Public Prosecutor *v* Tee Fook Boon Andrew
[2011] SGHC 192

Case Number : Magistrate's Appeal No 120 of 2011

Decision Date : 22 August 2011

Tribunal/Court : High Court

Coram : Steven Chong J

Counsel Name(s) : Tan Kiat Pheng, Vala Muthupalaniappan, and Grace Goh Chioa Wei (Attorney-General's Chambers) for the Appellant; Jason Lim Chen Thor (De Souza Lim & Goh LLP) for the Respondent.

Parties : Public Prosecutor — Tee Fook Boon Andrew

Criminal Procedure and Sentencing

22 August 2011

Steven Chong J:

Introduction

1 This appeal involved one of the largest cases of private sector corruption in terms of the total amount of gratification paid. The respondent paid bribes totalling S$2,389,322.47 in 80 separate payments between January 2003 and July 2009. The District Judge imposed a sentence of one month's imprisonment and a fine of S$15,000 (in default, one month's imprisonment) for each of the charges. Four of the imprisonment sentences were ordered to run consecutively with the remaining sentences to run concurrently. In total, the respondent was therefore sentenced to serve four months' imprisonment (*ie*, 16 weeks imprisonment) and was ordered to pay a total fine of S$180,000 (in default, 12 months' imprisonment). The prosecution appealed on the ground that the District Judge had erred in principle, in determining the factual matrix for sentencing, in appreciating the material before him and in ordering a manifestly inadequate sentence. Although this case involved one of the largest sums of bribes paid in recent times, it was accepted by both counsel that the custodial sentence of one month's imprisonment per charge was perhaps the lowest to their knowledge. At the end of the hearing, I allowed the appeal and enhanced the respondent's sentence to 40 weeks' imprisonment in aggregate (10 weeks' imprisonment per charge), with the fine remaining unchanged at S$180,000. I had provided brief oral grounds when I allowed the appeal. These are my detailed grounds of decision.

Facts

Background

2 The respondent was the sole proprietor of AT35 Services, which was registered as a scrap metal and waste disposal business. The respondent was acquainted with one Lim Kim Seng Gary ("Lim"). Lim operated a company which provided cleaning services to IKEA's restaurant outlet located at Alexandra Road in Singapore ("the IKEA Store"). IKANO Pte Ltd ("IKANO"), the local franchisee of INTER IKEA SYSTEMS BV, owns and operates the IKEA Store.

3 In early October 2002, Lim made a proposition to the respondent to enter into a business to

provide food supplies to IKANO. At the time, IKANO obtained its food supplies from a business known as "Wholesale Food Trader", which was operated by Lim's brother. Lim wanted to replace Wholesale Food Trader but he did not want to appear to have an interest in the entity providing food supply services to IKANO because Lim was already providing it with cleaning services. The plan, therefore, was for the respondent to take over Wholesale Food Trader's business through AT35 Services. Lim and the respondent would each contribute S$30,000 as working capital for this purpose.

4 Some time thereafter, Lim introduced the respondent to one Leng Kah Poh Chris ("Leng") who was the Food Services Manager of IKANO. The precise date when this meeting occurred was not stated in the Statement of Facts.

5 It was then "*subsequently*" agreed that should Leng select AT35 Services as IKANO's food supplier, Lim and the respondent would reward Leng with one-third of all profits earned by AT35 Services from its business with IKANO. Again, the Statement of Facts did not indicate the precise date when this agreement was reached. However, it was clear from the Statement of Facts that IKANO selected AT35 Services as its food supplier *after* the corrupt scheme between Leng, Lim and the respondent was hatched.

6 From November 2002, AT35 Services supplied food to IKANO. Initially, AT35 Services priced its food supplies competitively to the price offered by Wholesale Food Trader. As time went on, AT35 Services began to charge prices significantly higher than the market rate. From August 2005 onwards, a new business by the name of "Food Royal Trading" ("FRT") was set up to take over the supply of dry food items and sauces to IKANO from AT35 Services. The same agreement of splitting profits three-ways between Lim, Leng and the respondent applied to FRT's profits.

7 As was agreed (see [5]–[6] above), one-third of the profits of AT35 Services and FRT were paid to Leng. Between January 2003 and July 2009, a total of 80 such payments were made. As mentioned earlier (see [1] above), the total amount of the payments was S$2,389,322.47. Leng obtained his share of profits in cash from Lim who, in turn, obtained the cash from the respondent. The respondent obtained the cash by encashing cheques drawn on the accounts of AT35 Services and/or FRT.

The charges

8 The respondent was charged with 80 counts of corrupt gratification of an agent in furtherance of a common intention with Lim in contravention of s 6(b) of the Prevention of Corruption Act (Cap 241, 1993 Rev Ed) ("PCA") read with s 34 of the Penal Code (Cap 224, 2008 Rev Ed).

9 The prosecution proceeded on 12 charges. The total amount of gratification provided on the 12 charges was S$761,019.64. The respondent pleaded guilty to the 12 charges and consented to the remaining charges being taken into consideration for the purpose of sentencing.

Settlement of a civil claim brought by IKANO

10 IKANO brought a civil claim against the respondent and others for unlawful conspiracy to injure IKANO. The respondent has since paid a sum of S$1,000,000 to settle IKANO's claim (part of the payment was in cash and the remainder was set-off against sums owed by IKANO to AT35 Services).

The District Judge's decision

11 The District Judge sentenced the respondent to one month's imprisonment and a fine of

S$15,000 (in default, one month's imprisonment) for each of the charges. The imprisonment terms on four of the charges were ordered to run consecutively with the remaining sentences to run concurrently.

12 The District Judge considered the prosecution and the respondent's submissions on the aggravating and mitigating factors in considerable detail. The factors he considered were as follows:

(a) the need for general deterrence in corruption cases;

(b) the role and culpability of the respondent;

(c) the mischief caused by the respondent's payment of gratification;

(d) the amount of gratification paid;

(e) the degree of planning involved;

(f) the duration of the offences;

(g) the benefit acquired by the respondent;

(h) the fact that the respondent had made restitution;

(i) the personal hardship that might be caused to the respondent as a result of his sentence (this did not carry much weight); and

(j) the respondent's good character, as demonstrated by his charity work and testimonials on his character (this did not carry much weight).

13 After considering these factors, the District Judge decided that a short custodial sentence was warranted because of the need for general deterrence and the large amount of gratification involved. However, the District Judge was of the view that since the respondent was a first offender, the length of the sentence was to be determined by considerations of individual deterrence. These considerations would, however, in his view, have to be balanced against considerations of general deterrence which apply in corruption cases. A long custodial sentence was not justified because the respondent was of good character and was genuinely remorseful as evidenced by his cooperation with the Corrupt Practices Investigation Bureau ("CPIB"), his guilty plea and his making of restitution.

14 The District Judge then reached his decision on the length of the sentence after considering the sentencing precedents. The District Judge approached the sentencing precedents by comparing the culpability of the respondent with the culpability of the defendants in the precedents.

The prosecution's appeal on sentencing

15 For the appeal, the prosecution raised the following arguments:

(a) The District Judge failed to give sufficient weight to the need for general deterrence in corruption cases.

(b) The District Judge "erred in law and in fact" by failing to give sufficient weight to the following factors:

(i) the fact that the respondent gave bribes on 80 occasions;

(ii) the total amount of bribes paid was substantial;

(iii) the corruption spanned 6.5 years;

(iv) the offences were committed with deliberation and premeditation; and

(v) IKANO sustained substantial damage and the respondent obtained substantial benefits because IKANO purchased food supplies at prices significantly higher than the market rate.

(c) The District Judge "erred in law and in fact" by deciding that:

(i) the respondent was not as culpable as Leng;

(ii) the respondent played a peripheral role in the scheme because he did not actively seek to corrupt Leng; and

(iii) there was no evidence that the respondent corrupted anyone.

(d) The District Judge "erred in law and in fact" by deciding that "the substantial benefit to the respondent was not wholly tainted by or derived from the fruits of corruption".

(e) The District Judge "erred in law and in fact" by accepting that the respondent did not pay gratification in exchange for specific favours.

(f) The District Judge "erred in law and in fact" by according undue weight to the respondent's making of restitution of S$1,000,000 and in failing to give sufficient consideration to the fact that the respondent was unjustly enriched by about S$2,389,000 from the corrupt arrangement.

(g) The sentence was manifestly inadequate.

16 The respondent cited extensively from the District Judge's decision. His arguments were largely a defence and reiteration of the District Judge's reasoning as summarised above (see [12]–[14]).

The law on appellate intervention in sentencing

17 It would be useful to briefly consider the law on appellate intervention in sentencing. The Court of Appeal in *Public Prosecutor v Kwong Kok Hing* [2008] 2 SLR(R) 684 ("*Kwong Kok Hing*") reiterated (at [14]) that appellate intervention is warranted in only the following four instances:

…

(a) the trial judge had made the wrong decision as to the proper factual matrix for sentence;

(b) the trial judge had erred in appreciating the material before him;

(c) the sentence was wrong in principle; or

(d) the sentence imposed was manifestly excessive, or manifestly inadequate.

18 As to the fourth ground of intervention, *viz*, the manifest inadequacy of the sentence, the Court of Appeal noted that what is required is an "unjustly lenient" sentence which would require "substantial alterations rather than minute corrections to remedy the injustice" (see *Kwong Kok Hing* at [15] citing *PP v Siew Boon Loong* [2005] 1 SLR(R) 611 at [22]).

Issues

19 I considered the following issues:

(a) Did the District Judge err in principle?

(b) Did the District Judge err in appreciating the proper factual matrix for sentencing or in appreciating the material placed before him?

(c) Was the sentence imposed by the District Judge manifestly inadequate?

The reasons for my decision

The sentencing principles for private sector corruption

20 V K Rajah JA in *Public Prosecutor v Ang Seng Thor* [2011] SGHC 134 ("*Ang Seng Thor*") recently reviewed the principles which should be applied in sentencing for private sector corruption. I do not propose to restate the principles set out in *Ang Seng Thor*. It is sufficient for present purposes to

note the following:

(a) The main sentencing considerations in corruption cases are deterrence and punishment (*Ang Seng Thor* at [33]).

(b) The seriousness of the offence would increase considerably in cases involving corruption of managers, particularly senior managers (*Ang Seng Thor* at [42]).

(c) The giver of a bribe is generally as culpable as the receiver (*Ang Seng Thor* at [45]).

(d) The size of the bribe has a bearing on both the culpability of the offender and the harm occasioned by the offence. The larger the amount of the bribe, the greater is the corrupt influence on the recipient and, hence, the greater is the subversion of the public interest in ensuring fairness in transactions and decisions. The size of the bribe is also a good indicator of the culpability of the offender. In the case of the giver of the bribe, the size of the bribe demonstrates the amount of influence that the giver wanted to exert on the recipient. Hence, in general, the greater the bribe, the greater is the culpability of the giver (*Ang Seng Thor* at [46]–[47]).

Did the District Judge err in principle?

21 The prosecution raised a number of arguments which were, in essence, arguments that the District Judge had erred in principle. The prosecution claimed that the District Judge failed to accord sufficient weight to the following factors:

(a) the need for general deterrence;

(b) the fact that the respondent gave bribes on 80 occasions;

(c) the fact that the total amount of bribes paid was substantial; and

(d) the fact that the corruption spanned 6.5 years.

22 My view was that the District Judge cannot be said to have erred *in principle* by reason of the weight that he accorded to the relevant factors. The District Judge did, in fact, take into account the considerations referred to above.

23 First, the District Judge did not ignore the need for general deterrence. He recognised that general deterrence was the primary sentencing consideration in corruption cases. General deterrence was also the reason why the District Judge decided that a custodial sentence was warranted. He also took general deterrence into account in determining the length of the custodial sentence (*PP v Andrew Tee Fook Boon* [2011] SGDC 211 at [68]):

68 Given that the defendant was a first offender, the length of the sentence would generally be determined by considerations of individual deterrence (*although this would have to be balanced against considerations of general deterrence* in corruption cases)…

[emphasis added]

24 Second, the District Judge took into account the duration and frequency of the offences although he did not consider this to be a "significant aggravating factor" because of what he considered to be the respondent's "peripheral role" in the corrupt scheme. I considered that his understanding of the respondent's role was not supported by the evidence before him. This is a matter that I have dealt with in greater detail below (see [27]). For now, it is sufficient to note that the District Judge did not err as a matter of principle. His error was in his appreciation of the factual matrix for sentencing. This, in turn, meant that his *application* of the relevant principles was erroneous. However, it cannot be said that the District Judge had erred in principle as a result. He identified the correct principles.

25 Third, the District Judge took the amount of the bribe and the fact that it was paid over an extended period into consideration. However, he took the view that the amount of gratification could not be viewed in isolation. He reasoned that the amount of gratification was large because of the amount of profits earned by the business and the duration over which the offences took place. Again, the District Judge did not err in principle in taking this approach. He did not consider the amount of gratification paid to be an irrelevant consideration. If he had done so, he would have certainly erred in principle because it is well accepted that the amount of gratification paid is a relevant sentencing consideration in corruption cases (see [20(d)] above). Having taken the amount of gratification paid into consideration, it was open to the District Judge to hold that this factor should not be given much significance or weight *provided* that such holding was justified by other relevant factors.

Did the District Judge err in appreciating the proper factual matrix for sentencing or in appreciating the material placed before him?

26 My view was that the District Judge made three significant factual errors.

27 First, the District Judge was not justified in concluding that the respondent played a peripheral role in the scheme. While it is true that the respondent was not the initiator of the corrupt scheme, he was nonetheless the person who managed AT35 Services and FRT. He also monitored their finances and periodically drew out cash to pay the bribes which were transmitted, through Lim, to Leng.

28 Second, the District Judge erred in taking the view that the respondent was not as culpable as Lim and Leng. Even though the respondent was not the person who initiated the plan to corrupt Leng, he was very much a part of the corrupt scheme from its genesis. The Statement of Facts reveals that the corrupt scheme was hatched between the respondent, Leng and Lim *prior* to the selection of AT35 Services as the food supplier for IKANO. Paragraph 4 of the Statement of Facts makes this clear:

> Shortly thereafter, Gary introduced the accused to Chris at a coffee shop in Bishan. Gary informed Chris that AT35 Services was interested in becoming IKEA's food supplier. Subsequently, it was agreed that ***should*** Chris select AT35 Services as the food supplier for IKEA, Gary and the accused would reward Chris with one-third of any profits earned by AT35 Services from their dealings with IKEA. The accused was aware that it was necessary for Gary and him to reward Chris with one-third of the profits as he was the one in charge of selecting IKEA's food supplier, and that if they did not get Chris involved, they would not have been able to obtain the deal with IKEA. [emphasis added in bold italics]

Furthermore, the Statement of Facts showed that the corrupt scheme was an *agreement* reached between Leng, Lim and the respondent. The respondent was a willing and active participant in the agreement and was not merely acquiescent in a bilateral corrupt agreement between Leng and Lim. Even if the respondent merely acquiesced in the scheme, the fact is that he did so over a very substantial period. It was therefore erroneous for the District Judge to have taken the view that the respondent was not as culpable as Lim or Leng. This case undoubtedly fell within the general position that the giver is typically as culpable as the recipient (see [20(c)] above). There were no exceptional circumstances to suggest otherwise.

29 Third, the District Judge was wrong to have found that there was no evidence that the respondent had corrupted anyone. This was a curious finding particularly since every charge to which the respondent pleaded guilty expressly stated that the respondent "did corruptly give…[Leng]…a gratification". The fact that the bribes corrupted Leng is beyond doubt because it was an ingredient of the charges that the respondent pleaded guilty to.

30 Since the District Judge made factual errors material to sentencing, it was open to me to intervene and determine whether the sentence he awarded was appropriate in the circumstances. For the reasons given below, I considered that the sentence ordered below was manifestly inadequate and thus not appropriate in the circumstances.

Was the sentence manifestly inadequate?

31 I agreed with the District Judge that a custodial sentence was warranted in view of the size of the bribe and the need for general deterrence. Indeed, the respondent did not appeal against the District Judge's imposition of a custodial sentence even though his primary argument below was that a fine should be imposed. Thus, the issue that I had to consider was whether the length of the custodial sentence and the fine imposed by the District Judge was manifestly inadequate.

32 For convictions under s 6(b) of the PCA where custodial sentences were imposed, the duration of the custodial sentences range from six weeks' imprisonment per charge in *Ang Seng Thor* to 12 months' imprisonment per charge in *PP v Kang Hwi Wah* [1994] 2 SLR(R) 47 ("*Kang Hwi Wah*"). Before me, the prosecution pressed for three to four months' imprisonment for each charge with an aggregate sentence of between 12 and 18 months' imprisonment. However, in the proceedings below, the prosecution pressed for a deterrent sentence of between nine and 12 months' imprisonment for each charge with at least four sentences to run concurrently.

33 I agreed with the prosecution that the facts before me were more serious than that in *Ang Seng Thor*. Like the present case, the accused in *Ang Seng Thor* was not the initiator. Rajah JA nevertheless disagreed with the District Judge that the accused was less culpable merely because he was not the initiator (*Ang Seng Thor* at [51]). Second, Rajah JA also held, contrary to the District Judge, that the degree of culpability of the giver corresponds to the size of the bribes (*Ang Seng Thor* at [47]). In *Ang Seng Thor*, the total bribe was about S$205,000 which was less than 10% of the total bribes in the present case. Third, the bribes in the present case took place on 80 occasions while in *Ang Seng Thor*, there was a total of only four bribes. Fourth, in *Ang Seng Thor* the bribes were made to secure contracts for the company and it was the company which directly benefitted from the contracts. Here as a result of the corrupt scheme, the respondent benefitted directly. He made a profit of at least S$2,389,322.47 (excluding allowances) for which he made restitution of S$1,000,000 to IKANO. Admittedly, even in *Ang Seng Thor*, Rajah JA considered that the accused stood to personally benefit from the corruption because he was entitled to a maximum of 15% of a certain percentage of the company's net profit before tax (*Ang Seng Thor* at [53]). Nevertheless, I considered it to be a point of distinction that the benefit to the respondent was more directly linked

to the corrupt scheme than was the case in *Ang Seng Thor*. Furthermore, the entire business of AT35 Services and FRT resulted from the corrupt scheme. The respondent was in the waste management business prior to the corrupt scheme. It was clear to me that but for the corrupt scheme, he would not have been awarded the contract to provide food supplies to IKANO. For these reasons, it was plain and obvious that the respondent's culpability could not therefore be any less than that in *Ang Seng Thor*.

34 I also considered the following sentencing precedents in the context of private sector corruption which were referred to me by the parties:

(a) *Public Prosecutor v Lim Niann Tsyr* [2007] SGDC 38: The accused pleaded guilty to two charges of corruptly accepting gratification. Four other charges were taken into consideration for sentencing. The bribes received totaled S$27,000 and US$96,000. The accused had received the bribes from contractors in exchange for awarding part of the work for a project to construct a research and development complex located at North Buona Vista Road which is known as the "Biopolis". The accused was the operations manager of one of the sub-contractors involved in the project. The accused also faced one charge of cheating. The District Judge sentenced the accused to three months' imprisonment for one charge and six months' imprisonment for the other charge. In aggregate, he was sentenced to 10 months' imprisonment (his sentence of four months' imprisonment for the cheating charge was ordered to run consecutively with his sentence of six months' imprisonment for one of the corruption charges). The accused appealed against his sentence in Magistrate's Appeal No 10 of 2007. Rajah JA dismissed the appeal without issuing any written grounds of decision.

(b) *Lim Teck Chye v Public Prosecutor* [2004] 2 SLR(R) 525 ("*Lim Teck Chye*"): The accused *claimed trial* to six charges of abetment by conspiracy to corruptly pay gratification in contravention of s 6(b) read with s 29 of the PCA. The bribes totaled S$6,300. The accused was a director of a company supplying bunkers to vessels. He had provided gratification to marine surveyors in relation to six bunkering transactions. Yong Pung How CJ upheld the sentence of two months' imprisonment per charge with the sentence on three charges running consecutively (in aggregate, six months' imprisonment) and a fine of S$240,000. Yong CJ agreed with the District Judge that a custodial sentence was warranted because the accused's actions had adversely affected public confidence in the independence of marine surveyors (*Lim Teck Chye* at [68]). There were also several aggravating factors (*Lim Teck Chye* at [55], [61] and [73]). The aggravating factors included the fact that the accused was a senior executive and had not shown remorse (*Lim Teck Chye* at [55]).

(c) *Kang Hwi Wah*: The accused faced one charge of corruptly receiving gratification in contravention of s 5(a)(i) of the PCA. The bribe was in the amount of S$1,500,000. The accused received the bribe in exchange for influencing the reduction of the sale price of a warehouse sold by a bank to a joint venture in which the accused had an interest. The accused was acquitted at the District Court but was convicted on appeal by Yong CJ. I have already noted that the accused in this case received a sentence of 12 months' imprisonment (see [32] above). I should add that the accused also received a fine of S$100,000 and a penalty of S$1,500,000. Incidentally, the written judgment of the High Court does not specifically deal with the issue of sentencing. The sentence is noted in *Practitioners' Library: Sentencing Practice in the Subordinate Courts* (LexisNexis, 2nd Ed, 2003) at p 820.

35 I should also refer to *Public Prosecutor v Eng Heng Chiaw* [2005] SGDC 98 ("*Eng Heng Chiaw*"), a public sector corruption case referred to me by the respondent's counsel. In that case, the sentence for merely *offering* a bribe of $500,000 to an officer of the Defence Science and Technology

Agency was eight weeks' imprisonment. The bribe was rejected. My view was that the respondent in the present appeal was clearly more culpable than the accused in *Eng Heng Chiaw* for the reason that the bribe in *Eng Heng Chiaw* was actually rejected. In other words, the bribe did not in fact corrupt anyone. In contrast, the bribes in the present appeal were paid and were paid over a considerable period. It should be noted that the District Judge in *Eng Heng Chiaw* did not consider it to be relevant that the accused had only made an offer because he considered that the offence was fully constituted by the offer (see *Eng Heng Chiaw* at [21]–[22]). While it is true that the offence is constituted by the offer, in my view, it was relevant to consider the culpability of the accused for the purpose of *sentencing*. All things being equal, a person who merely makes an offer to gratify is less culpable than a person who actually pays the gratification. The degree of public harm is also greater in a situation where the gratification is actually paid as it would have the effect of corrupting the receiver.

36 I also considered the mitigating factors raised by the respondent. As is apparent from *Lim Teck Chye* and *Kang Hwi Wah*, the custodial sentences are typically higher when the accused claimed trial. Here, I have noted that the respondent pleaded guilty at an early stage. He also cooperated with the authorities after he was placed under investigation. It was also relevant that he made restitution *to the satisfaction of* IKANO. I should emphasise that it is not clear if the respondent's payment of S$1,000,000 was *full* restitution. The respondent reaped profits equivalent to the gratification paid to Leng (this was because the corrupt scheme envisaged profits being equally split three-ways between the respondent, Lim and Leng – see [5] above). The respondent also drew a monthly allowance of S$2,000 from the retained earnings. However, it is fair to say that these profits and allowances were earned, at least in part, by the provision of food supplies by AT35 Services and FRT. On the other hand, it may be said that the profits and allowances were inextricably linked to the corrupt scheme because AT35 Services and FRT would not have obtained the deals to supply IKANO with food supplies but for the corrupt scheme (see [33] above). What was clear to me, however, was that IKANO was satisfied with the S$1,000,000 paid by the respondent and had considered the payment as a full and final settlement of its claims against the respondent (see [10] above). I considered this to be a relevant mitigating factor.

37 As the sentence in *Ang Seng Thor* was six weeks' imprisonment per charge, as a starting point, I considered that the sentence per charge in the present case could not be less than six weeks' imprisonment given my view that the respondent was more culpable than the accused in *Ang Seng Thor* (see [33] above). I also took into account that the respondent faced a total of 12 charges. The respondent's counsel accepted that it was not unfair for the sentences of four of the charges to run consecutively. I agreed. I should note that since the sentences for four of the charges would run consecutively, it may well be the case that the individual sentences for each of the charges may fall below the *prima facie* benchmark. In *Public Prosecutor v AOM* [2011] 2 SLR 1057, a case concerning rape, I found from an examination of the sentencing precedents that where consecutive imprisonment sentences were imposed, the individual imprisonment sentence for each charge of rape fell below the *prima facie* benchmark of 15 years' imprisonment. I saw no reason why this observation should not apply to offences under the PCA. After all, the underlying sentencing principle in all cases is that the totality of the sentence imposed must fit the overall gravity of the offences committed.

38 Having considered all the relevant sentencing precedents cited to me by the parties and the relevant mitigating factors, I reached the view that an appropriate sentence to impose per charge was 10 weeks' imprisonment, with the sentence for four charges to run consecutively and the remaining sentences to run concurrently. I saw no reason to disturb the fines imposed below. In my view, the total sentence of 40 weeks' imprisonment with an aggregate fine of $180,000 would adequately reflect the gravity of the offences committed by the respondent.

39 It followed that the aggregate sentence of four months' imprisonment ordered below was manifestly inadequate. In any case, appellate intervention was warranted on the ground that the District Judge had erred in his appreciation of the material before him and in the proper factual matrix for sentencing (see [26]–[30], above).