

GRUCHY, J. (Orally):

[1] Mr. Winter, do you have anything to say on your own behalf before I pass sentence?

MR. WINTER: I would like to apologize to the Organization for my deeds, Your Honour.

[2] Thank you. My first remarks will be of course to the Black Educators Association or any members of that association who are present. This has undoubtedly a very difficult situation for you and I can only say that I think we understand your position. If Mr. Winter has any family here I say the same thing to you. This has been very difficult and not only does Mr. Winter owe an apology to the Association he owes an apology particularly to his family and to the public at large, to the community at large.

[3] I am required at law to denounce what Mr. Winter has done and I do so in the strongest of possible terms. Mr. Winter set about deliberately with a plan, a greedy plan, to grab some money from people who trusted him. I do not know how more strongly, I can denounce it than to say that. I am required at law as well to pass a sentence which is designed to deter not only Mr. Winter from committing a similar offence again or any offence again to hopefully deter other persons who might be inclined to do the same sort of thing.

[4] Many of the offences that we deal with are done on the spur of the moment and perhaps we have to keep that in mind but this was a deliberate scheme brought about with planning and an attempt to feed a greed. So, I have not only to denounce it but I also hope that by addressing this I will deter other persons and Mr. Winter from doing it again.

[5] Counsel have agreed that in the circumstances and in particular in reference to other sentences imposed by this and other courts it is necessary offenders from society. It is necessary in this case to separate Mr. Winter from the community as a whole by enclosing a period of incarceration upon him.

[6] Not only am I required to make those remarks but I endorse them. In the past I have sentenced other such offenders to incarceration. There have been other cases in our court where other even more serious offences have received less sentences. I do not agree with those sentences. It is my view that a person who deliberately sets about to cheat his employers or his clients deserves incarceration. I hope that the period of incarceration plus the period of probation will have the effect of rehabilitating Mr. Winter. He has

the intelligence. He has the background to be able to recover from this terrible thing that he has done but I am extremely mindful of the fact that he has done it before.

- [7] I am required to consider whether there is some method by which Mr. Winter may make reparation for the harm done. One of the ways that he can do that of course is by repaying the money that he has taken. Reparation for the harm done, however, will never be accomplished by the simple repayment of funds. I hope that ultimately I will have promoted a sense of responsibility in Mr. Winter and I note that he has acknowledged that he has done harm to his victims. I have considered the cases put to me by Mr. Pink and I agree with his summation.
- [8] I have concluded that I will accept the recommendation and I sentence Mr. Winter to one year of incarceration. Upon release he will be required to serve two years probation. The terms of that probation will be that he will keep the peace and be of good behaviour; that he will report to the adult probation officer and he will undergo any mental health assessment and treatment as ordered by the probation officer. With respect to the latter, I sincerely hope that the probation officer will indeed have Mr. Winter assessed. A person with Mr. Winter's obvious intelligence, his education background and Mr. Pink has assured me fine parental support, fine family support, the commission of this offence indicates to me that there is a problem. I hope Mr. Winter will recognize that and I hope the probation officer will address it. There will be an order under s.738(1) of the *Criminal Code* for the restitution of the amount of \$56,044.83. I do remark as well of course as did Mr. Pink that the restoration will be subject to a first claim by an insurer. I have no direct knowledge of that.

J.