

**IN THE HIGH COURT OF LAGOS STATE**  
**HOLDEN AT IKEJA JUDICIAL DIVISION**  
**SITTING AT COURT NO. 10, SPECIAL OFFENCES COURT 1,**  
**BEFORE THE HON. JUSTICE M.A. DADA (MRS.)**  
**TODAY FRIDAY THE 11<sup>TH</sup> DAY OF SEPTEMBER, 2020**

SUIT NO: ID/8250C/18

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA

..... COMPLAINANT

AND

ADESANYAOLUFEMI PAUL

..... DEFENDANT

**JUDGMENT**

The Defendant was initially as the 1<sup>st</sup> Defendant arraigned with one Awojobi Ganiu on 4 Counts Information dated 8<sup>th</sup> November, 2018 for;

1. Conspiracy to Obtain by False Pretence contrary to Sections 1 (3) and 8 (a) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14 of 2006.
2. Obtaining Money by False Pretence contrary to Section 1 (1) and (3) of the Advance Fee Fraud and Other Fraud Related Offences Act, No. 14 of 2006.
3. Stealing contrary to Sections 278 and 285 of the Criminal Law of Lagos State, No. 11, 2011.
4. Ditto 3 relating only to the Defendant.

They both pleaded not guilty on 11<sup>th</sup> December, 2018 and trial commenced with the nominal complainant, Oluwatoyin Akinwale, as PW1. Her evidence-in-chief is thus:

My name is Oluwatoyin Akinwale. I am a business woman. I have a Boutique and a Home Agency at 905, Kinuplan Allen, Texas, USA. Yes, I know the Defendants. In November, 2016, I was in my shop in Dallas Texas when a friend of mine, Sherifat Abiola Abu who was on the phone when she walked in and 2 minutes after she hung up on the phone and said Alfa Ganiu Awojobi, the 2<sup>nd</sup> Defendant saw vision to me that there was a spirit of death following me and I told her that that vision wasn't mine. She said I should listen to her that the 2<sup>nd</sup> Defendant can see very well and whatever he sees comes to pass. I told Sherifat that I don't want to hear any vision that I just buried my younger sister on 17<sup>th</sup> October, 2016 that my mum would not bury any of her children anymore. So she left that day in November, 2016. In the 2<sup>nd</sup> week of December, she came back with the same story and

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called the 2<sup>nd</sup> Defendant on the phone and said, 'Toyin, meet my friend, talk to him. I just said hello and hanged up the phone. In January, 2017, she came back and told me that I should do something about the vision and I said okay. She said she would call the 2<sup>nd</sup> Defendant to know what to do. I said okay. She came back in March 2017 that she was travelling to London to meet the 1<sup>st</sup> Defendant. When she got to London, she called me that 'Alfa' the 2<sup>nd</sup> Defendant called her in the morning that she should remember her friend called Toyin who has twins to do something or else she would die. She was on the phone with the 1<sup>st</sup> Defendant and they both said the 2<sup>nd</sup> Defendant would do something that would cost N154,000, I said I didn't have money. The 1<sup>st</sup> Defendant said 'Toyin, we don't want anything to happen to you, I will pay N100,000 and you pay N54,000'. 2 days after, the 1<sup>st</sup> Defendant and Sherifat called me that they've transferred N100,000 into 2<sup>nd</sup> Defendant's account. I said okay, send me his account details and they sent it and I transferred the N54,000 into his account. 3 days after Sherifat and the 1<sup>st</sup> Defendant said the 2<sup>nd</sup> Defendant would like to pray for me on the phone. I said okay. She gave Alfa my phone number and he called and he prayed and I said Amen. Then in March, both of them would be calling me. The 1<sup>st</sup> Defendant said he was in Oil & Gas business and 2<sup>nd</sup> Defendant would call me doing prayers. I think they called me almost every other day. Sheri came back from London and came to my shop and said I need to go to Nigeria to meet the 2<sup>nd</sup> Defendant for more prayer. I said Ok and I went home in 2017 April. My husband said he didn't want anything to happen to me and if it is prayer, I should go. I prepared and left US April 6<sup>th</sup> to Nigeria. Sherifat's brother, Suraju came to the Airport and my driver picked me up all the way to Ijebu-ode, we got there about 8:30 Pm. When we got there, 2<sup>nd</sup> Defendant said no, no you can't come in to my house like that, there are lot of forces following you. I looked at my driver and Sherifat's brother and they both said calm down. 2<sup>nd</sup> Defendant said I had to take a shower at the back of his house. He said there was a soap and water. I went there and took shower. He now let me into his house. I met his wife and children in the house. Not up to 20 minutes, Alfa, 2<sup>nd</sup> Defendant and his wife came out with a pot held by his wife and she gave it to her husband who gave me the pot and said I should eat the black fish in the pot and I said I'm sorry I'm not going to eat it. Sherifat's brother, 2<sup>nd</sup> Defendant and his wife said it is for protection. The 2<sup>nd</sup> Defendant tasted it. Sherifat's brother said that there was nothing about it. That is how he had been eating it. So I ate the fish. 2<sup>nd</sup> Defendant said there would be night vigil in his house. 3 men came, himself and his children. Exactly 12 midnight, they asked me to sit down and they, 3 men, his 2 sons and himself circled me and he was doing prayer in Arabic till like 3am. After the prayer I slept there with my driver and Sherifat's brother. 2<sup>nd</sup> Defendant vacated his room and I slept in his room while my driver and others slept in the living room. Early in the morning, his wife came into the room and said her husband wanted to see me and I went to meet him in the living room and he said I needed to buy a goat for N37,000. I called my driver and I brought the money and

ma 2

gave it to the 2<sup>nd</sup> Defendant. After collecting the money, he moved us to a nearby hotel, very close to his house. The next day he and his wife came to the hotel and cooked and he told me my issue is a special case and he would take me to Ijebu-Igbo to his father who was more powerful than him. We went to Ijebu-Igbo, his powerful man said you have business, company, you have to do business, you have to pray for them, your husband, your children within 5 days. I spent N1.4M. They were just collecting money from me. The 5<sup>th</sup> day I left to Ibadan and he promised he would come to our house at Ibadan for more prayer. 2 days after 2<sup>nd</sup> Defendant came to our house at Ibadan with his 2 children. He did the same night vigil. He lit incense all over the house and from midnight till about 2:00am. They slept in my house and in the morning, they left. In all the prayer processes, I was talking to the 1<sup>st</sup> Defendant and Abiola Abu complaining that I spent so much money. After 2 hours the 2<sup>nd</sup> Defendant left my house, the 1<sup>st</sup> Defendant called me that the 2<sup>nd</sup> Defendant called him to say he had done all the prayers and I had no problem anymore. 1<sup>st</sup> Defendant now said why am I complaining that 2<sup>nd</sup> Defendant said he only collected N100,000:00K from me. I was upset and I said I had the proof of the money I spent and I transferred all the transactions to him because he was in London then. When the 1<sup>st</sup> Defendant saw all the transactions, he said go and arrest him and I said no, I used that money as sacrifice as long as nothing would happen to me and my family. So I blocked the 2<sup>nd</sup> Defendant's number on my phone. I went back to the U.S on April 16<sup>th</sup> I was still talking to the 1<sup>st</sup> Defendant and Sherifat. Sherifat came to my shop and said I should not worry about the money I spent as it is nothing compared to my life and my family. So I let it go even though I did believe that it was a false vision. I was still communicating with 1<sup>st</sup> Defendant who was saying he had business in Oil and Gas and that if I had money I could invest and I said I don't have money. Sometimes in June, 2017, the 1<sup>st</sup> Defendant and Sherifat told me that Otunba wants to open his 5<sup>th</sup> Petrol Station in August at Ijebu-Ode, and 1<sup>st</sup> Defendant also said yes and it was also his mum's birthday. The opening of the station he said was August 5<sup>th</sup>. I said I would be in Nigeria that that is the time I come home to see my grandmother and I said yes I would be able to make it then. I came to Nigeria August 1<sup>st</sup>. I went to Ijebu-Ode for the 1<sup>st</sup> Defendant's mum's 80<sup>th</sup> birthday. That is where 1<sup>st</sup> Defendant introduced me to his whole family that that's Sheri's Toyin. After the party, when I was ready to go back to Lagos, they all pleaded with me to stay overnight that the road to Lagos is very bad. I stayed there till the 3<sup>rd</sup> of August. 1<sup>st</sup> Defendant now said he wanted to invite the 2<sup>nd</sup> Defendant to apologize to me about what happened in April. Within 5-10 minutes, 2<sup>nd</sup> Defendant came in prostrated and said "Yeye, e ma binu, don't be angry". Ganiu, 2<sup>nd</sup> Def. called the 1<sup>st</sup> Defendant Baba why can't he introduce me to his Oil and Gas business. I said the 1<sup>st</sup> Defendant already told me about it. I left Ijebu-Ode and I was still communicating with the 1<sup>st</sup> defendant and I told him I was still going to Ondo State to see my grandmother. I left Nigeria 2 weeks after, about August 16. 1<sup>st</sup> Defendant told me on the phone that if I

written form on same 27/3/18 which she did. We commenced investigation immediately. The statement of account of Mrs Oluwatoyin Akinwole with GTB was called for by the Team from inception till date and the response was received from the Bank and we re-analyzed all the transfers she made both to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' Accounts. We proceeded to the 1<sup>st</sup> Defendant's Account with GTB. We requested for the details and we received them. We analyzed the account to see all the transactions by the complainant. Same with the 2<sup>nd</sup> Defendant's Accounts with UBA and FCMB and responses were received accordingly. We effected the arrest of the Defendants who were in hiding at the time of the petition. Eventually, we arrested the 1<sup>st</sup> Defendant at Osun State Police Command on 16/5/18. A team of police led by me went to Osun State and arrested him and brought him to Lagos office. We showed him the petition; he read it and confirmed the transactions with Mrs. Oluwatoyin Akinwole. We brought out her statement and his statement of accounts at GTB where we analyzed the inflows from her to him and the reversed N25M out of the N29M from one Mr. Agboola Alfred and we asked him what he did with it. He explained that he transferred N25M into her account and the balance of N4M was traced into 2 BDC Accounts of one Mr. Salisu Abubakar and one Mr. Ahmadu Jubril. This led to the invitation of these 2 BDCs to explain and who is the beneficiary, which they both stated that the beneficiary was the 1<sup>st</sup> Defendant himself who changed the N4M into Forex. We traced the funds that came into the 1<sup>st</sup> Defendant's account at GTB from the Complainant that he used in purchasing various vehicles, highlander, Lexus, matrix and one China car from the proceeds that came into his account. The 1<sup>st</sup> Defendant now opened up and admitted that these funds were paid by his partner, the 2<sup>nd</sup> Defendant as part of their syndicated business from the proceeds of the funds collected from the complainant. This led to a total analysis of funds of N12,160,500.00 that came from the 2<sup>nd</sup> Defendant to the 1<sup>st</sup> Defendant as part of their prayer syndrome to defraud the Complainant. After discovering all these, we gave him a statement form under cautionary words in the presence of his lawyer which he volunteered with several other additional statements. He was granted bail while we were looking for the 2<sup>nd</sup> Defendant who was still hiding. Then on 13/9/18, the 2<sup>nd</sup> Defendant was arrested by the IGP Intelligence Response Team at Ogun State and brought to their Lagos office at Ikeja, GRA. The following day, we went with Investigation Activity to arrest him and brought him to our office for further investigation. In our office, we showed him the petition and admitted that he was only scared of the 1<sup>st</sup> Defendant who threatened to kill him, that was why he was hiding. All the Banks' documents were with us and we sat down with him and his lawyer and analyzed and discovered a total of N27,466,000 transferred directly to the 2<sup>nd</sup> Defendant's UBA Account under the pretext of prayers while the balance of N3,074,500 was transferred by the same Complainant to his FCMB Account under the same pretext of prayer. When we confronted him with all these and what he used all these funds for, he confessed that it was the agreement between him



(The 1<sup>st</sup> Defendant's Statements dated 16/05/18, 30/05/18, 9/07/18, 02/08/18, 03/08/18, 12/09/18, 13/09/18, 20/09/18, 21/09/18, 23/10/18, 12/11/18, 13/11/18, 28/11/18 and 6/12/18 are all admitted in evidence and marked **Exhibits P4 – P.17 respectively** while the 2<sup>nd</sup> Defendant's Statements dated 12/9/2018, 13/9/18 and 15/10/18 are admitted as **Exhibits P.18 – P.20 respectively**).

The 2<sup>nd</sup> Defendant admitted that he used part of the money to rent an apartment at Monipar.

His evidence under cross-examination by the 1<sup>st</sup> Defendant's counsel is thus:-

This is my 15<sup>th</sup> year of investigation in EFCC on various allegations of crimes, on allegation of oil business and particularly subsidy scandals in Nigeria. In the course of my investigation on cases relating to oil and Gas, where there are documents we will trace them but where there is no document, the investigation will be treated accordingly.

Anybody who operates Oil and Gas in Nigeria must be registered according to NUPENG.

There was no sign of Petroleum business even from the Defendants. They don't have any Filling Station talk less of any document on any Oil and Gas business rather it was money that was being collected from the complainant in the pretext of prayer.

During interview, PW1 said 1<sup>st</sup> Defendant told her if she invested in the Petroleum, she would get double for her investment. It was based on trust. No document was shown to me by her. PW1 resides in the US, she worked as a Nurse, she has Supermarket in the US and has contracts in Nigeria. N29M was paid into the account of GTB of the 1<sup>st</sup> Defendant by PW1'S Client, Mr. Alfred Ajayi Agboola for buying a specific car for him. Because of the reputation of the Client which was not in dispute, there was an internal call and he confirmed it without dispute, that his Client, PW1 instructed him to transfer the N29M into his account. I can't remember when we called him.

Yes, I took PW1'S Statement. This is her Statement.

(Court: The witness in the box is not the maker of the Statement and since he cannot be cross-examined on it pursuant to **Section 232 of the EVIDENCE ACT**, the document cannot be admitted through this witness and I so hold).

Yes, I took the Statements of the 1<sup>st</sup> Defendant and there is proof in the course of investigation and he admitted the part of the proceeds he received through the 2<sup>nd</sup> Defendant and he started refunding up to N7M through the Commission. The investigation proved that all the proceeds were of fraud exchanging between the Defendants. The 1<sup>st</sup> Defendant agreed the facts as we investigated. It is written by him in black and white. There was an issue of transfer of about N3.8M from PW1 to the 2<sup>nd</sup> Defendant and he to the 1<sup>st</sup> Defendant of about N1.5M was transferred and of N28M transferred to the 2<sup>nd</sup> Defendant out of which

MA 15

withdrawals that same date when the account was drawn down to N5,043.20 and 3 days after, 21/08/17 it was down to N1,043.20. Then 2 days after, on 23/08/17 PW1 sent in N18,000 and on same date, it was back to N1,040.70.

On 30/08/17, PW1 sent in N150,000 and immediately there was an ATM transfer of N80,000 to another account. The next day, 31/08/17, the big ones started dropping from PW1 when she sent in N1M and immediately there was an ATM transfer of N500,000 to OMU MICRO Finance Bank on same day. This said sum actually landed in the Defendant's account in **Exhibit P22**. 5 day after, on 5/09/17 PW1 transferred N471,000 and immediately, the convict withdrew N350,000 in 2 tranches of N150,000 and N200,000. By 11/9/17, the account was again down to N1,016.73 and then 2 days after, on 13/09/17 PW1 again transferred N1,970,000 and the next day the convict transferred N985,000 to the Defendant as reflected in the Defendant's account in **Exhibit P.22**.

On 14/9/17 when PW1 again transferred N2,221,000 into this account of the convict in this same **Exhibit P2**, immediately there was an ATM transfer of N500,000 to the Defendant and the next day, in an effort to cover their tracks, the convict transferred N1.1M to one Fausat Awojobi and another N150,000 to the Defendant. The Defendant eventually admitted in his extra-judicial statement before the court being the ultimate recipient of the N1.1M transferred to Fausat Awojobi. This further suggests that the Defendant received some of these funds from PW1 through the convict by cash thus explaining some outrageous cash withdrawals by the convict.

On 20/09/17 PW1 again transferred N90,000 into this account and by 25/9/17 the account was down to N2,609.23 and so it happened that on same 25/9/17, PW1 again transferred another N2,340,000 and N21,000. On same date, N500,000 was transferred to the Defendant and another N500,000 the next day to him on 26/9/17 which reflects in the Defendant's account in **Exhibit P22**. On 27/9/17 PW1 transferred N270,000 in 2 tranches to the convict and another N147,000, then on 29/9/17 he transferred N70,000 to the Defendant.

It should be pointed out that PW1 transferred N300,000 directly to the Defendant on this date.

On 3/10/17 there was a 'transfast remittance' of N1,633,000 into the convict's account in **Exhibit P2** and the next day 4/10/17 a transfer of N130,000 by PW1 and on same date he transferred N500,000 to the Defendant while he made cash withdrawals of N900,000 on same 4/10/17 and N270,000 the next day, 5/10/17.

The next day, 6/10/17, PW1 again transferred N52,000 and N205,000 on 9/10/17 to the convict who immediately on same 9/10/17 transferred N110,000 to the Defendant which transaction reflects on **Exhibit P22**, the Defendant's account. *ms*

Before I conclude this Judgment, I must address the issue of jurisdiction raised by the defence which in my view is of no moment by virtue of **Sections 56 and 58 of the Administration of Criminal Justice Law of Lagos State, 2015.**

**Section 56** provides that, "Every Court has authority to cause to be brought before it any person who is within the jurisdiction and is charged with an offence committed within the State, or which according to law may be dealt with as if the offence had been committed within the jurisdiction and to deal with such person according to law".

There is no gainsaying the fact that the Defendant was within the jurisdiction of this court when he was brought in for his arraignment with the convict on 11<sup>th</sup> December, 2018. More so, the Defendant had confirmed PW1's testimony that he invited her to his mother's birthday celebration in August, 2017 and actually sent her N360,000 for her ticket to Lagos and she arrived on 2/08/2018 before travelling by road to Ijebu-Ode to meet him. All the while they had been in contact with the convict to whom money had been disbursed for the alleged prayer sessions while PW1 was in the US. She had testified that in March, 2017, both the Defendant and the convict were calling her almost every other day introducing an alleged Oil and Gas Venture to her and praying for her respectively. The Defendant's invitation to PW1 to come to Nigeria was a follow up to what had started in the US. She therefore arrived consequently in Lagos upon the invitation of the Defendant with the sole aim of actually continuing their plunder of her wealth. No wonder therefore that when PW1 was in the Defendant's house and the latter called for the convict to apologize to her for squeezing her of so much money, that the convict asked the Defendant, 'Baba, why don't you introduce her to your oil and Gas business?', that she said he already did. Therefore, the offences had commenced in the US, continued by her invitation to Nigeria via Lagos. I am satisfied that this court is fully seized of Jurisdiction.

The objection is therefore overruled and dismissed.

The foregoing has therefore clearly shown that the Defendant not only conspired with the convict to obtain money by false pretence, they actually did. The Defendant is also found guilty of Count 2 and he is accordingly hereby convicted as charged.

He is hereby sentenced to 14 years imprisonment from the date of his first arraignment in this court on Counts 1 and 2 and both to run concurrently.

On the 3, 4 and 5 Counts of stealing, on the other hand, while I am satisfied that an offence of stealing has been clearly established against the Defendant, I find it difficult to arrive at the specific sum the Defendant stole from PW1.

I cannot without any empirical evidence conclude that PW1 handed over the foreign exchange she claimed to have handed over to the Defendant in the presence of her driver as



He then acknowledged another newly traced N1.223M traced to his account totaling N2,323,000M to be refunded. In **Exhibit P14** he admitted he was dating Sherry before she introduced PW1 to him and suspected her and the convict for being responsible for the nude pictures that went viral. In **Exhibit P15** dated 13/11/2018, he admitted N3,785,952 as the total balance he owed PW1 and promised to pay on or before June 2019. In **Exhibit P16** dated 28/11/2018, he stated that the total sum in his account traced from the convict's account at UBA is N11,076,500 and N1,084,000 and grand total N12,160,500.00 and from FCMB is N1,443,000 and the total traced to his account is N12,519,500 and that he had paid N6,400,000 and to balance N6,119,500 which he promised to pay on or before June, 2019. Finally in **Exhibit P17** dated 6/12/2018, he stated that the total money traced to his account from the convict which amounted to N12,519,500, he has raised a draft of N7M leaving a balance of N5,119,500.

The evidence before the court shows that initially, when PW1 was being deceived by an alleged vision of her impending death by the convict with the active connivance of Sheri and she was sending money to the convict, the Defendant only got to know the volume much later. Even though the convict had deceived the Defendant that all he had collected from PW1 was only N100,000 but when PW1 showed him otherwise, that she had in fact been sucked of N1.4M, the Defendant confronted the convict with this fact, they formed a pact and so began the clique to share further proceeds from her. It was after then the oil and gas investment scam was introduced to her leading to huge sums of money being syphoned from her. It confirms PW1's testimonies that when the Deputy Governor of Ondo State sent N29M into the Defendant's account on PW1's instruction, the idea of the Oil and Gas venture cropped up. Although the Defendant showed how he refunded N25M, but cleverly denying PW1's claim of how he made her convert same into foreign currencies and receiving it in cash without acknowledging receipt of same. He thus ensured that PW1 would not be able to prove this very high volume of the fraudulent transaction.

In the same vein, the balance of N4M PW1 said was never refunded while the Defendant claimed same was sent to her via her nominated BDC operators without proof.

It does not need any further stretch of the imagination to conclude that both the Defendant and the convict set out for bush hunting and found PW1 in their trap.

The Supreme Court in **DABOH Vs. STATE 1977 5 SC. 122**, on Conspiracy, held thus, "It may be stated that where persons are charged with criminal conspiracy, it is usually required that the conspiracy as laid in the charge is proved; and that the person charged be also proved to have been engaged in it. On the other hand, as it is not always easy to prove the actual agreement, courts usually consider it sufficient if it be established by evidence the circumstances from which the court would consider it safe and reasonable to infer or

 42

have been presented in the witness box otherwise the DW1's evidence stands uncontroverted. He cited a host of authorities which are contained in the said Reply and urged the court to dismiss this matter for want of jurisdiction and acquit the Defendant on the ground that the Prosecution has not proved the commission of the offences charged.

The issue whether the Prosecution has proved its case beyond reasonable is a question of law.

The 1<sup>st</sup> Count being Conspiracy is alleged against the Defendant and the former 2<sup>nd</sup> Defendant, now a convict on account of his subsequent plea of guilty. Although the convict pleaded guilty to this Count, it does not absolve the Prosecution of proving same against the Defendant.

Therefore having been jointly charged, the Count survives against the Defendant. The plea of guilty by the convict is an admission of this conspiracy with the Defendant, although against himself alone. **Exhibit P2** is the convict's UBA Statement of Account from 01/01/2017-04/05/2018 with an opening balance of N10,945.99 and on same 01/01/17, there was a withdrawal of N9,000 leaving a balance of N1,945.99. Later in the day, one Oyebola Sherifat Abiola transferred N5,000 to him bringing it to a credit of N6,945.99. Apart from one Olamiposi Dauda who transferred N100,000 to the account, the other were inflows of N5,000, N20,000, N2,000, N10,000 and so on in this pattern.

On 13/03/2017, Sherifat transferred N13,000 to this account again and after series of withdrawals of N2,000, N1,000, by 13/04/17 the balance was N1,189.99. Then PW1 for the first time sent in N70,000 and within 3 days of ATM withdrawals of N10,000, N35,000 and N1,000, the account was down again to N1,029.99 by 18/04/17 before PW1 sent in again N30,000 and immediately on same date, half of it, i.e. N15,000 was transferred to the Defendant's account in **Exhibit P22**. By the next day after series of ATM withdrawals of N15,000, N5,000, N5,000 and so on, the account was again down to N1,059.99.

3 days after, on 21/04/17, PW1 sent in another N30,000 again and immediately on same date, the account was drawn down to N1,799.99.

This was the case of the convict by his eventual plea corroborating the evidence of PW1 that their common friend Sheri who connected them conspired with them to lure PW1 into an unholy relationship with the Defendants in order to suck her of her money. The picture of the convict here suggests that of a hungry and desperate man in an urgent need of a prey for survival and he set out to achieve this aim by whatever means with the help of the Defendant and the fiend called Sheri.

There were a few small credit transfers into this account in-between until 18/08/17 when it was back to N1,095.70 and when PW1 again sent in N92,000. Then began another series of

account of PW1. He argued that the N29M was sent to him in order to circumvent the Money Laundering Act which is grossly an illegal act. He urged the court to hold that the Petition of PW1 can best serve as hearsay evidence and wondered why her statement to EFCC was never tendered.

On the issue of Count 1 on Conspiracy, he submitted that there is nothing suggestive of the fact that the Defendant herein conspired with former 2<sup>nd</sup> Defendant other than in the figment of imagination of the Prosecution. That the sharing formula stated by PW3 and PW4 was contradictory as PW3 according to him said 50-50% while PW4 was not sure he said 60-40% or 50-50% which evidence he argued amounts to hearsay evidence. That the only person who could convince the court of the evidence of such is the former 2<sup>nd</sup> Defendant who was never presented to give evidence before the court. He reiterated that the Defendant sold cars and other items to the 2<sup>nd</sup> Defendant who was paying in tranches whenever he had money. His final submission is that there is no evidence that anything was done to execute any agreement with the former 2<sup>nd</sup> Defendant to defraud PW1 and concluded that the Prosecution has failed to prove this case beyond reasonable doubt and that lapses in the case of the Prosecution in a criminal case must be resolved in favour of the Defendant.

All the authorities cited and relied upon by Counsel are in the body of the Address.

The Prosecution's Final Address is dated 1<sup>st</sup> July, 2020 and S. O. Daji, raised one issue for determination thus, 'Whether from the evidence adduced in this case, the Prosecution has proved its case against the Defendant beyond reasonable doubt'

He submitted that it may not be easy to prove by direct evidence, but that it can be deduced or inferred from the various overt acts of the co-conspirators in order to show the meeting of the mind or the apparent criminal purpose in common between them. He contended that PW1 gave direct evidence on how the 1<sup>st</sup> Defendant and the 2<sup>nd</sup> Defendant (now convict) conspired to defraud her the sum of N33, 617,000 (Thirty Three Million, Six Hundred and Seventeen Thousand Naira) and Twenty Nine Million Naira only). He submitted that PW1 gave evidence of how the Defendant lured her to invest in a purported oil and gas business with a promise that she would make 150% profit within 3 months which turned out to be false. And how he and one Sherifat even invited her to the purported opening of his 5<sup>th</sup> petrol station. Also how that one chief Agboola in Ondo State wanted her to purchase a vehicle for him in the United States which price was \$83,000, equivalent of N30M. He referred to PW1's evidence that she handed over the dollars, euro and pounds equivalent of the N25M to the Defendant and that he took her to the former 2<sup>nd</sup> Defendant's house where they deceived her that they were going to pray over the money. He submitted that the summary of the evidence of PW1 on how the Defendant persuaded her to send money

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The 2<sup>nd</sup> Defendant upon the Re: Arraignment on 2<sup>nd</sup> October, 2019, pleaded guilty to Counts 1 and 3 that were alleged against him in this 1<sup>st</sup> Amended Information upon the Plea Bargain Agreement dated 30/09/2019 he and his counsel executed with the Prosecution. He was thus convicted and sentenced to two years jail term with a forfeiture of his property particularized in the Plea Bargain Agreement.

The case thus continued against the 1<sup>st</sup> Defendant hereafter referred to as the Defendant.

(A referral from the Neuropsychiatric Hospital Aro, Abeokuta to St. Georges Medical Centre in Manchester dated 30/04/19, DW1's letter to the Booklet are admitted as **Exhibits D-D3** respectively).

The Defendant continued his evidence under cross-examination by the Prosecutor thus:

No, I did not know PW1 before she came to my house with the former 2<sup>nd</sup> Defendant and I was not the one that introduced her to him. The erstwhile 2<sup>nd</sup> Defendant was not working with me prior to that time. I have proofs of importation of the electronics I sold to the erstwhile 2<sup>nd</sup> Defendant at home. I have been in prison since last year I don't have them in Court now. The erstwhile 2<sup>nd</sup> Defendant and myself did not have meetings with the Investigating Team of this case. The erstwhile 2<sup>nd</sup> Defendant cannot deny buying things from me. No, I do not agree that anytime the former 2<sup>nd</sup> Defendant received money from PW1, he would transfer half to me. I'm not aware of that. It was monies he took from PW1. He did not say so in my presence. I don't know his writing and I won't know if he wrote it is his statement. Yes I transferred N4M to Bureau de change on PW1's instruction. It is on the sms print.

I wasn't the one that released nude photographs of both PW1 and myself. It was her friend Sheri that I was first dating before dating PW1. I can't be stupid to show my nakedness to the world to see.

There was no Re-Examination.

DW2, was Mrs. Ekundayo Ogunsanlu. Her evidence in chief is thus:

I live at 1, Lapemi Quarters, Ikolo-Ijebu-Ode. I am a Lecturer at Ogun State College of Health Technology. My discipline is English Language. Yes, I know the Defendant. He is my brother. Yes I also know the complainant as introduced by my brother as his lover. He introduced her to the family. Through him we happen to be friends. The first time I met with her, my brother introduced her to me and 2 other siblings as his lover and his woman. Their deeds most of the time, they are together, series of pictures taken intimately. Most of the time, I happened to be there and I also had a glance at his phone and I saw the pictures

MB 231

The 2<sup>nd</sup> Defendant now visited my house in Abeokuta and re-arrested me again with my wife to Lagos IRT on Toyin's instruction. When I got to their office they brought out a petition, I told them my wife is not involved. We were brought before the Deputy COP, Abakayare who after hearing us said since this case is already before EFCC, why bring IRT in again? The DCP said they were not aware otherwise they would not have perfected the arrest. He said I should go and write my statement and I refused unless I see EFCC Officers and he asked his boys to give me my phone to call my lawyer and the I.O in EFCC which I did. That night another Team from the I.G. in Abuja came with a camera and took my statement. They asked why the nude pictures on the internet. I said maybe I had taken a love charm or why would I allow a woman to snap me naked like this? This Abuja Team left that night and I was detained and my wife too because it was already late in the night. The following morning, they told me Toyin wants them to handle the case, that I should consent to it and I refused because as at that time I had already paid up to ₦3.2M to EFCC. They now agreed that EFCC would take up the case and I put it in writing and already EFCC had appeared. Myself, 2<sup>nd</sup> Defendant and my wife were driven down to EFCC that day. The officer said my wife should go immediately that she should put it in writing that she would be safe and she did about 8.30pm and went back to Abeokuta. That was the 3<sup>rd</sup> time I would be detained. They came up with another Term of Bail conditions on a paper which I was never shown the first 2 times for my Bail. I met up with the condition the 2<sup>nd</sup> day, of a level 16 Officer and I was released while the 2<sup>nd</sup> Defendant was left in their custody. I was asked to come and sign and the 2 I/C's said to want to see the 3 of us, including Toyin. 2<sup>nd</sup> Defendant narrated the purpose of the money traced into his account is for spiritual purpose, to buy cows, stuff. The 2<sup>nd</sup> Defendant said the money traced to my account is for cars and electronics I brought from U.K, and clothing materials, including 2 vans. I said now that the 2<sup>nd</sup> Defendant has explained, why are you still holding me? He said I need to know that since the money has been traced to my account, I must pay it back and they gave me the authority to recover those things as long as all the money is returned back. I left their office to involve vigilante at Ijebu-Ode but they said I should involve the police and I went to Igbaba Police to report at Ijebu-Ode. The police said since EFCC is already on it, they cannot do that for them. When I involved the vigilante, I recovered a Ford Transit van which I sold to him for ₦1.150M, and a plasma T.V which I sold to him for ₦960,000. When he heard the move I made, he was rumored to say he would show me but I didn't care. On 6/12/18, I went to EFCC to sign and pay money bit by bit as I always did so I can be allowed to treat myself abroad. Because of another privilege I received from EFCC at 15 Awolowo Road, I was allowed to drive to their main office, not car park. That made me to believe that all would be well. On 6/12/18 when I went to pay ₦1.2M draft in PW1's name which was the only thing allowed as outflow from my Account since it had been blocked. We came back to their office, and I was handed the charge sheet. I fainted because they



went there and met Toyin at the Commander's office. We had a round table how they can lay hands on the 2<sup>nd</sup> Defendant who Toyin called in the commanding officer's office on phone, that she has arrived Nigeria and "how will I see you sir?" The phone was on speaker. 2<sup>nd</sup> Defendant said he was at Ilorin and would come back the following week. The soldiers agreed with us to send money into his account to track him down. That was 6<sup>th</sup> or 7<sup>th</sup> March, 2018. Then Toyin said she had no money to put into his account. Then the soldiers said I should send money to Toyin's account. I transferred N100,000 into her GTB account which she acknowledged but she said she had used the money to pay her hotel accommodation. I now reported it to the commanding officer and they threw off the case and did not ask me to come again. On 1<sup>st</sup> week of April, another Team of Police from Akure Police command, about 6 hefty men came and showed me a search warrant that there is a Petition and I allowed them to search my house. My wife, mother-in-law and children were locked up and nothing incriminating was found. Then, I was arrested to Akure where they detained me being late in the night pending the next day to see their monitoring officer. Inside their cell, I had a crisis. I had cramps on my 2 legs. They now took me to police clinic in Akure. I was admitted there the following day, the police medical officer attended to me with a Nurse and they said they don't have spine equipment there and I was moved with police to the General Hospital in Akure. I was there for 2 nights before the Doctor came to me and she said since the spine had affected my left leg I had to be referred to UCH, Ibadan. The Officer in Charge monitoring police officer visited me at the General Hospital, Akure; one Sgt. Ife was detailed to always be with me there. The O/C monitoring officer came with Toyin at the General Hospital in Akure and I said why bring Toyin to me, what if she poured acid on me while I am sleeping and she explained that Toyin needed to be assured that I was in hospital and I accepted her apology. A referral to UCH was handed to the police officer. The crime officer said the COP Gbenga Adeyanju wanted to see both of us before I can be allowed to go for my treatment at UCH. I was moved back to their office to see the COP where I met Toyin again. I asked the officer why bring me to Ondo State when everything happened in Ijebu-Ode. He said the man that owns the N29M lives in Ondo state and I now said okay. We were before the COP and Toyin narrated her story and I did mine. The COP said the N29M has been paid back and she acknowledged it and the COP ordered them to release me immediately on Bail with my car, phones and other things they collected from me. I left for Abeokuta that day on Bail and COP instructed his men to be on the lookout for the 2<sup>nd</sup> Defendant. I was asked by COP to come back in 2 weeks' time which I did and I told the IPO that my health was affecting me, why can't they charge the case to court to go and free myself there? The OC, monitoring officer said they don't have any fact on which to charge me to Court until they see the 2<sup>nd</sup> Defendant since I had paid the N29M that connected me and Toyin. I went with a letter to authorize me to commence medical treatment abroad. The letter was addressed to the COP through the O/C

mao 25

Yes, the Team visited the house of the 2<sup>nd</sup> Defendant several times to arrest him but my Team members did not meet him. I did not personally go to Ijebu-Ode.

I don't know if the Investigation Report is before the Court.

I will be shocked to see any telephone SMS or text messages proposing that the 2<sup>nd</sup> Defendant should help her get a lady so as to enhance her business.

There was no re-examination and this closed the case of the Prosecution.

### DEFENCE OF 1<sup>ST</sup> DEFENDANT

1<sup>st</sup> Defendant was sworn on the Holy Bible in English language and stated thus:-

My name is Adesanya Olufemi Paul. I live at 1, Boha Event Centre, Ikogba Town, Abeokuta. I am into car business and other goods. Yes, I know PW1 very well. We are very intimate. I know her through her sister that lives in Dallas in America, Alhaja Sheri Abu with whom I am very intimate. In April 2017 I invited Sheri down to Manchester, U. K. to come and pay me a visit. She came and spent one week in my house. The 2<sup>nd</sup> day of her visit to my house, PW1 called her and Sheri introduced me to Toyin through the telephone line that I should help Toyin to find a man like myself. I now sent a picture to Toyin of my friend Suji if she would like him. Immediately she saw the picture, Toyin declined that my friend. She said she cannot date a man who flies in economy flight because in that picture, my friend was flying economy. We decided to be talking for me to get a man like me who doesn't sit in economy flight. We started chatting on WhatsApp and calls unknown to Sheri that introduced us. A week after Sheri left my house in U. K., myself and Toyin had time to go into real intimacy and I said to her I only trust myself when it comes to getting her a man. That I will take care of her. In July, 2017, I left U.K to Nigeria for my mother's birthday. Because Toyin had agreed to come, I told Sheri the birthday would no longer hold because I don't want the 2 of them to meet. Toyin gave me a condition to fix the ticket to come down and I agreed with her. She asked if Sheri came, how we would handle it, I told her Sheri would not come. August 2<sup>nd</sup>, Toyin arrived in Nigeria she met me very seriously ill because of the spine problem I had. Despite that I transferred N360,000 to her account for her ticket. On the 2<sup>nd</sup> day i.e. 3<sup>rd</sup> August, she said she knew the 2<sup>nd</sup> Defendant, that early 2017, she came to the 2<sup>nd</sup> Defendant's house and slept there for prayers. That 2<sup>nd</sup> August, 2017 was the first time I met her in my life physically. She said she wants to give certain things to the 2<sup>nd</sup> Defendant and asked if she can invite him to my house at Ijebu-Ode. I said why not, and she picked up her phone and called the 2<sup>nd</sup> Defendant to my house. While she was describing my address to the 2<sup>nd</sup> Defendant, he didn't understand, so I took the phone from her and described my address to

me 2

Yes, I know the 2 Defendants. In March, 2018, a Petition was received (dated 20/03/18) from Olofinmoye & Co Chambers on behalf of one Ms. Oluwatoyin the nominal complainant alleging that the 2 Defendants defrauded the nominal complainant of N71M in the guise of Doing oil & Gas Business. The complainant was invited and she reported and she was interviewed and she made a voluntary statement adopting her Petition. Letters of investigation were written to some banks, GTB, FCMB, UBA and some relevant agencies. Responses were received and analyzed. Then the 1<sup>st</sup> Defendant was arrested in May, 2018 and brought to our office in Lagos here and was shown the petition against him and he was asked to state his own side of the story. He admitted collecting some monies from the complainant but not up to N71M but that he promised to refund her back all the monies traced to his Account. He was cautioned in English language when he volunteered to put his statement into writing which he did. He was then released on Bail.

The 2<sup>nd</sup> Defendant was on the run as at that time. He abandoned his house which we went to several times. We had to request the assistance of the IG and RRST in tracking him and he was arrested in September, 2018 and brought to our office and shown the Petition against the 2 of them and he was interviewed and he too admitted obtaining some money but not up to the N71 Million alleged by the complainant. He reduced it into writing and he was cautioned in English Language, the cautionary words read to him and he understood it and he made his statement in his own handwriting. He equally promised to refund the complainant her money if given the chance.

The 2 Defendants made their statements either in the presence of their lawyers or their relatives.

Our investigation revealed that the 2 Defendants were not in any business of Oil and Gas as they both denied owning any Petrol Station or having any dealing in Oil and Gas business but that the complainant was just deceived and they just shared the money between the 2 of them.

Yes, we received the statements of Accounts of the parties, the nominal complainant and the 1<sup>st</sup> Defendant. These are the said statements of the Accounts.

(2 Bundles of GTB documents on the statements of the Accounts of the 1<sup>st</sup> Defendant dated May 21, 2018 and PW1 dated July, 06 2018 both addressed to the EFCC are admitted as Exhibits P22 and P23 respectively).

In the statement of the Account of the 1<sup>st</sup> Defendant in Exhibit P.22, our analysis shows that on 31/08/17 there was a transfer of N500,000 from the 2<sup>nd</sup> Defendant's Account to the 1<sup>st</sup> Defendant. Whenever the nominal complainant transferred money into the 2<sup>nd</sup> Defendant's Account, immediately he will transfer to the 1<sup>st</sup> Defendant his own share of the deal in the ratio of 60-40% or 50-50%. So on that date of 31/08/17 what he transferred

MB 19

the 1<sup>st</sup> Defendant said he transferred it to him for the purpose of buying vehicles for him. But it is all the proceeds of crime. The remaining N4M the 1<sup>st</sup> Defendant said he transferred to 2 Bureau de Change and they confirmed that it was for the 1<sup>st</sup> Defendant's purchase of foreign exchange and he is the Beneficiary. We conducted investigation and there was no trace of transfer of any forex to PW1 by either of the Defendants. Salisu Abubakar and Ahmadu Jubril came and made Statements. I took their Statements with my colleagues. They said the person who transferred the money received the Dollar equivalent i.e. 1<sup>st</sup> Defendant.

They admitted to the fact when we invited them and volunteered their Statements to our satisfaction.

We invited PW1'S driver who went along with her from the International Airport and who with her dropped the money with the 1<sup>st</sup> Defendant and handed over in cash. He came and confirmed how PW1 changed the money into dollars in 2 bags and handed it over to the 1<sup>st</sup> Defendant in his sitting room because he told her that in Oil business, Naira is not tenable. She couldn't recall where she changed the money at the Airport because she flew in on that date. We confirmed from an eye witness. I have no idea of the exact dollars or Pounds or Euro she changed or she had.

Yes, the 1<sup>st</sup> Defendant's Statements were made on different dates. He was on the run and was arrested by Osun Police Formation. He was on administrative Bail thereafter.

We don't investigate money rituals at EFCC.

PW1 was accompanied by the 1<sup>st</sup> Defendant to the 2<sup>nd</sup> Defendant's house at Ijebu Ode when she came on their invitation the first time when they gave her some fruits and initiated her to their syndrome.

**Exhibit P1** is an allegation whereas investigation was able to trace N33,617,000 to the Defendants. It is part of the money contained in the charge sheet. It is conspiracy.

It is not correct PW1 begged the 1<sup>st</sup> Defendant to allow her pay the money into his Account. I'm not aware of any marital relationship between PW1 and 1<sup>st</sup> Defendant.

The 2<sup>nd</sup> Defendant stated the 50-50 formula with the 1<sup>st</sup> Defendant in his Statement. There was no International Passport written on the inflows from the 2<sup>nd</sup> Defendant to the 1<sup>st</sup> Defendants. Mr. Abdul Rasaq Aliyu is the Officer in Charge of the Team.

I am an investigator and a thorough Forensic Investigation revealed how proceeds of a non-existent business was diverted for the Defendants' personal use. That's why we are here.

Under cross-examination by the 2<sup>nd</sup> Defendant's counsel, he stated further thus:-



No, I was not forced in all the prayer sessions.

There was no re-examination.

PW2 Robinson Imafidon affirmed in English language and testified thus:-

My name is Robinson Imafidon. I work with UBA Plc. My address is at the Headquarter Marina 57, UBA House. I am the head of Regulatory Liaison Compliance. I liaise with external Regulators and Law Enforcement Agencies.

I don't know the Defendants personally.

On 26/03/14 and 14/06/18, we received a letter from EFCC on documents relating to the subject Accounts. I went into the system of the data base and printed the statement of the Accounts. We printed it with our HP Printer in perfect working conditions. I compared it with what we have in the database as same and correct. I certified them as true copies with the Customers Transaction details. I signed them and sent back to EFCC. These are the Letters and documents of the Accounts.

(UBA's letters to the EFCC dated March 29, 2018 with its attachment and June 25, 2018 were admitted as **Exhibits P2 and P3 respectively**).

From the statement of the 2<sup>nd</sup> Defendant in **Exhibit P2**, on 12/09/17 there was an inflow of N1.970M by Akinwole Oluwatoyin Justina. On 31/08/17, there was an inflow of N1M from same woman. 14/09/17 there was an inflow of N2.221M by same woman. On 11/10/17, there was an inflow of N1.... On 31/10/17 inflow of N5M by same woman. On 2/11/17, there was an inflow of N3.6M by the same woman. On 13/11/17 there was an inflow of N710,000 by same person, on 14/11/17 N652, 000 and several other transactions by her.

His further evidence under Cross-Examination by the 2<sup>nd</sup> Defendant's Counsel is:-

I have been in the Bank for more than 15 years. I don't need to know the person who transfers monies into the Customers' accounts. I don't even know this Customer. The purpose of these transfers is not stated in the transactions.

There was no re-examination.

**PW3 Hycinth (Inspector) Obinna** sworn on the Holy Bible in English. He testified thus:-

My name is Inspector Hycinth Obinna. I work at EFCC Lagos on secondment at 15A, Awolowo Road, Ikoyi, Lagos attached to Economic Governance Team 'A' Lagos office as an Operative. The sectional head is SDS Abdulahi Aliu, myself, and other under mentorship.



1<sup>st</sup> Defendant transferred all the money back to me. Yes, he told me to convert the money he transferred back into foreign currency and I did so. I changed the money some in London and at the Lagos Airport Bureau de Change. In London I changed \$8,000 and they gave me £5,000.

At the airport in Lagos, I changed €10,000 \$20,000 and £5,000 and I transferred the money from my account to Bureau de Change account. The name of the Bureau de Change person is Alhaji Toyin. There is evidence of transfer from my Guarantee Trust Bank Account to the Bureau de Change which EFCC saw.

The account is before the Court. It is my personal Account, Oluwatoyin Justina Akinwole. I don't know the number off head.

I am not a car dealer but I do help my family to get cars and send to Nigeria for them. I handed over \$20,000, €20,000 £20,000 cash to the 1<sup>st</sup> Defendant. I handed it over to him with my driver. I handed it over to him myself. Yes, he acknowledged the receipt. There was nothing like receipt based on the trust; I did not take pictures in the process. I instructed my lawyer to write the Petition in **Exhibit P1** to EFCC. Yes, I said I gave N71M to the Defendants.

Yes, I have read the charge sheet. Yes, I said I transferred N32M into the Account of the 2<sup>nd</sup> Defendant. Yes, it is included in the N71M stated in the charge sheet.

Yes, I know 1<sup>st</sup> Defendant's Address 18, Tijani Street, Olumorin Abeokuta. 2<sup>nd</sup> Defendant's house I know at Ijebu-Ode Mopa. I don't know the Address.

It was at Ijebu-Ode that I gave the 1<sup>st</sup> Defendant the money.

Yes, I had met the 2<sup>nd</sup> Defendant before in Lagos on this issue. We met at Ikeja. Yes, it is not in the statement I made at EFCC. It's a lot and I don't know what to remember. I can't remember if I did another transfer to the 1<sup>st</sup> Defendant from my account.

When the 1<sup>st</sup> Defendant invited me to his mother's 80<sup>th</sup> birthday in Ijebu-Ode, I spent 1(one) day. I did not leave immediately after the Party because the family said it was late because the road to Lagos is not good, so I slept over with my driver.

Yes, I left the 2<sup>nd</sup> day immediately I woke up.

Anytime he sent amorous messages and I cautioned him severally and he would say that is his therapy.

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women and one young girl in white attire and I asked 1<sup>st</sup> Defendant what is all this about? He said Toyin you don't know that if anybody wants to do business, he needs this type of prayer. The 2 old women and one young lady said they are not there to harm but to help people who do business and guaranteed me that the 2 Defendants are good people. 1<sup>st</sup> Defendant said 'Toyin I can't harm you', that when he wanted to do his own business it was Subomi Balogun of FCMB that introduced the 2nd Defendant and the women to him. They asked me to step out into the living room and I did. Alfa's wife was there and his children. I asked the 2<sup>nd</sup> Defendant's wife, 'who are those people?' She said they are the people praying for her husband. Where I sat, I was hearing them singing. Later they asked me to come back inside the room. I went back to the room. One of the old women pointed to a corner of the house to a pot and asked me to open the pot but I said no. She now told the 2<sup>nd</sup> Defendant to tell me they are not here to play with me. I looked at the face of the 1<sup>st</sup> Defendant and I said Otunba, what is all this? He said they don't say anything here but they just want to show me something. I said what? 2<sup>nd</sup> Defendant now said he would open it, he opened it. It was covered with white cloth and filled with mint dollars.

The old women said I should take \$300. It was all in \$100 each. I said I'm not interested and she now said 1<sup>st</sup> Defendant should take the \$300 to a Bureau de Change at Ijebu-Ode to change it and he went and changed it. I said I am not interested in such a business and would not touch that money. On the way back we bought fruits. When we got there, 2<sup>nd</sup> Defendant's wife took the fruits to the women and we all ate and drank water. Myself and 1<sup>st</sup> Defendant left 2<sup>nd</sup> Defendant's house and I told 1<sup>st</sup> Defendant that I was going back and I would expect the refund of the investment. October I didn't see any money in my account. I called the 1<sup>st</sup> Defendant and he said the money was not enough and I need to send some money and I said I had no money and he said they would not refund the money from the Port. I said Ok. I would run around and he said I should send it to the 2<sup>nd</sup> Defendant's account and I asked why? He said I should know they are into the Oil & Gas business together. I said I don't want to do business with the 2<sup>nd</sup> Defendant and he said no, no problem. I should send it to his account. 1<sup>st</sup> Defendant sent me 2<sup>nd</sup> Defendant's account details and I started sending money into his account to up to N30 - N32M. November, I didn't see any money. I started calling him and he started giving me excuses upon excuses. Later 1<sup>st</sup> Defendant called me and said there was a problem that they didn't supply him anything and he said I should send N11M. I said I want my money back and he said I had to wait till March or April 2018 that they are not going to refund any money. I said my uncle was already asking for his car and he should just send the money for his car. He said I shouldn't worry, if I can't come up with N11M, I should wait. I mentioned my friends in US. Segun Asekun Agatha and Segun who borrowed me N8.5M, 2 other friends borrowed me each \$10,000 and my doctor borrowed me \$5,000. I called 1<sup>st</sup> Defendant that I've raised the money that I would transfer the money to his account, he said no that I have to bring it

may 5

On 30/08/17, she sent N150,000 to convict.

On 6/9/17, she sent N417,000 to the convict.

This is the pattern that runs throughout these transactions.

The Defendant has admitted knowing PW1 both orally in his evidence in Court and in his extra judicial statement in Exhibits P4-P17 and obtaining some funds from her. He admitted, particularly in Exhibit P4 dated 16/05/2018 that in April, 2017 she was introduced to him by one Albaja Sheri Abu with the aim of connecting her to a wealthy made friend which he stated led to their relationship together. He confirmed PW1's evidence that Sheri was with him in the UK when PW1 called Sheri and they got talking. PW1's further evidence however is that that was the point at which they convinced her to send money to the convict when the Defendant pretended to be helping her to avert the spirit of death the convict said he saw trailing even when he never knew her except for Sheri who sold her friend to suckers. And so began scheme of sucking PW1 with the connivance of Sheri, a so-called friend.

The Defendant stated that he and PW1 met physically for the first time when she joined him in Nigeria for his mother's birthday celebration at Ijebu Ode in July, 2017 and thereafter she travelled to Akure, Ondo State and later told him how she wanted to help the Deputy Governor of Ondo State, Ajayi Alfred Agboola to transfer N200M using various Accounts of about 5 people without visa restrictions to the U. K or the USA and that she had already helped him to manage more than N100M by depositing it into various accounts in the USA. That upon her return to the USA, she sent the Deputy Governor, Mr. Agboola's Account's details and he, the Defendant started receiving alerts of funds up to N29M from Mr. Agboola Alfred Ajayi but he later informed PW1 that he would not be able to buy pounds sterling and dollars with the money because of Section B paragraph 17 of the Customs Declaration Form and PW1 thereafter forwarded her account to him and he forwarded N25M to her. Then, he stated thus, "...I was ask (sic) to transfer the remaining N4M in the various accounts sent to me by Toyin. The two various account (sic) that I transfer the 4 million on Toyin's request are Jubril Amudu and Salisu Abubakar..."

The Defendant further stated in Exhibit P7 of 2/08/2018 that he had paid N3.2M to PW1 by a draft of GTB and promised to pay the balance of N4.8M traced into his account from Mr. Ganiyu Abiodun within 3 months. In Exhibit P8 of 3/8/2018, he promised to pay the balance of N1.6M to PW1. In Exhibit P9 of 12/9/2018, he promised to pay the N1.5M that was traced to his account through Fausat Awojobi in addition to any money traced into his account through Gani Abiodun. In Exhibit P12 dated 21/09/18 stated that he had by a draft refunded N3.2M to PW1 out of the N6.3M traced to his account through the convict, Abiodun Ganiyu Awojobi and promised to pay the balance of N1.1M before March, 2019.

 41



or legal act by illegal means". See also the case of **DAVID OMOTOLA & ORS VS. THE STATE** 2009 7 NWLR PT. 1139, 148 per ADUMEIN JCA (Pp 31-32, paras. F-C).

In **SUNDAY ADOGA VS. THE STATE** 2014, LPELR-22944, the Court of Appeal on the issue as to whether the offence of conspiracy is proved by inference to be deduced from certain criminal acts of the conspirators, held thus;

"It has long been recognized by our courts that the offence of conspiracy is in most cases hatched in utmost secrecy. The law therefore recognizes that the offence being shrouded in secrecy is not always easy to get direct and distinct evidence of the conspiracy. In that respect, the proof of conspiracy becomes a matter of inference to be drawn from the acts committed by the conspirators towards the commission of the offence for which the conspiracy was formed. In other words, conspiracy is usually predicated on and deciphered from circumstantial evidence which leads to irresistible and compelling inference that the convict was entangled in the web of conspiracy. The offence of conspiracy is therefore proved by inference to be deduced from certain criminal acts of the conspirators. See **POSU VS. STATE** 2011, 2 NWLR PT. 1234, 393...."

In **IJEKPA OBASI VS. THE STATE** 2014 LPELR 24013, the Court of Appeal, on what constitutes the offence of conspiracy, held thus,

"It was not therefore mandatory for the prosecution to establish the precise act of each of the accused persons...as they acted in unison...After all, in law, when there is an agreement by two or more persons to commit an unlawful act, coupled with intent to achieve that objective, evidence of conspiracy is established and none of the accused can disown that act of the other in accomplishing their mutual or common objective..."

I am therefore satisfied that the Prosecution has proved the allegation of Conspiracy between the Defendant and the convict to obtain money under false pretence from PW1 against the Defendant herein and he is hereby convicted as charged on Count 1.

By **Section 8 (a)** of the Act, it is provided that, "A person who conspires with, aids, abets, or counsels any other person to commit an offence, under this Act, commits the offence and is liable on conviction to the same punishment as is prescribed for that offence under this Act". In other words, the punishment for Conspiracy is the same as the actual offence of Obtaining by False Pretence.

**Section 1(3)** of the Act, provides that, "A person who commits an offence under subsection (1) or (2) of this section is liable on conviction to imprisonment for a term not more than 20 years and not less than seven years without an option of fine"

*MBS*

PW1 transferred again N565,000 and later N14,000, total N579,000 to the convict, he immediately transferred N282,600 to the Defendant which again is reflected in his account in **Exhibit P22** with a narrative as transfer between customers from Adesanya, Olufemi Paul, Payarena. Another lie.

On the next date 16/11/17 PW1 again transferred N70,000 to the convict in **Exhibit P2**, he immediately transferred half of it to the Defendant in **Exhibit P22**. On same date, PW1 sent again N17,000 to the convict who in turn paid exactly 50% of it to the Defendant's account which reflects an inflow of N8,500, although and quite curiously too, the narrative in **Exhibit P22** states, 'transfer to Awojobi Ganiu Abiodun' when it's actually 'transfer from' him. It is an inflow that increased its credit balance and not an outflow.

On 27/11/17 when PW1 transferred N400,000 to the convict's FCMB account in **Exhibit P21**, he transferred N200,000 to an account tagged 'FCMB' but coincidentally on same date the exact N200,000 hit the Defendant's account in **Exhibit P22** via an ATM transfer.

On 29/11/17 when PW1 transferred N900,000 and N300,000 to the convict in **Exhibit P2**, the same date, N190,000 was transferred to the Defendant, the next date 30/11/17, another N190,000 was transferred to the Defendant and the next date again, 1/12/17, a 3<sup>rd</sup> N190,000 was transferred to the Defendant.

On 27/12/17, PW1 transferred N200,000 to the convict in his FCMB account again in **Exhibit P21** and the next day, 28/12/17, he transferred N110,000 to the Defendant in **Exhibit P22**.

**Exhibit P23** is PW1's GTB account through which most of the inflows into the convict's account narrated above were transferred from 18/04/17 to 27/12/18 when it appeared that the spell on her finally abated.

In **Exhibit P23** is also PW1's 2<sup>nd</sup> GTB account showing direct transfers to both the Defendant and the convict for instance, on 20/09/17, when she transferred N90,000 to the convict, on same date, she transferred N300,000 to the Defendant.

On 25/9/17 she sent N2,340,000 to the convict.

On 31/10/17, she sent N5M to the convict.

On 2/11/17, she sent N3.6M to the convict.

On 9/11/17, she sent N3M to the convict.

On 23/08/11, she sent N18,000 to the convict.

On 29/08/17 she sent N5M to the Defendant.



PW1. He urged that it be noted that the Defendant never had any Petrol Station anywhere nor is he into oil and gas thus showing the criminal intent from the beginning of it all even if it was effected without secrecy or attempt at concealment. It is counsel's submission that where money or goods is received from a person for a specific purpose, until compliance with the directive, ownership remains with the original giver and if not returned will amount stealing.

On the issue of Jurisdiction raised by the defence, he submitted that it is the legal right conferred on a court by relevant legislation and that the source of a court's Jurisdiction is generally statutory. He quoted **Sections 58 (1) and 60** of the ACJL and noted that it is on record that the Defendant visited the nominal complainant in furtherance of the commission of the offences at Watercrest Hotel, Ikeja, Lagos on 9<sup>th</sup> September, 2017 to collect the sum of \$1,500 which he claimed was for mobilization and paper work for the purported oil business. That it is also on record that part of the money allegedly obtained and stole by the Defendants was moved from Lagos to Ijebu Ode. All of these, according to him buttress the fact some of the acts forming part of the offence of conspiracy to obtain money by false pretence and stealing contrary to the **Advance Fee Fraud and Other Fraud Related Offences Act and the Criminal Law of Lagos State 2011** took place. He submitted that the offence commenced in Lagos and ended in Ogun State and that the Court is clothed with the territorial Jurisdiction to try these offences. He relied on **Sections 67 (1) and (2), 58, 61 and 62** of the ACJL and further submitted that the law is trite that for a court to assume jurisdiction in a criminal trial, the following facts must be considered;

- (i) That ends of justice would be better served by hearing the charge against the accused in that particular court seeking to assume jurisdiction.
- (ii) That the accused was apprehended or in custody within the judicial division of the court seeking to assume jurisdiction.
- (iii) Accessibility and convenience of the witnesses.

He quoted **Section 11(3)** of the **Criminal Law of Lagos State 2011** and urged the court to dismiss the defence raised by the Defendants.

All the authorities cited by Learned Counsel are contained in the body of his Address.

The Reply on Points of Law by the Defence Counsel, Patrick Arasanmi Esq. is dated 7<sup>th</sup> day of July, 2020. He argued that it is trite that confession of an accused person is not binding on a co-accused person unless that co-accused person adopts the statement. He quoted **Section 29 (4)** of the **Evidence Act, 2011** and contended that PW3's evidence of sharing formula of 50/50 is no more than hearsay. That apart from this, that what would remain with the former 2<sup>nd</sup> Defendant is N1, 630,000 which he argued is far more than the 50% half of the amount which is N1,053,700. It is his submission that the 2<sup>nd</sup> Defendant ought to

The learned counsel submitted that the sole issue for determination distillable from the main stem of this criminal trial is whether or not the Defendant herein committed the offences in the Amended Information.

He argued that the assumption of Jurisdiction by this court on alleged offences on all transactions which took place in Ogun State is illegal and supported this with a host of authorities. He urged the court to dismiss the charges against the Defendant.

Counsel stated that basically the whole 5 Count Information borders on three offences, namely; Conspiracy, Obtaining by false pretence and Stealing submitting that it is when someone is found culpable of the main offence that it will be examined whether or not he or she acted in concert with another as a lone committer can never be guilty of conspiracy.

He submitted that obtaining by false pretence means a misrepresentation of fact with intent to defraud and that the Prosecution must prove that the Defendant had an intention to defraud and that the thing so obtained is capable of being stolen. That an inducement on the part of the Defendant to make his victim (nominal complainant) deliver a thing capable of being stolen will expose the Defendant to imprisonment of the offence.

He argued that 2<sup>nd</sup> Count is obtaining by false pretence with intent to defraud N33,617,000 from PW1 who testified that she caused a Petition to be written wherein she alleged that the Defendant had collected N71M, both of which he stated were never substantiated. That the N29M in three tranches PW1 said her uncle paid to the Defendant who remitted N25M to her, leaving a balance of N4M with the Defendant and she later changed N25M to forex and gave it to the Defendant in cash in his house at Ijebu Ode, Ogun State. All these, he argued that the Defendant vehemently denied. He wondered why the Bureau de change operator, Alhaji Toyin PW1 said she paid through electronic transfer was not brought as a witness with same argument with respect to her driver she said was eye witness to these forex exchange and handling over same to the Defendant. He contended also that the Account PW1 transferred the money for the BDC to, is also not in evidence. Also that no money entered into the Defendant's account instead money entered PW1's account from the Defendant's account. He submitted that the Defendant had stated that the purpose of the money from the former 2<sup>nd</sup> Defendant was for cars and household items he sold to him on credit or hire purchase which he paid back whenever he had money. He wondered why the former 2<sup>nd</sup> Defendant was not presented to give evidence of the alleged sharing formula if it was not the invention of the Prosecution. According to him, if the Defendant had fraudulent intent he would not have refunded the money to PW1. It is his submission that the Prosecution could not prove that the Defendant spent PW1's money but in fact started transferring the fund back to PW1 before she asked for same. That if the Defendant had the intent of stealing and or converting the monies he would not have been paying same into the

MBB

Yes, PW1 asked me to transfer some monies to some BDC. I have the documents with me. It is not before the court. In **Exhibit P.2** on 31/10/17, ₦2.5M was transferred to my Account by the 2<sup>nd</sup> Defendant for purchase of 4matic. I didn't have a copy of the receipt for this. Of this ₦12.160M was traced to my Account from the 2<sup>nd</sup> Defendant I have paid ₦7M back out of it with an option.

It was at this stage that the convict who had remained the 2<sup>nd</sup> Defendant in this Suit decided to change his plea which necessitated the Prosecution filing a 1<sup>st</sup> Amended Information dated 30<sup>th</sup> September, 2019 of 5 Counts;

1. Conspiracy to commit Felony to wit: stealing contrary to **Sections 409 and 285(1) of the Criminal Law of Lagos No. 11, Laws of Lagos State of Nigeria, 2011.** He is alleged to have with Awojobi Ganiu sometimes in 2017, at Lagos, within the Ikeja Judicial Division, conspired and dishonestly stole money property of Mrs. Oluwatoyin Akinwale.
2. Obtaining money by false pretence contrary to **Sections 1(1) and 1(3) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14 of 2006.** He is alleged to have sometimes in 2017, at Lagos, within the Ikeja Judicial Division with intent to defraud, fraudulently obtained the sum of N33,617,000 (Thirty Three Million, Six Hundred and Seventeen Thousand Naira) by false pretence property of Mrs. Oluwatoyin Akinwale on the representation that you are into crude oil business which representations you knew was false.
3. Stealing contrary to **Sections 278 and 285 of the Criminal Law of Lagos State of Nigeria, No. 11, 2011.** He is alleged to have with Awojobi Ganiu sometimes in 2017, at Lagos, within the Ikeja Judicial Division, Dishonestly stole and converted to your own use, sum of N33, 617,000 (Thirty Three Million, Six Hundred and Seventeen Thousand Naira) property of Mrs. Oluwatoyin Akinwale.
4. Stealing contrary to **Sections 278 and 285 of the Criminal Law of Lagos State of Nigeria, No. 11, 2011.** He is alleged to have sometimes in 2017, at Lagos, within the Ikeja Judicial Division, Dishonestly stole and converted to your own use, sum of N14,000,000 (Four Million Naira only) property of Mrs. Oluwatoyin Akinwale.
5. Stealing contrary to **Section 278 and 285 of the Criminal law of Lagos State of Nigeria, No. 11, 2011.** He is alleged to have sometimes in 2017, at Lagos, within the Ikeja Judicial Division, Dishonestly stole and converted to your own use, sum of N25,000,000 (Twenty Five Million Naira only) property of Mrs. Oluwatoyin Akinwale.

Sheri's statement, I now had the picture of where the post went viral and I now went to Ibeju-Ode Police station to make the complaint while the DPO, said I should go and print the pictures before I can make my statement and I did and they now issued a police Report of the crime. They said why did I pick Sheri as a suspect and I said Sheri was my friend before I switched over to Toyin and she said 'I would see the repercussion of what I did that I invited Toyin to my mother's birthday and stopped her from attending, that this is what made her angry and she went to post my nude pictures on the Net which has made my family to turn back on me. They gave me a Police Report and said may be the 2<sup>nd</sup> Defendant could have instigated Sheri to do that, I said I am not sure. Few days after another fake news went viral that a lady jumped into lagoon with the nude picture of myself and Toyin but since the story contradicted the picture, I knew it was not Toyin so I did not bother myself. 2 days after, the picture that went viral now attached to Facebook and I received a call from one Blogger that they will like to hear my own side of the story that she was speaking from "E je ka ri gbo Blogger". They said how come our nude picture went viral while the lady in question jumped into the Lagoon. I said nobody jumped into the Lagoon. They said they will like to speak to Toyin to speak to her to confirm that she is alive and I should give them Toyin's number, which I refused. I never knew my discussion with them was being recorded on line where over 500 people there responded. Some people called me and said they heard me. A few days later, a call came from EFCC that I should report which was ahead of the scheduled day. I went there and I.O came to me and a Doctor and said it was unusual for them to release me the way they did but I now went online phone discussion which means I was physically fine and therefore they would detain me that Tuesday. On Thursday 2 days after I had an attack as I could not move from where I laid down. The cell officer requested 4 men to lift me up and called their Doctor to come and attend to me. The Doctor said they don't have facilities for spine that they either refer me to military hospital close by or release me on bail on one condition only if I am ready to refund the money traced to my account from the 2<sup>nd</sup> Defendant's account which was transferred by PW1. That evening the I.O came to me in the cell after the Doctor had left and brought some pain relief which I used till the following day Friday but no relief for me. In the evening again, the I.O said they would grant me bail on Monday. To my surprise, he came back that night of same Friday, to say they would release me the next day Saturday. On that Saturday morning, the I.O. came and drove me in his Honda Accord to their main office at Awolowo, 2 I/C granted my release to my wife again on bail and I never defaulted. Before I left on that Saturday the 2 I/C and the Doctor said if I liked I should return the money traced to my account so that I can travel to take care of my health which I agreed. I thought it was a privilege not knowing it was God's grace and mercy that I received. I started paying the money bit by bit to the tune of ₦7M so as to go and treat myself abroad. They later arrested the 2<sup>nd</sup> Defendant by IRT, Ikeja Branch at Ibeju-Ode.

N25M. She said she would be coming to Nigeria on 9/09/17 and when she landed, she called me and said she would sleep in the hotel that night and come to Ijebu Ode that the remaining N4M of the N29M that she is with a Bureau De Change in Lagos that I should transfer it to one Adamu Salisu and Jubril Aminu, 2 different Accounts to the equivalent of N2.6M to Jubril Adamu which I did. She sent it through text message and the other one Abubakar Salihu, I remitted the balance and Toyin collected the money in Naira- cash. So she got the whole N29M back in full without any complaint. In her subsequent visits in Nigeria, she would go to the 2<sup>nd</sup> Defendant's house to take some spiritual soap and all. Most times, I always go with her to the 2<sup>nd</sup> Defendant house at Ijebu-Ode. Most time, I will sit in the parlor while she would follow the 2<sup>nd</sup> defendant to the prayer room to pray. She spent almost 2 weeks in my house at Ijebu Ode in that September before she went back to America. On 30/09/17 she came again to see the 2<sup>nd</sup> Defendant in Nigeria and I knew she normally goes there for prayers. She spent another 1 week in my house. She went back to America in the 1<sup>st</sup> week of October. When she arrived in America, she phoned me and complained that her husband brought some charms to the house which affected the soap that the 2<sup>nd</sup> Defendant gave to her that turned into snail that she wants to leave her husband and go and rent an apartment in America and I told her to tell the 2<sup>nd</sup> Defendant before taking any decision which she did. The 2<sup>nd</sup> Defendant told her that the only thing to do is for him to come to America and suppress those forces in her house. Toyin sent money, documents for the 2<sup>nd</sup> Defendant to apply for visa and she introduced one Mr. Wale to the 2<sup>nd</sup> Defendant to assist him since he had never travelled to such a place before. The 2<sup>nd</sup> Defendant went to the U.S. Embassy with documents she sent but he was refused a visa. Toyin called me, "Ah! my dear, I've lost money, they didn't give 2<sup>nd</sup> Defendant visa" I calmed her down and told her to talk to him. They now agreed that 2<sup>nd</sup> Defendant would go to Mecca for prayer for her which Toyin sent the money. 2<sup>nd</sup> Defendant travelled to Saudi Arabia to pray for Toyin and he spent 2-3 weeks there at her expense. They were communicating and she carried me along. On 3/03/18, she came to Nigeria and I was in my house when about 16 hefty men from Nigerian Army bombarded my house, my house was searched and I was arrested to Alamala Barracks at Abeokuta. There I met Toyin and I was invited to the office of the commanding officer, Military Police with Toyin. They showed me the Petition in the presence of Toyin and I read it. I made a statement and Toyin also made hers. We narrated each side of our stories. She acknowledged that she received the N29M which was paid by Mr. Ajayi into my account, from me. It was so stated in her statement at the Barracks. The Commander asked why do you have to detain him now?" She said she transferred some money into the 2<sup>nd</sup> Defendant's account, that if they hold me, they would see the 2<sup>nd</sup> Defendant. The Commanding officer said it is not justified to detain me since she has acknowledged receiving the N29M and they released me that same day that I should come the 3<sup>rd</sup> day to arrange how to track the 2<sup>nd</sup> Defendant. On the 3<sup>rd</sup> day, I

the presence of her driver. The driver was invited and he confirmed same and made a statement in that regard.

The investigation revealed that the balance of the N4M with the 1<sup>st</sup> Defendant shows that 1<sup>st</sup> Defendant transferred same to some Bureau De Change Operators Salisu Abubakar and Ahmadu Jubril and they were invited to our office and they were interviewed and they made statement as to who made the payment to them and who took the dollar equivalent and they stated that they gave the money to the person who paid the money into their respective Accounts and it was the 1<sup>st</sup> Defendant that made the payment to them.

The 1<sup>st</sup> Defendant actually refunded about N7M to the complainant through the Commission.

The 2<sup>nd</sup> Defendant has not paid anything but he pleaded for time to dispose some of his properties to enable him refund the nominal complainant.

Under Cross-Examination by Osuji, he testified thus:-

Yes, I am a Team Leader in this investigation and I participated fully in the investigation.

The 2<sup>nd</sup> Defendant was interviewed by me in my office and I allowed my 2<sup>nd</sup>, Obinna Hycinth to record his statement. It was recorded in the presence of either his lawyer or relative.

If the lawyer or relative did not sign his statement, the suspect can waive that right. The 2<sup>nd</sup> Defendant on 12/09/18 wrote, "I wish to make it without my lawyer". The one dated 13/09/18 was signed by the 2<sup>nd</sup> Defendant. This is the Procedure of EFCC.

There was no contract document to the supply of Oil and Gas because it was all fraud and a case of obtaining money by false pretence.

The complainant reported that she had been defrauded. The business was fraud wherein they deceived her that she should invest in Oil and Gas business.

Yes, PW1 made mention of one Sherifat who introduced her to the 2<sup>nd</sup> Defendant. Yes, she said she came to meet the 2<sup>nd</sup> Defendant at Ijebu-Ode for prayers initially. She denied that she sent money to the 2<sup>nd</sup> Defendant to help her to get a young girl to do sacrifice. It is contained in the statement of the 2<sup>nd</sup> Defendant, but PW1 denied such an agreement.

The 1<sup>st</sup> Defendant himself admitted that they were just defrauding PW1 and sharing the money. The 3 of them were before us and the issue of buying cars by the 1 Defendant for the 2<sup>nd</sup> Defendant as the reason for all the transfers of the money. There was no such issue of buying cars for the 2<sup>nd</sup> Defendant. They both pleaded to be allowed to pay back the nominal complainant.

MBZ



money 50-50. It is contained in his Statement. All the monies he received from PW1 reflect in his UBA and FCMB Accounts. The investigation proved conclusive that he defrauded PW1 of over N31M in the charge.

He was not cross-examined by the 1<sup>st</sup> Defendant's counsel and there was no re-examination.

**PW4 – Olusegun Adesomowo** Affirmed in English language and testified thus:

My name is Olusegun Adesomowo. I work with FCMB at 17A, Tinubu Lane, Lagos. I am a Compliance Officer. My schedule is to ensure that the Bank complies with directives from its Regulators such as CBN, SEC, NDIC etc rendering Suspicious Financial Reports to NFIU, Nigeria Financial Intelligence Unit, treating Law Enforcement Agencies' Requests from the Bank's Customers with furnishing them with their accounting details etc. on 27/03/18, we received a letter from EFCC dated 26/03/18 requesting us to furnish them details of one of our customers Ganiyu Abiodun, provide his account statement from 1<sup>st</sup> January 2017 till date and copies of his account opening package. This we did and also furnished them with a Certificate of Identification. These are the documents.

(The 2<sup>nd</sup> Defendant's FCMB Account Opening Package with Statement and the Bank's Certificate of Identification are admitted in evidence and marked **Exhibit P21**).

For instance on 20/11/17, the 3<sup>rd</sup> transaction shows an inflow from Akinwole Oluwatoyin Justina. Before then the balance was N229.61. On same date, after the inflow, N252,052 was withdrawn via ATM. On 21/11/17, N200,000 was a cash withdrawal by the 2<sup>nd</sup> Defendant. On 27/11/17, N400,000 was an inflow from Akinwole Oluwatoyin Justina. On 29/11/17, N900,000 inflow from Akinwole Oluwatoyin Justina. On same date, N300,000 also an inflow from same woman on 28/12/17, N100 I don't know the reasons for these transfers.

He was also not cross-examined by the 1<sup>st</sup> Defendant's counsel and there was no re-examination.

**PW5- Detective Abdulrazak Aliyu** affirmed in English language.

My name is Abdulrazak Abubakar Aliyu. I worked with the EFCC at 15A Awolowo way Ikoyi Lagos before but now transferred to the Port-Harcourt Office. I was in the Economic Governance Crime Unit, EGC Team "A". My Team members were inspector Hyeinth Obinna, OIC and 2 other detectives on attachment. My schedule of duties includes investigating cases assigned to me by my superior officers and any other assignment given to me.



and the 1<sup>st</sup> Defendant that this woman would be transferring the money and they would be sharing it on 50-50 formula. We called for the instrument of all the transactions from his UBA and FCMB Accounts to the 1<sup>st</sup> Defendant's Account. We discovered that it was through ATM that the 2<sup>nd</sup> Defendant was using immediately after receiving any sum from the Complainant, he would collect half of it the next day and pay into the 1<sup>st</sup> Defendant's Account. We analyzed all the accounts and how they shared it, that out of N33,542,500, the complainant transferred to the 2<sup>nd</sup> Defendant's Account both in UBA and FCMB from his UBA inflows he got from PW1, he transferred N11,076,500 to the 1<sup>st</sup> Defendant's Account at GTB. From the inflows of about N3,074,500 he received from PW1 into his FCMB Account, he transferred N1,444,000 to the 1<sup>st</sup> Defendant's Account on their sharing of 50-50. On further probing of what he did with the monies, he admitted he used part of it to purchase a Pilot Jeep which he claimed he got an accident on it and a Toyota Corolla in the course of investigations, a set of buildings which are already at roofing level at Monipar Area of Ijebu-Ode, Ogun State which investigation has marked as Exhibits and sent to Legal unit for forfeiture while the 1<sup>st</sup> Defendant refunded through the Commission a total sum of N7M which was registered as an exhibit and later released to PW1 on Bond or Application. The statement of the 2<sup>nd</sup> Defendant under Caution in the presence of his lawyer was made voluntarily with other additional statements. We discovered that the 1<sup>st</sup> Defendant ab initio did not at any time have any filling station talk less of being involved in any crude oil merchant in Nigeria. The 2<sup>nd</sup> Defendant did not have any Mosque where he officiates as an Alfa or Imam in any part of Nigeria.

We discovered that there was no symptom of oil business but they conspired to defraud the innocent PW1 of N33M and N29M which they shared under the pretext that she should come and invest in Nigeria which turned out to be obtaining money by false pretense. It is obvious that oil business is a good venture and this was what PW1 was lured into to invest in that she would reap 100% within 60 days. We discovered that the Samsung handset of the 1<sup>st</sup> Defendant which we sent to our Forensic Analysis and there was a revelation of E-mail scandals printed out of the nude pictures of PW1 all in a bid to weigh PW1 down from pursuing this allegation which is still with our Exhibit department.

Exhibit P2 is the Statement of Account of the 2<sup>nd</sup> Defendant at UBA where PW1 transferred the various sums and how they were shared from 15/04/17...

This is the analysis we did in conjunction with the Defendants' lawyers. They reduced it into their Statements.

These are the Statements of the 1<sup>st</sup> Defendant from 16/05 – 12/11/18 made in the presence of his lawyer.

MBZ

Yes I met 2 old women and one young girl in white apparel in the 2<sup>nd</sup> Defendant's house. Yes those women and Alfa prayed for me. Yes he took me to Ijebu-Igbo where we met 3 Alfas in a house. Yes they also prayed for me with more visions. Yes, the 2<sup>nd</sup> Defendant also came to my house in Ibadan with 2 of his children and also prayed for me. Yes in all these prayers, money exchanged between me and the 2<sup>nd</sup> Defendant.

I spent 5 days in Ijebu-Ode with the 2<sup>nd</sup> Defendant for the prayers. Yes he bought some fruits during the prayers and I paid for them. I went back to the US on May 7. Yes, after I left, I blocked the phone line calls of the 2<sup>nd</sup> Defendant.

I came back to Nigeria on 1<sup>st</sup> August 2017 and I attended 1<sup>st</sup> Defendant's mother's 80<sup>th</sup> birthday party on the 2<sup>nd</sup> and 1<sup>st</sup> Defendant invited the 2<sup>nd</sup> Defendant to come and apologize to me because he took N1.4M. So 2<sup>nd</sup> Defendant came and apologized to me and I said okay. That was the 2<sup>nd</sup> time I met him at Ijebu - Ode at 1<sup>st</sup> Defendant's house. Yes they were together. I changed \$8,000 to £5,000 in London in September on my way to Nigeria from the US. That's the cash I came in with because you can't leave the US with more than \$10,000 dollars. I changed at the Bureau de change \$20,000, €10,000, £5,000. His name is Albaji Toyin. There is evidence that I transferred the Naira from. I took €10,000, \$20,000 and £5000, 00 and gave to the 1<sup>st</sup> Defendant and he took me to the 2<sup>nd</sup> Defendant's house with the money. In my petition in **Exhibit P1** I stated I gave 1<sup>st</sup> Defendant N71M to supply crude oil to me.

Yes, I own a company in the US. King's Health Care Agency, Bellagio Collection and T & K Fashion.

The shareholders are myself and my husband. Yes, my husband is aware of the Crude oil business venture I wanted to go into. No, I did not carry on the oil business in the name of the company. The 1<sup>st</sup> Defendant just wanted me to provide money for him to do the business in his company.

No, the 2<sup>nd</sup> Defendant did not show me any paper to show that it is into any oil business or any paper work with either of the Defendants. 2<sup>nd</sup> Defendant said he is doing the same business with the 1<sup>st</sup> Defendant. Both of them work together. No, they did not show me any paper. I don't have a license to trade or deal in oil business.

I transferred into the 2<sup>nd</sup> Defendant's account N32M into his UBA and FCMB Accounts. The Statement of Accounts are with EPCC. Barrister Asekun borrowed me N8.5M. My doctor friend borrowed me \$5,000 my husband's friend borrowed me \$10,000. The N8.5M was transferred into my account.

Yes, I transferred the N32M+ to the 2<sup>nd</sup> Defendant while I was in the US. In November, I gave him 2<sup>nd</sup> Defendant N11M cash.



The 1<sup>st</sup> Def. at EFCC got Bail 3 days after and he put nude pictures of me on Social media, my husband's pictures, my children and my grandchildren's photographs and put them online and Yorubá newspaper. He released the pictures on 1<sup>st</sup> June. On 7<sup>th</sup> June, I went back to EFCC. 1<sup>st</sup> Defendant put it on the Social Media and even in a blogger in London that I had jumped into the Lagos lagoon which gave my daddy a stroke. I am still pursuing the case. Sheri is still communicating with them till now.

The 1<sup>st</sup> Defendant has since paid N7M to EFCC.

The 2<sup>nd</sup> Defendant told EFCC to take his house that he built with my money and sell it. He ran away from March till Sept. 2018 when we finally arrested him. I had no other relationship with the Defendants apart from the proposed investment. 1<sup>st</sup> Defendant apart would always cheat me with amorous things and I said Baba what is all these. I want my money. They have assassinated my character. 1<sup>st</sup> Def. was using my phone to text himself.

**Under Cross – Examination by the 1<sup>st</sup> Def's Counsel, she testified thus:**

My name is Mrs. Oluwatoyin Akinwale. I attended Ibokun Grammar School, Ijesha, Osun State, Community Country College at Dallas Texas, in 2000, North Texas Nursing Institute.

Yes, I am based in the US. I have been there for 21 years. As a business woman, I've been in South Korea, Switzerland, Austria, Italy, Dubai Bangkok and China.

I started my business in 2004, opened the first shop in 2005, the main shop in 2009 Bellagio Collection. In 2008 – 2011, I opened King's Healthcare till date. Yes I know business proposal very well. Yes, 1<sup>st</sup> Defendant introduced me to Oil and Gas business. No, he did not show me any business proposal. There was no paper Agreement because of the trust. Yes, he told me of a 150% profit. There is no agreement as to the sharing formula because of what he told me. I do not agree that it is regulated by DPR. He said he has 4 Gas Stations. He showed me 2 at Ijebu-Ode that he owned them. Anytime I wanted to discuss paper Agreement, he would say I should trust him. I do not know the Agency that regulates the Oil and Gas business in Nigeria.

Yes, it is only a registered Company that can deal with Oil and gas in Nigeria.

Yes, my uncle transferred N29M to the 1<sup>st</sup> Defendant's Account. My uncle's name is Agboola Raphael Ajayi. He is in government. He is the Deputy Governor of Ondo State. Yes, I made a statement at EFCC. Yes, I said that 1<sup>st</sup> Defendant transferred N25M out of the N29M back into my account. I did not state that in my statement to EFCC. Yes, I said that


*me*

had N10M or N20M to invest in the Oil & Gas, I would have a 150% of the profit. I said that was so much profit! I didn't know there was so much profit in Petrol Station. I told 1<sup>st</sup> Defendant that my friend in Ondo State, Chief Agboola wanted me to buy a car from the U.S for him and I priced at \$83,000, equivalent of N30M. 1<sup>st</sup> Defendant asked me that if I purchased a car like that, how long will it take to ship it to Nigeria. I said 4 months and he said I should use the money to invest in Oil & Gas because within a month we will use it to buy petrol and when we sell it, I will receive a total of 150% back, I agreed that the one I bought for my Uncle before took like 3 months, and 1<sup>st</sup> Defendant said I can still use the money and make it before the time. I said okay, then towards end of August to first week of Sept. Chief, the 1<sup>st</sup> Defendant now said he would be sending the money into my account gradually. I said okay. 1<sup>st</sup> Defendant called me and said what is going on with the car I wanted to buy? I said my Uncle called me that he wants to send the money to me. He said okay, it's up to me if I want to invest. I said I want to invest. So, I told my uncle to send the money into 1<sup>st</sup> Defendant's account and he asked do I know him very well? I said yes sir, I know him. My Uncle transferred 1<sup>st</sup> payment of N10M into the 1<sup>st</sup> Defendant's account, 2<sup>nd</sup> payment, N5M, 3<sup>rd</sup> N5M and 4<sup>th</sup> time, N9M. As he was transferring the money, 1<sup>st</sup> Def. called to acknowledge and my Uncle also called to notify me. I said okay. So I spoke to 1<sup>st</sup> Defendant to quickly use the money and pay the turnover. This was September, 1<sup>st</sup> Defendant said by 6<sup>th</sup> - 9<sup>th</sup> October I would be seeing money into my account. 2 or 3 days after I just called 1<sup>st</sup> Defendant and said please this money is not mine please do what you said you want to do and he was so upset that day that I called. He said it's like you don't trust me and I explained to him. The 3<sup>rd</sup> day or so after he called me that he transferred the money into my account since I don't trust him. I don't get alert in the US. I went online and checked. He transferred a total of N25M out of N29M. I called him why did you transfer the money back into my account, he said because I don't trust him. I started begging him and he said the only option I have is to change the money to forex for him to get supply quicker than if it is in Naira. He said he didn't want me to transfer the money back to him that I have to come and change the money and bring it. I said okay, all that time I didn't know that it was all a game. I came end of September. I went to the Airport Bureau de Change. When I was coming from US. transit London, I had \$8,000 which I changed to £5,000+. So when I got to Nigeria I changed \$20,000 which I paid by transfer to the Bureau de Change account and other monies to add up to 10,000, with my driver who was with me. I took the money to the 1<sup>st</sup> Defendant's house at Ijebu-Ode with my driver. When we got there, 1<sup>st</sup> Defendant asked for the money and I told my driver to bring it from the car and I handed it over to the 1<sup>st</sup> Defendant in his house at Ijebu-Ode. 2 or 3 hours after I got there, he said he wanted to take me out for prayer and we went to the 2<sup>nd</sup> Defendant's house and I wanted to talk he said, 'no, no don't worry' with signs. Both of them went inside one room and later they called me to come inside the room. When I got there, I met 2 old

meo 4

in cash. I said from America to Nigeria? I came in end of 2017, November with \$9,500. Segun transferred N8.5M to my account in Nigeria. I put the N11M into my car and with my driver went to the 1<sup>st</sup> Defendant's house at Ijebu-Ode the next morning. Not up to 15mins, I got there 2<sup>nd</sup> Defendant came. 1<sup>st</sup> Defendant rushed to the gate which appeared suspicious to me. I told 2<sup>nd</sup> Defendant I would not give the money to either of them. 1<sup>st</sup> Defendant said it would not be his fault anymore that this is the money they needed to supply the petrol. 2<sup>nd</sup> Defendant was prostrating to 1<sup>st</sup> Defendant not to do so and allow me to lose the money. I was begging the 1<sup>st</sup> Defendant to accept the money. Then he said okay. I went back to the U. S after 3 days. I was expecting money but no money came. On 26<sup>th</sup> December I called 1<sup>st</sup> Defendant why? That my uncle was expecting his car and I was looking bad already. He said I should not worry. January 2018, I called the 1<sup>st</sup> Defendant crying on the money that my friends were asking for their money, I had no business money again. While I was crying on the phone, one of the workers of the 1<sup>st</sup> Defendant was with him in the car. 2 weeks after, the man called me and said, 'aunty, I want you to know that there is nothing like Oil & Gas or Petrol station, 1<sup>st</sup> Defendant bought 5 cars and built a house, 2<sup>nd</sup> Defendant also built a house and bought 3 cars' that I need to come back to Nigeria and get them arrested. I started calling both of them throughout February because in December. 5<sup>th</sup>, 1<sup>st</sup> Defendant called me that he still sees vision and still praying and he went to one baba Ajase to pray for me and he said I should not use my phone anymore for me not to get hurt through it. I should send it to Nigeria for them to lay hand on it and pray for me. One of my aunties was coming to Nigeria Dec. 11<sup>th</sup>, I sent the 2 phones to 1<sup>st</sup> Defendant without deleting anything. He got them on 13<sup>th</sup> December and he promised my Aunty he would return the phones after 3 days because she was in Nigeria only for one week. The makes of the phone 1-Phone 6+ and Samsung Edge 6+. I called 1<sup>st</sup> Defendant to return the phones to my Aunty, he said Toyin, when they laid hands on the phones, they went blank. I said just return them, but he never did. So, I came back. I left US. February 28<sup>th</sup> and arrived March 1<sup>st</sup>. On the 3<sup>rd</sup>, I went to Alamola Army Barrack and I got 1<sup>st</sup> Defendant arrested. Same day, they let him go. 2<sup>nd</sup> Defendant ran away. I went to Ondo State Police Station. They came to Abeokuta to arrest 1<sup>st</sup> Defendant. 3 days after they let him go. I cried but nobody listened to me. I went to my Lawyer in Ondo State, he wrote Petition to EFCC on 22/03/2018. My sister called me from Ondo State that someone called that 1<sup>st</sup> Defendant came to the COP Ondo State and he gave him letter to travel abroad. My junior sister ran to SARS in Oshogbo and wrote another Petition on Thursday and they trailed 1<sup>st</sup> Defendant and got him arrested and I called EFCC who picked him up at Oshogbo Police Station. He was to travel on Monday.

(A petition addressed to EFCC dated 20/03/2018 is admitted as Exhibit P. 1).



Yes, I will be surprised if you can show me love messages I sent to the 1<sup>st</sup> Defendant  
No, I don't know any Salisu Abubakar.

I don't know Gbadamosi Abiodun or Ahmadu Jubril. My statement of Account is with EFCC. The money was transferred to the 1<sup>st</sup> Defendant from my current and savings Accounts with GTB.

Yes, I said the 1<sup>st</sup> Defendant put my nude pictures online on paper, the Yoruba Newspapers Alaroye and Akede while other Newspapers in Nigeria merely wrote the story about me, nude picture, jumping into Lagoon. I have the Newspapers because I sued the Newspapers in Court through Chief Ladi Williams, Alaroye and Akede.

Yes, I sued the 1<sup>st</sup> Defendant as well. I don't know the suit.

No, that's why I have a lawyer. It is at Ikeja High Court. I don't know if the 1<sup>st</sup> Defendant has been served. The 2<sup>nd</sup> Defendant is also a party to the suit.

Yes, I am on Instagram with T & K Fashions Dallas - Texas.

Yes, after the last adjourned date, I uploaded the picture of the Defendants on my Instagram. No, I did not put it there that they have been jailed. I only copied the EFCC case on the page. No, I did not make a comment on the Instagram. I am a Christian.  
Under cross-examination by the 2<sup>nd</sup> Defendant's counsel, she testified thus:-

I have stated my name and address. Yes, I made Statement to EFCC. In my evidence on 11/12/18, I said Sherifat introduced me to the 2<sup>nd</sup> Defendant. Sherifat is in the US. She is a friend of mine. I've known her for 21 yrs. I met her first in 1997 but not close till 2007 when she came close to me.

She introduced the 2<sup>nd</sup> Defendant to me in November 2016 on the phone in the US. She introduced the 2<sup>nd</sup> Defendant to me as her Alfa that prays for her.

I don't recall when I first spoke to the 2<sup>nd</sup> Defendant on phone but it was while I was in the US. Yes, the 2<sup>nd</sup> Defendant also informed me on the phone that he is an Alfa. He would call me on the phone that he is an Alfa and pray from Nigeria and I in US. Yes my friend Sherifat said 2<sup>nd</sup> Defendant saw vision for me and she persuaded me to visit the Alfa in Ijebu Ode. He said he saw the vision of death first and after he was saying my business, my business and I said no, my business is good. Yes, prayer is good. Yes, Sherifat persuaded me to visit the Alfa in Nigeria. The first time I met the 2<sup>nd</sup> Defendant was in April, 2017. I arrived on 16<sup>th</sup> or 17<sup>th</sup> April, 2017. I met the 2<sup>nd</sup> Defendant at Ijebu-Ode.

*ms*

I know the Defendants through a petition dated 20/03/18 sent through one Olunimoye & Co, a Legal Practitioner on behalf of her client one Mrs. Oluwatoyin Akinwale, the Complainant against the 2 Defendants. The 2<sup>nd</sup> Defendant popularly known as Alfa over alleged fraud to the tune of N71M and referred to my Team e.g. Team 'A' for investigation and Report. We invited the complainant, Mrs. Oluwatoyin Akinwale on 27/03/18 and she came to the commission. She adopted the petition and she made her statement in writing. Before then, there was an interview with her concerning this allegation and she explained to the Team that she fell victim of these circumstances through one of her best friends, Sherifat who lives in UK and also shuttles US where she lives, that connected her to these 2 Defendants in Nigeria. That Alfa happens to be one of her prayer warriors in Nigeria and the 1<sup>st</sup> Defendant is a close friend and a business Merchant that deals with Petroleum Products in Nigeria. After a while they all exchanged phone numbers and started having contacts that led to her interest in the 1<sup>st</sup> Defendant to invest in his Petroleum merchant in Nigeria and the 2<sup>nd</sup> Defendant was praying for her that he saw a vision that death trap was following her and her family and that she needed to come to Nigeria for cleanliness. That she was convinced when the 2<sup>nd</sup> Defendant demanded for N154,000 for prayer for her in Nigeria and immediately the 1<sup>st</sup> Defendant paid a sum of N100,000 into her GT Bank Account for her to balance up the money for her to come to Nigeria for the prayer. Immediately that convinced her and she flew to Nigeria in September, 2017 and went straight with the 1<sup>st</sup> Defendant to the 2<sup>nd</sup> Defendant's house at Ijebu Ode; Ogun state where they conducted some ritual prayers for her at Alfa's house at Ijebu Ode and later she was confused by giving attention to everything they directed her to do; that there was one good client of hers who buys exotic cars from her and who needed to pay in N29M into her account. That 1<sup>st</sup> Defendant instructed her to tell the client to pay in that N29M into his Account with GT Bank which was automatically done into the 1<sup>st</sup> Defendant's Account at GT Bank. When that was done, 1<sup>st</sup> Defendant confirmed the payment of N29M into his GTB Account but he immediately reversed the transfer into her account with N25M with an instruction that the petroleum product in Nigeria could not be procured in Naira equivalent that she should change it into foreign currencies like US Dollars, Euro & Pounds and bring them back to him in cash which she did at the International Airport with her driver one Mudashiru Odunayo who drove her from the International Airport to the first Defendant's house at Ijebu Ode. That the second phase is that after the first prayer for which she paid N54,000 out of N154,000 demanded by the second Defendant, 2<sup>nd</sup> Defendant was demanding for various sums of monies in order to avert the death trap following her that she paid all the monies from her GT Bank Account to the 2<sup>nd</sup> Defendant's account at UBA Plc., to a total sum of N33,542,500M before she could get herself together. When she narrated her ordeal to us, people shouted to her that those people have duped her which warranted her petition to EFCC. We then gave her a statement form to reduce all she has said in a

MRS D



My name is Inspector Hycinth Obina. Yes, I am a Policeman seconded to EFCC. Yes, we received a Petition upon which we commenced investigation. **Exhibit. P1** is the Petition on behalf of the Complainant. Lines 3 and 4 of the 2<sup>nd</sup> paragraph. Investigations proved that the Defendants conspired to obtain money from the Complainant for the supply of crude oil under pretense. Yes we invited her and she made her statement. There was nothing like contractual agreement between PW1 and the 2<sup>nd</sup> Defendant. Our findings revealed that the 2 Defendants only conspired to defraud PW1 under false pretense of supplying crude oil which was not in existence. Yes petroleum products are controlled by Regulatory Agencies like DPR. The 2 Defendants were obtaining money from PW1 for no just cause. She came first to Nigeria for this transaction sometime in Aug.2017. PW1 said when she came to Nigeria she changed N25M out of the N29M she earlier instructed her client to transfer to the 1<sup>st</sup> Defendant at the international Airport BDC to Dollars, Euro and Pounds according to the 1<sup>st</sup> Defendant's instruction. PW1 could not identify the particular BDC when we went together to the Airport. The eye witness PW1's driver Odunayo Mudashiru stated how they both carried the money from the BDC to the 1<sup>st</sup> Defendant's house straight from the Airport. PW1 never said it was one Suraju who took her from the Airport to Ijebu-ode.

Yes, I obtained the Statements of the 2<sup>nd</sup> Defendant in **Exhibits 18 -20**. PW1's Statement of Account at GTB reveals that she withdrew the N25M at the airport to change at BDC. PW1 not only told me she went to the 1<sup>st</sup> Defendant's house who took her to the 2<sup>nd</sup> Defendant's house but our investigation also confirmed that. I only investigated a case of obtaining money under false pretence and not whether 2 Alfas prayed for her in the house of the 2<sup>nd</sup> Defendant. I can't say how many times but investigation revealed that they took her to his house where they gave her concoction to eat in the 2<sup>nd</sup> Defendant's house and she said after that she didn't know what she was doing. The 2<sup>nd</sup> Defendant went into hiding. We used strategies and synergies for several months, so we used RRT of the IGP and on 12/09/17 he was arrested and went to the office to apprehend him with investigation activities. As soon as we brought him he made Statements to this effect and a remand warrant was obtained by our Legal department. We visited all their houses and they were all on the run. They deserted their homes. Yes, I obtained the 2<sup>nd</sup> Defendant's Statements in the presence of his lawyer. **Exhibit P.18** is an additional Statement made on 13/9/18. He made his first Statement in the presence of his lawyer and he stated in this additional Statement that 'I wish to make this additional Statement in the presence of his lawyer.' The issue of purchasing vehicles stated by the 2<sup>nd</sup> Defendant show that they were proceeds of the crime. The 2<sup>nd</sup> Defendant was just trying to cover up with all his statements of buying things for rituals. They are just mere fabrications. How can you investigate a non - existent fact? The 2<sup>nd</sup> Defendant confessed that he used the money to build 2-3 bungalows, fenced with automatic gates and roofed and he took us there and we were there ourselves and the premises is under legal forfeiture. 2<sup>nd</sup> Defendant told us he and the 1<sup>st</sup> Defendant shared the

MBS 17

was his share. On 13/09/17, 2<sup>nd</sup> Defendant transferred N985,000 into the 1<sup>st</sup> Defendant's Account as part of his own deal of what was received from the nominal complainant.

On 14/09/17, N500, 000 was transferred from the 2<sup>nd</sup> Defendant as his own share of the deal.

On 25/09/17, N500, 000 was also transferred by the 2nd Defendant to the 1<sup>st</sup> Defendant as part of the money he received from PW1.

On 26/09/17, N500, 000 was also transferred by the 1<sup>st</sup> Defendant from the 2<sup>nd</sup> Defendant to the 1<sup>st</sup> Defendant's Account being part of his own share of the deal.

On 27/09/17, N170,000 was received by the 1<sup>st</sup> Defendant from the 2<sup>nd</sup> Defendant's Account as part of his own share of the deal.

On 29/09/17, N50,000 was transferred. On 4/10/17 N500,000 was transferred from the 2<sup>nd</sup> Defendant to 1<sup>st</sup> Defendant.

On 9/10/17, N110,000 was transferred by 2<sup>nd</sup> Defendant.

On 17/10/17 N400,000 was transferred by 2<sup>nd</sup> Defendant being part of the money fraudulently obtained from PW1.

On 31/10/17 N2.5M was transferred by the 2<sup>nd</sup> Defendant when PW1 transferred about N5M plus to the 2<sup>nd</sup> Defendant. On 3/11/17 N1.5M was transferred through the cousin of the 2<sup>nd</sup> Defendant Fausat Awojobi and another N300,000 by 2<sup>nd</sup> Defendant on same date.

On 10/11/17 N1.8M was received by 1<sup>st</sup> Defendant by the 2<sup>nd</sup> Defendant as part of the fraudulent money collected from PW1 in the guise of doing Oil and Gas business. There are many transfers.

From our analysis of the statements of Account about N30M was transferred by PW1 to the 2<sup>nd</sup> Defendant's Account out of which he transferred N11.7 M into the 1<sup>st</sup> Defendant's Account plus another N1.5M through his sister, Fausat Awojobi totaling N13.280M from the 2<sup>nd</sup> Defendant to 1<sup>st</sup> Defendant.

We traced about N17M plus balance with the 2<sup>nd</sup> Defendant.

PW1 stated she handed some cash to 1<sup>st</sup> Defendant, Investigation revealed that N29M was transferred by PW 1's relative to the 1<sup>st</sup> Defendant account on her behalf on the commencement of the purported Oil and Gas business. Also that the 1<sup>st</sup> Defendant returned about N25M out of the N29M back to PW1 leaving N4M with him. The agreement was that PW1 should change the N25M to foreign currencies Dollars, Pound Sterling's, Euros and bring same back to the 1<sup>st</sup> Defendant. PW1 received the N25M from the 1<sup>st</sup> Defendant and changed it to Dollars and Pounds Sterling and handed same over to the 1<sup>st</sup> Defendant in

him. About an hour later, 2<sup>nd</sup> Defendant came to my house. The way he saw us, he was shocked and said "Olori, when did you come to Nigeria" and she said "Alfa, you are the one I came to see o". We sat down together, she opened her box and showed appreciation to the 2<sup>nd</sup> Defendant and gave him some cloths, mobile phone and 1 wrist watch. She said she would see him before leaving Nigeria as 2<sup>nd</sup> Defendant was leaving. On 7<sup>th</sup> August, Toyin and I went to the 2<sup>nd</sup> Defendant's house at Ijebu Ode in Igbaba. There she discussed about need for spiritual support for her business to beef it up from afar and Alfa asked her that the other time you came ma, how did you see the things I gave to you and she said all is fine. She said all she wants is fast-fast money when people will come and deposit money because she has a boutique in America and both of them sealed the prayer aspect and we both left the 2<sup>nd</sup> Defendant's house. She left Nigeria back to America 2<sup>nd</sup> week of August. Before she left, she mentioned one Hon. Ajayi in Ondo State that she had been helping him to buy stuffs from China and other countries to bring to Nigeria. She discussed about some money that runs to about N100M that the man will like to send the money to her to help him to purchase some cars and other things. But for her to beat the money Laundering Law, she asked me if I can help to bring some since I have British Passport that I will not need visa to come to America and I said why not if I am going to have percentage. She laughed she said she will request for my Account number where the money would be remitted. She left that night for the U.S. On 27/08/17, she called me and asked for my account number where part of the money will be remitted, that she will like to send the account details to Mr. Ajayi in Ondo State which she did and on 29/08/17 I received an alert of N10M from that same Mr. Ajayi in Ondo State. On the 3<sup>rd</sup> day, again I received another N10M into my GTB Account, on the 4<sup>th</sup> day, another N9M was transferred into my Account, totaling N29M within one week, but since I know the Bank, I didn't bother to find out what the money is meant for in my account. Toyin now called me and asked if I had received the N29M and I said yes. She said I should help her to change it into dollars and bring it to America as earlier planned. I informed my sister who lives in U.K about it and my sister referred me to section 2 paragraph 2 of the immigration Law of U.K that limits what one can travel with to \$10,000, that I should think twice about it before moving the money to America, yet I insisted on doing it since I don't need visa to go to America. I moved to apply for travelling ticket because of the condition of my health, the spinal degeneration. The Airline refused to sell me ticket except I have 24 hours service on board which they cannot provide for me because I cannot get up, sit or go to lavatory by myself without any support. I told Toyin this that U.S is not my home, I live in the U.K that with my health challenges, they wanted me to have a support on Board and so I would not be able to come to the U.S as earlier planned by us. She said I should transfer the money back to her, PW1's Account of GTB that she would send someone to come and pick it up. I can only transfer N5M every day. Then I transferred N5M in 5 times to her Account totaling

monitoring command and the COP approved it for me to travel abroad to treat myself and I travelled back to Abeokuta that Thursday. On 13/5/18, I was at Ijebu Ode when I received a report that another Team of Police from Osun state had arrested my wife and children that they want to see me. They told me they were in my house at Abeokuta early in the morning and it is only when they see me that they would release them. I asked my wife to bring them down to me at Ijebu Ode and they came and took me back to Abeokuta with my staff, impounded my cars, I told them that 4 days before the Ondo state Police Command had just released me, why Osun state? They said Toyin's address is in Osun state so they had the right. So I followed them to Osun State where we arrived about 12am. The police saw my health and took me down to the police clinic and they said they didn't know that Ondo state was involved in the case when I asked why. Toyin and OIC SARS came to the Police Clinic at 2am to see me with their police van. I raised alarm for bringing her to me in the clinic and not in their office. He said they want my health to be stable that they would take me to their office in the morning to take my statement. In the morning again, Toyin came alone and met me on the hospital bed at the police clinic and she started videoing me on the hospital bed and the police man and Nurses challenged her but she perfected her mission because she had gained the upper hand with the superior officers. After they took my statement in their office, another Team of Osun State Police command came and arrested me and took over the case. I didn't know they are from EFCC and they drove me to EFCC Lagos Zonal office at about 10: PM. They requested for 2 detention orders for me and my staff that they picked from Osun state. I was locked up in their custody and the next day around 7am the 2 Officer-in-Charge, a Doctor and another officer came to the cell to meet me. He said they should create a space for me in that cell to take my statement instead of taking me to main office because of my health. While writing my statement there in the prison, they invited Toyin. The LO, Mr. Obinna and Mr. Rasak the Team leaders were there. Toyin and I narrated each side of our stories. She admitted that she collected N29M back from me. The 2 OIC now said they must release me after I put down my statement. Mr. Rasak said I should ask anybody to come and bail me and I said I have nobody in Lagos and my wife is in Abeokuta. He said I should call my wife to come and bail me immediately which I did on 15/05/18, the 2<sup>nd</sup> day of my arrest. My wife was afraid to come to EFCC until around 9PM when she later came. They asked her 2 questions. She is a vice principal of a school and they allowed her to stand for me and I left the next day on Administrative Bail. While on Bail, my friends in London and America called me that they saw my nude pictures on the Internet, how come? They sent it to my phone, my nude picture, PW 1's picture, the 2 of us together, I was shocked. That was 6/06/18 and I went to the police station. On my way Sheri called me from America that so this is what Toyin and I had been doing together. Toyin captioned it "Otunba Femi419". I said to Sheri my pictures on the Net? She said I have just started that Toyin is "a friend's snatcher" From

betrayed the confidence I had in them. I was detained till 11/12/18 when I appeared in this court and arraigned. It was in court I heard that I was still owing N4M which she had already acknowledged I had repaid her.

Yes, this is the Police Report of the case of the internet nude pictures I reported.

(A Police Interim Report dated 07/06/2018 became **Exhibit D.**)

These are the other letters I referred to with the way bill of vehicles I sold to the 2<sup>nd</sup> Defendant, pictures taken with pw1, Receipts of BDC as instructed by PW1.

(A referral from the Neuropsychiatric Hospital, Aro, Abeokuta to St. Georges Medical Centre in Manchester dated 30/04/19, DW1's letter to the EFCC dated 13/11/2018 and a Roa Ventures Receipt Booklet became **Exhibits D1-D3 respectively**).

Upon his cross-examination by Mr. Osuyi, he stated thus:-

The 2<sup>nd</sup> Defendant is an Alfa, a spiritualist, not really a friend because he is very junior to me. Yes I sold 4 vehicles to the 2<sup>nd</sup> Defendant, Ford Transit, Suzuki Terrano and I purchased 2 Toyota Corolla for him from a customer at Ibadan. The total value of the Fomatic N1.2M, Toyota Corolla N1.8M, Ford Transit N1.450M, Suzuki Teranno.

I also sold household equipment to him, TV, Set LG, Transporter Recorder, DVD, Car Trackers, electronics, Projectors for his Asalatu Mosque.

He has not fully paid. He paid N12.160M. He paid me through Bank transfers from UBA and FCMB to my GTB Account. No cash was collected.

I didn't know him to be in any oil business.

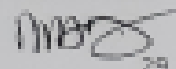
Yes, I was before in a relationship with PW1. She came August, 02 and left 07/08/17 and stayed in my house. Initially she invited the 2<sup>nd</sup> Defendant to my house on 05/08/17 and he came. She visited the 2<sup>nd</sup> Defendant's house severally. She informed me of the purpose of visiting the 2<sup>nd</sup> Defendant because we are very close. She visited the 2<sup>nd</sup> Defendant as she said she needed spiritual help to boost her business and for her to have favour from men, all for spiritual powers.

She told me that the 2<sup>nd</sup> Defendant had some spiritual sessions with her before I knew her. She confirmed the 2<sup>nd</sup> Defendant prayed for her and I know.

I never agreed with the 2<sup>nd</sup> Defendant to be taking money from PW1.

Under cross-examination by Mr. Daji, he stated thus:-

I am not into any business pertaining to Oil and Gas ever in my life. I didn't own any filling Station anywhere.

  
29

when I went with the lawyer to see him in prison. When he gave a directive that I should go to his apartment at Ijebu-Ode and that I should help him to print out some pictures and text messages which I did. I took the phone to my department General Studies Department and with the help of the secretary; we were able to print it out from the phone connected to the HP Printer C.4480. The printer is used for questions and departmental magazines which come in annually. It is in a good condition. The phone is also in a good condition.

Yes, I made a certificate regarding these prints out. This is it. These pictures are the ones I printed.

This purported kissing is known as Photoshot.

The phone is not here. It was in my custody till December and I started searching for it and I told my first son that it was this phone that has kept my brother in prison for over a year. Then he confided in me that my 2<sup>nd</sup> son who is a Corp member took the phone with him to Abuja where he is serving and ever since I've been calling him, he keeps procrastinating when he would come. In fact he didn't even come home for Christmas and New Year. I would have kept the phone with my mum being a single mother and a widow with 2 children. If the network is visited we can get the photographs printed.

(2 copies of printed text messages and 4 photographs with the certificate are admitted as **Exhibit D4-D9 respectively**).

Under cross-examination by the Prosecution, she stated further thus:-

I have never been invited to EFCC in respect of this matter. I know like 50% of what happened in this case. From what I heard in this court, yes about ₦20M is said to have been traced to the Defendant's account.

Yes my 2<sup>nd</sup> son took the phone from where I printed the text messages in **Exhibit D4**. The name of the sender is Toyin Akinsin TNDK. I know PW1 to be Toyin. This is the directive given by the Defendant that he stored her name as Toyin Akinsin. My son did not steal my phone. He took the phone from my wardrobe. The phone belongs to Defendant. My son did not steal it.

I am a master student; we can visit the Network to confirm the phone.

There was no re-examination and this closed the defence.

The Defendant's Final Written Address by his counsel, Patrick Arasanmi is dated 8<sup>th</sup> June, 2020.



totaling N30-32M to the former 2<sup>nd</sup> Defendant's account and she started sending money into this account the details of which were supplied by the Defendant. This he submitted points irresistibly to the fact that these conspiracies were committed by the Defendant and former 2<sup>nd</sup> Defendant (now convict).

He referred also to PW3's testimony on the analysis of the Defendants' Accounts and how they shared PW1's money anytime he received her money in his Account. That his team discovered that out of N33,542,500 that PW1 transferred to the former 2<sup>nd</sup> Defendant's Accounts both in UBA and FCMB, he transferred the total of N11,076,500 to the Defendant's Account in GTB and from the N3,074,000 inflows that he received from PW1, he transferred N1,444,000 to the Defendant's Account by their 50/50 sharing formula.

On Obtaining Money by False Pretence, he referred to the testimonies of the Prosecution that PW1 was in fact misled by the false representation of the Defendant to be into oil and gas business and that PW1 should invest in same at a profit of 150%. That he made her invest N25M and when she demanded for her money, he told her that the money was not enough which made her part with N33,617,000. He quoted PW1's evidence earlier referred to under Count 1 and further submitted that the Defendant received all the proceeds of fraud in the Account of the 1<sup>st</sup> Defendant so that nothing will be traced to him.

Learned counsel referred to 2<sup>nd</sup> Defendant's extra-judicial statement where he, according to counsel debunked the Defendant's claim that all the money was for the cars and household items he sold to him and thus showing that he had the intention to defraud the victim of her money which is capable of being stolen.

On the offence of Stealing, he submitted that the testimonies of the Prosecution witnesses, the exhibits tendered as well as the admissions of DW1 under cross-examination are sufficient proofs of the guilt of the Defendant. That the ownership of N33, 617, 000 which the 1<sup>st</sup> and 2<sup>nd</sup> Defendants dishonestly stole and converted to their own use and the sum of N4,000,000 and N25,000,000 which the 1<sup>st</sup> Defendant converted to his own use is not in doubt. He submitted that it is on record that the 1<sup>st</sup> Defendant returned N7,000,000 which is part of the money traced to his account and that ownership resides in the complainant.

He submitted further that the money referred to above is capable of being stolen and was dishonestly taken or converted contending that though the Defendant claimed that the money traced to his account from the account of the 2<sup>nd</sup> Defendant were for payment of goods, that the claim was debunked by the 2<sup>nd</sup> Defendant, now convict as well as the analysis of both their statements of accounts showing a pattern that whenever the 2<sup>nd</sup> Defendant received money from PW1, he would share it into two with the Defendant. This he submitted was buttressed PW3 and PW4 and Exhibits P2, P21 and P22 which according to him point to the fact that the Defendant set out from the beginning to defraud

On 17/10/17 when PW1 transferred N800,000 to the convict, he immediately transferred N400,000 to the Defendant which reflects in his account in **Exhibit P22** on same 17/10/17.

On 12/10/17, PW1 transferred N30,000 to the convict's account and another N90,000 and then N120,000 on 18/10/17, and the next day, 19/10/17 the convict withdrew cash by ATM, but the same date, the Defendant's account in **Exhibit P22** received a deposit of N64,000, although narrated to be an FBN Mobile transfer. The observation of the court is that although most of these transfers from the convict's account to the Defendant in **Exhibit P2** show transfers to Adefemi Paul or AP, what reflects in the Defendant's account in **Exhibit P22** as narration sometimes is "transfers between customers, from Adesanya Adefemi Paul; Paul PAYARENA". This shows the complicity of the Bank officials in a bid to help the Defendant cover his tracks from prying eyes, like the EFCC. He must have thought he was playing smart to outsmart the law but then the past always catches up with mean men and of course women.

On 20/10/17 when PW1 sent N20,000 into the convict's account in **Exhibit P2**, the next day he transferred N10,000 to the Defendant's GTB account in **Exhibit P22**.

On 25/10/17 when PW1 sent N21,000 to the convict's account in **Exhibit P2**; he on same date sent N10,000 to the Defendant's account in **Exhibit P22**.

On 29/10/17, when the Defendant in **Exhibit P22** received N10,000 from the convict, it was narrated as transfer between customers.

On 31/10/17, PW1 sent N5M to the convict's account in **Exhibit P2** and he on same date transferred N2.5M to the Defendant's account in **Exhibit P22**.

On 2/11/17, PW1 transferred N3.6M again to the convict and the next day 3/11/17, the convict sent only N300,000 into the Defendant's account in **Exhibit P22** while N4M was sent to one Onyebuchi. And on same date, PW1 sent another N240,000 to the convict. On same date, 3/11/17 the convict transferred N120,000 and waited till 10/11/17 before sending N1.8M to the Defendant which is reflected and properly narrated in his account in **Exhibit P22** being half of the N3.6M PW1 sent to the convict on 2/11/17.

On 14/11/17, when PW1 sent N710,000 to the convict in **Exhibit P2**, he transferred N355,000 to a coded account, but the exact sum landed in the Defendant's account in **Exhibit P22** on same date as 'transfer between customers, Payarena, transfer from Adesanya Olufemi Paul'. The question is can this be rightly narrated as 'transfer from Adesanya Olufemi Paul'? It is a serious infraction! It however shows a series of 50-50 sharing of the loots being syphoned from PW1.

On same 14/11/17, when PW1 again transferred N362,000 to the convict in **Exhibit P2**, the next date, 15/11/17, he transferred N181,000 to the Defendant, exactly 50%. On same date,

 39



presume conspiracy" Per UDO-UDOMA JSC (Pp 25-26 paras F-A). At page 26 paras C-F of this same case, his lordship went further to answer a recurring question as to whether persons ought to have seen or corresponded with each other, before they can be held for conspiracy, thus;

"It is well recognized in law that conspiracy may exist between persons who have never seen each other or corresponded with each other: **R. Vs. Parnell 14 Cox 508** at 515. Indeed, in order to convict of conspiracy, it is not necessary that the accused persons concerned should have concocted the scheme, the subject of the charge, nor that they should have originated it. If a conspiracy is formed and a person joins it afterwards, he is equally guilty with the original conspirators. See **R. Vs. Simmonds 1969 1 Q. B. 685**".

In **NJOVENS Vs. STATE 1973 5 S. C. 12**, the Supreme Court held that, "The overt act or omission which evidences conspiracy is the actus reus and the mens rea of each and every conspirator must be referable and very often is the only proof of the criminal agreement which is called conspiracy. It is not necessary to prove that the conspirators like those who murdered Julius Caesar, were seen together coming out of the same place at the same time and indeed conspirators need not know each other. See **R. Vs. Meyrick and Ribuffi 1929, 21 C. App. R. 94**. They need not all have started the conspiracy at the same time for a conspiracy started by some persons may be joined at a later stage or later stages by others. The gist of the offence of conspiracy is the meeting of the mind of the conspirators. This is hardly capable of direct proof for the offence of conspiracy is complete by the agreement to do the act or make the omission complained about. Hence, conspiracy is a matter of inference from certain criminal acts of the parties concerned done in pursuance of an apparent criminal purpose in common between them and in proof of conspiracy the acts or omissions of any of the conspirators in furtherance of the common design may be and very often are given in evidence against any other or others of the conspirators" Per COKER J. S. C.

The Court of Appeal in **OLOWOYO OLADIPUPO VS. THE STATE 2012 LPELR—7965** held thus, "Conspiracy means, "An agreement by two or more persons to commit an unlawful act, coupled with an intent to achieve the agreement's objective, and...action or conduct that furthers the agreement; a combination for an unlawful purpose" and it is a separate offence from the offence or crime that is the object of the conspiracy. Black's Law Dictionary, Eighth Edition, page 329. See also **DEMO OSENI VS. THE STATE (supra); SULE VS. THE STATE 2009, 17 NWLR Pt. 1169, 33** and **BALOGUN VS. A. G. OGUN STATE 2002 6 NWLR, PT. 763, 512**. In **OBLAKOR VS. THE STATE 2002, 10 NWLR (PT. 776) 612 at 628**, the Supreme Court defined conspiracy thus, "Conspiracy as an offence is the agreement by two or more persons to do or cause to be done an illegal act

*ms*

no iota of material was presented to support this allegation. From all that transpired among the three of them, the likelihood is that PW1 was telling the truth but the court needs more than this to establish the proof.

Moreover, because of the wieldy nature of these monetary transfers from PW1 to the convicts, a lot of further forensic analysis that could have helped the court to determine exactly how much the Defendant swindled PW1 of is not availed the court. A Forensic Auditor could have been of great assistance but none was presented to assist the court.

Consequently, while stealing is established against the Defendant, it could only be fixed on what he finally admitted in his extra Judicial statement in **Exhibit P17** as N12, 519,500.00 (Twelve Million, Five Hundred and Nineteen Thousand, Five Hundred Naira) only as the established outstanding against the Defendant.

The Defendant is therefore convicted of stealing N12, 519,500 (Twelve Million, Five Hundred and Nineteen Thousand, Five Hundred Naira) property of PW1 and is hereby sentenced to 7 years imprisonment for stealing.

The convict having refunded N7M (Seven Million Naira), he is hereby ordered to restitute the outstanding sum of N5,519,500 (Five Million, Five Hundred and Nineteen Thousand, Five Hundred Naira) back to PW1 and the EFCC is enjoined to employ all its powers to ensure the restitution to PW1.

This is the Judgment of the court.



HON. JUSTICE M. A. DADA (MRS)  
JUDGE  
(11/09/2020)

Defendant present.

S.O. Daji for the Prosecution.

Patrick Arasanmi for the Defendant.