POL00228329

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INITIAL COMPLAINT REVIEW AND MEDIATION SCHEME
SETTLEMENT ANALYSIS

Background Information

Applicant details	**Claim no.**	M130
	Name	Mr Revti Raman Bhanote
	Branch	Langley
Loss position	**Branch loss**	£7,500 in CRR/CQR (although due to age of case, this figure cannot be verified by Post Office) Note – also mentioned in the CQR are "missing coins and pension shortage" in the sum of £5.9k – it is not clear why the Applicant has not added this loss to the "differences" totalling £7.5k and has included it instead with the consequential losses.
	Date of loss	Unknown but prior to 2002
	Debt position	Unknown. Applicant claims to have paid back £7,500 to POL but due to lack of documentation this cannot be verified.
	Consequential losses claimed	Loss on sale of business - £20k Cost of replacement counter - £4.5k One year's lease - £3.5k Solicitors' fees – 5k Compensation for personal impact - £150k Flight costs - £500 Total: £183,500.00
Contract / termination position	**SPMR / employee / other**	SPMR
	Former or current SPMR?	Former
	Termination route	Contract summarily terminated
	Termination date	Applicant claims September 2002. POL records show last day of service was 15 August 2002
Applicant position	**Bankrupt / IVA?**	N/A
	Prosecuted?	No
	Outcome of criminal prosecution	N/A

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	Civil proceedings?	N/A
	High profile media / MP case?	N/A
	Professional advisor	Bill Cleghorn (Aver)
	NT case?	No

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Bond Dickinson Legal Analysis

Legal risk adjusted claim value

POL has no responsibility for the loss (see analysis below) so should make no payment to the Applicant.

Legal analysis of branch losses

Legal factor	Legal risk (0% = no risk to POL)	Legal risk adjusted claim value
Claim value The Applicant claims he repaid losses totalling £7,500 to Post Office.		£7,500
Has the claim already been barred / determined so that legal proceedings cannot be brought against POL? Yes – beyond limitation	0%	£0
Responsibility for loss Post Office's position is that to the extent there were losses, the Applicant is responsible. There is evidence that errors were made by staff and there is no evidence that Horizon was at fault.	0%	£0

Legal analysis of consequential losses resulting from termination

Legal factor	Legal risk (0% = no risk to POL)	Legal risk adjusted claim value
Value of claim based on Applicant's figures		£183,500.00
Are the claimed consequential losses recoverable at law? Remuneration for three month notice period would be recoverable but has not been claimed.	0%	£0
Has the claim already been barred / determined so that legal proceedings cannot be brought against POL? Yes – time barred	0%	£0
Is there the possibility of an unlawful termination claim because the Applicant's contract was not terminated on 3 months' notice? Not known	100%	£0

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Was contract termination unlawful? No evidence to suggest unlawful termination occurred.	0%	£0
Is there evidence that the Applicant could have "sold" his / her branch as a going concern if given 3 months' notice? N/A	N/A	£0

Suitability for mediation

On the basis of the available evidence, Post Office is not responsible for any portion of the losses in the branch and this case should not be mediated.

- There is no evidence to support the Applicant's claims that the shortfall was caused by Horizon or that the level of training and support provided by Post Office was inadequate.
- There is evidence in the call logs of performance issues at the branch.

Bond Dickinson contact

Name: Paul Loraine
Tel: GRO
Email: GRO

Date: 17 March 2015

UPDATE FOLLOWING RECEIPT OF FINAL CRR

Changes made by Second Sight: Summary of differences between draft and final CRR

- At paragraph 1.2, the final CRR notes that Post Office has provided comments on the draft CRR but the Applicant has not.
- At paragraph 1.5 (b)(iii), the reference to "bank/giros/cheques, including automated payment (AP) transactions" has been deleted as these issues do not form part of the Applicant's complaint.
- At paragraph 1.6, it is noted that Post Office cannot ascertain from the available records whether the loss at the branch amounted to £7,500.
- At paragraph 1.8, it is noted that Post Office records indicate Horizon was installed in the branch in November 2000 (the Applicant claims it was installed in September 2001). The paragraph also now includes Post Office's observation that there is no evidence that: (a) there was a loss of £7,500; and (b) that this alleged loss was settled by the Applicant.
- At paragraph 1.9, the CRR quotes from Post Office's comments on the draft CRR, stating that the purpose of the audit would have been to verify Post Office assets rather than detecting fraud. It is also noted that Post Office cannot verify the Applicant's claim that he had an appeal against his termination turned down, owing to a lack of available documentation.
- At paragraph 3.3, the final CRR notes that it is standard practice for a copy of an audit report to be sent to the Subpostmaster after an audit. This is Post Office's response to the Applicant's claim that the results of the audit were not disclosed to him.
- Paragraph 3.5 has been amended to add Post Office's comment that there is no evidence to suggest the Applicant was treated in a derogatory manner during the investigation process. It is also noted by Second Sight that, in its view, Post Office's comment has "little evidential value".
- At paragraph 4.1, which deals with alleged discrepancies flowing from remittance issues, the final CRR incorporates Post Office's view that errors of this type would only occur through user errors.

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- At paragraph 4.5, which deals with the Horizon recovery procedures which follow power failures, Second Sight suggest that it is impossible for it, or for Applicants, to prove a negative (ie. the absence of on-screen instructions) and therefore they remain unconvinced that this “suspected systematic flaw” does not exist.
- At paragraph 5.2, the CRR confirms that the Applicant's original training records are not available (further to Post Office's comments on the draft CRR). This paragraph also includes Post Office's response to the observation that “Post Office no longer offers full Horizon training for branch staff and…such support is expressly excluded from the Standard Contract”. Post Office's position is that while it is Post Office's responsibility to train Subpostmasters, where it is appropriate, it will grant a request for staff training.
- At paragraph 5.5, the wording in the draft CRR speculating that a call being marked as “resolved” may simply mean that the operator was unable to give further assistance, has been deleted.
- At paragraph 5.8, the CRR has been amended to give marginally more weight to Post Office's position. The CRR notes that the Applicant may have sometimes called the TC team rather than the NBSC and it flows from this that a lack of evidence in the NBSC call logs “provides some evidence for Post Office's position but is not conclusive.” Previously, the draft CRR suggested little value could be attached to the lack of evidence in the call logs.

Are there any new legal risks as a result of the final CRR?

No. We confirm that the Bond Dickinson Legal Analysis section above remains unchanged following the final CRR.

Has the recommendation as to suitability for mediation changed as a result of the final CRR?

No. We confirm that the Suitability for mediation section above remains unchanged following the final CRR.

Date: 6 May 2015

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Advice qualifications

1. This advice has been produced by applying the principles set out in the Advice from Linklaters dated 20 March 2014.

2. No further legal analysis of the underlying legal principles has been carried out, in particular we have not considered any other possible legal bases for the Applicant's claims including without limitation malicious prosecution, defamation, malicious falsehood, breach of confidence, tortious causes of action or privacy law.

3. We have not analysed the possibility that failures by Post Office in training or supporting the Applicant, or subsequently investigating losses, may have contributed to the Applicant's ability to prevent losses in branch.

4. Our advice is based on only the information in the Applicant's Case Questionnaire Response, the Post Office Investigation Report and Second Sight's Case Review Report. Our advice does not factor in the possibility of further information being available at a later date that may change our analysis.

5. We have not considered the Applicant's appetite or capacity to bring proceedings against POL or any of the "other" factors set out in the settlement mandate.

6. We have not considered any criminal law issues or whether any conviction / sentence may be unsafe. We have assumed that there are no criminal law risks unless such risks have been previously highlighted by Cartwright King.

7. We have applied a de minimis threshold to legal risk. Where the legal risk is very small (less than 20%) we have recorded this as 0% in our analysis.

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"Court Ruling" assessment

Is the case subject to a Court Ruling?

No

Default mediation position?

Yes to mediation

Are there any exceptional circumstances?

No

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Post Office Settlement Mandate

Legal risk adjusted claim value

£0

Other settlement factors

Factor	Adjustment	Adjusted settlement threshold
Legal risk adjusted claim value		£0
Actual cost of settlement to POL Not known due to lack of evidence		
Other admissions of fault by POL N/A		
PR / media implications We are not aware of any special PR / media issues specific to this case.		
Applicant expectations / experience from any previous negotiations N/A		
Criminal case – need to protect safety of convictions N/A		
Risk of future litigation / court costs Appears to be low given the limitation issue and the lack of merit in any claim by the Applicant		
Cost savings through early settlement This is not applicable as settlement is not being considered.		
Other factors N/A		

Mandated financial settlement range

Alternative / additional non-financial settlement proposals that can be offered

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Other matters

Approved for mediation

Post Office Approval

Name: Date: