

DIRECTOR OF PUBLIC PROSECUTIONS  
(CTH)

v

HAFEZ NASSAR

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JUDGE: HIS HONOUR JUDGE MULLALY  
WHERE HELD: Melbourne  
DATE OF HEARING: 22 March 2022  
DATE OF SENTENCE: 24 March 2022  
CASE MAY BE CITED AS: DPP v Nassar  
MEDIUM NEUTRAL CITATION: [2022] VCC 387

REASONS FOR SENTENCE

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Subject: CRIMINAL LAW  
Catchwords: Sentence; Conspiracy to import goods to Australia intending to cause a loss to the Commonwealth; Plea of guilty; Mitigatory benefits; Good character; Out of the ordinary mitigatory factors; High reputation in wider community; Merciful sentence; Excessive delay; COVID times.  
Legislation Cited: *Crimes Act (Cth)* s 16A.  
Cases Cited: *Markovic v The Queen* [2010] VSCA 105; 30 VR 589; *Worboyes v R* [2021] VSCA 169, [39]; *Chenhall v R* [2021] VSCA 175, [35]; *Barakat v DPP* [2020] VSCA 185; *R v Williscroft* [1975] VR 292; *R v Young* [1990] VR 951; *Ryan v The Queen* [2001] HCA 21; *DPP v Dalgliesh (a pseudonym)* [2017] HCA 41.  
Sentence: Imprisonment for 3 years with recognisance release order (release forthwith) and a fine of \$65,000

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<u>APPEARANCES:</u>	<u>Counsel</u>	<u>Solicitors</u>
For the Commonwealth	Mr Y. Hardjadibrata	Commonwealth Director of Public Prosecutions
For the Accused	Ms C. Marcs	Theo Magazis & Associates

HIS HONOUR:

- 1 Hafez Nassar, on 22 March 2022 you pleaded guilty to one charge of conspiracy to import goods to Australia intending to cause a loss to the Commonwealth. This plea of guilty followed a sentence indication hearing in which I indicated that should you plead guilty I would impose a sentence of a particular type, being a sentence of imprisonment with a recognisance release order, which would see you released forthwith and, in addition, a fine.
- 2 I gave reasons for my decision and in setting out my sentencing reasons now I will refer to and repeat much of what I said then.
- 3 As to the circumstances of your offending the details were set out comprehensively in the prosecution opening dated 7 December 2021 tendered on the sentence indication hearing, and tendered here again on the plea. You, Mr Nassar, conspired with other unknown individuals to import into Australia cigarettes and tobacco products with an intent to dishonestly cause a loss to the Commonwealth of Australia. You were the mind behind a corporate entity, Tarelli, that arranged for the cigarettes and tobacco to be flown from Dubai, in the United Arab Emirates, to Australia, on two flights that landed at two different times, but on the same day, 9 May 2015.
- 4 You were party to an agreement with the unknown others to dishonestly and falsely state that the goods imported were mobile phone parts and printers. By this false description of the true goods imported you avoided over \$5.1m in taxes and duties which were payable on the cigarettes and tobacco goods that were in fact imported.
- 5 The two consignments of tobacco products, being cigarette sticks and molasses tobacco, were intercepted by Customs before they were cleared from Customs control. Investigations that preceded the arrival of the tobacco products in two consignments included intercepting phones used by you and a man, Damon Theo. Mr Theo worked as a foreman for the international freight

forwarder named Mega Freight Pty Ltd. You had used Mega Freight in the past to export goods, but not import goods. The intercepted telephone calls between you and Theo established that you were the mind behind this importation, notwithstanding that you used a false identity to set up the delivery of the consignments to Mega Freight.

- 6 Full details of the evidence relied upon by the prosecution, and now accepted by you, is set out in the prosecution opening. In the main the evidence against you were the intercepted telephone calls and also the digital evidence, such as emails and messages, and your tracking of the consignments themselves that were found on mobile phones and other devices used by you. You used false names to secure phones that you used and false names to negotiate with Mega Freight.
- 7 When properly considered, all the facts and circumstances relied on by the prosecution to establish the conspiracy to import the tobacco products in a way that dishonestly caused the \$5.1m loss to the Commonwealth establishes that this was a relatively sophisticated operation to smuggle tobacco into Australia without paying proper duties and taxes. The intent to cause the loss to the Commonwealth of \$5.1m, in and of itself, bespeaks or establishes the seriousness of this criminal activity. The concealment of the true nature of the goods imported by the false descriptions that you gave that it was mobile phone parts and printers also adds to the sophistication and the seriousness of the offending.
- 8 Also, the involvement of the man Theo adds a concerning element. That man was arrested and charged. After some years he stood trial separately to you. He was acquitted, thus your inveigling of him into the scheme is a fact adverse to you, adding to the overall gravity of the crime. My indication was that I would impose a sentence not involving immediate incarceration notwithstanding that ultimate outcome, which was the product of many mitigatory factors that I took into account.

- 9 It must be clearly understood that this offending is very serious. You were central to the enterprise, and I am satisfied beyond reasonable doubt it would have been a scheme from which you would have been the primary beneficiary. The seriousness and scale of your offending - what you did - is a factor that I must and have considered in the overall instinctive synthesis. That well known sentencing method also requires consideration of your personal circumstances, your upbringing, your background, what you have done in your adult life, what the future holds, especially in terms of your prospects of rehabilitation. Also important in the overall synthesis are factors such as the very lengthy delay from your arrest until now and the impact of the pandemic on the value to be attributed to your plea of guilty and also, to an extent, the conditions of incarceration compared with pre-COVID times in determining whether time would be served in custody.
- 10 I described your personal circumstances in my sentencing indication ruling and I turn to those remarks again. You were born in Lebanon and lived through the war-torn turmoil in that blighted country as you grew up. That experience has left a mark but it seems your response has been a positive one. You have been motivated in a positive way in the sense that since your arrival, or since your migration to Australia at the age of 19, you have worked hard and ultimately become a successful businessman. Throughout, though, you have focused on your family, working very hard to provide for them financially, but more importantly, to be, or become, a reliable, decent man as a father and husband.
- 11 Very many character references were tendered that established that you are deeply admired and valued in your wider community; especially for your generosity to others. There were many examples of this. It seems these characteristics are deeply entrenched. They are not just evident now, as a result of you being in trouble, rather you have been hardworking and committed to your family, to your community here in Australia, to your religion

and also to countries in the Middle East; in particular, Lebanon and Syria. You have responded to crises in those countries with considerable generosity including - and most particularly, perhaps - the catastrophic explosion in 2020 in Beirut. Further, you responded to the refugee crisis in Syria and the effects of COVID-19 on those poorer nations. The letters from Syrian refugees who have settled in Melbourne show how pivotal you have been in enabling them to establish themselves. There were compelling insights into what is said is your true character.

12 A sample from these references indicates the generosity and like qualities many have seen in you. There are references indicating support that you have provided for diverse community groups in sport, Syrian film festivals, other cultural festivals. There were many letters from those in positions within the community organisations in Australia, but also there were letters from those in like organisations in war-torn Syria. As an example, a real estate agent who has known you, Mr El-Asad, says you have been an active supporter of the Australian community and were one of the primary contributors to the real estate agent's efforts to organise fundraising as a consequence of the Australian bushfires. You donated essential food, water and many necessary items that reinforced and protected many lives. He describes you as being very generous, a committed individual to your community and a supporter of not just your community in Australia, but many others. He also indicates that you were involved in donations relating to the disasters which occurred in Lebanon during the bombing crisis at the port - organised within your family and yourself sending containers of first aid, food and clothing. And you have continued to do so, Mr El-Asad says, during the COVID crisis – helping unfortunate families in Syria and Lebanon to help them get through the crisis.

13 A member of the World Lebanese Cultural Union in the State of Victoria indicates that that organisation is an international non-government

organisation. It is to promote the cultural, social and economic ties between countries with immigrants and Lebanon. He says you are regarded as a trustworthy and responsible member of the community. He says that your contribution to Lebanon following the devastating blast has been very significant. He concludes, 'Without the support of people like Mr Nassar we would not have been able to help our community'. He describes you as hard-working, 'He takes pride in work and supporting the community'.

14 Your religious organisation, the Alawi Islamic Association of Victoria, is an organisation that you have been deeply involved in the whole time that you have been in Australia; that is, over 26 years. You have, over those years - and for various activities - generously donated to ensure that your faith grew in Victoria and was supported in the community. You volunteered money and time to the organisation. You are described by the public officer, Mr Youssef Halabi, as being an extremely dedicated family man and someone who maintains - and is hopefully able to maintain - connection with your family and your culture. He indicates that in recent times you have assisted in setting up GoFundMe pages - or the association's GoFundMe page to help struggling families overseas as a result of the global pandemic, as well as the explosion in Beirut.

15 An organisation which, it seems to me, is based in Damascus in Syria - Mr Yamen Solomon, who is the manager of a not for profit organisation, indicates that their central task is to provide prosthetics for Syrians injured in the war-torn parts of their country. Since 2018 there have been many children, in particular, who have benefitted from the donations that you have made. That enabled that organisation to obtain prosthetics, which then enables them to have a normal - or as normal as possible life. He indicates, further, that you have made offers to provide education scholarships to Syrian amputees. There is much more detail in that compelling letter.

16 The President of the Syrian Students Union here in Victoria indicates that you

have been a substantial help to Syrian refugee students for many years. It is written that for the past seven years financial, material and psychological support has been provided by you to Syrian refugees wishing to pursue an education at home, in Syria, and here in Australia and further abroad. You have helped multiple Syrian students find part-time and permanent employment while schooling and the money earned by them assists them very significantly. It is described in the letter that you have become a central pillar of strength for Syrian students during distressing periods.

- 17 That letter, like many others, indicates that they believe you are a genuinely good man who deserves a chance because, having heard of the charge that you have pleaded guilty to, they were shocked - it seemed to many people who know you, including, as it is set out in this letter, that it is extremely out of character based on your consistent morally upright behaviour that has been demonstrated to them over many years.
- 18 A Syrian refugee, Ms Jawal Al Madwar, writes that she has known you since 2016. She migrated to Australia from Syria as a refugee. She described, understandably, this is a very difficult period while settling in but you made it smoother for her and her family. A big part of that was by providing her, her sister and two brothers with jobs with an employer that you controlled; Cassa Suites. That has enabled those to work and provide for their families but also enabled them, during this time, to complete further education, heading towards tertiary education. You are seen by them as an exceptional man who always has the interests of others in mind and you inspire them to provide assistance, along with your wife, to those who suffered greatly during the bomb that went off in the Beirut port.
- 19 A letter written by Halal Azar is in the same terms; a Syrian refugee who fled to Australia, found it difficult to find a job but he met you four years ago. He explained his life story and you helped him by getting a job for him straight away. He remains in that job, which he loves. He says: 'After experiencing all

that I had, humanity seemed so far away. When Hafez showed me that small kindness he proved me wrong and I'll be forever grateful'.

20 He says that he has not met anyone who is as kind and caring as you and did things out of the kindness of your heart. The same sentiments are expressed by Fadi Satkhari; another refugee who came to this country. He cannot believe that you committed these crimes and it causes him much pain that you are in trouble by the law because he sees you as a good man who has touched many lives.

21 As I said, for many of those - and there were many more references from a variety of people; lawyers that have acted for you and many others - it seemed to them that your offending was out of character and hard to reconcile. I said in the sentence indication, and I repeat:

In the end it would be hard to equal or surpass the quality of the testimonials - indeed the number of persons willing to speak highly of you. Those testimonials lifted the issue of your character out of the ordinary realm.

22 You do have prior convictions in the sense that you have committed driving offences. As I said, and I repeat, the number of them make them more than completely irrelevant but they are, in the end, very old, and they are driving offences. That type of behaviour seems well in the past now. You have not offended since these matters came to light in May 2015, thus the point of establishing good character or high reputation within the wider community is, in the end, that you are such a person who is entitled to call upon the good that you have done in the past in asking the court for a more merciful sentence. There is no dispute between prosecution and the defence that you are entitled to rely on your good deeds and generosity up to the point of your offending, and since, in calling for - or in support of a call for a merciful sentence.

23 Your family - that is your wife of now 28 years and your three daughters - are devastated at the position you now find yourself in. There is ongoing,



enduring support for you from them but, as I said, it is your support for them - especially to your youngest daughter - that was more relevant to the sentencing discretion I had. The evidence established that your youngest daughter has fragile mental health. The self-harm and suicidal ideation is part of her troubling psychological state as a teenager. All the expert and the other family evidence establishes just how reliant the youngest of your daughters is on you. I refer to your wife's testimonial, where she writes:

We are currently also helping our youngest child with her battle in fighting depression, social anxiety, and now is experiencing neurodivergent symptoms. We are waiting for an appointment to a new psychiatrist. The outcome of your charge is going to have a big impact on her wellbeing and mental health and I hope she does not start to self-harm again to numb the pain of her feelings.

24 Your fear, which is something that would add to your burden if imprisoned, is how she would cope if you were incarcerated, thus I took that matter into account. It is clear her anxiety and depression would likely be adversely affected, perhaps seriously so. As I said, you knew this and it weighed on you. Being around to support her is important, if not vital to her stability. That fact was not elevated by your lawyers to some level of hardship which is described in the sentencing authorities as 'of an exceptional quality', which cases such as *Markovic*<sup>1</sup> make clear, but its impact on you would be that if you were imprisoned, you would feel the extra burden in considering the difficulties your daughter faced, so I have taken into account in considering whether to impose any custody, this real concern as to your youngest daughter. That was added to by reason of the COVID restrictions within the prison system; prison is different now, it is harder, though there are signs that things are relaxing. I took all that into account.

Your shame before your family and the wider community has been, and is, a driver for you to be law-abiding into the future. You have said as much to the counsellors that you have spoken to and said as much, no doubt, to those

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<sup>1</sup> *Markovic v The Queen* [2010] VSCA 105; 30 VR 589.

close to you. In that sense your prospects for permanent reform or rehabilitation are very solid. It is highly unlikely, in my view, that you will trouble the community or the courts again with offending into the future, thus in the analysis of who you are what your character is, what the future holds, the picture that emerged is of a hardworking and decent man which, but for this greedy offending, is someone who is likely to have remained of good character and is likely, from now on, to stay law-abiding.

25 These were powerful matters in mitigation. As I pointed out, it was said by the Court of Appeal in another context that these matters in mitigation cannot be given mere lip service because the offending is serious. It is plain that you are wracked by shame and general remorse at being involved in this conduct.

26 While in this case your personal circumstances involved compelling factors in mitigation, what took it out of the ordinary were a number of important factors. The first of these were the quite exceptional extent of the delay since the offending and your arrest in May 2015, and the resolution of this case by a plea of guilty which was two months or so short of seven years. This puts the concept of inordinate delay at quite another level. Even those in the criminal justice system who have unfortunately become immune to delays, this length of time of seven years is unprecedented.

27 You have had the stress and the anxiety of these allegations hanging over you for what, in anyone's view, is much more probably twice as long as any sentence that you would have faced at the outset. Your life and your business in particular have been set on pause and the financial losses that were articulated by your accountants in the letters tendered are very substantial, though much of it was due of course to the COVID economic downturn.

28 There were other matters that you were not able to attend overseas, you were able to see your mother at one point, but when she died you were unable to attend her funeral and the mourning of her when she died in Lebanon in 2019.

This is a matter that weighed heavily on you.

29 As the authorities on the issue of delay have made clear, in mitigation the value of the delay, or consideration of delay is two-fold. The first being the burden and anxiety of a criminal prosecution hanging over an accused person for so long; and secondly, is the consideration of what has occurred in that time. The question being, has the accused returned to lawful and contributing ways? On both counts that is the case here. You have had the burden and anxiety of the criminal prosecution hanging over you for a long time, and in that time, you have returned to lawful contributing ways. The mitigatory weight to be given to delay must relate to and thus be increased as the delay becomes as exceptionally long as it is here. The reasons for the delay need not be finely analysed because in the end it is the fact that for the last seven years this case has been unresolved and the cause of anxiety and a burden to you and your family. It is that fact that is relevant to the sentencing discretion.

30 The prosecution acknowledge the mitigatory factor of delay however argued that it was, as it always is, a matter of degree. I note in the chronology that this matter was all but resolved some years ago and I, as part of listing judge functions, was well aware of that, but it faltered due to how the prosecution case was being put based on the new analysis from phones and other items. That is regrettable. In my view this factor, that is the delay, is a critical matter in fixing the appropriate sentence. The system of justice that so slowly moves cases, and thus lives, to finality, must reflect on that fact and give remedial weight in mitigation in the ultimate sentence. The practical outcome can in my view, be an exceptional but justifiable sentence that are not to be seen as a guide to sentences for like offending, that are prosecuted and brought to finality in a much reduced time frame, a time frame that is tolerable to our community. In my view, an exceptional but justifiable sentence accords with the community's views on what is fair and just.

31 One other exceptional factor is that by reason of this delay, the world in 2020

moved into a global pandemic. The effects of this on the criminal justice system in this State have been enormous. The suspension of trials has meant that there is a heavy backlog of pending trials to this date. Delay has become and still is a systemic problem. The Court of Appeal in the important sentencing cases of *Worboyes*,<sup>2</sup> and *Chenhall*,<sup>3</sup> address this issue. The Court described our criminal justice system accurately, in my respectful view, as in crisis and the trial lists as 'beleaguered'.<sup>4</sup> The Court of Appeal's considered response was to authorise and direct that sentencing judges give greater benefits to those who plead guilty in these times when jury trials were so affected by the pandemic. Thus the ordinary benefits of a plea must be augmented by further discounts.

32 This means that sentencing judges such as myself, have followed *Worboyes* by imposing sentences not just with discount as to prison time,<sup>5</sup> that is lower sentences, but by imposing sentences of a different kind, such as combination or non-custodial sentence. That consideration applies of course to both State sentences and Commonwealth sentences. In the latter, the sentencing discretion allows a court to impose a sentence of imprisonment with a recognisance release order. In compliance with *Worboyes*,<sup>6</sup> sentences have been imposed of a length or a type that in pre-COVID times would not likely have been the sentences imposed, far from it. The reasons for this is that the Court of Appeal made clear that the benefits to an accused who pleads guilty in these COVID times, those benefits must be palpable not just to the accused, but to others, so as to encourage proper resolutions rather than clogging up and delaying the trial lists further by maintaining a plea of not guilty.

33 The principles are much to the fore in this case, which is already a very

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<sup>2</sup> *Worboyes v R* [2021] VSCA 169.

<sup>3</sup> *Chenhall v R* [2021] VSCA 175.

<sup>4</sup> *Worboyes v R* [2021] VSCA 169 [35].

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

delayed one, unprecedentedly delayed. And in circumstances where a co-accused has had a trial before COVID times and been acquitted. I also add the current expectation of the courts in running what trials we can at the moment, of any length, our expectation is sadly that they are very fraught. That is, there is a risk of a COVID interruption to the trial, or a need to abandon the trial and relist it. These risks are real. And the risk of course is higher if the trial is one of some weeks, which this trial would have been. Thus in the end, the utilitarian benefit for a plea of guilty by you is very significant. It must be palpable and perceptible. It widens the discretion which is agreed between the parties is for a sentence with recognisance release order.

34 The prosecution has made clear they submit that the sentence of imprisonment with a recognisance release order ought be one where there is some immediate incarceration. The critical issue is what the recent authorities such as *Barakat v DPP*,<sup>7</sup> emphasised in dealing with offending of this type. What was emphasised was the important message of deterrence must be to the fore. In this State, suspended sentences in the past and community corrections order now, are seen as sending a message of deterrence. In my view, a deterrent message is sent by a term of imprisonment that because of other compelling factors in the synthesis, allows for a recognisance release order and further, that the release be forthwith.

35 As I said in the sentence indication hearing, I have considered all aspects of s16A of the *Crimes Act (Cth)*, which were so helpfully discussed in the submissions of the parties. But after giving the matter anxious consideration I was persuaded that this is a rare exceptional case where the recognisance release order with immediate release was the appropriate sentence. But I added that there needed to be further punishment via a substantial fine. I add also that the fine operates also as part of the deterrence.

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<sup>7</sup> [2020] VSCA 185.

36 In my ruling in granting the sentence indication hearing that was sought, I referred at some length to the well-known sentencing methodology of instinctive synthesis and individualised sentencing. In doing so, I returned to the earlier decisions of the Appellate Courts in Victoria, *Williscroft*,<sup>8</sup> and *Young*,<sup>9</sup> as well as the case of *Storey*,<sup>10</sup> and also the High Court decision of *Ryan*.<sup>11</sup> In respect of individualised sentencing, obviously my point of reference was the High Court decision in *Dalgleish*.<sup>12</sup>

37 It seems to me all those authorities lead to the conclusion that the sentencing discretion is and must be a wide one. There must be proper recognition of all the circumstances including the unusual, unprecedented circumstances of the pandemic times that we now live in. No one factor, such as other like cases, prevail over other considerations, much less are they the determinative factor. So while consistency in sentencing is fundamental, the consistency is about the approach to sentencing. This does not mean or dictate that where there is a similar crime, that the sentences need to be similar, or that there is one correct sentence.

38 Circumstances such as those in this case, including the *Worboyes* and *Chenhall* principle,<sup>13</sup> means the sentence here may be set apart from pre-COVID sentences, but that is as it must be. This sentence that I am about to announce, cannot be seen as a guide to other sentences, given the enormous delay in this case and the implications of the COVID pandemic. In that sense there is not, in my view, an inexplicable dilution of the message of deterrence or punishment. The sentence that I indicated and will now announce is, in my view, the appropriate sentence.

39 Can you please stand, Mr Nassar.

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<sup>8</sup> *R v Williscroft* [1975] VR 292.

<sup>9</sup> *R v Young* [1990] VR 951.

<sup>10</sup> *R v Storey* [1998] 1 VR 359.

<sup>11</sup> *Ryan v The Queen* [2001] HCA 21.

<sup>12</sup> *DPP v Dalgliesh (a pseudonym)* [2017] HCA 41.

<sup>13</sup> *Worboyes v R* [2021] VSCA 169; *Chenhall v R* [2021] VSCA 175.

- 40 Committing the crimes set out, the conspiracy set out in Charge 1, to cause loss to the Commonwealth, you are convicted and sentenced to three years' imprisonment with a recognisance release order. The release or the recognisance is to be immediate. The length of the recognisance itself is three years. I will explain to you what that means.
- 41 The amount attached to the recognisance release is \$5,000. In addition, I impose a fine or pecuniary penalty as it is set out in the Act, payable to the Australian Federal Police of \$65,000.
- 42 A recognisance release is effectively a suspension of the term of imprisonment. That suspension is for the three years. A simple outcome is that you will forfeit the \$5,000 that I have imposed as the amount of the recognisance release. Beyond that, you will have breached the recognisance release and will fall to be resentenced with a figure of three years hanging over your head. Do you understand that?
- 43 And the fine itself of \$65,000 will be payable to the Australian Federal Police. That will be a separate order.
- 44 Now is there a need for time? No? All right. The payments can be arranged between Mr Nassar, and the Australian Federal Police. There are no other orders, as I understand. Is there anything?
- 45 MS MARCS: No, Your Honour.
- 46 HIS HONOUR: Nothing. All right. I am never confident that my sentencing orders comply with the precision of the *Sentencing Act* and the like and counsel chatting to each other with concerned faces usually means that I have made some mistake, which I correct and I always ask if I have, especially about maths, but there's nothing in here.
- 47 You may be seated, Mr Nassar.

48 There will need to be documents produced. Do you produce those, Mr Hardjadibrata? Or do my staff?

49 MR HARDJADIBRATA: My instructor has a template for a recognisance release order - - -

50 HIS HONOUR: Yes, yes.

51 MR HARDJADIBRATA: - - - which we can send to Your Honour's associate.

52 HIS HONOUR: All right. He's actually here and can - does he have to sign it or do I?

53 MR HARDJADIBRATA: I think Your Honour and the accused has to sign, yes. Yes.

54 HIS HONOUR: Accused, yes. So is it capable of being signed now? I want it signed.

55 MR HARDJADIBRATA: Yes. Well we can send the template through to your associate now.

56 HIS HONOUR: Send the template to my associate. I might just stand down for that purpose.

57 MR HARDJADIBRATA: Yes, Your Honour.

58 HIS HONOUR: Just bear with me for a moment. Nothing further?

59 MR HARDJADIBRATA: No, Your Honour.

60 HIS HONOUR: I will stand down and we will get that done.

61 (Short adjournment.)

62 HIS HONOUR: Thank you for the template order, Mr Hardjadibrata, but mainly your instructor, thank you very much for all their assistance.



63 Mr Nassar, this document here that sets out the order and sets out the recognisance or the promise that you make effectively to be of good behaviour through the next three years. I will sign that order. You then sign it and I will note that you signed it effectively before me. So it is no small matter to make a promise to the court. So read those things with Ms Marcs about what you promise to do, be of good behaviour and sign it if you would. Just hand that to Ms Marcs.

64 For the transcript, I note that your signature is at the bottom of the page where it is required that you sign. Thank you. That document, Mr Hardjadibrata, or copies of it or the like, will be returned to you and to Ms Marcs will get a copy and the accused man, and we will have it filed. There will be other formal court orders under our systems that will mirror that, together with the fine.

65 MR HARDJADIBRATA: As Your Honour pleases. Thank you.

66 HIS HONOUR: They will be provided in due course. I thank counsel again for their very considerable assistance. We can all head away in due course but I, myself head way. I have got to get used to courts again. I leave first, don't I. Thank you.

67 Pursuant to s 6AAA of the Sentencing Act 1991 (Vic), if not for your pleas of guilty, I would have imposed a sentence of 5 years and 6 months imprisonment with a minimum non-parole period of 4 years.

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