

# The Rebuilding of a Life after Jail Time for Fraud

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## **Cover Page Footnote**

We would like to thank the three anonymous reviewers, the Editor, and participants at a research seminar held at University of Southern Queensland (Toowoomba) for helpful and constructive feedback.



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Joseph Lam<sup>1</sup> , Kieran James<sup>2</sup> and Jenny Kwai-Sim Leung<sup>3</sup>

## Abstract

After a brief introduction from the second-mentioned author, which sets the scene for the story as Cabramatta and environs in Sydney's outer south-western suburbs, the first-mentioned author takes over and gives readers his life story beginning with his family fleeing the Communists in South Vietnam, moving on to his days in his twenties running his own accounting firm in western Sydney to tax frauds, court case, and jail time. He moves on to explain how he began a conscious strategy to re-create his life existentially by studying MBA in prison. The first-mentioned author concludes with an important personal message, borne out of his own personal life experiences, to readers of the journal followed by some reflection from the second-mentioned author. This article will be of interest to accounting students, accounting educators, and any young (or not so young) accounting professionals under temptation to commit fraud to make a quick dollar. Sartrean existentialism and Marxist-Stalinist ethics inform the analysis of the case by the second-mentioned author. The role of gambling addiction in the story is topical given Singapore's recent decision to open two new casinos, the first to open in the city-state since its 1965 independence.

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**JEL Classification:** M40

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<sup>1</sup> This is not the real name of this author. This author has consented for his story to be told but prefers his identity to remain anonymous. The sentiments and views expressed by "Joseph Lam" are not necessarily those of the other authors or of the Publisher.

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## Acknowledgements

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The sole focus of pathological gamblers is to spend as much time [as possible] purely gambling, preferably in a casino, and to raise as much money from whatever means possible – including theft – to fund that sole activity, (da Cunha 2010, p101)

### Introduction by Second Author (Kieran James, Associate Professor in Accounting)

I wait outside my budget motel for “Joseph Lam” (name changed) to come around and pick me up. This is culturally diverse, working-class, permanently depressed and yet not without a ray of hope, outer Western Sydney on a warm and sunny late summer afternoon. Cars race by on the Hume Highway, the engine roars the sounds of alienated repressed aggression. I am in suburban Casula, the real Sydney in some people’s opinion, 80 minutes by hot and decrepit train from the Harbour Bridge and Opera House and around 120 minutes and 1.5 social classes from the world famous Bondi Beach. Compared to the rest of Sydney you are aware of open spaces, plentiful trees, blue skies, and four-lane highways. Cabramatta, two stations closer to the city, is a Vietnamese town, and the broader Liverpool-Fairfield area has a large population not only from Vietnam but also from Croatia, Macedonia, Russia, and Serbia.<sup>4</sup> Wikipedia’s Cabramatta page correctly notes that: “The bustling city centre of Cabramatta could have been confused with the streets of Saigon and historic ‘Chinatown’, while the Sydney CBD appeared very Western in comparison”.<sup>5</sup> Furthermore, as Wikipedia also points out, “Cabramatta became uniquely, and infamously, known by its specialist niche reputation in the city as ‘the’ place for an authentic Asian experience”. The word “infamous” here may be a sly reference to the drug haven capital of Australia that Cabramatta became for a short period of time prior to the police effectively shutting the trade down (or perhaps in part driving it further underground) around ten years ago. Physically the major arterial roads in the Liverpool-Fairfield region are lined with tyre, pool supply and furniture warehouses; fast-food outlets; cheap motels; car dealerships; and football fields. The quieter residential backstreets in the area are characterised by unpretentious square-shaped houses on their own blocks; and red and brown brick government flats of two and three storeys built in the 1960s and 1970s. There is aggression and humility in the air here, no-one has any pretensions of greatness and no-one is permitted any. A few days here would give anyone a sense of perspective on one’s true position in the world. Joseph arrives in his car. He is very happy to tell me that he has started a new administration job at a construction company in the Cabramatta area. His bail conditions at present prevent him from working in accounting and finance but the present job touches on some accounting aspects as he is required to utilise and enhance his knowledge of Mind Your Own Business (MYOB) and Microsoft Excel software. We share dinner at a Vietnamese restaurant on the Cabramatta main strip where Joseph knows the staff who do not mind us bringing in our own beer or keeping the beer cold for us.

We spend the evening at Sydney United Sports Centre in nearby Edensor Park where local Croatians watch Croatian football (soccer) clubs Sydney United and Melbourne Knights play a pre-season friendly game. Both former National Soccer League clubs have seen better days but the crowd of 2,000 is in fine vocal form. The hardcore Sydney United hooligan firm brandishes banners written in Croatian language and in the red, blue, and white of the Croatian flag. For some of these people the Balkans War was very close to their hearts, not a foreign conflict half a world away. This is western Sydney in all its unselfconscious multicultural authenticity: we have had a Vietnamese dinner and watched Croatian football. The Russian Orthodox Church on John Street is a prominent visual landmark in the district even for those who never enter it. This is where Joseph Lam grew up, after his family arrived

<sup>4</sup> Cabramatta is located 30 kilometres south-west from Sydney city centre.

<sup>5</sup> [http://en.wikipedia.org/wiki/Cabramatta,\\_New\\_South\\_Wales](http://en.wikipedia.org/wiki/Cabramatta,_New_South_Wales) [accessed 22 February 2010].

as refugees from South Vietnam when he was six-years-old. Context is always important and Cabramatta is the area that shaped Joseph both as a human being and as an accountant. Without aiming to excuse any of his behaviours, growing up here gave Joseph a self-assured charm, a determination to persevere in all things, and access to ethnic community small businesses that would make up the bulk of his 1,500 tax and accounting clients over the period 1994 to 2005. Joseph is qualified as an accountant; operated his own small public accounting practice firm for more than several years in “Paraville” [location of business premises changed] in Sydney’s west; and was recently released from jail after serving three years for accounting and tax frauds. Surviving and prospering in western Sydney, let alone in a western Sydney jail, is not for the faint-hearted and Joseph has proved himself to be a survivor.

As we depart after the football game Joseph agrees to meet me in local pubs on the coming Monday and Tuesday evenings for detailed interviews.<sup>6</sup> This story, based on those 4.5 hours of interview sessions, begins with 36-year-old Joseph’s childhood in South Vietnam; takes us through his heady days as the owner of a small public accounting practice in “Paraville”; continues on to his court case and jail time; and discusses his desire, in the terminology of the French existentialist philosopher Jean-Paul Sartre (2003, 2007), to re-create his own life in jail through beginning MBA studies. Joseph’s story appears verbatim, in his own words, in Section 2 of this paper. I have done no editing apart from in the few places where my notes were inadequate or where the wording needed further clarification. All footnotes and explanatory additions within square brackets in Section 2 of the paper were prepared by me, the second-mentioned author.

As Joseph first forged his values authentically as a teenager in the (then) drug haven of Vietnamese-Chinese Cabramatta, his recent jail time and MBA studies have been used by him to create a more authentic and durable self-identity and set of values not built exclusively around making a fast dollar or feeding an addiction. The major setback in his life has served as a “negative dialectic” in the manner of the writings of the Frankfurt School philosopher Theodor W. Adorno (1990), i.e. as a catalyst to engender and empower more authentic and sustainable self-development and progress. We can view Joseph’s story in terms of the “thesis-antithesis-synthesis” model of Karl Marx and Friedrich Engels’ theory of “dialectical materialism” with the “thesis” being his successful years as an accountant owner-operator, the “antithesis” being his jail time, and the “synthesis” being his efforts in jail and today to rebuild his life based around a new set of values.<sup>7</sup> The first-mentioned author’s Section 2 concludes with his personal message to accounting students and practitioners who might be tempted to commit fraudulent acts, now or in the future, in order to gain access to some fast money. After Joseph’s Section 2, I (the second-mentioned author) return in Section 3 of the paper to offer some final personal reflections upon Joseph’s case.

Where do I fit into this story? From May to August of 2006 I was Joseph’s MBA lecturer in introductory accounting and finance when I was working at Charles Sturt University in Wagga Wagga in New South Wales (Australia). I would occasionally talk, for short periods of time each session, with Joseph by phone and e-mail during those tumultuous times in his life spent inside jail.<sup>8</sup> My purpose in presenting this case narrative, in conjunction

<sup>6</sup> Interviews were held on 1<sup>st</sup> and 2<sup>nd</sup> February 2010 in the following locations: (a) the Fairfield RSL Club in Anzac Avenue in Fairfield, western Sydney; (b) the Stardust Hotel in Broomfield Street in Cabramatta; and (c) the Phounguen Laotian/Thai Restaurant in Cabramatta Road East in Cabramatta.

<sup>7</sup> Regarding the theory of “dialectical materialism”, see Althusser (2006, 2007, 2008), Cooper et al. (2005), Marx (1976a, 1976b, pp.100-103), Tinker (2001, 2005), Tinker and Gray (2003), and Tinker, Lehman and Neimark(1991).

<sup>8</sup> All phone calls made from NSW jails are limited to six minutes and are monitored and recorded. In regards to e-mails, inmates are not allowed to use computers unsupervised and all e-mails are done (written) by Educational Officer(s) and/or approved by the Senior Corrective Officer. With the support of the Educational

with Joseph, is that I perceive that Joseph's case is a self-contained "moral message" (as opposed to a moralistic message) which presents a social-realist story that readers, especially accounting students and lecturers, will be able to relate to and learn from. This is in the manner of "moral messages" contained within classic Russian short stories by Count Leo Tolstoy (1983a, 1983b, 2008) such as *The Kreutzer Sonata*, *The Devil*, and *The Death of Ivan Ilyich*. I think our use of the existentialism of Jean-Paul Sartre (2003, 2007) and Marxist-Stalinist ethics (see later discussion in Section 3) prevents the story coming across as moralistic preaching or as a condemnation of Joseph. Joseph has placed his trust in me not to distort the story and not to condemn him publicly or doubt his ability and willingness to re-create himself in the Sartrean existential sense. It is now up to him to rebuild his life. Please bring your beer to our table at the Fairfield RSL Club and join us for Joseph's story.

### "Joseph Lam's" Story as Told to the Second-Mentioned Author

#### *Early Times in Vietnam and En Route to Australia via Hong Kong*

Hi, I'm Joseph Lam. I'm [ethnic] Chinese, born in Vietnam, so I am Vietnamese-Chinese, with Chinese grandparents who immigrated to Vietnam when they were [both] around thirteen years old due to famine. They were from Guangzhou. My parents were born in Vietnam in the late-1920s. They survived the World War II Japanese Occupation. I was born during the Vietnam War. At that time it was the peak of the war. There were many kidnappings of young children, midnight curfews, and military soldiers and tanks on the streets. The Viet Cong or Communists, also known formally as North Vietnam during the war, it's like a parade; they executed many South Vietnamese soldiers and civilians who they suspected as traitors against the Communist regime. The Communists thought that whoever co-operated with the Americans in the past deserved harsh punishment. I still remember "kindy" [kindergarten] and year 1 and year 2. I survived year 1 but year 2 not really. At that time the Communists took over South Vietnam, 30 April 1975. My dad and mom went to jail simply because we were trying to escape from the Communist regime. I didn't know anything about this. People's assets were frozen first by the Communists and then those people considered to be the most dangerous to the regime, such as the upper middle and upper classes, the rich people, and those related to the former authorities, were put in jail and forced to do hard labour work such as rebuilding the infrastructures of the war torn country of Vietnam. My mom and dad together with my uncle (dad's brother) and aunty bought two boats; it was supposed to be a family escape thing. Then my mum and dad got caught, someone dobbed them in; they were surrounded by soldiers and police; my dad went to jail for two years and my uncle went to jail for one year.<sup>9</sup> One year after the Communist takeover they [my parents] tried to find somewhere to escape to. They did not want to remain in South Vietnam under the Communist regime. In 1976 they bought the boat. My mom went in and out of jail three times. We were under house arrest, our whole family. We constantly had to ask our relatives for help. We were woken up and told [that] we were going to our cousins' house to sleep. Every time we went in and out of our house our bags were searched, just like Aung San Suu Kyi.<sup>10</sup> We came from a moderately wealthy family; we had two houses in two buildings in different locations with six levels. My dad had worked very hard to build up his businesses from nothing and to achieve his status of the time. My grandparents and my dad

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Officer the inmate may be able to hand-write an e-mail and ask the Educational Officer to type it in to the computer and send it as an e-mail.

<sup>9</sup> To "dob in" is Australian slang for "informed on" as in informing the authorities.

<sup>10</sup> This is a reference to the dissident Burmese politician, Aung San Suu Kyi, now released from house arrest in Burma.

and his younger brother and four younger sisters were very poor after World War II. My dad had only two years of schooling in his whole life. He had to sell fried peanuts on streets to support his younger brother and sisters. My dad's businesses involved manufacturing of cotton, plastic containers, incense coil for insect, mothball making, and retail selling of Western household products (mainly American products). Overnight, on the 30<sup>th</sup> April 1975, the Communists took everything and his dream was crushed. The Communist Government later on converted our house into a court.<sup>11</sup>

In 1978, late 1978, I still remember it was towards Christmas, the monsoon period, we left, my two brothers, my two sisters, my grandmother, my uncle, my aunty, my three cousins, eleven of us including me. We left Vietnam, Saigon, in December of 1978. I remember it wasn't long before we reached Hong Kong. It was a cargo boat, 3,400 plus [people] on a steel boat from [made in] Taiwan. I was six [years old], we were one of the first to arrive in Hong Kong and were known as the "boat people". We were squeezed together right at flag pole at the back of the boat. Our bodies would be touching each other with, literally, no room for movements. During the monsoons all the water splashed up, that was a tough time. It took five days to get to Hong Kong and for one month we had to stay in the water. The Hong Kong Government did not recognise us as refugees, but the Hong Kong Government had no choice as Hong Kong was a British Colony at that time so we had to be let in. We stayed in Hong Kong for one year in a refugee camp in Kowloon. Our family made three separate trips; my first two older brothers had left for Thailand first in 1976. They [left early because] they were to be compulsorily entered into the military at age sixteen. Then my dad had to wait for my mom to come out of jail. We all reunited in Australia, in Sydney, our group arrived on 7 November of 1979. I have been in Australia just on 30 years.

When we came to Australia we settled in Cabramatta immediately. We were allocated to a hostel for one month; my mom and dad stayed in Westbridge Hostel.<sup>12</sup> The Government let you stay there as long as you wanted and gave you food, clothing and enough welfare money for my mom and dad to seek employment. Not long after that my mom and dad set up a clothing manufacturing business. They started in 1980-81 in Canley Vale.<sup>13</sup> We lived in Gladstone Street, Cabramatta, 1980-87, in a small three bed unit, townhouse, and eleven people in our family. When I first got here I hadn't seen my mom and dad for three years, they were in jail in Vietnam. All I remember is that he [my dad] said to me always in Vietnam: "Put more effort into studying, study hard, son". To me I didn't know anything. When I came to Australia I was very young, it was exciting and [I was] full of curiosity about this new western country. I was too young to know anything. I didn't know I would grow up here. There was a lot of uncertainty. I didn't speak one word of English.

*University Years at University X, the Accounting Firm in "Parraville", Gambling, Tax Fraud, Nightlife and a Life Spiralling out of Control*

When I went to university I met a lot of international students. I attended University X<sup>14</sup>, Bachelor of Commerce, majoring in accounting and finance. I enjoyed the study but my regret is [that] in high school I did not pay much attention to English. At University X, I

<sup>11</sup> The Lams' former family residence remains a court building to this day in Ho Chi Minh City (Saigon). Joseph's 80-year-old father still today shows photos of the courthouse and his former shop to anyone who comes to visit the family home in Sussex Street, Cabramatta. He still tells visitors about his businesses being taken by the Communists. This is not to suggest that the family has not moved on. Graduation pictures of the now adult children, including Joseph, also adorn the living room walls.

<sup>12</sup> Westbridge Hostel is currently known as Villawood Detention Centre and refugees are currently housed there.

<sup>13</sup> Canley Vale is the suburb immediately adjoining Cabramatta to the east and is one railway stop closer to the city centre.

<sup>14</sup> To protect Joseph's identity, we have not named the university that he attended.

failed three subjects. “Dr. Worthington” [name changed], he’s the one who failed me in *Introduction to Australian Business Environment*. He said I should go and have English lessons. I felt quite crap [as a result of this]. I had thought my English was okay, but he was right. I only failed by three marks or something. I did finish all my subjects on time. I was a very popular student at uni, one of the most popular among my group. We went to national parks for barbecues, frequent gathering for lunches of yum cha and dinners. Uni was such good lifestyle and I took education for granted and I didn’t have any worries in the world except to complete my degree on time. We had a group of around 20 of us, we went regularly out, and we were a mix of locals and international students. I went through it [my degree course] in three years, on time, 1989-91. I graduated in 1992.

I came out to work in 1992, a bad year to come out; it was one of the worst recessions in Australia. Australia hit 11.6% unemployment rate under Keating.<sup>15</sup> He said that it was the recession we had to have.<sup>16</sup> I came out [as in he came out of university]. I started working in 1992 in this stingy public accountant firm in Campbelltown.<sup>17</sup> There was only me and the boss. I was there for one year. Since I graduated I have mainly worked in CPA/CA firms specialising in taxation.

When I started work at restaurants [during high school years] I was saving some money. I got into gambling when I was young, twelve or thirteen. In Cabramatta, back then, there was no gambling age limit [i.e. no age limit policed effectively]. Illegal gambling dens would give you two dollars of pocket money in a red packet then you could go in and start to play. These Vietnamese and Chinese gambling dens operated on commercial shopping premises; they would pay off the coppers [police]. In 1996 there was a Police Royal Commission headed by Justice James Wood, and also one prior to that, on the New South Wales police.<sup>18</sup>

I was sucked into it, I gambled through my younger life, and through my uni life on a ‘social level’. Once I started working as an accountant and including setting up my own small accountant practice firm, I did not gamble at all as I was too busy working about twelve hours a day, seven days a week during the peak tax season almost every day throughout the year. I was working upstairs in Burwood [inner western Sydney] in 1993. Later I started my own accountant firm because I saw there was a huge opportunity. [In the Burwood arrangement in 1993] it was a partnership; I was working for him on commission during 1993. I was like a silent partner, he paid me AUD50,000; I contributed no capital. I was a very ambitious individual, the accounting practice grew rapidly and for me it was not enough. As I made more money, I was spending more; it was like a vacuum.

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<sup>15</sup> This is a reference to the Australian Labour Party’s Mr Paul Keating, Federal Treasurer in the Hawke Government from 1983 to 1990 and then the Prime Minister of Australia from 1991 to 1996. According to Australian Bureau of Statistics (1992), as at November 1992 the official unemployment rate was 11.5% for all persons and 11.6% for persons aged from 15-64 so Joseph’s quotation of the 11.6% rate is accurate.

<sup>16</sup> This statement was actually made by Mr Keating on 29 November 1990 during the Australian recession of 1989 to 1992 [see the Paul Keating – Chronology page at AustralianPolitics.com, <http://www.australianpolitics.com/executive/keating/keating-chronology.shtml>, accessed 22 February 2010].

<sup>17</sup> Campbelltown is an outer south-western suburb of Liverpool located 51 kilometres from the Sydney city centre. As many people living in that part of Sydney would know, trains on the Inner West line depart from Platform 19 in Central Station, passing through Cabramatta Station 59 minutes later, en route to their final destination at Campbelltown. There are stories that Macquarie Fields Station on the Inner West line is haunted by a moaning teenage girl who can be seen late at night walking around and sitting by herself on the platform benches (Australian Ghosthunters & Paranormal Investigators, 2010). It appears that life in western Sydney is an eternal struggle with even death not always providing the hoped-for relief.

<sup>18</sup> The Independent Commission Against Corruption (in the New South Wales Police Force) was headed by Ian Temby QC. This preceded the Wood Royal Commission. “Volume 1: Corruption” of the Wood Royal Commission Report is available online at: <http://archives.hempembassy.net/hempe/resources/VOLUME1.pdf> [accessed 17 May 2010].



Back then it only cost AUD10,000 to set up a CPA firm. You just needed computer, desk, taxation software, rental and small overhead cost – the potential was huge, I could still do it [nearly this cheaply] now. In 1994 [after starting my own accounting firm] there was work pressure, I was working seven days a week. I had set up my own firm, Lam and Associates [name changed] in Church Street, “Paraville” [location changed]. The clients were mixed.<sup>19</sup> From 1994 to 2001, I built up around 1,500 clients. I am very, very good at doing this. My biggest downfall was gambling and the nightlife.

On New Year’s Eve two months ago [Joseph now leaps in time forward to the present] I joined this club [Fairfield RSL Club, home to a huge poker machine area]. There’s no desire [to gamble], there’s no thrill, because I’ve been to hell and back. Back then it’s when I had the power and the authority and the control of finances [to become an addictive gambler together with nightlife and the continual income stream to feed the habit]. As we Chinese say, if you’ve seen ghosts you are [now] scared of the dark.

I started gambling when I was twelve. I took it more seriously [towards the end of the period running the “Paraville” firm]. Some gambling clients and the nightlife people fed me information about the ‘dark side’ of accounting, of tax, of trust accounts. It opened my mind to this ‘bad and evil’ corruption world because once you start to dig your own hole it gets bigger, bigger and bigger until you cannot cover or fill it back. I am telling you this because I have learned my lesson. I’ve seen the ‘dark side’. Back then the Tax Office was asleep, they had no MIS, matching information system, and they did not link up with Centrelink [Australian federal government agency that administers and pays welfare benefits] or anywhere then. You could do fraud left, right and centre, even asleep. We are talking about a lot of money here. There weren’t any identity checks on individuals, you could ring up the ATO and pretend to be someone else and get very useful personal information on other people. For example, a clothing manufacturer, my client, came and taught me and said “my firm turned over three million, I have made AUD750,000 profit, I don’t want to pay tax”. There are three types of clients [ethnic groups in western Sydney] that are notorious: X, Y [and] Z.<sup>20</sup> I’m not saying [that] any of these is the worst but some of my clients were very bad [ethically]. Some X group people don’t give a damn about [paying] tax at all. I’m quite fair when it comes to paying tax to the government but some [clients] would turn around and say to me “Joseph, look, I will teach you what to do. I will write a check for AUD15,000; just give it back in cash”. Back then there was no RPS, Reportable Payment System, GST, no ABN requirement only ACN is required and many more. In 1997-98 the ATO [Australian Taxation Office] introduced this and then gradually went to ABN [Australian Business Number]. Basically the Australian Taxation System is very complicated [so] that [even] the ATO itself cannot sort out their own mess. They say we will simplify the tax system. It went from Hawke to Keating, then to Howard and to Rudd and currently awaiting for the Henry Tax Review [as at the date of our interviews, February 2010].

There was a case, Fashion Company X [name changed]. The mother and two sons were slogged big time. What they did was similar to what I did, one section of it. Millions of dollars of taxes were owed. My frauds continued on in the period 1994 to 1997. The clothing manufacturer, to continue the example, writes a check AUD20k payable to ABC Fashions [fictitious company]. So you [the accountant] set up a false company name under ABC Fashions then you give them, less 8% commission, AUD18,400 [cash].<sup>21</sup> You deposit the check, clear it after three days, then give them back AUD18,400 (less the 8%). Every day I was carrying AUD50 thousand, they don’t pay tax on the AUD20 thousand, they get a

<sup>19</sup> The reference “mixed” here probably refers to both ethnicity and line of business.

<sup>20</sup> The reference here is to three specific ethnic groups but the ethnic groups have been removed, at the suggestion of an anonymous reviewer, so that the paper does not cause offence to any reader.

<sup>21</sup> Even today Joseph does not need a calculator to tell you that 92% of 20,000 equals 18,400!

business deduction on the AUD20 thousand, and they can pay the workers AUD5 to AUD7 per hour cash from this money.<sup>22</sup> The whole thing is a scam and the ‘black economy’ gets bigger and bigger as the ATO is asleep. To give a more complete example: Client X, annual turnover AUD3 million, gross profit AUD750,000, company tax at tax rate > 30%, say 33%, nominal tax AUD250,000. Net income after tax should be AUD500,000. Instead of paying tax they will write out many, many checks to ABC Fashions, XYZ Fashions, etc. [i.e. all fictitious companies] for the AUD250,000 before the 30<sup>th</sup> June financial year ends. Back then there was no checking [by the ATO]. All checking was based on check butts. So [the writing of checks continues until] net profit equals AUD10 thousand (say), [you] pay tax on the AUD10 thousand. I helped them do this, charging 8% commission [on each check]. I did around AUD10 million of transactions, that is AUD800 thousand commissions. That’s only one way [to make money through assisting client frauds], the simplest way. There are around four other ways. It’s still possible to cheat the Tax Office now [today] but it’s much harder.

If you come from a violent Third World country [to Australia] you don’t give a damn about the tax<sup>23</sup> especially the X ethnic group. Do you remember how they [the ethnic criminal gangs] punish the subordinates in King’s Cross?<sup>24</sup> They smash a chair over a kneeling man’s head. The police have cleared out many dirty things [in Sydney]. X and Y are not so bad; W and Z do not want to pay one cent of tax or they will go elsewhere [to another accounting firm]. I was quite aggressive at that time. I helped these non-compliance tax payers to get through the tax system. I was digging my own hole deeper and deeper to feed my gambling addiction and the nightlife. What I am doing now [telling my story] is invaluable to the society as I can act as a mentor [to university students and young accountants facing ethical pressures].

It’s a disease [the urge to gamble] that grows inside of you; it is an urge – like a cancer keep on growing and growing. If a gambler is going through this process [feeding and succumbing to the urges] and I tell him to stop and please do not go [gambling], it is very hard for this gambler to understand me and in his/her mind is an obsession for gambling. There is one method to go around him/her and tell him/her in a different way [i.e. hearing personal stories of former gamblers such as this one]. I have been hitting walls in a bouncy castle, I relapse, I can’t get out, and I’ve tried many ways. I’ve made AUD8 million. I’ve lost AUD7.8 [million], the rest sort of evaporated. I have nothing now but I’m still young and have potentials as I have my MBA. I have opened my eyes, I have opened my mind. [My approach now is to] go to the people who I think can’t disappoint me, can help me. I go to them directly. I want to see who my genuine friends are and who are not during this lowest and most difficult time of my life. To find out this information from your friends are invaluable as human have ‘blind spot’, everybody have ‘blind spot’. Some people pretend very well, to become a very good friend to you but in reality can be your worst and most dangerous enemy in your life. I’m very lucky [to come out of this unscathed except

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<sup>22</sup> This hourly rate, of course, excludes payments for overtime and superannuation and is well below the minimum hourly wage rate enshrined in Australian law.

<sup>23</sup> The implication here is that these people are so concerned with mere survival in brutal countries that tax payments are seen as an academic nicety regarded as dispensable especially so as the Tax Office is perceived to be far away, foreign, and benign. There is a Chinese saying that the country is hilly and the Emperor is far away. We might also say that Jean-Jacques Rousseau’s concept of the “social contract”, where tax is paid to provide public goods as part of the social contract between citizens and the state, is a product of the Western European Enlightenment and basically not appreciated in the same way in the murkiest parts of the business world. These are Joseph’s perceptions and we leave them here although some might view them as non-PC.

<sup>24</sup> King’s Cross is a traditional red-light and entertainment precinct in the inner eastern suburbs of Sydney. It is allegedly controlled by ethnic gangs. Many see “the Cross”, as it is known, as having had its most vibrant days back in the 1970s and 1980s. The 2010 Channel Nine TV series *Underbelly: the Golden Mile* documents most vividly the violent and seedy life of the Cross during the era 1988-99.

financially]. I think this is the biggest lesson in my life so far, it's huge. My biggest problem was gambling and the nightlife. It took me so long to get out of this. Without gambling I would have had no major problems in my career. I was a time bomb waiting to explode. I have not touched "pokies" [poker machine] gambling for a long time. On parole [from jail] they kept hounding me about my gambling habit? "Are you still gambling? Are you still gambling?" I've seen so many counsellors. They say [that] "you don't have a problem, Joseph, full-stop". But they [the parole officers] don't believe it and I have to do it [counselling] again.

Basically, the banking system back in the 1990s, the ATO back in the 1990s, the relevant authority ASIC [Australian Securities and Investment Commission] as well, it was called ASC back then, ASC was pathetic, literally. They did not have an MIS, matching information system and the identity checks. They [the various authorities] did not talk to each other, Immigration, Tax Office, banking, ASIC, Customs. They did not have a matching system; it was a paradise for fraud. This was back in the early 1990s [up] to 1998.

Under the Prescribed Payment System or PPS, for contractors and subcontractors, you paid 20% of your [declared] income. ATO didn't liaise with Customs which didn't liaise with Immigration or the banks. There are people that have done it big time. The only reason I did this was to feed my gambling habit and the nightlife. But it's like a spell. You don't want to listen to anyone. I was running this [accounting] practice of mine during the peak tax season seven days a week, literally twelve hours a day, running a one-man show with one secretary. There was pressure, stress, and deadlines. I eventually collapsed. The way I relieved my pressure was through gambling and meeting people in nightlife.

From 1999 to 2005, I started to gamble very heavily there, my life was in a mess. It was like going through hell, on one side you wanted it to stop, but the other side of you lets it continue. From 1994 to 2000 I didn't go into it [gambling] heavily because I wasn't greedy. My nature was: 'why do I need to do it [fraud] if I don't need it [gambling money]'. In 2000 I was in disarray, lost, lonely, confused, and uncertain. Gambling is a disease; it's an attraction, power, being on top of the world. All these casinos give you benefits, five-star hotel, limousine, flights to all around Australia, entertainment etc. to entice you. Once you win you are OK but once you lose it is the bitterest pill to swallow in the whole world.

*Return to Sydney, Nightlife Continues, Collapse of the "Paraville" Accounting Practice, and Gambling Addiction Worsens*

I will tell you the mind of a gambler. I understand the [mental] process because I have been through it. I consider myself very lucky because I went to jail and did my MBA. Name anyone in this world who fell into a s\*\*\*hole and came out with a gold chain, an MBA. In New South Wales I could be the first or second. I know some who did their Masters but to get through the system it is so tough. It depends on whether the Education Officer is willing to do it for you; [whether the Officer] ... understands. I [later] met "Mary Baxter" [Educational Officer, Correctional Centre Y, name changed].

In gambling you cannot chase the money you have lost. Why do you think casinos around the world don't close [the intended meaning here is "go out of business"] except in a recession era? The way they make money is that they look for people like me. But for me to get money in a short period of time I had to commit more fraud and there is a way to access it. This is one of the ways [i.e. tax fraud].

If you can break the law [without being caught] 1,000 times all you need is one mistake. Among 1,000 times we are talking about 0.1 percent, or if 10,000 times then 0.01 percent. One mistake and that is it; it can land you in hot water. I have known people inside

[prison] who did fifteen, eighteen or twenty years of drug runs, many times over 200 or 300 times. All they needed was one little hiccup and they were gone.

I have stopped gambling. The disease is gambling. If you take gambling out of my life everything is [Joseph searches for the right word here and you feel that the two he chooses do not fully capture the intended meaning] successful, easygoing. Gambling is as bad as drugs and paedophilia. It is a big social problem; a huge social problem in our society. Why? Because, being a human, once you step into that gambling territory your mind is not as strong as a computer or machine to say “stop”.<sup>25</sup> I hung around with a lot of bad gamblers and nightlife people at that time. You would see me at the casino three days a week or five days a week, during working hours. I was running the business diverting my calls over to the mobile. Between 2000 and 2003 it was like stepping into very dangerous territory. To feed my habit, and the nightlife habit, I had to step up the tax fraud. It is like digging the hole deeper and deeper. I would have engaged in 500, 1,000 or 2,000 frauds; millions of dollars were involved. All I had was a good time but there was no control; it just gets bigger and bigger until you get caught and it becomes a lonely world inside you.

*Police Undercover Surveillance Operation, Comments on the Legal System, Jail Time, and MBA Studies*

I could tell that the authorities were on to me, Tax Office, Police, Immigration, Customs, Federal Government, Federal Police, State Police, you name it. I had a brief of 34-36 foolscap volumes [kept about me by the police]. There were around 80 authorities working on my case for 1.5 years. My whole objective of [participating in] this whole research is [to communicate that] I have changed. I built up 1,500 clients. I was very successful until I gambled very heavily.

At that time I lost my mind, I was losing my mind; my gambling got heavier and heavier, like a cat and mouse game. All you need is one mistake; that is what I have learned in my life. One mistake out of 1,000 transactions and then you are gone. I was under surveillance for five to six months [when I was] living in Cabramatta. I had a bit of money. One thing I know is that lawyers, solicitors, and barristers are as bad as corrupt coppers; they have their way out of things but when it gets too serious they suck your blood so badly that you are dry, like Dracula until the day that you drop.<sup>26</sup> Once you are on the other side of the fence [being pursued by the authorities], when you are about to go down but when you still have money, say AUD500 thousand, they can see that [i.e. they can see your financial position]. They are so calculative that they think “this is a big fish, this is a big turtle”, they will drag out the court case on and on for years to suck your [financial] blood just like a dragon. They suck your blood until you are dry and then – this is what is so interesting – when you cannot pay them anymore they literally treat you like a prostitute as in “f\*\*\* off”. If you want them to continue their “expert” services [the word “expert” is used in a sarcastic manner here] you have got to keep it up, you have got to do more fraud; that is the name of the game. Once you are in trouble you can get bail but you need AUD5 to 20 thousand. The barrister or solicitor has good contacts with the magistrate and can get you bail. Bail is what you want, that is how the society works. The barrister charges AUD5 thousand per day or

<sup>25</sup> A Marxist critique here would point to the western Sydney poker machine rooms in working-class hotels and pubs being, literally, human being versus machine with the machine programmed to serve the profit-maximising agendas of capitalists close to 24 hours a day (the massive Fairfield RSL Club in fact closes for four hours each night) without fatigue, doubt, confusion or regret.

<sup>26</sup> The discussion on this issue in this paragraph is reminiscent of French philosopher Michel Foucault’s (1977) theory of the nature of surveillance and control in modern institutions in his book *Discipline and Punish*. Of course that theoretical framework applies well to the prison system also.

AUD50 thousand for two weeks. But if the court does not go ahead in those two weeks ... they do not do service unless money is transferred to their account before it is rendered. Their typical phrase is “I allocated my time for you; if it does not go ahead I still need payment”. How many times did I go through that? Many times I asked a barrister to represent me but the trial could not go ahead. Of course I could not get a refund. He allocated his time for me.

The police caught on to me. They charged with me with 100 plus charges after six months of surveillance. They said “we know what you did, over 100 charges. You can fight the charges, whatever you want”. I was under Section 12 and Section 9 bond and unable to get bail unless I went to the Supreme Court [of New South Wales]. A Section 12 bond is for suspended sentence and a Section 9 bond is a good behaviour bond. I was on both. It was all leading up to the big charge, starting small. It was me digging my hole bigger and bigger until there was no point of return. I am the perfect person [now] to be a gambling counsellor or even a life experience counsellor.

First I went to MRRC or Metropolitan Reception Remand Centre; that is the maximum security. When I first got there I was freaked out because I did not know I would be held with the hardcore criminal people looking at five years and above. They have a classification: AA is Maximum Security, followed by A, B, and then C. I was C classification meaning white-collar crime. I was kept there for three months at MRRC and then they had to move me to Correctional Centre Y [name of prison changed]. I was there for one year and nine months. I was sharing with other inmates. Most times I had a lot of problems with cell mates as most were druggies. I shared with as many as fifteen to twenty “cellies” [cellmates] in my time there.

When I first got there I met Mary Baxter [Educational Officer, name changed]. She helped me to apply for MBA. It is up to the [discretion of] the Educational Officer whether they will apply for you. If she or he is unwilling, then there is no point to go ahead. In around November or December of 2005 she applied for me but I did not start until May 2006. It was a nightmare to apply for [sitting] the exam. It was waiting and waiting. You have no-one to speak to, literally, [you are] shut out from the world. The only communication line was through Mary Baxter; she was the only link to the outside world for education. It took me about six months to apply. I applied in November so I missed the February start. I started in May 2006 through to August 2006, my first trimester. When it first started it was exciting. I was a bit nervous as I hadn't studied for ten years. I was bored; I wanted to make my time useful. In my time inside something had woke me up. I couldn't gamble or drink. Every day I had routine of wake up, athletics, etc. I read Clinton *My Life* [and] Mandela *Long Walk to Freedom*. He [Nelson Mandela] was locked away for 27 years.<sup>27</sup> So this inspired me, reading this book. I also read *Snapshots from Hell: the Making of an MBA* [by Peter Robinson].<sup>28</sup> These two books [*Long Walk to Freedom* and *Snapshots from Hell*] inspired me. I read Reagan as well, Nixon, JFK, and *The Encyclopaedia of American History*, big huge book; I didn't finish it though. I spent a lot of time reading, first time in my life. Why? You have all the time in the world, locked up seventeen hours per day.

The prison is just awful. The “screws” [prison officers – amongst inmates we call prison officers as screws] are so uneducated. They have no idea what an MBA is. When I started my MBA exam one time I needed permission [to get back into the cell area]. I said

<sup>27</sup> The Amazon.com link for *Long Walk to Freedom* is as follows: [http://www.amazon.com/Long-Walk-Freedom-Autobiography-Connections/dp/0030565812/ref=sr\\_1\\_1?ie=UTF8&s=books&qid=1272342215&sr=1-1](http://www.amazon.com/Long-Walk-Freedom-Autobiography-Connections/dp/0030565812/ref=sr_1_1?ie=UTF8&s=books&qid=1272342215&sr=1-1) [accessed 27 April 2010].

<sup>28</sup> The Amazon.com link for *Snapshots from Hell: the Making of an MBA* is as follows: [http://www.amazon.com/Snapshots-Hell-Making-Peter-Robinson/dp/0446671177/ref=sr\\_1\\_2?ie=UTF8&s=books&qid=1272342325&sr=1-2](http://www.amazon.com/Snapshots-Hell-Making-Peter-Robinson/dp/0446671177/ref=sr_1_2?ie=UTF8&s=books&qid=1272342325&sr=1-2) [accessed 27 April 2010].

“Chief [inmates address prison officer as chief], I’m late, I need to go back inside my cell; I just finished my MBA exam”.<sup>29</sup> The Chief said: “What’s that?” I replied “MBA”. He said: “I’ve done that before”. It’s literally like [me] talking to a little boy. All my assignments had to be handwritten. The computer access is so limited, two hours per week and no internet.<sup>30</sup> All I can rely on is MB [Mary Baxter], my Education Officer, to copy-paste my [incoming] e-mails on to Microsoft Word and print them out. I used to enjoy my class colleagues’ e-mails [probably Study Desk Subject Forum online postings] talking amongst themselves. Some say: “Hello, I’m from Finland, Denmark, Canada, Fiji, Hong Kong, Singapore, USA, etc.”

Correctional Centre Y [similar to the jail immortalised in the masterful Cold Chisel song “Four Walls”] is old and filthy. At one time it was 46 degrees [Celsius] outside and 60 degrees inside. It’s so inhumane. We have a big sandstone cell with a window one foot by three foot, with barbed wire in between big thick bars. Probably the worst time in my life was in Correctional Centre Y for one and three-quarter years. When I was there the MBA kept me going because I was busy studying.

### *Plea Bargaining, Court Case and Police Decision not to Appeal*

So the coppers’ strategy was to keep me on remand as long as they could. Normally you get sentenced within six months but, no, they dragged it on. They interviewed me five times over two years. They harassed and intimidated me. They said: “We can press more charges; we know what you did”. They don’t physically hit you but if it was a normal person [being questioned] they would break down and cry, lose it, and give up everything. But I held up under it. First I had 30 charges, and then it ended up as 110 or something. I said “I will not plead guilty” and hence I was kept waiting and waiting. The good thing is I was doing my MBA so I didn’t care how long it took. I was studying. When I was studying I didn’t really think about my court case. It [studying] got my mind away from my court case. They kept changing the goal posts when I was on remand. I had to go to court at least seven times before I got sentenced. What I learned was that, in the Westminster System, if you are rich you can defend yourself and you can get the best barrister. If your family has power, not just money, they will do it [defend you] very rigorously and strenuously for you. If you are no-one, but with one million dollars in your bank account, it will dry up in two or three years. You have to have money, power, and connections to get a [good] result. That’s how I see this Westminster system of ours. Why? Because the DPP [Director of Public Prosecutions], prosecutor, and police have an unlimited budget to fight you; when you don’t have the money to back you up that’s it. If you look at the Asian system people [here] say “corrupt, corrupt, corrupt” but what about Australia? Where is the real corruption? It’s [in] how the politicians, judges, and barristers manipulate the system. Who is the judge? God is the judge. God will be the judge of everyone. He [barrister] only puts a wig on because he has been in the legal system all his life. Ultimately someone has to make the decisions. I had a very good outcome but two years on remand [before trial] was crazy. The maximum time on remand should be six months and at most one year. Why did this happen? Firstly, the coppers were playing a waiting game. Two, I was using Legal Aid; I paid very little for my lawyer. Three, I didn’t give a s\*\*\* because I was studying my MBA; I was changing myself; I was doing better for myself. It went to the stage where the judge wanted to wrap things up.

So the judge literally pushed it a bit, Mary Baxter wrote me a good reference... Kieran James (second author) wrote me a good reference, as did my friend from outside. The

<sup>29</sup> Prison officers are addressed as “Chief” by inmates within the prison but when not being specifically addressed they are referred to as “screws”.

<sup>30</sup> The second-mentioned author received handwritten assignments from Joseph when he taught Joseph’s first MBA subject, Introductory Accounting and Finance, from May to August of 2006.

judge did not pay much attention to it except for Mary Baxter's reference because she was a correctional officer. She saw me Monday to Friday where I worked at the library earning AUD45 per week. I worked in the library for over eighteen months. A guy gave me a hard time, he was a poof; he took over from Mary Baxter [as Educational Officer]; she was only acting head of education. Klaus [name changed] gave me a hard time because I was close to Mary. At the end he left. At one time he would not let me do that exam of yours [referring here to exam in Kieran James's subject that Joseph should have taken in August but which had to be postponed until November]. He offered me to take the exam back to my cell for a day but I told him [that] I refuse to cheat.

At court my lawyer said "the coppers want to negotiate. They will drop half the charges, grouping them together in Form One into seven charges, if you plead guilty". I was willing to plead guilty to 23 charges. Then later I pleaded guilty to 50 or 56 but grouped together to seven charges. Two weeks later a deal was done. There was no certainty regarding sentencing but I took a calculated risk to reduce the number of charges. It went up against Justice Cameron [name changed] who disagreed with the prosecutor's argument. He didn't take into account [much] the references other than Mary Baxter's. Based on that, he said: "Joseph has been through a lot and has tried to change through doing his education and I will give him five years top to three years bottom". The prosecution protested and pointed out how tax fraud defrauded the Commonwealth Government of Australia, [and is] considered to be the worst crime [by the police for that reason]. They argued that: "Joseph has not changed; look, he is studying financial management subject!"<sup>31</sup> I got a very tough opposition DPP. Then the judge said that he disagreed with the prosecutor and said that Joseph is studying and has stopped gambling. Also I should mention Afsana Ahmad [name changed], psychologist at the prison. She helped me out as well by writing me a reference letter. She is a very independent psychologist. She said "Joseph was a very changed person". It was a very accurate picture of me.

The coppers said that they would appeal my sentence. They got my file, sent it to the DPP in Canberra, and asked him to review my case.<sup>32</sup> A month later nothing came back and the solicitor said [to me] that the HQ in Canberra had said that an appeal was not cost-effective. I got the sentence and, because I was C classification, I was sent to Correctional Centre Y [name of prison changed], [which] is a small jail in New South Wales.

*Time on "Work Release", Transfer Of Degree, New Life and New Girlfriend*

Anyone with three years of jail will usually stay at Correctional Centre Y as it is a minimum security prison. The remainder of my time, one year, was in John Marony's "work release" program. I could go out to study, had to go back to prison to sleep, [and] on weekends I could go back to my family. I had to wear an anklet. When I started at University Z [university name changed], 25 February 2008, it was very exciting. I started on a Monday. At that time I was on the work release program. On 27<sup>th</sup> I met "Aki" [name changed], [now] my new girlfriend. When a [straight] guy has not seen women or girls for nearly three years, you meet any girl and say "hey". But before I did anything intimate with Aki I told her exactly where I'm from, what I did, everything. This was in April, around her mid-semester exam. From February to April I did not tell her. I did not have a mobile number and kept talking to her on e-mail. She thought that this guy is very strange as he does not have a mobile number. So it became a pattern. On Monday and Wednesday it was "daytime" in terms of when I was

<sup>31</sup> This police perspective cited here, i.e. that studying finance suggests that a tax cheat has not changed, might distress some of our finance professors and lecturers!

<sup>32</sup> Canberra (population 345,257) is Australia's capital city and where the highest ranks of all government departments, including the Federal Police, are located.

allowed out, 7.30am to 6.30pm. On Tuesday and Thursday I could come out 11.30am to 11pm. She [Aki] was quite shocked when I told her these things. She said her Mom and Dad [in Japan] cannot know about this. I talked to her on the phone on the weekend and said I have something to tell you. I postponed telling her until she pressured me to tell her. First she asked what it was, I said “I was in jail”, and she asked “what for?” I said “tax fraud” and she said “well, that’s alright”. I hope to inspire people [through my story]. I keep stressing that because, since I was thirteen, it [gambling] was a disease that kept getting worse because I had the power and authority and easy access to cash. It was feeding the bushfire; that [gambling] was the ingredient that got me into this. I reached the point of no return. Some psychologists know what I’m going through but the parole officer does not have a clue. They keep asking me whether I have the urge to gamble again and play the machines. F\*\*\*cking hell, it’s been a bloody year and a half and they still ask me the same question. We are in the RSL Club here [in Fairfield, western Sydney]. Have I made a move over there? [Joseph looks and gestures over in the direction of the poker machine area]. My psychologist says: “I can’t see that you have a problem anymore”.

### *Further Personal Reflections*

I’m feeling very positive now about myself. I’m doing this administration job [at a local construction company] now just to complete my parole time. I have to report to them, and be accountable. I cannot do accounting and finance jobs under my parole conditions. Before [all these events] I didn’t treasure things in my life. After this I learned I have to be accountable for things in my life. One is treasure the real value of money; two, treasure friendships; three, find out who are my real friends in this world; four, do not take things for granted, treasure it whilst it’s there; and five, focus on my career. My utmost objective in my life is to pursue my career. I plan to go into accounting and finance and make full use of my MBA studies and apply in my best capacity and all [that] I have learned in life. Being in jail has given me human instinct about people and I’m sure I can use this later in my career. What is very visible in jail [human nature] is much more subtle and less visible outside but it is there, waiting to be discovered.

I have to thank Aki in a personal way. She had finally wakened me up from all these years of mine of being lost in my life. It may not seem important to anyone or to her, but it means a lot to me as it is the beginning of my real “hungry power” in regards my career which is set for another 30 years in 2040.

### *Personal Message from Joseph to Readers of this Article*

If you [have] made a dramatic mistake in your life, dipping into negative territory, life is not finished yet if you learn your lesson. If you truly want to change, and if there are people out there who genuinely want to help, there is hope. There may be 100 people who say “f\*\*\* off” and there may be one, two or three who genuinely ask: “What do you need?” Then admit the need without pretensions. If you genuinely ask for help, without bulls\*\*\*\*ing and lying, there will be a few people willing to help. And, remember, if you do 1,000 things wrong [illegal actions] in this world, it only needs to go wrong one time, one f\*\*\* up, and the authorities will catch up to you.

If you want to do anything illegal then think about it. If you can do it a few times, well, good luck to you. But once the luck runs out for you it will be the end especially if it is something serious.



[It is now 10.30pm on Tuesday night, the story is told and written down, and we head out towards the main entrance of Fairfield RSL Club, leaving the poker machines, the unreformed late-night gamblers, and Joseph's former life behind us.]

### Final Reflections from Second-Mentioned Author

It has been an honour first of all to help Joseph when he was an MBA student and later to meet him in person, become a friend, and work on this research project with him. He is also now friends with my wife Jenny and has met our two daughters and stayed in our home. Originally I did not plan to add any reflections here at the end as I felt Joseph's case per se was a self-contained "moral message" (as opposed to a moralistic message) which presents a social-realist, to use the Stalinist term, story that readers will be able to relate to and learn from. This is in the manner of "moral messages" contained within classic Russian short stories by Count Leo Tolstoy (1983a, 1983b, 2008) such as *The Kreutzer Sonata*, *The Devil*, and *The Death of Ivan Ilyich*. I think our use of the existentialism of Jean-Paul Sartre (2003, 2007) and Marxist-Stalinist ethics (see later discussion in this section) prevents the story coming across as moralistic preaching or as a condemnation of Joseph. Joseph has placed his trust in me not to distort the story and not to condemn him publicly or doubt his ability and willingness to re-create himself in the Sartrean existential sense. It is now up to him to rebuild his life.

On a related point, Australia has a long history of "wowsersism" (meaning moralism) (Horne, 2009, pp. 55-59), in both its Protestant and Roman Catholic forms, and it is easy for ethics lecturers and authors to fall into the trap of pretending to be much more ethical than their students or their research study participants. Of course such moralistic attitudes turn students off from the life lessons that we hope to confront them with. In our story Joseph hides no details from us and I believe he successfully walks the fine path between self-condemnation and refusing to accept accountability for his actions. We do not know what the future holds for Joseph. He is presently a regular casual marker for my course at my present university and I hope that this will help him in terms of having a recent employment track record.

In terms of our traditional ethical theories, Joseph's story can be ambiguous in that we are not sure whether he is stating that the frauds would have been wrong even if he had not been caught (the deontological or ethical universalist perspective) or whether only the fact that jail was unpleasant makes the fraud wrong in hindsight in the strict cost-benefit sense (looking at it from the ethical egoist perspective). There are statements in the case that point towards either or both of these conclusions. We should remember that in the real world outside of the ivory towers, where Joseph inhabits, this is purely a hypothetical and intellectual point since in reality Joseph *was caught* and had to face the consequences. I asked him for his story and not for his academic theorising. When Joseph concludes in Section 2.8 with the comment "[i]f you can do it a few times [fraud] well, good luck to you", is the term "good luck" being used here in the literal sense or in the sarcastic sense where it is actually a veiled insult? I feel that Joseph's ethical outlook is predominantly that of ethical egoism which perhaps reflects the stereotypical view of Sydneysiders in Donald Horne's 1964 classic text *The Lucky Country* (Horne 2009) where he says Sydneysiders each go about their own daily affairs unaware of any concept of society. In Horne's (2009, p. 43) words: "There are no accepted forms in Sydney; it is anonymous; just people following their pursuits, indifferent to others". Horne (2009) contrasts this with the allegedly more communal and socially aware attitude of Melburnians. The ATO also has to share some of the blame for its own (presumably involuntary) ineptitude in Joseph's case which it has tried to resolve in more recent years and especially through the ABN system.

Joseph's existential anguish and struggle can be seen very clearly at several places in his very honest narrative, beginning with his apprehension felt while still in South Vietnam around the time of the Communist takeover, his journey on the over-crowded boat to Hong Kong, and then arriving in Sydney as a six-year-old without knowledge of the local culture or language. His parents must have felt similar anxiety but we see their tremendous work ethic in setting up a new business in Canley Vale only a few years after their arrival. As a young man Joseph experienced anxiety when told by his university lecturer that his English was not of a high enough standard for an undergraduate. This must have been a blow to his pride given that he had been in Sydney over twelve years by this point, but he accepted the validity of the point without resentment and he worked hard to overcome the problem. Joseph's anguish is obvious when he was held without trial for two years when the pre-trial period should have only been six months. He still faces anxiety especially in relation to his career prospects in the future, given his present record. Although he maintains a discourse of self-confidence, inner strength, and hope, he must also have some residual anxiety over his long-term ability to avoid a return to gambling addiction. In jail we cannot be sure whether Joseph was a co-operative prisoner (which clearly he was) to conserve energy and to escape further punishment or because he had reached Christian repentance. If the former then in the Foucauldian sense he has internalised surveillance and control as self-discipline (Foucault 1977, 1980a, 1980b, 1980c). The concept of repentance is problematic in any case as even theologians are unsure of exactly what it involves. Is it feelings of remorse, mental acquiescence of wrongdoing, and/or actual changed conduct? A primary emphasis on changed deeds is consistent with Christian existentialism. The biblical St Paul himself told his hearers to "demonstrate their repentance by their deeds" (Acts of the Apostles 26, verse 20) and St James said that "faith without deeds is dead" (St James 2, verse 26). Søren Kierkegaard (1985), the Danish Christian existentialist, pointed in *Fear and Trembling* to Abraham's anxiety and courage in following the voice of God to go to Mount Moriah to sacrifice his son Isaac, an anxiety made stronger by the fact that he could not hide in society's approval or "the ethical universal". The problem with a primary emphasis on inward or outward shows of contrition rather than deeds is that no-one truly knows another person's heart or mind. The future is truly up to Joseph and this is a frightening prospect, to some extent, not only for him but for those who choose to be his friends and supporters. Punk rocker Joe Strummer of The Clash paid a large sum of money (£30,000) in 1983 to a heroin dealer so that the band's former drummer Nicky "Topper" Headon could literally keep his legs unbroken (Salewicz, 2006). Clearly there was anguish involved here on everybody's part but ultimately a choice had to be made.

It is worthwhile raising here the topic of Marxist ethics and the various sub-branches that have been developed based on this concept. Of course Marx, as a materialist, saw the ruling ideas of an age as a product of the ruling class and to be simply a reflection of the society's economic base and mode of production. Marx and Engels (2007, p. 64) write that: "The ruling ideas are nothing more than the ideal expression of the dominant material relationships, the dominant material relationships grasped as ideas". This argument is spelled out clearly in Marx and Engels' (2007) essay *The German Ideology* where the ruling ideas, including law, culture, morality, and ethics are presumed to be merely ideology designed to safeguard the ruling class and capital accumulation. To cite Marx and Engels

Morality, religion, metaphysics, all the rest of ideology and their corresponding forms of consciousness, thus no longer retain the semblance of independence. They have no history, no development; but men [*sic*], developing their material production and their material intercourse, alter, along with this their real

existence, their thinking and the products of their thinking. Life is not determined by consciousness, but consciousness by life. (2007, p47)

Of course this does not mean that law, culture and ethics cannot take on sophisticated forms since ideology is most effective when it is not clearly and obviously functioning as ideology but has become “the language of real life” (Marx & Engels 2007, p47). Consistent with this materialist understanding of society and ethics, Lenin (1975a) writes that “one does not judge an individual by what he thinks about himself”. We can allow Lenin’s maxim to influence our perspective of Joseph.

We can see in Joseph’s story, very obviously but perhaps so obviously it is overlooked, that the North Vietnam Communists had a different set of applied ethics from Joseph’s parents and from Australian society. For the Communists, to support the revolution and the revolutionary war at all costs were the beginning and ending of ethics. In Joseph’s early story we see a clash of ethics inherent in the clash between Joseph’s parents and the Communists. Appropriation of assets and businesses were ethical rather than unethical actions for the North Vietnamese Communists, inspired by Marx’s theory of surplus-value as unpaid labour time (Bryer 1994, 1995, 1999, 2006; Engels 1975; Lenin, 1975a, 1975b) and the later work of Lenin, Stalin, Mao Zedong, and Ho Chi Minh.<sup>33</sup> Engels (1959, p387, cited in Lenin 1975a, p38) says that “[t]he first act [of the proletarian state is] ... the taking possession of the means of production in the name of society” although he also suggests that small peasants should not be “forcibly expropriated” but encouraged to socialise their landholdings “by dint of example and the proffer of social assistance for this purpose” (Engels 1951, p393, cited in Lenin 1975a, p. 39). Although big landowners should be forcibly expropriated, the fate of small retail business owners is not made clear. I hope readers will allow this digression since we will reach some important theoretical and practical points.

Lenin’s concept of ethics, following Marx and Engels, was that an ethical action is one that advances the cause of the working-class. For example, Engels (1846, cited in Lenin, 1975c, p77) writes that: “I therefore defined the objects of the communists in this way: 1) to achieve the interests of the proletariat in opposition to those of the bourgeoisie”. Key to Leninism, outlined in the 1902 text *What is to be done?* (Lenin, 1960), was the idea of the Communist Party as “vanguard” leading the remainder of the working-class still outside the Party and stuck in the trade-union mentality. As the contemporary Slovenian philosopher Slavoj Žižek (2009) points out, under Leninism, each action was held to either objectively help or hinder the cause of the working-class so it was either progressive or reactionary. The correct action was seen as one consistent with the “Party line” as defined by the Party leadership. Significantly, Žižek (2009, pp. 230-231, 235) argues that under Leninism it was still *doctrinally* possible for one to be deceived. In other words you might innocently have the intention of advancing the cause of the working-class but in actual fact your action harms it. By contrast, under Stalinism, Žižek (2009, pp. 224, 230-231, 235) claims, everyone was held to know the objective meaning of her or his acts as being either progressive or reactionary. Therefore, under Stalinism, it was possible to harm the working-class while intending otherwise and *still be deemed guilty of the offence*. Žižek (2009, p. 235) writes that: “[S]ince, in the Stalinist universe, there are ultimately no dupes, and everyone knows the ‘objective meaning’ of their acts, disagreement with the official party line can [logically] only be the result of direct hypocrisy and deceit”. As a result in the Stalinist show trials, all defences by the accused were irrelevant if the Party put forward the case that one had betrayed the revolution. Žižek (2009, p. 238) says that: “In the last decade and a half of his life, [the

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<sup>33</sup> Lenin (1975b, p. 66) goes so far as to conclude that “[t]he doctrine of surplus value is the cornerstone of Marx’s economic theory”.

violinist] Prokofiev was caught up in the Stalinist superego at its purest: whatever he did was wrong [because changes to the Party line always caught him out]”. Clearly there was “original sin” in Stalinism, not surprisingly perhaps given the period Stalin spent in his youth in a Russian Orthodox Church seminary. For Žižek (2009, p. 227), “the structure of Stalinism is inherently theological” with its implicit concepts of original sin and the “big other”. Under Stalinism, you had “always already” betrayed the revolution. “The Stalinist purges of high party echelons relied on this fundamental betrayal: the accused were effectively guilty insofar as they, as the new *nomenklatura*, betrayed the revolution” (Žižek, 2009, p. 251). In other words, the purges both wiped out those accredited with Stalinist “original guilt” for objectively harming the revolution and original bona fide revolutionary Bolsheviks (thus allowing the counter-revolutionary aspects of high Stalinism to continue). However, Žižek also points out that:

Against the utopia of ‘mechanised collectivism’, high Stalinism of the 1930s stood for the return of ethics at its most violent, as an extreme measure to counteract the threat that traditional moral categories [as refined by Marxist-Leninism] would be rendered meaningless, where unacceptable behaviour would not be perceived as involving the subject’s guilt, but as a malfunctioning measured by a special pressure gauge or a speedometer. (2009, pp212-213)

Žižek (2009, p213) notes that appreciation for Pushkin and Tolstoy was officially revived under high Stalinism, and argues that this was because “the universe of great classics such as Pushkin and Tolstoy contained an entire vision of culture, with its own ethics of social responsibility, [and] of solidarity with the oppressed against autocratic power”. I have mentioned my desire for Joseph’s case narrative to stand alone like a Tolstoy short story. At my university, in ACC3116: *Accounting and Society* class, students are taught and tested on the ethics inherent in Tolstoy’s (2008) classic short story *The Death of Ivan Ilyich*. One of Stalin’s (2010, first published 1954) last works, on linguistics, by arguing that words have no pre-existing or prima facie class origin, showed a line of thinking that had the potential to eliminate much of the silliness of Soviet Marxist-Leninism. It allowed for a reappropriation and rehabilitation of such pre-Communist authors as Tolstoy who had been a landowner.

Without denying the horrors of Stalinism, perhaps this aspect of Stalin’s thoughts needs to be reconsidered today and in Joseph (Lam)’s case.<sup>34</sup> If Joseph Lam objectively acted against the Australian system by committing fraud, independently of his intentions, it is correct he was disciplined. However, on the other hand, his desire now to work in a good job, while appearing to be based on self-centred intentions, objectively will help society by his serving others in the course of his job, paying taxes, not being a financial drain on government money, and in future being able to financially support his family. Regardless of his intentions, his planned course of action is socially progressive and beneficial. Objectively he has gone from harming to helping society independently of his intentions then or now. Marxist ethics are also relevant here since Joseph physically hurt no human being. He did not even steal from friends, family members or small businesses who would personally feel the pain of the theft. Instead he stole from the ATO and the cause-effect chain between his actions and actual damage to physical human beings is lengthy and remote. Surely this is why Joseph’s girlfriend Aki was relieved to hear that he had served jail time *only for fraud* and why his parents support and encourage him morally and emotionally even today.

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<sup>34</sup> Žižek (2009, p260) makes the very interesting point that “[o]ne should never forget the extent to which [even] the dissident resistance was indebted to [aspects of] the official [Stalinist] ideology”.

Regarding gambling it is concerning to hear from Joseph's case narrative of young children in Cabramatta being encouraged to gamble by community elders at age twelve or thirteen. Without denying personal responsibility, this culture should be addressed within the Chinese-Vietnamese community in Cabramatta and other parts of Sydney. Consistent with Joseph's case story, Glionna (2006) writes as follows about the Chinese-American situation:

Many Asians – especially Chinese- consider gambling an accepted practice at home and at social events, even among the young. Chinese youth often gamble for money with aunts, uncles and grandparents. Many Chinese are fascinated by the mystical qualities of luck, fate and chance (cited in da Cunha 2010, p76).

Singapore's 18 April 2005 announcement to allow two casinos (Marina Bay Sands and Resorts World Sentosa) to open during 2010 suggests a victory for economic neo-liberalism over Chinese social conservatism in the prosperous city-state (da Cunha 2010; James & Grant, forthcoming). Singapore's founding father and current Minister Mentor Harry Lee Kuan Yew once said that Singapore would have a casino over his "dead body" (cited in da Cunha, 2010, p51). The People's Action Party (PAP) Government, in its typical benevolently paternal style, has put a S\$100 per each 24-hour visit or S\$2,000 annual flat fee (da Cunha, 2010, p60) on Singaporean citizens and Singaporean permanent residents so as to allegedly assist in deterring too frequent casino entry by locals. A survey conducted by Singapore's Ministry of Community Development, Youth and Sports of 2,004 residents in 2004-05 showed that 2.1% of total population?? or 55,000 people were "probable pathological gamblers" (cited in da Cunha, 2010, p75). Joseph Lam fits the profile of those found by the Singaporean survey to be most prone to addiction, i.e. a male ethnic Chinese aged between 30 and 49 years. It remains to be seen whether the Singapore casinos will reduce the profits of the casino in Genting Highlands, Malaysia or those further away in Macau and Australia. It appears unlikely that this will be the case. It remains also to be seen whether crime and financial fraud will increase in Singapore following the introduction of the casinos. The PAP Government's extensive procedures designed to thwart problem gamblers are innovative. For example, family members can call up and apply to bar a problem gambler from entering the casinos via what are termed Family Exclusion Orders (da Cunha, 2010, p93). In Australia, with South Australia being the only exception, it is only possible to ban oneself from the casino not one's family members. By mid-June 2009, two and a half months after the Family Exclusion Order system came into being, and eight months before the first casino opened, da Cunha (2010, p94) reports that 80 people had inquired about the orders, and fourteen of these 80 people had proceeded to make an application to bar a family member. Twelve of the fourteen applications related to male problem gamblers, and one of these was made by the parents of a youth aged less than 21 years (da Cunha, 2010, p94).

Joseph's story suggests that where gambling is rampant, financial fraud and crime will probably also be present as the intention in committing the fraud is very often to finance the gambling addiction. da Cunha (2010) in his book on Singapore's new casinos highlights four recent Singaporean cases (Chia Teck Leng, sentencing date 2 April 2004; Teo Sze Khoo, 25 May 2004; Ng Ting Hwa, 9 June 2008; Chua Geok Hiang, 3 February 2009) where financial fraud committed by an individual employee has been definitely linked to gambling addiction. Chia attempted to defraud four banks whereas the other three cases involved defrauding of the individual's own corporation. Before his arrest, Chia was "purportedly the second biggest casino gambler in the world" (Chia 2005, cited in da Cunha 2010, p83). These real-life characters follow in the footsteps of the lead character in the 2003 movie *Owning Mahowny*, which was based on the actual true crime story of a Toronto bank

manager who defrauded his bank in order to fund his pathological gambling addiction and trips to Las Vegas and Atlantic City (da Cunha 2010, p. 82).<sup>35</sup>

The Singaporean situation should be monitored carefully to see whether the new casinos increase significantly the rates of gambling addiction, petty crime, and financial fraud committed by individual employees (as opposed to more corporate types of fraud, such as falsifying financial statements, which are less likely to be connected to gambling addiction). Casino operators' declarations of concern for the welfare of problem gamblers must also be viewed with scepticism, consistent with Joseph Lam's story and our Marxist perspective.

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<sup>35</sup> Atlantic City is the subject of the haunting and powerful 1982 Bruce Springsteen song of the same name on the classic *Nebraska* album. The official video-clip, which can be accessed on Youtube, shows the physical dilapidation, poverty, and social dislocation evident in this small man's Las Vegas situated on the New Jersey Atlantic coast. This author presents the song and video-clip in the opening introductory lecture of his ACC3116: *Accounting and Society* course, bringing in the young Karl Marx's theory of alienation as a tool to aid understanding of the context. The Youtube.com link for the video-clip is: <http://www.youtube.com/watch?v=M3eu1gW-bQ8> [accessed 31 May 2011].

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