

Amended Particulars of Claim by Order of Master *Turner*

dated *23 October 2006*

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

**CLAIM NO : HQ05X02706**

**B E T W E E N:**

**POST OFFICE LIMITED**

*Claimant*

*And*

**MR LEE CASTLETON**

*Defendant*

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**AMENDED PARTICULARS OF CLAIM**

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1. The Claimant, formerly known as Post Office Counters Limited, has at all material times operated Post Offices throughout England and Wales providing banking, postal and other services to the public. The Defendant owns premises at 14 South Marine Drive, Bridlington, YO15 3DB ("Marine Drive") in which a Post Office is located.
2. As evidenced by his signed Acknowledgement of Appointment, on 18<sup>th</sup> July 2003 the Defendant accepted an appointment as sub-postmaster for the Marine Drive Post Office ("the PO") under the standard terms of contract for that position ("the Contract"). A copy of the Acknowledgement of Appointment and the Contract are appended hereto at Appendix 1. The Defendant held that appointment, operated the PO and held funds as agent of the Claimant until his agency was suspended at the end of the day on 23 March 2004, after which the PO was operated by other agents.
3. As set out in clause 1 of Section 1 of the Contract the Defendant became an agent for the Claimant pursuant to a contract for services. Accordingly in addition to the terms of the Contract the Defendant owed the Claimant the further duty identified in paragraph 5 below.
4. The following were express terms of the Defendant's contract for services:
  - (1) By clause 5 of Section 1 of the Contract the Defendant was required to accept full responsibility for the proper running of his sub office and the efficient provision of those Post Office services which are required to be provided there, and retention of his appointment was

dependent on the sub-office being well managed and work being performed properly to the satisfaction of the Claimant;

- (2) By clause 2 of Section 12 of the Contract the Defendant was permitted to hold the Claimant's cash normal to meet payments at the PO after due allowance has been made for expected receipts and in accordance with official accounting and security instructions;
  - (3) By clause 4 of Section 12 the Contract the Defendant was obliged to ensure that accounts of all stock and cash entrusted to him by the Claimant were kept in the form prescribed by the Claimant and he was obliged to produce such accounts immediately whenever requested by a person duly authorised by the Claimant;
  - (4) By clause 5 of Section 12 of the Contract the Defendant agreed that he was strictly responsible for the safe custody of cash, stock of all kinds and the Claimant's other property, papers and documents, whether held by himself or any of his assistants
  - (5) By clause 12 of Section 12 of the Contract the Defendant agreed that he was responsible for all losses caused through his own negligence, carelessness or error, and also for all losses caused by his assistants, and he further agreed to make good without delay any deficiencies due to such losses;
  - (6) By clause 14 of Section 12 of the Contract the Defendant agreed that his financial responsibility did not cease when he relinquished his appointment and that he would make good any losses incurred during the term of his appointment which might subsequently come to light;
  - (7) By clause 2 of Section 15 of the Contract the Defendant agreed to make good any deficiency of cash or stock which might result from the actions of his assistants; and
  - (8) By clause 3 of Section 22 of the Contract the Defendant agreed to be responsible for ensuring that transactions were carried out accurately, that all reasonable steps were taken to prevent fraud and that all documentation was properly completed and despatched at the due time.
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5. By reason of his position as an agent of the Claimant holding its money, in addition to the express contractual duties identified above the Defendant owed the Claimant an equitable duty to account to the Claimant for its money.
  6. In accordance with the Claimant's standard requirements, the Defendant was obliged accurately to enter all transactions on the Claimant's computer system and retain and collate appropriate supporting documentation. From this information the Defendant was obliged (amongst other things) to, and did, complete various daily and weekly financial reports, including weekly Final Balance Lists and Cash Accounts (Final).

7. From the week ending 21 January 2004 (week 43 in the Claimant's business calendar) until the week ending 17 March 2004 (week 51) the Defendant produced weekly Balance Lists that showed increasing losses of the Claimant's money giving rise to deficiencies in funds held by the Defendant to the Claimant's account. For the same period the Defendant also personally produced, signed off on and submitted to the Claimant Cash Accounts (Final) showing losses by him of the Claimant's money rising from £4,230.97 in week 43 to a total of £22,963.34 in week 51.
8. The said Cash Account (Final) for week 51 signed by the Defendant and submitted to the Claimant is an account stated behind which the Defendant is not entitled to go and accordingly the Defendant owes the sum of £22,963.24 to the Claimant.
9. From 18 March 2004 until his suspension on 23 March 2004 the Defendant continued to enter transactions on the Claimant's computer system. On 23 March 2004 following completion of an audit by the Claimant a final Balance List was produced and this showed that there was a total deficiency of £25,758.75 in the funds that the Defendant should have been holding on behalf of the Claimant. Accordingly the Defendant owed the Claimant the sum of £25,758.75 on the running account with the Claimant maintained by the Defendant.
10. At the meeting on 23 March 2004 between Catherine Oglesby of the Claimant and the Defendant the Defendant was asked to make good the said loss of £25,758.75.
11. After production of the Balance List on 23 March 2004, on 24 March 2005 further entries were required to be taken into the account in relation to the sale of National Lottery tickets and the payment of prizes in relation thereto that had occurred on 23 March 2004. These entries disclosed that sales of £176 of National Lottery products had been made on 23 March 2004 that did not appear on the Balance List, but against this there was an allowance of £75.80 in respect of prizes paid out. Accordingly a further adjustment to the account of £100.20 was required.
12. In the circumstances there was a total deficiency in the Claimant's funds held by the Defendant in the amount of £25,758.75.
13. Thereafter the Claimant demanded payment of the said sum of £25,758.75 under cover of its solicitors' letter dated 20 April 2005.
14. Despite demand, and whether pursuant to the taking of the said accounts alternatively in breach of the terms of the contract aforesaid, by reason of which the Claimant has suffered equivalent loss and damage, alternatively in breach of the Defendant's equitable duty to account to the Claimant for its funds, the Defendant has failed to make good the loss of £25,858.95 alternatively has failed or neglected to pay the said sum of £25,858.95.
15. Further the Claimant is entitled to and claims interest on all sums found due and owing to it as aforesaid pursuant to section 35A of the Supreme Court Act 1981 alternatively compensation in

equity akin to interest at such rate or rates, for such period or periods and with such rests as may to the Court seem just or appropriate.

**AND THE CLAIMANT CLAIMS:**

- (1) £25,858.95;
- (2) Alternatively damages for breach of contract;
- (3) interest as aforesaid.

**RICHARD MORGAN**

**Statement of Truth**

The Claimant believes that the facts stated in this Statement of Case are true.

I am duly authorised by the Claimant to sign this statement.

Full Name: Stephen John Dilly

Signed: **GRO** Position or office held: Solicitor

Dated this

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