to the various people who were signing in the Checked by column, Passed for Payment and certify column certifying the payments to be done.*
 - viii. *In all the Purchase Orders attached to the Payment Vouchers, the person signing in the authorised column was not authorized and did not have the authorised limit to approve the amount for each of the PO's which the 5th Accused signed in the checked by column and passed for payments.*
10. *The 5th Accused given her knowledge and experience in her position as Clerical Officer at PWD, she knew that all the source documents should be in order, apart from the fact that it should follow the proper tender procedure; it should be signed and approved by the relevant authorized persons before she signs in the Checked by column which will go for approval for payments to either Crazy Office Supplies and Entire Office Supplies Limited.*
 11. *All the 27 transactions that she had raised the Payment Vouchers for were accompanied by incomplete source documents and the irregularities noted were the approving and certifying signatures signing on behalf of someone else who procedurally is wrong. Delivery Dockets not attached, tender procedure not followed and many more discrepancies which she should have picked if she was exercising her duty as a Clerical Officer in thereafter bring it to the attention of her superiors.*
 12. *However, despite all the irregularities noted, the 5th Accused still signed on the checked by column on the Payment Vouchers blindly which were either*

payable to Crazy Office Supplies or Entire Office Supplies Limited amounting to FJD\$75,981.91, and she knew that a risk or substantial risk of loss would occur to PWD.

13. *The 5th Accused through her deliberate disregard for proper execution of her duties caused a loss to PWD and the Government of Fiji.*
14. *Lastly, the 5th Accused's actions in failing to adhere to proper accounting standard and procedures contributed to the loss of a total of FJD\$75,981.91 from the Public Works Department and the Government of Fiji.*

Obtaining a Gain (Count 42)

15. *Between the 1st day of February 2010 to the 31st day of March 2010, the 5th Accused being employed in the Public Works as a Clerical Officer engaged in a conduct namely falsely facilitating the process of payments to Crazy Office Supplies and Entire Office Supplies Limited and as a result of that conduct obtained a financial advantage amounting to FJ\$27,400.00 from the said companies knowing that she was not eligible to receive the said financial advantage.*
16. *The 5th Accused had engaged in various conducts noted in paragraph 5(i) to (viii) and paragraph 9(i) to (viii) above whereby the company had gained financially, however, in return, FJ\$27,400.00 was deposited into the 5th Accused husband's (Josateki R Halafi) Westpac Banking Corporation Account No. 9802203217 either via cash deposits or internet banking transfer by Crazy Office Supplies and Entire Office Supplies Limited.*
17. *The 5th Accused given her knowledge and experience in her position as Clerical Officer at PWD, knew that it was not appropriate to receive the FJ\$27,400.00 from the above mentioned companies, yet she still obtained the said money for her personal use.*
18. *The 5th Accused was interviewed under caution on the 05/12/11, 06/12/11, 19/12/11, 07/12/12, 10/02/12, 15/02/12, 08/06/12, 15/06/12, 15/10/12, 03/04/13 before she was charged on 05/12/13 for one (1) count of Abuse of Office contrary to Section 139 of the Crimes Decree (now known as Act), twenty eight (28) counts of Causing A Loss contrary to Section 324 (2) of the Crimes Act 2009 and one (1) count of Obtaining a Financial Advantage contrary to Section 326 (1) of the same Act and produced in court thereafter.*

[9] Section 4 of the Sentencing and Penalties Act No. 42 of 2009 ("Sentencing and Penalties Act") stipulates the relevant factors that a Court should take into account during the sentencing process. I have duly considered these factors in determining the sentence to be imposed on you.

[10] Section 139 of the Crimes Act No. 44 of 2009 ("Crimes Act") defines the offence of Abuse of Office in the following manner: *"A person commits an indictable offence which is triable summarily if, being employed in the public service, the person does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another."*

The maximum penalty for Abuse of Office in terms of Section 139 of the Crimes Act is 10 years imprisonment. However, if the act is done or directed to be done for gain the maximum penalty is enhanced to 17 years imprisonment.

[11] Section 324 of the Crimes Act defines Causing a Loss as follows:

324.—(1) A person commits a summary offence if he or she does anything with the intention of dishonestly causing a loss to another person.

(2) A person commits a summary offence if he or she—

(a) dishonestly causes a loss, or dishonestly causes a risk of loss, to another person; and

(b) person knows or believes that the loss will occur or that there is a substantial risk of the loss occurring.

The maximum penalty for the offence of Causing a Loss is 5 years imprisonment.

[12] Obtaining a Financial Advantage is defined in Section 326(1) of the Crimes Act as follows:

326.—(1) A person commits a summary offence if he or she—

(a) engages in conduct; and

(b) as a result of that conduct, obtains a financial advantage for himself or herself from another person; and

(c) knows or believes that he or she is not eligible to receive that financial advantage.

The maximum penalty for the offence is 10 years imprisonment.

- [13] In *Fiji Independent Commission Against Corruption (FICAC) v. Ana Laqere and Others* [2017] FJHC 337; HAC 56.2014 (10 May 2017); His Lordship Justice Rajasinghe held:

"All of these offences are founded on the ground of corrupt activities of public officers. Undoubtedly, offences of this nature committed by the public officers adversely and seriously affect the very fundamental fabric of the society. Public officers are the intermediary link between the State and Public. They are appointed to implement and provide the duties, responsibilities and the protection undertaken by the State towards the public. In pursuant of a collective social contract between the State and the Public, the public hand over their individual and collective rights to the State, entrusting the State the responsibility and duty to provide and protect those rights of the public. This Social Agreement, provides the legitimacy for the functioning of the State. Hence, it is paramount to the State to maintain high standard of transparency and integrity in performing its duties and responsibilities through the public officers. Otherwise, the trust and the confidence entrusted by the public on the State would erode, leading to a catastrophic end of the State and the society.

.....

In view of the seriousness of the offences of this nature and its adverse effects on the public and the State, it is my view that the court in sentencing offenders of this nature must impose heavy and severe punishment. Accordingly, the main purpose of this sentence is founded on the principle of deterrence and protection of the community."

- [14] In determining the tariff for Abuse of Office, having discussed previous authorities, His Lordship Justice Rajasinghe opined: *"In view of above sentencing precedents, it appears that the courts of Fiji have considered the level of authority and trust reposed in the position held by the accused, and the level of prejudice caused to the victim in sentencing. If the level of authority and trust, and the prejudice caused are high, the court could go to the higher starting point and vice versa."*

- [15] Accordingly, His Lordship held:

I would like to adopt the same approach in setting an appropriate tariff, allowing the sentencing court to determine the appropriate starting point based on the level of culpability and the prejudice/ harm caused. Accordingly, I find a tariff limit of one (1) year to twelve (12) years would adequately serve the above purpose. The sentencing court could consider the following ranges of starting point based on the level of culpability and the harm caused:

	High Level of Culpability	Medium Level of Culpability	Lesser Level of Culpability
High Level of Harm/ Prejudice with gain	8-12	6-10	4-8
Medium Level of Harm/Prejudice either with medium level gain or without gain	6-10	4-8	2-6
Lesser Level of Harm/Prejudice either with less gain or without gain	4-8	2-6	1-4

[16] I too agree with this tariff and the basis for same.

[17] In *Fiji Independent Commission Against Corruption [FICAC] v Mohammed* [2015] FJHC 479; HAC 349.2013 (24 June 2015); His Lordship Justice Madigan sets out the tariff for Causing a Loss in the following terms:

"Causing a loss is again a mirror image of obtaining a financial advantage in a case of corruption; then as with that obtaining offence the tariffs for this offence can be split between causing a loss (simpliciter) and causing a loss where there is bribery or corruption involved.

The tariff for general dishonesty for causing a loss could be fixed at between suspended sentence to 4 years with suspended sentences to be passed for very small losses caused unwittingly.

Causing a loss when proved in conjunction with a generating corruption offence will attract the higher tariff of 4 to 5 years."

[18] In *Fiji Independent Commission Against Corruption [FICAC] v Mohammed* (supra) Justice Madigan discussed the tariff limit for the offence of Obtaining a Financial Advantage, contrary to Section 326 (1) of the Crimes Act. His Lordship held that:

"There is much authority to dictate that the tariff for "Obtaining Financial Advantage by Deception" (s. 318) lies between 2 to 5 years but a tariff has never been set for the present offence. It is a summary offence and for that reason the tariff cannot be set too high. Absent the element of deception, the tariff should be 2 to 4 years but in cases where the obtaining is linked to a far more perfidious crime then the sentence for that crime should flow on to the sentence for the obtaining offence. This will apply particularly where a

financial advantage has been obtained through corruption. Therefore if this offence is charged alone the tariff of 2 to 4 years should apply but if charged in conjunction with another "enabling" offence, it will adopt the sentencing tariff for that particular offence"

- [19] In determining the starting point within a tariff, the Court of Appeal, in **Laisiasa Koroivuki v State** [2013] FJCA 15; AAU 0018 of 2010 (5 March 2013); has formulated the following guiding principles:

"In selecting a starting point, the court must have regard to an objective seriousness of the offence. No reference should be made to the mitigating and aggravating factors at this time. As a matter of good practice, the starting point should be picked from the lower or middle range of the tariff. After adjusting for the mitigating and aggravating factors, the final term should fall within the tariff. If the final term falls either below or higher than the tariff, then the sentencing court should provide reasons why the sentence is outside the range."

- [20] Amelia Vunisea, in terms of the Summary of Facts which you have admitted to, in the year 2010, you held the position of Acting Assistant Accounts Officer, EDP Number 53425 based at the Mechanical Section of the Divisional Engineer Central Eastern Office ("DECE") of the Public Works Department ("PWD"), at Walu Bay, Suva.
- [21] You had been employed at the Public Works Department for over 20 years at the time of this offence. As the Assistant Accounts Officer, you were a mature and experienced officer. You brought with you a wealth of experience in the Accounts Section and had on previous occasions acted on the post of Assistant Accounts Officer. With your experience of over 20 years, you were possessed with the necessary skills, competencies and knowledge to perform the duties of your post.
- [22] You have now been convicted of one count of Abuse of Office and 33 counts of Causing Loss. The total loss you have caused to the PWD amounts to FJD\$93,512.48.
- [23] For the said reasons I find the level of culpability and the level of prejudice/harm caused to be within the highest range of the tariff limit. In view of that I select 8 years as the starting point for the offence of Abuse of Office (Count 2).
- [24] Similarly, in the light of the above guiding principles, and also taking into consideration the objective seriousness of the offence, Amelia Vunisea, I commence your sentence at 3 years for each of the 33 counts of Causing a Loss.
- [25] Laisa Halafi, in terms of the Summary of Facts which you have admitted to, you held the position of Clerical Officer, EDP Number QM858, at the PWD, based at Walu Bay, in Suva, during the time period material to this case.

- [26] You were responsible for ensuring that tasks in relations to conventional secretarial responsibilities as assigned by the Assistant Accounts Officer are implemented within the set time frames and with the highest level of output quality. You were therefore responsible for assisting the Assistant Accounts Officer and the Senior Accounts Officer in fulfilling their roles.
- [27] You have now been convicted of one count of Abuse of Office, 27 counts of Causing Loss and one count of Obtaining a Financial Advantage. The total loss you have caused to the PWD amounts to FJD\$75,981.91 and the financial advantage obtained by you amounts to FJD\$27,400.00.
- [28] For the said reasons I find the level of culpability and the level of prejudice/harm caused to be within the highest range of the tariff limit. In view of that I select 8 years as the starting point for the offence of Abuse of Office (Count 5).
- [29] Similarly, in the light of the above guiding principles, and also taking into consideration the objective seriousness of the offences, Laia Halafi, I commence your sentence at 3 years for each of the 27 counts of Causing a Loss and 3 years for Obtaining a Financial Advantage (Count 42).
- [30] The aggravating factors (in respect of both Amelia Vunisea and Laia Halafi) are as follows:
- (i) Serious breach of trust. Both accused were employees of the PWD and were holding responsible positions. As employees you owed a duty towards your employer to be honest and loyal in the performance of your functions. By your actions you have breached this trust.
 - (ii) The repetitive and systematic breaches of procurement procedures, which establishes the fact that there was prior planning and a deliberate attempt by you to defraud public funds.
 - (iii) The large amounts of public funds defrauded.
 - (iv) You are now convicted of multiple offending.
- [31] In mitigation you have submitted as follows:
- (i) You are both first offenders and that you have no previous convictions to date (prior to being convicted for the connected High Court of Suva Case No. HAC 56 of 2014). The State also confirms that there are no previous convictions recorded against you, other than for the aforementioned case.

- (ii) You have submitted that you are truly remorseful of your actions. You have sought forgiveness from this court and have assured that you will not re-offend.
 - (iii) That you entered a guilty plea at an early stage of these proceedings.
- [32] Amelia Vunisea, you are now said to be 58 years of age and have been married for almost 35 years with 3 children and 4 grandchildren. These are all personal circumstances and cannot be considered as mitigating circumstances.
- [33] Laisa Halafi, you are now said to be 43 years of age. Your husband is said to have passed away in January 2017. You have 4 children, aged 23, 20, 19 and 17 years. These are all personal circumstances and cannot be considered as mitigating circumstances.
- [34] Amelia Vunisea, considering the aforementioned aggravating factors, I increase your sentence by a further 3 years for the offence of Abuse of Office and 2 years for each count of Causing a Loss. Now your sentence for Abuse of Office is 11 years and your sentence for Causing a Loss is 5 years.
- [35] Laisa Halafi, considering the aforementioned aggravating factors, I increase your sentence by a further 3 years for the offence of Abuse of Office and 2 years for each count of Causing a Loss and for the offence of Obtaining a Financial Advantage. Now your sentence for Abuse of Office is 11 years and your sentence for Causing a Loss and for Obtaining a Financial Advantage is 5 years.
- [36] Amelia Vunisea, I accept that you are a person of previous good character. I also accept your remorse as genuine. Accordingly, considering these mitigating factors, I deduct 2 years from your sentences. Now your sentence for Abuse of Office is 9 years and for each count of Causing a Loss is 3 years.
- [37] Laisa Halafi, I accept that you are a person of previous good character. I also accept your remorse as genuine. Accordingly, considering these mitigating factors, I deduct 2 years from your sentences. Now your sentence for Abuse of Office is 9 years, for each count of Causing a Loss is 3 years and for Obtaining a Financial Advantage is 3 years.
- [38] I accept that you both entered a guilty plea at an early stage of these proceedings. In doing so, you saved precious time and resources of this Court. For your early guilty pleas I grant you further discount of 2 years in respect of the offence of Abuse of Office. Since I propose to make your sentences concurrent I do not deem it necessary to grant you any further discount for Causing a Loss and for Obtaining a Financial Advantage in lieu of this factor.

[39] In the circumstances, your sentence are as follows:

Amelia Vunisea

Count 2 – Abuse of Office contrary to Section 139 of the Crimes Act – 7 years imprisonment.

Counts 8-40 – Causing a Loss contrary to Section 324 (2) of the Crimes Act – 3 years imprisonment for each count.

I order that all the above sentences of imprisonment to run concurrently. Therefore, your final total term of imprisonment will be 7 years. I will not fix a non-parole period in terms of Section 18 of the Sentencing and Penalties Act.

[40] **Laisa Halafi**

Count 5 – Abuse of Office contrary to Section 139 of the Crimes Act – 7 years imprisonment.

Counts 8-25 and 32-40 – Causing a Loss contrary to Section 324 (2) of the Crimes Act – 3 years imprisonment for each count.

Count 42 – Obtaining a Financial Advantage contrary to Section 326 (1) of the Crimes Act – 3 years imprisonment.

I order that all the above sentences of imprisonment to run concurrently. Therefore, your final total term of imprisonment will be 7 years. I will not fix a non-parole period in terms of Section 18 of the Sentencing and Penalties Act.


[41] In the result, Amelia Vunisea and Laisa Halafi, your final sentences will be 7 years imprisonment. I direct that this sentence would be concurrent to any prison sentence the two of you are currently serving.

[42] You have 30 days to appeal to the Court of Appeal if you so wish.



AT SUVA

Dated this 27th Day of September 2018


Riyaz Hamza
JUDGE
HIGH COURT OF FIJI

Solicitors for the State : Fiji Independent Commission Against Corruption (FICAC).

Solicitor for the 1st Accused : R. Vananalagi, Barrister and Solicitor, Suva

Solicitor for the 2nd Accused : Iqbal Khan & Associates, Barristers and Solicitors, Lautoka

Solicitor for the 3rd Accused : Office of the Legal Aid Commission, Suva

Solicitor for the 4th Accused : Office of the Legal Aid Commission, Suva

Solicitor for the 5th Accused : R. Vananalagi, Barrister and Solicitor, Suva

Solicitor for the 6th Accused : Office of the Legal Aid Commission, Suva

Solicitor for the 7th Accused : Rayawa Law, Suva

Solicitor for the 8th Accused : Aman Ravindra Singh, Barrister and Solicitor, Suva

Solicitor for the 9th Accused : Aman Ravindra Singh, Barrister and Solicitor, Suva