



MALTA

**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

MAGISTRATE DR IAN FARRUGIA LL.D

Today the 7th of March 2018

**THE POLICE
(Inspector Ian Joseph Abdilla)
(Inspector Paul Vassallo)**

Vs

KONSTANTIN ALEXANDER ANASTASIOU

Comp. No. 222/2004

THE COURT;

Having seen the charges brought against **Konstantin Alexander Anastasiou also known as Konstantinos Anastasiou** Austrian Passport no. J01576877, or Greece Passport no. N.519180), accused of having on these islands, on the 12th March 2004 and in the preceding months, in various parts of Malta, by means of several acts committed by the offender, even if at different times, which acts constitute violations of the same provisions of the law;

1. For having, by means of any unlawful practice, or by the use of any fictitious name, or the assumption of any false designation, or by means of any other deceit, device or pretence calculated to lead to the belief in the existence of any fictitious enterprise or of any imaginary power, influence or credit, or to create the expectation or

apprehension of any chimerical event, made a gain of LM11,000.00 to the detriment of Dragon Co. Ltd and Mr. Robert Tonna and this in breach of Sec. 18, 308, 309 and 310 of chapter 9 of the Laws of Malta;

2. For having, by means of any unlawful practice, or by the use of any fictitious name, or the assumption of any false designation, or by means of any other deceit, device or pretence calculated to lead to the belief in the existence of any fictitious enterprise or of any imaginary power, influence or credit, or to create the expectation or apprehension of any chimerical event, made a gain of more than LM2,500.00 to the detriment of Vanir Co. Ltd. and Mr. Joseph Schembri, and this in breach of Sec. 18, 308, 309 and 310 of Chapter 9 of the Laws of Malta;
3. Also, for having during the same period, misapplied, converting to his own benefit or to the benefit of any other person, the sum of LM11, 000.00 to the detriment of Dragon Co. Ltd and Mr. Robert Tonna, which sum has been entrusted or delivered to him under a title which implies an obligation to return such thing or to make use thereof for a specific purpose, and this in breach of Sec. 18, 294, and 310 of Chapter 9 of the Laws of Malta;
4. For having during the same period, misapplied, converting to his own benefit or to the benefit of any other person, the sum of more than LM2,5000.00 to the detriment of Vanir Co. Ltd. and Mr. Joseph Schembri, which sum has been entrusted or delivered to him under a title which implies an obligation to return such thing or to make use thereof for a specific purpose, and this in breach of Sec. 18, 294, and 310 of Chapter 9 of the Laws of Malta;
5. Also, for having during the same period, knowingly committed forgery of any authentic and public instrument or of any commercial document or private bank document, by counterfeiting or altering the writing or signature, by feigning any fictitious agreement, disposition, obligation or discharge, or by the insertion of any such agreement, disposition, obligation or discharge in any of the said instruments or documents, after the formation thereof, or by any addition or alteration of any clause, declaration or fact which such instruments or documents were intended to contain, or prove and this in breach of Sec. 18 and 183 of Chapter 9 of the Laws of Malta;
6. For having, during the same period, knowingly made use of any of the false acts, writings, instruments or documents, and this in breach of Sec. 18 and 184 of Chapter 9 of the Laws of Malta;

7. Also, for having, during the same period, knowingly committed any other kind of forgery, or shall knowingly made use of any other forged document, and this in breach of Sec. 18 and 189 of Chapter 9 of the Laws of Malta;

Besides awarding the punishments prescribed by Law, the Court is hereby kindly requested that, in pronouncing judgment, or in any subsequent order, sentence the person convicted or the persons convicted, jointly or severally to the payment, wholly or in part, to the registrar, of the costs incurred in connection with the employment in the proceedings of any expert or referee, within such period and in such amount as shall be determined in the judgment or order, and this in terms of Sec. 533 of Chapter 9 of the Laws of Malta.

Having seen the referral issued by the Attorney General dated 16th May 2005 for the case to be proceeded with and be decided upon summarily (vide folio 147);

Having seen that in the sitting of the 2nd of June 2006 the accused declared that he finds no objection for this case to proceed summarily and be decided upon by the Court of Magistrates (vide folio 199);

Having examined all testimonies of witnesses produced, including the testimony tendered by the accused;

Having seen all the documents exhibited in the acts of these proceedings;

Having seen the minute of the sitting of the 28th March 2017 wherein the Court ordered that the case be adjourned for judgement;

Considers;

As a preliminary point, this Court is declaring that in line with the judgement delivered by the Civil Court First Hall on the 27/06/2017 in the names - "Il-Pulizija (Spettur Malcolm Bondin) vs Aldo Pistella" [Referenza Kostituzzjonali Nru 104/2016 JZM] Qorti Civili Prim'Awla (Gurisdizzjoni Kostituzzjonali – Onor. Imh. Joseph Zammit McKeon) - it will not take any cognisance of the statement released by the

accused to the police dated 13/03/2004 and exhibited as document 8 at folio 84 *et seq.*

Considers;

That the facts that characterised this case and which resulted in terms of law are the following.

The police received some complaints about the accused who was allegedly offering loans to businessmen, and upon said complaints the police embarked on an investigation. During a search held at the accused's residence in Wardija, several documents were seized and eventually presented in the acts of these proceedings.

Further investigations revealed that the accused had approached, around October 2003, Mr. Robert Tonna/Dragon Co. Ltd and offered Mr. Tonna (who testified in Court) the possibility of getting him a loan, precisely a business loan to be able to purchase the premises from which Mr. Tonna conducted his business. Apparently, Mr. Tonna had said that he would need the sum of LM500,000; however the accused had said that he could only negotiate for a minimum of Lm1,000,000, at which point the pair went about setting up a deal for Lm1,000,000. The accused then told Mr. Tonna that he (Mr. Tonna) would have to buy, in advance, an insurance policy to cover the loan that was being negotiated. And that he (the accused) would need to do some research about him (Mr. Tonna). To all this effect, Mr. Tonna had given the accused the sum of Lm11,000. However Mr. Tonna was never given any insurance policy, and he was never given any indication that the said money were used to issue an insurance policy. Basically, the accused never gave Mr. Tonna any explanation of what actually happened with the money. Neither did the accused return the money that he illegally took away from Mr. Tonna.

Further police investigations revealed that something very similar happened to Mr. Joseph Schembri (who also testified in Court) who operated a tourist holiday services business. Mr. Schembri wanted to buy a boat for his business and the accused happened to appear in the picture (around December 2003) and offered to provide him with a bank guarantee for the amount of €1,200,000. As an initial

payment, the accused managed to acquire the sum of Lm2,800 from Mr. Schembri. Out of this amount, Mr. Schembri managed to recuperate Lm800 from the accused.

It clearly transpired that the accused never effectively gave any results for the services he had promised to deliver. In actual fact, the accused could never deliver on his promises because from the evidence produced in this case, it clearly transpired that the accused was only presenting a false scenario, a well elaborated scam to **defraud** the people who actually fell for the trap.

In view of all that resulted in this case, it is legitimate to conclude that the prosecution proved its case in terms of law against the accused with respect to charges (1) and (2). Since charges (3) and (4) were proffered as alternative charges to (1) and (2), and given that the accused is being found guilty of fraud, this Court will not take further cognisance of charges (3) and (4).

Furthermore, upon an examination of the documents seized from the possession of the accused and exhibited in these proceedings this Court has no doubt in declaring that the prosecution managed to prove its case according to law against the accused with respect to the (5), (6) and (7) charges as proffered.

Conclusion;

THEREFORE, THE COURT, having seen Articles 17, 18, 20, 23, 30, 31, 308, 309, 310, 294, 183, 184, 189 and 533 of Chapter 9 the Laws of Malta, whilst abstaining from taking further cognisance of charges (3) and (4) for reasons above outlined, **finds and declares Konstantin Alexander Anastasiou, also known as Konstantinos Anastasiou guilty of charges (1), (2), (5), (6) and (7) proffered against him and consequently condemns him to imprisonment for a term of two (2) years which however, in terms of Article 28A of Chapter 9 of the Laws of Malta, shall not take effect unless the offender commits another offence punishable with imprisonment within the operational period of four (4) years.**

Moreover, in terms of Article 28H of the Criminal Code, the Court orders the offender to return to injured parties, Robert Tonna and Joseph Schembri, the

sums of €25,623 and €4659 respectively (sums obtained by fraud and equivalent to LM11,000 and LM2000 respectively) within four months.

The Court explained to the offender in ordinary language his liabilities under Article 28B and 28H of Chapter 9 of the Laws of Malta if he fails to comply.

Dr Ian Farrugia LL.D
Magistrate

Marica Mifsud
Deputy Registrar