



Parole Hearing  
Under section 21(2) of the Parole Act 2002

**David Robert Gilmour ROSS**

**Hearing:** 20 March 2019  
at Rimutaka Prison  
by AVL from New Zealand Parole Board, Wellington

**Members of the Board:** Judge A Tompkins – Panel Convenor  
Mr G Crowley  
Mr C King

**Counsel:** Mr M Kilbride

**Observers:** Judge G Ellis (NZ Parole Board)  
Mr T Graham (NZ Parole Board)  
Mr H Rutherford (Stuff)

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**DECISION OF THE BOARD**

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**Introduction**

1. David Robert Gilmour Ross is serving a 10-year 10 months sentence of imprisonment for offending which the sentencing Judge described as being:

*“on a scale unprecedented in this country. What you have done has brought misery on hundreds of people, most ruined financially, many elderly and frail, and many suffering far more than simply monetary losses, which are bad enough anyway.”*

2. For many years Mr Ross ran an investment advice and funds management firm. It was later revealed that Mr Ross’ firm was in fact operated as an all-pervasive “ponzi scheme”. As the sentencing Judge put it for over a decade, from around 2000 through until 2012, Mr Ross:

*“stole from the people who trusted [him] with their life savings. [He] constructed an enormous web of increasingly complex deceit to maintain this illusion that [he was] a skilled and trusted advisor and benefactor”.*

3. In the end the sentencing Judge quantified the total losses caused to 700 or more investors by Mr Ross’ lies and dishonesty at some \$115 million.

## Consideration of parole

4. Mr Ross has now passed his parole eligibility date (27 January 2019), and seeks to be released on to parole.
5. Mr Ross first appeared before the Board on 22 February 2019, but parole was not sought at that time because a rental property had been arranged for Mr Ross to live in on parole, but that address had not been able to be assessed by Community Corrections.
6. In an addendum report prepared for today's hearing the proposed address, a one-bedroom residential property currently rented by [withheld], has been assessed as suitable.

## Submissions

7. Mr Kilbride, who appeared as counsel for Mr Ross, sought parole for his client on the basis of an assessed low risk of further offending, and an asserted absence of any future opportunity for further offending because of the cumulative effect of Mr Ross' notoriety, his disqualification from any involvement in the financial industry, and the support which Mr Ross continues to enjoy from some (but not all) of his immediate family and from friends. Mr Ross himself said to the Board that he is a broken and flawed man, that he is shunned, and that he now has no reputation to speak of. He said that rather than re-offend in any way, he simply wants to prepare for his retirement and rebuild his family relationships.
8. The Board has before it a detailed psychological assessment report dated 18 December 2018. That notes that Mr Ross informed the interviewing psychologist that he (Mr Ross) intended to provide a detailed account of his offending behaviour directly to the Board at his parole hearing. Mr Ross accepted to the Board that when he was interviewed for that report he was "guarded". Indeed it seems that much of Mr Ross' approach both to the process of preparing for this hearing, and indeed seeking parole, is coloured by his concern that upon his eventual release a substantial number of civil claims await him.
9. Against that background, the psychologist recommended:

*"that at his Parole Board hearing Mr Ross be encouraged to provide an account that can be assessed for the degree to which he takes full responsibility for his offending (as opposed to simply admitting to his actions)".*
10. Mr Ross provided at best a partial explanation for his offending to the Board. He told the Board that in 2006 an unintended computer error mistakenly but innocently overstated the value of some parts of some of his clients' portfolios. He said that when he became aware of this error, and rather than admit it, he thought he could "manage" his way

through so as to correct the error without the necessity of disclosure, either to the clients directly involved or indeed to the appropriate regulatory bodies.

11. Having initially started down that road, Mr Ross then explained that his dishonest attempt to manage and correct the error was then compounded over the months and years that followed.
12. Mr Ross maintained to the Board that the offending prior to 2006, as identified both by the charges to which he pleaded guilty, and as identified and described by the sentencing Judge was in fact not of any real substance. Furthermore, he explained that because of his own pre-existing and substantial personal financial resources, he did not need, take or accumulate any cash as a result of his offending. When specifically asked, he denied the existence of any concealed fund to which he might have access following his release from prison, despite the scale, complexity, duration and effect of the offending.

In that respect, the Board simply notes, first, the psychologist's assessment that throughout his offending Mr Ross:

*“appeared able to deceive without apparent anxiety, maintained by the misguided and grandiose belief in his own abilities”.*

Secondly, the Board also notes that assessment echoes the sentencing Judge's earlier assessment that:

*“the cold, hard, reality is that you were a liar and a thief operating on a scale unprecedented in this country”.*

13. Mr Kilbride stressed the assessment by the psychologist in her report that Mr Ross was at low risk of further offending, submitting to the Board that the fundamental statutory test is met by Mr Ross, so that he could and should be released on parole.

## **Decision**

14. But low risk is not undue risk. The unprecedented and enormous scale of Mr Ross' persistent offending, and the devastating effect it had on his many hundreds of victims (which, as noted by the sentencing Judge, ranged from middle-aged to people in their 80s and included the disabled, the frail and the ill), taken together with the extent of and complexity of Mr Ross lies and dishonesty, compel this Board to the conclusion - despite Mr Kilbride's submissions - that the proposed parole conditions are insufficient to manage Mr Ross' level of risk to the safety of the community whilst on parole. There is no sure foundation upon which the Board could conclude that the same factors which enabled Mr Ross to lie, deceive and steal so comprehensively and for so long, throughout his years of offending, are not still present to an undue level.

15. In the Board's view that undue risk cannot properly be managed or mitigated by the proposed parole conditions because, despite the professed obstacles to any future offending, Mr Ross' proven ability to identify further victims and deceive them essentially remains unchanged.

**Result**

16. Accordingly, parole is declined. Mr Ross will be seen by the Board again in 12 months' time, and by 31 March 2020 in any event.

Judge A Tompkins  
Panel Convenor