ORDER PROHIBITING PUBLICATION OF INDIVIDUAL QUANTUMS PURSUANT TO S 205 CRIMINAL PROCEDURE ACT 2011. SEE http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360354.html

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

I TE KŌTI MATUA O AOTEAROA
ŌTAUTAHI ROHE

CRI-2023-009-002134
[2025] NZHC 3958

THE KING

v

AROHA AWHINANUI TUIRA
THOMAS ALEXANDER KOKOURI TUIRA

Hearing:	11 December 2025
Appearances:	B Hawes, S J O'Brien and A C P Millington for Crown R J T George for Defendant Thomas Tuira C G Nolan and J A Poff for Defendant Aroha Tuira
Sentencing Notes:	11 December 2025

SENTENCING NOTES OF EATON J

Introduction

[1] Thomas Alexander Kokouri Tuira and Aroha Awhinanui Tuira, you have each pleaded guilty to two representative charges of obtaining by deception.[1] The first charge represents your offending between 6 April 2017 and 21 May 2021 and involved 19 discrete transactions with a total dollar value of $1,876,510 and the second represents your offending between 1 May 2014 and 30 March 2021, involving 85 discrete transactions with a total dollar value of $2,092,115.

[2] Your judge-alone trial, following your not guilty pleas, had been scheduled to commence before me on 4 August 2025. The start date was then deferred to resolve an evidential issue, and then deferred again to accommodate the possibility of guilty pleas. Mr Tuira, you pleaded guilty on 7 August 2025 and Mrs Tuira, you entered your pleas on 11 August 2025.

The offending

[3] The charges themselves arise from your combined deceptive conduct in obtaining funds totalling $3,968,625 for yourselves or for your company Ngākau Aroha Investments Limited (NAIL)—moneys received from 55 individuals or families or entities and over a period of around seven and half years commencing in May 2014.

[4] Your admitted offending is fully described in a 22-page summary of facts that has been agreed. You, and your victims, many of whom are present in Court today, will be familiar with those facts. But sentencing is a public process, and it is appropriate that I summarise your offending.

[5] Your admitted deception was to use what is described as a fraudulent stratagem or a ruse whereby you continuously presented yourselves as successful, well-connected businesspeople who were investing funds and generating returns on behalf of investors when you were not.

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1 Crimes Act 1961, ss 66, 240(1)(a) and (2)(c) and 241(a); maximum penalty seven years' imprisonment.

[6] You purported to operate an investment business out of Christchurch. You were offering investment opportunities, financial advice, and financial literacy training. But in reality, you did not operate an investment business, and you did not invest any of the funds. Rather, the funds that you received were used to fund your lifestyle, support your immediate family and repay other investors.

[7] Your deceptive behaviour was a joint enterprise. Carried out by the two of you, with each of you performing integral roles and responsibilities in order to implement the fraudulent stratagem.

[8] Mr Tuira, you were the architect of the scheme and the face of the purported business. You pitched investment opportunities to new investors to encourage them to come on board. You were the primary presenter, and it was you who outlined to potential investors your personal 'proximity' to wealthy and successful individuals and your access to opportunities to generate high investment returns.

[9] Mrs Tuira, you were the primary source of contact for investors regarding their investments once they had been recruited by your husband. In addition to communicating about investments, you would regularly communicate with the investors on a personal level. You attended the majority of the pitch meetings with investors, often prompting Mr Tuira to say certain things, and it was you who signed the various agreements alongside Mr Tuira.

[10] The two of you worked as a team to identify prospective investors from within your communities, including local Māori, Jehovah's Witness and Te Pā o Rākaihautū (Te Pā) communities. Your modus operandi involved presenting yourselves as a strong, loving whānau who embraced the principles and values of those communities. You welcomed investors as friends, you welcomed them as whānau, into your house. You developed or took advantage of close relationships with the investors, many of whom were persons of modest means, many of whom were related to you or you had known for decades.

[11] Your fraudulent stratagem that you had engaged was tailored to each individual investor but involved a number of common elements including in-person pitch

meetings, false representations, there was agreement documentation, relationship building, highly time sensitive, exclusive opportunities.

[12] The in-person pitch meetings often occurred your own family home. Mr Tuira, you would present an offer to invest, often accompanied by a Powerpoint including high-level information about the values the two of you shared and your connections with wealthy and successful people. Mr Tuira, you falsely asserted to so many of your victims that high-net-worth investors and celebrities were in your "proximity". Amongst the name dropping you regularly spoke of your connections to:

(a) Tony Robbins, an American author, coach, speaker and philanthropist;

(b) Robert Kiyosaki, an American businessman and author of "Rich Dad, Poor Dad";

(c) Keith Cunningham, an American author, coach and speaker; and

(d) Michael Jordan, an infamous, former NBA player.

[13] The truth was you had no personal connections to any of these individuals. However, as a result of your false representations, at least 13 of the investors believed you were a personal friend, or mentee of Tony Robbins or Robert Kiyosaki.

[14] Mr Tuira you also falsely described business relationships you had with various wealthy individuals, including Sanjiv Saddy, an Indian billionaire and businessman. On numerous occasions, you advised investors that Mr Saddy was going to invest a billion dollars from the sale of FlipKart, an e-commerce company, into you or into your business. While Mr Saddy was introduced to you on one occasion, he never invested in NAIL or indeed any other business associated with you or your family.

[15] It is clear that many of your victims had limited experience with investing. A consequence of that is that they rarely sought detail from you about how their funds were to be invested. They were satisfied by what you told them. The two of you used the promise of guaranteed high returns to encourage investment.

[16] Mr Tuira, you presented some victims with specific investment opportunities to encourage them to invest. One example was the building of a sports stadium commissioned by Michael Jordan.

[17] In most instances, the two of you pitched investment proposals as time-sensitive investment opportunities—opportunities available only to what you called your close or immediate proximity. Several of your victims were told they had to commit within 24 or 48 hours of being approached. A number of examples of messages you sent to investors are in what is called Schedule B attached to the summary of facts. I am going to refer to one as being typical of the approaches you made. On 29 November 2018, you, Mrs Tuira sent this message to one of your victims. I will not use names:

> …I hope this txt finds you well and excited that the final term is nearly through We have not long returned from Fiji and are heading to India on Sunday for Mahi. Happily achieving for all of US Darling as you and our beautiful [B] are part of our small immediate proximity we just wanted keep you updated with opportunities that come OUR way. Right now we have our best investment deal on the table which is 6 months with a 15% Return on Investment. However because this deal is so awesome we only have a small window of opportunity to take it. So for this particular deal all paperwork would need to be complete by 4pm tomorrow. There is absolutely no obligation to take this offer, it is simply out of courtesy and love for you both that we are sharing this…

[18] That is an example of you intentionally deceiving your investors. Together, you falsely inflated your wealth in order to encourage investors to trust you with their money. But the truth was that as at the date of the very first investment you received, your accounts were overdrawn. From the outset of the scheme, you relied on investor funds as the primary source of income.

[19] During the period of offending, you were both directors and/or shareholders of NAIL. Deposits from investors, as I say, were the company's primary source of funds. You really had no other source of income other than some irregular payments such as Covid-19 relief payments and other payments from Work and Income or Inland Revenue. The two of you had negligible assets.

[20] Although you were generating some genuine income from delivering education or consultancy services, NAIL was effectively insolvent from 2017

onwards. Throughout the offence period, your personal bank accounts and that of NAIL were regularly overdrawn right up to the point where investor funds were received.

[21] You took steps to provide an air of legitimacy to the transactions by providing investors with documentation in the form of an agreement. Those agreements were either between the investor and the two of you or personally between the investor and NAIL. Mr Tuira, you would most commonly sign the agreements and you, Mrs Tuira, would witness the signatures. Often the investors were encouraged to sign those agreements on the spot, never reading the contents, with little understanding of the terms of the agreement. From 2014 until mid-2019, you presented investors with an "Investment Agreement". That recorded the proposed percentage return on investments varied from 2–50 per cent and were commonly for periods of six to 12 months.

[22] Having secured investments, you took steps to disguise your offending and to avoid detection. These included providing false information to your accountants; incorporating a new company, Power to Me, and advising investors that their outstanding investment returns were converted into shareholdings in a successful and promising business. You told investors to pay moneys into either NAIL or into your personal bank accounts, you provided false information to investors about the ongoing success of their investments and you repeatedly gave false explanations for why funds had not been repaid.

[23] Having secured the initial investment, that was not the end of it, in terms of the individual investors. You continued to endeavour to further develop trusting personal relationships with them. The two of you would regularly contact investors by phone or text with the offer of these "time-sensitive" or "exclusive investment opportunities". You had regularly discussed those opportunities when you met socially with the investors and you worked together drafting the communications, the example of which I have just read.

[24] Despite representations you were making to investors that NAIL was an investment business, at no stage during the period of offending, were any genuine

investments made, either by NAIL or by you personally. Rather, the funds were being used in two primary ways. Either, when a victim sought to withdraw their investment or investment returns, you would use funds obtained from new victims to pay back earlier victims, which is, in effect operating a Ponzi scheme. It was that mechanism that enabled your fraudulent scheme to remain undetected for a lengthy period and allowed you to deceive additional victims and to receive additional funds. Otherwise, you used the moneys to fund your family's day-to-day expenses. The summary of facts refers to nearly $480,000 having been withdrawn for personal expenditure, nearly $460,000 for travel, over $300,000 as cash or cheque withdrawals and $277,000 in rent.

[25] There are a number of tactics that you engaged to deter investors from seeking the withdrawal of funds that no longer existed. Often you encouraged investors to roll over their investments upon maturity, on the promise of new returns. Almost always, that involved higher interest rates enticing investors to roll over rather than seeking repayment of their funds. At no stage did you tell or even hint to an investor that their funds had not been invested but in fact had been spent and were no longer available.

[26] You provided false explanations about why there was delays in repaying funds. Those were commonly communicated to investors by you, Mrs Tuira, and by way of example you would use the excuses of personal or family illness; meetings that had not gone ahead as planned; issues with finances; delays with clearing funds; or legal issues.

[27] Using these successful delay tactics, you were able to continue offending over a number of years, which allowed you to identify new investors and solicit further investments.

[28] Your accountant expressed concerns with your business practices. It was not long after that you changed accountants and started making changes to the documentation you presented—removing the reference to "investment" and adding a reference to "loan" in a schedule. Later you used the word "gift" in your agreements.

[29] The offending carried on right through to May 2021 and had only stopped because your fraud was then exposed following your continual failure to respond to requests by your victims who sought to withdraw their funds. It was around this time you prepared a spreadsheet on your home computer recording funds received by investors and the returns owed to them. The spreadsheet was named "Here is the reality of our money 2021". You calculated that you owed nearly $8 million in total to investors and creditors. Notably, Power to Me is not recorded in the spreadsheet, as an investment or otherwise.

[30] Within that spreadsheet, you record a "Summary of Investments made". I consider that was a misnomer. Your purported investments included donations to Te Pā to fund a trip to the USA for a student of the Te Pā boys' basketball team. It included a one-off donation to the deaf communities in Brisbane. There was a one-off payment to a clothing label owned by a cousin of yours, and a series of payments totalling $150,000 to Tandem, which was part-payment for a shareholding interest. Neither you, Mr Tuira, nor NAIL was ever made a shareholder because full payment was never made. Tandem was placed into liquidation on 28 November 2019. The spreadsheet also included a $55,000 payment paid to Webfair, which was roughly 11 per cent of what you had agreed to pay as an investment, Mr Tuira. The agreed summary records that you made false representations to the director of that company, a company that is no longer in business. The reality is none of those purported investments were ever going to generate revenue, which would allow you to pay back your investments.

[31] In total, over the in excess of seven-year period, the two of you deceptively obtained 106 discrete payments from 55 unique investors totalling $3,968,625. The total cash loss to the victims as a result of your offending is $2,676,343.50, with nine individual investors (or families) losing more than $100,000 each. The largest loss to an investor was $365,000. That was an investor who has known both of you his whole life and considered you to be family.

Victim impact statements

[32] I will turn to the victim impact statements. Throughout the course of this morning, I hope you have listened very carefully and will take time, if you have not already, to reflect on every one of those victim impact statements—statements that record the profound consequences of your offending for so many. Not only are those consequences enduring but they might be described as intergenerational, impacting not only your direct victims but also the treasured memories of past loved ones and of mokopuna.

[33] As we have heard, many of your victims describe a close, trusting, familial relationship they shared with the two of you leading up to and giving rise to your deception. Many describe what they genuinely believed was a shared focus on whānau, on faith, on uplifting those who are struggling. Many of your victims refer to what they interpreted as genuine kindness, as love, loyalty and a desire that the two of you expressed to do good.

[34] The very same expressions are recorded in the multiple character references, particularly those I have read, filed on your behalf, Mrs Tuira. The key difference between those who now act as your character referees and those who are your victims seems to be that your referees were not deceived by your character traits into investing with you.

[35] It is not surprising that so many of your victims speak of a deep, of a spiritual betrayal of trust. That they speak of the theft—not just of money but of dignity, security and trust. They speak of manipulation; exploitation; emotional grooming; the misuse of friendship; the deep pain of being deceived by whānau and in particular those who you knew were vulnerable. As one victim said, "to discover the warmth and friendship I thought was genuine was largely a façade has been devastating."

[36] The victims speak of how your offending has left them feeling that they have failed their own whānau; how your offending has scarred the next generation. They refer to enhanced levels of whakamā (incompetence and embarrassment). The reports tell me that those who were targeted were careful, responsible people who now feel manipulated and exploited, leaving many of them wondering how they could have

been so gullible, creating self-doubt and impacting on their ability to trust others. They speak of their disappointment of your manipulation of Māori cultural values that you so readily espoused, but you did so to meet your own personal ends.

[37] Mr and Mrs Tuira, it is clear that there are family and friends who still hold the pair of you in high regard. You particularly, Mrs Tuira. There is no doubt that every one of your victims once held the pair of you in the same high regard. They trusted you unreservedly. With them you did share relationships of aroha. And when those persons were fobbed off or abandoned when your deceit became exposed, it is little wonder that they now share, as a group, such an immense sense of a betrayal of trust.

Personal background

[38] I will turn to deal with your personal background. I have a wealth of information in relation to both of you.

Pre-sentence report for Aroha Tuira

[39] I will deal with the information in relation to you first, Mrs Tuira. The pre-sentence report tells me you are 54 years old, you have three daughters and six grandchildren. You are a Jehovah's Witness and a member of the Te Ao Māori community. You and your husband were together for nearly 30 years but are no longer together. You described him as being mentally abusive, controlling and manipulative.

[40] You told the report writer that at no stage before 2021 did you consider any of the business activities that you and your husband were conducting were illegal. You said your accountant said it could be perceived as a Ponzi scheme, but it was not, which led you to believe it was a legitimate business.

[41] You maintained, in your meeting with the pre-sentence report writer, that you played a very small role in the business which was you said was "[your] husband's idea from the beginning". You reported that if you ever challenged him, you were verbally and emotionally abused. In relation to the business, you said you would often be told you "did not need to know". You described you and your husband as two very different people, yourself, a simple non-business-minded person and him, as "out there

and grandiose, with big ideas"—big ideas he had gained from following people like Robert Kiyosaki and Tony Robbins. You said your relationship with your husband was "good early on" but that after he had his stomach operation, he made you feel "less than a person" claiming you could never do anything right, and that he would "kick [you] out of [your] house" and sometimes force you to eat outside.

[42] You said there was a 90 per cent to 10 per cent split of responsibility in the business with the main role being performed by your husband. The report writer says you were willing to accept some accountability saying you would never wanted to see people hurt. You said that you played a support role only and that despite being listed as a director/shareholder of the company, asserted you had no business knowledge.

[43] Not surprisingly, in my view, the report writer expressed some real reservations as to your level of knowledge given your family had benefitted so significantly, financially, at the expense of so many individuals. The writer says you did not present as remorseful; you were largely focussed on the impact this prosecution has had on you.

Affidavits Aroha Tuira and Melody Tuira

[44] I have read your affidavit, Mrs Tuira, which provides background into your relationship with your husband and your recollections about the establishment of NAIL. Again, essentially you maintain that Mr Tuira would assure you that he knew what he was doing and that everyone would be repaid their investments together with interest.

[45] You describe your role as supporting your husband by organising meetings and seminars, sending out agreements and following up with people and being the contact person on his behalf. You say it was your husband who lied to victims to get them to invest but that you knew their money was not going to be invested.

[46] Your affidavit really confirms much of what you told the probation officer, namely that your husband was to blame and while you say you are remorseful you maintain that you bear little responsibility for this offending.

[47] You also address how you felt when the Serious Fraud Office (SFO) executed a search warrant at your address back in October 2021, describing it as a personal invasion leading you and your whānau to feel overwhelmed and scared.

[48] Finally, you depose that you feel terrible about the impact your offending has had on people. You confirm you have been paying one of your victims $50 per week since 15 February 2023. You confirm you attended the restorative justice conferences in order to apologise directly to the people you have harmed. You tell me that you want to take accountability for your part in the offending.

[49] Your daughter, Melody, has also filed an affidavit, providing background information. It is clear to me she is very supportive of you. She deposes that she relies on you for help in caring for her daughter. She describes you as your mother's main support.

Section 27 report for Aroha Tuira

[50] I had also read a s 27 report prepared by Kylie Phillips. Mr Nolan, on your behalf, in his submissions this afternoon, has effectively asked me to put that to one side and so I will.

Psychiatric report for Aroha Tuira

[51] Consultant Forensic Psychiatrist, Dr Maxwell Panckhurst has prepared a psychiatric report. It tells me that at interview, you described your early relationship with Mr Tuira as a period in which you briefly found confidence, raising your three daughters within what initially felt like a stable family unit. However, following your conversion to the Jehovah's Witness faith in your late twenties, and a major medical crisis for your husband in your early forties, I am told there was a shift in the marital hierarchy and in your own sense of agency. You described a return of childhood feelings of powerlessness and incompetence.

[52] Dr Panckhurst records that you have pleaded guilty and express deep regret. He describes your involvement as occurring within an enduring pattern of fear-based compliance, confusion, and diminished personal authority. He states that you did not

act with "deliberate intent". He says you acknowledge your wrongdoing, and the harm caused, while also recognising that your longstanding vulnerabilities, and the relational dynamics within the marriage significantly impaired your capacity to understand, question, or resist what was happening at the time.

[53] In his opinion, you meet the criteria for what is called Other Specified Anxiety Disorder and that you show prominent traits consistent with a dependent personality disorder.

Character references for Aroha Tuira

[54] Finally, for you, I have read some 20 references that attest to your good character. They are powerful insofar as they speak so highly of you as a person, however, as I will shortly discuss, not one of your referees talk about your offending.

Pre-sentence report for Alex Tuira

[55] Mr Tuira, your pre-sentence report tells me that you are 52 years old. You identify as New Zealand born Māori, with whakapapa to Ngāti Porou and Ngāi Tahu iwi, and as a Jehovah's Witness. Drawing upon your knowledge, academic pursuits, and financial expertise, you told the report writer you have committed yourself to educating and empowering underserved individuals within Māori and faith-based communities.

[56] You are described in the report as having taken responsibility for your actions, and by way of explanation you said you were going through a huge financial strain to try and pay back the Māori community and Jehovah's Witnesses. You said you had an overseas investor you hoped would invest but the deal fell through. Things then got out of hand and became a "tangled web" that blew out of proportion.

[57] You shared with the probation officer that you were one of the first in your family to complete studies and that you worked both at Christchurch Prison and in the Dunedin Prison. You worked for 10 years for Ara Poutama and your mahi involved teaching wāhine and tāne financial literacy and numeracy, financial education and kaupapa Māori.

[58] You told the report writer that prior to 2013, you were reading about how to be debt free and listening to influential and motivational speakers. You said you attended related seminars. You confirmed at interview you did not know the speakers at a personal level but that you followed them on various platforms to educate yourself in order to become more financially astute.

[59] You say that throughout the period of your offending, you were not coping well with your health and that the loss of your sister and your father had also taken an emotional toll. The report writer identified your offending-related factors as attitudes, lifestyle expectations and poor decision making due to a lack of consequential thinking and an inability to effectively problem solve in stressful situations.

[60] You told the report writer that you hoped to reconcile your relationship with your wife, daughters and grandchildren, whom you have been separated from for around three years.

Psychiatric report for Alex Tuira

[61] On your behalf, I have read and considered the report of Consultant Psychiatrist, Dr Dominic Lim. That report is dated 9 December 2025. Dr Lim records that he was asked to provide a psychiatric assessment report "specifically to what extent Mr Tuira's background has contributed to his offending". The report traverses your personal history, with significant focus on the death of your mother when you were a child and subsequent personal health issues. Dr Lim tells me in that report that he is "unable to see any direct link between the trauma related issues [and] the nature of [your] offending".

Character references for Alex Tuira

[62] Late yesterday a number of character references were filed on your behalf. Those referees, a number of whom only met you more recently, and therefore post your offending, speak highly of you and particularly as to your skills as a te reo Māori tutor.

Restorative justice conferences

[63] All victims who had been identified in the restorative justice referral were invited to engage in a restorative justice process with the two of you individually. While some chose not to participate, others attended pre-conferences with facilitators, and a total of five restorative justice conferences were undertaken with you Mrs Tuira and four completed with you Mr Tuira. I will refer to those again shortly.

Approach to sentencing

[64] Having set out the factual background and the background personal to you both, I will now turn to the approach to sentencing. The sentencing purposes which are particularly relevant in this case are to hold you accountable for your offending,[2] to denounce the conduct in which you were involved,[3] and to deter others from committing the same or similar offences.[4] The Court of Appeal, in a serious fraud case *Ross v R*, emphasise that it is essential the courts denounce fraud offending to endeavour to deter others from committing similar offences.[5]

[65] The relevant sentencing principles that I must take into account are the gravity of your offending, the degree of your culpability,[6] the seriousness of the type of offences to which you have pleaded guilty in comparison with other types of offences (as indicated by the maximum penalties prescribed for the offences).[7] I must impose the maximum penalty prescribed if the offending is within the most serious of cases for which that penalty is prescribed, unless the circumstances relating to you make that inappropriate.[8] I must impose the least restrictive outcome that I consider to be appropriate in these circumstances.[9]

[66] The first task in the sentencing exercise is to set what is referred to as the "starting point". The starting point reflects the culpability of your offending. To do

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2 Sentencing Act 2002, s 7(1)(a).
3 Section 7(1)(e).
4 Section 7(1)(f).
5 *Ross v R* [2019] NZCA 455 at [60].
6 Sentencing Act, s 8(1)(a).
7 Sentencing Act, s 8(b).
8 Section 8(c).
9 Section 8(g).

so, I will identify the aggravating and any mitigating factors of the offending, and I will consider comparative case law. Having set the starting point, I will then turn to personal factors relating to each of you, to determine whether that starting point should be adjusted upwards for aggravating factors or downwards for mitigating factors.

Starting point

Crown Submissions

[67] As regards the starting point, Mr Hawes, for the Crown, has referred to a number of cases he says share similarities with your offending in that they involve the operation of a Ponzi scheme over numerous years, causing losses in excess of $1 million to multiple victims.[10] In those cases, starting points between seven and nine years have been adopted, with one case, that of *Ross*, being an outlier because it was far more serious where a starting point of 16 years was adopted.

[68] Mr Hawes submits your offending most comparable to the cases of *Ryan v R* and *R v Scott*. He says that as was the case in *Ryan* the fact that this was a complex and sophisticated scheme conceived and executed as a means of defrauding others is a significant aggravating factor. Mr Hawes submits that despite representations to the contrary, you never operated a legitimate investment business or invested any of the funds you obtained. With no assets and no consistent source of income, you conceived and executed a scheme to defraud others to fund your lifestyle.

[69] Mr Hawes submits the degree of the abuse of trust in this case is more profound than in either *Ryan* or *Scott* or indeed any of the other authorities the Crown has advanced. He points to the extent to which the two of you associated with your victims on a personal level, leveraging their vulnerabilities to convince them to hand over their funds. He submits that is a significant aggravating feature of your scheme. The deception was intended to take advantage of the inherent trust placed in you by those who were closest to you. Mr Hawes highlights that in many instances, it was one or

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[10] *Ross v R* [2014] NZCA 272; *Cherry v R* [2013] NZCA 636; *Ryan v R* [2018] NZCA 586; *Wood v R* [2020] NZCA 48; *Arnott v R* [2015] NZCA 236; *R v Scott* [2017] NZHC 2510; and *R (SFO) v Robinson* [2015] NZHC 1673.

other of you who approached the victims, encouraging them to invest, when they themselves had no intention of investing their funds.

[70] The Crown submit that, as the architect of the fraudulent scheme, your culpability, Mr Tuira, is marginally higher than that of Mrs Tuira. Notwithstanding, the Crown submit that when considering the difference in starting point, weight must be placed to the fact that you, Mrs Tuira, did play a substantial role in this offending, a role that was fundamental to the success of the scheme, and that the financial benefits of the deceptive conduct were shared equally by both of you.

[71] Mr Hawes submits that to reflect the totality of your offending, the appropriate starting point range is eight to eight and a half years' imprisonment for you, Mr Tuira and seven and a half to eight years' imprisonment for you, Mrs Tuira.

Mr Tuira submissions

[72] On your behalf Mr Tuira, Mr George does not accept that the offending was a Ponzi scheme from inception. Whilst he acknowledges that you never made any genuine investments of the money paid to you by your victims, Mr George says there were genuine efforts to make the business viable and to generate returns for the victims. He highlights the summary of facts which refers to what he says are genuine attempts to make either NAIL or Power to Me a viable business. He refers to payments that were made to Te Pā, to Tandem, to Webfair and others. He submits that you made efforts to obtain legitimate investors in Power to Me, including the trip you made to India. Mr George says the failure to have generated returns must be seen in the context of your naivety and lack of solid business acumen. He says that once your carelessness caught up with you, it was then that you acted dishonestly.

[73] He, too, has referred me to a number of cases.[11] Of those, Mr George submits your offending is most comparable to the case of *Scott.* But he contends, your offending is less culpable because your offending took place over a shorter period and

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[11] *R v Scott*, above n 10; *R (SFO) v Robinson*, above n 10; *R v Bradley* DC Auckland CRI-2010-004-022040, 19 October 2012*; Watson v R* [2012] NZCA 17 and *Cherry v R*, above n 10.

the total financial loss to investors was lesser (after adjusting for inflation). He invites the Court to adopt a starting point of six years' imprisonment.

Mrs Tuira submissions

[74] Mr Nolan, on your behalf Mrs Tuira, submits that the authorities that adopt starting points higher than seven years' imprisonment involve fraud of larger amounts than in your offending.[12] He submits your offending is more analogous to *Scott* but also refers to *Arnott*[13] and *Robertson*[14] notwithstanding variances in the duration of offending, financial amounts and number of victims. He submits that your offending warrants a starting point of seven years' imprisonment.

[75] But Mr Nolan then submits that your personal culpability, Mrs Tuira, is materially less than that of your husband, emphasising that he was the face of the scheme, he created the written agreements, he provided content for presentations and for financial literacy seminars. Mr Nolan describes your role as one of providing support and as the primary source of contact for investors once they were recruited. He says your involvement in the offending was the result of pressure and control by Mr Tuira which speaks to your culpability and is relevant in fixing a starting point but is also a relevant personal mitigating factor.

[76] Mr Nolan has referred me to *Campbell v R* where the Court of Appeal allowed a 10 per cent deduction to Ms Campbell after viewing her offending through the prism of the controlling nature of the marital relationship.[15] He also refers to *Zhang v R*, where the Court of Appeal acknowledged that a lesser role in the offending may indicate a lower level of culpability appropriately recognised in the starting point.[16] He refers to *C v Police*, where the Court of Appeal observed that whether coercive control should be taken into account at what is called the first stage of sentencing or as a mitigating factor or the second stage, depends on the evidence.[17]

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12 *R v Bradley*, above n 11; *Watson v R,* above n 11; and *Cherry v R*, above n 10.
13 *Arnott v R*, above n 10.
14 *Robertson v R* [2020] NZCA 218.
15 *Campbell v R* [2020] NZCA 356 at [47].
16 *Zhang v R* [2019] NZCA 507, [2019] 3 NZLR 648.
17 *C v Police* [2024] NZCA 136 at [57].

[77] Mr Nolan submits on your behalf, Mrs Tuira, that the Panckhurst report provides strong support for the submission that the core drivers of your involvement were relational coercion, fear-driven compliance and reduced autonomy. He submits that but for the dynamics between the pair of you as a couple, you, Mrs Tuira, would never have committed criminal offending. Consequently, he contends for a much-reduced starting point for you of five to five and a half years.

Discussion

[78] There is no tariff for fraud offending. Culpability is to be assessed by reference to circumstances and to the facts of the particular offending.[18] The Court of Appeal provided the following guidelines to assess culpability in fraud offending in *R v Varjan*:

> [22] Culpability is to be assessed by reference to the circumstances and such factors as the nature of the offending, its magnitude and sophistication; the type, circumstances and number of the victims; the motivation for the offending; the amounts involved; the losses; the period over which the offending occurred; the seriousness of breaches of trust involved; and the impact on victims.
>
> [23] It is in the assessment of culpability that comparison with other cases is to be undertaken. Matters of mitigation such as reparation, co-operation with investigators, plea, remorse and personal circumstances necessarily must be assessed in each particular case.

[79] For your offending, I am satisfied there are a number of aggravating factors. They are:

(a) *Extent of loss and harm*: your offending caused over $2.5 million of financial loss, with nine victims losing more than $100,000 each. Your offending has left a number of victims struggling financially. But it is also clear that the harm went far beyond financial loss. It engaged significant emotional and relational harm. So many of your victims, as I have discussed, feel enduring shame and embarrassment at having trusted you both. As I have also discussed, the harm you have caused is intergenerational.

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[18] *R v Varjan* CA97/03, 26 June 2003 at [22]–[23].

(b) *Type, circumstances and number of victims*: there are at least 55 direct victims of your offending. That is significantly more than most of the cases that I have reviewed. Under this aggravating factor I must have regard to the vulnerability, in some cases what I would describe as extreme vulnerability, of your victims. You targeted victims when they were caring for loved ones, when they were trying to cope with the death of whānau and victims who had inherited moneys from the hard work of a deceased parent. We heard those stories this morning. So many of your victims were confronting personal trauma when they were targeted to invest. Most of your victims were inexperienced in investing. Most were of modest means. There can be no question the number of victims and their personal circumstances significantly aggravate this offending.

(c) *Length of period of offending*: your offending occurred over a seven and a half year period. On any view, that is prolonged and sustained offending.

(d) *Abuse of a position of trust*: your deception was targeted at exploiting the inherent trust you had cultivated with those closest to you including whānau, lifetime friends, and members of the communities in which you were so deeply embedded. That strategy literally opened the doors to homes of your trusting victims who reciprocated the aroha. In my view this offending involved a very serious breach of trust.

(e) *Premeditation*: this offending did involve a high degree of planning and co-ordination between the two of you. You systematically targeted and then defrauded friends and whānau for over a seven-year period, using, and no doubt relying on, the ill-gotten gains to fund your lifestyle and to support your immediate family. You went to considerable effort to conceal your offending, providing false information to victims about their investments, and giving false explanations for delays in maturity or withdrawal.

(f) *Personal gain*: Mr George submits that the personal gain that you achieved is inherent in the extent of the loss, which is part and parcel of the offending. But in my view, causing loss of itself does not equate to personal gain. In this case, there was personal gain. You both benefitted significantly from your fraudulent scheme. The victims' funds were used to pay your rent, to pay your bills and other expenditure as well as funding numerous domestic and international holidays, including a month-long holiday for the entire Tuira family to the United States and for your trip for to India.

[80] Those are the aggravating factors.

[81] One of the factual disputes that I am asked to resolve in assessing your culpability is whether this was a Ponzi scheme from inception. On the evidence I have considered, I am prepared to accept that this business was not established as a Ponzi scheme. I accept it is quite possible that in the very early stages of this enterprise neither of you intended to engage in fraudulent conduct. Of course, you intended to secure personal wealth and, I accept that you did seek to assist or encourage others in your communities to do so. But the reality is the lies and deceit so quickly became the essential foundation of your business. Whether or not you made genuine efforts to make your business viable and to generate returns for investors is really neither here nor there. The fact is you never made a legitimate investment in accordance with the representations you made to your victims and, from a very early-stage post-inception you conceived and then executed a fraudulent scheme that did fund your lifestyle.

[82] Overall, therefore I am satisfied this was serious offending that warrants a strong and deterrent sentence.

[83] As I have discussed, I have been referred to a number of cases, all of which I have read and considered.[19] Of course, no case is directly comparable, but I agree with all counsel that the closest case factually is that of *R v Scott.*[20] Mr Scott had

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19 *R v Scott*, above n 10; *R (SFO) v Robinson*, above n 10; *R v Bradley*, above n 11; *Watson v R*, above n 11; *Cherry v R*, above n 10; *Ross v R*, above n 10; *Ryan v R*, above n 10; *Wood v R*, above n 10; *Arnott v R*, above n 10; *Robertson v R*, above n 14.

20 *R v Scott*, above n 10.

pleaded guilty to 27 charges of fraud. Those charges carried a maximum of seven years' imprisonment as do your charges. He operated what was described as a Ponzi scheme for a 13-year period. Over that period, he received funds totalling nearly $5.5 million from friends and associates causing losses of principal in the sum of nearly $2.2 million.

[84] His victims were persons he met through his local neighbourhood, through his involvement in rugby clubs and from socialising in local bars. He had promised high rates of returns. He had presented written agreements, proposals and other documents purporting to set out the terms of the investment that led his victims to believe they were investing in various investment schemes. He did not invest in those schemes. Rather, the moneys received were paid to his personal account or used to repay other investors. There were 13 victims of his offending.

[85] In sentencing Mr Scott, Gordon J described the offending as involving the deception and abuse of trust of friends and associates over a period of 13 years. It was described as highly premeditated, involving repeated false representations, inducements to entice further payments towards investments that did not exist. The offending was not considered to be particularly sophisticated. The Judge accepted that the catalyst for the offending was Mr Scott having suffered heavy losses in the property and investment market, observing that he did not take investor's funds simply to secure a lavish lifestyle for himself.

[86] The Judge in that case adopted a starting point of seven years, said to reflect that he was not operating as a licenced or otherwise qualified agent within a recognised profession and that his offending was lower in scale and sophistication than in financial advisor cases.

[87] I find myself in agreement with Mr Hawes that your offending is more serious than that committed by Mr Scott. That I am prepared to give you the benefit of the doubt as to whether this was a Ponzi scheme from the outset does not justify a finding that *Scott* was more serious. That is because your offending involved significantly more victims, and also in my view, that the breach of trust involved significantly greater betrayal and was therefore more grave for the reasons I have outlined.

[88] When I have regard to the aggravating factors and comparable cases, for you, Mr Tuira, as the mastermind and primary implementer of this deception, I adopt a starting point of seven years and nine months' imprisonment.

[89] Turning to you Mrs Tuira, I agree with counsel that it is appropriate to recognise the lesser role that you played. Mr Nolan proposes that deduction be close to the order of 30 per cent, describing you as "truly less than a full participant".

[90] I find that submission to be quite inconsistent with the agreed summary of facts that describes your role as integral. You were the friendly and loving face of this deception. Your presence and communications were essential to secure the trust of your victims. It was you who was nurturing, through your natural characteristics. Relationships of aroha, of whānau, of trust, knowing your victims were being deceived, tricked into parting with their money. This was a team fraud. It benefitted both of you equally. At all times you and your husband presented as a loving, whānau-focussed couple who were working together.

[91] I have referred to one of your texts. The schedule attached to the summary of facts refers to several others authored by you, in almost the exact same language. Each sent as a special invitation, presented as a unique and privileged opportunity being offered only to a select group of your close immediate proximity, but always time sensitive, requiring inappropriately pressured decisions to be made by your victims and always couched by you in loving, caring language reflecting a close friendship.

[92] In my view those texts provide good evidence of your role and your direct involvement in perpetuating this deceit.

[93] It does appear to me, Mrs Tuira, from your discussions with the probation officer, from what I have read in terms of your discussions with the author of the s 27 report, with the forensic psychiatrist and from what you said at the restorative justice conferences that you have significantly downplayed the role you played.

[94] I think it necessary to remind you, and your supporters, that the essential element of the offence to which you have pleaded guilty is that you acted by deception

and without claim of right. The particular deception as defined in s 240(2)(c) of the Crimes Act which you have admitted through your guilty plea is a fraudulent stratagem used with intent to deceive any person. As the Court of Appeal has observed, an intention to deceive requires that the deception is practiced *in order* to deceive the affected party.[21] Purposeful intent is necessary and must exist at the time of the deception.

[95] By your guilty pleas, you have acknowledged that on each of the occasions particularised in the Crown charges, together with your husband, you intended to deceive the investor whether or not you intended any particular outcome, for example, to cause a loss, that is not an element of the offence. I must sentence you, recognising that on each of the occasions, the subject of charges, you were acting with intent to deceive.

[96] For your role in the offending, Mrs Tuira, I adopt a starting point of seven years' imprisonment.

Personal aggravating factors

[97] I turn to personal aggravating factors. Mr Tuira, you have a previous conviction for dishonesty, a theft committed, I think, back in 1995. Given the time that has passed since then without other relevant convictions, I put that to one side. There are no personal aggravating factors that apply to you, Mrs Tuira.

[98] I will now discuss personal considerations that are said to impact the starting point. Firstly, I will address the factors that are common to both of you, then to factors particular to you, Mr Tuira. What I propose doing is then I will actually impose sentence on you, Mr Tuira, before I consider personal factors that are relevant only to you, Mrs Tuira.

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21 *R v Morley* [2009] NZCA 618, [2010] 2 NZLR 608 at [53].

Personal mitigating factors

Guilty pleas

[99] Mr Tuira, you entered guilty pleas on 7 August 2025, three days after the ten-week trial was scheduled to commence. Mrs Tuira your pleas were entered on 11 August.

[100] On confirmation of those pleas, the Crown presented an amended Crown charge notice substituting two representative charges of obtaining by deceit for the 115 charges in the original notice. The amended charges did reflect a modest reduction, and the summary of facts was amended as to both the number of victims (60 down to 55) and an adjustment of the financial loss which went from just over $4.1 million to just under $4 million. I am told that the rationale for the change to the summary of facts was not any compromise made by the Crown in terms of the alleged offending, but rather the fact that a small number of complainants elected to withdraw from the process.

[101] Mr Hawes accepts that the late guilty pleas did avoid a lengthy trial that was estimated to take up to 10 weeks and that a modest deduction is available. He says that might be in the range of five to 10 per cent. He submits the level of deduction should also reflect the overwhelming nature of the Crown case and that considerable Crown resources had already been expended to prepare for trial that was so imminent.

[102] Mr George submits it was a complex case. He observes that it was only shortly before the trial commencement date that the Supreme Court declined leave for a second appeal against a pre-trial granting the Crown application for a Judge-alone trial, and he points to the defence having belatedly raised an evidence admissibility application that ultimately had mixed success. He submits those two pre-trial issues had a significant bearing on the way the trial would proceed and that your guilty pleas were entered swiftly, Mr Tuira, once the exact nature of the case against you was known. In light of those factors, he submits you should be eligible for the maximum credit for a guilty plea which is 25 per cent.

[103] Mr Nolan, for you Mrs Tuira, says a 20 per cent deduction should be available on the grounds that your pleas saved time and resources and were impacted by the late decision of Mr Tuira to plead guilty.

[104] I am satisfied a deduction for guilty pleas is appropriate. As regards the level of deduction, I make the following observations.

[105] First, the guilty pleas were not entered to lesser charges or as a consequence of any significant shift in the Crown case. As I have said, the representative charges did not reflect any tangible reduction in alleged culpability. The amendment reduced a total sum of moneys obtained by deception by less than five per cent and total losses to victims by a little over five per cent. That does not reflect a shift in the Crown case that would justify a higher guilty plea credit.

[106] Secondly, I agree with Mr Hawes that the Crown case against both of you was always very strong if not overwhelming. The case itself relied, at its core, on witness testimony and expert forensic accounting evidence that proved the deceit.

[107] Thirdly, you were both charged as far back 11 May 2023. At no point in the following two years and nearly three months did either of you indicate your intention to plead guilty to any of the original charges. You were both fully informed of the case you were asked to answer from an early stage. The detailed summary of facts and the attached schedule of transactions has remained largely unchanged from that which was disclosed to you back on 21 July 2023. You had early disclosure of the witness interview transcripts and a draft exhibit bundle on 23 June 2023. You had full disclosure by 20 October 2023. Notably, the evidence was not impacted by the late pre-trial applications.

[108] Fourthly, I observe that the evidence admissibility challenge was only raised on 11 May 2025 and at that stage only on your behalf, Mr Tuira. I acknowledge that the challenge was advanced after you had a change of legal counsel. But it was never suggested by your counsel that if the challenge was unsuccessful, you would plead guilty or that an inadmissibility ruling would have any significant impact on the trial. Preparation for trial went ahead regardless of the pre-trial application.

[109] At no stage was it suggested, and I do not accept that either the belated admissibility challenge or the Crown application for a Judge-alone trial was of such moment as to determine whether or not a trial would proceed. To the contrary, Mr Hawes, for the Crown, had submitted, and I accepted, that the admissibility ruling would not significantly impact the trial at all. The guilty pleas entered first by you, Mr Tuira, and then by you, Mrs Tuira, a few days later came as a surprise both to the prosecution and the Court.

[110] I am not satisfied the resolution of either pre-trial issues so significantly impacted the decision to plead guilty that a higher level of deduction is justified.

[111] Finally, I agree the preparation for a trial of this magnitude through from late 2023 until the commencement date in August 2025 required considerable Crown resource, including the briefing of 78 witnesses and over 2,000 pages of witness statements.

[112] The reality is that a plea entered after a scheduled trial has commenced will often attract no discrete deduction at all at sentencing. But when a case involves a complex trial, one that has been set down for a significant period and will involve multiple witnesses, there is no doubt tangible benefit for the justice system when guilty pleas are entered, such that the guilty pleas ought to be recognised. I also accept that you were entitled to advance an admissibility challenge. I allow a deduction of 12.5 per cent for your guilty pleas.

Breach of rights

[113] A second mitigating factor advanced by both counsel is what is described as a breach of s 21 of the New Zealand Bill of Rights Act 1990 (NZBORA), the right to be secure against unreasonable search and seizure. This is a rather novel argument.

[114] In a pre-trial results ruling dated 18 July 2025, I ruled that the search warrant dated 8 October 2021 that authorised a search of your family home, was unlawful.[22]

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22 *R v Tuira* [2025] NZHC 1993.

At a further hearing on 4 August, I ruled that the evidence that had been obtained in the search that was carried out on 13 October 2021 was inadmissible.

[115] Mr George submits that the unlawful search was a serious intrusion into your privacy and he proposes a 20 per cent deduction in the starting point to reflect that breach. He relies on the observation of the Court of Appeal in *Winders v R*[23] where the Court said:

> [70]… Nevertheless, the Crown accepts that a sentence reduction could be an appropriate remedy for other breaches of the New Zealand Bill of Rights Act so long as this is in accordance with ordinary sentencing principles, consistent with the approach taken by the Supreme Court of Canada in *R v Nasogaluak*. We proceed on that basis noting that the Court is obliged under s 8(h) of the Sentencing Act to take into account any particular circumstances of the offender that mean that a sentence that would otherwise be appropriate would, in the particular instance, be disproportionately severe.

[116] As it transpired, no deduction was allowed in that case.

[117] Mr Nolan advances the same argument, highlighting your affidavit, Mrs Tuira, where you refer to the distress you and your family suffered when that search warrant was executed. Mr Nolan takes a rather different position to Mr George and seeks a far more modest deduction for the breach of five per cent.

[118] Mr Hawes accepts the possibility that a deduction might be available in sentencing when there is a breach but he submits that would realistically only apply if there was a breach of the right to trial without undue delay. He does not concede that a deduction is appropriate in this case.

[119] The observation the Court of Appeal made in that case marks the possibility of a shift from the position taken by the Court of Appeal in *R v Shaheed* where Elias CJ concluded:[24]

> For that reason, I agree with the view of the majority that monetary compensation and sentence reduction inappropriate responses to breaches of s 21 where the prosecution seeks to use obtained evidence in breach of the Bill of Rights Act. The effective remedy in such cases is the exclusion of the evidence.

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23 *Winders v R* [2018] NZCA 277, [2019] 2 NZLR 305 at [70] (footnote omitted).
24 *R v Shaheed* [2002] 2 NZLR 377, (2002) 19 CRNZ 165 (CA) at [24].

[120] Neither Mr George nor Mr Nolan could point to any authority to support the deduction that they seek, and certainly not at the level proposed.. I am not persuaded a deduction is available. The breach of your right was, in my view, vindicated by my ruling that the evidence obtained on execution of the search warrant was inadmissible. Mr George submits there was no tangible vindication because the SFO was able to source some of the excluded evidence from an alternative source. That the evidence existed independently of the search does not, in my view, diminish the vindication that was achieved through exclusion. Further, counsel, in my view, have failed to identify any connection between the unlawful search back in 2021, and ordinary sentencing principles. Particularly, I see no such connection with s 8(h) of the Sentencing Act 2002. I do not consider the provision referred to by the Court of Appeal in *Winders* is engaged at all. I decline to allow a discrete deduction to reflect a breach of rights.

Prior good character — Alex Tuira

[121] Mr Tuira, Mr George, on your behalf, submits a good character deduction be provided to reflect that you spent many years engaging in positive contributions to the community, including working at prisons. He relies on the background material set out in the pre-sentence report, the psychiatric report and the character references that have been filed. He submits a three per cent deduction for previous good character is available. Mr Hawes disagrees. He says the prolonged and deliberate nature of your offending speaks against any deduction.

[122] In *R v Howe* the Court of Appeal held that:[25]

> Persons who have shown themselves generally law-abiding citizens of good character are usually entitled to invoke their creditable record in mitigation when they come before the Courts, even for quite serious offences.

[123] Against that, in *R v Zhang* the Court of Appeal said:[26]

> Any concession to be gained by reason of a previously unblemished record should have been and was dispelled by the prolonged and premeditated nature of the offending in this case.

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25 *R v Howe* [1982] 1 NZLR 618 (CA) at 629.
26 *R v Zhang* (2004) 20 CRNZ 915 (CA) at [26].

[124] Mr Tuira, a feature of your offending that I have discussed is that you and your wife played on your very good character to curry favour with, to gain or retain the trust of your victims. A second feature of your offending is that it was continuous for over a seven-year period. In those circumstances I am not satisfied a discrete good character deduction is available.

Remorse and restorative justice – Alex Tuira

[125] Mr Tuira, Mr George seeks a three per cent deduction for your remorse as recorded in the pre-sentence report and he seeks a further ten per cent reduction for your participation in restorative justice.

[126] Whilst it is acknowledged that it is ultimately for the Court to assess the credibility of your expression of remorse, Mr Hawes, for the Crown, submits that relevant to this assessment is the information that is contained in both the pre-sentence reports and the restorative justice reports which reflect that neither of you take ownership of your offending.

[127] Remorse is a question of fact and judgement.[27] It is a defendant who bears the onus of showing that it is genuine. Remorse need not be extraordinary to earn a deduction, but it does require something more than the bare acceptance of responsibility that is inherent in a guilty plea. The courts do look for tangible evidence, such as engagement in restorative justice processes, the voluntary payment of reparation, and efforts to remedy harm to the community. The courts seek satisfaction that an offender has truly taken accountability for their offending and that it is not merely words when remorse is expressed.

[128] Mr Tuira, you have expressed remorse, and I accept, it is to your credit that you engaged in four restorative justice conferences. As Mr George submits, I agree that is no easy process for an offender. The reports record comments that you made during those conferences that do, in my view however, question the authenticity of your expressions of remorse or at least indicate that you still have quite some work to do in order to come to grips with the true culpability of your offending. You apologised

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[27] *Moses v R* [2020] NZCA 296, [2020] 3 NZLR 583, (2020) 29 CRNZ 381 at [24].

to one victim that "it didn't work out" and referred to "business failings". Mr Tuira, what happened was not a business failing, this was criminal deceit. Further, and unhelpfully for you, you made very similar comments to Dr Lim. His report refers to your various explanations for your offending including "possibly losing [your] values in terms of financial pursuits". He refers to "the quick expansion of [your] businesses"; …and to "subsequent mismanagement from lifestyle factors". Dr Lim's report records you explaining that your historical traumatic experiences had shaped you to be a people pleaser, someone who avoided conflict and that it was in that context that you "lied to avoid further conflict and pressure from the debtor".

[129] Mr Tuira, you did not possibly lose your values. You were, for a sustained period, a compulsive liar. You were deceiving those close to you from whom you believed you could secure financial advantage. There was no quick expansion of your businesses. Your businesses did not expand at all. There was no legitimate business to expand. What you engaged in was not mismanagement, but fraud and you did not lie to avoid further conflict. You lied in order to secure funds to conceal your fraud.

[130] Notwithstanding my reservations as to the true sense of responsibility that you have for your offending, I consider, having read the restorative justice conference reports that they were of some benefit to the victims who chose to attend. I think you are on a path to express what I would to hope would be genuine and deep-rooted remorse. For the remorse you have expressed to date and for participating in the restorative justice conferences, I will allow a five per cent deduction.

Increased impact of incarceration (mental health) — Alex Tuira

[131] The final mitigating factor advanced by Mr George for you, Mr Tuira, relates to your mental health. That is a submission that relies on Dr Lim's report. Dr Lim interviewed you for the first and only time about three weeks ago via a video link.

[132] In his written submissions, Mr George seeks a discrete five per cent deduction to recognise what he describes as your enduring mental illness that will make prison disproportionately severe for you. However, Dr Lim's report confirms you have no diagnosable mental illness, and his report makes no reference at all as to the personal consequences for you that might flow from a sentence of imprisonment.

[133] In fact, he records that he was asked to provide a psychiatric assessment report detailing "specifically to what extent [your] background has contributed to his offending". That is a distinct issue to the one raised by Mr George.

[134] His report traverses your personal history, with significant focus on the death of your mother when you were a child and to subsequent health issues of note. Dr Lim says that you, yourself, tended to use medical jargon "such as OCD, complex PTSD and depression" but Dr Lim says that in his opinion "they did not befit the diagnostic threshold and definition in a clinical sense". That led Dr Lim to say, "[he was] unable to see any direct link between the trauma related issues [and] the nature of [your] offending".

[135] At its highest, in relation to the submission advanced by Mr George, Dr Lim's report tells me that the stress associated with this case and the inevitable sentence of imprisonment you face might cause stress related responses and mood difficulties from time to time, leading Dr Lim to suggest that if you become depressed while serving your sentence, you should be referred to the forensic prison mental health team.

[136] But in my view, there is nothing raised in the report of Dr Lim that justifies any deduction from your sentence starting point.

Mitigating factors summary — Alex Tuira

[137] That deals with the mitigating factors raised on your behalf. Mr Tuira, I allow a total deduction of 17.5 per cent.

Minimum period of imprisonment (MPI)

[138] The next question is whether a minimum period of imprisonment, under s 86 of the Sentencing Act is appropriate. The Crown seeks an MPI of between 40 to 50 per cent. Mr George did not address this issue and confirmed in his oral submissions that was because if I was to accept his submissions as to what the end sentence would be, it would be one of just over two years' imprisonment.

[139] If an offender receives a determinate sentence of imprisonment of more than two years, the court may order that offender serve what is called an MPI.[28] The court may impose an MPI if it is satisfied that the one-third default minimum is insufficient to either, hold the defendant accountable for the harm done, denounce the conduct, deter the defendant or others, or to protect the community.[29] An MPI must not exceed two-thirds of the full term of the sentence.[30] In other words, if I do not impose an MPI, your first parole eligibility date would be after one-third of the sentence that I impose.

[140] Section 86 provides the mechanism to constrain the possibility of release from a long-term sentence when the offending is so serious that release after one-third "would plainly constitute an insufficient response in the eyes of the community, even though there may be no on-going safety risk. It enables the courts to give a degree of reality to the sentence and the outcome."[31]

[141] In considering whether an MPI is appropriate in your case, I have regard to your level of culpability, which as I have discussed is reflected in the number of your victims, the gross breach of trust, the serious harm that your offending has had on your victims and the overall magnitude of your offending. I must focus on the role you played in this offending and your acknowledgement that you were the architect and primary implementor of the deceit.

[142] The authorities that Mr Hawes referred to reflect that, in the context of Ponzi scheme type offending of this magnitude, a minimum period of imprisonment in the range of 40–50 per cent is often imposed. Absent an MPI, Mr Tuira, you will be eligible for release on the sentence that I will impose in little over two years' imprisonment. I am satisfied that would be insufficient to meet the sentencing principles of deterrence and promoting a sense of accountability.

[143] For those reasons, I impose an MPI of 45 per cent.

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28 Parole Act 2002, s 84(1).
29 Sentencing Act s 86(2).
30 Section 86(4)(a).
31 *R v Brown* [2002] 3 NZLR 670, (2002) 19 CRNZ 534 (CA) at [28].

Reparation

[144] The final issue is reparation. A number of the restorative justice reports refer to indications made by the two of you that you would like to repay the victims of your offending. Mrs Tuira, you have been doing so in relation to one particular victim.

[145] The court has the power to make reparation orders in any case where an offender has, through their offending, caused loss to a victim. But, the courts have consistently made it clear that any reparation orders must be realistic, having regard to the financial resources of the offender. [32] As the Court of Appeal acknowledged in *R v Brown*[33] the court is not constrained in considering whether to make a reparation order by an offender's present means, but on the other hand orders that cannot possibly be met should be avoided. Generally, and this is a rule of thumb, the courts do not make reparation orders to be met by instalment payments unless the order could be satisfied within a five-year period.[34]

[146] I understand the SFO have considered whether the two of you might have assets that could be realised so as to enable reparation to be made to the victims. I understand that the SFO are satisfied you do not own such assets. Mr Hawes has today confirmed the Crown do not seek a reparation order.

[147] Neither of you, as I understand, are presently receiving an income. The prospects of you deriving an income on your release from prison that will permit, at least in part, repayment of your victims in the foreseeable future is, in my view, poor.

[148] I am satisfied there is no realistic prospect of either of you being able to pay reparation, such that it would be inappropriate to make a reparation order. I acknowledge that it is not what some of the victims want to hear and whether either of you are good to your word, that you will focus on repaying victims when you are ultimately released from prison, is something for you to personally address.

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32 *R v Bailey* CA306/03, 10 May 2004 at [25].
33 *R v Brown* CA267/92, 26 November 1992.
34 *Scanlon v R* [2013] NZCA 502; *Crosland v Police* [2012] NZHC 1929 at [8]; *Leighton v Police* [2012] NZHC 1925 at [11].

[149] As matters stand, I think that a reparation order made at this stage would only serve to give false hope to those victims who continue to suffer as a consequence of the deceit.

[150] I decline to make a reparation order.

Result — Alex Tuira

[151] Mr Tuira, can you please stand.

[152] From a starting point of seven years and nine months' imprisonment with total deductions of 17.5 per cent that leads me to an end sentence, rounded down, of six years and four months' imprisonment.

[153] Thomas Alexander Kokouri Tuira on each charge of obtaining by deception you are sentenced to of six years and four months' imprisonment. Those sentences are concurrent.

[154] I impose a minimum period of imprisonment of 45 per cent.

[155] You may stand down.

Personal mitigating factors — Aroha Tuira

Guilty pleas

[156] I will turn to your personal factors now Mrs Tuira. Guilty pleas were entered on 11 August 2025, eight days after the trial was scheduled to commence. I take the same view in relation to the credit for you as I did in relation to Mr Tuira. I allow a deduction of 12.5 per cent.

Breach of rights

[157] As regards the breach of rights, as I have said, Mr Nolan has proposed a five per cent deduction to reflect what I found to be an unlawful search of your family

home in October 2021. Again, adopting the reasons I have advanced, I decline to allow that deduction.

Prior good character

[158] Mr Nolan submits that a five per cent deduction to recognise your previous good character is appropriate. You have no previous convictions, and your counsel relies on the various reports and the character references as evidence of your good character.

[159] Mr Nolan has acknowledged that credit for previous good character is tempered when the offending has taken place over a significant period of time. However, he draws parallels to *Hamilton v R* where a five per cent deduction was allowed for previous good character, notwithstanding the offending period of three years for the offence of theft in a special relationship.[35] I have mentioned the relevant legal principles in dealing with Mr Tuira.

[160] What is apparent is that there are a number of common themes emerging from the 20-odd character references I have read. They describe you as loving, kind, whānau focussed, someone who is not only generous, but caring. Surprisingly though, not one of the referees refers to your offending. It is not clear to me that any of those referees have a true comprehension of the prolonged deceit that you have admitted engaging in with your husband.

[161] I do not doubt for a minute that you exhibit the characteristics your referees speak to. But, as the agreed summary of facts records, and as is evidenced in the text messages you sent investors, it was those same characteristic traits that you now rely upon as justifying a sentence deduction, that you deployed to secure the trust of unwitting victims. It was those same traits that allowed you to nurture your relationship with the victims. You would express interest in their children, their wider families, and you frequently expressed the love and care you felt towards them, describing them as whānau, and as members of your close proximity. What is your

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35 *Hamilton v R* [2015] NZCA 28 at [28].

natural kindness, warmth and family focus did, in my view, play a key role in your deceptive offending.

[162] It is also, of course, relevant that you offended continuously for a period of over seven years. For those reasons, I do not consider a deduction for previous good character is available.

Remorse and restorative justice

[163] Mr Nolan submits that a five per cent deduction should be allowed to reflect your remorse as evidenced by your participation in five restorative justice conferences.

[164] You have filed an affidavit telling me that you are remorseful. You talk in your affidavit about the offending. You never refer to it as "my offending". You confirm you have been paying one of your victims $50 per week since February 2023. As I have said, the pre-sentence report writer says you did not present as remorseful, largely focusing on the impact the prosecution has had on you. You told the report writer you played a very small role in the business and had little understanding. That same theme runs through the other reports that I have read including the restorative justice reports. As one victim is recorded as saying to you at the conference "you're sounding like you were blind to what was going on…". You told another that you wanted to go to trial and speak your truth but that after your husband pleaded guilty you "adjusted your truth and plead[ed] guilty". That victim told you that "I feel like you're coming across as the victim… I'm the victim. You're the offender."

[165] As I said, when I was setting your starting point, the position that you have taken at these various interviews and conferences is completely at odds with your guilty pleas and the agreed summary of facts. I agree with the Crown that any deduction for your participation in restorative justice must be mitigated by the representations you made to victims during those conferences.

[166] I do accept you are remorseful that you have caused so much grief to persons, many of whom you were so close. I accept that for one victim you have actually taken steps to remedy some of the harm that you have caused. But it is very clear to me,

Mrs Tuira, that you are a long way from taking ownership for the true role you played in this offending and that must impact on the genuineness of your expressed remorse.

[167] I assess the appropriate deduction for your remorse to be a little less than that proposed by Mr Nolan. I allow three per cent.

Increased impact of incarceration (whānau)

[168] Mr Nolan seeks a discrete deduction of 10 to 15 per cent to reflect your personal circumstances of residing and caring for your mother, daughter and grandchild. Mr Nolan submits those circumstances will increase the impact of a sentence of imprisonment on you. He submits that you have a significant attachment with your grandchild and that you have played a constant caregiving role for her.

[169] As I said to Mr Nolan, the affidavit you have filed for sentencing makes no mention of the role you play with your other family members within your home—whether that be your grandchild, your daughter or your mother. Your daughter's affidavit does tell me that she relies on you for help in the care of her daughter and she tells me that you are the main support for her and for your own mother.

[170] The reality, Mrs Tuira, is that almost inevitably when a loved one is sent to prison, other persons are seriously impacted. That is the tragic but natural consequence. The courts have, however, recognised that the consequences for children of parental incarceration are such that it may be appropriate to make a deduction in the sentence. Mr Nolan invites me to apply that principle in relation to your adult daughter and your mother. He has referred to one case as authority, the case of *Campbell v R*.[36] In that case there were teenage children, and one much older child who was suffering from addiction and therefore I infer more vulnerable to harm resulting from parental incarceration.

[171] The evidence I have considered does not point to any particular circumstances of your daughter as regards her capacity to care for her child, or of her grandmother.

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[36] *Campbell v R*, above n 15.

[172] On the contrary, the material I have read suggests that you have significant support in the community, whānau-focussed support, and I have no doubt there will be many in your community who remain loyal to you and who can provide the necessary support to your family.

[173] For those reasons, I decline to make a deduction for what are said to be the adverse consequences of incarceration.

Personal background factors

[174] The final mitigating factor advanced by Mr Nolan, on your behalf, relates to what he describes as relational coercion or relationship factors. He seeks a 10 to 15 per cent deduction if this factor has not been reflected in my assessment of the starting point. His written submissions in support of this deduction are brief. He simply observes that in two cases[37] the appellants' difficult relationship was a factor that garnered a discount. He observes that the deduction permitted in one of those cases was 10 per cent.

[175] The critical material relied upon in support of this factor is the psychiatric report of Dr Panckhurst. I have summarised his report. Relevantly he concludes that your longstanding anxiety disorder and personality vulnerabilities are central to understanding the psychological context in which your offending occurred, albeit as he records, he is relying primarily on your self-report.[38] In Dr Panckhurst's report, your husband is described as becoming increasingly grandiose and engaging in dominating behaviour over an extended period and that his behaviour impacted your marital relationship. That led Dr Panckhurst to refer to a "progressive erosion of [your] confidence and independent judgment". It was Dr Panckhurst's opinion that these entrenched patterns did restrict your capacity to exercise free and independent decision making.

[176] I have found it difficult to determine what weight to give to your self-reported account given your admitted pattern of deceit. If what you reported to Dr Panckhurst

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37 *Campbell v R*, above n 15; and *C v Police*, above n 17.
38 Melody Tuira's evidence is generally supportive.

was truthful, reliable and accurately reflected the nature of your relationship with Mr Tuira, then it is unquestionably clear that you were able to mask coercion and fear on a daily basis when you dealt with investors. None of them viewed you as anything other than a team player jointly advancing the deceit alongside your husband. However, while expressing caution, Dr Panckhurst was content to accept the account you provided.

[177] Not without some hesitancy, I am willing to accept Dr Panckhurst's opinion and consequently am satisfied that there is a causal connection between your personal background as outlined in his report and your willingness to participate in this offending over a prolonged period.

[178] I consider it appropriate to distinguish the actual role you played in the offending, as summarised in the agreed summary of facts and that is reflected in the deduction from the starting point applied to your husband. From the personal circumstances that are outlined by Dr Panckhurst, to reflect those circumstances, that is your background and the identified causal connection to your offending, I will allow a discrete deduction of 10 per cent.

Minimum period of imprisonment (MPI)

[179] That leaves me to deal with a minimum period of imprisonment. As with Mr Tuira, the Crown submit you should be subject to an MPI of between 40 to 50 per cent. I have referred to and I repeat the relevant principles.

[180] Mr Nolan submits the mitigating factors that are personal to you weigh heavily against the imposition of an MPI. He refers to *Chen v R* where the mitigating factors of the case obviated the need for an MPI;[39] to *Harrison v R* where the MPI was set aside on account of the aggravating factors not being sufficient, and the appellant was effectively a first offender;[40] and to *Prasad v R* where the Court said it should be hesitant to impose an MPI upon an offender who presents with a low likelihood of

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39 *Chen v R* [2019] NZCA 299.
40 *Harrison v R* [2011] NZCA 642.

reoffending.[41] Mr Nolan says an MPI is not required to meet the purposes and principles of sentencing.

[181] The Panckhurst report does assess the risk of you engaging in similar conduct, that is in reoffending, as extremely low and opines that little active intervention is required from a rehabilitation perspective. I agree with that assessment. Having reflected closely on your lesser role considered alongside the background factors that I have just discussed, I am not persuaded that the one-third default minimum parole eligibility is insufficient to address the s 86(2) considerations.

[182] By a fine margin, I have resolved that your release date should be determined by the Parole Board. I decline to order an MPI. I do observe however, Mrs Tuira, that the Parole Board will no doubt be interested to learn whether you have truly acknowledged your offending when they come to assess the future risk that you pose.

Reparation

[183] Finally, and for the reasons I have previously discussed, I do not make a reparation order.

Result

[184] Mrs Tuira, will you please stand.

[185] From a starting point of seven years' imprisonment and with total deductions of 25.5 per cent, I arrive at an end sentence, rounded down, of five years and two months' imprisonment.

[186] Aroha Awhinanui Tuira, on each charge of obtaining by deception you are now sentenced to five years and two months' imprisonment. Those sentences are concurrent.

[187] I decline to impose a minimum period of imprisonment.

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41 *Prasad v R* [2020] NZCA 483.

[188] You may stand down.

Addendum

[189] I have corrected an error at [73] to correctly record Mr George's grounds for distinguishing *Scott*.

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Eaton J

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