COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Side

Voluntary Bill of Indictment No. 353/12/2015

REGINA

-v-

FREDDIE SOLOMON RAMSEY

BEFORE:	The Honourable Mr Justice Bernard Turner
APPEARANCES:	Mr Wayne Munroe QC and Ms Tommel Roker for the Applicant Mr Garvin Gaskin, Director of Public Prosecutions and Ms Cordell Frazier for the Respondent
SENTENCING DATE:	8 July 2016

DECISION ON SENTENCING

TURNER J

The Defendant, now convict, Freddie Solomon Ramsey was convicted on 3 May 2016, on fourteen out of eighteen counts of offences contrary to the provisions of the Prevention of Bribery Act, chapter 88. He was found Not Guilty in respect of the other four counts.

2. The trial lasted two weeks, during which time eleven witnesses were called by the prosecution. The now convict exercised his right to remain silent and called one "good character" witness, to speak to his knowledge of the personal and professional reputation of Mr. Ramsey.

3. Upon the verdict of the jury being announced, counsel on behalf of Mr. Ramsey initially raised the issue of a motion in arrest of judgement, and eventually settled upon a constitutional application to stay any further proceedings in the matter. As a result of this constitutional application, and as had been the case since the initial charges were laid against the defendant in the Magistrates Court, the defendant was remanded on bail pending the hearing of the application. He was specifically advised by the court that his continuation on bail was not be construed as any indication by the court that he might receive a non-custodial sentence, should the court proceed to sentencing.

4. The constitutional application was eventually dismissed, by a separate decision, on 17 June 2016. Upon that dismissal, counsel on behalf of the convict made his submissions in respect of sentence. Upon the completion of those submissions, the Crown also made submissions on sentence. Thereafter the matter was adjourned for my decision on sentencing, the convict was once again remanded on bail and advised that that his continuation on bail was not be construed as any indication by the court that he might receive a non-custodial sentence.

5. The counts for which the defendant was convicted included two counts of conspiracy (to solicit and to accept an advantage) from a European company by the

name of Alstom Power Espana SA in respect of the provision of assistance or influence for the procuring, by that company, of a contract to provide electricity generating capacity to the Bahamas Electricity Corporation (BEC) in what was referred to as a New Providence Phase III power expansion project. The other twelve counts particularized the soliciting and accepting of the advantage alleged. Those counts in total amounted to six separate instances of soliciting, and six of accepting, some $221,457.81. The timeframe in respect of the allegations range from 24 July 2000 to 14 February 2003.

6. From the evidence, the six separate acts of soliciting and accepting, and the related conspiracy charges, were all in relation to an arrangement between the convict, the main witness for the prosecution (and an acknowledged accomplice) Mark Smith, and various persons affiliated with Alstom Power Espana SA, one of the two principal bidders for the Phase III project, which was eventually awarded to Alstom Power.

7. The defendant was not charged with these offences until October of 2015, after an investigation launched in January 2015 as a result of reports in the public domain (as it was described by the Director of Legal Affairs in the Office of the Attorney General, the initial witness for the Crown) of an alleged plea arrangement with Alstom Power in the United States of America, which arrangement and the evidence connected thereto, suggested that an unnamed public official in The Bahamas accepted bribes related to the securing of contracts by the said company in The Bahamas.

8. All of the offences are charged contrary to section 4(2)(a) of the Prevention of Bribery Act (and in respect of the conspiracy counts) section 89(1) of the Penal Code. As section 4(2)(a) falls within Part II of the said Act, a conviction, on information, for an offence contrary to that section (inclusive of the conspiracy counts) falls to be sentenced in accordance with section 10(a) of the said Act. That section reads:

> **10. Any person guilty of an offence under this Part shall be liable —**
>
> **(a) on conviction on information to a fine not exceeding ten thousand dollars or to**
> **imprisonment for a term not exceeding four years or to both such fine and imprisonment; and**

(b) on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment,

and shall be ordered to pay to such person or public body and in such manner as the court directs, the amount or value of any advantage received by him, or such part thereof as the court may specify.

9. As to sentence, counsel on behalf of the convict submitted that this case was an appropriate case for a non-custodial sentence, once proper consideration was paid to the provision of the law under which the defendant was convicted, the circumstances of the case, the evidence in the case, the personal circumstances of the offender, inclusive of his good character, his age and his health, as revealed in a submitted medical report; and the applicable principles of sentencing.

10. In respect of the evidence, counsel submitted that the evidence indicated that the defendant, as member of the Board of the Bahamas Electricity Corporation, and even as a member of the contracts sub-committee of the said Board, did not have the power or authority to in fact influence the decision as to the awarding of the Phase III contract to Alstom Power, and that in any event, the consistent decision of the Board had been to award the contract to another company, which decision was reversed by the Cabinet of the Government of The Bahamas. He submitted that taken at its highest, that the most that could be said of the convict was that he represented to Alstom that he could do more than he had the power or influence to do; in effect, that, to use the street vernacular, as deployed by counsel, they "got swing" into believing that he was actually in a position to assist them.

11. Further, counsel also noted that despite the multiplicity of counts on which the defendant was convicted, that in fact, the conspiracy counts amounted to the agreement to assist and was essentially one act of conspiracy and that the other counts were really merely instances of payments in respect of the agreement as made, and not further acts of soliciting and accepting advantages.

12. Counsel referred to the decision of Jones J. (as he then was) in **R v Anderson and Butler 2015** (unreported) as an example of the type of sentence appropriate in a matter in which there has been a long delay in prosecution. As extracted in a press report (Nassau Guardian 20 March 2015) the case concerned two former employees of the Magistrates Court who were convicted in the Supreme Court of stealing by reason of employment in respect of a fifteen year old allegation. Those former employees were fined $1,000.00 and $3,000.00 respectively, with an alternative sentence of six months each if the fine was not paid. Counsel noted that the maximum possible penalty was ten years imprisonment, as compared to a maximum in this matter of four years.

13. It was also submitted that comparison of the Prevention of Bribery Act (the PBA) with other penal sanctions would indicate that only the PBA expressed the custodial penalties after the fine penalties, and that this suggested that the default position in respect of these offences ought to be a fine, and a custodial sentence only for the worse of the worse of these types of offences. In that regard, again on the asserted basis that the convict had no actual ability to influence the decision, as opposed to court officials (in Anderson and Butler) who used their office to steal court fines and then falsified court receipts to disguise the theft, counsel submitted this case is less egregious than the authority as cited.

14. The decision of the Court of Appeal of the United Kingdom in **Regina v Trigger Seed and Regina v Philip Stark (2007) EWCA Crim 254** was also cited in support of a non-custodial sentence; in that decision the Lord Chief Justice stated:

> 1. **Once again judges who have to sentence offenders are confronted with the fact that the prisons are full. When they impose sentences of imprisonment - and very often the nature of the offence will mean that there is no alternative to this course - the prison regime that the offender will experience will be likely to be more punitive because of the consequence of overcrowding and the opportunities for rehabilitative intervention in prison will be restricted. Those already serving sentences are subject to the same adverse consequences. The Strangeways Report of Lord Woolf spells out the consequences of prison overcrowding.**

2. The numbers of those in prison are a product of the numbers of custodial sentences imposed and the length of those sentences. Parliament has not given judges a free hand in respect of either of these. Statutory requirements have been laid down both in relation to the circumstances in which custodial sentences should be imposed and the length of those sentences. It is of course the duty of the judge to follow these requirements. Requirements of the Criminal Justice Act 2003 dealing with the sentencing for serious offences may well have the effect of increasing the size of the prison population. The requirements of Schedule 21 making provision for the determination of the minimum term in relation to mandatory life sentences may well, in due course, be seen to have this effect. Figures in relation to those serving indeterminate sentences for public protection suggest that these sentences may already be making a significant contribution to the rise in prison numbers.

3. In contrast to the statutory provisions that deal with serious and dangerous offenders, there are other provisions that should tend to reduce prison numbers. Section 152(2) of the 2003 Act provides:

> "The court must not pass a custodial sentence unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that neither a fine alone nor a community sentence can be justified for the offence."

This is an important provision. It requires the court, when looking at the particulars of the offence, to decide whether the "custodial threshold" has been passed. If it has not, then no custodial sentence can be imposed. If it has, it does not follow that a custodial sentence must be imposed. The effect of a guilty plea or of personal mitigation may make it appropriate for the sentencer to impose a noncustodial sentence.

4. Section 153 of the 2003 Act provides that, where a custodial sentence is imposed, it must be:

> "for the shortest term (not exceeding the permitted maximum) that in the opinion of the court is commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it."

This also is an important provision.

5. In times of prison overcrowding it is particularly important that judges and magistrates pay close regard to the requirements of both these provisions. In particular, when considering the length of a custodial sentence, the court should properly bear in mind that the prison regime is likely to be more punitive as a result of prison overcrowding.

6. **Section 142 of the 2003 Act sets out the purposes of sentencing. The matters to which the court must have regard when sentencing an offender are:**

(a) **the punishment of offenders;**

(b) **the reduction of crime, including its reduction by deterrence;**

(c) **the reform and rehabilitation of offenders;**

(a) **the protection of the public; and**

(b) **the making of reparation by offenders to persons affected by**

their offences.

Unless imprisonment is necessary for the protection of the public the court should always give consideration to the question of whether the aims of rehabilitation and thus the reduction of crime cannot better be achieved by a fine or community sentence rather than by imprisonment and whether punishment cannot adequately be achieved by such a sentence. We believe that there may have been a reluctance to impose fines because fines were often not enforced. Enforcement of fines is now rigorous and effective and, where the offender has the means, a heavy fine can often be an adequate and appropriate punishment. If so, the 2003 Act requires a fine to be imposed rather than a community sentence.

7. **Particular care should be exercised before imposing a custodial sentence on a first offender. Association with seasoned criminals may make re-offending more likely rather than deter it, particularly where the offender is young. A clean record can be important personal mitigation and may make a custodial sentence inappropriate, notwithstanding that the custodial threshold is crossed.**

15. Counsel referred in particular to paragraphs 5 and 6 of that decision as factors which the court should take into consideration.

16. In respect of the circumstances of the offender, counsel reminded the court of the evidence of the, as indicated, 'good character' witness called during the trial, Mr. Charles Johnson who described himself as a friend and neighbor of the defendant for some thirty-five years, who considered the defendant as a family man and a Christian gentleman. He also knew him professionally from the insurance industry and considered

him to be a person of integrity. He considered the allegations against the defendant to be out of character for him.

17. Counsel also submitted a further character reference from Revd. Dr. Carl Rahming during the plea in mitigation on behalf of the convict, that testimonial reads:

> **I welcome this opportunity to write a character reference on Mr. Frederick Solomon Ramsey, whom we, relatives and friends in the Fox Hill Community, call "Freddie".**
>
> **Freddie and I have known each other from childhood, having grown up in Congo Town, Fox Hill and attended the same school (Sandilands All-Age School). We attend separate churches in Fox Hill, but both of us are active, from childhood, in every aspect of the church; and we are mutual partners in community activities.**
>
> **In Mount Carey Union Baptist Church, Freddie is a dearly beloved and highly respected member, an ordained Deacon, and is commendably faithful in the Church's ministry - in the Sunday School, Bible Training Union (BTU), Men's Association and the choir; and he serves as the Church's Treasurer. He is enthusiastically involved in all noteworthy community events; and has always been a generous community benefactor. For many years Freddie was Chairman of the Christmas Cheer Fund for Senior Foxhillians.**
>
> **Freddie is my life-long friend in the truest sense of the word, and in our frequent, numerous and diverse interactions (religious, social and business), I was able, always, to depend on his honest and sound advice and his impeachable integrity.**
>
> **I do not know the intricacies of the case against Mr. Ramsey, but I humbly entreat the Court to consider, in mitigation, his many years of faithful ministry in Mt. Carey Union Baptist Church and his selfless service in improving the quality of life in the Fox Hill Community. The sentiments I have expressed herein are shared by those of us who know Mr. Ramsey throughout the Fox Hill Community.**

18. Further, counsel submitted a medical report in respect of the convict, from Dr. Clyde Munnings, a Consultant Neurologist at Doctors Hospital. That report reads:

> **Mr. Ramsey was first seen by me at DHHS on February 15th, 2015. On that day he presented to the Emergency Room at Doctors Hospital. He had a 2 to 3 days history of speech, balance and gait disorder. He underwent MRI scanning of the brain which showed a subacute or few days old, central pontine cerebrovascular accident or stroke. There were also other bilateral frontal hemisphere strokes which were felt to be chronic or older.**
>
> **He was admitted for anticoagulation treatment to include Clexane, Plavix and Aspirin.**
>
> **It was also noted that he had uncontrolled hypertension and uncontrolled diabetes type II. Further evaluation of his admission lab work indicated microcytic anemia, vitamin B12 deficiency, vitamin D deficiency, hypophosphotemia, and hypomagnesemia.**
>
> **Upon admission he had cardiac evaluation with a cardiac echocardiogram which showed left ventricular hypertrophy consistent hypertensive heart disease with aortic valve sclerosis.**
>
> **He was treated for 5 days. His stroke evolved through the subacute phase. He underwent physical, occupational and speech therapy while in hospital. His blood pressure and blood sugar required multiple medications for control. He was then considered dischargeable to continue his care at home. He certainly was not out of the woods, meaning patients who have suffered a stroke are at risk of having a recurrent stroke. He continued with monthly visits to The Neurology Clinic at Doctors Hospital Health System where he remained under my care. His speech improved. However there was incomplete improvement in his balance and in his gait as well as his memory disorder and personality change suffered from the stroke. His blood pressure and glucose continued to be difficult to control.**
>
> **His list of medications is as follows:**
> **ExForte HCT 2 times a day**
> **Aspirin 325 mg 2 times a day**
> **Vitamin D3 5000 units daily**
> **Cholpidiquil bisuiphate 75 mg daily**
> **Vitamin B12 2500 micrograms 3 times a day**
> **Trihemic 600mg 1 tablet daily**
> **Folic acid 5mg 1 daily**
> **Daonil 2 tablets daily**
> **Medformin 500 gm 2 times a day**
> **Glucogram 500/5 mg 2 times day**
> **Crestor 10 mg daily**

Januvia 100 mg daily

These medications are chronic and life time and will need to be adjusted based on the response in his blood pressure, glucose and further stroke symptoms.

He continues to have diminished gait and balance, a speech impediment, memory loss and diminished capacity, a type of psychomotor retardation which means a slowing down of movement and thought and cognitive function as a result of his multiple strokes to the brain.

Certainly these events have changed his overall life functioning activities of daily living and are now much less compared to his pre-stroke state of being. As he continues as a hypertensive and diabetic a male who has had multiple strokes he remains at high risk for having recurrent or repeated strokes in the future.

His health is likely to continue to deteriorate in the future.

The stress of a custodial sentence will certainly drive his blood pressure and blood sugar to extreme levels and likely will tip Mr. Ramsey over into having further stroke or even a severe heart attack. In the already damaged brain, even a subsequent small stroke can be extremely devastating and may lead to total disability or even death.

It is highly unlikely in our current custodial system, Mr. Ramsey can receive anywhere near proper health care management, particularly in view of his very severe and multiple health care issues.

Thanking you in advance for your assistance to Mr. Ramsey in this matter.

19. Finally, it was submitted that having regard to the effect of the conviction itself on the convict in the community, the fact that he has lost his ability to travel to the United States and the fact that he has lost his insurance license and is therefore not able to continue to operate his business, that individually and cumulatively he has suffered and been sufficiently penalized for these offences by these realities.

20. In reply counsel for the Crown submitted that this case, being a matter of corruption by a public official, was not an appropriate case for a non-custodial sentence, and submitted that a custodial sentence was both warranted and required in this matter. Counsel specifically advanced that the convict was not remorseful, as he expressed no

regret for his actions. Further, it was advanced that the convict was in a position of trust in relation to his position on the Board and that his actions hurt the reputation of The Bahamas. All of these factors, it was submitted, should be considered as aggravating circumstances about this case, including the fact of his age, since he was not a youthful offender but a person of mature years who would be expected to know better.

21. In support of his submissions, counsel cited the decision of the Court of Appeal in **The Attorney General v Bullard 2004, BHS J No. 41**. As that decision is relatively brief, I set it out in its entirety. The Court (Dame Joan Sawyer P. as she then was) stated

> **"1 .....This is a case in which the Attorney General sought leave - and we have treated the application for leave as the hearing of the appeal - to appeal to this court against the sentence of three-and-a-half years which the learned magistrate imposed. The learned magistrate decided this:**
>
> > "The defendant having pleaded guilty at the close of the case for the prosecution, the court orders as follows: Defendant conditionally discharged, to be placed on good behaviour bond for a period of three-and-one-half years. Defendant is to place himself at the disposal of the Royal Bahamas Police Force/Commissioner of Police in his anti-corruption drive. Defendant to be utilized in addressing new recruits, job fairs, career days at high schools where and whenever called upon to do so during the three-and-a-half year period. Defendant must, during these events state explicitly that he was a corrupt police officer and admonish those concerned to not so become. If necessary, defendant must do so at his own expense. In default, defendant to serve three-and-one-half years imprisonment of hard labour.
>
> **2 Now, to the facts of the case.**
>
> **3 On the 31st of July, 2000, one Lambert Bowe of 29 Imperial Park and apparently the proprietor of Lebco Tires Limited went to schedule an appointment for his car to be serviced. He got into an altercation with a man whose name is Gregory. He said the man attacked him with a screwdriver and he slapped him. The others present were one Mr. Barry Fynes and one Mr. Henry Johnson and a man called Ted and officer Bullard who he did not know was a police officer.**
>
> **4 The altercation was parted and Gregory agreed that everything was cool.**
>
> **5 Bowe then began to negotiate the cost of his motorbike which he was intending to sell to Henry Johnson.**
>
> **6 Bullard later came over to his car and said to him, "You know you could go to jail for slapping that fellow."**
>
> **7 Bowe said to Bullard, "You did not see when he attacked me with a screwdriver." And he told him that they had so-called made up.**

8 Bowe went home to get his motorbike, then he went back to the place where his car was to be serviced, prepared a bill of sale for Johnson. Johnson told him to give the bill of sale to Barry Fynes as proof and Ted was to be a witness .

9 Johnson then went on a test drive and never came back with the motorbike.

10 Around 11:30 p.m. that same evening, Johnson and Fynes went to Bowe's house, and then he went to Johnson to ask for his bike or his money. Neither the bike nor the money was forthcoming.

11 Five minutes later, a police car pulled up through the corner. Bullard came out of the car with two other officers and apparently said something like "Henry and Lambert you all come go with me."

12 Officer Bullard followed him into his house. Henry was put in the car and Bullard put him in the car and he was taken to the Central Police Station.

13 At the station, the officer behind the desk asked Bullard what Bowe was charged with. Bullard said to the officer, "Just hold him. I ga come back and deal with that."

14 At 5:00 a.m. on the 5th of August, Bowe was taken from the Central Police Station to the Criminal Investigation Department.

15 9:30 a.m. the following morning, he was taken from the cell and was questioned. He was then charged with assault with a deadly weapon with intent to cause fear and harm. A gun was retrieved from his house. It was a licensed gun. He was charged and then released on police bail.

16 Two weeks later, Bullard came to his store and said he could make Bowe's problems go away. If he gave him $4,000.00, he could get Gregory to drop the charges.

17 Bowe told Bullard he would think about it. Bullard came back several times and even gave Bowe his pager number. Bullard told Bowe what to write in a letter to take to the prosecutor. He even had the chutzpah to go to Bowe's house in a police patrol car, and he was dressed in uniform. Bowe then gave the letter to his secretary to type. The letter stated that Gregory and Bowe had worked out an agreement and all charges were to be dropped. The letter was exhibited.

18 Inspector Forbes also gave evidence. A report was made to him, and on Monday, the 23rd of October, 2000, at approximately 5:45 p.m., he and Inspector Newbold left the Drug Enforcement Unit on inquiries. They got to Lebco Tires and they were met by Lambert Bowe, the proprietor. They had followed a red vehicle traveling in a westerly direction - but they were unable to see inside the vehicle as it had dark tinted windows.

19 A few hours later, in the area of Kelly's, they stopped the red truck in the parking lot of Kelly's Hardware and a short time later, Police Constable Vincent Bullard, the respondent in this appeal, came out of the vehicle.

20 Inspector Newbold cautioned him and informed him that he was suspected of being in possession of
$1,000.00 currency. He denied knowing about this. Newbold then searched the truck and discovered in a yellow toolbox a white envelope which had 10 marked $100 bills with officer Forbes's police number and the signature of Lambert Bowe and Newbold on the notes. Bullard was cautioned and arrested for extortion. He

was then taken to the Drug Enforcement Unit office and he was interviewed, and a tape was recorded of the interview.

21 He was cross-examined by Mr. Shurland and said that in his presence Mr. Bowe did not call Mr. Bullard, that neither Bowe nor Bullard mentioned the word money; and he said he did not know whether on page two midway whether he was mentioning one, two or three chickens.

22 Other witnesses were called, but we need not deal with their evidence because there was really no dispute in the end as to what transpired.

23 After the police and the other witnesses for the prosecution had given evidence and the prosecution closed its case, the respondent Vincent Bullard pleaded guilty to the offence of extortion, contrary to Section 367 of the Penal Code which was then chapter 77.

24 The facts of the case are quite similar to the facts in Iferenta's case. Iferenta is reported in the Law Reports of The Bahamas 1971 to '76, volume one, at page 364. It was a stipendiary and circuit magistrate in that case. In this case, it is a police officer.

25 The principles of sentencing as we understand them in relation to corruption in public office are quite plain. A custodial sentence is the norm. The only variable is the length of that sentence.

26 The reason for it may well be that it is done so that the public can see that persons who do not exercise their public office properly are not to be treated with slaps on the wrist. They are not to be treated as those who do not know any better. They are to be given the full weight of the law because they have sworn to uphold the law.

27 You cannot forswear in this way and think that you will walk free out of a court of justice in this country.

28 The effect of that is that in our judgment the appeal of the Attorney General in this case must be allowed. It is completely meritorious. The sentence by the learned magistrate must be set aside. It was a grave error of principle to impose a non-custodial sentence.

29 We take into account everything Mr. Shurland has said in favour of the respondent, that he had some expectation that after so long he might, just might not have to go to prison. So, instead of sentencing him to four years as we were minded to do, we will sentence him to two years imprisonment because in our judgment this was an egregious breach of public trust.

30 No policeman must think that they will ever come to this court and walk free if they are properly found guilty of an offence of this nature. It cannot happen.

31 Because he had not spent one day in custody, his sentence commences as of today.

22. Counsel drew specific attention to paragraph 25 where the Court of Appeal addressed the principles of sentencing as it relates to corruption in public office and submitted that the statement in the decision required the court, in any such case, to impose a custodial sentence, the only discretion being as to the length of that sentence. Further, counsel noted that in fact in **Bullard**, the convict was remorseful as he changed

his plea during the course of the trial to guilty, unlike the continued position of the convict in this matter.

23. In relation to the decision in **Seed and Stark**, counsel observed that in those cases too, remorse was an element as both appellants had pleaded guilty to the offences brought against them. Further, he submitted that the Court in that case was dealing with a specific statutory sentencing regime which only permitted a custodial sentence if certain pre-conditions existed, as opposed, in this jurisdiction, to a non-statutory regime, in which the Court of Appeal has indicated that, in these types of cases, the norm is a custodial sentence and the only effective discretion, is as to the length of sentence. Counsel also submitted that in respect of section 10 of the PBA, that the 'disgorgement' provision in the section was mandatory.

24. A court, in sentencing an offender, must impose an appropriate sentence having regard to both the circumstances of the case and the particular circumstances of the convict. As already indicated, this offence carries a potential maximum penalty of four years and a fine of $10,000.00, plus a requirement, which I find in its terms to be discretionary as to the quantum, that the offender ".. **be ordered to pay to such person or public body and in such manner as the court directs, the amount or value of any advantage received by him, or such part thereof as the court may specify".** The value of the advantage received in this matter, from both the particulars in the allegations and the evidence presented before the court, was $221,457.81 paid into the convict's bank account in the United States of America, between thirteen and sixteen years ago.

25. Further, I find that this matter is an undoubtedly serious one, it drew notable local attention and no doubt contributed to an ongoing narrative 'in the public domain' of corruption in public life. That narrative is painted with broad strokes, and oftentimes with scant regard for actual facts. More often, it besmirches innocent, honest and hardworking public officials. The rampant speculation as to the identity of the unnamed public official connected to BEC prior to the defendant being charged and convicted,

had the potential to harm the reputation of all of the senior staff of that Corporation and the reputation of the Board members. A number of such officials and Board members indeed testified during this matter and expressed their own personal concern and outrage at the allegations and speculation to which they were subjected, prior to the defendant being charged in October of 2015. All of those concerns, visited unjustifiably upon the reputations of those persons were the consequences of the actions of the convict. The personal shame, visited upon, undoubtedly, the family of the convict is another undeserved consequence of his actions. His own humiliation and personal embarrassment is however a well-deserved consequence, a sentence self-imposed.

26. The reputational damage to The Commonwealth of The Bahamas is a further matter of great concern, which goes towards an aggravating factor in this case. I am constrained to note however, that the greater villain in this 'Greek tragedy' is the off-stage antagonist Alstom Power Espana SA, the originator of this corrupt arrangement to which the convict was unfortunately, from the evidence, only too happy to attach himself.

27. The convict, Freddie Solomon Ramsey now stands before the court, convicted of serious offences of public corruption. Having regard to all that has been said, I find the following to be mitigating factors:

1. The convict's clean criminal history; this being his first conviction, at the ripe age of seventy-nine, in respect of offences committed in his mid-sixties.
2. The fact of his civic and social engagement, as referenced in the evidence during the trial of his witness and the testimonial of Revd. Rahming, as well as his occupational and professional reputation, all of which he has now lost.
3. His family life and the high regard that his friends and family seem to hold him in.
4. The length of time between the commission of the offences and his subsequent conviction for same.
5. The perilous state of his health.

I consider the following factors to be aggravating features about this case:

1. The acts were committed with callous disregard for the potential of personal and professional damage to the reputations of his fellow Board members and the senior staff of BEC.
2. The abuse of the trust placed in him by his appointment to the Board of BEC.
3. The reputational harm caused to The Bahamas.

28. I have considered the authorities cited in this matter and I find that the dicta of the Court of Appeal in paragraph 25 of **Bullard** is for the appropriate guidance of a sentencing court. I do not find that the reference to a norm is a reference to a guideline range as, for instance, the court declared in **The Attorney General v Larry Raymond Jones, et al, Bahamas Court of Appeal, Nos. 12, 18 & 19 of 2007,** below which a court should not go, except for justified reasons. I note the sentence of fines imposed in **Butler and Anderson**, a case of public corruption, by the Learned Trial Judge, in circumstances where there was a considerable delay between charge and conviction. In this matter, there is no delay between charge and trial, which took place within six months of the charge, but there was a considerable delay between the offences and their detection and eventual prosecution.

29. Further, I find that there has been a profoundly intervening event between the commission of these offences and their detection more than a decade later, and that has to do with the present medical condition of the convict. The uncontroverted evidence of Dr. Munnings, the consultant neurologist at Doctors Hospital, as indicated in the above cited report, indicates that

> **"The stress of a custodial sentence will certainly drive his blood pressure and blood sugar to extreme levels and likely will tip Mr. Ramsey over into having further stroke or even a severe heart attack. In the already damaged brain, even a subsequent small stroke can be extremely devastating and may lead to total disability or even death."**

30. On the available evidence, there is nothing to suggest that the expert opinion is inaccurate or that there was any element of contrivance as to the convict's health assessment. I note that the report indicates that the stroke contributing to his present poor health status took place early last year, prior to any charges being laid or even any

apparent finger of blame being yet pointed in his direction, it is of course possible that his guilty knowledge of his behavior from a decade ago, once the general allegations became publicized, may have contributed to that stroke, but on balance that would be merely speculative.

31. One of the potential consequences of a long delay between commission and detection of offences is the possibility of intervening events which change the considerations a court must have in passing a sentence. Having accepted the good Doctor's opinion, I find that I am obliged to seriously consider same before deciding to impose a custodial sentence. Having so considered the present health of the convict and in all of the circumstances of this case, I find that I can and ought properly to impose a non-custodial sentence on this now seventy-nine year old, sick convict. I find that such a sentence would be sufficient to reflect societal intolerance for this type of behavior and that it would, notwithstanding that it is non-custodial, which it only is because of the peculiar circumstances of the convict, is sufficient to serve as a deterrent to others who may be similarly minded.

32. To be clear, I do not consider these offences to be victimless behavior. I have already detailed some of the potential victims. Whether the blame-worthy Alstom Power Espana SA got 'swung' or not (and it is difficult to imagine how they got swung, since they apparently got exactly what the paid the convict and his un-indicted co-conspirator, Mark Smith, for) The Bahamas suffered.

33. Having regard to the provisions of section 10 of the said Act and recognizing that notwithstanding the fourteen separate convictions, this was essentially a single conspiracy and each of the six separate payments were installments in this professionally negotiated criminal agreement, I will impose a fine in respect of each of the fourteen counts for which the defendant was convicted of $1,000.00, to be paid within two months. For clarity, those fines amount to $14,000.00. Failure to pay the fines, or any of them, will result in the convict serving a sentence of six months.

34. Further, having regard to the mandatory provisions of section 10 in relation to paying:

> **"to such person or public body and in such manner as the court directs, the amount or value of any advantage received by him, or such part thereof as the court may specify.**

35. I find that whereas I have a discretion under the law, as to how much I can order to be paid, that in this matter there is no reason why I should not order the entire amount received from Alstom Power Espana SA by the convict, to be paid to BEC or such successor body or legal entity which has succeeded BEC; if that body is no longer considered a public body, then the amount, being the precise amount of the convict's unjust enrichment, of $221,457.81, will be paid into the consolidated fund. If this sum is not paid within nine months of today's date, then the sum should attach as a charge against any real property in his name, or any company beneficially owned by him, as at today's date. The convict would also serve a separate period of imprisonment of six months in default of this order.

Dated this 8th day of July 2016

Bernard Turner
Justice