

# The Legal Construction of Criminal Liability of Sharia Bank Officials in Cases of Fictitious Credit as an Abuse of Authority and Breach of Official Trust: A Case Study of the Pangkalpinang District Court Decision Number 31/Pid.Sus-TPK/2024/PN PGP

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## Abstract

This research aims to analyze the reasoning of judges in the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP concerning fictitious financing cases in Islamic banking, positioning it within the spectrum between a formalistic approach and substantive justice. This research employs a normative legal research method with statutory, conceptual, and case approaches, analyzed qualitatively through tracing the ratio decidendi of the decisions and comparing them with doctrines of economic criminal law and banking law. The results indicate that the panel of judges has successfully proven the elements of corruption offenses normatively, particularly the abuse of authority and state financial losses; however, the reasoning applied remains predominantly formalistic. The main findings of this research reveal that judges have not deeply elaborated on the concepts of fiduciary duty, the trust of office, and substantive parameters for distinguishing between administrative errors and official crimes. The contribution of this research lies in the development of a more substantive judicial reasoning framework by integrating the principles of prudence, abuse of authority, and the specific characteristics of Islamic banking, thereby enabling criminal law to function proportionally as an instrument for protecting public interests and substantive justice.

**Keywords:** *Abuse of Authority; Fictitious Financing,; Substantive Justice; Islamic Banking; Judicial Reasoning.*



## A. INTRODUCTION

The development of the banking sector, including Islamic banking, is one of the key pillars of the national financial system, playing a strategic role in supporting economic growth and monetary stability. Islamic banks not only function as financial intermediation institutions but also as entities entrusted with a normative mandate to conduct business activities based on the principles of justice, prudence, transparency, and trustworthiness (Karim, & Archer, 2019). These principles distinguish Islamic banking from conventional banking and form the foundation for public confidence in Sharia-based financial institutions. Therefore, any deviation in the operational practices of Islamic banks carries dual implications, both for the stability of the financial system and for the integrity of Sharia values themselves.

In empirical practice, the Islamic banking sector still faces various operational risks, one of which is the practice of fictitious financing or credit involving internal bank personnel. Fictitious financing is generally carried out through document manipulation, debtor data fabrication, and the approval of financing without proper verification processes. The Financial Services Authority notes that internal fraud, including fictitious financing, remains one of the main causes of losses in financial institutions, both conventional and Islamic banks (Noor, 2025). In some cases, such practices even lead to criminal proceedings due to causing financial losses to the state, especially when the bank involved has ties to public funds or state capital participation.

Nevertheless, the practice of fictitious financing is often narrowly understood as a violation of Standard Operating Procedures (SOP) or administrative negligence by bank officials. This approach results in cases being largely handled through internal mechanisms and administrative sanctions, without substantially addressing the dimension of criminal liability. In fact, various studies on banking crimes indicate that fictitious financing carried out repeatedly, systematically, and by exploiting the authority of one's position exhibits strong characteristics of white-collar crime and a form of abuse of authority (Febriansyah, et al, 2023) . In this context, bank officials are no longer positioned as negligent actors, but rather as legal subjects who consciously distort their official authority for specific purposes.

Normatively, Islamic bank personnel are burdened with legal and ethical obligations to carry out fiduciary functions in every financing process. Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector mandates the application of prudential principles and risk management as the main foundation of Islamic banking business activities. This obligation is reinforced by Financial Services Authority Regulation Number 42 of 2024 on the Implementation of Risk Management for Financing Institutions, Venture Capital Companies, Microfinance Institutions, and Other Financial Service Institutions, which positions bank personnel as the front line in ensuring the validity of data, borrower feasibility, and procedural compliance. From the perspective of criminal law, deviations from these obligations can transform into a criminal offense if carried out intentionally, by abusing a position, and causing financial losses to the state, as stipulated in Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes (Muladi & Priyatno, 2020).

The issue becomes more complex when fictitious financing occurs within the context of Islamic banking, due to the integration of positive law and Sharia principles. In *fiqh al-mu'āmalāt*, Islamic bank officials are regarded as trustees who are obligated to carry out their duties honestly, transparently, and responsibly. Violations of this trust are not only ethical breaches but also constitute a breach of fiduciary duty, which under modern criminal law can reinforce the evidence of the element of intent (*mens rea*) (Sothy et al., 2025) Thus, fictitious financing in Islamic banks cannot merely be

understood as a procedural error, but rather as a form of intentional abuse of authority.

Several studies in the past five years have examined the issues of criminal liability and the governance of financial institutions, yet they still leave limited room for analysis. The weakness of internal control systems and financial institution governance creates opportunities for the abuse of authority by officials, yet the studies have not specifically distinguished between administrative errors and criminal acts within the context of Islamic banking (Gupta, Abhishek et al., 2023). Furthermore, the normative construction of criminal liability in economic crimes has been discussed, but the focus remains general and has not connected violations of official authority with the principle of fiduciary duty (Effendy & Susanto, 2025). Meanwhile, indications of moral hazard in Islamic financing and strategies for risk mitigation have been noted, yet the analysis has not addressed the criminal implications of such practices (Purnamaputra et al., 2022).

The similarity of these studies lies in their emphasis on the importance of governance and the principle of prudence in the financial sector. However, the difference from this research lies in the focus of the analysis and the approach used. This research does not stop at identifying system weaknesses or moral hazard risks, but rather seeks to construct a legal framework for criminal accountability of Islamic bank officials by classifying fictitious financing as a form of abuse of authority and breach of fiduciary duty. Furthermore, this research integrates the analysis of criminal law, banking law, and Sharia principles simultaneously, using the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP as a case study to examine the application of the abuse of authority theory and the quality of judicial reasoning.

Based on the description above, there exists a research gap in the form of a lack of comprehensive studies that clearly distinguish between administrative errors and criminal acts in the practice of fictitious financing in Islamic banks, using clear parameters such as repetition of actions, systematic nature, benefits obtained, and state financial losses. In addition, research that positions breaches of the principle of trust as part of the mens rea construct in the criminal liability of Islamic bank officials remains scarce. Therefore, the novelty of this research lies in the development of an analytical framework that places fictitious financing as an intentional distortion of fiduciary duty that can be qualified as a criminal act, as well as in a critical analysis of judicial reasoning in distinguishing administrative violations from official crimes.

Based on this background, this research formulates three main issues, namely: (1) how the legal construction of criminal liability of Islamic Bank officials is applied in cases of fictitious credit as a form of abuse of authority and breach of fiduciary duty; (2) what normative parameters can be used to distinguish between administrative errors and criminal acts in the practice of fictitious financing in Islamic banking; and (3) how the reasoning of the judge in the Pangkalpinang Ruling of the Pangkalpinang

District Court 31/Pid.Sus-TPK/2024/PN PGP reflects a formalistic or substantive justice approach in assessing the criminal liability of Islamic bank officials.

This research aims to conduct an in-depth analysis of the criminal liability construction of Islamic bank officials in cases of fictitious financing, to formulate distinguishing parameters between administrative violations and criminal acts, and to examine the quality of judicial reasoning in applying the abuse of authority theory. In terms of urgency, this research is important to undertake as it contributes academically to the development of economic criminal law and Islamic banking law, while simultaneously providing practical references for regulators, law enforcement officials, and the banking industry in preventing and addressing fictitious financing practices in a more comprehensive and equitable manner.

## **B. METHOD**

This research employs a normative legal research method with an analytical and prescriptive character. This method is chosen because the research does not focus on collecting empirical field data, but rather on examining legal norms, legal principles, doctrines, and the construction of criminal liability for Islamic Bank officials in cases of fictitious credit. Normative legal research aims to understand how the law should be constructed, while also testing the consistency of its application in judicial practice through the analysis of court decisions (Marzuki, 2021).

The main approaches used in this research are the statutory approach, the conceptual approach, and the case approach. The statutory approach is employed to examine and interpret the provisions of positive law governing criminal liability and Islamic banking activities, particularly the Law on the Eradication of Corruption, Law Number 21 of 2008 concerning Islamic Banking, as well as the Financial Services Authority regulations regarding the implementation of prudential principles and risk management. This approach is important for establishing a normative framework in determining the boundary between administrative violations and criminal acts in the practice of banking finance (Ibrahim, 2022).

A conceptual approach is used to examine relevant legal concepts, such as criminal liability, abuse of authority, fiduciary duty, and mens rea in economic crimes. This approach allows the author to construct a theoretical framework that not only relies on statutory texts but also on contemporary legal doctrines and thought (Suteki & Taufani, 2020). In the context of This research, a conceptual approach is also used to integrate Sharia principles such as trustworthiness (*amanah*) and the prohibition of fraud into the analysis of criminal liability of Islamic Bank officials, so that fictitious financing is understood as an intentional distortion of fiduciary obligation, rather than merely a procedural violation.

Furthermore, the case study approach is applied by analyzing Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP as the main case study. This decision is not treated as the ultimate goal of the analysis but rather as an

instrument to test the application of relevant legal theories and norms concerning abuse of authority and criminal liability of bank officials. The analysis of the decision is carried out by examining the legal facts, judges' considerations, and the legal basis used, and then relating them to criminal law theory and the principles of banking prudence. The case study approach in normative legal research serves to assess whether the judges' reasoning is consistent with legal doctrine and principles of substantive justice (Marzuki, 2021).

The legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant legislation and court decisions that are the object of study. Secondary legal materials encompass law books published in the last five years, national and international scientific journals, as well as scientific publications discussing economic criminal law, Islamic banking, and financial governance. Tertiary legal materials, such as legal dictionaries, encyclopedias, and other supporting sources, are used to clarify specific legal terminology and concepts.

The analysis of legal materials was conducted using a normative qualitative analysis technique, which involves interpreting legal norms, reviewing legal doctrines and concepts, and linking them to the legal facts revealed in court decision (Suteki & Taufani, 2020). This analysis is aimed at constructing prescriptive arguments regarding how the legal framework for criminal liability of Sharia Bank officials should be formulated, particularly in distinguishing between administrative errors and criminal acts. Through this method, the study is expected to produce conceptual recommendations that are not only descriptive but also contribute to the normative development of economic criminal law and Sharia banking law. The prescriptive analysis results in this research are aimed at formulating a model of judicial reasoning and normative parameters that can serve as guidelines for judges and law enforcers in handling cases of fictitious financing in Sharia banking.

## C. RESULTS AND DISCUSSION

### 1. Fictitious Financing as an Abuse of Authority and a Distortion of the Fiduciary Duty of Islamic Bank Officials

The practice of fictitious financing in Islamic banking cannot be merely reduced to a violation of standard operating procedures or administrative negligence. From the perspective of contemporary economic criminal law, such acts must be construed as a form of abuse of authority rooted in the intentional distortion of fiduciary duty. Abuse of authority occurs when officials who legitimately hold power use that authority not in accordance with the purpose for which it was granted, but rather to create an artificial condition that unlawfully benefits themselves or others (Adilang, 2024). In the context of fictitious financing, the authority over feasibility analysis, financing approval, and debtor verification is not used for risk mitigation, but is manipulated to legitimize transactions that, in fact, never occurred.

Theoretically, fiduciary duty is a legal obligation that arises from the trust

relationship between the manager and the beneficial owner. In banking, bank officials act as fiduciaries managing public and state funds, so every financing decision must be oriented toward the principles of prudence and the protection of public interest (Prakasa & Sudarwato, 2025). When fictitious financing occurs through document manipulation, the use of a debtor's identity without consent, or the disbursement of funds without a legitimate underlying transaction, there has been a deliberate distortion of the fiduciary duty. This distortion is not accidental but reflects a conscious intention to abuse a position of trust.

Empirical findings from various studies indicate that fictitious financing schemes are generally carried out through relatively uniform patterns, such as document forgery, the use of shell debtors, and the manipulation of fund disbursements which are subsequently diverted to certain parties. The practice of fictitious credit often involves internal collusion between bank officials and external parties, so that financing is no longer based on risk analysis, but on hidden agreements that harm the bank and national finances (Kurniawan, 2024). This pattern underscores that fictitious financing is not merely a system failure, but a manifestation of organized abuse of authority.

In Islamic banking, the dimension of abuse of authority becomes more complex because fiduciary duty is not only derived from positive law and banking prudential principles but is also reinforced by Sharia principles, particularly *amanah*. *Amanah* is a fundamental principle that places trust as the basis of legitimacy for all Islamic economic activities. This principle requires bank personnel to act honestly, transparently, and responsibly in managing the community's funds. Therefore, violations of *amanah* cannot be positioned merely as internal ethical breaches but as violations of substantive legal norms that have criminal implications when committed intentionally (Suteki & Taufani, 2020).

Various studies indicate that fictitious financing in Islamic banks often involves the misuse of customer identities and disregard for the principle of prudence. Research on customer legal protection in Indonesian Islamic Banks reveals that the use of customer data without consent for the purposes of fictitious financing demonstrates intentionality and the unlawful exploitation of positions (Sidabutar, 2025). This finding strengthens the argument that violations of the principle of trust are not the result of ignorance or negligence, but rather the outcome of conscious decisions that contradict the fiduciary duties of bank officials.

Compared to practices in conventional banks, fictitious financing shows similarities in terms of *modus operandi* and potential financial losses to the state. However, the difference lies in the basis of normative legitimacy. In conventional banks, fiduciary duty is rooted in contractual relationships and secular prudential principles. Meanwhile, in Islamic banks, fiduciary duty obtains dual legitimacy, namely from positive law and Sharia norms (Purwanto, 2025). Therefore, violations of fiduciary duty in Islamic banks carry a heavier normative weight because they simultaneously undermine public trust and the religio-legal values that constitute the institutional identity of the Islamic bank.

From a criminal law perspective, this breach of trust is directly relevant to the proof of *mens rea* (Munandar et al., 2024). Islamic bank officials are professionally assumed to understand the Sharia principles that form the foundation of their institution's operations. When these principles are violated through fictitious financing, it becomes difficult to uphold the argument that the act was merely an administrative error. On the contrary, a breach of trust reinforces the construction of intent because the perpetrator is aware of the prevailing normative standards and consciously chooses to deviate (Irawan, 2025). Thus, fictitious financing in Islamic banks should be classified as an intentional distortion of fiduciary duty, fulfilling the elements of abuse of authority and warranting criminal liability.

Some circles argue that the criminalization of problematic financing has the potential to cause over-criminalization and a chilling effect on the banking industry. This approach emphasizes that inherent business risks should not be subject to criminal penalties. However, this research clearly distinguishes between reasonable business risks and deliberate abuse of authority, using cumulative parameters that serve as a limiting mechanism to prevent the excessive application of criminal law.

This theoretical construction finds its empirical relevance in the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP. This decision serves as a concrete context to examine the extent to which Islamic banking officials are positioned by judges as trustees of their office who abuse their authority, or, conversely, merely understood as perpetrators of administrative violations. The legal facts revealed in the decision indicate the existence of financing practices not supported by real transactions, the use of documents that do not reflect actual conditions, and the disbursement of funds not aligned with the purpose of granting financing authority. Such patterns normatively align with the characteristics of the intentional distortion of fiduciary duty as previously established in the theoretical framework.

Nevertheless, although the elements of state financial loss and procedural violations have been proven, the reasoning of the judge in the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP has not fully articulated fictitious financing as a breach of the fiduciary duty inherent in the position held by Islamic bank officials. The judge's assessment tends to place the defendant's actions within the framework of fulfilling the formal elements of corruption offenses, without explicitly developing the dimension of fiduciary duty and trust as a basis for abuse of power. This situation raises critical questions as to whether the approach used is formalistic or whether it reflects substantive justice in distinguishing administrative errors from official misconduct. Therefore, the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP is not only relevant as a case study object but also serves as a means for critical evaluation of the quality of judicial reasoning in constructing criminal liability for Islamic bank officials.

## **2. Normative Parameters Distinguishing Between Administrative Errors and Criminal Acts in Fictitious Financing**

One of the structural problems in the enforcement of banking crime law, particularly regarding fictitious financing in Islamic banks, is the tendency of law enforcement officers and judges to interpret every procedural deviation merely as an administrative fault. This approach has serious implications as it can blur the line between maladministration and abuse of office, thereby weakening the function of criminal law as the *ultimum remedium* in economic crimes. To address this problem, this research develops more operational and measurable normative parameters, namely (1) repetition of the act, (2) systematic nature, (3) the benefits obtained, and (4) financial losses to the state, which are used cumulatively to determine the transformation of an act from an administrative error to criminal conduct.

a. Repetition of Acts as an Indicator of Intent (*Mens Rea*)

In modern criminal liability theory, fault (*schuld*) is not only understood as an abstract subjective error, but must be traced through objective indicators that reflect the perpetrator's will and awareness. Repetition of acts serves as the most relevant initial indicator for assessing the presence of *dolus* in fictitious financing practices. Administrative errors are generally incidental, occur once, and are related to negligence in the implementation of procedures (*culpa*). In contrast, repeatedly engaging in fictitious financing indicates a pattern of intentionality, as the perpetrator has had the opportunity to correct the error but consciously chooses to continue the deviant conduct (Muntari et al., 2023).

This approach aligns with the pattern of conduct theory in economic criminal law, which asserts that the repetition of actions strengthens the inference of *mens rea*, particularly in occupational crimes. In the banking context, the repeated approval of financing without a legitimate underlying transaction can no longer be understood as a mere governance failure, but rather as a form of willful blindness or even intentional misconduct (Agustuti & Irawan, 2024). Therefore, when bank officials repeatedly approve financing with fictitious documents or non-existent debtors, the element of intent is legally fulfilled.

In the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP, the court outlined the existence of financing practices that did not occur just once, but took place over a certain period with a relatively similar pattern. This fact serves as an important entry point to assess that the defendant's actions cannot be reduced to mere administrative errors, but have entered the realm of criminal offenses.

b. Systematic Nature as a Characteristic of Official Misconduct

The second parameter distinguishing administrative errors from criminal acts is the systematic nature of the conduct. Administrative errors generally occur due to individual noncompliance with specific procedures without involving a structured plan of action. In contrast, fictitious financing that involves document manipulation, debtor data tampering, inter-unit cooperation, or exploitation of internal oversight gaps indicates the presence of an organized scheme deliberately designed.

In the theory of abuse of authority, office-related crimes are characterized by the misuse of formal authority for purposes that deviate from the intended public

function (Hadjon, 2020). Bank officials who have the authority to assess the feasibility of financing hold a fiduciary position that requires them to act honestly, prudently, and responsibly. When this authority is used to systematically facilitate fictitious financing, a distortion of the official function of a criminal nature has occurred.

Empirical studies over the past five years have shown that practices of fictitious credit or financing almost always involve more than one actor and more than one procedural stage, making it impossible to classify them merely as an administrative lapse (Ramadhan & Zamzami, 2025). In the context of Islamic banking, the systematization of violations also reflects breaches of the prudential principle and the principle of trust as fundamental values of Islamic banking (Sakti & Ahmad, 2023). The verdict of the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP illustrates how the judge assessed the interconnection between work units and the use of documents that did not substantively reflect real transactions. This fact reinforces the argument that the conduct has a systematic and planned character.

c. Benefits Obtained as a Rational Motive for Crime

The third parameter is the benefits obtained, either directly or indirectly. In criminal law concerning corruption and economic crimes, the existence of benefits is an important indicator to distinguish administrative violations from criminal acts. Benefits do not necessarily have to take the form of personal monetary gain but can include the achievement of performance targets, bonuses, job promotions, or institutional gains enjoyed collectively (Hamzah, 2020).

The rational choice theory in economic crime explains that perpetrators commit crimes after considering the benefits they gain compared to the risks they face. In the context of fictitious financing, bank officials often obtain non-monetary benefits, which remain legally relevant under criminal law because they relate to the motive of the act (Purnamaputra et al., 2022). Therefore, the argument that the absence of personal gain eliminates the criminal element is a flawed and overly narrow reasoning.

In the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP, the court identified the existence of institutional benefits and vested interests in official positions associated with the financing practice. This indicates that elements of motive and mens rea cannot be separated from the structural context of the bank's organization.

d. State Financial Losses as a Juridical Consequence

The final parameter is the financial loss to the state. In the context of state-owned Islamic banks or those managing public funds, fictitious financing has the potential to cause both actual and potential losses to the state. Losses are measured not only by unrecovered funds but also by the disruption of the banking intermediation function and the decline in public trust in the national financial system (Ramadhina et al., 2024).

The state loss theory in corruption crimes asserts that the loss to the state does not have to be actual and final; it is sufficient for there to be a potential loss that can

be proven rationally and objectively. This approach aligns with the United Nations Convention Against Corruption (UNCAC), which places the abuse of function and the emergence of undue advantage at the core of criminalization, without requiring the full realization of the loss (Hamzah, 2020). Under national law, the Constitutional Court, through Decision Number 25/PUU-XIV/2016, affirms that state losses can include potential losses as long as they can be logically proven.

In cases of fictitious financing, the disbursement of funds without an actual underlying transaction essentially removes funds from the control of the state or a public institution unlawfully and places them at risk of permanent loss, thereby fulfilling the criteria for state losses even if the final amount has not yet been calculated. In the Pangkalpinang District Court Decision Number 31/Pid.Sus-TPK/2024/PN PGP, the panel of judges acknowledged the existence of state financial losses arising from financing that could not be accounted for economically or according to Sharia principles. Thus, the fulfillment of the parameters of state losses further underscores the criminal nature of the act.

With the cumulative fulfillment of these four parameters repetition of acts, systematic nature, benefits gained, and financial losses to the state fictitious financing can no longer be classified as an administrative violation. On the contrary, such actions should be understood as an intentional distortion of fiduciary duty, meaning a deviation from the trust of office carried out consciously and profit-oriented, thereby satisfying the elements of criminal liability.

This approach simultaneously strengthens the novelty of the research, namely by positioning the violation of the fiduciary principle as an integral part of the mens rea construction in Islamic banking crimes, as well as providing a more precise analytical framework for judges in distinguishing between administrative violations and abuse of office, as reflected in the Decision of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP.

The construction of intentional distortion of fiduciary duty in this research is not intended as the creation of a new offense, but rather as an interpretative framework to clarify the fulfillment of the element of 'abuse of authority' in Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. Thus, this approach remains within the corridor of the principle of legality, yet enriches judicial reasoning in assessing the quality of wrongdoing by Islamic bank officials.

### **3. Analysis of Judicial Reasoning in the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP**

In the study of modern legal reasoning theory, court decisions are evaluated not only based on the normative fulfillment of the elements of an offense but also on the quality of judicial rationality in linking facts, norms, and principles of justice.

Therefore, the analysis of the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP needs to be situated within the spectrum between formalistic and substantive justice approaches. The formalistic approach emphasizes the textual and systematic fulfillment of the elements of an offense in accordance with statutory regulations, whereas substantive justice requires judges to explore the social, economic, and moral meanings of the acts being adjudicated (Asa et al., 2025).

Conceptually, the formalistic approach is rooted in the tradition of legal positivism, which views law as a set of written norms that must be applied consistently without extending the meaning beyond the text of the statutes. In the context of criminal law, this approach is reflected in judges' tendency to limit their analysis to the proof of the elements of *actus reus* and *mens rea* as explicitly formulated in the law (Wiguna, 2023). In contrast, the substantive justice approach is based on the law in action paradigm, which positions the law as an instrument to protect public interests and prevent abuse of power, particularly in cases of official and economic crimes.

In the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP, the panel of judges consistently affirmed the elements of the crime of corruption, particularly concerning the abuse of authority and the financial losses to the state. The judges outlined the facts regarding violations of financing procedures, the disbursement of funds without a basis in actual transactions, as well as the financial impact incurred. This reasoning demonstrates adherence to the framework of positive law and meets the minimal standards of criminal law enforcement. Nevertheless, the analysis remains predominantly formalistic, as it stops at fulfilling the elements of the offense without elaborating on the substantive meaning of the authority of Islamic bank officials as public trustees.

This tendency does not stand alone but rather reflects a general pattern in the adjudication of banking criminal cases in Indonesia. Previous research indicates that in many cases of fictitious credit, judges focus their analysis on violations of the prudential banking principle, without adequately linking it to the construction of abuse of authority as an official crime (Asmawi & Firmansyah, 2022). Consequently, the prudential principle is more often understood as a breached administrative standard rather than a substantive norm deliberately violated to obtain certain benefits.

These findings are in line with the analysis of previous research on Ruling of the Bontang District Court Number 146/Pid.Sus/2021/PN Bon, which indicated that violations of the prudence principle are often positioned as an entry point for evidence, but are not developed to assess the quality of the offender's fault (Marie, 2023). Therefore, when fictitious credit is conducted through data manipulation, neglect of verification, and deviant multi-layered approvals, such acts can no longer be classified as administrative negligence, but rather as deliberate actions inherent to the offender's position. However, this construction has not yet been consistently internalized in judicial reasoning.

This formalistic approach is evident from the absence of explicit constructions

concerning fiduciary duty and the trust of office in the judges' legal considerations. In fact, in the theory of abuse of authority, the essence of the crime of office lies not merely in procedural violations, but in the distortion of the purpose of the authority inherent in the position (Item et al., 2021). By failing to articulate fiduciary obligations as a normative basis, judges miss the opportunity to strengthen arguments regarding the perpetrator's intent and the criminal, rather than administrative, nature of the wrongdoing.

A similar tendency was also identified in research on Supreme Court Decision Number 2313 K/Pid.Sus/2012, indicating that judges often focus more on proving elements of loss and violated procedures, while the relational dimension between authority, position, and the benefiting interests is not analyzed in depth (Kartika & Saptono, 2016). Although the study was conducted several years earlier, the reasoning pattern identified remains relevant and appears to recur in recent cases, including Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP.

This reasoning, which lacks substantive analysis, has serious implications for efforts to distinguish between administrative errors and criminal acts. Without analysis of motives, patterns of repetition, and power relations within the bank's organizational structure, judges may risk reducing economic crime to mere procedural violations that result in state losses. In fact, normative research emphasizes that systematic breaches of the principle of prudence are a primary indicator of moral hazard and abuse of authority, which should reinforce the *mens rea* construct in the criminal liability of bank officials (Nugroho, 2023).

Nevertheless, Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP is not entirely trapped in narrow positivism. Indications of a substantive justice approach can be traced from the judge's considerations that touch upon the impact of actions on public trust and the stability of the banking system. These considerations demonstrate an awareness that fictitious financing has systemic implications that go beyond the state's financial losses in quantitative terms. In the theory of substantive justice, attention to social and economic impacts is an important element to ensure that decisions are not only normatively valid but also morally legitimate.

The empirical dimension of this issue is also reflected in the real practices of the banking industry. The suspected fictitious financing at Bank Syariah Mandiri amounting to IDR 1.1 trillion indicates that fictitious financing is not merely an incidental event but involves a structured scheme, authorized internal actors, and complex interest relationships. This fact reinforces the argument that a formalistic approach, which focuses solely on procedural violations, is inadequate to capture the latent and systemic nature of banking crimes, especially in Islamic banks that manage public funds based on trust (Fauzie & Agustiyanti, 2018).

However, the direction towards substantive justice has not yet been developed conceptually and methodologically. Judges have not explicitly used normative parameters such as repetition of actions, systematic nature, and the benefits obtained

as a comprehensive analytical framework to distinguish between administrative offenses and criminal acts. In fact, various recent studies emphasize that judges' failure to differentiate these two realms often results in inconsistent rulings and legal uncertainty in banking cases (Nasution et al., 2025).

Thus, Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP can be classified as a ruling in a transitional position between formalism and substantive justice. The judge succeeded in upholding positive law and proving elements of a criminal act, but has not fully utilized the theoretical framework of abuse of authority and fiduciary duty to enrich the quality of judicial reasoning. This limitation does not negate the value of the decision, but indicates the need for the development of a more reflective and substantive judicial approach in handling Sharia banking crimes.

Normatively, this finding reinforces the urgency of drafting reasoning guidelines for judges in cases of economic crimes based on office. The integration of criminal law, banking law, and Sharia principles will not only enhance the quality of judicial reasoning but also clarify the position of criminal law as a corrective instrument against the abuse of authority that is systemic and undermines public trust in Sharia banking.

## **5. Integration of Sharia Principles into the Criminal Liability Framework of Bank Officials**

The integration of Sharia principles into the criminal liability framework of Islamic bank officials is not intended to moralize criminal law or replace positive law with religious norms. Rather, this integration aims to enrich the analysis of mens rea in Islamic banking crimes by positioning Sharia principles as substantive norms that have been legally institutionalized within the national legal system (Yarham et al., 2023). Law Number 21 of 2008 concerning Islamic Banking explicitly stipulates that the operations of Islamic banks must be based on Sharia principles, including the principles of trustworthiness, honesty, and the prohibition of fraud. Therefore, violations of these principles carry tangible legal consequences and cannot be reduced to mere violations of internal ethics.

In contemporary criminal liability theory, mens rea is no longer narrowly understood as a subjective evil intent, but rather as a normative construct that can be derived from the position, knowledge, and duties of the perpetrator. Sharia bank officials are professionally assumed to understand the Sharia principles that form the basis of their institution's operations (Balya et al., 2025). This assumption gives rise to a heightened standard of culpability compared to ordinary offenders. When Sharia bank officials consciously engage in fictitious financing, a violation of the principle of trust functions as a normative indicator of intent (*dolus*), as the perpetrators are aware of the required standard of behavior and consciously choose to deviate from it.

The principle of trust (*amanah*) in Islamic economic law not only signifies individual honesty but also reflects fiduciary obligations in the management of community and public funds. In this context, *amanah* functions similarly to the concept

of fiduciary duty in civil law and modern corporate law. Violating *amanah* through fictitious financing constitutes an intentional distortion of fiduciary duty, which normatively strengthens the evidence of fault in economic criminal law (Hamsir, 2020). Thus, the integration of Sharia principles actually reinforces the principle of legality, as these principles have been internalized within legislation and the institutional practices of Islamic banking.

Recent studies indicate that many cases of fictitious financing in Islamic banks involve data falsification, document manipulation, and misuse of customer identities carried out by bank personnel who have a thorough understanding of Sharia procedures and principles. Failures in Sharia governance often stem from breaches of the principle of trust (*amanah*) by internal staff, rather than merely weaknesses in the supervisory system (Faizi & Sollehudin, 2024). This suggests that violations of Sharia principles are directly correlated with the occurrence of banking crimes and cannot be separated from analyses of criminal liability.

From a criminal law perspective, breach of trust is also relevant in rejecting claims of administrative error. Administrative errors generally occur in situations of ignorance, negligence, or system failure. In contrast, a breach of trust in fictitious financing reflects the perpetrator's normative awareness of the principles being violated. In crimes related to Islamic banking, the perpetrator's understanding of Sharia principles should be considered as part of the fault analysis, because these principles are an integral part of the legal framework that professionally binds the perpetrator (Yusuf, 2025).

The integration of Sharia principles into the construction of criminal liability also carries significant implications for the quality of judicial reasoning. Judges who disregard the dimensions of trust and fiduciary duty tend to fall into a formalistic approach that merely assesses the fulfillment of the elements of an offense in a textual manner. In contrast, judges who integrate Sharia principles into the analysis of *mens rea* can develop more substantive and contextual reasoning, enabling a clearer distinction between administrative errors and official crimes. This perspective aligns with findings that emphasize the importance of Sharia governance as an evaluative framework in law enforcement concerning Islamic financial institutions in Indonesia and Malaysia (Faizi & Sollehudin, 2024).

In the context of the Ruling of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP, the absence of an explicit elaboration on the principle of trustworthiness indicates that the judge's reasoning has not fully utilized the potential of Sharia principles as a normative basis for criminal accountability. In fact, the legal facts revealed in the case, such as financing without real transactions and substantial document manipulation, reflect a breach of fiduciary duty. Integrating Sharia principles into the legal considerations would strengthen the legitimacy of the decision not only from the perspective of positive law but also from the standpoint of substantive justice in accordance with the characteristics of Islamic banking.

By positioning breach of trust as part of the *mens rea* construct, this research offers a new approach in economic criminal law that is relevant to the context of

Islamic banking. This approach not only enriches academic discourse but also provides a normative basis for law enforcement officials and regulators to assess fictitious financing cases more comprehensively, proportionately, and justly. This integration simultaneously affirms that Sharia principles are not additional symbolic norms, but rather substantive elements in evaluating the fault and criminal liability of Islamic banking personnel.

#### **D. CONCLUSION**

This research concludes that the practice of fictitious financing in Islamic banking cannot be narrowly understood as a procedural violation or administrative error, but must be construed as a form of abuse of official authority that is criminal in nature. The authority of bank officials to assess the feasibility of financing, conduct verification, and grant approval constitutes public authority inherent in their positions and is constrained by fiduciary duties and the principle of trustworthiness. When such authority is deliberately used to engineer fictitious transactions, a distortion of the position's purpose has occurred, meeting the characteristics of official misconduct under economic criminal law.

The analysis of the Decision of the Pangkalpinang District Court Number 31/Pid.Sus-TPK/2024/PN PGP indicates that the panel of judges successfully established the elements of the crime of corruption in a normative sense, particularly concerning the abuse of authority and state financial losses. However, the judges' reasoning remains somewhat formalistic, as it stops at fulfilling the elements of the offense without developing a substantive analysis regarding fiduciary duty, the trust inherent in public office, and the quality of the perpetrator's culpability. Consequently, the moral, social, and systemic dimensions of fictitious financing in Islamic banking have not been fully articulated judicially.

This research also emphasizes that the criminalization approach to problematic financing should be strictly limited to avoid over-criminalization and a chilling effect on the banking industry. Therefore, this research proposes a cumulative set of parameters, including the repetition of actions, systematic nature, the benefits obtained, and the potential or actual loss to the state, as an objective limiting mechanism. These parameters serve to clearly distinguish between reasonable business risks and intentional abuse of authority, thereby maintaining criminal law as a rational and proportionate *ultimum remedium* instrument.

Based on these findings, this research recommends that law enforcement officers and judges handling cases in Islamic banking develop a more integrative judicial reasoning by combining criminal law, banking law, and Sharia principles. Strengthening the analysis of fiduciary duty and the trust inherent in an office will not only enhance the quality of judicial reasoning, but also reinforce the legitimacy of criminal law as a means of protecting public interests and fostering public confidence in the Islamic banking system.

For policymakers and regulators, the results of this research highlight the importance of developing more substantive and practical guidelines for assessing abuse of authority in the Islamic banking sector. Meanwhile, for academics and future researchers, this research opens the door for further empirical research on patterns of fictitious financing, judicial reasoning dynamics, and the development of criminal liability models that are more responsive to the characteristics of position-based economic crimes. Thus, strengthening the normative framework and judicial practices is expected to prevent the normalization of fictitious financing and sustainably maintain the integrity of Islamic banking.

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