

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

CLAIM NO: HQ05X02706

BETWEEN:

POST OFFICE LIMITED

Claimant

-and-

LEE CASTLETON

Defendant

CLAIMANT'S NOTE OF THE TRIAL
BEFORE HIS HONOUR JUDGE HAVERY

KEY TO ABBREVIATIONS

J	His Honour Judge Havery
C	Claimant
D	Defendant
PO	Post Office Limited, Claimant or post office.
RM	Richard Morgan, Counsel for the Claimant
LC	Lee Castleton, Defendant
PMR	Postmaster
SPMR	Sub-Postmaster
CT	Christine Train, LC's assistant
TB	Trial Bundle
AB	Alan Brown
CO	Cath Oglesby
HR	Helen Rose
RS	Ruth Simpson
AW	Andrew Wise
JJ	John Jones
AD	Andrew Dunks
AC	Anne Chambers
LM	Liz Morgan
GB	Greg Booth

Documents to be read in conjunction with this note:

1. Trial bundle
2. Claimant's Opening
3. Claimant's Chronology
4. Claimant's Questions to Defendant's witnesses
5. Claimant's Closing

Wednesday 6th December 2006

10.30am

Opening

RM: Introducing parties – tells J about LC's medical condition, if it recurs we might need to adjourn.

This case concerns the PO branch in Bridlington known as Marine Drive, that C seeks to recover the debt and LC has a counterclaim for wrongful dismissal.

Brief chronology as per Counsel's chronology.

J: What was the figure for week 43? Is this missing cash? Not sure what it shows.

RM: Yes – LC produced accounts showing deficiency in cash arising from trading figures.

Losses reflected in formal account signed off by LC.

J: Would help if you show me those.

RM: Showing TB9, explaining tab numbers appear chronologically by week.

Turning J to Wk42, J will see Cash account final, look at top of page at office code and week number, week ending, date produced, time produced from the Horizon system, of which more later. Signature, to be signed before despatch of cash account, taken to be LC's signature. Date stamped. Starts with list of shortages, disclosure by PM of anything missing.

J: Unclaimed amounts, why is that something missing?

RM: Not relevant to this trial. Explaining Suspense account. Table 3. Discrepancies table, arising in that week's cash account. SPMR obliged to make up losses or draw down on gains in any week.

J: 60p short for that week?

RM: Yes. Over page at p2599, Stock in hand, cash, philatelic items etc. Will come back to how it's prepared, but want to show J overall format. P2600, trading figures for receipts for that week. Continues over to p2601 giving total receipts at bottom of left hand column.

J: Biggest items are giro in payments and REMs...understand to be something to do with computers.

RM: REM is a slang term used in PO. Right hand column table 6, remittance from ADC continuing.

J: Numbers in column just for identification? No sterling figures at all.

RM: Correct.

J: What does ADC stand for?

LC: Area Distribution Centre.

RM: Although LC is a litigant in person, we've built up something of a working relationship so hope the atmosphere will be fairly friendly.

Weekly outgoings...payments total equals receipts total. Compare p2602 figure with p2599 figure for total stock, will find a difference of 60p being the deficiency in the account.

J: [Making a cross reference.]

RM: Turning on through the bundle, tab 43, to cash account final for that week and the discrepancy. Tab 44, 45 highlighted discrepancies.

Cumulative at this stage, hence slight improvement between 44 And 45. Week 46 and at this stage, LC places amount into Suspense account. Week 47 figure is put into table 2a authorised cash shortages hence balanced week's trading.

Week 48, suspense figures stays there and we start a new figure for cumulative losses. Each of these signed by LC, no dispute about that.

Wk49, loss for week 48 moved up into suspense account, arithmetical mistake corrected in manuscript and further shortage.

Week 50, £11,752 still showing, accumulative discrepancy showing of ?

J: Further £7000 odd from previous week?

RM: Correct, the sum of ? and ? = £22,000 odd. Final account signed by LC at 51 showing £22,963 at total of ...

J: 50p out. But doesn't matter.

RM: Asking J to open bundle fully, 23 March auditors attended MD branch, found it was short of cash by £25k.

J: At end of week 51?

RM: No, in week 52. Audit disclosed the discrepancy and LC was suspended. Tab 52, p2771, another form of document, the Trial Balance (top left hand column). Discrepancy over of £12.54 and short of ...net of £25,758.75.

J: Don't know what a trial balance is?

RM: Will come back to delights of PO accounting system. Quite a technical trial in looking at how figures are made up.

LC: Throughout this period, actual trial balance is produced on Wednesday evening, the point at which SPMR addresses any issues and can call helpline to discuss balancing problems. Prior to Thursday morning, all accounts timed and dated the following morning. Lots of assurances from PO that they'd help sort out issues.

J: Have read LC's WS and others he has adduced.

RM: Giving J as gentle a background as possible at this stage. Will then address court on issue of burden of proof, then comprehensive opening as neutral as possible. Will come to a point of making own submissions in due course.

J: It seems as if the biggest issue is whether the computer was working properly.

RM: That's how LC would like to portray it and it may have to be considered by court. Would like J to hear opening first. Like a calculator, the computer is only as good as the data input into it and checks still needs to be made manually. Is this a trial of an account by an agent, or a trial of how the computer works?

J: You say it's an account stated, but it's open to LC to say the account is wrong.

RM: Yes, in certain limited circs.

J: But, if he can prove computer is wrong...

RM: Perhaps, if he provides physical evidence, but main point is if he signs off of the accounts he can't go behind them. Computer just confirms the underlying transactions.

23 March audit: spent day working through figures and auditing them. At about 2pm, LC was suspended. Even at this stage, the physical stock they found was as recorded in Trial Balance. We know end position and start position

J: You say you can show?

RM: Account stated and confirmed, signed and audited – that's it. LC has to state they're wrong. At end of day, there's an audit which is not disputed.

LC: On day of audit, PO has to provide form P242 changing over from suspended SPMR. Was only signed by incoming officer...I didn't sign it.

RM: We can't find that piece of paper. Never part of the pleaded case that LC signed off the final audit, but it's not disputed.

Assistant, CT was unable to work behind the counter after LC's suspension as she was an employee of LC not PO. Once his tenure was suspended, she ceased to be able to work. Since date of audit, further net loss of £100 odd ..taken account as part of the total deficiency. In respect of sale of National Lottery tickets. Supporting documents in TB2, tabs 36 and 37 – formal documents former SPMR's statement of errors and details of errors: lottery error. Over page on p260 find daily office totals for National Lottery sales on 23 March 24 sales.

[RM and LC conferring]

J: Word group refers to National Lottery?

RM: Don't know [RM and LC conferring]

RM: Grateful to LC, has just told him that this business was transacted in this branch on this date. Tab 37. net deficiency of £100. In pleadings, case was that LC didn't accept these transactions. In skeleton and again just now, LC accepts that trading was undertaken but that he gave the money the following day to the incoming SPMR.

J: Incoming SPMR being Ruth Simpson?

RM: Yes. As a result of deficiencies, TB2 tab 33, on 17 May LC's contract was summarily determined with effect from 23 March. Dismissal confirmed on appeal as shown tab 34 on 9 July. From these facts, PO seeks to recover said sum, received by LC as agent for PO for which he has failed to account. While LC admits deficiency, he says it is not real and was occasioned by computer system.

J: You say he admits the shortage but that it was not a real deficiency? Does not understand.

LC: Says it's a shortage of cash, but JJ will show it's not a cash deficiency. Has made 3 attempts to ??

Reduction in cash in office of £8,000....

J: Had better read JJ's WS over lunch.

RM: Intends to allow court reading time after opening, then witnesses can be organised.

LC counterclaims for wrongful dismissal, initially for £250k, but following disclosure appears that Marine Drive shop is owned by a company and limited counterclaim to £11.5k for loss of income. Nothing in evidence to support this quantum.

Takes J to pleadings. TB1 tab 2.

J: have read pleadings and noted those paragraphs that have been admitted.

RM: Going through LC's contractual and equitable duties to account and other obligations. From this information, LC was obliged to ... plead reported losses, signed accounts, and LC is unable to go behind those. Plead lottery losses and return of sums plus interest. LC's defence, unsigned, but both sides agree that this should stand with the amendments as per the front sheet.

J: Not admitting that he stated the account?

RM: Not that he stated account for final figure of £25..k. We say that we prove the deficiency.

J: Did you not show me a document signed by him showing that figure?

RM: No, that was the trial balance which is produced by the PO's auditors.

J: The last one that was signed was tab 51 for 22k odd?

RM: Correct. At bottom of para 2, any apparent loss after ? Not attributable to Def. Admits he produced weekly balance lists and signed off ? week 42 shown as 60p loss. Will return to that. Such alleged losses were illusory, not real. That he repeatedly sought assistance from PO and none was forthcoming. We do not accept that. LC avers that any problem arose as a result of the system.

LC from the outset said that he'd have IT and accounting experts. Deadlines passed and directions for sequential exchange and LC's accountancy expert was ...deadline passed and it became obvious that LC's expert evidence was not going to be forthcoming, so at PTR judge directed that no expert evidence be adduced.

LC: Reason for no evidence was because I ran out of money to examine a 2nd week after the 1st week was found inconclusive through lack of paperwork.

RM: LC can either waive privilege to expert's report and we'll look at it, or there's no expert's report.

J: Perhaps this should be dealt with between the parties in adjournment.

RM: [Continues with def. admission in 7b...para 10.] In relation to the lottery loss: LC accepts that he continued to operate the National Lottery till but the way it works is that it's connected to National Lottery head office and it's recorded there. SPMR prints out list at end of day and inputs it into Horizon then puts cash in PO till.

J: How are prizes paid out?

RM: [Explaining National Lottery process] and how wins are paid out up to £10,000 at the PO in cheque or £500 in cash, above which winner must go to National Lottery. At end of each week, there's reconciliation between PO head office and National Lottery as to whether there's a net flow of funds one way or another. Doesn't matter to SPMR.

J: As far as the shop is concerned, money just goes from National Lottery till into PO till?

RM: Correct.

J: There's a separate till?

RM: [Explaining.] Shop till effectively trades as a separate unit.

J: Don't understand why money goes back to the shop till.

RM: [Explaining.] Gloss on all of this is that because PO shuts at 5.30, if shop stays open later, it's trading period continues after PO books have been completed. National Lottery tickets continue to be sold until 7pm. A button is then pushed and they get a receipt. On

the day in question, LC was suspended at 2pm and ceased to have access to Horizon and couldn't enter figures into PO system. He could not therefore account for that days trading. His pleaded defence was that he could have had no way of transacting those matters. Not suggested until this Monday that LC had given money to someone else.

J: Not clear on why C is claiming that £100.

RM: It was business transacted in LC's shop area for which he has not accounted to PO.

J: What's it got to do with the PO?

RM: PO has to pay income to National Lottery, netted against prizes paid out on that day. Aware it's a disproportionate exercise. On amended counterclaim, [takes J to reply.] Point of alternative pleading for formal account is if court decides...it's not up to RM to say what is owing, it's up to LC as a fiduciary to produce the accurate amount. There would just be an adjournment while that was produced. By way of Defence to counterclaim, we plead the contract itself. [Continuing with Defence to counterclaim].

Request for further information at tab6, p18. information about what the alleged problems were. Reply at p19. [Reading through alleged problems]. Evidence ... we don't have. D reserved right to amend following disclosure of evidence – hasn't happened so we still don't know how the problems with Horizon could have caused the losses.

J: Don't remember allegation of ? Just adding up figures in pages shown?

RM: To do with fact that, on LC's appeal to JJ, there was some discussion as to whether ... Request 2, questions about what this is all going to go to. P24 answer, LC has said repeatedly how a balance snapshot can lead to... will be a matter of expert evidence in account. Will be necessary to reconstruct all the accounts...allegations as to procedural irregularities, we submit those aren't true.

Given that LC admits that the accounts show a shortfall, main issues on claim are:

1. As matter of law, on pleaded case, is LC entitled to show...

J: Is this opening in writing?

RM: Yes, can provide it but J may want to take notes.

...shortfall recorded in entries in own books and records [hands up copy of opening] are fictitious and that no such losses arose?

2. As matter of fact, can LC show that account produced show false entries?
3. Is he responsible for lottery entries on 23 March, largely a moot point now
4. Termination of contract?
5. Any damage
6. Has LC mitigated?

[Opens briefly with authority for fact that an agent is bound by his own accounts.]

[hands up bundle of authorities...discussion of merits of Bungle and Cresswell's report]

Shaw v Picton – agent bound by account which he had delivered unless he could show that he had given credits for those payments by mistake. [Taking J through case.] What happened was that agents were being paid on balances they received. Meant to be receiving annuities, didn't always get them in but entered them in the passbook anyway and they were paid out. This is a rare case of an agent saying that his own accounts were wrong. Still cited as good authority. Onto decisions of judges: re Roly's annuity. Clear that if an agent employed to receive money and bound to account to principle, is bound by account unless he can show it was made unintentionally and by mistake. Otherwise is not at liberty to claim the amount was not received, nor recover the money back again. Problem with this authority is that 3rd judge...no well founded claim for interest.

Next authority – *Camillo Tank v Alexandria Engineering Works*: question was whether principle could go behind an account? Formal process of doing so, but this is not a case of agent saying his account's were wrong, but that the contracting third party saying so. Is there something that elevates the principles'...speeches are obiter on today's issue, but lack of authority means RM wants to take J to Lord Shaw's speech. Considers expression of stated account and way in which this can be understood: opening to challenge settled accounts must be radical i.e. fraud or...

Camillo referred to by PC in the case of ?? but not taken further.

[Continuing opening - all numbers below refer to *draft* opening]

Suggests court can either hear submissions on initial issues:

1. burden of proof;
2. whether LC can plead his case on existed case stated
3. if LC is to call Witnesses, what order are they to be called?
4. timetable moving forward
5. who should complete opening

J: Has that not been decided in pre-trial management?

RM: No, at PTR it was directed that LC should serve witness statements or summaries. He served witness statements and 3 summonses, one of which had an email attached, one a photocopy of a newspaper letter and third was blank. Don't know if they're effective, some were served outside the jurisdiction and don't have anything attached. Unclear what relevance they have on this case and whether we're about to embark on a further massive disclosure exercise. Live issue as to whether LC should be allowed to adduce that evidence. LC ID'd 3 witnesses last Wednesday at 4pm and we're trying to find out who they are and what evidence attaches to them and needs to be disclosed.

J: In the dark as to what ...

RM: Parking issues for now, see that the opening is going on longer than anticipated J could read through the rest of the opening if he prefers.

J: Safest course is for RM to open, rather than J to rise and read it himself.

RM: Can we adopt a timetable for today and tomorrow? Complete opening, witnesses, directions on disclosure etc. Take tomorrow for reading and first witnesses on Fri?

J: What will I be reading that will take so long?

RM: Trial Bundles 3 and 4.

J: Better go on for the moment, no witnesses today. Is 4pm soon enough to tell witnesses for tomorrow? Who are the witnesses?

TB4 –

RM: 3 outstanding summonses, Chelmsford, Falkirk and Co Durham.

J: None in TB4?

RM: no, look at TB8. At back behind tab 97 p2557ai – Bajaj summons may or may not have been issued. P2557ak, Witness Summary which is a letter to a journal.

J: All LC wants from me is an indication of when he'll require the witnesses to attend.

RM: Yes if he bears the burden of proof.

J: I'll hear LC on that now...

LC: Between week 42-51 all losses were subject to telephone calls to PO explaining problems. PO failed in their duty of care to me to allow me benefit of their knowledge to aid me finding true reason why accounts were in deficit. In each authority given above, parties are revisiting accounts post submission. He never looked to revisit accounts after they were submitted; he always raised issues before they were signed. In light of that, these authorities are revisitations of past accounts, but mine were live accounts, signed in the morning following assurances from PO that they would be investigated.

J: Real issue is whether the accounts were correct. Are you saying another issue is whether these were stated accounts at all? Doesn't alter burden of proof being on you, therefore your witnesses will go first. Sensible course is that they should come on Friday and you bat first after RM's opening.

RM: May I leave open whether or not LC's summonses are going to include relevant evidence, will address at conclusion of opening. [Move to detail of opening from p9.]

TB2, taking J to contract – s1 SBPMR as agent and running through other provisions etc

Onto p11 – woman called Rita?

LC: No, Ruth Spear was second assistant.

RM: [Draws attention to sketch of Marine Drive branch with Witness Statement of Christine Train. Continues with opening p.12]

[End of first para on p14, reference to p643 if TB 6A was meant to be p943.]

[RISES]

2pm

RM: Returning to p 14:

[Reading from p1471 of Horizon manual, 'Practical tips when using Horizon'. Explaining shared stock unit = office where there are two terminals but dealt with as one accounting environment.

Then takes J to p1452, Producing a cash account. Then to p1384...]

J: Non value stock = stock without a face value I take it?

RM: Yes.

J: Don't understand second sentence: when adjusting stock, always do so before declaring your cash. Means you want to do a final cash balance?

RM: Yes, if adjust stock downwards, machine will adjust ? up, swap stock from stock item to amount held. If you enter amount of cash held as a single figure, it will ...even if you're not holding the cash.

J: What's meant by declaring your cash?

RM: Counting, totalling and entering that figure into the system.

J: Why should you do that before adjusting stock?

RM: You do it after.

J: Why does it matter which way round you do it?

RM:

J: You're taking stock as well as counting your money?

RM: Yes – when you take out £100 worth of stock the machine will expect you to receive £100 of cash. Important point is that the process is undertaken by SPMR who is responsible for entering figures onto machine. He sees figures then has to check them against what's actually shown. Same for stamps, p1390 and p1392.

P1396, 'Declaring your cash'. Material part at p1399 – does your cash match the system figures?

Onus is on the SPMR as the accounting party to...

Back to p1452...1455, last chance to check and reconcile against manual summaries. Only once the SBPMR is totally happy does he touch the rollover icon, when he is asked again to confirm if he is happy and he rolls over the cash account to next accounting period.

If SPMR is following the manual correctly, he cannot get the stage of signing off the accounts unless he has done the checks above. By signing and date stamping, he represents that he has done so, or has and cannot explain a discrepancy.

[Returns to Opening p15. TB7a, p1563.]

J: [pause to reread at p17, para 2] How do the mismatches appear?

RM: This is the new point. At the end of each day, LC has to complete summaries of each transaction. He produces summary by getting underlying dockets from customers, adding them all up, signs off, puts in packet and sends off to relevant clearing house ie. Alliance and Leicester. They look at declaration on front, check against summary and what appears on Horizon. If there's a discrepancy, he gets a claim error notice (money back to him) or charge error notice. Evidence from 5 witnesses is that no such notice was generated.

J: So physical evidence matches the computer record?

LC: To clarify: transaction and error notice logs are produced by transmitting in small batches on information. But problem is that there are specific and individual cases when a corresponding checking of cheques, you produce list of cheques to see if it matches, if you then check against actual transactional data produced from office, actual value of cheque does not correspond to actual value on cash account.

J: You're losing me.

LC: This will become clearer with witnesses. You have an individual unit where majority of business may be done. If you have a secondary unit, working parameters between the two is proven not to correspond.

J: When you say paying cash out for a customer, they're getting cash out on a cheque?

LC: Could be paying a gas bill.

J: So you're acting almost as an agent for the gas company, there's no ...

LC: On primary computer system you produce a cash account on figures throughout the week, but can also produce in-house figures from smaller dockets. One can be a transactional log, or sales report showing all sales and corresponding movements for whole week. When compared to cash account should be exact, but this is not always the case.

J: Don't' know why it's called sales, if it's in settlement of someone else's bills.

RM: It may stem from the times when the PO was nationalised and operated as a clearing house for other nationalised operations. I suspect when it was privatised, contracts with utilities were entered into that the PO continued to get money in and there would be a settlement of transactions later on with a fee for operating the service. At the point of sale, the PO receives cash and sells a receipt to the customer – that's the way it works.

J: Receipt given to customer will be entered into computer?

RM: It's a form of internal audit against the original documentation, no allegation against LC, but otherwise a SPMR could go off on a frolic of their own and nobody would know for months. The back office checks off all the figures on a day by day basis.

J: And there was no error notice?

RM: There were 15 during LC's term as SPMR, but none in relation to this trial.

LC: It has always been accepted that the transactions from non-working side of the computer (the computer is connected to a mainframe in Chesterfield) and workings at our end are only conveyed on basis of transactions played on period from x to x, we knew that our working practise was always within the realms of non-producing errors.

J: These figures add up to £22k. What do they represent, just a calculation of something out of balance?

RM: In each week a reduction in stock and a deficit in cash value of that stock held in cash. One has to work from an assumption that the cash stock figure is accurate...deficiency of £22k, then audit of stock finds that there's stock present largely in line with what should be there subject to purchases and sales with additional discrepancy of x. Value of stock is what's on the premises, indicating that one would expect to find £25k more than what was there. Simple.

LC: Over the period from wk42-52 office has a total incoming stock of only £17,000 from Chesterfield. Only £17,000 could ever have been in deficit then.

RM: There were also substantial amounts of cash coming in.

J: Presumably that's from customers?

RM: There's a car auction salesroom next door, and salesman brings lots of money round on Wednesday. There are also deliveries of cash to satisfy pensions payments etc.

J: That's cash not stock.

RM: Correct, LC admits that the branch is a net consumer of cash.

LC has also said that he can ID some figures to show where it's all gone wrong. It's a bit late though. I may not be able to meet specific instances of where amounts have gone wrong, but that should have been disclosed at the start. Not my case, not seeking to make a case on the computer system.

J: We're going to have to look into the computer aspect of it.

RM: You may or may not. [Finishing opening.] In relation to weekly figures...p16...

[End of opening]

Returns to 5 points raised on p8 of Opening.

In J's hands as to form and structure of trial, but some effective case management now might help.

J: I've already decided the burden of proof rests with LC. Haven't yet read evidence. Has there been an order for no evidence?

RM: Yes, I have an application to make in relation to witness summary evidence, served last Wednesday. I'm concerned because it seems to be seeking to bring in 'similar fact' evidence. Experiences of other problems with Horizon.

J: Is that right?

LC: In 2 instances of summonses...

J: I've seen the letter to the magazine. So you want to call that gentleman?

LC: Yes, and for evidence of why the computer system is split in two halves.

J: Perhaps I'd better look again.

RM: TB8 at the very back.

J: First is 2557ak?

RM: Yes, Mr Bajaj.

PO's position is...if this is a summary of Mr Bajaj's evidence, then it seems that the evidence LC seeks to enter is similar fact evidence, that a problem with Horizon at another office is probative of his case. If so, I'll invite J to exclude the evidence formally now.

LC: Yes, it was to ...his explanations for problems and his lack of help and support from the PO.

J: But he says in his piece the people concerned did not assist. What was the next one?

LC: Alan Brown.

J: This is an email?

RM: There's a transcript at 2557 ao.

J: Rather more detail than the other gentleman. He is giving some explanation as if he's an expert.

LC: He's an experienced SPMR.

J: You know him?

LC: We've only spoken on the telephone.

J: Is there another one?

LC: Through telephone conversations...

RM: 2557 ap, we were provided with that summons but no witness summary. Does not comply with the terms of the order of the PTR.

J: Do you know the name of this person?

LC: David, but don't know his surname.

J: Don't know what evidence he would give if called?

LC: Would be down to the treatment of him by the PO and the money outstanding to the PO.

J: The purpose of trial management is to avoid this sort of thing happening. Is there an order of the court?

RM: TB1, tab 13 of Seymour J. p39a [J could not find in his TB1, RM handing up]

J: This clearly applies to this person called David. As to the others, what is the date?

RM: All issued on 29 November. They may have issues over being too close to the trial. Re Bajaj, I'm content for that evidence to go in for what it's worth. Re Brown, LC seeks to adduce for purposes that go beyond saying that I've had a problem with the computer.

J: If all one had was Alan Brown's notes, it wouldn't be much help as it doesn't explain.

RM: Think LC intends to use this as a springboard for interrogating our witnesses on what ...wrong with Horizon.

J: You had these by 4.30 on 29 November?

RM: I make no point about non-compliance except as relates to Ferryhill SPMR which should be excluded. If he is to be called, I would like ...

J: I can't see LC has anything to gain by callingBajaj, if counsel for C is happy for statement to stand as his evidence. Only now concerned with Alan Brown.

RM: If only point of having this document ...LC has tendered this document as AB's summary. If only reason LC requires this document is for it to be put to my witnesses, the witness is not required at all. But if it's to give the PO the gist of the evidence, and if AB is to be put in the box and encouraged to expand, I'll apply to have his evidence excluded.

J: This has been admitted. LC can call him and you can object to any question you see fit.

RM: I could apply to exclude the evidence as disproportionate. If AB is going to give evidence about his problems...

J: You'll be able to cross examine him....

RM: Bundles 8-12 are primary documents, transaction logs etc. They give a comprehensive view of 3 months of trading from this branch. LC might be suggesting that AB's problems are supportive of his problems.

J: Where does AB come from?

RM: Falkirk.

J: So not close to Marine Drive?

RM: No, nor is there an overlap of date. If relevant, my client might be put to the expense of providing the same volume of documents to show how and why these problems have arisen.

Guiding J to CPR 32.1: court may control evidence as to nature of evidence etc. p812, note to 3217 re similar fact evidence. 3rd para... case considered in the last year in *JP Morgan v Springwell Navigation Corporation*... decision of CA, running through 2 stage test.

Admitting this evidence beyond this email, will risk distracting the court from the principal issue of whether LC can go behind the account and whether there's an actual problem with his computer. We accept that problems can occur, but that they are addressed professionally and that's why we have pursued LC. PO has spent considerable time selecting witnesses to address the specific problems LC has raised. If I have to cross examine AB, I will have to produce an identical set of documents in respect of that set of circumstances. In effect this court will have two trials. Happy to accept that the document be put in as evidence but invite the court to exclude anything further.

J: Were D represented by counsel, he would no doubt...

RM: He's perfectly at liberty to put it to my witnesses. If it's admitted for those purposes, the court has a piece of paper showing somebody in Scotland has a computer problem in 2006.

J: And a bit more. This must be expert evidence, or matter of opinion anyway.

RM: If it is evidence, it is that of a problem with AB's computer.

J: LC – I wouldn't be minded anyway to allow AB to go outside confines of what he says here, may be him theorising. In those circs, given that RM is willing for this to be entered as evidence, it's almost as if he's here in person. I'm not going to allow you to call this witness.

RM: We're now down to LC, CT and DD as his witnesses.

J: Only 3 witnesses for Def?

RM: Yes, and we have 9 witnesses.

J: I'd better rise until 1030 on Fri?

RM: Unless you wish LC to clarify his case?

J: LC, anything to add?

LC: I just want to clarify the fact that the apparent shortfalls of cash broken down into list of JJ, proves that physically there is no cash shortfall. Also alongside specific fact, throughout whole period, £17,000 of stock was ordered from office and £16,000 of stock was sold by the office through transaction logs. A £25,000 loss can therefore be impossible to substantiate.

J: I'd better read statement of JJ.

LC: The comments are in my skeleton.

J: You'd better explain what you understand JJ to have meant that only £21,000 was returned over the period...

LC: JJ has made 3 separate interpretations of the figures in his own cash account spreadsheet. That would be physically impossible.

RM: TB3, tab 60.

[pause for J to read WS of JJ]

J: Says in para 12, p484, last 5 lines. Is that part of what you're submitting?

RM: No. From p486 para 21 and 22.

J: You want to refer me to those now. What is your point?

LC: He states that we needed £200-265,000 cash ordered to supplement the receipts.

J: Can you help me Mr Morgan? Where do we find this figure?

LC: It's not totalised.

RM: I think this may be an historical point. JJ was brought in to deal with the appeal from CO. He conducted his own investigation and is obliged to tell whole truth. Telling court whole process he went through to make a judgment on LC. Not sure he's totalled up the amount being looked for here. I'm not basing my claim on JJ's statement.

J: Unless JJ made a terrible mistake in which case LC's counterclaim may be justified.

RM: His evidence is there ... I'm not leading with this point. It's historical evidence of...

LC: TB1, tab 6 – first page of request for information, p.1.3 is breakdown of what response was required in respect of wks 41-49. In that period, the ordering of the cash are exactly the same figures but for a different period.

J: I see.

RM: Perhaps I can clarify. This Part 18 request contained a typo error from an earlier statement made by JJ.

J: He said 42-49 in an earlier statement...

LC: I will take it further with JJ.

J: Anything else?

LC: No.

RM: One further matter with trial timetable, I hope to be not more than a day with all three witnesses. Is LC going into the box first?

J: Are you LC?

LC: I can do.

RM: That would be helpful. I could then be finished Friday pm or Monday am and could then start with HR, RS, CO, AW, AD, AC, EM, GB and finally JJ. The remaining witnesses their evidence has been admitted by LC, as identified in my opening.

J: Do you mean admitted in evidence?

RM: Yes therefore the following don't need to be called: GH, KC, WS, PW, MJ, DC. All in TB3 with supporting documents save some contractual and account documents.

LC might be through my witnesses by Tuesday evening? Would J like closing to follow straight afterwards?

J: It would save time.

RM: Haven't really heard how LC...

J: We'll have final speeches straight afterwards.

RM: So would you like mine first?

J: I think it should go first in the circs.

RM: I'll follow on straight after the conclusion of my witnesses. Anticipate being finished by midday on Thursday, hopefully by end of Wednesday.

J: So I now want to take bundles 3 and 4. 1030 on Friday then.

RISES

Friday 8th December 2006

10.30am

[Notes by reference to RM's questions to LC's witnesses]

J: I think it's LC who goes next?

RM: before LC takes oath, can I clarify. There was a direction that WS stand as evidence in chief in the trial. Not a formal direction, but arises from para 9.2.5 of the QB guide.

J: you'll be asking LC whether his WS is true and then if you want to clarify, he must be clear whether you are examining or ...

RM: I hope J will make it clear.

Lee Castleton

[LC sworn in]

RM: asking LC to take up TB4, tab 65, 1st page of a WS?

LC: yes

RM: p? – whose handwriting?

LC: mine

RM: have you had a chance to read this recently?

LC: not since it was written

RM: any part you wish to correct? Is it true? Are you happy for it to stand as evidence in chief? Anything you wish to add to or amplify?

LC: no. yes. Yes.

Would like to amplify certain things in light of opening arguments. We spoke at length about contract and statement of accounts. Drawing J's attention to fact that PO have had opportunity to change accounts . 13 may 04, PO added to account 213377 (Marine Drive) a transaction for £1256.88 NSI transaction placed not by office, added to accounts after it was closed. Sought to recoup money from LC. They opened accounts themselves. Beggars belief really. Those documents are contained in JJ's statement.

J: would help if you could find them.

RM: I can clear this up quickly. It's a matter LC deals with in evidence and it's in JJ's statement, TB3, tab 60.

[finding]

Relevant passage is Para 8 on p482.

[reading]

J: so that will be in evidence of JJ.

RM: he will be called.

J: so those facts...

LC: the transaction was supposedly placed on 17 march, was actually done on 13 may, but JJ states it was reversed on ...Jan

RM: LC, would you look at TB4 p618, para 18? Would you like to refresh your memory about what you say occurred on 17 march in relation to a transaction undertaken by a customer called Mrs Dorothy Constable?

[reading]

RM: does that help

LC: transaction log proves the transaction was never completed. Refers to fact that details on application form were never completed, she took it home to complete and she sent it direct to NSI who returned the cheque to the customer.

RM: anything else to add?

With J's permission, I'm in your hands...may be easier to deal with submissions in written form, would J like written copy of questions subject to being allowed not to ask them?

J: LC anything else to add?

[RM asking and LC answering]

1. Very
2. I believe so
3. I believe so
4. I don't believe so, not without drawing attention to it first
5. 15 error notices were pertaining to lottery...no other error notices through the period.
6. reasonably, apart from the counter. RM: which counter? LC: the shop counter and lottery machine RM: slightly closer to the door? LC: yes RM: but broadly speaking they're accurate? LC: yes
7. ?
8. upstairs
9. in the PO area
10. Yes
11. yes, Spamer
12. 2.5 days a week, depending on other staffing levels
13. depends on other staffing levels – variable days
14. yes
15. yes, she could do
16. no
17. we do
18. in the safe upstairs, or about my person RM: who had access? LC: Myself and my wife. RM: is your wife well? LC: not very.

19. inside the office itself
20. not the same, nor the same system for the shop
21. no
22. if somebody else was in there, but wouldn't able to turn the alarm off.
23. yes
24. yes
25. not totally, no, there's a base payment as well. RM: base plus payment for volume?. LC: yes
26. I believe so, yeah. There was occasion when it was late
27. I do [J finding]
28. yes
29. no
30. don't believe so.
31. I believe so yes
32. possibly
33. how do I know? I don't understand. RM: in you WS in para 3, you say we balance 1103.15 short. How do you remember that was the figure? LC: from the pain of having to make it good. RM: so you remember it clearly? LC: I made the phone call that evening yes
34. the computer RM: is there a printout? LC: yes, final balance of wk42 [finding] RM: could you look at TB9, tab 42 p2608 – is this the final balance you're talking about? LC: yes, RM: do you see a discrepancy of £110?k LC: no because it's 60p rolled. J: where is this? LC: [showing] RM: I'm grateful, LC, I learn something everyday. When you say in your WS...in fact the discrepancy is ??? LC: no. RM: why do you say 15p not 60p? LC: on the screen it produces a cash and stock deficit which produces a cash amount. £1103.15, but it's not printed on here because it rolls both together. The system balances separately between cash and stock. J: what you're telling me is how you can have a discrepancy over and under of a similar amount. I don't understand this printout at all, if discrepancy is only 60p why did you have to put in £1103? LC: because...RM: I might be able to help J: [making note] figures at top of p6808 reflect fact that I had pay in £1103.15p LC: £1103 exactly, I apologise to the PO for the 15p J: so there's a 3rd figure of a few pence, we're not concerned with £1003.15, nor £1103.80 but with ?
35. x
36. yes
37. actually in conversation with Horizon helpdesk
38. as in...RM: the summaries you had from earlier in the week? LC: yes
39. as far as I'm aware

40. it was actually going through the checks first of all, with CT's experience she knew where to look then going to Horizon helpdesk who had also made the checks
41. reasonably, nearly 3 years ago
42. after we'd exhausted all avenues of making good the money. RM: Wednesday evening? Suggestion on p? LC: It was late, I can't remember RM: thurs morn? LC: I can't remember
43. x
44. yes
45. 1103
46. in cash
47. yes
48. can't remember RM: but you remember you had to make good the loss and that it was hard to find the cash, you must remember? Notes or coins? LC: we kept a large float and I can't remember. J: did you have to go to the bank and take money out? LC: we carried £1900 in float for our own use, it could have been of any denomination. J: so you took your own money out of your own safe and paid in cash in denominations you can't remember. RM: coins, notes or what? LC: can't remember
49. x
50. yes
51. I would have thought so, yes
52. the computer's figures, yes
53. yes, I wasn't in the office then, I'd been suspended at 1400hrs
54. don't know, I had no access to office from 1400 hrs.
55. don't know, I wasn't there. I'm sure it would appear on a certified form P242, the form that your client seems to have lost, that I didn't sign because the amount has always been in dispute. You're asking me about paperwork, for the production of which I wasn't present. RM: the PO accepts that this would normally be signed by the outgoing and incoming SPMR LC: is it a certification or an agreement? RM: doesn't matter for present purposes – TB1, tab 3 – amended defence and CC p7. para 2, you admit there's an apparent shortfall LC: I believe the key word is apparent, that is a computer generated figure. Why would I certify that it was a real figure? RM: have you had a chance to look at this trial balance? LC: yes
56. I wasn't there. RM: [repeats QUESTION]. LC: I wasn't there. J: can you comment on these figures at all? LC: no. RM: comment grounds that these figures are produced from entries made by you in the course of the week. LC: no, how can that be? RM: do you say that the auditors sat down and entered random numbers. LC: that's not what I'm saying. RM: do you accept it was compiled from entries made by you and CT. LC: without going through the final balance, there's no way a trial balance give you anything. Can I ask a question? J: only if you don't understand a question. LC: I was only going to point out the fact that balance snapshots have no bearing on what happens in the office. J; at the moment you're jus giving evidence. RM: ???? and you could have checked these against the trial balance? LC: I haven't seen ? RM: as you stand here in court today, you say you're unable to say there's any

figure that the auditors got wrong. LC: I'm unable to say they got them all right? My answer would have no bearing. I can't say either way.

57.

58. yes

59. as in our declaration? As far as I'm aware, yeah

60. as far as I'm aware

61. x

62. yes

63. RM: your signature? LC: yes RM: QUESTION – LC: as far as I'm aware. RM: if all technology works, this will all be recorded.

64. no

65. no

66. yes

67. as far as I'm aware apart from the 50p, handwritten on there.

68. no

69. no

70. yes, my signature – no disagreement up to and including wk43 – RM: answer would be the same to each of the documents> LC: yes RM: we can jump ahead

94. yes

95. yes, nothing to do with balancing, just parcels and packing

96. true – RM: did they assist with balancing? LC: yes

97. we did

98. I can

99. absolutely

100. yes

101. you have 24 hours in the rem, when its delivered, it's in a package...it would be impossible, the guys would never get round to ... you have a 24 hour window. RM: so they deliver it, when you have a quiet moment you check it and enter it. Once you had done that you would sign off and send back the remittance slip?

102. absolutely, not always easy because of changing demands, but generally yes

103. that's true. No error notices according to that. J: when you did rem in the information, did you check what the screen said? LC: you have a 24 hour window to check between physical stock and the screen. J: but then it would show something different?> LC: possibly. RM: when you rem in do you enter figures onto Horizon, or automatically when you scan in? LC: depends what it is, believe there was a change. Know that now you don't because it's all barcodes. RM: look

at wk48, at p2700 presumably if you did rem in and sign off, you'd have an opportunity to check at end of week that remittance matched what you'd signed and accepted LC: yes. RM: you don't say there 's a misrecording of remittance? LC: no, but I can only see my end RM: when you say that, I suggest the PO's claim is based on figures based on these accounts. Do you say that addition of these figures produces a difference answer from that shown? LC: can I have a transaction log? RM: do you say figures in ? are correct? LC: yes RM: do you say the computer...adding up these figures, do you say they are wrong J: not suggesting the maths are wrong? LC: cash account is sent back from Chesterfield, throughout period of problems, what computer in Marine Drive prints do not match what cash account says. RM: you produce these accounts in Marine Drive branch? LC: but I'm not responsible for what happens at other end RM: you produced cash accounts for week 48 in your office, check, against physical dockets, they corresponded. You could manually add up and subtract all ? do you accept ? LC: no. RM: where do figures on face of this cash account not add up? LC: that has never been the question J: please answer the question LC: they will add up , it's how it's generated that I have issue with.

104. that's right

a - f: for the checking of the dockets, yes.

105. yes

106. yes we did. RM: well, when? LC: repeatedly throughout numerous phone calls. RM: that's a discrepancy between what balance should have been and how much cash you had? LC: no, they chose to print out phone call sin the way they did? They reported what they felt was pertinent to the points I raised? Some calls were an hour long, it would be impossible to record that accurate in the space given. LC: can I have a transaction log? P2977 TB 10. [finding and looking] p 2979 compared with p2718. look at completed sales report cf....both post end of business at 1730 on same day. RM: that's not actually accurate, look at cash account final printed off on 4 march at 0726, cf sales report on Wednesday evening. I don't know what manipulations have occurred overnight - adjustments. LC: p.2725 final balance cheques to check...3519.43, but sales report says 3533.30. says remittances to client...data central is the actual client that looks after the cheque on behalf of the PO> J: therefore you say ? can only be checked by data central. LC: yes, doesn't look after anything else. RM: bit surprised, never been ID's by you in your case. LC: yes it has. These are facts from phone calls, we were repeatedly told t=it was not a problem with the computer. RM: I suggest that if this was a serious issue it should have raised earlier and that in material respects these match. LC: do they? RM: why did you sign off the cash accounts final? LC: what did I do between that? Made those phone calls for due care, they should have looked after me and helped me through. Your client chose not to do so. RM: I suggest that you produced this accounts on p2714 on morning of...having checked the figures and signed it off as an accurate accounts. LC: why would I do that, having made the calls I did/ J: you have done. LC: on the understanding that it would be investigated. IN order to continue business, the account must be signed. I have no primary evidence as to calls. Would you like me to go through those call s now? RM: no, its too late to find people to rebut this allegation. LC; its not new, it's been alleged since day 1. Your client has chosen to refute that saying I have no evidence. RM: you were obliged to check these accounts until they matched, do you accept that? LC: no RM: that you were obliged to follow the Horizon manual? LC: your client had a duty of care J: p2724 time stated was 0737 on 4 march, figure on ...LC: we rollover the following morning. J: so figure of 3519.42 purports to be correct at 0737 on 4 but 3 533.30 purports to be correct at 1735 the day before. When does office open? LC: 0900 J: so they should be the same? Can you explain why/ LC: because the computer doesn't work. RM: you change a figure to make the rem's out correspond. LC: I believe 3519 is the correct figure. Although you take court to example where record is wrong in the sales report, by the time it gets into cash accounts final its correct? LC: no, it's produces by two separate halves of a computer, as AC will explain, combination of workings out of transaction logs and in house. RM: is it your evidence that cash z/c final of 2718 of

3519.43 is incorrect? LC: no RML 3419.43 is correct? LC: yes, from the checks I did. RM: quibble not with cash z/c final, it's with the figure produce in t sales report? LC: no, it's with the computer that generated sales report figure/ RM: figure in cash accounts final is correct? LC: yes RM: so do you accept that when p2979 was produced, it was a draft report produced to check the figures before putting into final cash account LC: no, because I don't do that, it does itself from the transaction log at Chesterfield. RM: the cash account is generated by your machine not Chesterfield. LC: look at AC WS, checks correspond with Chesterfield not in house, figures now not generated by us into the computer, done daily reproduced in cash account. We physically count cash, but computer produces all other figures. RM: do you check the other figures by computer against transactions that week? LC: yes RM: for cash accounts finals that you signed, were you able to ID discrepancy between what you checked from physical record and what was in cash accounts? LC: we've always reported all anomalies. RM: =did they correspond? LC: not always – need to difference between cash a/z and transaction logs and the figures produced by trial balance. RM: you produce a trial balance which goes into cash account final. You check each of the figures against the physical record. Any figure you don't check against physical records? LC: no RM: all figures against physical records and only when happy do you print out Cash account final? LC: and if I'm not happy I call helpline, which we did RM: if something in cash account final didn't match up with physical records, would an error notice be generated? LC: not necessarily no, depends in this case the checks computer lists in house as a sales report does not match, but they should. RM: cheques received ever not tally with figure on cash account final? LC: yes, human errors occurred. RM: error notice be issue? LC: Yes. RM: you are a careful man, you did check each week the summaries prepared by you against figures on final balance and cash account final and that they corresponded. LC: yes, in general terms RM: you can argue what you want, but these cash accounts reflected the underlying physical documents. LC: Yes. RM: Thank you. The physical documents reflected the actual transactions you undertook, i.e. pensions? LC: Yes. RM: Same for each physical transaction? LC: Yes RM: I appreciate that sometimes human error occurs, but physical evidence of transactions is what stands in the accounts? LC: Yes

107. x
108. x
109. x
110. TB10 – [putting away bundles] yes
111. a little but of mine and a bit of CT – looks like I've done the bulk. RM: does she correct this, can you show me her handwriting? LC: the lower figures usually. RM: flick through to p3129, are those principally yours? LC: evenly split J: much the same writing LC: we write similarly
112. x
113. yes, the safe is on the floor behind you so you'd RM: how big is the safe? LC: big [points to whiteboard} with difference compartments inside. It's very old. RM: did you prepare this manuscript ion Wednesday evening. LC: yes
114. no, cash declaration prior to final balance. Then lottery..
115. don't understand. RM: take manuscript calculation, sit down in front of terminal and enter figures. J: don't understand p3129, what is all this? [explaining] RM: this forms basis of what you enter into Horizon for cash declaration. LC: on balance day, there's no ? figure, you provide a representative figure RM: what you actually have by demonination? Which you enter into system and get a print out which says what you've entered, which you check against the manuscript and you can then correct? LC: yes/

116. yes
117. RM: and TB10 where we started, it's cut off... cf 180 and 348 in unusable ...1 to 1 correlation between the amount in manuscript and the amount shown as having been declared onto Horizon...
118. x
119. yes
120. I can't see that 5p? but presume it's right. Yes
121. 0
122. x
123. x
124. x
125. yeah, if we'd made a mistake. Miscalculated or misheard somebody saying whatever. RM: that would explain why the manu might not correspond to the physical reality LC: or to what's on Horizon RM: recapping – you'd balance and there'd be a figure. Sometimes you might recount and enter onto Horizon rather than making it right on the manuscript. LC: sometimes scrubble it out on Manu.
126. I've no idea, if it's not a rem day presumably not. RM: those are Thursdays? LC: yes RM: schedule broadly right/ LC: don't know, but rem day is right. J: what is p3085? RM: print out spreadsheet of notes and coins delivered etc produced from Horizon log of deliveries. J: what's 1.662? RM: cumulative for all deliveries between x and 25 march 2004.
127. yes RM: p2643, you'll see that £50 notes didn't change, you paid out a few 10 notes and 5 notes. Not much business on that Saturday? LC: not necessarily, if customers paid a lot of 10 notes, that would be in the draw, you wouldn't necessarily decant any cash from the safe. RM: less cash in than Mondays than Fri and Sat.
128. x
129. x
130. depends what it is, some is self-generated. Talking of cash? RM: yes, at the moment. Look at figure of Wednesday...
131. yes RM: cash figure at top left.
132. x
133. yes
134. yes
135. o
136. yes, it's giro withdrawals? RM: wrong bundle LC: , p2610...yes
137. I think some of it, RM: which bits? LC: didn't do the bulk on this one, a bit of it. The £2, the 50ps. RM: you did the 50ps? LC: yes.
138. yes
139. don't know

140. not particularly, can't remember. Spent a long time looking for the problem. Can't remembers
141. yes
142. can't remember, yes would have thought so
143. yes
144. RM: some in your WS, some in CT's. LC: can't remember RM: can't remember at all LC: no, it was a long time ago. RM: you said it stuck in your mind, LC: yes, still does, RM: when did you put cash in to balance the books? LC: can't remember, RM: you didn't put money in PO tilt until thurs am LC: can't remember RM: cash not reflected in manu note on p2610 LC: doesn't look to be RM: would be reflected in cash declaration inc in final balance and cash account final.
145. x
146. x
147. I know already that they match. RM: compare the figures, you see they correspond/ LC: apart from 50ps RM: look as if it's the manual ? in advance of preparing the Horizon declaration.
148. x
149. x
150. yes
151. yes, we could have missed the bags of change out.
152. why? That's not what we're saying here is it RM: in making up deficit of ? odd, you counted out all those pieces? LC: you're not standing me here today because of that?
153. yes, RM: whose? LC: splits against RM: who did 20p declarations LC: looks like CTs, RM: 50ps? LC: looks like CT RM: who would have entered onto Horizon LC: could have been either
- 154.
155. absolutely RM: do you think this is a true declaration? LC yes RM: apparently, between 0730 on 15 jan and 1730 in the evening, you paid out 1500 odd of 50p pieces. Is that likely? LC: yes, we're on the seafront. RM: and you've received...can you ID?
156. x
157. x
158. x
159. x
160. x
161. x
162. yes

163. what I'm saying is we could have made a mistake as to which column we put it in, we are human. RM: I asked you if this was a true declaration and you said yes. RM: which customers might have done that? LC: anyone, or myself? RM: 58 kilos of sealed bags? LC: looks like the amounts are the wrong way round. RM: these cash declarations bear no resemblance to the physical reality of what's in the till, you manipulated the cash figures in the cash account. LC: definitely not true.
164. yes, but not early in my case, August 2006 because PO didn't release documents until July 2006 RM: you in fact instructed forensic accountant as early as Nov 2005. LC: we had a report done on one week, but without all the documents required.
165. it was inconclusive.
166. not true.
167. definitely not true.
168. yes, but I couldn't afford it.
169. but I couldn't afford it...J: answer the QUESTION LC: I believe they did.
170. no, because if had no more money.
171. yes J: where? RM: explaining
172. I do
173. yes
174. CT's RM: any explanation LC: that's what more cash we had than the balance snapshots were showing RM: would have largely matched the amount in the suspense account? LC: not necessarily [missing text] J: so balance snapshot is less than ? by the amount in manuscript LC: yes. They were calculations made by CT. RM: I can't therefore pursue it with this witness.
175. x
176. x
177. not the case
178. x
179. I again strongly deny that.
180. x
181. again I strongly deny that.
182. x
183. no, that's not true. RM: from call logs, PO's position is that there's no record of a specific error and this would have been recorded.
184. definitely a fact that I received such assurances. RM: from whom? LC: CO and the helpline. RM: is there a representation you can recall? LC: CO to my face: 'it will be an error and it will come back'. RM: that meant an error made by you made in the paperwork which will be picked up with it's checked. LC: no, the conversation went on .

185. I was told that if I didn't sign, I couldn't complete the business of the week. RM: you were never told to sign? LC: I was told to sign in order to complete the week's work or I couldn't rollover into the next week.
186. x
187. a) because I didn't have transaction logs. RM: but you had primary documents LC: you need to compare more than one document, it's a multi level thing as I showed earlier with the checks. RM: you had summaries which you checked against cash account final and they correspond LC: but the stock and mop is different RM: you counted stock and cash and recorded that LC: yes RM: as regards every figure on cash accounts final, it was checked against the reality of what you held in your hand. LC: that's not true because of the sales report I showed you earlier. RM: focussing on cash accounts final, each figure in cash accounts could be and was checked by you each week. True? LC: yes, but not reflective of the problem, is it/ RM: did you order more cash in wks42-51 than was needed?
188. c
189. c
190. x
191. only CT and I had access, I would have known. RS had no access and didn't even know the alarm code. Impossible she could have taken that amount a) yes B) never c) never LC: not contained in the audit report D) always on premises E) can you look...we don't keep travellers cheques. F) x G) again, this has been written after the event – not contained in the report but specific to contract including allegation that I'd been drinking. H) I'll get the oppo to cross-examine, I do not believe that they're true, no.
192. yes, but not at the point she actually suggested it.
193. where you split the indiv stock in office between two operators so you can balance separately and see if anything's going missing. RM: assigning a balance to one till and another to the other till LC: which is impossible in our office.
194. was CO's view, yes and mine too. J: couldn't do that in yours? LC: we had no facility to split the stock. Only had one compliant safe which didn't have a separate safe drawer.
195. x
196. never been at question. Yes. RM: do you accept that you're obliged to account to PO? LC: I did. RM: you instructed solicitors from before this action was commenced by telling them your version of events. LC: not initially not, but at some point at pre-action disclosure RM: and they advised you? The first time you suggest that you paid the money to RS was by a side wind in CT's statement and your skeleton provided on Monday. LC: not true, RM: can you find a document that says so? LC: yes, but it'll take time. RML: do you understand your obligation of disclosure? LC: I don't physically have the documents RM: you have control over who goes into the branch? You can physically prevent members of PO from attending LC: no RM: take up TB13 tab 118 p4256 letter from Rowe Cohen dated 9 Declaration 2005, your solicitors LC: Yes RM: recording event that occurred a few days previously, DD contacted ? ...LC: wasn't really what documents couldn't be collected, it was the originals RM: DD declined to deliver LC: because they wanted them without copies, ask her RM: 'such conducted is unacceptable etc' .in TB4 tab 3 p640 para 40 [reading] where are those documents? LC: in the PO RM: why not produced? LC: I don't hold them RM: it's extraordinary that this case hasn't been advanced until 11th hour, that you have relevant documents in control of people giving evidence on your behalf, that we've been denied access, you're supporting your case on basis of documents you haven't disclosed. LC: argument was over

the originals, you've been misled. RM: This is a case that's been developed late by you. It's going to be impossible to get to the bottom of it because you haven't produced the documents LC: I don't have access RM: you could have asked your ? to produce it LC: you could have found it. RM: it wasn't a case advanced by you through your lawyers, nor in your pleadings.

[RISES]

2.05pm

RM: mentioning one matter, could get a transcript of the evidence if it would help.

J: that would be helpful, it would speed up proceedings. For every day?

RM: if that would be of use?

J: yes.

RM: LC, you have IDd the letter you want to draw to the attention of the court at TB13, tab 126 p4319. Since it's your point, perhaps you could explain.

J: [reading]

LC: as you can see M'Lud, the Nat Lottery was disclosed. From coming out the office to today I've not stepped foot in the office to procure evidence, would therefore be unable to provide the tickets, but from reading DD'S WS, she has full access and tell me the receipts are there.

RM: also, in support of earlier submission, see the offer for inspection of computers.

197. x

198. I don't accept that RS had no balancing problems. RM: GB? LC: minor problems, but no balancing problems

199. RM: is this the incident where you believe RS had difficulty balancing? LC: on the two occasions yes. A) from seeing her and her telling me as she left. RM: did she tell you the content of the conversations. LC: no b) I didn't know that c) I can believe that d) why would she tell me she was ringing CO? e) from lottery errors, it would have been impossible for her not to balance. RM: you base that allegation that the ...lottery should have been F) across the bottom of the computer, there's a bar that shows when the computer's having an update. RM: how could you see that? LC: we have a glass that looks through and I could see the bar. G) no h) it seems surprising that there's an update every day but there's nothing here between and the 6th April. I'm not saying it's wrong though, I don't know. RM: you said you knew it be being updated, LC: I believed that to be the case RM: Suggest there wasn't the update you alleged, LC: then I dispute RS's evidence

200. RM: wasn't that the date of our hearing with CO? LC: I thought it was on the 13th. RM: CO's evidence is that it was on the 10th. RM: do you maintain that she took away paperwork? LC: yes RM: What? LC: balance snapshots and transaction logs. RM: it has all been returned and disclosed by copy, do you accept that? LC: no. RM: putting PO@s case formally, then conclude: PO's case

201. no. RM: your case is not that the cash accounts is wrong, but that there's a discrepancy between ? and your ? . LC: the daily ? and figures produce RM: don't say that the final account have discrepancies against physical documents, LC: my quibble is that interim reports have RM: you accept that the final accounts reconcile back to primary documents LC: Daily documents produced reconcile to transactional data but not to the ...RM: but you've accepted that the cash accounts reconcile with physical summaries LC: that effect must have been though the week on the stock of what was placed thought the system. RM: if you sat down with ...

would you have produced the same amount? LC: no RM: I suggest they would LC: why do daily totals not match? RM: if you produced an account using the summaries of transaction and actual figures for cash and stock disclosed by you, would cash account produce any final figure?> difference figure LC: yes, in respect to stock and daily basis RM: but end of each week, would that produce a different figure to that produced by Horizon? LC: yes, stock, RM: but that's what you've got in stock, the means of payment figure...why would they be different? LC: produced in different way RM: MOP figure is what you input into computer LC: transaction data doesn't correspond RM: physically the amount you count up and declare in cash goes into trial balance. That then goes into figure in the final balance How would it differ? LC: cannot have a difference between cheques declared...and the difference on the cash accounts RM: If, in wk2, we produce a balance sheet old fashioned, would we get the same figure for cash declared as in your wk42 account? LC: there are discrepancy in log? RM: would we get the same figure in cash? LC: two difference documents! It's very detailed. RM: Take TB9 – turn to tab 42, p2599, table of cash stock etc in hand. If we conducted, once you've put in money, is the phys amount of cash 83328.32? LC: there's a reason for that/ J: is that the amount of cash? LC: it was at the time, for a reason J: that's the next question RM: did you have 81.01 of philatelic items, ??? of postage stamps? LC: that's what we declared, but computer in status report has a zero figure. RM: ?? of PO face value, x of PO fees, license fees, littlewoods savings certificates, calling cards, etc. you accept each line is accurate? LC: there's a reason for that RM: whether these accurately reflect the position of the business on that date/ LC: yes RM: same for every week up to 51? LC: yes RM: if one did this manually, one would come up with the same figures LC: you would from cash accounts, but there's an underlying system RM: same figures if you did it the old fashioned way with a pencil and paper LC: yes. RM: thank you.

- 202. x
- 203. not true
- 204. x
- 205. x
- 206. x
- 207. not true
- 208. not true
- 209. not true.

J: [asking for TB 3 and 8] might help you to look at TB3, tab 59 LC. Turn to p478, you should have part of RS's evidence, para 12. Please read to yourself before I ask you a question about it. [reading]. Is it right that the auction practise, made a habit of dumping cash in the office.

LC: my wife is an agent for the car auction, yes.

J: they would give the money in bags?

LC: sealed bags, yes

J; they would give it to your wife, in your house.

LC: in the storeroom in the shop

J: what did you do about counting it?

LC: SPMR would pay it in, RS at this time.

J: she'd come in as if she were a customer.

LC: yes

J: so she'd count it, then RS would count it and it would be recorded in the paying in slip and on the computer?

LC: yes

J: would you take TB8, tab 80 please? This is a note by,...

LC: CO

J: p2391, she's quoting you...[reads para]. Did you do what she suggested?

LC: yes, but she took the paperwork away prior to my interview, it's never been returned.

J: thank you. Turn to TB3, tab 53 p352 para 15, again CO. Last 6 lines, [reads]. You say it's not possible at your premises.

LC: this conversation took place at week 49, you'll find that our PO is very small and we only have one safe, in order to keep two figures separate would be impossible. Main unit is impossible to split.

J: turn to same file tab 62, evidence of GB p544. read para 18-19 first. [reading]. Do you know anything about the question of rent.

LC: idea of having a barrister call him on my behalf, or my father in law's behalf, would be ridiculous. We have numerous issues over...didn't wish him to return to Marine Drive PO.

J: what about para 19?

LC: no he's referring to fact that father in law's barrister referred to a rent of ? a month.

J: you know nothing about that?

LC: I don't have a barrister, I've no idea what he's talking about.

J: does your father in law have a barrister?

LC: no.

J; turn to tab 60, bottom of p483, para 12, JJ again. Read first half of para. [reading] lines 3-5 at top of 484, evaluation of wk46 etc. do you know about that?

LC: he's taken figures from balance snapshots, a guide from system which tells you in it's own words where it should be. not actual cash declaration.

J: p486 pls. something here I don't understand, paras 21 and 23, JJ explained to you that branch had ordered more cash than normal. [reads aloud] What was the mistake?

LC: on receipt of any monies in top half, he's taken into account 60k of cheques, some payments are cheque...but on payments side he's removed those cheques to provide a cash figure, thereby reducing the amount of cash required. He's made a typo I referred to the other day, he's made 3 indications of how the figure was made up. We ordered 316k.

J: that's also the answer to my question about para 23, the same point.

LC: I can give you a copy of my handwritten spreadsheet.

J: RM, is this in the papers?

RM: we saw it briefly in opening, it's not my primary case.

J: top of p407, it says... what do you say about that?

LC: not taking into account cheques, it would be easy to make that mistake, comparing cash in and cash out figures they correspond and nothing untoward.

J: any questions arising?

RM: when car auction produced giro bags, did you physically opened those and count?

LC: yes, of course!

RM: making concession, initially PO was concerned, but there's been a reconciliation of that account. PO has been through paying in slips and receipts and make no allegation of wrongness on accounting sense.

J: puzzled, they fill in figures and you count it yourself....why do they give it to you and leave it to you to count it.

LC: they've already counted it.

J: supposing somebody else disagrees, she mightn't even know.

LC: we're friends, so we'd phone if there was a problem.

RM: presumably that would be paid in notes.

LC: largely.

RM: suggestion by CO that snapshots should be produced before and after remming in. the snapshots you produced then showed no discrepancy?

LC: no, it didn't. we couldn't find any.

RM: on splitting the stock units, you say it was impossible. Was it merely difficult, could you have done it if you'd been in charge of the safe and kept the keys on your person.

LC: we would have needed those stock units separately inside the safe and that's not possible.

RM: but you could have traded the units separately then put money back in the safe.

LC: units couldn't be separated.

RM: inside the safe,

LC: no physical shelves etc.

RM: you could notionally have divide the stock, with paper notes etc. could make a record.

LC: you would have had to do that on the system as well, physically splitting stock at same time, We have no physical way of doing that.

RM: system doesn't know that though. As long as you know, it's irrelevant as long as you are the only person with a key to the safe.

LC: would still be impossible.

RM: just difficult?

LC: I refute that.

J: What would be the point anyway? The two are close anyway, you would need a more secure system than you're putting to the witness.

RM: it's not a key part of my case but might have shown up an anomaly. Just seeking to establish whether this could have been tried to narrow the options. Could be a ground for complaint against somebody at a later stage. That's all I have to ask LC.

J: that's all LC, you may sit down no.

RM: [hands LC cribsheet for questions for his witnesses']

J; [clearing desk.]

J: you want to call DD?

LC: yes, can I call DD?

Dorothy Day

[usher goes to get her and swears her in]

J: TB4, tab 66 asks her to look at it. Is that your signature?

DD: yes

J: are you familiar with contents?

D: yes

J: are they true?

D: yes

RM: DD, did you use services of Ruth Spamer?

DD: no

RM: look at para 9 of statement. Can you produce a trial cash account?

D: yes

RM: para 12, you state that CT had been suspended. SPMR employs assistant, so if SPMR suspended, assistant can't work either. [continued from numbering]

213.

214. yes

210. x

211. x

212. x

213. x

214. yes

215. I haven't been out of balance to a large sum, £100 here and there but I know when I went into the office the computer system had been down for several hours. Can only happen if you reinitialise the system, takes 10 mins to reboot RM: did anybody tell you the system had gone down? DD: yes, RM: you didn't know that? DD: looking at evidence, that's what I would say happened. RM: were you in

the office then? DD: no RM: so you were just reporting what somebody said happened .DDL: something happened, balance not done until 1300 that day, we normally balanced first thing

216. that's the only reason I can think of, that the system was purged

217. yes

218. yes

219. correct, I'd put my life on it. I'm also a very honest person.

220. no. RM: have you looked at his figures? DD: I've looked at his reports. RM have you looked at his cash accounts DD: not in great detail RM: but haven't found anything wrong? DD: haven't looked at them in detail

221. x

222. x

223. I've had anomalies in 14 years in my PO on the system RM: but you've always managed to reconcile your books, 2 occasions where you were 100 or so over DD: para 12, first 6 months I was around 500 out. I had a small village PO where I knew everyone who came in and out, at end of half0day's trading I was 700 out RM: different PO? DD: yes, but we all operate same system RM: and different time? DD: Yes

J: why is statement in two typescripts?

DD: original solicitor had put a question and I expanded, I retyped it out and signed it.

J: what rent did you pay?

DD: difference every month – take a salary out and plough back in...pay LC for CT's services.

J: it's LC's premises

DD: yes, I plough back

J: ever amount to £1250 a month?

DD: more than that every month, sometimes up to £1900

RM: so, the effect of your agreement with LC is as if he continues to run the PO but paying the salary.

DD: my salary comes from PO

RM: you've agreed a figure you take and he gets everything above that.

J: want to call your next witness?

Christine Train

[LC gets her and usher swears her in]

[J proves her]

RM continues with numbered questions

224. x

225. no, no trouble until then. RM: significant problems since? CT: lots of problems that create a wrong balance. RM: ??? CT: 100 or so out RM: by DD has not been out of balance by more than 100 or so DD: with the problems in system that have thrown up...causes you to misbalance. RM: have you had significant problems balancing, more than £100, since working with DD? CT: no
226. the cash held was declared correctly, differed from what system said. RM: so you reconciled all figures back to primary documents and they seemed to be right? CT: totals for individual items appeared to be correct at that time.
227. can't remember
228. x
229. RM: did you see him make it good? CT: yes, RM: what did he do? CT: put 1100 in RM: how did he do it? CT: don't know, presume it would be notes. RM: TB9 tab 42 p2610 – whose handwriting is this? CT: [points] definitely mine RM: which bits? CT: 155, ?27, £50 notes, 20s, 10s, 1500, 1900, 5s, 2s, 1 coins, 50s, 20s, 10s, 5s, 2s, pennies. RM: all of it? CT: yeah RM: prepared on Wednesday evening, who would have entered if onto the system CT: either one of us. RM: TB10 tab G, p3087. IS that your handwriting? CT: yeah, looks like it, whole page. RM: turn to TB9, p2612, top left hand panel. If LC had made good losses using notes, they'd be shown in the denominations for notes? CT: quite possibly, could have been added on but total still correct, could have been added on in a different line. RM: so it doesn't matter how he enters it up. CT: could have been that space on the page, if you hadn't time but total still comes to the same. RM: LC put in notes to make up 1100. J: she doesn't remembers, she presumes, RM: any reason LC would have entered it up as 50p pieces CT: could have been so that the balance adds up so we can roll over figures for end of week j: but aren't these supposed to be accurate count ups? CT: yes, but you need to have it done before you can enter up...J: needs to be right coin CT: Should be , but it might be an oversight RM: unlikely you'd bother to do the calculation in 50p pieces if rushing for time? CT: ? RM: p2627 behind tab 43, cash on hand declaration 10 hours later corresponds to TB10 p3087 except for declaration for 20p pieces. Can you explain how or why? CT: can't remember J: looks like a typo? CT: could be, quite possibly. RM: amount of 50p coins reflects a more realistic number, do you see? Suggest those 50p coins were never put in. J: ambiguous question RM: entry in morning not reflective of coins actually present CT: could be that that's where it was entered by mistake, but correct amount...RM: did you enter these Horizon figures? CT: has my name on , yes, user name on cash declarations. J: where's that then? RM: p2612, who's LCA001 CT: Lee RM: thank you. Tab 47 TB9, p2695, help me with handwriting on separate cash accounts CT: mine RM: what the numbers in manuscript? CT: what system was showing in difference at end of day from balance snapshots to cash in hand RM: if you look at top right, you had 7032 more than balance snapshot suggested? CT: that was the difference it was showing on that day. RM: so that amount of cash was held but you had a surplus of 7031 CT: cash declaration was what was physically there, that was the difference between the two RM: and on sat 10??? More than balance snapshot expected and over the page, on Monday why did you write 10984.05? CT: no idea, can't remember. RM: still in surplus on Mon and Tuesday? CT: that's what it was saying. RM: declaration's cash on Wednesday top right, system was back in balance as far as you were concerned? J; they're Thursday's figures but I'm concerned that you're suggesting to the witness that they're Wednesday's figures. CT: the sales of the lottery would have been added on after closing on Wednesday. RM: misunderstanding, the figures on top right on p2696 represent all the include all the cash for trading up to close of lottery terminal on Wednesday evening. CT: if that was last cash declaration, that would be final one. RM: but no transaction on thurs. CT: yes, RM: reflects cash position for all business done up to midnight on ?/ J: lottery closes at 7pm, although you don't count the money until next day. CT: 0738 figure would be after lottery figures. RM: by that stage the figures' reconciled. [some missing text] does that explain why you've got the manuscript entries? CT: no idea, possibly a note to tell the helpline when we rang but I can't honestly remembers. J: p2695, is it different handwriting? Looks like it yes. Are these all surpluses? You have more cash than

the computer expects. CT: Cash declaration was what's physically in the office, balance snapshot tells you what the system thinks it should have, these are the difference. J: an excess? CT: can't remember which way round it was. That was the difference.

230. the things that you can check I know with that amount of money, there's only certain places it's going to be. The things you can't check, each individual sales of stock...I know because I checked at least twice before I left the office that they'd be correct

231. the only other way there would have been a deficiency would be if we'd made an operator error and we'd go back to correct that RM: two ways in which there could be a deficiency, one is operator error or , I'm not accusing you of anything, if somebody had taken the money. CT: never been anybody in the PO capable of it. RM: but that would lead to a deficiency? CT: yes

232. x

233. certainly later than we'd have expected.

234. no idea

235. would have expected her to finish a lot earlier. yes

236. we know that the system did need to be rebooted a lot and there was a point where it was unusable for hours.RM: do you know that? CT: Yes RM: was the SPO closed? CT: she was working manually.

237. no

238. I've never said that.

239. yes

240. I'm not the computer expert. 1st April isn't on there, but I wouldn't know. RM: on what evidence do you base your allegation? CT: length of time it was unusable.

241. x

242. she didn't use system until late in the morning.

243. she went in office and left with a big bundle of paperwork RM: you didn't inspect it? CT: she didn't offer it to us RM: you're unable to say what she did or didn't take CT: cash accounts, girobank receipts RM: how do you know? CT: I'm working in the office, so I know what's left. RM: you don't know what she took CT: I know what she took concerning the cash accounts , daily figures

244. x

245. x

246. x

247. RM: where are they now? CT: in the PO RM: can you get them? CT: they're still there RM: you see the typeface differs from preceding page because it was typed up by you or LC, and the preceding page by LC's former solicitors? CT: yes RM: whether this is a new para? CT: no RM: your evidence that LC's solicitor were aware of this for some time/ CT: don't know

248. x

249. it has been mentioned lots of times. RM: by who? CT: that created an error notice, lottery ticks were incorrectly entered , not entered, which created an error notice. RM: no lottery...entered by RS for day ? march RM: how would she know she should have entered it? CT: part of her job at SPMR RM: any evidence she received it on 24 march? CT: she was given them on 24 RM: by you? CT: she would have been given them? RM: but not by you? CT: would have been printed off, don't know when or by whom. RM: Thank you for your time.

J; RM, para 18 – could you explain how this 8000 works, ties in with documents we've been looking at? diffs between snapshots.

RM: yes, from GB's evidence? After CO asked GB to take snapshot twice. [explains]

J: system doesn't appear to treat the transfer as it should. ...

[TGB2 LEFT COURT]

Monday 11th December 2006

10.30am

J: interested in how Chesterfield works with a view to understanding how error notices work and how reliable. Also recall LC mentioned discrepancy between 1013 and 1033. Should like an explanation from a witness.

RM: we'll think about that.

LC has an application to make in relation to calling further evidence from Mr Bajaj.

LC: Mr Bajaj only received summons on Friday and would like to come to court.

J: who?

RM: subject of one of LC's summonses, summary served in TB8, tab 97 p2557ak. Last week I make app under CPR 32.1 re similar fact evidence and J gave a ruling that his letter stand for what it was worth.

J: your case, RM, depends on evidence that computer never goes wrong;

RM: hoped I'd dealt in opening, PO's case is not that there's never a problem with Horizon, but that accounts were produced and signed off by LC and that physical evidence vouched for that. J has heard from LC that cash accounts verified by him are accurate. No difference whether LC adds up figures, or uses calculation or Horizon.

J: understand some mistake has happened, but that error in LC's case is that they do balance with documents he sent to Chesterfield but that Chesterfield somehow miscalculated documents and vouchers.

RM: you misunderstand LC's case. His evidence is that he puts figures into computer, Horizon manipulates figures...I've been coming back tot cash accounts at end of each week to see if anything doesn't reconcile with primary documents

J: but they've gone to Chesterfield

RM: but he retains a summary and checks them over and over and says in evidence that they match. If we went through adding them all up now, they would come to the same answer.

J: does audit use Chesterfield documents?

RM: HR can only find a certain amount of physical cash and stock for her audit, and those documents sent off by LC with copy of his summary, clearing houses check summary against Horizon etc and if there's a problem sends an error notice. LC nor CT can find where their summaries differ from the cash account final. I've been careful to try and prove this case on the basis of the final accounts produced by LC and CT, not on the basis of a full paper trail which would need a reopening of the accounts.

J: so on your case LC has no case to answer.

RM: indeed, but I'm not going to make an application to that effect because the law is complicated.

J: what do you have to say LC?

LC: the system works on 3 levels, running systems of checks between them Chesterfield, ? and in house. Whilst information going to Chesterfield produces no errors, Marine Drive information is difference to information being sent down computer line to Chesterfield.

]]: sent by you.

LC: yes, the stock and MOP figures produced in house produce a shortfall from figures sent to Chesterfield, can be proven through spreadsheet of JJ.

J: slow down

LC: when anything's processed in house, it creates a transactional log, balance which can be produced daily through balance snapshot. Should match figures held in stock and cash – this has not been the case in Marine Drive. There are anomalies in figures occurring in the branch itself through no fault of the operators or assistants.

J: can you point to particular anomalies?

LC: yes. The cheques on the transaction logs, the 1033. Cash differences reported in week 47 daily where we had physically more cash than computer requires us to have. In week 42, 41, transaction logs show that stamps were zeroed in house as a declaration yet appear on cash account.

J: you'd better show me.

LC: TB 10 Tab 47, balance snapshots p2593, 2955...[finding] and TB9, tab 47 [struggling to find]. That goes on all week, there were 6 anomalies in all. TB 11a, tab 100 [finding slowly] p3421, 34 lines up...

J: the one which says declared stamp total 0.00

LC: yes, and on the cash account it declares the actual stamp figure.

J: where do I find corresponding entry in TB9?

LC: can't find mine.

RM: p2587

LC: under table 5b stock in hand breakdown, third line down 1249.07p 'other postage items', clarified on p2585.
Also case from 4243 in book IIa, tab 100 p [finding] 3442 10 lines down. Declared cash total 0. Another 3 lines down, it's 0 again.

J: why does it show twice?

LC: a few minutes later. Then again 4 lines down.

J: cash total 81000?

LC: yes,

J: must be implying there was a cash delivery of at least that between x and 8am.

LC: computer would have seen it as having no cash originally then suddenly that amount of cash.

J: computer is indicating that there had been a delivery of at least 81k between 6.10 and 6.27, is that right?

RM: what this shows is that someone declared cash as 0 then again as 0 then a third time as 81k.

J: you're saying that these figures are put in by person operating it?

LC: those figures produce reports, then ...

RM: yes, those are user input figures.

J: the word declared indicated something that's been put into the computer at the PO?

LC: yes, at Marine Drive. But the question is, if that were the case it would not appear on the cash account.

J: you're saying that's an incorrect record of what happened on the computer? So no one fed in the figures 0?

LC: correct

J: but that someone did feed in 81k, either you or your assistant?

LC: yes.

J: you're inferring it?

LC: yes, it would be impossible for the computer to produce a figure with it on one side and not inputted on the other side.

J: can you help on last point?

LC: on wk41 cash account, the stock of stamps would not have appeared on cash account if it was 0, it would...

J: go back to stamps...3421 – what you're saying is that 0 was not correct. Also you're deducing that no one would have put 0 into the machine?

LC: no, if it had, it wouldn't have shown on the cash account as having value.

J: if 0 had been put in, 1249 wouldn't have shown on the cash account?

LC: correct.

J: let's see – the cash account is 7.50 on the morning of 8th, this thing is afternoon of 7th. Any other figure lower down?

LC: don't think so.

J: what difference does it make if this thing says 0 if the cash account is right?

LC: that would have produced a figure of 1000 providing me with a loss?

J: if you've got a stock of ?, can you show me what figure in the next week's account is wrong?

LC: it would have been seen as a sale

J: so I look at tab 42 for that?

LC: p 2061 of tab 42, we're carrying stock of ? of other postage items. So from balance to balance, whilst the stock looks correct, the zeroing of the cash declaration has caused the cash to increase by x, the necessity of cash?

J: where do I find that?

LC: through the balance snapshots. This document does not show??? That's why the problem has been so hard to find.

J: is there any figure behind tab 42 that you say is wrong.

LC: no, just the cash requirement.

J: authorised cash shortages on 2598?

LC: yes, the 60p. I made good 1103 that week.

J: I'm not clear what it is you ...

LC: TB, p2608 – very top of left hand column. Discrepancy over, discrepancy short.

J: discrepancy short is the figure you're really complaining about?

LC: yes.

J: you say that arose because of figure declared stamp total 0.00? Why?

LC: because anything that isn't stock is cash, so it's looking for 1041 of extra cash.

J: what figure did you say? 1249?

LC: yes, no I believe it's 1041 because part of the stock declaration sheet incorporates other postage.

J: stock in hand breakdown? P2601?

LC: actually the week prior to this, wk41. p258? Where the original declaration would have been made. 1249.07 is the figure/

J: and you somehow get 1041 out of that?

LC: yes, on actual stamp declaration you count the stamps, the cash account this is added to to make the extra total.

J: I don't understand, you say you've a lesser total.

LC: correct, because there are other amounts other than the loose stamps which are declared on the stamp declaration sheet and you also have the [conferring with CT] ...air letter packs and special delivery envelopes (prepaid).

J: you say they're included in the 1249, other postage items are not just stamps?

LC: no. there are also other anomalies.

J: let's stick to this one for the moment, You say the stamp element and other postage items was 1041.

LC: yes

J: so where does that get us?

LC: in next week the computer would have been looking for shortage of 1041 in cash before you'd even started the week. That's what provided the 1103 misbalance.

J: this convinces me even more that there's no point in you calling bajaj and if we're only going to go into these details on his...

LC: he has a letter from chief exec of Horizon explaining that the system has problems with nodal connections.

J: do you have that letter?

LC: no, he has that with him. He has a whole package of things he'd like to show the court.

J: you've told me what the letter says, I'll make a note of it.

LC: the chief exec clarifies that the system has balancing and other issues and goes into more detail. He also has various letters from people who've contacted him.

J: we're going to hear from Fujitsu, and they'll know about the system – you can put this to them though you don't have ...

LC: he'll be here today.

J: I'm inclined to look at the letter, debe in esse, and reconsider the matter then.

LC: he'll be here after lunch.

J: I'll consider that at 2pm then. In the meantime we'd better get on with the trial. RM< will you be calling anybody who needs to be examined on??

RM: I propose to call Anne Chambers first then [order of witnesses]. On what LC has said: firstly, what LC has not done is suggest that these alleged incorrect records feed into the cash account final. LC accepts there is no figure on cash account final which is incorrect. LC has accepted that cash account gives figures it says. He says there is a discrepancy between what he has and what goes to chesetr. I rely on figure created in Marine Drive branch as signed off without interference from Chesterfield.

J: does this figure of 1100 causing LC to pay in 1100? I would have asked how that figure is arrived at?

RM: we cannot see if through the paper chase, its something missing from LC's stock. None of the figures LC has mentioned on stamps suggest there is a correlation between 0 figure and 1103.

J: I haven't finished asking LC about that.

RM: LC says computer must have thought x or y, but he is not an expert in the field.

J: this so called discrepancy is reflected in the cash account?

RM: it's made good in the cash account.

J: are you saying that he didn't actually pay in the 1100?

RM: yes, that's the 50p point – if he tells computer that he's putting in x, the computer believes that. My case is that the cash accounts correlated directly with the physical reality of what's there. The computer system doesn't arise as an issue on the pleaded case.

J: but I need to understand how the system works in order to believe your submission.

RM: but if he's to give evidence about the errors, there will be procedural unfairness – it's not in the pleaded case, nor expert evidence. It may prejudice my client's case. It should have been disclosed much earlier

J: that's why I want it dealt with now.

RM: LC chose to become a litigant in person 2 weeks before trial, it should have been pleaded by his solicitors.

LC: but case by PO's doing has taken so long, I ran out of money.

RM: that is not accepted, LC's counsel sought to adjourn this trial in September.

J: I'm going to look at that letter and may decide it ought to be admitted and you'll have an opportunity to cross-examine that person. If we need an adjournment then we do, but we'll cross that bridge when we come to it.

RM: I'm not addressing you on this, but on the alternative case LC has just put.

J: is it that difficult to understand? I haven't heard how computer produces figures at top of the page.

RM: it's not my case that the computer is relevant.

J: I understand, but we're having a computer man who will be able to explain how those figures are arrived at.

RM: so be it, I'll put a marker down as to ...

J: I won't allow you to be prejudiced any more than I would LC.

RM: I call HR.

Helen Rose

[HR sworn in]

RM: [proves HR] one further matter, do you see at p407 you set out overview of investigations on 23 mar 2004, could you tell court what physical process you went through to reach con in para 7?

HR: standard audit, count cash, stock check documents at office, receipts and payments. Run a P32, computerised version of Horizon on laptop. I would have done that.

RM: what documents?

HR: pension dockets, giro deposit slips, anything on hand at the office.

RM: how does that correspond to what a PMR would do each week?

HR: exactly the same.

LC: could you read para 7 please.

HR: [reading]

LC: 25759 75 shortage was result of unauthorised in your view?

HR: I would have been told that?

LC: but part appears on cash account as authorised

HR: just because in suspense, doesn't mean it's authorised – that's between you and ...

LC: but it says on front of cash account that it's authorised?

HR: don't know.

LC: TB9, tab 51. what does it say above table 2a?

HR: authorised.

LC: you part completed a security inspection?

HR: yes

LC: if you turn to tab 58, p 412 TB, there's a signature. What does that denote?

HR: that I filled that in?

LC: p415, what does that denote?

HR: unsigned

LC: you signed stock not cash. All your handwritten notes.

HR: not all mine, the lad that worked with me on the day.

LC: is he still with the PO??

HR: no

LC: security port running from p??? various things in there, all the questions you asked at the time, all the aspects of the security. Which part is incomplete?

HR: some questions at the end.

LC: point them out?

HR: 34, 2, 3 –

LC: what would they have been?

HR: don't know – but they would have been questions.

LC: on the sheets, there's no specific of control objective

HR: there would have been an additional sheet

LC: you could have completed that list without these?

HR: you would have filled this in...it's def not complete, but I don't know what they are.

LC: p473,

HR: breakdown of those questions

LC: doesn't say it's incomplete

HR: it's just the questions asked.

J: what are the questions?

HR: I don't know, I haven't got the question sheet.

LC: she'd unable to qualify the questions asked. Look at p473 and tell me 3rd from bottom, what are they?

HR: travellers cheques ??? I presume they would have been asked in the security questions.

J: so you didn't actually look at that, you asked a question of someone? Did you see any in the safe?

HR: I can't remember. May be things we'd deleted off.

LC: but this looks specific, and it's incomplete at the top. You don't even think this is from the audit itself. All of these things could not be appropriate from the office then.

HR: may not have been, would have been imbedded in P32 which the auditors filled in.

J: p473 I assume you would have typed.

HR: it's just a standard form.

J: is it your evidence that these statements are you evidence?

HR: no, that's just a blank sheet.

LC: this misleads me into thinking that these control gaps were not in place in Marine Drive.

HR: because they didn't have anything to do with the shortage...

LC: refer you back to para 10. p408. that would seem quite important.

HR: I could remember...

[Bajaj enters court – then taken out by father-in-law]

LC: no mention of alcohol

HR: I can only go by what my memory says. I wouldn't put it in my ...I was asked if I could remember anything relevant.

LC: what's a P242?

HR: not off the top of my head. I'm not an auditor. I've heard of one.

LC: A certification form. [finding...showing to J and HR] does it refresh your memory?

HR: we used to use one at every office that was transferred or closed?

LC: so that's the physical form the SPMR would hand over to certify account before handing over to another SMPR certifying the findings of the auditors at that office of that day? And you don't have one for Marine branch?

HR: there would have been one.

LC: the reason there's none here today is because I didn't sign one.

J: so did LC sign that form?

HR: I don't know.

LC: is there anything on your statement with my signature agreeing your figures?

HR: not in the audit report no.

LC: so that's the only document and it's not in evidence/

J: that document had better be copied as exhibit 1.

LC: look on p408 of your statement. At bottom of para, is snapshot counted as an accounting document?

HR: no, it's just a balancing aid for the CPMR

LC: so any change...is not for your advantage?

HR: no, it's just an aid and doesn't go in the cash account

LC: but gives an accurate picture of what's in the office?

HR; providing everything's correct?

LC: yes, turn to TB8, tab 97a p2557ao. Read to yourself. Do you understand what MR Brown's talking about?

HR: vaguely, yes

LC: so he produces 2 balance snapshots with difference

HR: can't comment without seeing that

LC: but should that occur on a computer that works correctly?

HR: never seen this and can't comment having not seen it.

LC: Thank you.

RM: in TB9, at tab 51 p2749 – cash account for week 51. could you tell court what does authorised mean in context of suspense account?

HR: just the way that an auditor deals with it. Any PMR could put a figure in there, doesn't mean that it's authorised.

J: could you explain to me about suspense accounts?

RM: no further questions. Next witness is RS.

Ruth Simpson

[RS sworn in]

RM: [proves RS] briefly in para 3, can you remember on what day you opened for first time?

RS: The Wednesday.

RM: how did you take the cash and stock?

RS: I physically counted it in presence of auditor then secured it in the safe? With key which I took home then secured PO with a key and alarm. Keys came home with me,

RM: what happened the following morning?

RS: opened, up, took out cash and stock and started to operate.

RM: was there anything left for you.

RS: don't know what you mean.

RM: look at para 11. read please.

RS: that in general is what would happen with the lottery cash, that's the routine. Lottery cash would problem have been handed over by the auditors.

LC: how do you know CO?

RS: she was my retail line manager.

LC: ever helped her anywhere else?

RS: I've worked for PO before when a PMR has been suspended once before.

LC: how do you obtain the work?

RS: there's a list at the PO of approved SPMRs

LC: how did you hear about Marine Drive?

RS: CO called me

LC: that's the only time that's occurred?

RS: she did the same for Scarborough.

LC: you have a good knowledge of Horizon.

RS: reasonable, I'm not an expert.

LC: you met the auditors on 23 march and went through process of going through cash and stock for which you signed. Where did you sign?

RS: auditor's statement which they take away.

LC: any other sigs on that statement?

RS: don't know;.

LC: was that a P242?

RS: don't know.

LC: when did you take possession of the stock.

RS: arrived at 4 and left at 6, so sometime in between.

LC: what did you do after putting it in the safe?

RS: took possession of keys, had a chat with you, changed alarm code.

LC: then, you reported on one occasion that I'd given the lottery receipts but not money. What did I do?

RS: you made that good.

LC: lottery terminal running until 1930 hrs, you having gone home whose responsibility would that be?

RS: undertaken until following morning, my responsibility to take cash from you.

LC: did you do that?

RS: I imagine so.

LC: there are actually outstanding error notices for 23 march for 100.20. do you want to see them?

RS: yes, if I'm being held responsible for making them good.

LC: [showing]

RS: I would want the document from the cash account and balance snapshots.

LC: [taking her to TB10 tab 52 p 2758? TB9...]

RS: that's just a trial balance, I would need the x also. If error notice is attribute to me, I'll make it good.

LC: excess on final balance of 100.20..

RS: I would like to see documents and have more than 5 minutes to look through it.

LC: what would you like to see?

RS: lottery transactions and receipts for each day, calculate to show balance.

RM: TB3, tab 39 p270 onwards might assist.

[looking]

RS: these are just from the lottery terminals, not what I wanted.

LC: that's right.

RS: have you got the actual lottery receipts?

LC: no

RS: I would want to see that before making it good.

LC: you would agree that you controlled the office?

RS: yes

LC: you never showed on wk52 final balance an increase in cash?

RS: cash is declared at 2.14.

LC: it shouldn't have been at that should it?

RS: unfair to make that comment without seeing that documentation.

LC: you should have been 98 up.

RS: cant believe the auditors wouldn't have taken a cut off.

LC: you balance to 2.14 on that day?

RS: cash account says so.

LC: you never had computer problems?

RS: just one morning when screens were blank?

LC: what did you do?

RS: rebooted them and everything worked.

LC: when was that?

RS: the day of x cash account...

LC: reboot took a long term?

RS: yes, I was the only one in the office and needed to serve customers manually.

LC: when you say customers took priority from manual serving, what did you have to do?

RS: put lottery transactions through, a revaluation of stamps on same day – basically they would have taken time/

LC: but bulk of work done the prior day?

RS: yes

LC: you chose to wait 4 hours to produce cash account

RS: not unreasonable if you're working on your own.

LC: but you don't physically ...

RS: you'd have to revalue the stamps, put lottery through ...

LC: you don't have to physically have to lay anything out.

RS: you can't do two jobs at once, I was serving customers.

J: could you take up TB4, tab 67 p637 – statement of CT, read para 28. Any comment?

RS: reboot does take longer than 10 mins, problem about 30 mins but physical act of serving customers and revaluing stamps etc, I would have waited.

LC: go back to your own statement. P477. para 6, Lynn's days off – you'd serve from both comps. You couldn't do that on this occasion with the rollover on that particular morning.

RS: no.

LC: and it took 4 hours for you to give enough time to ...but you're capable of using 2 computers..

RS: no, I used one to serve customers but some brought parcels. I couldn't

LC: you worked manually all morning by choice and to ?? On other occasions, those two single transactions...you could have left the computer to physically print out then?

RS: no, but I would have had to take stock of the stamps.

LC: all the stamps??

RS: whatever was revalued at that time.

LC: never had any other problems?

RS: no, I just chose to leave it.

LC: nothing untoward would have been happening.

RS: no.

LC: power failure at the office.

RS: that's the only reason I've known a screen to go blank.

LC: we have a letter to say that there was no power failure that day.

RS: could have been it was unplugged.

LC: nobody has access.

J: you didn't have to switch anything on that was off?

RS: no.

LC: Thank you.

RM: why do you need time to prepare a final balance

RS: check everything's right.

RM: why to prepare a cash account final?

RS: same reason.

RM: lottery receipts for week 52: TB9 tab 52, p2758. Who's signature is that? How did you prepare/

RS: on first evening I was there and printed it following day.

RM: p2760, look at item 30 2218.50. how would you arrive at that/

RS: Actual takings from nat lottery

RM: what would you have check ed it against?

RS: wouldn't have checked on that day. I used to have scratch cards, I would have looked that up the same evening. You would check it against the pink tickets the terminal produces.

RM: what pink tickets do you remember?

RS: yes,

RM: on that date?

RS: not particularly on this date.

RM: what's the monetary difference between figure you've declared and figure in TB3 p271?

RS: 176

RM: why the difference?

RS: transaction not processed

RM: why?

RS: human error?

RM: Thank you. J, both witnesses will take too long, could I call CO instead?

Cath Oglesby

[CO sworn in]

RM: [proves CO] any alterations?

CO: [giving new address]

RM: who's your employer?

CO: PO Ltd

RM: any other changes?

CO: job title, business development manager.

LC: when a SPMR has a loss of gain on Wednesday evening, what procedure would he go through?

CO: don't know, never had to go through.

LC: how is the trial balance produced in context of other paperwork in office? How would SPMR look for advice?

CO: don't know as to procedure, but if you're having a loss or gain...

LC: what would you do if you can't explain a difference?

CO: don't know Horizon.

LC: who would you notify/

CO: myself through eh helpline.

LC: would they offer advice?

CO: don't know

LC: how would you then be contacted.

CO: I had a pager through which they would contact me, possible on the same working day.

LC: p350 para 10. ???

LC: TB9, tab 39, p2558. is there a loss on that account?

CO: 70p

LC: at back is there a final balance?

CO: p2568

LC: any losses or gains?

CO: following page net discrep of 70p.

LC: in your statement you said 1100 was short that week.

CO: that's what you told me, yes.

LC: tab 42 p2068. any losses or gains?

CO: I don't understand those bits, as you know.

LC: as a retail line manager you don't understand those.

CO: never part of my responsibility.

LC: you do not know what that..

CO: that's why I asked somebody else to clarify.

LC: your role incorporates what?

CO: sales and service.

LC: why would I be put through to you from helpline?

CO: I'm the line manager.

LC: you make to referral to passing these problems on to anyone else?

CO: no, we talked on phone about what might be a possible reason.

LC: you have no recollection of how that works in there. You know how to do the checks.

CO: only through my own experience.

LC: the procedural checks? You expect the court to believe that, but that you don't know how to read the top of the cash a./x? You are still unable to...

CO: I've had no more experience with Horizon since then. I don't work the system. When we chatted through about your loss, I gave you all the possible explanations to try and resolved that.,

LC: but that loss didn't occur.

CO; no, you made it good

LC: in week 42.

CO: my recollection was that we spoke between xmas and new year.

LC: shall be look at call logs?

J: in para 10 2 lines from bottom, what did you mean?

CO: yes, asked him to pay cash in to make up shortfall.

LC: p319 – p309,

J: you're trying to establish there's no call re 1100

LC: no record of asking CO to ring me. The only way she could know to ring me was for her pager to go off.

J: there's no record of paging or her call to you.

LC: no

J: we'll assume that's correct. Can you explain why there's no record?

CO: I can't recall getting a message, some SPMR's have my mobile numbers. I can recall speaking to him.

LC: back to p??? para 10 – no loss on wk39. No asking for a call that week. No shortfall of 1100, no discussion because call didn't take place.

J: that's not a question. Do you stand by what you say in para 10?

CO: to the best of my recollection we spoke between xmas and new year, and I made notes at the time.

LC: para 11 that was the first time I made a loss since taking over. We went through breakdown of cash, cheques etc.

CO: I gave you some examples of where losses of that amount might be.

LC: what would be the next step regard to advice taking this forward? Did you contact anyone else?

CO: not at that point that I can recall.

LC: you left it as one of those things.

CO: no, thought it was a girobank error.

LC: any further advice?

CO: not on that loss that I can recall.

LC: p351, para 12 – you reviewed the previous 3 balances. I asked you a question on the final balance, what do you review?

CO: Cash accounts not the paper balances.

LC: What don't you understand?

CO: The top – I don't understand the balancing element, it's not part of my role.

LC: Everything seemed fine with previous 3 balances?

CO: Yes

LC: It occurred in previous week. Why would you look back?

CO: I always have a quick check to see suspense account entries.

RM: I have one short application – LC to RS this morning said there are documents that have been seen by ?? lottery receipts. LC is under continuing obligation of disclosure, invites J that order be made to get them disclosed.

J: Yes indeed. LC you must provide them as soon as possible. 5 past 2 then.

[RISES]

[LC then gives clerk a bundle of documents to be handed to J which go into Chambers before RM sees them.]

2.05pm

J: Yes, LC.

LC: Turn to TB3, tab 54 p392 – the bold type – what does this represent?

CO: our interview

LC: these figures were drawn from what document?

CO: cash accounts, cash declarations and snapshots and maybe a copy of an error notice

LC: balance from week 42, what is the difference between the balance snapshots? That particular documents.

CO: my understanding of the snapshot is that it is a snapshot in time of what cash the machine thinks you've got, stock on hand, vouchers etc, and a final balance is that's the one you do at the end of the week. It's the cash accounts I'm more familiar with.

LC: does that look any different to the workings of a balance snapshot?

J: are you referring to a particular snapshot/

LC: CO has dealt with the paperwork on numerous occasions, I want to clarify that CO is unable to read or understand parts of that document. Earlier she said she had broken down figures in the ? which is a document very similar to that she says she 's unable to read.

J: are these snapshot figures in the bundle anywhere?

LC: yes

J: let's look at them then.

LC: cash account wk47, documents 2691

J: can you help, RM, where we find 92095k figure?

LC: it's from the cash figure from balance snapshot, 1st line under starred box...

RM: in TB10, tab 47, p2955

J: I assume that's what you're referring to in your statement, you said that doesn't agree with the cash declaration in TB9.

CO: My understanding is the balance snapshot timed at 172 on 13th, says cash is 92095.36 and to have a perfect balance the computer thinks you need that, but the cash declaration a few minutes after you've entered 91??40 so you have more money in the branch that the computer thinks you need to balance.

LC: in sentence prior, you state ... the 8243.10 appears above that in the starred box on p???

CO: that's the bit I'm unclear about.

LC: I appreciate that.

CO: that's the only one...if you recall, my job isn't to look at these on a daily basis.

LC: so in that interview, you, me and CT and LJ. Knowing all the problems we had and all the questions I asked, you weren't qualify to answer those questions if you couldn't read that document.

CO: I explained I didn't understand them and would seek clarity, which I did.

LC: 21 Jan call log...p319 TB3. back to 21 Jan, on p311, you state in your WS that I contacted you again on that day but there's no call log.

CO: I suppose you rang direct on my mobile.

LC: I thought we'd established I couldn't do that.

CO: well you must have done. You could have got my number through 1471. I don't recall.

LC: turn on to ?? call log no 114 on 15 April, office was to contact their retail line manager, call was passed to ? team...why would I do that if I had your mobile number?

RM: is LC suggesting he was the SPMR at that time?

LC: not at all – I was after documents and had no way of contacting her direct. In order to get in touch with her, I had no way of ...

CO: or he could ring on my mobile.

J: did he?

CO: I can't recall, I had 85 branches I was in charge of.

LC: in this call we discussed week 43? Para 13 – we've established I made no call to the helpline. You go on to say that you asked me to immediately make good the shortfalls and

complete a hardship form and seek permission to make instalment payments good. Do you maintain that call took place?

CO: yes, why else would I have called you?

LC: well, there's no record of that call being made. You say I was told to apply for a hardship fund.

CO: that was my understanding at the time.

LC: was one applied for?

CO: I don't know, that would be up to you.

LC: in para 14, you explain balancing and that you felt it was important. What would you have to do to implement individual balancing?

CO: Marine Drive is a dual position branch, two machines work as a joint venture. You would set each computer up as its own mini PO so you would have to keep cash and stock separate and work as two entities.

LC: hoe many safes do you have?

CO: one and a coin one I believe,

LC: well, we couldn't use the coin one.

CO: you could use a file you could seal with a clip and keep separately

LC: and you assessed we could do that

CO: it was just one thing I suggested

LC: and a call was not logged. P352 – in a further call from you we disused a further shortfall and had lengthy discussions about the workings of the office. A cash account signed by me was brought into the conversation with the possible that I might be taking cash. No logged call but you suggest ? should have carried out individual stock balancing. This is the second occasion you mentioned it, any form of written documents etc you need to complete to provide that service.

CO: no

LC: it was just a pure suggestion

CO: yes

LC: you say that I didn't take it up because there was some work involved.

CO: your branch didn't lend itself to dong it.

LC: you still suggest it would have been a way forward

CO: it would have been.

J: would LC have needed a second safe?

CO: no, he could have had a second sealed container, wallet for example...

LC: para 16k the branch was 25 over and again a cash account signed by me, week ending 11 February further shortfall of 1100, did you take that from a cash account?

CO: yes

LC: what did you instigate from that point to resolve things?

CO: contacted the investigations team to get advice?

LC: formally?

CO: on the telephone

LC: but it's not in the log

CO: on my mobile. I contacted Paul Whitaker.. In some cases they wouldn't take it on, but as he knew about ?? he wouldn't take it on and make a case?

LC: about theft?

CO: yes

LC: but I'd been totally honest. Going back to the hardship form, had that been completed

CO:

LC: you talked about book entry form...

CO: when you would transfer sum of into the suspense account.

LC: and that was during week ?

CO: I'd have to refer back to the cash accounts. Look at 46, it's still in discrepency table TB9 p2663 towards bottom of page. Entry of 8243.10 – that is accumulation of losses if not made goof. ON cash account of following week those have moved up into authorised cash shortages.

LC: 4th line from bottom - did you contact anyone else?

CO: during time I was speaking with my own line manager, but didn't make a note. Also completed a request for an audit

LC: no copy of the request, why?

CO: it would have been on email or telephone?

LC: did you press the investigation with anybody else?

CO: don't know – asked you to contact girobank, savings bank, Chesterfield...

LC: throughout this whole period, nothing from you to show contact with Fujitsu or anyone. Is there a reason? You've contacted investigations team and line manager, and audit team neither of whom there is paperwork for...through all those contacts you didn't take the matter further with anyone else?

CO: who would you have wanted me to?

LC: Fujitsu, or someone who could help?

CO: well I told you to contact the helpline.

LC: you tell us about calls you made of which there's no evidence – but no mention of calls to any service providers. You didn't make any calls or sought to find a remedy, is that true?

CO: well, I contacted the investigations team and my line manager and without looking through it I don't know if I contacted Fujitsu.

LC: move on to 27th February. we discussed the cash account figures, true?

CO: yes

LC: I became distressed and angry and so was CT, why was nothing done.

CO: I was giving you advice but there was nothing physical I could do to help you?

LC: but you didn't ??

CO: but I did ask you, are there any figures not ringing true and you said no. You kept saying it was a computer problem but you couldn't show me where.

LC: so again you chose not to ring anybody yet you can't read a final balance or snapshot.

CO: we'd talked through the balances, you were upset, through the normal things that could occur again we were talking about the Horizon system helpline who confirmed that it was working correctly.

LC: I gave you no reasons other than it's the computer up till that period.

CO: as far as I can recall that's what you said.

LC: I blindly blamed the computer and we went through lots of paper which turned up nothing?

CO: yes

LC: throughout, you've been the person who can't read a final balance of snapshot

CO: no, I just said I don't understand the bit at the top

LC: and you were happy to leave it at that.

CO: well, I made calls

LC: but there's no record

CO: no, they were on my mobile phone.

LC: para 20 –

CO: I remember you'd said it could have been on a certain day of the week when you were remming in it could be difficult to know...I suggested you do a snapshot, rem in then do another snapshot to check the figures hadn't changed where they were supposed to .

LC: and you didn't look at this paperwork

CO: no

LC: and you weren't interested in them

CO: it's not that, but it was up to you.

LC: how long have you work at the PO>

CO: 20 years

LC: how long was my contract?

CO: 6 months as you know.

LC: still no calls from you to Fujitsu, HSH etc?

CO: can I refresh my memory? [checking] I can't see anteing in there.

LC: OK. As I say, you'd have mentioned it if you had. So these never occurred.

CO: I can't say for sure.

LC: you were very concerned I believe.

CO: I was, yes.

LC: do you know what an audit form P242 is.

CO: I don't recognise the number, but if you show me...

[showing]

J: is that kind of form familiar to you?

CO: not really

LC: do you preside over the handover of offices?

CO: no, the ???

LC: it's not a form you've ever seen.

CO: I'm not familiar with it. The auditors probably have them with them.

LC: on 23 mar you arrived around 0800. did you know ? at what time were you asked to attend the office?

CO: after lunch

LC: was I there?

CO: can't remember, I believe so.

LC: so you went through the details of the previous 12 weeks with HR?

CO: can't remember on that day

LC: would you rely on the audit report?

CO: when I went to branch she told me what the balance was at that point.

LC: and that's your only contact?

CO: I received an audit report after that

LC: then you telephoned LJ?

CO: after the suspension

LC: suspension was ??

CO: you're the SPMR

LC: and the temporary SPMR?

CO: RS

LC: and how do you know her?

CO: through work

LC: how did you contact her?

CO: telephone

LC: how did you have her name?

CO: she ran her branch really well and I rang her to ask if she'd be happy to come and run the branch

LC: did you speak to her on even on 24 mar?

CO: I either spoke or she texted me.

LC: and she never mentioned anything to do with the lottery?

CO: not to my knowledge.

LC: at some point she took control of the office by signature?

CO: that's down to the auditors, she arrived late in the afternoon and the auditors would have transferred the cash and stock to her.

LC: inc keys, put everything away in safe, change alarm code etc?

CO: should have been

LC: and nobody else had access after that?

CO: no, it was then her responsibility

LC: tab 61 p500 – do you know what that is?

CO: no, I'm just trying to read it

LC: I'm sorry [waits], This was given to me by JJ – if you go to p502, have you seen a document like that?

CO: no

LC: never seen an error notice?

CO: that's a statement of outstanding debt

LC: can you confirm the figure for 17.03.2004? What are automated products?

CO: plastic card payments customers would make like utility bills etc.

LC: lots of different things. Back to p500 – 3rd column, do you know what that is?

CO: no

LC: can you tell me what date that was transacted?

CO: 13 may

J: well, that's what it says, but it's not from your own knowledge.

CO: no

LC: back to the call log, tab 48, p319 – this is just a representation, in these calls to NBSC?

CO: don't know.

LC: what would they deal with on this helpline, NBSC?

CO: anything a SPMR wanted to ask – from a phone number to a transaction they couldn't complete. Anything you didn't know. They would try and help you.

LC: is there another helpline?

CO: the HSH if you're having a problem with the hardware?

LC: can you obtain that directly?

CO: don't know.

LC: TB12, tab 106 p4120. these are the HSH

J: record of calls received at the helpdesk?

LC: yes

J: are there any that relate to this matter?

LC: p4147 –

J: you're the caller CO, you see that above the second section of boxes?

LC: in the problem text, [reading]

J: does that ring a bell?

CO: not particularly, but I don't doubt it

J: where is this referring to?

LC: it says effected site, 213337.

J: you don't seem to have clear recollection but this is an important point.

CO: LC had told me this was what he thought, I was trying to chase that up.

J: do you remember what answer they gave

CO: that there was nothing wrong with the system

LC: through all these calls, at no point where I constantly badgered everybody, did you ring HSH yet on 19th April you ring HSH and say you think there's something wrong with the system. At no point prior to the call did you make that point.

CO: I can't recall...

J: did you think there was something wrong with the system

CO: no, I was just asking for a check.

J: It says you wanted checks as there had been discrepancy, was that referring to LC's figures or something else?

CO: his figures.

LC: but you never made that call while I was in post.

CO: if that's what the call log says.

LC: but there were no problems in the branch...nothing changed after I came out? Nothing was wrong.

CO: when you were really upset, I said let's change the people and keep the equip the same to see how it went. Was what you wanted as well.

J: p4147, half way down the big box at the bottom – can you clarify?

CO: SLA = service level agreement. I can only guess that they mean they have a certain length of time to answer the call, but I'm only guessing.

J: do you recall being advised that events are normal and health check passed/

CO: I can't recall

LC: have you ever worked on a counter?

CO: a long time ago, prior Horizon.

LC: do you get involved in the daily workings of an office?

CO: occasionally, I normally tell them to ring the helpline.

LC: so through this whole period, various things you say occurred but you have no hardcopy evidence to say you put into place the measures you said you did. Almost a month after I came out of office, you ring HSH stating you feel there's a problem with computer. What changed between 23 mar and 19 April?

CO: nothing that I remember.

LC: nothing?

CO: balances were ok with Ruth and Greg. I know the computer crashed once or twice.

LC: in your evidence, you produced a list of things you used with respect to my termination. In paperwork produced by ...

CO: where?

LC: in front of bundles see the index, 3rd page tab 77 – want to question you have 4 handwritten sides of paper...then nothing then 1 to 3 prepared by CO.

J: what's the question?

LC: there's no paperwork for the period of the problem from CO's workings out. Nothing's been released into evidence.

RM: perhaps LC could ask the witness if the paperwork exists before accusing her of withholding it.

LC: I'm sorry...[taking CO to it]

CO: I think they could be extracts from my notepad, [reading] they look like I've telephone Chesterfield and made notes while speaking to them over the phone.

LC: p2382?

CO: no, p2386.

LC: tab 77, p2382 – just my own handwritten notes cash accounts from 34...

J: what's the question?

LC: why are wks 42 – 01 missing?

J: it's the index that's wrong, not the bundle.

LC: thank you

RM: I think LC is suggesting he doesn't have your mobile phone number.

CO: looks like it.

RM: Please look in TB8, p2453...you see a letter there, about half way down there's a comment saying 'I rang cath today'. Does that assist in your recollection?

CO: I spoke to LC several times, but can't recall whether I rang him or he rang me.

RM: question of support you were meant to be providing. With whom was a SPMR meant to raise questions with the system?

CO: helpline

RM: Which?

CO:

RM: NBSC what would they deal with?

CO:

RM: who was it run by?

CO: don't know – it's a call centre

RM: who runs the HSH?

CO: Fujitsu

RM: you were asked about why you made a call to helpline in April – look at your WS tab 54 p391. Marine Drive interview, what is that?

CO: reasons to ? LC was invited to offer explanations

RM: down to second hole punch, CO went to to discuss...who is CO?

CO: me.

RM: what actions had you taken

CO: asked for system check twice

RM: why?

CO: because LC had continually asked for assistance and I wanted to support him

RM: thank you, I have no further questions.

J: p358 – para 35, this is a transaction with GB – can you explain the technicalities. 100 into the shortages line etc. explain

CO: back to para 35, LC contacted me and said he'd found a large amount of losses and said Suspense account had double figured. Asked GB to carry out test to see if suspense account was working normally.

J: how did that satisfy you?

CO: said to GB, put 100 in suspense account but asked him to run snapshot first. Snapshot timed at 1022 am- cash amount system thinks its got is 4177, then places 100 in suspense account, on p600 there's an asterix with 100 entry fictitious amount. On p599 cash at top of balance has changed.

J: not by 100

CO: it was still serving customers – if branch had been closed, it would have shown exactly 100.

J: next thing?

CO: didn't take it out again, this was a Monday or Tuesday, prior to Wednesday: I asked him to balance on the Wednesday. You see 100 in the suspense account and he's 103 over.

J; but this doesn't prove anything does it?

CO: when he balances, it's made him have a 100 surplus.

J: how did you know he didn't have 100 surplus?

CO: what we did afterwards was removed 100 from the suspense account and it had the opposite effect.

J: I have slight problem with this as a proof of anything. It's not quite right when you say the cash figure on the snapshot had changed by 100. p362 para 50, first 4 lines – figure declared etc. can you explain the logic of how this showed an actual loss?

CO: on the snapshot, it tells you how much money the computer thinks you should have for a perfect balance. If you look at the snapshot then count your money, you should be close.

J: assuming the computer doesn't have a problem?

CO: on Wednesday they physically count the money and stamps etc.

J: these are all things that are capable of being checked manually and if they all add up, that's the end of it?

CO: yes

LC: p.571 – in top column, this was the question raised throughout – the balancing with Horizon book shows that in order for further loss to record, the discrepancy shortage must show increase of above the amount in the overs. If you look at the final balance in wk49- there was a book entry on p2994 which does not show in the same light as it does on p571...in the top line of the discrepancy over and bottom line of shortage, compare two, having put book entry in 2a, it should appear in top line. In discrepancy shortage...it doesn't appear as it does on p571.

J: why should it?

LC: the 100 on 571 was place into suspense by GB. In shortage column there's a discrepancy of ? leaving a shortage of 101.21. shows in the office records, you've reinstated the ...cf. 2993 in other book, we made a book entry of 3509.68 which doesn't appear in the column above. Yet Horizon handbook states for ? loss to have occurred, it would have had to shown 7000 odd. Double entry...discrepancy over...

J: says shortage there.

LC: in following week where it's reproduced is where we've placed it in suspense account, there should have been a positive figure in that box and it hasn't occurred.

J: why should it be a discrepancy over?

LC: because you've made a book entry. It hasn't occurred in that particular occasion.

J: if the maths is right, it should show a discrepancy... how do you know?

LC: it would have appeared in the discrepancy over.

J: CO, do you agree with that?

CO: that's the bit I don't understand very well.

J; we don't know if this is right or wrong?

RM: it may have something to do with timing, p597 in TB3. there isn't a figure for 100 going into suspense. On next page at time of taking that snapshot, discrepancy over remains the same. It doesn't show up at that stage. Seems to be some issue to do with timing. I have original document for wk49 cash account, list of all value of stock and MOP as at p2993, then receipts and comes to total on p2994. total receipts are ...if you calculate all figures in payments column, in order to balance even with transfer into suspense, one would need 3509.68 and there would still be a discrepancy of 3512. When you add up the figures they are right, whatever the point being made. LC and I can go through to see if they add up.

J; where do we find the ??

RM: on p

J: 164573.68 ought to be the same as all the receipts add up to...

RM: they add up to...and the figures add up.

J: that explains it. It's just a balancing figure. There's no logic in saying that the 3905.68 should be reflected in the discrepancies but you'll have a chance to check the figures. I have no other questions, thank you CO.

RM: I invited the court formally to admit the WS's of GH, KC, WS, PW, MJ, DC.

J: I admit those.

RM: Andrew Wise is my next witness, but would J like to deal with Mr Bajaj?

J: yes

RM: TB1, pp39a and b [reading]. Made in context of concession by PO recorded on p39a that LC that was here, we gave him all our statements on that day. This was made in context of CMC order at p38. amendments before Master Turner, para 4 on p39, any further disclosure by exchange of lists. Last week J excluded similar fact evidence. Today Mr Bajaj's statement, signed on 2 June 2006, raises ...

J: not made in these proceedings? LC just received?

LC: correct

RM: could and should have been obtained in the course of these proceedings if it were to be relied upon. We're provided with documents that Mr Bajaj wants to referred to.

J: you object to having this admitted?

RM: yes

J: not going to allow this – it's similar fact evidence, I'm going as thoroughly into the evidence in this case including whether the computer works. The outcome of these other cases shouldn't effect this one.

LC: letter from PO Ltd on behalf of chief exec, says that branches may experience individual failures.

J: already evidence in this case.

RM: yes, we don't dispute that. I call Andrew Wise.

Andrew Wise

[AW sworn in]

RM: [proving AW] p305 para 24, date correct?

AW: no, it was 2003.

RM: any other corrections?

AW: first page, I'm now network directorate not HR.

RM: find TB12, tab 107 p4152 – tell court what those are?

AW: incident logs from NBSC

RM: how prepared?

AW: calls recorded when a call is made into centre by SPMR

RM: actual words?

AW: no, just notes relating to call

RM: how is schedule produced?

AW: on request, not sure who would do so

RM: how are you able to comment on what it says?

AW: from my experience.

RM: Thank you.

LC: have you used Horizon?

AW: yes

LC: long period of time?

AW: was on project etc, use in current role as a trainer?

LC: any problems in your experience?

AW: none

LC: throughout call logs, you've transcribed them into what was being done. Throughout them, is there anything that stands out as being untoward or pointing to a problem?

AW: not really – a number of calls related to losses, but that can happen in the role we performed there, was not out of the ordinary.

LC: not out of the ordinary to have repeated losses?

AW: that's the nature of the calls we get.

LC: difference levels of what you're expecting them to do and you'd give guidelines to help solve. What sort of guidelines?

AW: have scripts on the page which guide us.

LC: what sort of time would calls last?

AW: 2 minutes, 5 minutes, on a Wednesday they could be over an hour.

LC: the transcripts are very small

AW: that's the policy on how they're completed

LC: is that normal?

AW: Yes, restricted

LC: would relate to whoever receiving the call feels is important.

AW: whatever problem the SPMR raised during the call, detailed description, resolution

LC: only a brief description in some of them. Look at p311 at tab 48: call 52 – how far would you go to find the discrepancy?

AW: at tier one, go through standard steps. At tier 2, we'd probe further and get them to check further – get them to produce...

LC: was this call tier 2?

AW: I can't tell from that, the fact that it was raised with suspense account team indicated it would have come through...

LC: you'd investigate the loss and decide on the action you were going to take.

AW: we'd check all we could, then SPMR may be asked to ...

LC: no further investigation at tier 2 level?

AW: no, it would be assigned to suspense account team/

LC: further calls from myself, para 53 – reference to same loss being only a day apart. Could that be true?

AW: could well do, but I don't know.

LC: could this be level one again?

AW: I would say that's tier 2 again from the level of description.

LC: would calls not be attached?

AW: you can link the previous calls together

LC: these weren't linked?

AW: I can't tell from that

LC: within these two calls, the detail in primary is not very deep, in tier 2 what sort of other things would they look to do with respect to loss? Same balancing procedure and checks as tier 1?

AW: at tier 2, PO people with experience of branches are used as opposed to just a call script.

LC: but nothing was sent through here?

AW: I don't know – they may put a reference on the incident log but can't see from report there.,

LC: you work as a trainer, solely with SPMRS or mixture?

AW: SPMRs, franchise and counter.

LC: they get the same training?

AW: yes

LC: how long does that take?

AW: 2 weeks in the classroom, or 1 week depending on the services. Followed by 6 days on site.

LC: back to p304 of your statement, para 16 you list all difference summaries that can be produced. Is there anything you would look at separately to final cash account?

AW: not sure what you mean

LC: all these manual summaries we have, is there a manual version of these to be sent away to anybody respecting stock and MOP

AW: the items there aren't methods of payment – eg. Rod licenses...but no report produced off the system, you have to physically check them.

LC: with respect to stock on a daily basis, is there anything on a daily basis the SPMR needs to do?

AW: no, there's nothing he needs to do daily, just weekly unless he does the cash declaration and sees a discrepancy

LC: so there's no difference between?? When diffs occur, what would be correct way of working through that? If you have 50k physical cash and 40k on the screen, what would you do?

AW: double check the physical cash, then check stock, produced weekly report to check errors, check remittances in and out, cheque remittances, standard things.

LC: what if nothing turned up?

AW: during the week, we'd advise them to wait until trial balance, could be a repeat of a discrepancy from the previous week. Until that trial balance is produced you couldn't be sure.

LC: p311, in this case having reported loss we've gone through final cash account cheques, have to wait until following morning...SPMR has spent hours going through procedure and still nothing occurs. Where do you go?

AW: Can't help the SPMR any more, have done everything we can. Could contact Chesterfield to see if there are any error notices pending, but they work a few weeks behind.

LC: so what would the SPMR do?

AW: contractually the SPMR should make that good, but he could put it in the suspense account but that needs to be authorised. The SPMR would be passed onto suspense account team.

LC: having gone through all that, they would then have asked the SPMR to make good. Correct?

AW: it's not something we'd ask them to do.

LC: you received a call at par 54, this states that the SPMR should not transfer ? into suspense account.

AW: by looks of that call, it was possible created by suspense account team. It would be down to them to decide. Call previous would be tier 2.

J: says SPMR called...

AW: we get credited with the calls we close, so an individual probably closed that call before passing it on to the suss account.

RM: call logs TB12, p4162 to 4164.

J; does that help?

AW: call on 4163 was original call at tier 2, advisor would have raised call on 4164 and sent that through to suspense account team. Likely chain of events, raised on Wednesday night but we can't transfer through until the SPMR has committed the loss by rolling over. At that point, the call would have been transferred through.

LC: on generation of paperwork required by your office, you've given us some breakdown ...all of those would be sent to, TB3, p326, all of those reports etc are sent to transaction processing, correct/

AW: pensions go to N Ireland, everything else to Chesterfield where they'd get sent out to relevant teams there who would check the paperwork relevant to their transactions.

LC: then paperwork sent off to ?

AW: don't know, never worked in Chesterfield.

LC: how would SPMR log on to system?

AW: would switch on screen and touch screen, comes up with a Reposte screen, ask for user name, password, goes through recovery of transactions, desktop screen with icons etc

LC: quite a process to move through the 3 screens?

AW: quite quick, initial logon may take a few minutes – depends how experienced the SPMR is.

LC: you've done this on numerous occasions?

AW: yes

LC: is it possible to transact business without being logged on?

AW: you can't enter anything while not logged on. But you can physically serve without being logged on.

LC: TB 11a and 11b – tab 103 p3705 – have you seen one of those?

AW: once or twice – archive transactions? Never looked at one in depth.

LC: 3705, status report?

AW: user, activity, stock unit etc.

LC: p3703, 2nd February. we can see that at 1424, p.3705, myself logged on to node 2. Go back to 11a p.3501 do you know what that is?

AW: never seen that before

LC: look in 1st column, a 1 or a 2 –

AW: guess that's the number of the terminal if there are two Horizon terminals.

LC: wouldn't know anything that goes across this line?

AW: from experience can pick out what the information is referring to.

LC: in p3705 at 1424 56 secs look at other book, at 7th transaction down I appear as LCA001 in node 2, at 1421 12 secs...p3501 –

J: so nobody was logged on to the other one?

LC: I was logged on to node 1

J: so nobody was logged on to node 2

J: how is it that p3501 shows LC making some entry whereas he only logged on at 1424?

AW: I can't explain that.

J: I assume it's the same clock?

AW: I don't deal with the technical side.

LC: but you did say before that it's impossible to transact business without being logged onto a terminal.

AW: yes.

LC: Thank you.

J: p302 para 9. don't understand when you're describing what the PMR does, they complete a batch control voucher...

AW: SPMR will complete BCV and you paperclip that together with TV license forms then dispatch to Chesterfield.

J: p305, para 22 – 'for example etc' – processing centre is Chesterfield or northern Ireland?

AW: Depends on transaction type.

J: and error notice would be generated if something goes wrong. How does Horizon know there's a problem?

AW: if they've missed something, girobank receives dockets, if there's a discrepancy an error notice is generated.

J: will Horizon know?

AW: Horizon relies on what's input by PMR.

J: if there's an error, is what's in the bag is incorrectly listed?

AW: what's in bag...if that disagrees with Horizon (i.e. what the PMR has said) that would generate an error notice.

J: is the ultimate receipt checked?

AW: PMR can challenge and ask for evidence to be sent through.

RM: AW, which has primacy, the physical record or the computer record.

AW: the physical record is what's correct. If you lose a girobank slip the rest must be right.

RM: physical records are used to make error notices? What s the conclusion if there are no error notices?

AW: that the physical documents match Horizon.

LC: p500 – p502 on 17.03.2004 what is that?

AW: I've never seen that, but it related to automated products.

LC: but it says charge on there. Turn back to p500, this is a document showing various transactions, have you ever seen those?

AW: no

LC: would you expect to see a document with difference dates of transactions upon it? If you look in the date with the transactions etc..

J: what are you asking the witness?

LC: if he'd ever seen a document where the dates didn't match throughout to provide an error notice...dated 17th march, but over page same transaction leading to error notice was transacted on 13 may.

J: thank you, AW. We'll resume tomorrow at 1030.

RM: I may wish to call JJ first tomorrow.

[RISES]

Tuesday 12th December 2006

10.30am

J: I've found a reference to two figures ...

RM: I have as well, TB10 p and TB9 p2718

J: also 2725, the actual one LC referred to. Three references. The question is who is the best person to ask about this, maybe AC?

RM: I was proposing to call JJ to be my first witness.

J: who would be the best person to ask about this.?

RM: We'll try JJ, and perhaps also AC. Might I hand up a copy of this sheet, a better copy on one page. There was a discussion between LC and I about whether we need to add figures up and LC has agreed certain points. This is a final balance, in the middle column I've x-ed certain figures which repeat the bottom of the previous page. The capitalised words are totals of the columns. That is a sum of the lower case entries immediately above it. So there are different ways ...the most indented starts a list which sums down to the second most indented which sums down to a capitalised figure. There's a figure for total receipts, all the receipts in that balance period including the balance brought forward. So that comes to 163k. In the right hand column you have all the payments going out, following same format.

J: I now see why we have all the repetitive figures.

RM: down the list one sees how they add up to each subtotal and at the bottom is a total payments figure and a balance carried forward. This is the sum of total stock and MOP, the balance carried forward goes into that next week. The figure of 50989.75 is the balance carried forward from the previous week. In the right hand column, balance carried forward into week 50's balance brought forward. The figure of 85261, is the total stock and MOP plus net discrepancy figure. The area that's been troubling LC is the fact that there's an entry of 3509.68 half way down page in r hand column, the suspense account figure. LC is concerned about the fact that there's a similar figure in net discrepancies at the bottom, which appears as discrepancies short. There is some measure of agreement: receipts columns total correctly; total payments column correctly totals; adding up totals in payments column down to remittances out, and add total stock and MOP of 81749.03 that column which includes suspense account figure would be short by 3512.26.

J: [recapping] and that's agreed is it?

LC: [nods]

RM: yes. Whatever's left in the suspense account in the top left box, doesn't actually affect the fact there needs to be the x transferred into suspense half way down the columns and a discrepancy figure of 3612.26 to bring the account into balance.

J: to make the receipts balance the payments?

RM: indeed, to make the payments balance the receipts.

J: that's agreed as well?

RM: no, that's where the dispute lies. But I can't agree where LC disputes as a matter of maths.

J: LC may be saying they're not, if the receipts are a fixed figure

LC: the way the system balances is using the stock and MOP figure to balance. TB6b p1540 and TB3, tab 63 p 571 this is suspense account explanation page. There's a box in the middle of page 1540 which is an explanation of how you would see a movement into suspense from how it is placed to how you would see it the following week.

J: what is meant by the stock unit??

LC: If stock unit incurs loss when you've inadvertently created a loss, you have to complete the rollover for that figure to become part of the balance. You would have made a call to NBSC who would instruct you how to place that shortfall into table 2a.

J: so you can put the loss to table 2a?

LC: yes. Once you've placed that into table 2a, you move into the following week where you continue to transact business. At end of week, that allows you to go through stock balancing. TB3 p571, this is the final occasion after which GB had placed 100 into suspense account and show discrepancy over of 103.11 which he'd placed into (less 3.11) into suspense which created the shortage. In week 2 the loss total showed the original loss in table 2a and then the fictitious payment into 2a to balance the books again.

J: do you understand RM?

RM: what LC says is that if you follow instructions at 1540, once you have finished the cash account period rollover, you produce the cash accounts final, you press a button that says rollover which rolls all the figures into the next week. At that stage, before you start transacting business in the new account period, you make an entry in the suspense account to move the loss into it.

J: that's an expression that needs explaining

RM: it's a book entry which moves the loss from the discrepancy column into the suspense account.

J: suspense account is a separate account not appearing in these figures?

RM: correct, but TB3 p546, J will see why it's called a table 2a payment. It's into that box that the table 2a figures will go. What J may not have focussed on yesterday is that, p597, this is an office snapshot showing effect of transfer to suspense on immediate production of account. If look at 597, this is headed prior to ... GB will tell you about what he did. Prior to transferring into suspense, takes snapshot, 599 after entry of test item into suspense account, disc3ep over in top left has remained the same, but over page at 600 there's been an entry into 2a account. that's his test entry. That's as far as I can take it...

J: but the discrepancy is still the same, LC was explaining some difference page

LC: p571, this is the final balance for week after the test payment has been made. IN effect, the effects in 597 and 599 are the first effects in week 1, the actual hard copy of that is relayed in 597 and 599. If we move on to the effect in the second week, p571,

J: this has no effect in the first week

RM: correct, it shows up in the following week's table

J: one might have expected a discrepancy over, the trouble is that the next week has a discrepancy of its own

LC: the difference between what occurred between my ? and 13th may, is that the book entry, the actual over, the placing of payment into 2a is not reflect in the top line of mine. The book confirms that this should be the case. That book entry had been made, but not reflected as in 571 in the overs line if you compare the two documents. Payment's been made according to table 2a. in order for there to be a further loss as computer indicated, the actual over and shortage boxes would have to reveal 39568 in? and the shortage that

had occurred in the week prior to that plus the further loss which can be confirmed again in p571, comparing the system.

J: have we not got another set of figures not separated by 2 months, I need at least 3 successive weeks?

RM: also, need to understand how computer program works to take figures out of main accounts into the discrepancy table in top left of sheet. Will receive evidence on this.

J: it's not in these witness statements

RM: no, it's something I hope we can help you understand. However, it doesn't affect how this case runs.

J: I understand that, but it affects LC's case.

RM: LC has accepted all of the other figures. He was concerned when he prepared this account and have checked back against all the figures. On 4th mar 2004, total stock and MOP was 81k. On 4th march physical evidence showed they should have had receipts of x. LC accepts he has vouched all of those. The supporting documents evidenced all of the payments out save for transfer into suspense and net discrepancy is simply a calculation of what he's short. Now, the transfer into suspense is included as a matter of analysis in balancing to reach total payments figure. That's why it will be my case that however the computer worked in relation to box in top left, it doesn't affect the end result.

J: the thing that's brought this all up in my mind is when LC put to a witness that the figures remittances out which must be cheques for 0737 before opening, didn't agree with the figure for cheques from the previous night. You're still worried about that?

LC: yes

RM: The correct figure of remittance out is actually shown in this account

J: I'd still like to know why it disagreed

RM: it's my understanding it is possible when you check the figures and identify an error you can correct it.

LC: the sales report I referred to is a document you wouldn't necessarily ? checks do take places, between the remitting out on a daily basis and cash a./x figure then produced. My argument is based on the fact that what computer sees as stock and Mop figure is effected by what the computer sees in its own transactions and not by any inputs by myself or any figurative breakdowns on the cash accounts. The 3522 must have affected the stock and MOP whilst the cash account is depicting a different figure. That would raise the question again with the table 2a – in order for that payment to be taken away, it has to be depicted in the top block of the final balance. In order for that to take effect...

J: the document was TB10, p2979...let's go back to the other one.

RM: on the big sheet.

J: so we've got the 3519 which all checks, p2979 – that's the night before, 3rd march, shows cheques at 3533.30. The next morning, it shows remittance out which you say is cheques.

LC: yes

J: that's 3519.43 and that's not explained. Why did it matter.

LC: in the sales report itself, 2979, this document confirms all the sales reported through the system through the cash account. Any effects are placed between this document and the cash account itself. One of the ? that's identified in this scenario is the MOP figure.

J: the 18k odd?

LC: yes

J: that's the sum of what's above

LC: yes, because the cash is a negative movement, an outflow and the cheques are a positive movement. So as you can see, it has an affect on the actual cash requirements. If you then put that into the context of the stock and MOP figure, that is produced from the very transactions the computer has seen on the sales report compared to the figures we then declare. Any differences become a shortfall or a gain.

J: is there a corresponding...?

LC: ..they should correspond on the final balance

J: are you saying the figure on the big sheet ought to read 3?33.

LC: it should match, having checked the cheques and the sending out of the cheques to rem out, it should have read 3519.43.

J: that's what it does read.

LC: but not on the 2979, they should both match.

J: the figures of cash out and cheques in, they presumably are put in by you? Then the 1803 is calculated by the computer?

LC: no, that's a computer generated from transactions that have been placed.

RM: when you have a customer in front of you, you press a button that says x, then another that says x, then a button that says finish the transaction. The computer then sees x and x and takes 80 away from 20 leaving a balance of 40. You then see a button saying MOP, you then press one of those. If you press cheque when you mean cash, the machine sees it as a cheque payment and sends it into the cheque report. At the end of each day, there's a cash report produced. If you go back into big sheet, the mop figure is the actual amount of cash LC declared on 4th march 2004. Each of the items of stock below are the actual amounts LC declared all the way down. You can be confident that's what he actually held and that all the other figures are right.

LC: but the difference is that the effect of the 3553.50 on the sales reports...when the computer works through what it believes to have been processed through the week, it's reporting on what it ? with respect to cheques, cash and stock. It says there should have been x but the physicality is that there should have been y. that was checked each day

J: where does the figure of x come from?

LC: the computer has seen...

J: who can it see that without being told?

LC: it can't, it's impossible

J: now you've completely baffled me.

J: most likely thing is that you or your assistant tapped it in,

LC: but then it would have appeared...

RM: that's why I base my case on this document, it's a reflection of the ??

J: don't see the effect of this sales report.

LC: it tells you without interference what it expects to see as the figures

J: what's the relevance?

LC: it has to balance, the computer has seen an extra cheque being processed that hasn't been.

J: any other figures that are wrong?

LC: cash requirement which is also computer generated.

J: what page?

LC: not printed out, it says what cash is declared.

J: what is the effect on the claim of this small error?

LC: it shows the computer can produce extra transactions, as I proved with AW when I showed the computer can transact business when nobody's logged on. This is where the computer in its stock and MOP figures would compare what it believes it's seen with the actual figures and creates a deficit. This has an effect on the physical cash the office has to produce when people buy things.

J: by cash requirement, don't you just mean a loss?

LC: throughout this period, the office produces a balance spreadsheet showing that physical cash ...

RM: can we move this on?

J: I'm quite baffled by LC's point.

RM: so are we. Might I call JJ?

John Jones

[JJ sworn in]

RM: [proving JJ] para 21, [handing up C's WS's from earlier in the trial] tab 7, para 18 on p111 [reading] do you see difference between period in para 21 of original statement and this period.

JJ: it's a typing mistake.

J: which is correct?

JJ: 42-51.

RM: is your second WS true?

JJ: yes

RM: TB9 tab 49 p [handing up big piece of paper] and TB10, p2979, tab 49 – what do you have there?

JJ: a sales report for CAP 49

RM: are you familiar with the way in which it's produced?

JJ: yes

RM: could you help understand how figures appear?

JJ: yes

RM: 3rd and 4th entry for cheques – figure of 3533.30. Look at big piece of paper, see right hand column remittances out 3519.43? Should those figures be the same?

J: I would have expected the figures in p2979 to be replicated as part of the final account. however, what we have here would appear is that there are transactions taking place to remit out of the branch the cheque figure.

RM: how could that happen?

JJ: they would be performed by SPMR of assistant on the Horizon terminal

RM: why would there be a difference between the figure on the big page and that on p2979?

JJ: I can't explain that. Only the persons entering the figures onto the system could do that.

J: they've been entered manually?

JJ: you would go into the remittance screen and key that particular figure.

J: is figure x keyed in?

JJ: would be the sum of the cheque transactions the system had recorded at the time that account was taking place.

J: so ?

JJ: when a transaction is being processed, the operator would settle that transaction to a number of sources. The accuracy of the figures in there in terms of transactions performed is down to the accuracy of the operator's recording to those sources.

J: when we have this thing the next morning, is that entirely cheques?

JJ: data central is the place within PO where we process all our cheques. So it's on the correct line.

J: so, there are two explanations: mistake in entering the cheque which goes to this total which was corrected when the PMR typed in remittance out; the other is that the computer has added the figures up wrong.

JJ: I wouldn't suggest that as an explanation I have seen before.

J: I've never heard of that either. Can you think of any other explanation?

JJ: no.

RM: what effect does a sales report have on Horizon?

JJ: provides the SPMR with the volume of business

RM: on the final balance?

JJ: if taken after final transaction, it shouldn't have any effect it just provide SPMR with information on volume of business transacted that week to ascertain amount of money...

RM: when sales report is produced, what impact does it have on the final balance?

JJ: none whatsoever, it is purely an indicative view of the transactions

RM: so, of the two which is determinative of the trading position of the branch?

JJ: The final balance.

RM: Thank you

[J RISES BRIEFLY]

LC: TB11b pp3830 and 3829 – if we start with 3829, RODC in middle column at 1637:44 secs. Cross reference with top cover of new document, on that time and day 211.22 was sent out to data central. That's concurred with on front page of new exhibit, X3. Could you confirm that on X3 is the correct wording you'd expect to see cheques out?

JJ: that would appear to be correct

LC: so on 3rd march you agree that 211.22 was sent away to cheque processing?

JJ: that is what the document says

LC: p3829, look at mode, product number, first RODC the prod number is 2 – that's the definition of cheques. Up until final balance, continuing on to p3830, there are no other entries for that day. That finishes at 0900:26 on 4th march. DO you agree JJ?

JJ: no other transactions listed as serviced or paid for by cheque.

LC: if there were, would they be listed there?

JJ: not necessarily?

LC: why?

JJ: if the operator settled them to cash instead

LC: then what would have to happen?

JJ: as and when cheques needed to be remmed out, those would have to be entered as cheques out.

LC: and there would have to be a stock adjustment?

JJ: cash adjustment

LC: how?

JJ

LC: in the period in-between if that had occurred, that would be depicted by SAP or SAN, right?

JJ: yes, that would be the normal process.

LC: for that cheque to appear difference, that stock adjustment would have to have been made?

JJ: the cheques you're presenting have been remmed out.

LC: for the sales report to depict difference figure, there would have to be a stock adjustment. Are there any in that period of time?

JJ: there are SAPs between 1721

LC: any for a pos or neg for number 2 which is cheques?

JJ: there don't appear to be

LC: so there weren't any. The sales report itself contradicts the cash accounts but there's not reason for that.

JJ: I can't answer that

RM: LC is being imprecise with his language.

LC: to have 3591 in cheques remmed out, you would have to process...

JJ: correct

LC: we've looked at both scenarios and that hasn't been done.

JJ: Yes

LC: and there's no other reason for that to have occurred?

JJ: not that I'm aware of

LC: so sales report and final cash accounts are not the same.

JJ: they're separate entities

LC: yes, but the final balance depicts a difference amount of physical cheques to the sales report.

JJ: yes, from the documents you've shown me but they're difference documents.

LC: sales report has no bearing on the cash MOP and stock figure?

JJ: that's my understanding, the cash MOP and stock the SPMR has to physically enter. All the reports in the intervening period – the only document that shows a true picture of a branch's trading position is the final account.

LC: so the Horizon system from the sales report believes x of cheques have been instigated through the system for it to produce the sales report.

LC: there's no reason why those should differ?

JJ: the final balance is a separate document from sales report, you need to speak to someone from Fujitsu...we do not recognise this as a form of accounting verification.

LC: how could that be the case in the volumes of business if this document isn't used?

JJ: not used by the PO as a declaration of final account.

LC: but surely, its production should match figures in final account if there is no other reason for...

JJ: depends when they're taken, but yes and you'd have to speak to Fujitsu.

LC: but you confirm that no other transactions were undertaken...

[text missing]

J: two questions; if you turn to p3829 – below entry to which you've been referred is another entry RODC product number 1??5, sale of value -11.22.

JJ: way the account system functions is that the branch has that in its tables, when remitted out they are no longer there for accounting purposes, they would ...

J: back to X3, this total of 211.22 is two cheques, right?

JJ: the TXN number is the transaction number for the two transactions, that is the total of the cheques that were on hand for that transaction.

J: so that's a total for two cheques? Entered as a single entry

JJ: correct.

LC: during process of transacting business as customer comes in and pays a gas bill, that process was paid by cash, how would that be entered?

JJ: when customer or operator has opportunity to clear transaction, they stack up on the screen and an amount becomes due, before clerk can progress to next transaction to cash or fast cash which clears is straight away, settle to cheque or combination or stamps or credit card. Sometimes they settle to the wrong method of payment.

LC: throughout transactions in the office, would you say the accumulation of giro in payments would be made up of what?

JJ: what type of giro accounts?

LC: actual listings

JJ: could range from basic bill payments, through to corporate money.

LC: made up of ?

JJ: cash, debit card, coin, any tenderable item.

LC: in those items, one would be a cheque?

JJ: if the transaction allows a cheque to be settled against it

LC: i.e. British gas?

JJ: can't remember, but possibly

LC: and that would build into a final total of all the receipts for that week

JJ: value of actual transaction would go into your daily giros

LC: same for personal banking?

JJ: personal banking from alliance and leics, if customer wishes to make a withdrawal

LC: no, in-payments

JJ: that would go into giro banking ...

LC: p535 of TB3 – you produced this reference large cash movements in Marine Drive

JJ: no, analysis in undertook when I received appeal file to ascertain a number of points to look at cash movements, average values of transactions looking for anomalies. There were odd movements taking place, i.e. foreign currency orders. Looking for areas showing a larger or shorter variants in mean average leading to enquiries...part of my overall start point in hearing the appeal was to draw down figures from cash accounts

LC: you maintain that over this period the requirement of cash was ordered in branch, p486, para 21, was between 200 and 265 for that period?

JJ: that is my belief from ascertaining movements of transactions available from initial cash accounts

LC: what was total receipts for that period?

JJ: it's not on this piece of paper, I was looking at the average value of transactions

LC: so you never placed any totals in there? In order to formulate the process of these transactions, you have to have had a total figure for the period to gauge between the two what the necessity of the cash requirement was?

JJ: indeed, I look at receipts etc...

LC: in these figures, there is the cheque part of the payments system. True?

J: p525

JJ: in terms of

LC: these in-payments, you've listed it as 56596, correct?

JJ: yes

LC: a replication of the giro account?

JJ: yes

LC: also includes cheque payments into the office, correct?

JJ: could do...do I consider ...

LC: over this period the total receipts for office including rem's is 838906. Could you confirm?

JJ: you would need to add up every single cash account

LC: would you like to go by my figures?

JJ: I'd better

LC: depends how you'd like to play this

JJ: can I hand up my calculations?

RM: J, we cannot check this.

J: how many more documents are you going to give to witnesses?

LC: one more

J: we'll have them both copied now

[RISES BRIEFLY]

LC: X4 p2 - if you have a look through there JJ to make sure I haven't changed any of the figures.

JJ: they appear to be the same

LC: are you happy with the totals or would you like to check?

JJ: [checking]

J: it's going to take time, we'd better assume they're right and check them during the adjournment. The ones on the right hand side are horizontal totals and at the bottom of the page?

LC: movement and REM, they show remittances into the office and outflow of cash. Throughout the period from 42-51, the office received 838906.62. Over the same period, the payments out which must include cheques – true?

JJ: I accept the cheques re there

LC: the cash requirement to meet the payments is 848147.33 including the return of 9k which was unusable notes. Also extra cash not required that week and cash items to the cash handling and processing centre.

JJ: yes

LC: would you agree that the cash requirement as you state in your para 21, is in fact 288k, not 200-265k.

JJ: I stick with my original statement.

LC: ok, so in order for court to understand your original statement, explain given that 848k actually left the office in payments over that period, how only 200-265k was your figure?

JJ: I was using mean usage of cash over the cash transaction, was using this particular document to track potential unusual movements. I used this as a trend analysis

LC: so over this period, using the trend and movements of cash that the receipts and payments served by the customers in Marine Drive would not have required any more moneys than 200-265k in that period.

JJ: that is the ordering period of cash yes – if you read my statement it's not the total cash used, it's the cash required, what the SPMR order from the cash centre.

LC: so, over that period 200-265k would be required to service the transactions in those payments?

J: I believe so yes

LC: 848k was actually paid by this office

JJ: yes, but also receipted – constant movement, this figure was what is needed to service that amount

LC: given that there's a negative movement in cash, more left the cash than was receipted you're telling me that your figures are correct?

JJ: as part of the mean transactions I accept my figures

LC: in order to service receipts and payment depicted in your own spreadsheet, you do not accept that the cash required would have been 848k? Would have been less than that?

JJ: no, I'm looking at the mean average cash value, you're looking at the absolute total value.

LC: surely, in order to service that requirement of payments, only 200k would be required, when the actual requirement to be made through the business itself was 88k? Where would the extra 88k have come from? How would it be possible for the branch to maintain business level without that amount of cash?

JJ: don't know what you mean

J: how do you arrive at 288k?

LC: x in cash was actually ordered. 35k was returned to ADC, a difference of 280k. But the actual difference between receipts is 288k hence why the cash depletes by 9k. JJ chose not to include those figures in his spreadsheet

JJ: I've already explained, these figures were used to obtain variances between weekly averages in certain types of transaction used to ... as part of my appeal enquiries. This is not a total end to end account of Marine Drive branch.

LC: but none of these figures are incorrect?

JJ: I don't believe so

LC: the facts of the matter are, over this period there is no cash missing. Receipts themselves total 838k

JJ: Have I said that's there's cash missing?

J: Are you saying that?

JJ: No, I was not referring this document to say that cash was missing. There are losses in the branch to that effect, but LC was inferring I was using this document to say that cash was missing.

J: If cash wasn't missing, what is the loss?

JJ: I took LC's statement to mean that I was using this document to show the loss. This document was simply used as part of my pre appeal enquiries.

LC: p486 – para 23 and 24 – in your assertion, the theoretical cash shortfall that I'd ?, if we bear that in mind and reassert the figures in your spreadsheet, how can those cash losses not be theoretical.

JJ: if one looks at start point of wk47, ordering 70k significant alongside the norm that branch would have obtained.

LC: could you explain week 48 with respect to returned cash?

JJ: x and 60k ordered in week 49

LC: and order of cash in following week?

JJ: 2740 then 25k cash order made in week 51.

LC: so where is Marine Drive branch positioned in Bridlington?

JJ: from my recollection it's possibly on the outskirts of the town.

LC: it's on the seafront, by the harbour. The reasons for these requirements of cash and subsequent adjustments are the seasonal trend.

RM: this is LC giving evidence.

J: are you JJ disagreeing with the description?

JJ: I disagree with the seasonal trends and...

LC: so your trends are displayed in bottom column. In week 42 we ordered 51k, correct?

JJ: yes

LC: what happened in following week?

JJ: there was an order of...

LC: what went out that week?

JJ: what do you mean?

J: tell me what the figures are?

LC: 4k is the difference between receipts and payments on that day which continues through. Do you know what day our rem was received?

JJ: Wednesday

LC: it was a Thursday

JJ: ordered on a Wednesday

RM: we accept this

LC: we would have been pre-empting cash flow for following week. Received in the first day of the following cap?

JJ: yes, but based on your ? requirements.

LC: we don't have huge differences in our operational requirements. In week ? 51k was ordered on the Wednesday and received on the Thursday. That corresponds to 52851.72 going out in the following week, is that not true?

JJ: from these figures, but these aren't a total snapshot of your account. I've explained the trends that these show.

LC: if we move back to total figures, over this period the cash requirement for this office would have been 848k and that's what you based your figures upon. True?

JJ: I extracted these figures from cash account.

LC: anything depicted in there that wasn't from cash account?

JJ: no

LC: over this period the receipts themselves with actual cash ordered comes to 888k which would show again that what has been received in the office has been given out by the office. Do you agree?

JJ: you've taken a snapshot figure from these figures, but if one looked at the figures you have...these show the movement and trends.

LC: yes, but these are the figures you've produced to show your trends.

JJ: yes

LC: two totals prove on basis of your own figures, that whilst you have an onion that 200-265 k was needed, the actual payments out required, 288k. True?

JJ: I can't comment on that.

LC: they're your figures

JJ: my assumptions were made on the basis that I believed that was the amount the branch needed.

J: I hope there will be those who can check the amounts over the adjournment, we need to break now. I would like to know how your figure of 200-265k was arrived at?

RM: this didn't form any part of my case.

J: it would help to check them nonetheless. I will sit again at 5 past 2.

[RISES]

2.30pm

RM: we've checked the figures which, subject to minor points we're content for them to go forward.

LC: it's the lottery receipts received today from Marine Drive, you asked to see them.

RM: we're content to have them copied and see them tomorrow.

LC: could you tell me the address of the branch in question?

JJ: Marine Drive, I don't know the exact address.

LC: by the sea?

JJ: I don't know.

LC: back to the figures, x4 p2 – throughout this period, 838k receipted by the office and payments were made of 848k, correct?

JJ: you've asked me to quantify my statement around paras 23, 24 – the deduction ? the cash ...cheque generated was basically taking the following lines as part of the calculation: start at wk42 at nat savings, deposits, giro, personal banking and lottery. I discount the rems. In terms of the payments, one looks at [lists] so the differential taken on each of those subsequent week and I made an allowance on wk43, when you had a large cheque in there and I made a substitution for that. Comes to circa x per week. Demonstrates over the 10 week period the cash differential in those weeks is 260k.

LC: so you derive that figure from?

JJ: average movements for those weeks.

LC: by stating an average ...

JJ: if one adds those up vertically and horizontally, you will find the differential of 265.

J: if you look at manuscript figures at right hand end of page, you're adding up 4 figures, right?

JJ: on the 15709.82, I discount the remittance of 316590 rems ADC...

J: the first part of your calculation was to take the sum of those first four figures

JJ: correct

J: so stage two, which ones are you taking?

JJ: 15414.22, 60839, 17000.70, 55621.01, 9883.90, 5031.00, 63036.96 out of which I made an allowance of 22k for the large cheque...

J: so you took an average instead

JJ: yes and the final figure is 35124.57, 2713.

J; so those 9 figures, thank you.

LC: so with that deduction, how did you allow for cheques and receipts in this?

JJ: the cheques are included as I've already stated apart from the amendment. As you've said before cheques could be part of that top figure. One could take out the cheques because I can't correlate to specific transactions, so I have included them on the assumption that they're for giro deposits or...

LC: by averaging...

JJ: I'm trying to ascertain cash movements

LC: but even...these are even now stated as complete figures for the cash requirement at the office being lower than that?

JJ: that's the figure I've arrived at...

LC: if you then break that down between those averages, it produces a figure that doesn't include ? and ?

JJ: the 265 figure includes checks to cheque in my calculation.

LC: and you have no breakdown of that calculation in evidence or anywhere else

JJ: on my laptop which shows you the difference between the figure you...and the

LC: without ordering 316k would the office have been able to maintain the payments that were actually made

JJ: one could say cash holdings were higher than required, so there was sufficient cash

LC: if we were to remove 200k would we not have physically run out of cash for week 48

JJ: I indicated there was not a need for more than 265k. We have some large cash on hand figures indicating the branch had considerably more than one needs to hold.

LC: this is something you've produced without respect to the actual figures

JJ: no, I produced it from the figures

LC: but, prior to that question you told me you didn't count cheques

JJ: I discounted the 20k cheque as stated and

LC: but prior, you said you incorporated the cheques

JJ: yes, with the exception of the 20k

LC: but that would have been incorporated in week 43's figures as a receipt.

JJ: I don't know, I discounted it because it was significantly outside your average

LC: so your conclusion of 200k

JJ: 265K

LC: the office would have physically run out of cash to service the payments over this period.

JJ: not necessarily, there was 81k cash on hand being held for week?

LC: at no point throughout this whole breakdown have you taken into consideration the amount of payments made in respect of requirements for the cash

JJ: I am taking the largest cash payments within the transaction portfolio for the branch.

LC: you took an average of 26k, why would you state 20k as an average?

JJ: what? I haven't

LC: that would be the average between the two, in your statement it says between 200 and 265k

JJ: when you look at the cash in branch, which is significantly in excess of what is needed to perform the transactions in that branch

LC: are you saying the cash is missing?

JJ: no, that is the figure I believe was necessary to service the needs of Marine branch

LC: are you saying that no cash is missing?

JJ: we clearly have cash discrepancies

LC: from your own spreadsheet, you have proven to yourself that the cash requirement to service over the period of 838k receipts and 847, that the office to service that need required in your own terms didn't require the cash. But on the balance of that statement you're telling me that throughout this period there's no cash missing.

JJ: I'm not telling you that, I'm explaining how I arrived at the figure in terms of the cash usage from the transaction lines I've indicated

LC: that would lead to believe that there's no cash missing

JJ: there is clearly a rolling series of discrepancies

LC: on those figures, is there a cash discrepancy?

JJ: define cash discrepancy

LC: movement out of the office of 9k, on the basis of those figures are you now saying that there should have been a further 25k?

JJ: from the analysis I've taken, there should have been in my opinion a maximum cash necessary of 265k and 313k was ordered.

LC: what was the total...?

JJ: from the analysis I've explained

LC: using a weekly average?

JJ: only one week, I've already explained...I've used the figures...

LC: do they show a cash deficit?

JJ: from the analysis I deduced

LC: I ask again, from your figures do they show a cash loss

JJ: they're not for that purpose, they're to show cash usage.

J: Is the position that having regard to x and x that there's a discrepancy of 265k

JJ: the 265k is what I believe the branch needed...

J: sorry, the discrepancy as 25k, you're saying that you can't divide that up between cash and stock.

JJ: I'm not trying to use these figures to show a cash discrepancy, that would involve a cash on hand.

RM: JJ comes here to give evidence, not as an expert witness, but to explain what went on in the course of the appeal.

J: but he's prepared a lot of figures. My complaint is that LC has asked the same question several times. I don't think you'll get any further with that question.

LC: with regards to the 200 to 265k, throughout the period the assertion is that 25k is in deficit in these accounts. Using the breakdown in your analysis you've used average cheques

JJ: in one week

LC: how did you account for that in the receipts side??

JJ: I didn't

LC: to ascertain that cheque, is than not contained in the cash account these figures have been taken from

JJ: I couldn't, with hindsight I could have ...and have an equally different figure. Would still have arrived at the same cash usage.

LC: having not allowed for that on the top line and

JJ: I have allowed for it

LC: looking at the movements in and out knowing that the rem would be delivered on a Thursday, the average usage over the period using your figures, if I were to order 26k as an average, how would I have serviced wk43?

JJ: wk42 from memory, you have a cash usage of 21k which went up to 30k.

LC: by wk44, or even second week, if I'd have ordered 52k over two weeks I'd have been in deficit of 16k which would then increase the following week to a further 24k. Each time would that depict a situation where the office would have maintained nay cash?

JJ: hypothetical question, at start,...I'm going on factual figures in you're accounts

LC: but you're going on average figures

JJ: only for the one cheque, as I've said

LC: so on these figures there's no deficit

JJ: there is, it's in the books

J: what are you saying?

LC: on the ? throughout this period, in order for the 25k losses to have occurred, those figures, the change of cash would have had to increase the balance figure to c.60k

J: why do you say that?

LC: the computer was producing those losses in the accounts but the figures JJ has produced show in order to service that requirement we needed 288k and in order to do

that we ordered 313k but sent back 33k. cash declared has moved by 4k but in order to have had a deficit of 25k it would have had to have moved significantly more or there would have had to be more transactions in this process for the figures to have produced this loss.

J: you're taking cash alone

LC: we ordered in stock 17k and sold £16k. On these cash figures on which the loss has been repeatedly in reflection of the accounts is a cash figure.

J: LC, at the start of the period, the cash on hand ? has gone down by 4700. The total difference between the selected receipts is 9k? What does that prove?

LC: that the cash shown in these accounts has reduced on the balance of payments made on this spreadsheet...over the whole period 838k were total receipts, cash going out was 848k, so we actually paid out 9k more than we had in.

J: so the 4700 should have gone down to 33k, therefore you were 5k better off, that's what LC is putting to you JJ

JJ: the spreadsheet I have used is to look at this cash usage but to get a true picture of everything one needs to look at the entire cash account.

LC: in doing so, JJ has used the cash usage and the very question raised in the claim is for cash and cash itself on these figures shows that there is a 4k surplus in that cash.

J: you've received 316k?

LC: from the rems office yes

J: what's being said is that it's more than you needed

LC: he's used an average figure for the period

J: he's knocked about 16k off. If he hadn't knocked it off, 848 would be 864 and the change would be about 25k

LC: if you add that to the ? JJ says , we had ordered into the office ??? and if you add on the amount we sent back if would leave you with ???

JJ: only one week was average

LC add that 16k to the 265 JJ believed we would have required.

J: it would add 16k to bottom half, change would be minus 25k. Is that coincidental that it matches the alleged deficit?

LC: if cash has only moved by 4k added to x in the base, suggest to me that there's no cash missing. If average of cheque is taken away, you would have a balance of 22k at the end of the week. We declared substantially more than that.

J: it hasn't been said that there's cash missing.

LC: JJ hasn't levelled the cash missing to myself

JJ: these ...

LC: if those figures were taken into account as just explained, surely the claim against myself is that the cash is missing. Is that correct J?

JJ: taking that figure out of context, I've taken these figures and ??? just demonstrating how I've derived at the figures in my statement.

LC: these are cash movements and from there these totals prove on the cash basis, but in order to show cash movement you've had to incorporate ??? cash

LC: that shows by taking payments against receipts that there is no cash missing.

JJ: it doesn't say that, the figures are not being used for that.

J: if we look at these figures and take the totals, we have a difference between 838 and 848 and take your 16k which we add back on for the cheque, 848 become 864 then the difference becomes 25k. Is that coincidental?

JJ: possibly – the usage of these figures is to ascertain cash usage. To ascertain the totality of the balance one would need to bring in the total cash accounts.

J: are there other items in the actual account not comprehended in your figures?

JJ: may be some cash transactions such as purchase of stamps, this is a headline snapshot.

LC: I think it is a pertinent point that these are derived from the cash accounts and representative of those. Therefore I believe the coincidence not to be a coincidence, but is factual and that there's no money missing. P.1 of X4. tab 46 p

RM: referring to the typed document, not the manuscript.

LC: yes. TB9, p2675 – this is final balance from wk46

JJ: yes

LC: in your first box, third column, is that the same document you referred to?

JJ: these were taken I believe from the snapshots. Wednesday column is believe was taken from your cash account

LC: does the cash account match the final balance on that particular ? Are you happy that represents the final balance?

JJ: as stated, yes

LC: may we used the final balance to reproduce figure on Wednesday column,

JJ: yes

LC: total receipts into the office was?

JJ: 83215.41

LC: could you take that as a total from the final balance? Bottom right hand

JJ: it's the total receipts, but you need to deduct the balance brought forward.

LC: could you?

JJ: 66959

LC: is that the same figure you came to on that particular day?

JJ: I can't recall

LC: is it not total receipts?

JJ: should be

LC: is that the correct figure for that day then?

JJ: that is the correct figure, 66959

J: instead of the 83215 p1 of X4?

JJ: I can't recall.

LC: between balance snapshot and Wednesday final balance, the 39012 would be wrong also then?

JJ: I would need to check the snapshot figures.

LC: we can do that. TB10, tab 46 p2906

J: wrong day?

LC: that's correct

J: but that's ??

LC: we're comparing the Tuesday to the Wednesday. The witness would like to confirm the 34203?

JJ: that is correct

LC: so the 32k must be wrong?

JJ: that would appear so

LC: are you happy with these figures

JJ: or I can't derive where that comes from

LC: from there , the branch states we have ? more in payments. Is that still the case?

JJ: from these figures this would appear not to be the case

J: why have you got, as payments, precisely the figure of receipts for what I think is the 11th, the 659?

JJ: I can't recall.

J: what is this anyway?

LC: something JJ prepared for the appeals panel where he provided me with proof that cash came into the office but wasn't accounted for. Because of the discrepancy in the figures, the assertion is not correct.

JJ: that would appear to be in the wk46

LC: you're assertion in wk46 is incorrect?

JJ: the branch receives 15k greater than, I would concur that is incorrect.

J: where does this come from?

LC: the difference comes from the ? the fourth column from the left in the upper part.

J: the difference instead of being 39k should be 22k?

LC: yes

J: I see

LC: so as JJ has just clarified he doesn't believe the 15k wasn't accounted for by the Marine dive branch. Can we move onto 47? TB10, tab 37 p2696? Cash declarations for the week and the date's the 17th which shows a cash declaration of 74k depicted in the first column third figure from the bottom.

JJ: the figure wasn't taken from this

LC: balance snapshot? Surely you would have looked at the cash declaration.

JJ: not if they weren't available to me

LC: weren't they? Is the cash figure correct then?

JJ: I can't answer, I don't know if what's been keyed into here is correct.

LC: the figure is ? yet that's not depicted on your Tuesday cash summary. Should it not depict the actual cash figure of 74985?

JJ: I'm not sure whether that figure has been derived from – whether that particular entry came from that document.

LC: under cash shouldn't that read the cash declaration.

JJ: if that's the final cash declaration then yes, 74939

LC: would that leave a discrepancy in the branch receipts of ...

JJ: I can't state with certainty that I took the cash figure from that statement, could have been from the balance snapshots.

RM: perhaps I might assist, TB tab 47 p2963

J: this is a snapshot RM?

RM: yes, produced at 1719 on the Tuesday referred to in JJ's schedule

J: showing as discrepancy of 6776 between the two documents

JJ: 68163 is where I derived that cash figure, on the left hand side under cash.

J: can you explain why figure at p2696 differs from that at 2963? They're both the same time

JJ: I can't – I'm not an expert in Fujitsu. All I can deduce is that potentially the snapshot would say what the computer thinks the figure should be. The cash declarations is what the individual keys into the account. You could run a report and ask the computer to produce a ? then produce a cash declaration.

J: you're saying the 68163 to be calculated by the computer?

JJ: yes, trying to ascertain cash deposited on the Wednesday from a car auction in Bridlington?

J: the snapshot being at 2963, the 68163 cash is a computer figure not tapped in by someone at PO

JJ: yes, that's what the figure should be in the branch.

J: when we see 74939, that's something that should be counted by those present and

JJ: keyed into the system

J: would that 74939 appear in any other document?

JJ: don't know.

LC: again, that's the correct figure?

JJ: I can't comment on the accuracy of the 74939 in the region of 6k difference on the snapshot than cash that is either there or not

LC: the difference is there between the two documents?

JJ: there is an apparent difference, I can't confirm if that was keyed or not

LC: tab 50, TB10 – p27?? – the Tuesday figure. P.3008, I apologise. That's the figure on that 0831 on 9th which is in the morning, so 3009 where at 1734 we have 17k but JJ has used 44937.35.

JJ: I've not taken that from your cash? Figures – I assume it was taken from the balance snapshot. I don't have access to all the information.

LC: TB3, p502 – what is that document?

JJ: former SPMR's statement of outstanding debt

LC: how is it generated?

JJ: not sure, I believe it comes from Chesterfield

LC: look at 17 march, is that an error notice summary?

JJ: from assumption on sheet, there's an automated products

LC: turn back to p499 please – what's that?

JJ: former SPMRs' statement of errors

LC: what it for?

JJ: assume it's for a Tessa account with the t missing.

LC: error for that amount?

JJ:

LC: when transacted?

JJ: says it was not put through on the 17th march

LC: so not transacted on that day which would have generated the error notice?

JJ: this is a statement of errors indicating that transaction didn't go through the system on 17 mar

LC: p500 – can you see entry a 0338? Would you say that's the same transaction?

JJ: appears to be an identical reference.

LC: what day was that transacted?

JJ: 13 may 2004

LC: in final 2 columns, head notes of those two please?

JJ: Adjusted by...authorised by...

LC: meaning account adjusted on that day?

JJ: don't know

LC: having not been transacted on 17 mar, having raised statement of errors for same product referring back to 17 mar, what day was the transaction placed on p500?

JJ: date is 13 may 2004

LC: have you ever experienced this before?

JJ: I don't deal with this documentation

LC: these error notices were presented to me in my appeal, correct?

JJ: discussion I believe I had was around the error notices I had been presented happened in your branch that Chesterfield had supplied me with.

LC: that document?

JJ: no, purely an email detailing

LC: that document?

JJ: no

LC: copy of that email in your statement?

JJ: no

LC: when was I suspended?

J: no dispute

LC: 23 mar, but this transaction took place on 13 may.

JJ: adjusted on 13 may

LC: but p499, says has not put through automated payment system on 17 march and transaction was adjusted on 13 may, correct?

JJ: says so there

LC: so that would have caused an adjustment in the account

JJ: not sure how that would have been adjusted in later accounts

LC: when presented with this document

JJ: it would indicate there has been some adjustment made, we would not under normal circs ask an interim SPMR to adjust an error within our business. We may adjust a customer, but it's unlikely that represented that...

LC: says office number 213337

JJ: correct

LC: not the customer then?

JJ: if customer has lodged a transaction – customer is disadvantaged to that sum, if we decide to credit that, not sure how we'd do it but balance due from former account...

LC: not a creditation, a charge error?

JJ: yes, but we'd credit the customer, we'd charge the office 1256, but if the customer was disadvantaged by that sum...

LC: thank you

RM: p 482, tab 60 TB3 – para 8 –[reading] turn to p502 look at settlements cashier credits, what does that entry suggest to you?

JJ: the sums outstanding, 20 Jan has credited amount from 17 mar.

RM: confirm para 8 of your WS Is true.

J: purpose of this is to credit the PMR who had then succeeded LC?

RM: no, p502

JJ: statement of former SPMR account, transaction – credited back in and defines the final balance...

RM: what does a balance snapshot show?

JJ: statement at any one time of the position of the branch that Horizon generates a cash figure from transactions undertake that week that should balance that account if the cash is there.

RM: by what are the figures produced?

JJ: purely by computer

RM: based on what

JJ: starting on the rollover that is declared by the SPMR on the Wednesday then on the actual transactions therefore the snapshot will show a hypothetical position at any one time, does not require you to enter anything.

RM: what does cash declaration show?

JJ: actual figures entered by the operator into the system

RM: X3 – check rems for wk49. Take that document and turn to p3, do you have a cheque listing office copy for 26 February 1705. Please take TB11b, p3692 – JJ, product number 2 was a cheque and 11205 was a rem out?

JJ: yes

RM: looking at that last page of X3 a rem out for 99, look down columns on p3692 and find any rem outs for cheques please.

JJ: one rem out to data central

RM: indeed, for what amount?

JJ: 99.07p

RM: have you got a pen and paper? Write down the figure of 99.07 and then turn back to p before in X3 look on left hand side at cheque listing for 27 February. Tell court what figure appears there?

JJ: cheque listing 1052.43

RM: again turn to p3699 and look down column for a 2 and an 11205.

JJ: yes

RM: tell court what time that is shown

JJ: 1654

RM: correspond with rem out slip?

JJ: yes

RM: take 1053 and write underneath 99.07 – look in right hand column for 1st march 2004, tell court what you see for cheque listing

JJ: 822.

RM: tell court what time?

JJ: 1725 1st march

RM: turn onto p3812 – figure for rem out?

JJ: 822.50

RM: in at the same time? Write that figure underneath in the column. Turn back a page to look at cheque listing, what figure was remmed out on that day

JJ: 1333.51 at 1627

RM: p3821 –

JJ: remmed out at 1627

RM: include that figure on your list please – finally the Wednesday cheque listing on 3rd march what figure

JJ: 211

RM: p3829 – you've already id'd the rem out figure, add to your list then be kind enough to total remittances out that week?

JJ: 3519.43

RM: take X2, look in right hand column, tell court what figure you find there for remittances out?

JJ: 3519.43

RM: would that suggest how that figure is produced?

JJ: it would indeed – by the accounts system adding the residual figures up together and transposing to that entry

RM: an explanation as to difference between balance snapshot figure for cheques and rem out figure for cheques?

JJ: from snapshot, a reversal has taken place to adjust figure that appears in the final account

RM: X4, your document – opportunity to explain what you were doing. From where were these extracted?

JJ: the documentation available to me, the snapshots or final figures from the case file

RM: what other information could you have included?

JJ: none really

RM: what were you trying to do?

JJ: the purpose of the analysis was to ascertain the cash being declared at the branch at the end of the night, the difference between the snapshot and the final balance to account for one transaction we knew to be a cash transaction...

RM: you've referred to a statistical analysis, why?

JJ: trying to demonstrate concern in case papers that cash being declared did not match the figures being generated from snapshots in report I was given by CO as part of original hearing.

RM: what difference between the ex you conducted and audit?

JJ: I'm trying to demonstrate movements of cash where there may be discrepancies with no logical explanation, audit is physical count of cash in the branch.

RM which is definitive?

JJ: the audit

RM: Thank you.

J: I have no further questions.

RM: might JJ be released?

J: yes

RM: might I call Andrew Dunks?

Andrew Dunks

[AD being sworn]

RM: [proves AD]

LC: you wrote down the contents of calls,

AD: They were cut and pasted from the calls themselves

LC: on 2nd February, logged on 25 February p344 para 20 – could you explain was a critical event is

AD: no, not my...

LC: what sort of role do you take?

AD: Work within the security team at Fujitsu and undertake a number of roles, to do with cryptographic key management, vulnerability and virus management

LC: so a critical event on this occasion was nothing to do with a virus?

AD: I don't know, I had nothing to do with these calls, I produced these for the benefit of the court only.

LC: do you have anything in your job to do with nodal contact? Knowing whether a computer is connected to the main system

AD: no

LC: thank you.

RM: I have no further questions. May this witness be released?

J: yes

RM: might I call GB?

Greg Booth

[GB being sworn]

RM: [proving GB]

LC: p541 of tab 62 – paras 4 and 5 – you employed Joan Train. Was that through necessity?

GB: yes, the office was too busy for one person

LC: why not CT?

GB: was not allowed by the PO to do so

LC: why?

GB: she had been employed at the time of the discrepancies

LC: who explained that to you?

GB: CO

LC: that was the only reason that was given?

GB: yes

LC: you in para 7 go into detail about suspense account payment CO asked you do to prove the system, when you did that was it done by yourself?

GB: yes

LC: with any instruction?

GB: by CO

LC: she instructed you how to use the suspense account, any discussion about how they were to be made

GB: can't remember in detail, but probably

LC: reports printed after that, was CO able to read those balances?

GB: yes, from memory she had copies of them

LC: could she understand them?

GB: you'd have to ask her that

LC: in your opinion

GB: She said they indicated the system was working

LC: are you familiar with system re suspense account

GB: I have not used it a lot, it works differently now to how it did then.

LC: at some point did you have, did CO arrive re my interview in Darlington to take away anything specific?

GB: not that I remember

LC: never needed to take anything from the office to do her investigation

GB: not while I was there or that I can remember

LC: p544 – para 18 – I apologise if that's how you felt at the time, the reasons for me not wishing you to be placed back in the office, did I give you reasons?

GB: not that I remember, except that you didn't want any further changes of personnel, that customers were unhappy with lots of changes

LC: you paid me how much in your...

GB: 255

LC: over?

GB: 5 weeks

LC: what did that cover?

GB: notional figure for use of the area occupied by the PO

LC: anything else?

GB: light and heat perhaps

LC: sum total of 255 for 5 weeks. In same para you refer to telephone conversation, when did that took place?

GB: when I was considering moving back there after CO's request.

LC: my father in law rang you?

GB: I had at least one conversation with him

LC: not the barrister?

GB: I think the barrister did phone me, but my memory's hazy on this point

LC: can you remember the conversation at all?

GB: not in great detail but he said he was acting for a pension fund

LC: p571 – explain box at top of final balance

GB: shows loss and gain resulting from intro of amounts into suspense account

LC: what you'd expect to see for that day?

GB: net discrepancy of 101. That's what I would have expected

LC: p2724, compare 2 documents is that what you'd expect to see after a payment has been made into suspense accounts

GB: can't say

LC: on your document, it show the payment you made into it as an over

GB: yes

LC: not represented on final balance of that particular week.

GB: I was not there in wk49 – 49 shows as discrepancy of 3.5k

LC: p2725 – unclaimed payments, was a payment made into table 2a

J: you're asking this expert as if he's an expert

LC: he's an experienced PMR

J: this is the wrong witness to ask about things other than his personal knowledge

LC: Thank you

RM: I have no further questions

J: GB, you've expressed opinions, TB3, p543 – para 14d – how do you know?

GB: that has always been my experience

J: tab 64 p611 para 6, p610 para 4 – how do you know?

GB: it's the only experience I've had. At the time of my initial statement I'd never experienced a problem of that nature, but I did experience that incident so had to make the supplementary statement.

J: so it was just a single experience?

GB: yes

J: para 8b – how would you do that?

GB: the operations manual does not cover this particular transaction, part of a system introduced after manual was written. Would ID fact that it was not correctly saved but printing out transaction log and knew what the transaction was on which the system had locked up.

J: Thank you

RM: when you say the card swipe didn't read, it didn't record any information. What information would it have been taking off the card?

GB: common occurrence, mainly cards for payments of bills. The information encoded on back of the card consists purely of account details to which amounts will be paid.

RM: or charged

GB: if it's a bank card

RM: so when you swipe it, you're not expecting it to add or subtract to the card, just receive account details

GB: yes, amounts must be added by hand

RM: Thank you

LC: did you ever have an occurrence where cards worked on one terminal but not the other

GB: not that I remember, but I have known similar things happen to other offices. All that means that the head is lined up differently

LC: Thank you

J: no point in continuing?

RM: I have two more witnesses

J: AC and EM, any estimate of time?

RM: LC?

LC: not as long as JJ, nor as short as GB.

J: chance of finishing them both within tomorrow

LC: yes

RM: after which I'll go straight into my closing.

J: Fine. 1030 tomorrow then.

[RISES]

Wednesday 13th December 2006

10.30am

RM: may I call Elizabeth Morgan?

LC: [hands up copies of lottery receipts]

Elizabeth Morgan

[EM being sworn in]

RM: [proves EM] any changes?

EM: my current job title is field change advisor

RM: one matter; do you have X2? Could you look at discrepancy table, are you familiar with that table, what does it reflect?

EM: net discrepancy figure reflects current week's discrepancy at time it was printed

RM: what does discrepancy short figure represent?

EM: position when final balance was actually printed, at point prior to this would have been trial balance and this would have been discrepancy stated.

RM: look at right hand column, down below other payments, what does loss a 2a in refer to?

EM: loss being put into the suspense account sometime during wk49, that amount has been entered into suspense account in table 2a

RM: when was that entered into suspense account?

EM: between end of wk48 and wk49's cash account

RM: what difference does timing make?

EM: it can be entered any point during the week.

RM: how reflected in left hand column at top?

EM: depends on what else has happened during the week. Eg if amount entered into suspense account immediately after loss of 3509.68 then immediately after the trial and final balances had been done, the table on top left would have shown as a gain and a net discrepancy of nil

RM: how do you explain that the discrepancy over showswhat is the figure for net discrepancy?

EM: that's the discrepancy at the time this was done, I can only think that there's been another discrepancy in this week which would mean that in the discrepancy over table the gain that would have been created has ended up being negated because he's incurred a further loss.

RM: look in TB3, tab 63, p597 – office snapshot produced on 5th may at 1022 – on next page confirm no loss a2a in etc

EM: yes

RM: p599 – another office snapshot timed 1026, p600 – entry in suspense of 100 loss a2a – why isn't that show in discrepancy over

EM: used to cause confusion with branches, office snapshot is not same as trial or final balance. If done immediately after suspense entry, snapshot shows entry in suspense but has no effect on discrepancy at all, would only effect discrepancy if he'd gone on to take it to trial and final balance stage. He's not redeclared his final cash figure.

RM: p599 – cash account wk6, p603 – office snapshot for 7th may – p604 – can you explain why there would be no indication of the suspense account in this snapshot?

EM: this is a snapshot for the following week, it would only reflect what had gone into suspense in that week

RM: p605 – this is a balance snapshot on same day 4 hours later – 5 mins later, I apologise – see on p606 – loss a2a out figure? What effect would that have on discrep over?

EM: would again have no effect because balance snapshot doesn't change regardless of what you do in the account, snapshot stays the same as pervious week

RM: what effect does putting figure in suspense have on the cash figure in balance snapshot?

EM: it doesn't, only reflects in cash figure when you get to trial balance figure and declare what physical cash you've got

RM: no, when you enter a figure into suspense on balance snapshot, what effect on balance snapshot cash figure?

EM: I couldn't say with 100% surety, whether it increases the cash figure, my knowledge is that the cash figure in the system reflects transactions that happen, so it will inc and declaration depending on transaction. It's while since I dealt with this work so I can't say.

J: actual cash figures you've been referring to generally?

RM: p599, 1st entry putting loss into suspense. P597 actually – the figure I was inquiring about was the figure for cash – 4177.87, before transfer into suspense, on p599 you have a figure after transfer into suspense, the cash figure below discrepancies box appears to have change by approx 100.

EM: can I look to see that nothing else has changed? [checks] between snapshot at 1022 and 1026, the cash figure's reduced by about 110.

J: It may help, I've marked up other diffs I've notice, shall I read them out? 1st, compare p597 w 599, left hand column value stock and MOP. First 5 figures are all difference, next difference is if you look at p597 above postage, towards bottom, figure of 129.36 corresponding figure on 599 is 127.68 then 2 below that stamp books misc, 692.04 and 690.36 and postage has 41?? And 41/? Otherwise I see no differences between the two until we get to the end, the last two figures on p597 380 and 599 370 below those the total two figures are difference. then in receipts column no diffs, but we have to look at 598 and 600, the first difference is BG payment, 10th item down 322.05 cf 327.05 on p600. Next discrepancy down at AP others in 8059.46 cf 8064.46 on 600 then auto payment 8954 and 8958.46 then I have nothing else difference apart from total receipts. Next column, 12 items down PMA 12, 598 139.65 and 600 163.67 then 3 below, pensions, 3559.60 on 598 and 35623.63 then pensions and allowances. Otherwise, apart from loss at 2a in I can see no diffs until you get to total stock and MOP and total payments are difference by 5 and balance carried forward is difference. as far as I can notice those are the only diff, do they help?

EM: yes, they've obviously sold a book of stamps which reflects in first line, that follows through. On payments side, they've paid out one group 12 allowance reflected all the way through. In those 4 mins those transactions happened. Sale of postage increased cash because they've taken money in...net effect of 25. Effect on cash has been a reduction of about 100 but cash hasn't physically moved, so if they did a trial balance they would have

declared what cash they physically had, 100 more, and that would have been declared in the discrepancy table at the top.

RM: why is there a difference between office snapshot and physical cash?

EM: because systems has reduced cash figure when entry went into suspense but cash hasn't physically changed, it's still there.

J: so you're ignoring the 25 odd

EM: yes, cash has changed with those transactions, could have been one customer, net effect has effect on cash, they've paid out 25 so cash would have gone down by that amount but would be the same otherwise

RM: what is difference between way office snapshot and final balance is prepared?

EM: snapshot is what system thinks it's got, can print at any time and it knows what cash and stock it thinks it's got and what transactions it thinks has happened. With cash and stock table...when you get to trial and final balance stage you're telling machine what it's got, correcting anomalies from snapshot. Should be the same but occasionally you might have forgotten to put...at that point of trial balance the system commits all the figures you tell it it's got.

RM: difference between trial and final balance?

EM: trial is for you know what position the account is in, if there's a discrepancy you need to investigate further, you can correct and do again to reflect the difference. the final balance commits it to system which produces the final cash account...

RM: the trial balance is produced by SPMR entering data and producing balance and checking it against what he's got.

EM: it is, but people check snapshot generally but trial balance gives another opportunity to do that

RM: what effect does producing trial balance have on the loss a2a table

EM: depends on what else had happened in week. Discrepancy table isn't particularly linked to suspense account, suspense entry should have a pos effect on any loss that's occurred, but if another loss has occurred, it won't be reflect any more because you've lost that gain.

J: p600 – figure of 100 that disappears, total stock and mop would become 47782.7?

EM: no, based on effect in had before, it would have the opposite effect and increase the cash figure.

J: oh, so the 47782 isn't...I see...it's not a total of what's above there. I see.

EM: I'm basing my answer on the snapshot on pp597 and 598 – that's total stock and MOP would have increased by 100. The position before 100 entered.

J: supposing no other transactions, what would have shown up

RM: I think you may be at cross purposes

J: to eliminate from 599 and 600 the chance fact that someone's been in and done a transaction, go back to 597 and 598 and assume additional entry of 100 into suspense. What effect would that have on other figures on 598?

EM: entry on p600 where 100 has gone in, effect on total stock and MOP is a decrease, but entry in suspense has made total of payments section about the same, so it's increased on the line saying loss a in 100, but reduced total stock and mop and kept total payments

figure the same. P598, total payments, figure of 164147.65 and p600 total payments of 164152.65 so the only felection is a few pounds which I think is the sale of the stamps in the intervening period.

J: so discrepancies remain the same at 14.6 minus

EM: on a snapshot yes, it shows the previous week's discrepancy

J: I see

RM: we're dealing with cash account week 6 – which week does the net discrepancy figure come from?

EM: week 5

RM: p603, week 7 – which week does the discrepancy over figure come from?

EM: week 6, because amount's gone into the suspense account. I'm not clear why 100 has gone into suspense

RM: this was a book entry made by GB on instruction of CO to see how entries in suspense effected position as shown on accounts. Your evidence on how this effects the accounts produced each week is interesting. What figure is represented on X2, wk49, final balance, in the discrepancy table at top there? Which week is that a discrepancy for?

EM: net discrepancy is that current week

RM: one final week: TB9, tab 46, p2675 – final account for wk46. What figure is shown for discrepencys short?

EM: 8243

RM: for what week is that the discrepancy?

EM: week 46

RM: tab 47, p2692 – final balance for wk47 – what is net discrepancy

EM: zero

RM: why is there a figure in discrepancy short and over?

EM: it's gone in suspense, it's unusual to show like that, as if to say nothing else has happened in the week to reflect that discrepancy table. You would have expected something to have happened to one or other of those tables. Discrepancy short is the position as it was as that shortage wasn't made good it's been entered in suspense and is reflected in discrepancy over. I suggest the final balance has been done, trial balance been done straight after amount's gone into suspense to reflect no discrepancy.

RM: Thank you

LC: TB3, p571 tab 60 – been talking about balance snapshot, what week was this?

EM: net discrepancy is week 7's net discrepancy

LC: so there's a shortage of?

EM: 101.21

LC: difference between which two figures?

EM: discrepancy over and short.

LC: having seen that process, you'd expect in second week for payment into suspense in second week would be shown in that box

EM: depends what else has happened

LC: what kind of things?

EM: if there'd been other losses or gains within the week, it would reflect

LC: if there were further losses in this week it would be shown on top of losses taken away as these figures have been depicted.

EM: it depends what time to do trial and final balances. If you make a 100 entry in suspense, but then made another 100 discrepancies short it would knock away the

LC: but you would see both figures if there were any change in the shortage, say at start of week shortage was 100. Over course of week further 40 had been lost, that would be depicted on top of the 100?

EM: not necessarily, could have reduced overage to 60 because you're lost money you've gained. I was always shown, most of my experience is in manual balancing, I was always told to be looking at net discrepancy figure. I find it easier to go by the net discrep because it's always the current state, I refer back to actual cash account – the discrepancy at bottom is the current discrepancy.

LC: the effect of these movements on cash requirement – there would have been a movement in cash requirement?

EM: from looking at this today, yes.

LC: you're happy to say that?

EM: if that's what the system is showing in cash yes

LC: so the over that's shown on p603 is 103.11, would we have any reason to believe that's not the same over on 571?

EM: presumably you've not done anything with the trial balance between times.

LC: each time these movements are places, the machine looks into the following week.

EM: I'd like to see a cash account for that week.

RM: I can show a cash account for wk6, but not week 7

EM: wk7's cash account is showing a shortage of x, p.562

J: LC made a remark saying that the discrep over on p571 reflected the 100 that had gone into the suspense account, do you agree?

EM: 103.11 could be but amount in suspense in wk6 for which there was no loss the previous week, you would expect to be 100 over because there was no reason to put 100 into suspense.

LC: moving onto 571, having confirm the 101.21 in the cash account – you're happy with that

EM: yes

LC: it's depicted in that way and would be throughout

EM: I can't say that 100% because I can look at figures and say that looks like that's that, but I never had to look at those figures for any reason, I went by what the net discrepancy

figure was on the cash account. On the suspense account team you were talking over the phone not looking at figures.

LC: but you looked at these for me?

EN: I can't recall

LC: you wouldn't have had any supporting documents?

EM: no

LC: from that review on the cash accounts, whilst the cash account provide a picture of office for the week in statement form, over process of the week to get a full picture of everything more information is better, true?

EM: if you were looking for a discrepancy?

LC: or the way the system or person had formulated the ?

EM: the way I was looking at cash accounts was using experience of branches of your size and average transactions, you have such large discrepancies in those weeks, around 8k would have stood out and I was looking at it from that point of view. I wasn't going into huge detail, just looking at the level of transaction you were doing.

LC: and you sought help from DC?

EM: she has more knowledge than I have

LC: and it would have helped to have more paperwork

EM: you still don't know if the transactions were right or wrong. If I'd had all the papers I could have check remittance advice notes etc. problem would have found it would all add up to this.

LC: but we do agree that the suspense account payment has an affect on the cash at the end of the week

EM: not at end of week, you declare the amount of cash in the office

LC: isn't that generated by the machine. Physical cash is compared with payments and receipts, the stock holding etc then three levels of checks in house, what's been seen by computer in Marine Drive, cash accounts prod in Chesterfield and what's been seen by Fujitsu

EM: no idea what Fujitsu see. Cash account is downloaded in Chesterfield then it's a 2 stream check. Documents went away to client for balancing with cash account.

LC: so week 49, big piece of paper X2, use that for reference to compare the two – what occurrences could cause computer to depict two finals in difference ways? Having confirmed on p2725 that payment of x into payments loss 2a...

J: this question is getting rather out of hand

[text missing]

EM: my understanding would be that between posting that into suspense account and producing final balance you've incurred a final loss that's taken the overage away.

LC: then compare to document on 571, why is that difference?

EM: I can't explain – I don't have enough knowledge of that box to explain why it would show different. Somebody with more tech knowledge would do, I go by the discrepancy figure in preference to that I would refer to the cash accounts

LC: there would be a question as to why it's depicted difference?

EM: you've done a whole week's transactions – I don't know what's gone in in the meantime. In understand that the table, the system is committing your discrepancies to the system...

LC: not clear?

EM: not to me

LC: Thank you. TB 8...[trying to find original manual cash accounts – handing up copies]

EM: [explaining tables to court] red is the payments side, blue is the receipts side.

J: [marking as X5]

LC: as you've explained, this is a daily and a weekly book. Why are they required?

EM: when there was no computer system and everything was done manually, you needed to be able to add things up.

LC: this was a physical record?

EM: yes

LC: and over the process of the week, you would formulate the larger sheet and what would you do

EM: transfer them onto the smaller sheet to make the cash account. not everything was on the daily book because you had certain weekly transactions.

LC: such as

EM: green giro bank cheques, you only total at end of week

LC: that would be a manual account produced by SPMR, what would they then do

EM: make another copy, exactly the same with section to sign which was sent to Chesterfield

LC: what does signature box say?

EM: please sign here, legal requirement

LC: that would be a manual account produced daily and weekly etc. that would be retained for records prior to Horizon?

EM: yes

LC: back to TB3, tab 6, p456 – that's what?

EM: cash daily Horizon produced – it prints it

LC: any reference on signature box to legal requirement?

EM: it asks you to sign it, but doesn't say legal requirement

LC: tab 55 p402 – read para 8 – [reading] – you authorised some of the movement of cash?

EM: I believe I did, I do vaguely remember the conversation

LC: so that was an authorisation?

EM: there were only 3 ways in which I could authorise amounts to go into suspense. If I knew amount, you were applying for hardship or RLM had authorised it.

LC: p401 – you had to apply for hardship – para 4b, have you ever received a hardship form from me?

EM: I couldn't remember if you got to that point, process was we couldn't offer you to pay back by instalments, but process would be started if you asked to pay by instalments.

LC: it's submitted?

EM: I'd send out ILE so we could see you were definitely in hardship position, when it was agreed that you could pay back in instalments we'd set that in motion.

LC: can you remember which of those 3 reasons was why I had authorisation?

EM: you didn't know what had caused loss, CO didn't authorise it to go into suspense – must have been because of hardship.

LC: but it says submitted

EM: PMRs generally

LC: no copy of a hardship form?

EM: don't know

LC: thank you

RM: you said you always referred to final cash accounts, why?

EM: it told me current state of play, where they've physically checked cash and stock and verified figures in cash etc, net discrepancy is current position. If going by a snapshot, I don't know that's the actual state of balance.

RM: when you say 'they', who?

EM: PMR

RM: what are they responsible for checking?

EM: That figures they submit are accurate, that cash and stock table they can physically check, responsible for declaring that accurately.

RM: paperwork coming into Chesterfield and going out to clients – what would happen if figures didn't balance?

EM: they would look into why, if an inputting error with client they would resolve it, if a PMR error the client would give money back to Chesterfield or take money from Chesterfield who would pass on error notice

RM: in what circumstances would error notice be issued?

EM: if it was the fault of the PMR that there was a mistake between figures

RM: X2, right hand column effect on discrepancy box – what effect if any does that box have on the right hand column?

EM: it only has an effect if nothing else happened during the week. The 2 things are not the same, the discrepancy box in top left is the discrepancy at the point of final balance,

you'd expect an entry in suspense to be reflected in that but if other losses have occurred...

RM: what effect if any does an entry in top left box have on entries in right hand column

J: I don't understand the question

EM: you don't make an entry, it's what the system tells you the discrep is?

RM: how does the system calculate the discrepancy

EM: work out difference between receipts and payments, figure should match total between cash and stock

RM: so the discrepancy table contains calculation from columns below, doesn't result in changes to columns

J: net discrepancy in right hand column is balancing figure calculated by computer in order that total payments equals total receipts, is then transferred to top of ...

RM: how long ago did PO stop using manual books?

EM: about 2000

RM: what system did you move onto?

EM: Horizon

RM: in relation to signing, what are the requirements?

EM: have to sign to state it's a true statement

RM: TB6b, p1455, look at last bullet point – 1456, 1457 – does that confirm your recollection?

EM: yes, sign and date stamp

J: TBs9 and 10 – tab49 p2725 – towards bottom remittances out, previous page final balance for wk49, TB10 tab 49, p2979 we have a figure of cheques 3533.30, sales report – TB9, p2725 – it says remittance out data central 3519.45, the place where cheques go. That's entirely cheques?

EM: yes

J: cheques figure in TB10 of 3533.30. Two dates of documents – 0737am vs 1735pm, figures are difference, can you explain the difference?

EM: 3519.43 rem out, is what he has physically remmed out. Not familiar with sales report, but often the case that people, when they do a transaction, get the option to finish with cash or cheque – so there's often some adjustment needing to be made the cheques before they're remmed out. May be the case here

LC: if we could look at TB11b – p3829 – midway down that, 1637:44 secs transaction for RODC. Do you know what that is?

EM: rem out data central

LC: continue down page, cheques in first line at number 2, 11205, final remming out.

RM: it's a Fujitsu data code reflecting what the data is.

J: there are no other entries?

LC: at close of business, no further adjustments, how else could those figures be difference?

EM: not familiar with sales report, it could be that the sales report shows what you've entered, it could be that it doesn't then reflect the changes. You can then just adjust the figure..

J: you're not saying it wouldn't appear on 3829?

EM: you should find 211.22, if you went through record for whole week, they should add up to total rem out figure for the whole week.

J: may be that 3533.30 was a mistake because it should have gone to cash remains a puzzle

EM: I haven't seen one of these before.

J: thank you

RM: we can go through the process of adding up the figures, as we did yesterday, keep TB11b, p3692 bottom of...LC accepts that the figures when added up correspond to the total figure at bottom of p2725 3519.43. So the transaction log records rem out to data central of cheques for that week of 3519.43.

J: LC's point was there was nothing else which would explain...3533 is the previous night?

RM: yes, and is in the sales report which is a different sort of document.

J: might contain a mistake which wouldn't appear in the other document. Thank you.

RM: final witness is Anne Chambers.

Anne Chambers

[AC being sworn in]

RM: [proving AC] if you take TB8 tab 76, p2379-2381, what is this?

AC: details of software downloads at FAD 213337 which I believe to be Marine Drive, information for both computer terminals at that branch.

RM: thank you.

LC: TB12, tab 106, p4120 – explain what an event storm

AC: an event is where some piece of software has gone down an unexpected path and some failure condition has occurred and it writes an event message which gets transmitted from branch to central system. There's a team who look out for this happening, an event storm is when they receive many of the same event at the same time, they raise a call to investigate

LC: and the cause of this particular one?

AC: is not specifically documented in here, I do know what the cause was.

LC: if you could

AC: it was to do with some new software, they had changed the error handling and a failed condition started to be reported. It wasn't a path that caused any ill effects, was found not to be doing any harm just that there had been a problem. What had happened was that new software had gone out and 20 to 30% branches with new soft had reported the problem.

LC: p4128, what is that?

AC: not sure that this was included in the calls I looked at at the time. As I recall, there had been some change to software the previous night and the repost service hadn't restarted itself as it should and sometime that can be corrected by an ? being done, but quickest resolution is to replace the counter with the problem.

LC: would report that directly to yourselves

AC: yes, although you phoned up and reported it

LC: the way that it reports, how does it do that if it's node 2?

AC: each node has a unique identifier, it's an H then the FAD then 001 or 02, when error reported, that's how it would have been marked.

LC: is that direct contact from node 2 or does it go through?

AC: because communications go through the gateway, the gateway has to be up and running for information to be passed

LC: so if they're both down, would there be no automatic alert to a problem in node 2

AC: could be, but I can't tell from this if that was the case, it took some human intervention

LC: I presume that the associated effects from a, if node 2 had a problem it would raise the alarm, the same as me ringing you to say that/

AC: no, a call will only be raised if a person notices that the alarm has been raised. So it's possible that it wouldn't necessarily be picked up, but the alarm would still be there if people went looking for it. Wouldn't automatically raise a call.

LC: p4129, one of the updates, Monday 2nd February at 1407 by dispatch 1 – is that the engineer arriving on site?

AC: can't say definitely. Engineers have own system to log movements, which updates this information automatically.

LC: it says engineer logged on, to that node ?

AC: no, his call logging system

LC: sorry. So engineer visit, that's not physically a visit?

AC: yes, if you had that terminal replaced on that day there must have been a visit, but I have no knowledge

LC: says 'clear', what can you tell from that?

AC: the engineer when he's finished has further up where it says end visit, put an update on his system saying failure on ?, replace, clear update has been put on by system helpdesk saying what engineer has told them. They'd check on their system that counter is up and running again

LC: what do they perform?

AC: I don't know

LC: TB11b, tab 103, have you seen one of these before?

AC: I believe it's the event information which shows the clerk type events performed on system. I don't normally look at it like this.

LC: on that day when the base unit was changed, the unit must have been unplugged yes?

AC: yes

LC: call closure at ?

AC: no, it says engineer finished call at 1428, in fact engineering visit time at 1330 which suggests a delay in communications between call logging systems.

LC: refer to 3703 from start of day, node 1 came disconnected

AC: yes

LC: 1330 and after, no notice of node 2 being disconnected.

AC: node 2 wasn't doing anything until a log on at 1424, so node 2 didn't do anything at all on this report.

LC: must have been disconnected

AC: couldn't say so if it wasn't working

LC: would tell you it was reconnected

AC: no, it hadn't said it was disconnected. Disconnected means working as it should be, but not communicating with the other node. Not a loss of connection, just not working.

LC: on this log, if node 2 had become disconnected it would show

AC: if it had been working, yes.

LC: so being not working, but connected...

AC: well, it wouldn't show, it can't show anything

LC: but when you reboot it would tell you?

AC: it would only report a reconnection if it had already reported a disconnected

LC: p3705 – 1242:51 secs – is that node 1 disconnected?

AC: appears to be

LC: 1403:42 –

AC: node 1 has regained, but that would only be if counter operating normally but network between two was not working.

LC: so that's disconnection between counters or between you and counters?

AC: not 100% sure, this isn't part of my evidence.

LC: I apologise. P3703, midway down page at 0920:29, further node 1 disconnection. If you follow through, never says that node 1 reconnects.

AC: I can't tell just from this why that would be.

LC: to have it depicted in one way...

AC: if node 2 wasn't working, I'm not surprised node 1 had become disconnected.

LC: but it doesn't show...

AC: don't know, I can't explain that from this information

J: what are these other entries after? 0923:23 can that happen with node 1 disconnected

AC: yes, node 1 was disconnected because it couldn't talk to node 2 but it was operating properly itself.

LC: so node disconnected between 1 and 2 is the only thing connected, not the connection to the network

AC: not sure from this

LC: so

AC: I believe that you've managed to carry on doing online transactions which suggests communications between gateway and data centre were working at it was just counter 2 not working.

LC: would counter 2 not report that?

AC: no, because counter 2 was not working

LC: so why did node 1 report it was disconnected

AC: because it was disconnected from node 2.

[text missing]

LC: TB3, tab 51, p338 – 5th line down what does that mean?

AC: something one of our other call logging systems shoves into responses which has been cut and pasted, it's completely irrelevant

LC: from another document?

AC: yes, that was the response I gave to call I had investigated which we should be able to see in list of calls attached to my evidence. Would have been call VO402251077 which appears to be at tab 106 p4141 – same text appears.

LC: why as no transaction date and time etc??

AC: our call logging system adds that text on then call is passed on

LC: this would have been done on what day

AC: I updated it on 26th February and it fed back to power help call logging system at 1548... you've got both those times there.

LC: in that para, you say the system against declaration shows they're not working accurately.

AC: I said checking the cash transactions against cash declarations shows that, I came to that conclusion because the cash you'd declared was a long way off what it should have been on the system.

LC: sometimes higher, sometimes lower

AC: yes

LC: there was, not wrong, but no error notices not cleared through that period to 23rd march. Would that be a cause of system not working accurately?

AC: no, I took your stock unit rollover then extracted every cash transaction and added total transactions for whole week, looked at cash declarations attend of each day and compared working out what system was ...compared system cash figure with what you declared, every cash transaction on your system. It was the difference between those two numbers, I've done this check at other branches, other branches would be likely to be within 10s of pounds and that wasn't what I found with your figures so it was hard for me to pinpoint where I was looking with this loss, system or otherwise. Why I felt it needed more investigation from the business aspect because I couldn't see any problem with the system form the checks I made.

LC: because they threw up too many anomalies

AC: Not system anomalies, if I could have isolated it further...because of this wide variation I couldn't provide any further help

LC: TB8 tab 97a p2557ao -

AC: would this be to do with a branch on Callender Square?

LC: no, is that another branch that's had this problem. In this statement, Mr Brown refers to two individual balance snapshots being taken, difference throughout, why would that be?

AC: it's likely that it was a problem that has occurred intermittently where for some reason when they're doing their balance process on one counter, one counter is not communicating properly with the rest and you don't get a disconnected node message and it will not see later changes made on other counters. This is a know problem and does get picked up centrally and I would expect for any of these sites that a call would be raised. It's very obvious to us. For this specific branch, if it was Callender Square where we did have problems, we knew there were problems...

LC: this isn't Callender Square

AC: yes it is, Falkirk. They had this problem several weeks in a row, it's very rare for it to happen repeatedly. First week it gave them a payment mismatch, transfer problem only happens if you have a dual stock unit, second counter allowed it to be done a second time, you only have a single stock unit. It was also picked up because there was a flood of events from this unit. Second week and third week then I got call about it which I passed on to development team and to PO. Problem was that this information didn't get sorted out at branch level, but they had a system error which we were very aware of. I saw no evidence of anything similar at your branch and I would have done.

LC: what?

AC: in your system event log there would have been hundreds or thousands of notices...would have potentially only included transactions up to earlier point you had got up to. Following week it would have included anything it has missed in the previous week. So unless you had the transfer problem you couldn't have had, it would have looked odd but would have balanced in the end.

LC: when we produced balance snapshots, some days we were well over and some days well under

AC: more a business issue, a balance snapshot doesn't recalculate your discrepancy

LC: but it ? from the transactions?

AC: yes, but...I don't think I can talk sensibly about balance snapshots, that's more of a business process.

LC:

AC: cash figure used is your last cash declaration you made last time you balance, adjusted by what you've recorded on the system, doesn't then work out what the discrepancy is. I can't see that.

LC: no, but those calls were made. Thank you

RM: what is a riposte system?

AC: the basic software that forms the basis of the Horizon system, written by a 3rd party supplier which a lots of extra stuff has been put around it.

RM: p2557ao, you thought it might be Callender Square, that the particular discrepancy only happened with multiple stock units, not with single stock units. How do you know?

AC: you cannot do a transfer, transfer is from one stock unit to another.

RM: how do you know error only occurs in those circs?

AC: error doesn't but error giving you a loss, I'm almost certain in the cases I've seen it's only been in that particularly situation that there were able to do a transfer in twice.

RM: events log – what would you see if this occurred?

AC: hundreds or thousands of identical lines saying an error had occurred.

RM: TB11b, tab 102, what are they?

AC: the transaction information

RM: and 103?

AC: transaction event log which records what clerks have done

RM: is there another event log?

AC: system event log, kept centrally in central systems

RM: where?

AC: in audit information

RM: by whom?

AC: don't know

RM: have you seen that message store?

AC: not the message store, that's every single transaction, event etc that's happened on the counter, event log is

RM: have you reviewed the event log for this branch?

AC: no, I looked at it at the time when I was investigating

RM: what did you see?

AC: nothing out of the ordinary, only the event that gave rise to the one thing that is irrelevant.

RM: we don't appear to have given disclosure of this, if LC wants to see this we will make this available.

J: I will proceed now with remainder of trial

RM: didn't want court to think we had withheld anything.

J: LC, there you go, you'll have to consider what to do.

RM: I have nothing else, that concludes my evidence on behalf on the Claimant.

J: 2 o'clock then.

[RISES]

2.30pm

Closing

RM: I only propose to refer to two documents, TB10 and X2. I propose to keep this brief by adopting what I said in my skeleton and opening. [reads from closing] akin to a trustee position, can't say to his beneficiary that he can't find it and that it's for the beneficiary to explain, it's up to the trustee. [continues]

LC prepared figures and signed off on them as correct, He accepts the figures in each cash account are accurate and that the recorded figures correspond to underlying physical documents.

J: that's in the pleadings?

RM: yes, and J will recall LC's evidence and interjections that the figures were accurate in relation to underlying transaction. LC accepts tat he and CT checked the figures over and over again against the physical records yet could discover no discrepancy. The physical system of checks required by PO documents are designed to ensure such actual discrepancis are identified and confirmed by reference to actual trading to ensure accurate figures are recorded. That's what's happened. LC accepted that figures confirmed against underlying physical documents, if added up, totals would be exactly the same as recorded.

J: what are the two sets of documents?

RM: final balances and cash accounts final for weeks 42-51. given that LC accepts the maths were correct, and that individuals were correct, the end result would be exactly the same whether taken from signed cash accounts or indeed in the event that a new account were taken on the basis of the underlying physical documents. In opening I said the best LC could achieve was that there was a reason for an account to be prepared. On the basis of the evidence and concessions made by LC there is no purpose in that, he accepts nothing is going to change.

That the figures were accurate is further confirmed by the evidence of GH, KC, WS, PW and MJ. All of them give evidence explaining physical checks at PO end when they get underlying documents in and method in relation to production of error notices. They say there were no outstanding error notices unaccounted for. Evidence from EM said how physical documents that went off the clients, were checked and sent back to be reconciled against Horizon figures, that they conformed and if there was a discrepancy, an error notice would be generated. There are no unaccounted error notices.

Evidence on Horizon conforms to physical documents and those sent back from clients. CT, who was very supportive of LC, gave evidence that she had checked the figures over and over and couldn't find a discrepancy. My submission, given her desire to help LC and her years of experience, had there been a discrepancy, she could have been expected to find it. But she accepted that the figures reflected the underlying physical records.

J heard evidence that LC had retained accountants and LC told this court that those accountants had looked at week 42 and their report was inconclusive. And again, that goes into the balance that there's nothing wrong. LC has had every opportunity to look at these figures. After week 52 LC continue to trade until day 6 of week 52 and make further

entries in the accounts. These entries and total deficiency were audited and verified as evidence by HR.

LC accepted the accuracy of her figures and he does that in both his amended defence and in evidence and that HR's evidence was not challenged on quantum of deficiency or that she had established it properly. In answer to this case, although he confirms the accuracy of the accounts produced by him and accepts the accuracy of HR's figures, LC says that he owes nothing and that the recorded deficiency was the result of unspecified computer problems.

However this is wholly inconsistent with his admitted position and fails to satisfy the test in order to go behind his own accounts. Back to those authorities, black bundle tab 1, passage 1232 of Bailey J, also in *Camillo Steamship* speech of Shaw LJ, right hand column of page 145: about ¼ of way down, third stage of the ? broad stage of accounts settled. [reading]

Now, it matters not strictly on my submissions which test J adopts, all of the tests, whether simply by admission under first stage, or second or third, rely on a party showing a mistake. *Shaw v Picton* puts the test much higher. Whichever test, LC doesn't succeed because he doesn't identify a mistake sufficient to go behind his accounts as a whole or in relation to a particular item. The judgments of the King's Bench Division represent the law in this country as regards agents seeking to resile from their own accounts

LC can't point to a single incorrect entry in the cash accounts the PO relies on. He accepts that if the process were done manually the figures would be the same. Instead he points to anomalies in secondary documentation but do not go to make up primary accounting documents. In relation to those anomalies in so far as they exist, they're immaterial. But the one alleged discrepancy on which LC pins his hopes in week 49 figures, LC is comparing chalk and cheese. Figure in X2 is the figure in right hand column as remittances out. The figure is the sum of the figures for cheques remmed out, J had seen that. Recorded by LC as having been remmed out, checked by him against slip and confirmed by absence of error notices as correct. LC accepts this, and confirmed by JJ's evidence.

TB10 figure, p2979 – top left hand part of the page a figure for cheques, not rem out or cheques remmed out. It's a figure for cheque receipts in the figure calculated by Horizon as total consideration as received by cheque on transactions where operator has touched screen on method of payment on cheque button. Does not go into final balance or cash account, no r evidence that it formed any part of a final balance or that it was checked or gave rise to any consequences. J has heard evidence that, eg. Balance snapshots take the figure declared by SPMR for previous week and adjust it on the basis of what is touched on the screen up or down. Purpose of snapshots is to give PMR some opportunity to take a look and compare performance against what the machine expects. Final balance and cash account final are the figures produced by PMR by recording what physical stock and cash he has, and physical underlying transaction records, checking, reconciling and putting into account then pressing the button.

The two figures are radically different and not a genuine comparison. Shows that someone may have touched the wrong method of payment button on the screen. The sales report an value for cheques is a red herring, all the parties are concerned about is LC, as agent accounting for payments by way of rem out to data central. LC says he has sent x in cheques, PO says yes, we haven't issued an error notice. LC does not represent that he sent x.

Similarly on X2, LM on suspense account, discrepancy table reflects figures in body of final balance whose accuracy as a matter of record LC has confirmed in correct. Discrepancy table is born out by ? and evidence of final audit. LC has pointed at Horizon and makes a general allegation that it was not working. Court has heard evidence of AW and AD proving that no specific problems were identified by LC nor when following up calls. AC gave evidence that she has not identified a problem giving rise to any unidentified discrepancy. Further corroboration that it was something to do with way the branch was run to be gained from fact that neither RS, nor GB nor DD experienced similar problems or discrepancies.

Set in context of these declared discrepancies, LC was suspended and dismissed by CO. She tried to find something that could explain losses but was unable to ID anything despite the fact that she was supportive of his position and wanted to try to see anteing. She couldn't find anything either.

Following that suspension, LC appealed to JJ and JJ came in and he looked at the position again. Again whatever LC may say about quality of JJ's investigations, there was no specific entry on accounts identified as incorrect, nor did JJ identify an entry that was incorrect.

J: I don't understand...LC was making, that exhibit of the table JJ had prepared...

RM: TB3, tab 65 and X4. JJ's evidence was that he was looking at this table to see whether, with his experienced eye, he could id anything that stuck out and look at it in greater detail. His evidence, and it's not the case I make, is that he thought, so it's opinion evidence, was that there were unusual amounts of cash being required. He gives that evidence in the context of the history of how he came to preside over LC's appeal hearing. He says these other steps I took to investigate LC's position. Having taken those steps I didn't find anything in what he said. I see why LC focuses upon it, but it's not how I put my case because I don't need to prove...

J: you submit that the accounts speak for themselves and that you don't need to explain where that comes from. But there's a difference of 9k, can you assist me on LC's point?

RM: there does seem to be a change on the basis of these figures between x and x, and LC's case is that's less than he 22k odd that had accrued before the end of wk41. There's an outflow of funds of 9k. There was as level of stock at wk41 and 42 and at the end of period that's 25k short of what we would expect it to be.

J: so LC is saying this is only 9k and you'd expect it to be 22k if the accounts are right.

RM: I don't know and if I'd wanted to make that case, I'd have called difference evidence. All I can submit is that there's at least one occasion where the figures physically recorded by LC appear unlikely to reflect the reality of what went on. I say that with respect to the cash declarations at end of wk42 and first day of 43. It's not part of my case, but I say by way of explanation that the PO does not necessarily accept all declarations by LC reflected the physical reality of the position.

J: i.e. were correct

RM: yes. If the learned usher could pass up TB9 [learned usher asleep – RM passing] behind tab 42 at p2610, the manuscript declaration of 50p pieces, when physically counted were declared at 161 on Wednesday evening, and on Thursday morning the evidence was that CT and LC had identified a discrepancy of 1100, worried about it and been unable to ID any difference between what they recorded as received and what was shown on final balance, and so LC made good the deficiency. LC was unable to recall how he made good the deficiency other than that it was by cash. CT seems to remember he'd made good the deficiency, but not how. In my submission, whether or not LC had made good this loss, it's unlikely to the extent of being so improbably that J would need extremely cogent evidence by LC that he would have found 1429 of 50p pieces in order to put them into the cash.

J: where do we find this?

RM: p2612 – top left hand panel, 1590 of 50p pieces. Evidence was that manual cash declaration produced on Wednesday evening,

J: is there a computer print out?

RM: no. just CT's evidence that she produced that document on the Wednesday evening. 322 50p pieces.

J: you say this is the next morning?

RM: yes. J sees at the bottom a total of 883k total cash on hand

J: which can be compared to ?

RM: no figure, but every other figure is identical to the declared cash.

J: I see. When you said 1429, you're taking 1590 minus 161. Was the evidence that this was paid in early in the morning?

RM: yes, confirmed by looking at total cash declared at 7.33 and p2608, 0739 same morning declared cash goes into final balance and that makes its way back into cash account final produced 7 minutes later.

J; how do you get from 2608 to ???

RM: 2608 is the final balance

J: is something that is a formal document?

RM: yes, prepared by LC on basis of declaring what he has in hand. P2608, evidence of LC and CT that on Wednesday evening they found a discrepancy of 1103 odd. Confirmed by final balance on this day, discrepancy short. Also see discrepancy over of 1103 because LC says he's paid in the discrepancy. The way that is evidenced is a change in the number of 50ps in the manuscript prepared by CT on the Wednesday evening and the figure of LC on the Thursday morning.

It gets slightly more exciting than that, what we then have is the following day's cash declaration at p2627. Still 15th Jan, 10 hours later – during which time the branch was closed - in those 10 hours they have paid out, if figures are correct, 1505 in 50p pieces. 25.08kg of coins stacking to a height of 5.59 m high, just over the height of a double decker bus.

There's another odd figure here relating to the declaration of 20p pieces.

J: that looks like a typing error.

RM: if you believe it's a typing error then...look at the 20p pieces in the manual declaration – 2654 pounds worth. Whilst some cash has gone out, about 1000 in coins from 50p pieces, the position isn't immediately apparent because rather a lot of 20p coins are coming into the balance over 10 hours.

J: this is incorporated into that total, typing error or not.

RM: Indeed, that's 11,885 coins –

J: where do you get 2377 from?

RM: the difference between p2612 figure for 20p pieces and ... the 254, CT said these were her figures and we don't have evidence as to who entered it the figures up, but a difference figure was entered up and doesn't appear to be what was entered up.

J: so there's a small discrepancy

RM: large discrepancy between x and x

J: yes, but you're telling me about this 277.60

RM: between 277.60 and 2654.60 on p2627

J: there's an unexplained discrepancy between x and x

RM: J is wrong about that...Wednesday evening, recorded on Thursday morning at 0723. x is Thursday evening declaration that goes to p2627 bottom left hand panel

J: and there becomes xxx

RM: yes. [text missing] there are some difficult explanations. It's incredible that this amount of pieces were paid in the morning and he can't remember. It's implausible. I don't make a case that the money wasn't put in, but there's significant doubts about any transaction data save what is confirmed by the supporting vouchers as have gone off and been checked and have produced the final accounts

J: are you saying these incredible amounts of coins should make me doubt LC's credibility as a witness?

RM: no, but that...

J: that he's not reliable as a witness?

RM: I'm simply putting my case that he hasn't accurately reflected these figures.

J: as a witness you say he's not reliable?

RM: yes, but I'm not inviting you to find that J is dishonest.

J: there's no evidence of anything being amiss at all apart from the figures being out.

RM: I disavow any allegation of dishonesty. But that the figures provided in the branch do not match the physical reality. There may be many reasons for that, but that the underlying physical documents do not...

That leads back into JJ's treatment of LC on appeal hearing. At conc of appeal hearing, JJ came to conc that nothing suggested LC was improperly dismissed given the accounts and his inability to explain the discrepancy. On my primary case those discrepancies were real and LC's dismissal is justified by reference to his contract. Without prejudice to that, if I'm wrong on the primary position and that LC shows his own documents were erroneous, I must succeed on defeating his counterclaim on the basis that the documents were improperly completed. We were entitled to dismiss for that breach of contract.

J: is he claiming anything in relation to the computer system?

RM: no, simply damages for wrongful termination of his contract. No evidence of what that loss is, nor seen any documents of what it is. Evidence of DD that her contractual relationship with LC is unusual, she is the titular SPMR at Marine Drive however she receives a fixed remuneration from PO from that she retains a fixed sum for each week and pays LC the remainder. In essence, it's as if LC was still the SPMR and was paying to keep her as his assistant. In those circs that, even if he succeeded on counterclaim he can't establish any loss.

That leaves only the lottery payment. The pleaded case was that LC did not accept any apparent losses on nat lottery gains were attributable to him. He didn't admit that he was liable for the money received on that day because it was received after his suspension and he had no way of transacting lottery business. Temporary SPMR had taken ??? It became apparent that LC wanted to run a difference case that RS was responsible for the lottery money. RS had no recollection of receiving the lottery tickets or money, was not put to her that she was wrong nor had received declarations or lottery money nor that her accounts for 1 day's trading in week 52 that do not record lottery transaction were wrong.

LC did not give evidence that he had handed lottery tickets to RS or handed her the money or had done anything with the tickets. Similarly, CT did not give evidence that she had handed RS the tickets or money or left them for her. Evidence such as there is is that CT and DD had identified the lottery transaction tickets for 23 march and those tickets have now been produced to the court. As a matter of fact, LC was operating the lottery terminal on 23 march 2004. LC now accepts that the amount claimed being the amount being 176 less 75.80 for prizes paid out, was actually received into his till on the Tues on 23 march. As a matter of law, having received money in those circs, LC was still acting *quae fiduciary*

for PO and was liable to account to PO for funds received. LC has not properly accounted to PO for those funds.

On that basis, first of all the PO claims judgment in the amount of £100.20 for national lottery receipts; and it claims judgement in amount of £25,758.75 being the amount found due on final audit comprising the amounts shown and admitted for week 51 cash accounts prepared and signed by him and additional amounts identified by HR on her audit for the subsequent short period and accepted by LC to be an accurate reflection of what she found.

There is one final point on that sum, it's accepted that we did not formally obtain LC's signature on P242. But as a matter of legal analysis that doesn't alter the state of the account between the parties. Had it done so this trial would have been rather shorter.

J: but you've got the signed thing from the computer.

RM: yes, for 22k.

J: but not the signed sum of the audit?

RM: but we have HR's evidence of what the audit found and that was not challenged. In LC's evidence he accepts the accuracy of her figures and in his pleaded case the accuracy is accepted though it's said the loss is an apparent shortfall.

J: I never understood that

RM: neither did I, on that basis, we still claim the amount of £25k and say that the counterclaim must inevitably fail. Unless I can help your lordship further...

J: Thank you. And you'll provide me with your notes and the transcript?

RM: Yes indeed.

J: LC

LC: Two years and 11 months ago, I couldn't understand what was happening. I phoned helplines, asked my line manager and she did nothing. On the evening of balancing I reported apparent losses and was given assurance and again was given no help.

The witnesses have been in stark contrast, we have a Horizon system that on one hand has zero cash declarations in week 42 and zero stamp declarations in week 41.

J: I'm sorry, I'm not with you.

LC: [repeating]

J: you'd better show me the documents.

LC: [finding, having put his bundles away in suitcases] as you can see the declared cash total at 1741:58 is zero after a failure of a mandatory check, then the declared cash is zeroed again. This is not replicated on the cash account itself. Having had this position in the transactional log, this should be replicated in the cash account wk42, hence why it is so difficult to find the reasons as to the deficit.

Cash declaration is X but on two occasions prior it has been zeroed.

J: what's the...?

LC: I don't know.

J: it does say 83328...?

LC: having zeroed those two prior, it would be impossible for zero cash declarations to be entered, the document itself has to be completed.

[text missing]

LC: tab 41 in TB9, p2587 –

J: is that what we're looking at?

LC: the week prior

RM: the final balance is on p2954

LC: zero stamp declaration

J: what's the figure on p2954

LC: the total for stamps

J: 124907

LC: cross refer to p3421 it's midway at 1741.30

J: not another one further down

LC: stock unit was rolled at 07? – no further declarations but they can clearly be seen on the final account that these were declared.

J: I have a note which says this 0.00 is not correct, I deduce no one would have put 0 into the machine, if it had x would not have shown up on the machine. Can't remember whose evidence it is. Where does that get you?

LC: it instantly takes 1k off the account because that's what the report on the final balance say on the ...

RM: p3420, at 1706:59 declared stamp total which appears in final balance.

LC: effectively, by zeroing that balancing it's as if the ...

J: when it says declared stamp total 0, the computer should think the amount to have gone down by x/ yet it doesn't seem to think it because it says 1138

LC: Yes and there have been no further declarations. When a declaration was made, whether cash or stamp it's a physicality of stock in the PO when zeroed and put through, the final balance will see anything not declared as stock should be depicted as cash. So it will be looking for the relevant amount of cash to cover that sale.

J: it doesn't have a discrepancy though

LC: no, the following week it appears.

J: only discrepancy shown the next week is 60p.

LC: turn to p2608, in top left corner 1k discrepancy being made good.

J: how do you say that this p2594 ought to read?

LC: that is the final declaration prior to reporting trial balance. And so that being that final declaration should be reflected on p2587 as being zero.

J; where?

LC: in table 5b, stock in hand breakdown, declaration for other postage items 1249.07. total of postage stamps air letter packs single letter packs etc adds up to 1249.07. If this zero had been represented on 2587, total would be 1k less.

J: so your stock in hand would be less and you'd have a surplus of 1100.

LC: it would look for the cash to cover that stock in hand. The two contradict each other.

J: but it's entered it in accordance with your figure. Seems to be taken into account

LC: hence the reason why we balance.

J: if 1249 were not taken into account, the shortage would be 1249?

LC: would be 1183.22 because that's the part of the declaration that's been zeroed.

J: but that's in your favour.

LC: in this particular case yes, but as machine moves down it looks for cash to cover ...

J: take me to the next week then.

LC: p2608 top left hand column, 1103 discrepancy made good by myself. Brought about by the stamp declaration in the prior week.

J: final balance is a discrepancy in that week as I understand

LC: from week to week passed over balance carried forward on receipt side.

J: so I go back

RM: p2595, balance carried forward.

LC: once that declaration is zeroed, it makes the computer look for that amount of cash, as EM said. Computer had seen a reduction in stamp stock and required to make that good.

J: equivalent in week 42

LC: p2601 – 1091.82

J: what's wrong with that figure?

LC: nothing

J: 45170.49, what's wrong with 2608?

LC: the occurrence in between

J: what's wrong with the figures?

LC: the fact that the report is zeroing the figure and it's asked the computer to ask for 1103.

J: in the earlier one the discrepancy was a balancing figure in order to make total receipts equal total payments, it doesn't seem to appear in this one at all. We have a total receipts of 176k, total payments and a net discrepancy of 60p.

LC: because I made good the 1103.

J: where is the 1103 reflected? In the cash?

LC: the status report, TB11a p3421.

J: where at 2608 or 2609?

LC: it's not.

J: I don't understand why it refers to two discrepancies but the net discrepancy is only 60p. You don't understand it any better than I do.

LC: comparing that particular item, back to status report in 11a...otherwise the cash account would have reflected....because system declares sales figures for end of each week, p2588 very top left figure – 599.50 is reflective of ? so you can physically check that figure with its receipts. That's a stock figure, they're only reflected week to week.

J: I can't really follow this at all, p2608 doesn't mention those figures of 1103 anywhere. The computer doesn't know that you've paid in 1103, what it does know is what you've typed into it. What have you typed in?

LC: 1103

J: where does it appear in the receipts?

LC: it doesn't

RM: it appears in the cash, as shown earlier.

J: RM, can you help us?

RM: as I understood EM's evidence, it's to do with when figures are committed to a machine when there are further attempts to correct. It hasn't been put to a witness so that's not a definitive answer. LC's case is that... we don't have those in the papers, just LC's WS. Having identified that discrepancy, it looks as if there was a trial balance produced at 1843:14, the impression I got from EM's evidence was that she seems to think that at certain points you can roll figures into the discrepancy

LC: now I understand why it's occurred!

J: could you please explain it to me? Could you park this for a moment? This is the only time you paid money in, there are other instances you say there are wrong figures, take me to your next example.

LC: in these two weeks, the transaction logs to change those, from then on the consultation to the figures has been on the whole period. Happened prior to wk42, preceding the balance, JJ was based on his figures based on the cash accounts themselves. If we can visit X4 p2, [finding] all I did was total the columns JJ had produced. The totals used and received and given out by the PO at Marine Drive could not possibly have generated the losses claimed.

J: you're saying they couldn't have generated the 25k?

LC: no, in order to have a loss on the system in respect to cash, the total of receipts would have to be higher in order to produce a 25k deficit than the amount going out. This would then be reflected in the cash...

J: [recapping] but that's assuming this is all cash, there are cheques too.

LC: they're reflected in the top half and the bottom half

J: does this purport to be a complete and accurate total or has he just selected some salient figures?

LC: he said it was accurate from the cash account and removed what was not...

The only other thing that could cause a deficiency would be stock of 16k

J: where?

LC: the cash accounts

J: show me, beginning with 41 or 42?

LC: in week 41, we have a stock position of 10.4k, p2585 total of table 5.

J; let's look at the first and last, 51. The stock at 51 seems to be 58837

LC: you need to take those figures away from each other to arrive at a figure of x

J: why do you want to remove those?

LC: that will give you the true stock position, we've already taken account of the ? already incorporated into the documents.

J; we have a difference of 4557.43 in total stock including cash. The cash diminishes, so the stock other than cash must go up by about x? You say X4p2 is only cash?

LC: yes

J: you're saying there's just this discrepancy between 42k and 9240

LC: don't know where 9240 comes from

J: incomings and outgoings on that document

LC: yes

J: I don't know the explanation, you say that shows these figures are unreliable?

LC: yes

J: if you confine it to cash, these figures are all...

LC: the whole total stock sales was 16k so it would be impossible to make 25k from that 16k with the removal of the negative movement of cash.

J: ? increased by 4k taking the difference between the two figures in ?

LC: final cash increase at end of wk51 from 9k that the cash going out should have decreased and the 4k it actually decreased.

J: I'm not clear what these figures are, they're extracted from the papers

LC: from the cash accounts in order to look at cash movements over the period, he then used them to show what cash had come into and gone out of the office. By totalling those figures you can see that the physical cash should have decreased by 9k because more went out in payments than actually came in.

If you look at bottom line, cash itself has only decreased by 4k leaving the cash account in 4k surplus.

J: what is the relevance of that?

LC: being that cash is the stipulation of what is missing

J: it's not.

LC: is it not?

J: JJ's evidence is that he didn't apportion it particularly to cash.

LC: from that position having produced cash figures and totals there, the receipts would have had to be 25k more than the payments out.

It's the underlying work done by the computer that was wrong. We can physically check the cash accounts receipts and payments with respect to the actual things going out of the office like cheques etc to see if they're correct, but as we saw earlier the sales report didn't reflect in the same instance as the cheque report. Whilst I accept that is a secondary document, any document must be reflective of both sides of that document in order for computer to be producing a cheque account. All corresponding paperwork should surely match otherwise I can't understand how the computer works. If you have a report produced for the purposes of the final account those amounts are typed in by myself. They're check by myself, but to have a report produced by that very computer that contradicts the physical check...I can't understand

J: show me where it contradicts.

LC: the sales report for week 49. This is produced by the very same computer having had the cash accounts. In order for 3533.30 to appear in the cheques, we can check on the cash accounts that it matches the amount of cheques sent out. But this report being printed by very same computer having a different figure in that column is...I can't understand

J: you say this casts doubt on the reliability of the computer?

LC: yes, this is the same computer that's produced the cash account. We heard evidence from AW who, when shown 11a and b, whilst the person was not even logged onto the computer transactions were place on that computer which he said was impossible. It is impossible to transact business on Horizon when not logged on.

We have computers that disconnect from the local network on 2nd February for seemingly no reason while business is being transacted throughout the period of disconnection. We have claims of false cash declarations with respect to 50ps and 20ps which CT having been questioned by yourself replied it was a typo. Those same coins are kept in the same coin safe. While I agree the amount seems large, we are a seafront property with amusements nearby and have a large float for my own use.

HR, the auditor, had no certifying form P242, which RM agrees being displaced or lost

RM: I go further to say that it wasn't signed by LC

LC: we have a list of security checks which were undated and incomplete. We have RS who came to the office on 23rd as temporary SPMR and told us no other person could have access after she took control as she had the keys and changed the alarm. Having taken over the office on that day, the following morning, on completion of the lottery I placed the monies and receipts underneath counter for her to transact the business that morning which was standard procedure. She made no claim from that period with respect that money had not been received. DD accepted they were in her own pouch for that week.

...she explained she was able to work on both machines in order to speed up transactions but felt on that day she was unable to complete the rollover procedure. Whilst she was completing the manual transactions. Having been given the money on 23rd march...

RM: I rise only because LC is now giving different evidence in this sentence to that he gave only a sentence ago.

LC: it would have been the next morning. CO who at the time was my line manager gave repeated answers that she couldn't remember, couldn't understand forms within her job spec which were areas about which we'd spoken in detail, she says she made calls to me but there is no record. She claims to have asked other people for help but there's no record. And that she offered me advice but wasn't recorded till after.

AW confirmed that it is impossible to transact business on Horizon without being personally logged onto the system, but the logs at Marine Drive prove that transactions took place prior to the logging on procedure.

JJ explained how he'd used the wrong figures to show missing monies and can't remember where those figures came from and that on some days the branch had too much money, and some days too little.

GB explained that the office was too busy to run alone but couldn't employ CT and had to employ her mother.

EM explained to us the intricacies of the suspense account which is a complex matter. She looked at the physical paperwork for week 49 and week 7 and could not give reasons for the difference other than she felt that was how they would be depicted.

J: what?

LC: If you compare GB's final balance for week with final balance for week 49, X2, even though table 2a was used on both occasions.

AC could not answer my questions with relations to nodes. Even though a node is turned off, it does not show that it had disconnected. She explained the problem in Grangemouth...could not make a single suggestion as to the problem that had occurred at Marine Drive, but did not think they were the same as the problems at Grangemouth.

RM would have you believe this is all a matter of contractual obligation, revisiting these accounts is not possible. All my problems were raised in phone calls prior to the signature of these accounts, a fact that C accepts.

I reiterate the fact that all these accounts, calls had been made prior to the signatures and assurances had been made. PO have shown that the very account they rely on can be changed by error notices. On 13th May p500 in JJ's evidence, you can see on this occasion the account at Marine Drive was adjusted. This is a form that I was unable to get to the bottom of. I would like to thank the court for their courtesy while I've been bundling through this case. It has been a terrible experience and I wish never to repeat it.

J: Thank you, please could I have a copy of your note.

RM: LC and I have built up quite a relationship, I am happy to take him back to chambers and copy his notes for you.

I must add that the PO objects to LC's attempt to give evidence in his submissions and I'd like to thank LC as a litigant in person for his equanimity and good humour throughout.

J; Yes, he's to be congratulated on the presentation of his case.

I shall reserve my judgment and send a draft in writing to both sides with a notice about not revealing it to third parties.

RM: Roughly when?

J: What's your position LC? It may be that you're not in a hurry for the judgment.

RM: The transcript will not be available before Wednesday or Thursday next week

J: Judgment may not be ready by Christmas then, I'll send it in draft and am prepared to fix a date for formal handing down that is convenient for both parties.

I'll reserve my judgment.

[RISES]

Thomas Bourne