

NEWRY CROWN COURT

BILL No: 12/138466

THE QUEEN

-v-

PETER BRASSIL  
PETER CREEGAN  
DAMIEN PIUS MALLON

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SENTENCING REMARKS

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**BURGESS J**

[1] The defendants have pleaded guilty to a number of counts of dishonesty including fraud by false representation; entering into an arrangement to acquire criminal property; theft; concealing criminal property and false accounting – furnishing false information.

[2] The particulars of the involvement of each of the defendants have been helpfully included in an agreed Statement of Facts. Where there is some dispute as to the language used between some of the defendants and the Crown, I have determined that these do not adversely impact on the gravamen of the charges. Accordingly I have adopted the normal approach where a Newton Hearing has not been requested, and have read the narrative in favour of the relevant defendant. The Statement allows me for the purposes of these sentencing remarks to set out the general nature of the fraudulent schemes in which they were involved, and the involvement of each of the defendants in those schemes.

[3] The defendant Creegan was a former bank manager with First Trust Bank, Newry. In that capacity he defrauded the bank of a very substantial sum of money over a period of some 5 years. The modus operandi was to create false documentation to support applications for loans from the bank for property

transactions, which he would then sanction himself, or give his imprimatur for consideration by the Credit Committee of the bank. This involved on occasion the use of false names of applicants (by which his, Creegan's, involvement was hidden from the bank), the failure to disclose his connection with a particular party to a transaction, the provision of false representations as to the financial resources of applicants to support the servicing of the loan that was sought, and the use of other customers' funds to service the fraudulent loans. The purpose was to cash in on the then property boom, in the expectation that with easy profits the loan would be repaid without the bank finding out that the loan was fraudulent; that the bank would not lose any money; but that he and others would benefit from the profits. There are also a number of counts of theft of funds for his own purposes.

[4] In his capacity as a bank manager Creegan owed a high duty of trust to his employers, who placed confidence in his integrity to conduct the business of the bank in its best interests and those of its customers. A more insidious impact has been on other staff who conducted their day to day involvement in the bank's business in the expectation that their superior would not have sought to embroil them in matters which, if disclosed, could have led to suspicion of their involvement - direct or indirect. A victim impact statement discloses that a number were caught up in the investigation which has caused considerable distress. In addition where the name of a bona fide customer was used, when the fraud investigation was launched, these innocent people had a cloud of suspicion cast over them, they were advised for a time that they might be sued with the loss of their homes, and where other less informed people suspected they might have been involved. Either this defendant gave these consequences no thought, or did consider them but proceeded regardless.

[5] The motive of this defendant was pure greed and self-interest, and in the pursuit of those motives he flagrantly breached the trust reposed in him. The resulting impact on innocent people is an aggravating factor in this case.

[6] Peter Brassil is a solicitor of many years standing. His offences involved two separate aspects of dishonesty. First, by involving himself in the schemes involving Creegan. Such property transactions require legal formalities to be followed - documents completed and signed; undertakings given; and steps taken to effect completion of title. By involving himself in these ways he made a substantive contribution to these financial frauds.

[7] However, there is a second aspect of his dishonesty, and that involved the theft of clients' monies, funds he was permitted by law to handle. [See Addendum below] Given the personal circumstances of these clients they were not in a position to realise their funds were being misappropriated. In engaging in this dishonesty he betrayed not just the trust reposed in him by his clients but also that reposed in him by his partners. I was advised by Ms McDermott QC acting for the defendant that a

third party reposing considerable faith in the character of Mr Brassil, has advanced sufficient funds to make good the loss to these clients. Nevertheless victim impact statements show the distress his actions caused to these clients who, when advised of the thefts, were left worrying about their financial position. Rightly he has expressed his shame at his actions. Again, however, in acting as he did he breached that trust to which I have referred and that is an aggravating factor in his case. As to his motive I will return to that later when dealing with his personal circumstances.

[8] Mallon is an insurance broker. His contribution added value to the fraudulent schemes albeit to a lesser extent in terms of the number of transactions and the time over which that evolved. While he traded on his reputation and that of his vocation, he was not invested with the obligations that followed the trust reposed in his co-defendants.

[9] I have the benefit of a schedule to the agreed statement of facts detailing:

- the amounts of the loans in question;
- the loans in respect of which a particular defendant was involved;
- the position as regards developments in respect of the particular land involved in each scheme; and
- the potential financial consequences where property remains unsold. In this latter respect figures have been given ranging from the optimistic to the pessimistic. I appreciate the work that has been done in what has been no easy task. However it has been important in the context of the sentencing principles to which I will shortly come.

[10] Based on the schedule I am able to extrapolate that:

- Creegan involved himself in 6 specific loans and a number of fraudulent mortgage applications amounting to £3,338,198 with an estimated loss of between £1.34 million and £1.41million. This was over a period from 2003 to 2008;
- Brassil involved himself in 6 specific loans amounting to £3,073,000 (of which £2,658,000 reflect the same loans as included in the total for Creegan). On these there is an estimated loss of between £1.35 million and £1.42 million (again substantially reflecting the losses attributed to the offending by Creegan). This was over a period from 2002 and 2007. In addition there is the theft of clients' funds amounting to £28,500 - £13,500 in 2005 and the balance in 2008.
- Mallon involved himself in 3 loans amounting to £368,000 - one in 2006 and the other two in 2008. The estimated loss appears from the schedule to be in the region of £110,000 but with a potential credit of £85,000 - if right, a loss of £25,000.

[11] Having considered the respective roles of each defendant I am satisfied that the main offender in this sorry affair was Creggan. He sat at the centre of this web of deceit given his indispensable power to process the loans and to grant or obtain the necessary approval. He was in control from beginning to end. He needed the services of a solicitor and I am satisfied that he approached Brassil and was the prime mover in his involvement. I will come to Brassil's personal circumstances shortly, but even without any such considerations I place him below Creggan in terms of culpability. Mallon was involved to a significantly lesser extent on every criteria. However I am satisfied that the custody threshold has been satisfied for each defendant unless there are any personal circumstances that would argue otherwise.

[12] Before turning to the personal circumstances of each of the defendants there are a number of sentencing principles which form the framework for sentencing in cases such as this.

#### A. Sentencing Guidelines

[13] In a case of *Nurse* [2010] NICC delivered on 22 January 2010, Hart J confirmed that the courts in Northern Ireland have followed the approach of the English court in the case of *Barrick* [1985] 7 Cr App R (S) 142 when dealing with cases of dishonesty by persons in position of trust. In *Barrick* Lord Lane CJ stated:

“The following are some of the matters to which the court will no doubt wish to pay regard in determining what the proper level of sentence should be:

- (i) the quality and degree of trust reposed in the offender including his rank;
- (ii) the period over which the fraud or the thefts had been perpetrated;
- (iii) the use to which the money or property dishonestly taken was put;
- (iv) the effect upon the victim;
- (v) the impact of the offences on the public and public confidence;
- (vi) the effect on fellow employees or partners;
- (vii) the effect on the offender himself;

- (viii) his own history; and
- (ix) those matters of mitigation special to himself such as illness; being placed under great strain by excessive responsibility or the like; where as sometimes happens, there has been a long delay, say over two years, between his being confronted with his dishonesty by his professional body or the police and the start of the trial; finally any help given by him to the police."

[14] In *Barrick* the Court of Appeal also laid down guidelines as to the length of sentence appropriate to the charges involving particular sums of money – whilst at the same time stressing that the amount involved is only one factor. As these guidelines were given in 1985, changes in the value of money meant that it was necessary to revise them. That was done in *Clark* [1998] 2 Cr App R 137. In that case Rose LJ said at page 142:

"In the light of all these considerations we make the following suggestions. We stress that they are by way of guidelines only, and that many factors other than the amount involved may affect sentence. Where the amount is not small, but is less than £17,500, terms of imprisonment from the very short up to 21 months will be appropriate; cases involving sums between £17,500 and £100,000 will merit 2-3 years; cases involving sums between £100,000 and £250,000 will merit 3-4 years; cases involving sums between £250,000 and £1 million will merit between 5 and 9 years; sums involving £1million or more will merit 10 years or more. These terms are appropriate for contested cases. Pleas of guilty will attract an appropriate discount. Where the sums involved are exceptionally large, and not stolen on a single occasion, while the dishonesty is directed at more than one victim or group of victims, consecutive sentences may be called for."

[15] I don't believe that I can ignore that in the period of 15 years since *Clark* that there has not been a further decrease in the value of money and that if the bands suggested are to be of assistance I should factor that into the band values. However having done so I do not believe the amounts in question in this trial are affected to

such an extent as to move them downwards from one band to another. Rather they do affect where in that band they may lie – and therefore where in the range within that band a particular defendant may lie.

#### B. Absence of Criminal Records

[16] None of the defendants has a previous criminal record. Prior to their involvement in these particular offences they were people of good standing and character with a substantial number of years of practice and involvement in business behind them. Indeed during the periods of offending the testimonials I have received disclose that each in their own way were assisting others and devoting time to good causes for the benefit of others. I will look at that in their individual cases, but in relation to the role of the general character of a defendant in *Barrick* I note Lord Lane’s comments:

“The type of case with which we are concerned is where a person in his position of trust, for example, an accountant, solicitor, bank employee or postman, has used that privilege and trusted position to defraud his partners or clients or employers or the general public of sizeable sums of money. He will usually, as in this case, be a person of hitherto impeccable character. It is practically certain, again as in this case, that he will never offend again and, in the nature of things, he will never again in his life be able to secure similar employment with all that means in the shape of disgrace for himself and hardship for himself and also for his family.”

[17] Therefore the guidelines in *Barrick* have factored into them the general background of a defendant who hitherto was of impeccable character, and as a factor present in this case as it relates to each defendant it would not argue to move away from those guidelines. There will of course be specific individual personal matters, which require to be considered by the court as mitigating factors – again in line with *Barrick*.

#### C. Passage of Time

[18] The vast majority of the offences occurred a very considerable period of time ago, some as early as 2002. The police investigation has been complex and no criticism can be made of the police for the passage of time between the start of their investigation and the laying of these charges against the defendants. Any perusal of the papers discloses that it has been a time consuming task tracing these

transactions, based as they were on false representations including the use of false names of the alleged borrowers. That time lapse lies at the door of the defendants.

[19] In turn the legal representatives of the defendants required to investigate the allegations, particularly in terms of obtaining expert accountancy advice. As a result further time passed. In the event there was a not insubstantial change to the Bill of Indictment to reflect what the court can only assume to have been the outcome of those investigations and the subsequent discussions between the parties.

[20] While the need for any of this was the criminal offending of the defendants, nevertheless the fact remains that a considerable period of time has passed during which the threat of these proceedings and the potential sentence of imprisonment has been held over the defendants' heads. *Barrick* acknowledged that the passage of time between the investigation of the offences starting and the date of sentencing can be a relevant factor, and the sentences will reflect that passage of time.

#### D. Plea of Guilty

[21] The Court of Appeal in this jurisdiction has made it clear that the sooner responsibility is accepted by a defendant the greater the discount on the sentence that can be afforded to that defendant. That includes their acceptance of responsibility in interview with the police, not just at their appearance before the court. The complexity of the frauds resulted in some acceptance of responsibility of offending by all defendants during the extended interviews. When the exercise of investigation was concluded by the defence representatives and discussions took place as to the Counts to be included in the Bill of Indictment the defendants entered their pleas. The result has been as set out in the agreed statement of facts where it says:

“The pleas of guilty were of great assistance to the prosecution and of considerable benefit to the administration of justice. If contested the cases would have taken up an inordinate length of court time. The proper prosecution of the case would also have placed a significant burden on the prosecution in terms of organizing and presenting exhibits in real time as well as electronically. Furthermore many witnesses have been spared the requirement of attending court over a prolonged period of time.”

To that the court can add that victims in their impact statements have referred to the relief that they do not now need to attend court where their identity would have become known.

[22] Pleas of guilty can also represent remorse on the part of defendants, even those who embarked on such blatant dishonesty. Having read the pre-sentence reports and the various medical reports that have been filed in respect of each of the defendants, I believe that certainly in the case of Creegan and Brassil they recognise the enormity of their criminality and that the remorse they have now expressed is genuine. I will return to Mallon in due course.

[23] Therefore, under the provisions of the relevant legislation the sentences to be imposed will be less than would otherwise have been the case had they chosen to contest the allegations and been found guilty of them.

#### E. The relevant legislation

[24] Taken together the offences committed by all three defendants were committed between 2002 and October 2008. For offences committed before 1 April 2008, the provisions of the Criminal Justice (Northern Ireland) Order 1996 ('the 1996 Order') applies. For offences after that date the provisions of the Criminal Justice (Northern Ireland) Order 2008 ('the 2008 Order') apply. There are significant differences between the two Orders, not as to the sentences available under statute for specific offences, but in respect of the operation of sentences, particularly custodial sentences. Therefore for offences such as the court is dealing with today, while remission was available for custodial sentences under the 1996 Order, remission has been replaced under the 2008 Order with a licencing scheme for sentences over 12 months custody. In addition, again in the context of these offences, under the 1996 Order the court could impose a Custody Probation Order, under which the effective period of custody imposed could be reduced to allow for post custodial supervision during which a defendant would be obliged to undergo work to address the issues identified as contributing to his offending - for the protection of the public in the future. That disposal no longer is available.

[25] Each defendant committed offences to a greater or lesser extent on either side of that watershed date. In the case of Creegan, 14 of the 18 offences committed by him occurred before April 2008; in the case of Brassil, the figure was 8 of the 9; and in the case of Mallen, 1 occurred before April and 8 afterwards.

[26] The potential operation of the two Orders in respect of a defendant can cause sentencing problems, but having considered the sentences I intend to impose I am satisfied that I can structure them in a manner which will not raise those problems. Suffice to say that in the cases of Creegan and Brassil I am satisfied that I can sentence under the 1996 Order, whilst in the case of Mallon I can sentence under either Order.

[27] The prosecution have indicated that they see the sentencing in the cases of Creegan and Brassil as lying in the range of 4-7 years. This would be on a contested



trial where the defendants were convicted. I draw a distinction between Creegan and Brassil for the reasons I have given. I would place Brassil no higher than the bottom of that range; but Creegan at 5 to 5 ½ years depending on how the trial ran.

[28] I now turn to the defendants' personal circumstances.

### **Peter Creegan**

[29] I have already identified Mr Creegan as the prime mover in the overall scheme of dishonesty. He is 47 years of age, married with three children aged between 15 and 18. The pre-sentence report and the report from Dr Bridget Pilkington, consultant clinical psychologist, describe someone who until these events commenced in 2002 made a substantial, positive contribution not just to the bank, reflected in his promotion, but also to the community in which he lived and worked. Both reports refer to the period during which these offences occurred as "boom years" in the property market, at a time whenever, in the words of the defendant, banks were involved in "aggressive lending" - which translated into targets being set. The evidence is that he saw the opportunity for short term profits in schemes which would involve transactions where property was turned over quickly and the amounts borrowed repaid in a manner that the bank would not be aware that the applications were built on fraudulent foundations.

[30] He comes before the court with no criminal record. I have a number of glowing references from people in public life and people in authority. The descriptions indicate someone who was hardworking, courteous and in the eyes of the writers of the references, someone of "integrity" and "honesty". They also refer to his on-going work in the community even while he was offending. The nature of his offending is in stark contrast to that picture or those qualities. Unfortunately that very public persona allowed others to trust him, providing the perfect screen behind which he could flagrantly betray his employers, other trusting members of staff and customers. Nevertheless having read the reports it would appear that there may be two Mr Creegans, and that his work in the community was not a cynical attempt to hoodwink others.

[31] Inevitably these proceedings have had an adverse impact on his family, including his elderly mother for whom, certainly over the last four years, he has adopted a caring role. I have a medical report on her very real and daily needs. His wife got caught up very directly in the investigation until it was established, and this has been made clear, that she had nothing to do with, nor had any knowledge of, her husband's criminality. It is a sad fact that in virtually every case before these courts innocent parties, victims and members of defendants' families alike, are swept up in the suffering and trauma that flow from such offending.

[32] In the four years since his arrest he has sought no medication or psychological support for what Dr Pilkington describes as “extreme depression”. She records his embarrassment and his remorse for his actions, realising the number of innocent people that he has affected. The family have lost their home and become socially isolated. Dr Pilkington advises that he remains psychologically fragile, a state which could deteriorate further if he were to lose his present roles within the family in respect of his mother and children. She therefore recommends that therapy should be sought to deal with the impact of that depressive state. Such work could also assist in potential future employment, given that this offending will render him grossly unemployable in those areas of work in which he has been engaged hitherto.

[33] The pre-sentence report not surprisingly regards the likelihood of re-offending as low.

[34] The threshold for custody has been met. I take into account the views of Dr Pilkington as to the potential of a deterioration in the mental state of the defendant should he be imprisoned – that is removed from his present caring roles. However the amount of money involved; the period of time over which the offences took place; the number of those offences; the breach of trust reposed in him by his employers; and the impact on his victims and those around him in the bank argue that matters of personal mitigation should instead be reflected in the length of the sentence rather than argue for a suspension of the sentence.

[35] Given the advices of Dr Pilkington and the pre-sentence report I believe there is scope for me to exercise my powers under Article 24 of the 1996 Order and impose a period of probation to follow the period of custody to tackle the issues identified by them, and hopefully contribute to the rehabilitation of the defendant. If this matter had been fought I believe a sentence of five to five and a half years would have been richly deserved. Taking into account all of the mitigating factors including his plea I intend to impose an effective sentence of three years which will be divided as to two years in custody and 12 months on probation with the condition that he co-operate and follow the directions of the Probation Service of Northern Ireland in the obtaining of counselling from the psychological services of the PBNI and to engage in all courses that may be designated by them. I require the consent of the defendant to undergo that work in the knowledge that if he does not give that consent, he will serve a sentence of three years; and that if does not engage with that work satisfactorily he will be returned to prison to serve the period of time by which the period of custody has been reduced to facilitate it. He should be in no doubt that any failure to engage will have that result.

**Peter Brassil**

[36] Mr Brassil is aged 51 years and single. As a result of these offences he lost his home and other assets that he had built up over a life time. He now resides with members of his family in a close and supportive family circle.

[37] He qualified as a solicitor and became a partner in a firm in Newry. As with Creegan the theme running through the background to his offending was the boom in the property market commencing in and around 2002. It was working as a solicitor that he came into contact with the defendant Creegan. Some of the offences to which he has pleaded guilty arise from his involvement in the scams organised by Creegan, playing an important role in allowing such transactions to be completed.

[38] I have received a very substantial number of personal references, the majority of which are from colleagues practising as solicitors in the Newry area who have known this defendant for many years. In addition I received oral evidence from two Queen's Counsel and a member of the solicitor's branch of the profession all of whom have spoken highly of his personal qualities. All talk of a quiet, hardworking man. Indeed the picture is of a workaholic with little personal life. All with whom he came into contact found him co-operative and helpful. All expressed their profound shock at these offences. While none seek to minimise their seriousness, and acknowledge the serious breaches of trust that they represent, they still argue that underneath all of that he is a well-respected colleague, friend and acquaintance - 'a good man'.

[39] I have received three comprehensive medical reports from Dr Fred Browne, consultant psychiatrist; Dr Maria O'Kane, consultant psychiatrist; and Dr Damien McCullough, consultant forensic and clinical psychologist. I also heard evidence from Dr O'Kane. Each report records events in the early life of this defendant which in their professional opinions resulted in the defendant lacking in self-worth and confidence - to a point even in his teens of having suicidal ideation. The reasons for that are detailed in the reports and I do not require to put them in the public arena. All record the pressures that the defendant was under in relation to that property frenzy. However the main issue in each of the reports was that the defendant in and around 2002/2003 started to abuse cocaine. He is described as an isolated person who was meticulous in his work, who lived for his work and nothing else. To combat those pressures each of the doctors has described how the use of such a drug causes the sensation of enhanced well-being, alertness, and energy. It is however highly addictive. Typically the psychological need for the drug drives addictive behaviours and spending, resulting in the opinion of Dr O'Kane in "increasingly chaotic and irrational behaviours and continued use despite the negative consequences on their lives". She continues:

"The emotional withdrawal symptoms of cocaine are tiredness, depression, anxiety and moodiness which leads the user into a spiralling pattern of abuse to

overcome these physical and psychological symptoms.”

[40] The doctors were asked specifically to address what role the abuse of cocaine may have had on the involvement by the defendant in this criminal behaviour. Each of the doctors was able to chart deterioration in the defendant over a period of time from the early 2000s. His weekly spend on cocaine increased from £120 per week to between £500 and £600. He is described by Dr McCullough as becoming “completely dependent on cocaine in order to merely function”. By 2006 he was severely dependent on the drug which compromised his rational decision-making. Matters came to a crisis in late 2006 early 2007 when at the behest of his partners he was admitted to a facility for three weeks to deal with his cocaine addiction and the psychological impacts flowing from it, impacts that required on-going treatment on his release. From that date he has engaged little in his chosen profession, one that is now lost to him by reason of his actions.

[41] Dr O’Kane states in the penultimate paragraph to her report:

“If Mr Brassil had not become addicted to cocaine he would not have behaved chaotically, irrationally and illegally in my opinion. In turn the addiction to cocaine and to some extent overworking, was driven, not by the desire for financial gain, but by a significant underlying poor self-esteem, poor self-belief and chronic depressive symptoms, brought on by a difficult later childhood and adolescence.”

[42] Despite that opinion there was one aspect of his behaviour on which I sought clarification from Dr O’Kane. That was in relation to the theft of clients’ funds – would his drug misuse, no matter how great, have blinded him to the enormity of the breach of trust he owed to his clients? [See Addendum below] I was advised that a person as dependent on the drug as the defendant could rationalise such actions. However, while guided by the medical evidence there is one problem – that is in respect of the funds stolen by him in August 2008, when the pressure of work was absent and after he had stopped taking drugs in 2007 (save, according to the pre-sentence report, for a brief period in 2008).

[43] As regards his present mental condition I am advised that there are no psychiatric or psychological issues, no doubt due to the close support received from his family, his withdrawal from the use of cocaine and the realisation of his actions and the impact they have had on others, particularly clients. He is seen as a low likelihood of re-offending, an assessment that I accept. Notwithstanding what appears to be the absence of any issues at present, the Probation Service advise that he would benefit from a probationary period for support and supervision in relation

to certain of those matters from his early childhood to which I have referred, a view supported by Dr Browne and Dr O'Kane.

[44] I note the concern expressed as to the impact a term of imprisonment may have on the defendant. I also take into account his plea which I regard as genuine and sincere expression of remorse for his activities. Again as with the other defendants the passage of time from his arrest over the last four years has certainly compounded the stress that he has suffered - accepting as he does that he is the author of his own difficulties.

[45] I do not regard Brassil as someone driven by greed, but rather someone with low self-esteem who allowed himself to be induced by Creggan to get involved in his, Creggan's, plans. I have no doubt that the abuse of cocaine played a major part in clouding his judgement. However I believe that notwithstanding his drug problems, when it came to the trust funds under his direct control he would have been particularly aware of his obligations and chose to ignore them. In so doing it is inevitable that a period of imprisonment should be imposed, but that the term should reflect those personal issues, and that for the same reason I should impose a Custody Probation Order under Article 24 of the 1996 Order.

[46] I impose an effective sentence of two years imprisonment divided as one year in custody and one year post custodial supervision subject to his complying with all directions of the PBNI. Again as with Mr Creggan I require your consent. If I do not receive it you will serve two years in custody. If you do consent but then fail to engage properly you will be returned to prison for all or part of the twelve months by which your sentence has been reduced to allow you to undertake that work.

### **Damien Mallon**

[47] The offending of this defendant is of two kinds:

- Creggan and Brassil were involved in a legal sale of property of a mutual client. The funds from that sale were put on fixed deposit, with the client issuing a number of blank cheques to Creggan and Brassil. In September and October 2008, using these cheques, Creggan arranged for a total of £110,000 to be transferred in to Mallon's property account. Mallon then wrote a number of cheques including to Creggan, but on his evidence retaining some £4,500 for himself. No reason is offered as to why he should have been involved in such transactions but he willingly went along with them. In fact it was money laundering.

- In 2006 he submitted a mortgage application certifying that the proposed borrower was employed by him, and certifying the borrower's earnings. That information was false in both respects. In a separate transaction he again gave false information in another mortgage application.

[48] Mr Mallon is 56 years of age with five children aged between 16 and 26. The pre-sentence report discloses someone who has a good work record with positions of responsibility prior to him moving into his father's auctioneer and valuers business. By the time of his arrest for these offences these businesses were thriving in three branches. The impact of his dishonesty is that he is now unemployed relying on his wife's employment.

[49] There are issues in the pre-sentence report which are not to his credit. He claims he was "vulnerable" to Creegan because of the size of his overdraft and the necessity as he, Mallon, saw it as keeping on good terms with his bank manager. He describes his involvement as doing Creegan, "a favour", believing that Creegan was "above board". He minimises his role when in the pre-sentence report he refers to two of the counts on the Bill of Indictment, Count 56 and Count 61, as limited to, and I use his words, "breaches of financial compliance regulations and as such facilitated others to act fraudulently". At best this is naivety, at worst it is an attempt to turn his back on his own responsibilities. It certainly didn't prevent him taking part of the proceeds for his own benefit. With a smack of self-pity he says that his treatment at the hands of the prosecution in this case has been "excessive", leading to the loss of his business reputation and employees who lost their jobs. There was only one person responsible for that loss of reputation and that adverse impact on employees - the defendant himself. He has pleaded guilty and as required by statute I can give credit for that for the reasons accepted by the prosecution. However in contrast to the other defendants his pleas do not represent a robust statement of remorse.

[50] Again, perhaps unsurprisingly, the pre-sentence report indicates that he is a low risk of re-offending. No issues are identified that require to be addressed in terms of minimising any risk that might be still present.

[51] He is at a lower level by some distance from Creegan in every aspect including the period of time, the number of transactions, the amounts involved and the position of trust. Nevertheless a period of custody is merited. He will serve a period of 12 months imprisonment.

## **ADDENDUM**

On 3 March 2014 the Court, at the request of the legal representatives for the defendant Peter Brassil, and with the confirmation of the prosecution, recorded the following by way of addendum to its sentencing remarks:

1. Regarding Count 65 (on which the defendant was jointly charged with Peter Creegan), relating to the removal of £15,000 from the account of M in August 2008, I observed that I was conscious of the effects of cocaine on the defendant as detailed in the reports from Dr O’Kane and Dr McCullagh but nevertheless “the theft of money from a client in August 2008 occurred when Peter Brassil was dry from cocaine”.

It is confirmed that by August 2008, Mr Brassil was no longer working as a solicitor and the taking of the money was independent of the conveyancing transaction for the sale of M’s house. Count 65, a charge of fraud by false representation, was added late in the day, effectively in order to replace Count 20, a charge of theft. The addition of Count 65 was as a result of discussions in which the defence represented to the prosecution that the defendant’s clear instructions were that he did not intend permanently to deprive M of that sum of money.

The defendant’s concern is that Count 65 may have been characterised in the sentencing remarks as an offence involving theft of client monies by a solicitor, whereas the offence to which the defendant pleaded guilty was one involving no intention to deprive and was committed at a time when the defendant was not working as a solicitor.

2. Regarding Counts 45, 54 and 55, relating to a Trust, the monies were taken from a trust account held at First Trust Bank, which was not a “client account” held at and within the control of and subject to the Law Society Accounts Regulations and supervisory controls of Tiernans Solicitors. In brief, the thefts were committed by Mr Brassil as a trustee not as a solicitor appropriating “client monies”.

The Court notes that the defendant is concerned that the record may not accurately reflect the true position, in that the offences cited above did not technically involve “theft of client monies”.