

A IN THE CROWN COURT
AT GUILDFORD

No: T20090070

Bedford Road
Guildford

Monday 11th October 2010

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B e f o r e:

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HIS HONOUR JUDGE N.A. STEWART

D

R E G I N A

-v-

SEEMA MISRA

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(Transcribed from tape by Marten Walsh Cherer Ltd,
1st Floor, Quality House, 6-9 Quality Court, Chancery Lane, London WC2A 1HP
Official Court Reporters)

F

GRO

MR W. TATFORD appeared on behalf of the PROSECUTION

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MR K. HADRILL appeared on behalf of the DEFENCE

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PROCEEDINGS ON MONDAY 11th OCTOBER 2010
(DAY 1)

Monday 11th October 2010

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CLERK OF THE COURT: Are you Seema Misra?

THE DEFENDANT: Yes.

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CLERK OF THE COURT: Thank you. Sit down, please.

MR HADRILL: Your Honour, I defend. Mr Tatford prosecutes. He is here. He was in conference and didn't hear the tannoy. He has just gone to collect his papers. He will be 30 seconds or so. Can I ask your Honour whether you have received the defence expert's report, the two volumes?

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JUDGE STEWART: Yes.

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MR HADRILL: Handed in also were brief submission notes that I drafted last week which Mr Tatford has seen and I think there are a couple of questions he wishes to make in due course. There should also be a chronology which I thought would be of assistance to whoever tried this case in regard to the background history, and there is the addendum report from the defence expert, Professor McLachlan. I don't know if your Honour has had the benefit of seeing the Fujitsu expert? Here is Mr Tatford.

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MR TATFORD: Your Honour, I am so sorry I was not in court.

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JUDGE STEWART: Don't worry, no. Don't say any more.

MR TATFORD: Thank you.

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JUDGE STEWART: Mr Hadrill was just telling me about what material I should have been supplied with in terms of reports and so on.

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MR TATFORD: Yes. What has happened, your Honour, is that at a late stage the defence served a final report on the Crown the Friday before last, having had secondary disclosure completed in March of this year. The Crown have been able to respond and hard copies are

A available of the report today and they will be passed up in due course, but the defence had full notice of that report in response by email.

B The Crown are ready for trial today. There appears to be a number of matters that need to be discussed between the two experts in the case, Professor McLachlan and Mr Jenkins. It may well be that the defence suggest that they are lacking vast amounts of disclosure. I will leave it to Mr Hadrill to pinpoint any such matters, and I know Mr Hadrill has prepared a very useful, his solicitors I think have prepared a very detailed chronology, C but in fact the chronology that really concerns the trial today is a relatively short one.

D There was an abuse of process hearing in this case on 10th March and a judgment on 12th March where Mr Recorder Bruce found that there was no abuse of process. He didn't in fact make any findings of fact because no evidence was adduced in the hearing. He made it clear in his judgment that he was not exonerating the Post Office from blame but nevertheless he made no clear findings of any serious fault. He also made a series of E directions which he had the trouble to type out and he ordered the defence to provide a schedule of outstanding disclosure I think by 28th April. No such schedule was ever served and so that detailed timetable set out by the Recorder was never followed and the Crown F took the view that it didn't need to be followed because we understood from the failure to serve a further schedule of outstanding disclosure that there were no problems.

G There was then a further mention hearing. If I can just be given one moment to find it? I think it is 7th May. It is right at the back of the schedule, a hearing in front of his Honour Judge Critchlow. At that hearing the defence provided a list of disclosure requests which were completely new, so the position appeared to be that the defence were accepting H secondary disclosure as had taken place on 8th March, but their expert thought that a number of other areas needed to be looked at and he provided a very long list of disclosure requests

A and suggested at the end of that list that it would take him about 45 hours to work his way
through the material. The Crown's position in relation to that material is it is completely
irrelevant and that has been explained both by those instructing me but also by the Crown's
expert Mr Jenkins to Professor McLachlan.

B The schedule of disclosure, the new request, was passed up to his Honour Judge
C Critchlow who only had to glance at it to see how wide ranging it was and his Honour Judge
Critchlow was understandably concerned to see the suggestion that it would require another
45 hours work on material that was being newly requested, and quite frankly he knocked the
defence back. The defence in their chronology for 7th May suggest that the judge said there
D will be no more disclosure. That is not my recollection and in any event the judge has no
power to say there will be no more disclosure. That is a matter entirely for the Crown, and
of course new matters can come to light that need to be disclosed. What I said on that
E occasion to the defence, and it is something I have repeated on a number of occasions, it is
not set out I think in any correspondence but it has certainly been stated orally by me on
earlier occasions, that if the defence seek further disclosure they should apply to the court
F by making a section 8 disclosure application. Such an application could set out what
material is sought and provide justification for it.

G The defence have never done that. There were some further requests by email I
think. They may have been supported by a letter as well in relation to the new material, but
at no stage has the defence come to court with a disclosure application. Long back in the
history of the case the defence did draft a section 8 application. The Crown were not in a
H position to deal with disclosure at the stage it was drafted but disclosure was made and
made in fact as long ago as the end of January of this year, so the defence know perfectly
well about their power to go to the court to make an application and they have decided not

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to. It may well be that too much was read into the remarks of his Honour Judge Critchlow, but whatever his Honour said on that occasion it would not prevent the defence making relevant, properly argued submissions and if necessary an application to the court.

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I said that the defence would have to make an application, but of course if the defence made reasoned, focused disclosure requests the Crown would be duty bound to consider them at any stage of the case. Regrettably the Crown's view is that the defence

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have never in this case provided focused disclosure requests. They have asked for everything. Initially this was everything in relation to the West Byfleet post office, two and a half years of transactions. It was explained repeatedly that providing that material was

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enormously expensive and offers were made to the defence to suggest a period of data they would like to look at because of course they have the advantage of the defendant's

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instructions, because the defendant is saying there was a computer problem – easy to say it, but a computer problem should be visible, at least the symptoms of it to the user of the computer, and this defendant was using the Horizon computer system at her post office every single day, probably perhaps hundreds of times a day.

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JUDGE STEWART: Yes. Mr Tatford, forgive me. Where are you going with these submissions?

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MR TATFORD: I am going to say that I anticipate what the defence are going to say is that the Crown has failed in its disclosure obligations and you will be presented with a chronology. I am trying to shorten matters by pinpointing the dates upon which the Crown say there is relevance. The defence expert report was served on 30th September and then for

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the first time it became clear to the Crown that the defence did not accept what the Crown said about a computer problem that took place at a post office in Falkirk. We had no notice at all that this was in issue. We thought the matter had been dealt with by way of

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explanation. I hope still that is a matter that can be dealt with by discussion between the experts today but ---

JUDGE STEWART: Are they both here today?

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MR TATFORD: They are both here today and they have been discussing matters very helpfully.

JUDGE STEWART: They are talking now, are they?

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MR TATFORD: If not now they will be very shortly. I have asked Mr Jenkins to look particularly at the Falkirk problem first of all just to find the material that the defence may need to satisfy them that that is in fact a non-issue in this case. But the position is that the

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Crown throughout the history of this case have had disclosure obligations put upon them which are extraordinary but they have been dealt with and the defence were given secondary disclosure in March and served an expert report less than two weeks ago, having had the relevant data for six months. In spite of that the Crown are ready to proceed. Mr Jenkins works fast and the defence have his response.

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So what I anticipate may be necessary today – of course I will listen to what Mr Hadrill has to say – but what I anticipate being necessary today is some discussion between the experts before the case begins because if some theories that Professor McLachlan is relying upon in fact don't work then that can be sorted out now and I don't need to deal with them in front of the jury. So I suspect we will need to ask for some time to prepare the case properly for the jury so they have the issues before them but I still anticipate we should start in fairly good time today and at least proceed with some of the evidence today.

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JUDGE STEWART: Yes. Thank you.

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MR HADRILL: Your Honour has the chronology. Can I just respond that the direction is there that the defence provide a list to the prosecution, which we did. The Crown were

A meant to respond by reason of the directions request by request. They have just objected globally on 7th May and matters thereafter concluded. The chronology can I just say ---

JUDGE STEWART: To what end are you addressing me, Mr Hadrill?

B MR HADRILL: What I say is that there are difficulties in regard to disclosure. I say that, and if I can just proceed for these reasons, that your Honour sets out the chronology as from certainly before and after but principally from 12th March. Legal aid had to be funded but

C that was granted and matters progressed. Indeed my learned friend's solicitor, Mr Jamale(?), was in court on 7th May when his Honour Judge Critchlow said that both the experts should meet and discuss. Although approaches were made no permission was forthcoming until

D late July from the Post Office to Mr Jenkins. So as we see in the email from those who instruct me, finally there is a meeting. The permission was granted somewhere on or about 12th July. There was a meeting on 20th July, very late, but that is the delay by the Crown.

E Matters have progressed as fast as they can. There is a vast bulk of material in this case to be considered by the expert and that has been considered by the expert although he has been deprived of some material, certainly Calendar Square and other events which we have been

F asking for repeatedly, and certainly repeated again on 7th May, rejected.

What we are somewhat surprised – and your Honour will read from the report of Professor McLachlan that although hypotheses are put forward, it is with an open mind for

G consideration of evidence to see whether they are structured or not. He has been deprived of that opportunity and this is of importance because the prosecution is by the Post Office. The investigating body is the Post Office and all the material is in possession of the Post Office.

H We come to court with the revelation by the defence of the prosecution expert that he has had access to a significant amount of material which we have been requesting and not been given, certainly into Calendar Square. What is even more significant is that in the report of

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Mr Jenkins it is referred to he having gone through the events log from June 05 to 1st

December 06 which we asked for but were never provided because it would be too expensive the Crown said although they were in possession of it. We also asked for

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Calendar Square and all this material is referred to and has been examined by the

prosecution expert although none of it is disclosed or attached to his report and if it was to be referred to and seems to be in the possession of the Crown for a significant period of time

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should at least have been given to the defence for his expert in order that it could be considered.

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So hypotheses are put forward with some support by Professor McLachlan from

his own experience. He will be assisted to make conclusions from the material which the

Crown have and we now know have investigated. So we are deprived of the opportunity to

either accept or reject or examine any conclusions which the Crown's expert has made, and

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they are at an advantage at all stages and we are significantly prejudiced. We have been

asking for this material and it was rejected in May. For my learned friend to say "they can

come back with structured section 8 applications" begs the question that if the Calendar

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Square material undermines the prosecution case which it appears to do it should have been

disclosed as secondary material and it has not been.

JUDGE STEWART: Again, Mr Hadrill, where are we going with this?

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MR HADRILL: Where I am going is this. There are two simple issues. The defendant

cannot have a fair trial until this material is disclosed. As to whether it should be secondary

disclosure or whether it should be subject to a section 8, although we have asked for it and it

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was rejected out of hand and the Crown did not give an itemised list of why and what they

rejected, we say that the case should either be stayed in regard to the one count this

defendant faces, count 1. There are clear duties upon the Crown under the Attorney

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General's guidelines and I can refer to those – and a stay is a committed course in its own right.

JUDGE STEWART: Have you put in any written application for a stay today?

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MR HADRILL: Your Honour, the reason being ---

JUDGE STEWART: Have you?

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MR HADRILL: No, because we didn't get this report until the evening of Friday. I can sit down and draft one now. I have not had the opportunity to obviously discuss matters with my expert. I have briefly obtained his views and I have obviously seen his report and time has been short. I apologise to your Honour.

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JUDGE STEWART: I am just trying to find out what it is that is happening this morning. I am hearing each of you tell me things, but neither of you has begun what you have been saying by telling me why you are making these observations at this stage of the proceedings.

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MR HADRILL: That is the preamble. First of all the application would be to stay count 1 by reason of breaches of disclosure and delay. That is resisted by my learned friend. If that does not find favour then it is a question of discussing matters in further detail with the defence expert and determining just how long it will take in order to meet evidential issues raised by the prosecution who are in possession of material and whose expert has seen it.

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Perhaps the first stage is for the experts to meet?

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JUDGE STEWART: Yes.

MR HADRILL: But those are the outline submissions I make.

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JUDGE STEWART: With goodwill and good sense the two experts together will be able to identify the areas which are relevant where they are not in agreement and present to the jury the reasons for their disagreement. This trial is going to proceed and we can sort it out I am

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quite sure with good sense reasonably promptly. So the two experts are here. There is a jury panel waiting. I am going to adjourn to midday so I can have a progress report.

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MR HADRILL: Your Honour, it may well be that I renew my application to stay. Does your Honour wish a written application or will your Honour accept my oral application now?

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JUDGE STEWART: No. I will need a written application. That is what the practice direction requires.

MR HADRILL: So be it.

JUDGE STEWART: Miss Misra has been on bail?

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MR TATFORD: Yes, unconditional bail.

JUDGE STEWART: That can continue, but she needs to stay in or very close to the building for the time being.

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(Adjourned for a short time)

MR HADRILL: Your Honour, can I say I have just been handed, as it were, the focused points of agreement and disagreement. There is further agreement between the experts, and there is nothing in here in regard to Calendar Square, Falkirk, but I understand that Mr Tatford has spoken to his expert, the reason being I have not spoken to mine because he was typing this.

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JUDGE STEWART: Yes.

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MR HADRILL: And asked if there is an issue between the two of them.

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MR TATFORD: I am so sorry. In relation to Calendar Square, it is a post office in Falkirk where there was an acknowledged problem with the Horizon computer system. Mr Jenkins has explained to Professor McLachlan what documents he has looked at to form his conclusion that it is not relevant to this case. He has them on his laptop to show to the

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Professor when the Professor has a moment, so hopefully that matter can be dealt with fairly easily.

JUDGE STEWART: Right.

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MR HADRILL: I cannot say until I have been given some instructions by my own expert who needs to look at the material which is on this laptop. Clearly the prosecution expert has the benefit of material, and can I hand in the written application which my learned friend has not seen? I have just drafted something very quickly as an application to stay and I don't know if it is pursued or not until clearly the further information which seems to be available on the laptop of Mr Jenkins has been shown to and discussed.

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But the crux of the problem is this, that there is – if I could read out the application. It is set out under paragraph 2. The reasons are – I apologise for calling him “Jenkins” – but “Mr Jenkins reviewed material the defence have not had the opportunity to consider. (b), Jenkins formed opinion that there were Horizon problems at Calendar Square, Falkirk. This related to the operation of multiple stock units. The concern was up to March 06 for this Horizon problem and it was remedied. (c), It appears that West Byfleet operated a similar multiple stock unit as Calendar Square. This is of importance to the defence to explore. (d), Jenkins has reviewed the findings of those who report to him. The defence have not had the opportunity to consider the base computer material. Jenkins has given a report dated 8th October where he relies upon the Horizon material that has been provided to discount the periods of a similar pattern for discrepancies arising for West Byfleet.”

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JUDGE STEWART: What is that word, “discount?”

MR HADRILL: “Discount.”

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JUDGE STEWART: What does that mean?

A MR HADRILL: Basically it can be ignored for the purposes of this trial. We say obviously
there are similar operating procedures. The prosecution say quite clearly this. There is an
operating procedure problem with Falkirk which highlighted errors and discrepancies which
B were not dishonest. The same operating system we submit applied to West Byfleet and the
same scenario does apply. It would seem that the Crown would be undermined in their
assertions, irrevocable assertions that there has been dishonesty. The defence of the
C defendant, it is quite clear that there were losses that arose in 2006, that they were concealed
by her by reason of knowing the losses had occurred but she did not want to lose the post
office and if the losses were revealed the consequence would be the loss of the contract.

D So the importance is one of dishonesty for her and we have the situation at Falkirk
or Calendar Square, the Crown accept there were computer Horizon problems, programme
problems, which if the same circumstances applied to West Byfleet would undermine the
prosecution case. Whatever complaint is made in regard to disclosure or not, this is material
E which is contained within the prosecution expert report and has not been supplied to the
defence with an opportunity up to now.

F JUDGE STEWART: But is currently being supplied?

G MR HADRILL: I don't know. As I say, I have not spoken to my expert. I rely upon Mr
Tatford who has been helpful at all times. So I have put the substance of the complaint here.
“(f), Therefore the defence have suffered prejudice by not properly being able to advance
the potential multiple stock use problem.” So I make the application but I cannot say at this
precise moment whether it is pursued or not because the material appears to be with that
H which we complain about having been viewed by Mr Jenkins.

Can I put it this way also? Having been viewed by Mr Jenkins, has not been seen
by the expert here, hopefully it can be viewed expeditiously. I don't know. I also understand

A it is not Mr Jenkins who has actually reviewed this material himself. He has relied upon
assistants who have reported to him and under the normal expert duties that material and
research should be disclosed to the defence as well. So I don't know who has actually
B researched this 2005/2006 computer evidence, who has reported upon it, what the report
was. All we know is that Mr Jenkins relies upon what he has been told to make the
assertions he does. That is my understanding. I may be corrected.

C MR TATFORD: Your Honour, my understanding is that all the material that has been the
basis of Mr Jenkins' report is available on his laptop. He is very happy to explain it all to
Professor McLachlan. The data is necessarily of a highly complicated nature. It may take a
D little time to explain, but so far there has been great success in relation to complicated issues
being explained to Professor McLachlan and at the moment I can see that there will be no
difficulty whatsoever. If after reviewing the material Professor McLachlan still thinks that
E the Calendar Square problem is relevant to this case he can tell the jury why and they can
assess the evidence. If the jury think that Calendar Square, that the problems there may have
had some impact on this case that is something that can only help the defendant, and so even
F if agreement cannot be reached between the experts it is very difficult I am afraid to see any
real prejudice to the defendant. It is for the Crown to prove the case, to prove that the
defendant stole the money. If the jury think the deficiency might be down to a computer
G error, Calendar Square or something else, then that would probably help them to move a
great way towards acquitting the defendant. Is there any other matter I can assist on?

H JUDGE STEWART: No, thank you.

MR HADRILL: I would ask for some time for the experts to continue with their
deliberations.

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JUDGE STEWART: I will hear anything further that you have to tell me at 2 o'clock and I will rule then as to whether the trial proceeds. For the moment looking beyond this, should the trial proceed how long is it expected to last? I know there are many ifs and buts about that, but what I want is the bottom line, please.

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MR HADRILL: We are given a trial estimate to finish next Tuesday and I would hope to be concluded by next Tuesday, but, as I say, I don't know what is going to throw itself ---

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JUDGE STEWART: I know. It is what I believe we nowadays call "a ball park figure."

MR HADRILL: Certainly Tuesday or Wednesday of next week.

JUDGE STEWART: Early to mid next week. Thank you. If there are any further submissions I will hear them at 2 o'clock and then I will rule.

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(Adjourned for a short time)

MR HADRILL: Does your Honour have a copy of the joint statement which has been prepared by both experts, three pages?

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JUDGE STEWART: It is a joint statement?

MR HADRILL: It is dated today.

JUDGE STEWART: No. It was not handed up.

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MR HADRILL: Can I hand the original? Can I hand that to your Honour? (handed to his Honour) I don't have a copy at the moment but we can print off another one hopefully

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shortly. There is obviously movement by Professor McLachlan in regard to currency transaction. When I say "movement" there was not much distance between both experts on that, and there has been movement in regard to a cheque mail(?) transaction. They have

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discussed and Mr McLachlan has had the opportunity to view material contained on a laptop of Mr Jenkins, and I have asked that they both be in court, which they are, so they can hear

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what I say so that if there are any further disagreements between them we are all made aware of it.

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Can I start with this? Mr Jenkins is a designated engineer. He works for Fujitsu and has been employed by them for many years and I understand that he has obviously been involved in the setting up and continuing use of the Horizon system as it has progressed through one generation to another. When we were instructed clearly it is a unique system that is operating on behalf of the Post Office and run by Fujitsu. We have been reliant upon the goodwill of Mr Jenkins who was nominated by the Post Office and Fujitsu to assist in February of this year. Your Honour knows from the chronology we have been asking for information.

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I then come to early February, Mr Jenkins is nominated to advise and assist. There were introductions between Professor McLachlan and Mr Jenkins in February of this year. It is all set out in the chronology and I can take your Honour through it if you so wish. It is clear that Professor McLachlan having substantial experience would not know, as it were, the nuts and bolts of the architecture and programming system of the Horizon. He would have to be guided and given information by those experts as you would expect as to what material, what programmes, what computer records are kept. We would provide information of what should be obtained, whether they are transaction logs and the event logs because we wish to examine the integrity of the Horizon system. They were in due course in March and April provided from 1st December 06 to 31st December 07 and we understood that that would be the totality or the essence of any transferred information from computer to computer and storage.

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It transpires that what Professor McLachlan has seen this lunchtime on the computer, the laptop of Mr Jenkins is a third formatted programme. It is called an NT event

A log. Its existence was never known before today. It clearly had not been declared before today, and Professor McLachlan could not be expected to know the nature of each and every programme as it is created by the experts for Fujitsu. That is why he would need
B information as to what he should be looking at for comparison. So this third event log appears. What it contains on the computer laptop of Mr Jenkins is this, is an extract from the full NT event log and I understand that it contains and the NT event log should contain
C events of failures. They said that looking at this extract for a limited period none appeared. Professor McLachlan asked Mr Jenkins what he should be looking for, what sort of failures if they would appear, and Mr Jenkins didn't know and had to telephone a colleague, and
D told that in fact it is a lockout or a cascade of locks. Professor McLachlan understands what that is. But clearly the expert on behalf of the Crown didn't know and had to seek information, and so obviously to try and ensure that matters could be progressed Professor McLachlan discussed it. Clearly what has happened is Mr Jenkins has relied on others in a
E team and has been told of their opinions and results and if he needs any other information he has just asked somebody else.

F Professor McLachlan has asked for the reports upon which he bases his opinion. None are available. He has asked that he has sight of the original problem report for Calendar Square. None is available. All we have is an extract, as it were, of an extract, a
G filter which is on the computer of Mr Jenkins here today, and in effect Professor McLachlan has a professional duty and he is not able to make a judgment of an explanation which has been shared with him by Mr Jenkins as to the viability of the option, the viability of the findings proffered by Mr Jenkins.

H So we cannot say what the problem was or the symptom is for the cascade, the lockout or the lock. Mr Jenkins believes he looked at the error report and believes he had

A looked at the archive information but we don't have any records to show that he has or I
don't think he can confirm that he has. I will be corrected and I am willing to be corrected. I
am just trying to, as it were, relay the information that has been given to me. In effect all he
B has done is talk to people who were involved in this aspect of the computer operation. We
obviously have concerns because what has been disclosed in that report of 8th October by
Mr Jenkins could well be of importance to the defence case, and as my learned friend Mr
C Tatford will say we should have asked for this a year ago, we knew nothing of it. They had
not instructed their own expert until February this year and that was under great pressure.
There had been discussions between the experts but reliance was placed by Professor
D McLachlan on volunteering the information as best he could for him to get an understanding
of the architecture.

E Can I refer to his report, the first one? It starts at page 51 of the first volume. This
is information provided to Professor McLachlan so he can start to get an understanding of
what step by step procedure has to be considered within a computer and what connects with
what, and so this was emailed by Mr Jenkins on 8th March this year. That is the first step in
F this process. Once having understood the architecture, we have additional emails to keep
him in the loop, as it were, and then questions will be asked, but we have to rely upon what
we are told is "you need the events logs and transactions." As I say, they said "oh, well, you
G have not pursued Calendar Square." It was raised in disclosure requests, raised by the
defence on 3rd February this year. Matters then were overtaken by the abuse hearing, and
then when we came back, it is not the rights and wrongs or everything, we were sent
H packing, but the assurance being initially contained in the information provided by Mr
Jenkins, and that is at page 66, the Calendar Square is not relevant. So at an early stage,
bearing in mind the architecture is emailed on 8th March, page 66 is an email saying

A effectively "it is not relevant" but no researches had been undertaken by him or word of
mouth, but we accept what is said there. Clearly and properly Mr Jenkins has considered
Calendar Square and he was only concerned in regard to comparing the data he had from 1st
B December 06 to 31st December 07 and his report is carefully qualified that in that period of
thirteen months he sees nothing there which would cause concern as to a reflection of the
Calendar Square Horizon problems. We know that it was clearly a current problem in 06
C and West Byfleet operated a similar stock unit processing as Calendar Square in 06. The
report we received on 8th October, last Friday evening, clearly accepts by implication if not
by expressly that the stock operating was the same or can be a problem for West Byfleet for
D 2006. We said the early part of 2006. I think it was corrected in March 06, but the
indictment runs from October 05 and so there is a five or six month period there that this
problem could be reflected in West Byfleet. Quite rightly we wish to raise it but there is a
E problem and there is the Calendar Square problem which was not criminal and if it was
occurring within West Byfleet in that period of time in 05/06 it could explain some or all of
the deficiencies.

F The report provided by Mr Jenkins sets out, because clearly when we look at the
transaction and the data which we have been given it is not of any benefit to 05/06 and what
has happened is that Mr Jenkins has relied upon others to make the assertion that when you
G look at the NTL events log there is no cascade or lockout or locks. I cannot take it any
further because I have just had a quick discussion with my own expert and that is why I
want everybody in court to hear so that if I am misleading the court in any shape or form it
H can be corrected. But it is a matter which is of concern, could easily undermine the
prosecution case for part of the indictment and certainly account for the whole of the loss
and for the prosecution to say it can be ignored is a fallacy.

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Matters were to be progressed. His Honour Judge Critchlow said that the experts should speak together. Attempts were made between May, and both, certainly my expert

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and the prosecution's expert was in court on 7th May, and your Honour has seen the chronology of emails from those who instruct me to the Post Office trying to chivvy things along because there had been no contact because Mr Jenkins had not been given permission.

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I stand corrected. I would like to see evidence that is corrected because we have the emails, and nothing happens until 20th July but that is not the fault of the defence. Matters had progressed and this would have been dealt with, this report, in early September. In the early part of September Mr Jenkins was on holiday and once we had the report I have certainly discussed it.

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Your Honour has seen I have discussed it with Mr Tatford. Your Honour has seen my written submissions in regard to the expert evidence and disclosure. Be that as it may, it is a problem that has to be dealt with. It is referred to by the expert. The supporting documents are not there and I obviously have to ask for time that it be investigated. That is how I stand at the moment. Your Honour has my written submissions in regard to the statement.

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JUDGE STEWART: Yes.

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MR TATFORD: Your Honour, the email that has been referred to at page 66 of the rather long report of Professor McLachlan sets out fully the Crown's answer to requests that were posed about Calendar Square. I hope it is not unreasonable to point out that the Crown were alerted to Calendar Square and told the defence that it was a technical matter that needed to be researched and a full explanation would be forthcoming. That full explanation is set out in the email of 8th March. That email comes at the same time as the Crown is serving

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thirteen months' worth of transaction logs with a total of nearly half a million transactions within them.

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It may be appropriate just to look at the body of the email because it is actually rather clear. It is addressed to Professor McLachlan. "I have been asked about the issue at Calendar Square, Falkirk. I thought I had better keep you in the loop of this. I have now dug back into the archives to produce the following summary. The problem occurred when transferring cash or stock between stock units. Note that West Byfleet does operate multiple stock units so the issue could have occurred." So the potential relevance is signalled there on 8th March.

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Paragraph 2: "It manifests itself by the receiving stock unit not being able to see the transfer made by the sending stock unit and is compounded by attempting to make a further transfer. Note that such transactions usually re-appear the next day." Then paragraph 3 is rather important in my submission: "It is clearly visible to the user ---" – and in this case at least one user would have been the defendant who was the sub-postmistress – "It is clearly visible to the user as a receipts and payments mismatch at the time that one of the stock units is balanced. The balance takes place at the end of the month when all the Horizon data is compared with the stock on hand in the office. This usually results in the branch raising a call ---" – that is a call to the helpline. "There are no such calls in Andy Dunks' witness statement", which your Honour will no doubt have seen. There is a very long witness statement by Andy Dunks setting out every single call made to the helpline by Mrs Misra. There is no such call. "Also this can be checked by on any balance reports or branch trading statements ---" – I am afraid we don't have branch trading statements. They don't appear to have been retained by the defendant – "--- that are available from the branch which would show that receipts and payments do match and the trading position is zero."

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A Paragraph 4: "The problem is also visible when looking at system events
associated with the branch. The system events from 30th June 2005 ---" – so that is the
beginning of Mrs Misra's tenure at the post office – "--- to 30th December 2009 for West
B Byfleet have been checked and no such events have been found" and paragraph 6 details
that the problem was dealt with in March 2006. So the problem is completely irrelevant
from March 2006 onwards.

C So this problem is something that is obvious to the user of the Horizon equipment
in a sub-post office. I have asked the defence on a number of occasions whether they have
any evidence or any positive instructions to suggest that Calendar Square was an issue in
D their case. I have received no such confirmation whatsoever. So essentially the defence are
saying that "we want to pursue a point" even though that particular kind of computer error
should have been obvious to Mrs Misra. Mrs Misra certainly didn't call the helpline about
E this. I suppose the defence might say she was reluctant to call the helpline. That is a matter
the jury are going to have to assess. But all the evidence upon which this summary, this
detailed and meant to be helpful summary, all the evidence on which it is based has now
F been made available to Professor McLachlan. He just wants to see some more information,
but he has had the opportunity to see everything upon which the clear view of Mr Jenkins is
based. So this is an extra request.

G I am afraid I do complain about timing because the defence did ask about
Calendar Square, not surprisingly as the Crown had raised it, in February and this is the
response. We received no further request for any other information about Calendar Square.
H It is perhaps important that detailed requests, if they are going to be relied on in summary
form the detail should be put before the court, but I am certainly not aware of a single
request about Calendar Square after this information was provided to the defence. The

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Crown was not surprised by that because we understood the position to be completely resolved and it was a complete surprise I am afraid on 30th September – the Crown received the report after that but it is dated 30th September – when suddenly the issue appears to be a

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live one, and it can be a live one in front of the jury if necessary. If Professor McLachlan isn't satisfied on what information he sees he can explain to the jury why that is. Of course it may be that before that happens if Mrs Misra wants to give evidence she may also seek to

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explain what problems she was suffering because of course if she was not suffering this problem then it is a complete red herring and there has been no indication at all from the defence that this was a problem of which Mrs Misra was aware. I suppose it might be said

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that if she was a completely incompetent sub-postmistress she may have been completely unaware of this, but she was a sub-postmistress for two years, seven months and would have been responsible for training her own staff.

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Even if this is a problem the jury can assess it and we are making efforts to see if we can obtain the further material that Professor McLachlan has asked for today. It is a matter for him whether he has time to assess it. One hopes he may act a little more quickly than the six months it took to obtain this report but ---

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JUDGE STEWART: Let us keep away from personal comments.

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MR TATFORD: So be it. I am sorry. But part of the problem I am afraid has been caused by the late service of this report. We are doing our best to satisfy every question that is asked, but it is difficult for the defence to make the complaint when they let this matter rest, when they gave us the impression that it was not an issue any more, for it only to be

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resurrected at a very late stage. We have done our best today to deal with the requests that have been made today and the Professor has been given all the material, been given access to all the material upon which Mr Jenkins' opinion is based.

A It is also perhaps worthwhile bearing in mind that the full deficiency cannot
possibly be explained by Calendar Square because the inflations, the false figures
B admittedly put into the computer system by the defendant, they continued to rise after the
problem had been solved, so at its very highest the defence could say it may be part of the
deficiency but they would perhaps be hard pushed to say it was the whole deficiency. One
C wonders why if that was the cause of the problem, why everything was not made better
quite frankly when the problem was solved in March 2006, but it would appear the hole in
the accounts appeared to grow, not become smaller.

D So the Crown's position is the defence have all the material they need. We will
make every effort to ensure we try and obtain material Professor McLachlan would like to
see, but we are doing our best when the request is made at the very last minute. But we
E don't anticipate that this should cause a real problem that should delay the trial. If at the end
of the evidence it remains an open issue for the jury to consider that only goes to the benefit
of the defendant. It is for the Crown to prove that she stole the money and if the jury think
F that part of the deficiency may be down to this then that may persuade them that the rest of
the deficiency may also have had an innocent reason and that would lead them to acquitting
the defendant, but that line of reasoning, the evidential basis for it, can be put before the
jury.

G The Crown hope that when Professor McLachlan is given the further material that
he has requested today it may be that the issue goes altogether and, as I said earlier, the
H issue may in fact go before he even gives evidence because one person present in the trial
presumably one imagines has a detailed knowledge of what was going on at her post office.
She does not have to give evidence of course, but the Crown has hoped that the defence
might be at least guided by instructions coming from the person responsible for the

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computer system at this office. Calendar Square is an important issue to raise but as yet the Crown has not seen any evidence that shows that it was relevant to West Byfleet. Can I assist any further?

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JUDGE STEWART: Thank you, no.

MR HADRILL: Your Honour, my learned friend criticises the Professor for not pursuing ---

JUDGE STEWART: As I say, I am not going to go down the road of personal criticism.

C

MR HADRILL: Thank you. Can I say this? He now wants to look at this material. It is referred to by the prosecution expert and good practice for experts is that the supporting documentation is provided or at least advance notice is given so it can be discussed and that certainly has not been forthcoming from the Crown. So when this report is provided very late, and we have only got the hard copy today, it was emailed. I know the Crown are not, as it were, throwing brickbats, refused to accept our emails, our report until a hard copy was served and that had to be couriered to their offices.

E

But be that as it may, we have done our best in regard to a report that was provided by Professor McLachlan who is under a duty to raise concerns and worries in his professional opinion, and that was sent certainly by those that instruct me on the 30th, the draft on the 30th and then the final copy was sent again which was dated 1st October. He is somewhat surprised that, as I say, he has asked simple questions today looking at the material which is relied upon for this opinion by their expert who really cannot advance the veracity or the integrity of what he says. He does not have the material. He has had to rely upon others and phone others as to what it means, and that is a worry. Thank you.

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RULING

JUDGE STEWART: This case has an inordinately long history in terms of court appearances and issues being raised in relation among other things to the question of

A disclosure. It was in fact first listed for trial as long ago as 20th June last year, nearly sixteen months ago, but there has been a need for repeated further hearings.

B In March of this year Mr Recorder Bruce heard full submissions on the issue of abuse of process, and in a meticulous ruling which I have read he decided that the trial could continue and later hearings took place before the resident judge, Judge Critchlow, and he ruled that the trial must proceed today.

C There have recently been further reports prepared by Mr Jenkins and Professor McLachlan, the expert witnesses retained by each of the parties in the trial. The two gentlemen have been at court today discussing matters. I understand that their discussions as one would expect have been conducted productively and they have resolved a number of issues. I have seen a joint statement that they have compiled and I am grateful to them for that. It demonstrates the possibility of reaching sensible agreement and resolution of issues through discussion between experts in the way that would be expected.

E There is an issue today, Mr Hadrill says on behalf of the defendant, in relation, as I understand it, to material relating to a problem which occurred with the Horizon computer system, not at the post office branch which is the subject of this indictment in West Byfleet but at a branch in Falkirk called Calendar Street where there was a problem of a kind which could have been, might be relevant to the issues in this trial.

G If I summarise it sufficiently in this way, it is the defence position that the material relating to that issue which was the basis of an email dating back to 8th March this year from Mr Jenkins to Professor McLachlan was based and that material was only supplied or made available very recently and indeed it has been continued to be supplied today and so Mr Hadrill submits that the defence are placed at a disadvantage. They have not received the appropriate information in order to test the assertion made by the

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prosecution that in fact this issue, the Falkirk issue, is of no relevance to the issues in this trial. Whether it is relevant will be something which could be decided by a jury in due course.

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I am quite satisfied that the trial can and should proceed today. Any issue relating to the Calendar Square branch can be explored in the course of the evidence in this trial. If it should be that Professor McLachlan remains of the opinion that his ability to express a concluded view is hampered by some lack of information which the prosecution should have supplied he may express that view in the course of his evidence. The jury would hear that evidence and indeed so will I. If I conclude that the consequence is that the trial is not and cannot be fair then I retain the power to order a stay of the proceedings.

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I am far from satisfied that the circumstances have arisen now at which it is appropriate to order any such stay. The time comes when trial management issues require a judge to say there must be no more delay. A vast quantity of material has been disclosed and considered and the defence have ample material I am quite satisfied to test the integrity of the Horizon system.

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As I say, if I conclude in due course that the trial is irremediably unfair I retain the power to order a stay and if I do not reach that conclusion the jury of course remain the people who hold the ultimate sanction and if they are of the view that the defendant has suffered unfairness then they will no doubt, as juries frequently do, reflect that in their verdict at the conclusion of the trial.

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I note that it will be possible when further material is provided for Mr Jenkins and Professor McLachlan to continue in the spirit of co-operation which they have displayed up until now to discuss matters between them, bearing in mind the duty that an expert owes to the court to assist and the duty cast on all participants in a criminal trial by the Criminal

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Procedure Rules to ensure that the proceedings are conducted efficiently and expeditiously, that these matters can all be dealt with in the course of a normal trial. So the trial will proceed and it is not an abuse of the process for it so to do.

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MR TATFORD: Your Honour, I think then we are in a position if appropriate to swear in a jury. Can I just raise this while I am on my feet? It may be sensible for the jury to be asked a question whether they or any close friend or relative works for Royal Mail or has any link to work in a post office or sub-post office.

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JUDGE STEWART: And perhaps Fujitsu?

MR TATFORD: Yes, absolutely, very sensible.

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JUDGE STEWART: We will call for a jury panel.

(Adjourned for a short time)

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JUDGE STEWART: Ladies and gentlemen, we are about to select a jury for the trial that is going to begin in this courtroom this afternoon, but before we do I just want to check that we don't have anybody on the jury who might be too closely connected to any of the

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organisations which play a part in the facts of the trial. So I am just going to tell you that this trial will involve the Royal Mail, a particular post office at West Byfleet and a computer programme which is run by an organisation you will have heard of called Fujitsu. So if any

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of you has a very close connection to working with the Royal Mail or at a post office or for Fujitsu, when the time comes if your name is called will you just please tell me there and then? Don't hold back, and we will decide what to do. If not just go ahead with the procedure that the court clerk is going to go through now.

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(Jury sworn)

CLERK OF THE COURT: Members of the jury, the defendant, Seema Misra, stands charged on an indictment with theft. The particulars of the offence are that she between the

A 29th day of June 2005 and the 14th day of January 2008 stole £74,609.84 belonging to the Post Office Ltd. To this indictment the defendant has pleaded not guilty and it is your charge to say having heard all the evidence whether she be guilty or not.

B JUDGE STEWART: I can now address you not just as “ladies and gentlemen” but as “members of the jury” because you are now the jury who will be ultimately deciding the verdict at the end of this trial. I am given to understand that this is the first day of your jury service for everybody, is that right, and I dare say you all turned up dutifully as you were
C told to early this morning and your first experience has been hanging around waiting for half a day for something to happen. I do apologise about that. We do try to avoid keeping members of the public like yourselves hanging around but sometimes it is just not possible
D to avoid it, but at least you know that you are now going to be concerned with this trial for the next few days.

E It is never possible to be completely accurate in advance about how long a trial is going to last. Things can happen which you don’t foresee, but I asked earlier today what was the best estimate I could be given about the duration of the trial and I was told it will be a few days, as I say, probably finishing early or mid next week, something like that.

F That is based on the normal hours of sitting when you will be needed here in the courtroom each day starting at 10.15 each morning, going on until about 1 depending on where things get to. Then we have a break of about an hour, and then in the afternoon
G carrying on once again until a sensible point comes at which to stop, perhaps if a witness finishes giving evidence or something like that. I aim for somewhere between 4.15 and 4.30. I cannot promise it will never be later than that. Sometimes it is a bit earlier than that but
H that is what we aim at.

A So it is obviously going to be a trial where there are going to be breaks. Several
days you will be going home. You will be seeing your family and your friends and nobody
B would be surprised if they were interested in what you are doing on your jury service and if
they were to ask you about the case you are trying. Of course you can talk about the
C experience generally and the fact that you had to hang around and things like that, but what
you must not discuss with anybody else is the facts and the evidence in this trial. The reason
is this. Each of you just took that oath or affirmation that you would return a true verdict on
the evidence, so the verdict when it comes must be the verdict of you twelve and nobody
else and it must be based on the evidence that is presented here in the courtroom and
nothing else.

D If you do discuss it with your family or friends it would be perfectly natural again
for them to react to what you tell them, maybe ask a question, maybe make a comment,
E perfectly innocent and natural indeed, but the problem is it could have an impact on your
thinking about the trial if somebody else were to say something about it and then the verdict
would no longer be the verdict of you twelve and nobody else and it would no longer be
F based on the evidence that is presented here and nothing else, and that is why it is so
important.

G There is another consequence of that principle that it must be based on the
evidence which is presented here in the courtroom, your verdict, and it is this, that you
yourselves when you are not sitting here in the courtroom must not go off and try to gather
or find evidence for yourselves or do research for yourselves or go on the internet or
H anything like that. The prosecution and the defence will decide what evidence they place
before you upon which you will ultimately decide your verdict, so don't do anything like

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going on the Net, or heaven forbid, going into a chatroom to discuss the case as has happened once or twice in the past.

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Another thing that a jury has to be told before a trial gets underway is this, that if anything crops up while the trial is underway which causes you concern, whether it is to do with the jury itself or anything else that affects your acting as a juror, please let the court staff know straightaway. They will bring it to my attention and we will try to sort it out as quickly as possible. If you leave it until after the trial is over it could be too late.

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That is what I am saying at this stage by way of introductory remarks. You probably know the format of a trial. It begins with the prosecution in this trial with Mr Tatford who is the barrister representing the prosecution giving the jury an introduction to the trial, what the prosecution say the trial is all about. Once he has completed that then he will embark on calling the evidence that the prosecution rely on, and Mr Hadrill who is the barrister nearer you representing Mrs Misra, the defendant, who sits at the back of the court, he will have the opportunity to ask questions of witnesses called by the prosecution and then the trial will take its course thereafter. So at this stage it is for Mr Tatford to speak to you now.

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MR TATFORD: Thank you very much, your Honour.

PROSECUTION OPENING SPEECH:

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MR TATFORD: Members of the jury, as his Honour has said, Mr Hadrill appears on behalf of the defendant. You have heard the defendant is accused of stealing just under £75,000 from the Post Office. She was a sub-postmistress. She worked in a small shop, not a particularly small shop but a shop with a small post office attached. She was the sub-postmistress. She was in charge of that post office.

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A post office within a shop is an entirely separate entity and post office money in the post office part remains in the post office. Shop money should remain in the shop, and the prosecution's case is this defendant had her fingers in the till. It is as simple as that. It

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was over a long period of time because of course you cannot steal £75,000 in one go from a post office because of course you cannot keep that amount of money in a post office

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overnight. It is a security risk. But the Crown say that over a long period – and we have included a period in the indictment of the whole course of her time as sub-postmistress – the Crown say over a long period she was stealing money, and she had to hide her thefts by cooking the books, not written accounting records but computer records. She filled the computer system with dishonest information which hid the hole in the accounts.

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The hole in the accounts only became apparent when an audit took place, when auditors came in, a perfectly routine operation, and they checked the computer records against what was actually there – the stock, her stamps, the postal orders if they still exist, the money – and they found an enormous hole. The accounts said that there should be nearly £75,000 more than there was at the premises. The money had gone. The Crown say the defendant stole it largely because she was cooking the books and who else would do that other than the person responsible for the theft? So that is in a nutshell what the Crown's case is about.

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The Crown bring the case so it is for the Crown to prove the case. The defendant does not have to prove anything. It is for the Crown to prove its case and you only convict if you are sure of guilt. So it is a high standard applying to all criminal cases in this country, a high standard of proof for the Crown to prove the case.

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Can I first of all hand out copies of the indictment, please? (handed to jury) Can I ask you to share one between two, please? You will see as soon as you get this document

A that there is more than one count. You are only dealing with the theft count but there are other counts mentioned there and I will explain why.

B So the documents you have, it is headed "indictment", it lists the charge or count this defendant faces, and the one you are dealing with is count 1. So theft, Seema Misra, the defendant, between the 29th day of June 2005 – that is the day before she took over the post office – and the 14th day of January 2008 – so the full time she was in the post office – we say she stole £74,609.84 belonging to Post Office Ltd. That was the value of the hole in the C accounts. The accounts had false figures that the defendant had put in.

D I can say that they had false figures because the defendant has pleaded to offences of false accounting. Those are set out in the indictment, counts 2 to 7 onwards. There is a helpful purpose to that and I will come to that in a moment, but if you remember you are just dealing with count 1. The defendant pleaded guilty at the earliest possible stage to the E false accounting, so she accepts she cooked the books. So other counts, they are there for a background purpose that I will come to. You are going to look at count 1, and the question for you having heard all the evidence is has the Crown proved that this defendant stole that F money?

F The money, it is a rather odd figure. The figure comes about because that is the hole that the auditors found. They are called auditors but they are just doing a stock take. G They look at the printouts that the computer system can generate and they compare those with what is actually there – the stamps, the money and so forth, foreign currency, travellers H cheques, all the sort of things the Post Office has. When they looked at the two and made the comparison the defendant was a total of £74,609.84 pence down. That is the reason that rather odd figure is there and that is for the Crown to prove that she stole the money.

A The Crown does not in fact have to prove that amount because of course
sometimes people make mistakes in a shop. You hand the wrong change. If you hand over
too much change to a person you will be down on the accounts, so there may be innocent
B reasons to a small part of that figure. But the Crown say she stole the money. Quite frankly
if you were sure she stole one pence you would find her guilty on the indictment. I suspect
that is not a thought that is going to have to trouble you. The Crown say she stole if not that
C full amount then something very close indeed to it, but whether she stole the 84 pence at the
end is not an issue you need to decide. The offence is theft. That is what the Crown has to
prove. The precise amount is not a matter that you need to trouble yourself with.

D Can I give you just a little more information about the case? The defendant is 35
years of age now. She was 32 at the time that she was sub-postmistress at the West Byfleet
post office which is a post office with three counters. Probably you will have seen post
E offices in shops. They are fairly cramped little offices. But there were three distinct
windows and the rest of the building was a shop, supposed to be kept quite separate from
the post office.

F On 14th January – that is why we have 14th January in the indictment – on that day
an audit took place. Audits are routine. The Post Office puts a lot of trust in those people
who have a contract to be a sub-postmaster or sub-postmistress. A lot of trust is put in them.
G It is for them to check the money is right. It is for them to put true information into the
accounts, but of course every now and again there has to be an audit to check that
everything is all right, to check that people are not stealing or that terrible mistakes are not
H being made.

The audit that took place here was entirely routine. Sometimes audits take place
because there is some suspicion. That is not the case here. It was an entirely routine audit

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that is meant to happen from time to time in the Post Office. It may well be that there are a number of years between audits and that is sometimes perhaps why we end up with a figure as high as the figure we have here. Audits are routine but they are not every day and they are not every month. There can be a long time between them.

B

Mrs Misra was not present at the shop at first when the auditors arrived but she was fairly shortly afterwards and she said straightaway that she would be short between 50,000 to £60,000, so she was open straightaway that there was going to be a problem. The Crown I am afraid will say she had no choice. They were going to find it anyway so what else could she do?

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Post Office investigators also attended and they also received information from Mrs Misra about the shortage, and she said that the shortage was down to theft by other employees. She employed other people at the premises and she suggested the shortages were down to thefts by members of staff who had not been working there for a year or so.

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The auditors found something else as well. In addition to finding the hole in the accounts, what they do they have to print off various printouts in relation to various figures in the office and they do an audit, do a stock take and then check the cash, count the cash, count the stamps, that sort of thing. But also what came to light was that there were two pouches. Pouches, remittance pouches, are bags that money is put in which is going to be sent out of the post office to a central office and the phrase is "remming out." They are remittances, and the phrase is used of "remming out."

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What one does with a pouch, when you are going to send money you don't need back to central office if you have got more than you need, you put the money in the pouch and you put a printout with it saying how much money is there so that when it arrives at the

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central cash centre somebody can open the bag and they can count the money and check it matches what the printout says, fairly obvious security measures.

B

But the odd thing about this was there were two empty bags but they had little forms in them saying how much money should be in there, one talking about £13,000 and one talking about £14,000, and the form saying how much money should be in there was dated 9th January, so several days earlier. So this was rather odd. These were bags that should contain cash but they didn't. They had a piece of paper inside saying what the cash had been. It was stamped and signed by Mrs Misra, but there was no cash.

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What the Crown say about that is that was another way that she was able to cook the books because what happens in a post office, at the end of every month a balance has to take place and a full stock take is actually conducted by the sub-post office mistress in this case and her members of staff and they check that they have got the money and the stamps and everything they should have in comparison with the printouts they get from the shop's computer system. The computer system used in the Post Office is called Horizon and it is a computer system that can print off how many travellers cheques in relation to a particular counter, for instance, how many stamps should I have. So you can print off the information.

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But of course all the information that comes into the computer system is input by members of staff under the supervision of the sub-postmistress and in fact the sub-postmistress is likely to be inputting most of the information. So the system depends on the honesty of the people working in there. The system only believes what is there by what it is told. If it is told lies as in this case then the system is going to think everything is fine and the hole in the account can be hidden.

H

But you can hide a hole in the account in all sorts of ways. You can pretend you have got £75,000 worth of stamps if you really want to but that probably would look a little

A suspicious. Alternatively you can inflate figures here and there or you can pretend that you
were sending out money. Say you were £13,000 short and you knew that, you could just
pretend you had sent some money out to that value. So you would tell the computer £13,000
B is gone so the computer balancing up the money going in and the money going out would
think everything is fine, and that appears to be what was happening here. The defendant had
these bags empty but with the piece of paper so the computer will think that the money is
C there and what she no doubt would have done if the orders had not come in was once she
had done her balance she could then reverse the transaction because you are silly to send off
bags empty because they would get to the cash centre and somebody would open them and
say “hang on. There should be £13,000 in here and there is nothing.”

D But what you can do as a temporary measure – there are all sorts of ways you can
cook the books – but one thing you can do, and there is clear evidence of this, is say to the
computer “I want to send out £13,000” and print off something but then don’t send it off
E and in fact reverse the transaction once you have balanced everything up at the end of the
month, and it appears that that is what one of the tricks the defendant was using, and here
the Crown say she is caught in the moment. Here the auditors go in and here are two empty
F bags with pieces of paper in it that say money should be in and there is no money there. So
you have got the admissions that the defendant was cooking the books and I will come to
that more in some detail in a moment, but you have got physical evidence of the dishonesty
G going on – empty bags that should have money in them. The computer has been told the
money is going out. It is a fiction.

H So that is the position the auditors found, nearly £75,000 missing and empty bags
that should have cash in them, so not surprisingly the defendant was interviewed about this.
The interview takes place, in a Post Office case it is a Post Office investigator who conducts

A the interview because of course they are familiar with Post Office procedures in a way the police officer would not necessarily be.

B The defendant gave a full interview and really she carried on what she had said earlier. She said that there had been thefts by her employees and that is all she talked about. She said that the thefts had really taken place at least a year ago and the hole in the accounts was down to these wicked thieves, people who had abused her trust by stealing money.

C If you think about that for a moment, just imagine a small office with three counters. Just think how difficult it would be for members of staff under the nose of the sub-postmistress to steal £75,000. It would be enormously difficult, not least because of this, D because a sensible security measure that the Post Office use is that each person working in the office has their own stock. They have a tray, a drawer, which has the money that they are responsible for, the stamps they are responsible for and that sort of thing, and that is E their stock and they log into the computer system, into the Horizon system with the user name and a password so the computer system knows it is them. Then all their transactions that they operate through the system go through under their name. So it is rather hard for F members of staff to steal £75,000. Managing to do it without the postmistress seeing it would be one thing, but then it could be pinpointed by which user name in, which password is used, who has been responsible for a particular stock. So if a drawer, if the computer G records say there should be £75,000 in that drawer and there is not you can see who has been using the drawer by the password and user name and you catch the thief.

H So what the defendant was saying in her interview just seemed very odd you may think. It didn't make any sense. It was against the standard security measures and it is very difficult to do it under the nose of the sub-postmistress because, as I said, a balance has to take place every month. Every month there is a full stock take. But in fact every day the

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sub-postmistress and her employees will be checking the stock and they will be printing out from the computer how much cash there should be in a particular drawer and counting it. So quite how you get away with stealing £75,000 without your boss knowing is rather a remarkable suggestion but that is what the defendant was saying in her interview.

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First of all can I pass out some documentation to you now, please? These are the jury bundles. They are photocopies of some of the exhibits in the case. Can I pass six copies to the jury and one to your Honour, please? (handed to his Honour and jury)

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JUDGE STEWART: Thank you.

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MR TATFORD: I am afraid some of the copying in this bundle is very poor. The reason for that is that the originals that were photocopied are very faint. It looks like the print, the toner tube or whatever it is, was running low. I don't think it matters terribly, but it would appear that it was running low when the defendant printed out some of the material here. So that is why you have got some poor copies. But I hope that is where your indictment may in fact help you.

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Shall we have a look just through the jury bundle for a moment? The first witness you are going to hear from, you will see there is an index on the first two pages and then there is something that looks like that on page 1. Do you see, there is a number in the bottom right hand corner for the page numbers of the jury bundle and those page numbers are reflected in the index as well?

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I am not going to seek to explain all this document that you can see on page number 1, but I just want to tell you what it is. It is going to be exhibited by one of the auditors who will be one of the first witnesses you hear from and those are his initials "KN." His surname is Noverre. This is a branch trading statement. This is a document that the sub-postmistress in this case produces when they balance the accounts at the end of the month.

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The figures in here are the creation of the sub-postmistress. It is important to bear that in mind, and they will usually sign the document, and this document has been signed on page 4.

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It is this sort of document where the defendant was cooking the books because what you really have to do if you are stealing and you want to cover your tracks in the Post Office, you don't need to balance everything every minute. What you have got to be sure of doing though is that at the end of the month you balance the books, because part of a sub-postmaster's contract is that if there is a loss they have to pay the money back to the Post Office because it is their fault. It is part of the contract. They have the benefit of running the office. If they run it incompetently or dishonestly and there is a loss they have to pay the money back. It is a civil debt. So it is rather important to get this right and keep the daily checks going, not just do it at the end of the month.

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But this document is the document that is produced when the balancing exercise takes place. This statement the defendant produced because the auditors needed it so that they could conduct the audit. They could use the figures here to compare with what was actually there. The Crown don't say she fiddled the books in front of the auditors, but the information in this document is false because of figures that she has been inputting into the system in all the period that she has been stealing. It is a lengthy document and Mr Noverre will explain it in due course and there is no need for me to go through that document at least at the moment.

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But can you turn over to page 5, please? Do you remember I talked about the cash pouches, two bags that should have had money in them and they were empty and they had pieces of paper saying there should be money in them? On this page you have got the piece of paper photocopied, photocopied I think in two parts, and you will see the original as well,

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but I think we can see what it is. There is a stamp there, 9th January. Of course the audit took place a few days after that so this is something that has been done a few days before, 9th January, and it has been signed by the defendant. I think you might just be able to make out “Seema Misra” there in the writing but it was signed by her. I don’t think there will be any

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dispute that she was responsible for it.

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This document you can see it sets out the bank notes that should be in the bag, £13,000. That was found in a bag, but no money, yet the defendant had signed that there would be money there and stamped it, so that was a fairly obvious piece of dishonesty you may think.

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Turning over the page to page 6, we have got the other piece of paper, again date stamped, Seema Misra’s signature, this time £14,000. So £27,000 she was trying to pretend was there by saying she was remming it out, but it was not there. This is an example of her cooking the books in mid process of doing so because once this had gone into a monthly trading statement she could reverse the transaction because you cannot send off the empty bags, as I said earlier, because somebody will say there is no money there and at the very least the postmaster will have to pay the money back.

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Turning over the page in our jury bundle, page 7, we have got the audit report by Mr Noverre. We will go through his evidence about that in due course. It goes on for a few pages. Page 11, we have got a couple of pages or so from the sub-postmaster’s contract. The important point is on page 12 under “cash balance. The sub-postmaster is expressly forbidden to make use of balance, so money due to Post Office Counters for any other purposes.” So you cannot take money from a post office and use it for your shop if you are running short or if you need to buy stock for the shop. That is stealing. It is against your contract and it is dishonest. It is using somebody else’s money for your own purposes.

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Under “accounts”, “a sub-postmaster must ensure that accounts of all stock and cash entrusted to him are kept in the form prescribed.” The defendant did keep accounts.

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They were just completely dishonest accounts because she was hiding something. The Crown say the only reason for hiding something is she was stealing the money. It really is as straightforward as that we suggest.

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The next few pages are some notes that were handed over by Mrs Misra when she was explaining at the scene that it was down to thefts by employees. There are then some pages 16, 17, 18 and 19, documents that don’t matter a great deal because those are documents explaining her legal rights about interview. A search of her property took place. Nothing suspicious was found. They are there just for completeness.

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We then have her interview in our bundle and you may want to just have a look at page 22 of that, because do you remember I said earlier that in her interview she had continued saying what she had said when the audit took place, that employees had stolen the money? What she said at the top of page 22 is perhaps important. She says that “one employee left February 2006. Three of the staff were family members. Others left at the end of 2006” and she has already explained in the interview that people have been stealing money.

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“AM” is one of the investigators, a Mr Morris. He asked “how much was missing at the end of 2006 when the staff left?”, that is the staff responsible for the theft because the defendant was saying “I discovered this and sacked them.” She said there “it was around 89,000 to £90,000”, so even bigger in fact than the hole. She went on to say in this interview that she had put her own money into the accounts to reduce the hole, again a very odd thing for her to say. If you are running a business and somebody steals from you do you report the thefts to the Post Office here or do you hide the thefts and try and reduce the hole with your

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own money? The Crown say you do the first unless you are completely mad because if somebody else is responsible for the loss why do you make it good with your own money? Surely you want it cleared up. Surely you want to try and get out of having to pay the Post

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Office back the money? You are simply liable for it but if you give an explanation you might have a chance of not having to pay the money back.

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But the defendant was saying that she had this hole in the accounts that was caused by other people's thefts. She chose to hide it and even put some of her money in to reduce it from 89,000 to 90,000. So the Crown I am afraid say the defendant was talking nonsense in the interview. You will have to assess it in due course when you hear all the evidence, but it is certainly surprising behaviour.

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What the defendant explained in the rest of the interview was how she was cooking the books, and she said that she would fill out empty bags and rem them out and tell the Horizon computer system she was sending out money and then when she had done that she would reverse the transaction after she had balanced the books so that the empty bag would not go out. But she explained that was exactly what she was doing. That appears

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to be what she was doing on the day the auditors went in, although in relation to that she said "although I have done that in the past in fact what I was doing was I was leaving some empty bags because I was hoping some relatives were going to bring some money to put in

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them and send back to the Post Office." So it appears what she was saying was that some relatives were going to come with £27,000, pop them in the bags and send it off to the Post Office, an extraordinary suggestion the Crown say. You will have to decide what you make of it.

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The defendant went on to explain what else she was doing in relation to cooking the books and it is here I am afraid you will start seeing what I was talking about, bad

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photocopies. Page 28, please. What may help you though is if you hold the indictment here as well because the defendant has admitted these alterations, so even if it is hard to make out in the photocopy she has admitted to them. So have a look at count 2 and count 3. She has admitted on 14th December 2006 she falsifies a document, that is this document, a branch trading statement, by making an entry therein purporting to show that cash on hand figure was £27,993.73.

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You may just be able to make out, do you see where I have a blue circle on my jury bundle? It is very difficult to see. I am sorry. But it says "cash in hand carried forward." In fact I have marked it because it was hard to see, £27,993.73. We know that is of the amount because she has admitted it on count 2 in the indictment. So it may just help if you put beside count 2, put a "G" to say she has pleaded guilty, but perhaps put "JB 28", jury bundle, page 28. You might even want to circle count 2, that 27,000, and underneath it "currencies awaiting collection." She has admitted that.

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If you turn over to the second page of the indictment, count 3, you will see there there is a falsification for 14th December, so this same document the branch trading statement that she produces, and the amount there she said it was £13,070 when it was not and she has admitted that. Just underneath that 27,000 is the figure, very difficult to make out, but it does read £13,070. So I have, for instance, put a circle there and put "counts 2 and 3" and you may want to put against count 3 "jury bundle 28."

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So you can see back in December 2006 – and that date may be interesting because in her interview she was saying "that is where I put a stop to the thefts. I discovered my wicked employees had been stealing from me. I put a stop to the thefts. That is the cut-off point." So this statement is at the cut-off point. After this there cannot be any more thefts by

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A employees because she said she put a stop to it and she ensured the correct procedures were followed about user names and passwords and so forth.

B So if you add those figures together, counts 2 and 3, £27,000, £13,000 - £40,000 which is a false figure. The Crown say it is likely it was nowhere near she had that amount. Those are big figures to hide a big loss. The amount that it actually was only the defendant knows because she was the one who counted out the money and chose to say it was something that it was not.

C But here she has inflated the accounts by a large amount which may be approaching 40,000. She has inflated the figures to hide a hole. She is pretending to the computer there is more money than there is. The Crown say she is doing that because she is D stealing the money. The defendant in her interview was saying she was covering up the thefts of other people. I think the suggestion may be made that she was worried about losing the post office. Is that really an explanation for such dishonesty? It is a matter for you to E assess.

F Moving on to counts 4 and 5, I have put next to them "JB 32" because the page in the jury bundle in relation to those four entries is page 32. Again it is very poor photocopying but do you see where I have put the blue circle? It says "cash on hand carried forward, all currencies awaiting ---" – it is almost impossible to read but "all currencies awaiting collection" I think it is. It is £35,751. You can see that is count 4 on the indictment, G so just there, it is the fourth block down that is really important in looking at these documents. "All currencies awaiting collection." You can probably just about make it out, "£40,477." There it is in count 5.

H What is interesting in relation to these false figures – we have to be careful about the figures because they are completely fictitious. Only the defendant knows what was

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really there and what was really going on. But these are the same areas of the stock that she has been using for false figures on counts 2 and 3. On counts 2 and 3 the false figures totalled around £40,000. There is obviously going to be some money there, but let us say just by way of illustration, let us say there is really £10,000 and she has inflated by £30,000.

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On counts 4 and 5 there is a jump in the total amount of those figures. It is 35, nearly £36,000 and 40,000, so you are over £75,000. So the false figures added together in December amount to 40,000. They have leapt up to 75,000. I don't think the defendant is going to be suggesting she had about £60,000 at the post office. We may hear in due course as the evidence progresses, but it would be an enormous amount of money to have. There appears to be a leap. She has inflated the figures on her own admission and the inflated figures add up to £40,000 in December, and then six months later in June she has inflated again but this time the figures leap up and they make a total of £75,000.

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If you inflate the figures, if you have stolen once, say, and you don't do it again, you need to inflate the figures once, and you don't need to do it again. The false figure is in and it stays. You don't need to keep on adding. So if there is just a one off reason for this or if the reason has stopped there should be a plateau, but here the graph of inflations goes up. Do you see what I mean? It goes up from a total false value of 40,000 – we don't know how much was true, a lot of that is going to be false – to a total false value of 75,000. She has said by this stage, by June 2007, the thefts had stopped, so it should have plateaued, the false inflation. It does not appear to do so. It appears to go up.

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That suggests – and it is only a suggestion at this point. You have to judge the evidence as to how it comes out – that suggests at least that something else is happening. It appears the hole is getting bigger so the false figures need to get bigger, and that is why I say her account in interview quite apart from it being bizarre does not work because she

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says she stopped the thefts in December 2006 but the hole appears to be getting bigger and it continues to get bigger in December, the last two false accountings, counts 6 and 7, and I have put next to them "jury bundle 36" and you may want to turn to page 36.

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It is the same area on the printout, the fourth block down, "cash on hand carried forward." It is a better copy I hope this time. £39,700.13, that is the amount in count 6, a false figure on her own plea, and then "60,000, all currencies awaiting collection." We don't know how much was really there but it is not going to be £99,000 you may think. But what has happened? If you add the false figures together over that period from December 2006 to 2007 they have jumped from 40,000, 75,000 to 99 – I think it is just over 100,000. So if there had been a reason that had stopped for the inflations the figures would still be false but there would be no need to add to the inflated figures because the hole does not get any bigger. You don't need to get a bigger plunger to put in it. But this defendant did need a bigger plunger. The hole keeps on getting bigger, and you are entitled to look at that and consider whether the explanation in interview can explain that because the Crown say it cannot and that is one reason her account in interview does not work.

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The only person who knows exactly what they were doing with the accounts is the defendant. You can cook the books all over the place if you really want to. It would be terribly complicated if you really want to. The trust is put in the sub-postmistress. But it does appear at least that an inference could be drawn that there was a bigger and bigger hole emerging and that cannot be due to thefts that she has stopped.

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I say an inference could be drawn because I anticipate it will indeed be suggested that there is another problem. It isn't down just to thefts, because when a case is prepared for a crown court trial various things have to be done. One thing that has to be done is a defence statement has to be served setting out the defence that is going to be relied on at

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trial, and a very detailed defence statement was served in this case, and it sets out another reason for the hole and it seems to indicate – and I may be misreading this – but it seems to indicate in fact that it is accepted that thefts by employees could only have been a couple of thousand pounds, not the £89,000 that was referred to, but I am sure that matters like that will be clarified when we hear the evidence.

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But in the defence statement a new idea is put forward, that there is some kind of terrible computer error that is responsible for the ever growing hole. Alternatively that it is all down to incompetence. So the defence changes from interview it would appear – and I only introduce what has been disclosed and what I say to you is an introduction to the evidence. You judge the case on the evidence you hear – but it would appear that the issue is not only in this case were other employees responsible for thefts but there was also a computer problem which caused this or it was down to terrible incompetence and that is why the hole gets on getting bigger.

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So three possible explanations that you will have to consider and if you think that any of those possibilities, either singly or together, might explain what is going on here you will want to bear that in mind and if you think that might be a possible inference then that might help you come very close to acquitting the defendant. It is for the Crown to prove its case.

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But those are the new issues that emerge from the defence statement. The odd thing of course is that if there was a computer error, we all use computers these days, if you have a computer error you are aware of it. Not all of us use computer equipment in a shop but in a shop, as I have said in this post office, there were all sorts of printouts to tell you if things are going wrong and you are doing a stock take all the time. So you would have thought that if there was a computer error the defendant would have been aware of it and

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would have mentioned it in her interview, but you are going to have to judge that in due course and just see what you make of it all.

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Just one other point about her interview before I come in more detail to these new possibilities that are raised. The defendant did say in her interview that she had called the police about the thefts albeit she had only told the police there was a theft of a thousand pounds, and now the investigator in the case has checked police records because the police keep records of complaints and no such record of a complaint by the defendant has been found. But it may not be a big point. Not everything is recorded. But there is a slight oddity there that she was so adamant about reporting to the police and yet no confirmation appears to be found. Nevertheless, as I understand it, it is accepted that the explanation cannot be completely it was down to thefts by employees.

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So computer error. It is not for the Crown to prove that the Horizon system is a hundred per cent perfect. That is not an element of the offence we have to prove.

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Nevertheless it is for us to make you sure that the defendant is guilty and if you think this ever increasing hole could be down to computer error then it is highly likely you will find the defendant not guilty. But no computer system in fact is going ever to be perfect. They all have problems from time to time. We all know that from using our computers.

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But you are just going to have to judge the evidence as a whole and all the evidence, what everybody says about the case.

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But can I just explain to you about the Horizon system first of all because, I don't know, apparently it follows from what I have been saying, but whenever you go into a post office and buy some stamps or do whatever you want to do in a post office your transaction goes through the Horizon system. It may look like the staff are using some kind of glorified cash till. To an extent they are, but they are actually keying in the transaction to the

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computer system so the computer system records every transaction so there is a record, so when money comes in the record will show money coming in and when something goes out, say, a book of stamps, the amount of stamps will go down in the Horizon records.

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The system the Crown say is actually a fairly simple system to use. It has got nice coloured buttons, big buttons, and it has got clear instructions in English, but it has also been a system that has been used for a very long time now and it has in fact recently been replaced by an upgraded Horizon system but it was rolled out to post offices between 1999 and 2002 and has continued until the middle of 2010.

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So at the time we are concerned with there would have been – a lot of post offices shut down of course recently – but in the time we are concerned with there would have been around about 14,000 post office branches, and you can just imagine how many transactions the Horizon system has to go through when you think of that number of branches. The computer system quite literally will process millions of transactions every single day and in peak times like around Christmas perhaps nearly 20 million transactions per day.

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So it has got to be a pretty robust system and you will hear some evidence from an expert in the field as to the quality of the system. Nobody is saying it is perfect and you will no doubt hear about a particular problem that was found, but the Crown say it is a robust system and that if there really was a computer problem the defendant would have been aware of it. That is the whole point because when you use a computer system you realise there is something wrong if not from the screen itself but from the printouts you are getting when you are doing the stock take.

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So that is one issue in the case, whether the Horizon system is any good or not. The Crown say it must be good otherwise the whole Post Office would collapse but you are

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nevertheless going to have to consider that very carefully and consider all the evidence that you are going to hear.

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You are going to hear evidence from an expert for the defence as well. You are going to hear from Gareth Jenkins for the prosecution and Professor Charles McLachlan for the defence and you will hear their opinions and you will hear on what they are based and it is for you to make up your mind as to how far either of their opinions help you. You judge the case on all the evidence, not just the experts. You can reject their evidence if you choose, and you are likely to have to make a choice between the two, at least in some areas.

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So you will hear a lot of detailed evidence from them that I am not going to attempt to try and explain now, but there are some other basic points that you may want to bear in mind. Not only is this a robust system that was used every day, you are also going to hear evidence from the person who until very recently was running West Byfleet, a Mr Vasarmy. He took over the post office after Mrs Misra and he is going to tell you that he has not had a problem with the computer system. It is the same system. Nothing has changed.

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He has not had a problem. Why should she? So you will hear evidence from him, and indeed when the defendant took over the premises in 2005 there would have been a full audit. You don't take over the premises not knowing what is there. Indeed the auditors found that there was a loss, £1.88, which had to be made good by the previous sub-

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postmaster before Mrs Misra took over. So it would appear there was no enormous problem when she took over and there was no enormous problem when a person took over from her. So you are perfectly entitled to say why should there just be a glitch when she is there? It is

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going to be a matter for you to consider when you consider all the evidence, but it is perhaps a sensible point to consider as at least a background factor, the oddity that it all just happens to her, the lady who falsified her accounts.

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Professor McLachlan is an eminent expert in the area of computers but his knowledge of the Horizon system is not as great as that of Gareth Jenkins who works for Fujitsu and has a much wider knowledge, and I am not saying that to say you should prefer Mr Jenkins over Professor McLachlan, but I think Professor McLachlan graciously

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acknowledges that Mr Jenkins has actually helped him a great deal in understanding the system. He is a computer expert, Professor McLachlan, but not in relation to Horizon. So every possible assistance as I understand it from Professor McLachlan provides reports and it is something that is suggested there.

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Professor McLachlan has looked at the case and he has looked at an enormous amount of data. I don't know when you hear from him if he is going to say he has seen all the things he wants to or not but he has looked at an enormous amount of data, half a million transactions over a thirteen month period, not for the whole period but there is no need to look at the whole period because if there is a problem it will remain. You are just looking for signs of a problem. In a report that has been disclosed to the prosecution he has come up with a number of theories as to what might have gone wrong, but that is all he has done I am afraid. You will hear the evidence from him and you will make up your mind about his theories, but as I understand it, and I bow to his expertise, he has been unable to uncover a scrap of evidence to support any of his theories.

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You of course judge the case on the evidence. All sorts of things are theoretically possible dealing with a computer, but Professor McLachlan has been looking and he has no doubt taken hours and hours to go through all this stuff and I am afraid he has not found a bean. He may well say his theories may still apply but there does not as the Crown understand it, and perhaps I will be corrected on this in due course when we hear the

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A evidence, there does not appear to be any evidence whatsoever to back up some of his theories.

B Mr Jenkins, you will hear from him first because the Crown witnesses go first, his view is that all the theories can be dismissed as either plain wrong based on a misunderstanding, and I think there is some acknowledgement from Professor McLachlan as to some errors he has perfectly naturally made, but the theories are either wrong and can be discounted or are clearly irrelevant and can be discounted.

C So Mr Jenkins' position, and he has analysed the data and corrected some figures of Professor McLachlan's, Mr Jenkins has looked at the theories, also looking is there any evidence for them and he has found none at all. So I anticipate you are going to hear a lot of detailed and impressive evidence from two experts but in relation to evidence of a computer glitch I anticipate you are going to hear that none has been found by either expert in relation to West Byfleet.

E I am not going to go through all the theories that have been suggested but that is the essential view of Mr Jenkins, and as I understand it, it is the view of Professor McLachlan although he may well say that his theories may still apply, that there is need for special caution, but I don't think he is suggesting he has found any evidence to back up the idea that these are anything other than theoretical ideas.

G One of his ideas is that transaction corrections may have played a part. I am just going to get technical for one moment. But let us take the money, for instance. When a pouch of money goes out from the post office it goes to a cash centre and somebody counts the money. If it is the wrong amount, £100 short, then a message is sent back after somebody has checked the money. It is sent back to the office saying "you are £100 short. Correct your accounts. It is a mistake. We have checked it. You can challenge it if you

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want. If you think we are wrong call up the helpline or challenge it and we will look at it but we want you to correct your accounts and you will have to make good the loss.” Sometimes you get the opposite. Sometimes you say “actually we owe you £200. Here is your correction notice. Take £200.” It works both ways.

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As I understand it, Professor McLachlan has an idea that these transaction corrections may have some role, that information coming from higher up the computer chain has somehow caused a problem at West Byfleet. But Mr Jenkins’ view about that is that is completely irrelevant and actually it is misunderstanding how the system works, because when you receive notification on the computer screen that a correction is required, it only takes place if you agree to it. So if the computer says “we owe you £200” you would probably agree to that pretty quickly but if it says “you owe us £500” you might want to check it and you can query it. You don’t have to accept it, and the sub-postmistress in this case has every opportunity in the world to check it is right because she can print out all the data. It is at her fingertips. So the Crown say that is not really a very sensible suggestion I am afraid, but you will have to judge it. That is the Crown’s view. You judge the case. It is a matter entirely for you.

There is also a suggestion that remittances may affect matters. Remittances are when money is sent to the post office or sent out, so there seems to be some suggestion that that could cause some computer glitch. The money is counted out. When the money arrives at the post office the sub-postmistress counts it out, so again the Crown say that is a complete misunderstanding of the practical realities, but it is going to be a matter for you to assess.

There is a theory about credit card transactions going wrong. It is a theory in fact that Mr Jenkins says might have something in it, but Mr Jenkins has actually analysed

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whether it happened. It is a theory. It might work in theory. Has it actually happened? He has looked at the data. In fact it has not happened. So it becomes completely irrelevant.

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Those are the sort of issues that are going to be raised by the expert. It is up to you what you make of them. There is one more I should say because, as I say, no computer system is perfect. There was in 2006 a problem at a post office in Falkirk in Scotland called Calendar Square and there was a problem there and information has been disclosed to the defence so they can look into that. It may be. Mr Jenkins says that does not apply here.

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Professor McLachlan says it does.

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The Crown say it does not because that problem, as I say, computer problems should be obvious to the user. That problem had very clear symptoms and there does not appear to be any evidence of those symptoms. There is certainly no call by the defendant to the helpline saying “what is happening to my computer?” So that again may be a theory but a completely irrelevant one. You are going to have judge that in due course.

E

The other stool that the defence appear to be relying upon – thefts by employees, computer glitch, incompetence – because of course if you make mistakes, if you keep on handing out the wrong change and you hand out too much change to people there is going to be a loss. You would have to hand out a lot of change to lose £75,000 of course, but you are going to have to assess the question of competence even if you decide that computer glitch is a complete red herring.

G

We wait to see what is going to be suggested by the defence on that and you will want to consider their suggestions very carefully indeed, but Seema Misra was a post-mistress for two years, seven months. She could not have run the shop unless she could use the Horizon system, and indeed the Horizon system is easy to use. It has been designed to be simple to use. It has been designed in fact so that people can use it who have no IT

H

A experience whatsoever. So of course mistakes can be made but you don't look at the issue in
a theoretical way, saying any mistake can happen. You are entitled to look at the defendant.
Is she so completely incompetent that she managed to lose £75,000? The Crown say no,
B because if something is going wrong in fact the sub-postmistress will do everything they
possibly can to find out what is going wrong. Normally you should be able to find out what
is going on because you can print out all the different records to say how many stamps
should be there and so forth.

C But on the Crown's understanding there is no evidence whatsoever in this case of
incompetence, and one thing you may want to bear in mind I am afraid is Seema Misra
D herself because when she applied for the post office position she submitted a CV. I think
there is a suggestion in one of Professor McLachlan's reports, he suggests you have got to
be careful about how people could use the equipment if their English isn't very good.
Maybe we will find out why he put that in the report in due course, but in fact Seema
E Misra's English would appear to be excellent because she has a degree in English from New
Delhi University. So it may be just one of those things that is said in a report that when you
think about it is a red herring, and I don't say that as a criticism of the Professor at all. He is
F looking at all the options, but sometimes you can exclude an option when you look at the
person.

G Some people are hopeless with computers. It does not appear Seema Misra was
because in addition to her BA in English she has a computer qualification. She has worked
as a computer programmer. She has worked as an assistant finance manager. She has
worked for the police, no doubt using the Police National Computer one assumes, and she
H has worked in a dental surgery as a receptionist which probably also requires some
competence in computers, and indeed she has actually programmed computers. That is all

A

information from her CV. Who knows if it is right or wrong? One imagines, one hopes it is right because it is her CV.

B

But if all those matters are right you are entitled to consider them when you consider the question of competence because you have to be wildly incompetent to lose £75,000. It is hard to imagine any way of doing it other than just losing a money bag full of that money. She appears a rather competent person, but you are going to have to judge when you look at all the evidence.

C

D

One other matter. You are going to hear some evidence from Mr Dunks tomorrow who has had the rather tedious exercise of going through all the calls to the helpline. If you have a computer problem you can call up the helpline. It is what you are supposed to do.

E

You are not supposed to try and rectify the problem yourself. You call the helpline. So he can give evidence on all sorts of things like the screen going blank and the printer not working, all sorts of very fascinating things like that, but he does not report any problem, any serious problem about the computer reported by Mrs Misra save for one, because as I understand it, it is going to be suggested that the defendant was frightened of reporting loss

F

of money because she might lose the sub-post office. But in fact there is one occasion in all the stream of information that Mr Dunks produces where she does say she is £6,000 down, nothing like the loss we are concerned with, but there are repeated calls about it. So it does

G

not appear in fact that she was reluctant to call the helpline. So if she was not reluctant to call the helpline it may suggest there was nothing going wrong at all and she didn't want to alert anybody to what was really going on, that she was stealing the money.

H

Members of the jury, that is all I propose to say by way of opening the case. I am sorry. It has probably taken rather longer than perhaps is comfortable. Your Honour, I do have witnesses here. There is one witness that could conceivably take a few minutes. I mean

- A** by that about five or ten minutes. If your Honour would wish me to proceed now with evidence I am very happy to do so and perhaps call ---
- JUDGE STEWART: It would save that witness having to come back another day, would it not?
- B** MR TATFORD: Precisely.
- JUDGE STEWART: Yes. Who is it?
- C** MR TATFORD: It is Mr Vasarmy. Does your Honour have a complete statement bundle?
- JUDGE STEWART: Yes, I have.
- MR TATFORD: His statement is at page 17.
- D** JUDGE STEWART: Members of the jury, the procedure is that I get copies of these statements that the witnesses have made in the past but I am afraid you don't. You have to listen to what they say and concentrate on that.
- E** MR VASARMY Sworn
Examined by MR TATFORD:
- Q. Your full name, please?
- A. Ripimprakash(?) Vasarmy.
- F** Q. Mr Vasarmy, it is quite a big courtroom and the jury are a long way away from you. When you give your evidence can you speak nice and loudly please?
- A. No problems.
- G** Q. Perhaps could I also ask you to keep your evidence at a slow pace? You will see his Honour and other people in court take a note of what you say. Mr Vasarmy, you took over as sub-postmaster at West Byfleet on 14th January 2008. Is that right?
- H** A. Yes.
- Q. When you took over were you sub-postmaster at any other post offices?

- A** A. At the time I was, yes. I was at Twickenham, Teddington, I think it was Walton on Thames. I had quite a few, so off the cuff those are the ones I can remember now.
- Q. All right. The post office at West Byfleet is situated in a shop. Is that right?
- B** A. That is right, yes.
- Q. And the shop is I think in Station Approach, so next to the train station?
- A. That is right.
- C** Q. What sort of shop is it attached to?
- A. Convenience store.
- Q. Who runs the convenience store?
- D** A. Seema Misra.
- Q. That is the defendant, Seema Misra?
- A. That is the defendant.
- E** Q. Does she run it together with her husband?
- A. Yes, she does.
- Q. Until you took over on 14th January Mrs Misra was the sub-postmistress?
- F** A. Yes.
- Q. So you took over running the post office while she carried on running the shop outside?
- G** A. That is right.
- Q. There are three counter positions at the office. Is that right?
- A. Yes, there is.
- H** Q. So three windows that customers can go to?
- A. That is right.
- Q. The office itself, how big is it?

- A**
- A. In terms of size?
- Q. Perhaps if you look where you are at the moment, can you demonstrate by using where you are with something in the courtroom to give an idea of the width of the room, please?
- B**
- A. Right. Basically I would say that section there where the green chairs are, that area would count as an office, not this side, that section there.
- C**
- Q. I see. So if we imagine that rectangular area where the green chairs are?
- A. Yeah.
- Q. Is that the approximate size of the office?
- A. Yeah.
- D**
- Q. So perhaps ---
- A. Then you have got the three counters. This would be the point for the counters and the counters would come out slightly.
- E**
- Q. So where would you put the windows?
- A. The windows would be about a metre away from there.
- Q. So a metre in front of the wooden wall?
- F**
- A. That is right.
- Q. All right. So using just approximate measurements, that would appear to be something like 4 metres by 6 or 7, something like that?
- G**
- A. 4 metres by 5, 6, yeah.
- Q. Thank you. So quite small?
- A. Yeah.
- H**
- Q. And there were three people working in there potentially at least?
- A. Two to three, yes.

- A** Q. Two to three. So is it always more than one or how does it work?
- A. In my case I always had two in there.
- Q. Right. Is it a particularly busy post office?
- B** A. Not really.
- Q. So it is not like one of those post offices where you have to queue up for hours?
- A. No.
- C** Q. No. The post office, you are not the sub-postmaster now. Is that right?
- A. I am not the sub-postmaster at West Byfleet but I still have other offices.
- Q. You still have other offices. But you took over on 14th January 2008?
- A. Yeah.
- D** Q. And remained sub-postmaster for how long, please?
- A. Two years.
- E** Q. The equipment that is used in the post office is based on a computer system called Horizon. Is that right?
- A. Yes, it is.
- F** Q. Did each counter position have their own terminal?
- A. Yes, they do.
- Q. How easy do you find to use the terminal?
- G** A. Very easy. You have got the icons.
- Q. The icons?
- A. Yeah, icons on the system, basically self-explanatory to tell you what to do.
- H** Q. Keep your voice up nice and loud. You may be assisted by looking directly at the jury otherwise we might get involved in a little chat together.
- A. Okay.

- A** Q. The post office you took over, there was Horizon equipment in it, was there?
- A. Yes, there was.
- Q. Was it the equipment that Mrs Misra had been using?
- B** A. Yes.
- Q. For how long did you continue with this equipment?
- A. Until Feb 2010 I think it was, February, March 2010.
- C** Q. Is it right that the Horizon system has recently been updated so equipment across all post offices has been changed?
- A. That is true, yes.
- D** Q. That was this year?
- A. Yes.
- Q. So you were using the equipment for just over two years?
- E** A. That is right, yes.
- Q. Were you aware of any problems with the workings of the computer system in that two year period?
- F** A. Not at all. I can recall no problems were ever reported to me by any of the staff at all.
- Q. Did you use the equipment yourself or were you just relying on what you were told by others?
- G** A. I used the equipment myself when I first went in to take over the office just to ensure that everything was correct and fine and I used it about a month or two before the office was handed over.
- H** Q. Is it right at the end of each month that there is a balance at the office ---
- A. Yes.

A

Q. --- where the records that Horizon keeps of how much money there is and how many travellers cheques and that sort of thing, they are checked against what is actually there?

B

A. Yes.

Q. Who would do that on a monthly basis?

A. We used to do it on a weekly basis rather than a monthly but we have a trading period which accounts for four weeks.

C

Q. So you did it on a weekly basis and also at the end of the month? Would that be right?

D

A. Yes.

Q. When you did it would you be present?

A. On some occasions I would be present.

E

Q. This is a weekly occurrence so over a hundred times a balance would take place in the time you had this Horizon system. Were you ever aware of any problem when the balance took place that suggested a computer problem of any kind?

F

A. Never.

Q. Of course computer problems can vary. Sometimes problems can be quite trivial. Were there any trivial problems?

G

A. The only trivial problems we had were with the printers but nothing with the actual base unit or the monitors.

Q. So what problems did you encounter?

H

A. Well, in the case when the printers were not printing properly, but apart from that there was only trivial problems which we got replaced and repaired.

Q. Were you aware of mistakes being made by your staff?

A

A. Yes, I was.

Q. How did you become aware of mistakes being made?

B

A. They would send me their balance on a weekly basis and I would question why they have such a balance. They would identify it from what they recall where the mistakes were made.

C

Q. The mistakes that you came across, what was their nature? Were they of a trivial kind or were they of a very serious kind?

A. Trivial kinds.

D

Q. Have you been given any reason whatsoever to question in your mind the reliability of the Horizon equipment at West Byfleet?

A. I don't have any questions in my mind about the system. I think the system worked perfectly for the period I was there.

E

MR TATFORD: Yes. Would you wait there, please?

Cross-examined by MR HADRILL:

F

Q. Mr Vasarmy, do you still own your sub-post office?

A. Yes, I do.

Q. How many do you still own?

A. I have three at the moment.

G

Q. So you have been a sub-post officer for how long?

A. About ten years.

H

Q. Ten years. In regard to a number of things, first of all training, it is your responsibility to train your cashiers?

A. Yes, it is.

Q. And if not satisfied with their competence you re-train them again?

- A** A. Yes, I do.
- Q. Or sack them?
- A. Mmm mm.
- B** Q. You would assess to your standard as to whether they are satisfactory cashiers to operate this computer system or not?
- A. Yes.
- C** Q. And if they have failings and they make failings by operating the system you would correct it?
- A. Sorry. Can you repeat that?
- D** Q. If there were failings by them in operating the system you would correct it?
- A. I would not correct it. I would show them what and how things have gone wrong and identify the situation.
- E** Q. Because you would consider yourself very competent to understand the post office system and trading. Yes?
- A. Yes.
- F** Q. And able to identify small and large mistakes?
- A. Yes.
- Q. Because at the end of the day whatever short in the till at the end of the trading month has to be made up out of the pocket of the sub-postmaster?
- G** A. That is true.
- Q. Whether it be £5 or £5,000, the shortfall has to be made up by the sub-postmaster?
- H** A. That is true.
- Q. Because if you don't you cannot operate?

A

A. That is true.

Q. Horizon's system is switched off and you cannot trade?

A. No.

B

Q. To buy a sub-post office as a member of the public is an expensive thing? Yes?

A. It is.

Q. So at the end of each week you would be concerned in your business acumen to ensure that the books are balancing?

C

A. Yeah.

Q. And if there were any mistakes you didn't put it down to theft, did you? You just told them it was a mistake, that is the member of staff?

D

A. No. That is not quite true.

Q. The members of staff had to make up the losses themselves?

A. Yes. We would speak about any losses.

E

Q. Yes. So if there is a couple of hundred pounds or several hundred pounds short the cashier would have to make up the loss themselves. You were not going to suffer it, were you?

F

A. I have in the past, yes.

Q. But certainly losses were suffered by the cashiers who had to make good whilst you employed them?

G

A. Not necessarily.

Q. But it did, didn't it?

A. Not all the times.

H

Q. Because we have a situation where this post office in West Byfleet, you have the franchise and you are running the post office within a convenience store and the

A

convenience store from 14th January 08 is being run by Mrs Misra, the defendant, and her husband. You would employ your staff behind the screen at the rear of the shop. I know you say it is not a busy post office. A post office is like a mini-bank, isn't it?

B

A. If you were to classify it, yes.

Q. Yes, and even for your post office which isn't very busy the turnover for the month would be several million pounds?

C

A. If you look on the size of the office rather than a figure, I have an office which is twice the size of West Byfleet and that is not several million pounds.

Q. We have got the figures. It is several million pounds a month turnover, isn't it?

D

A. Yeah, okay.

Q. So we are talking about large sums?

A. Okay.

E

Q. In regard to concerns of Horizon failings, if equipment fails, the printer, you phone a helpline and that takes you to Fujitsu, does it not?

A. That is right, yes.

F

Q. Because Fujitsu run the hardware, the computer system itself. Yes?

A. Yes.

Q. If you have financial problems or concerns you phone Chesterfield?

G

A. Yes, we would do.

Q. Yes. So there is the division. Fujitsu runs the hardware and if you have worries about transaction problems you phone another number which is Chesterfield?

H

A. Yes.

A Q. Because if I can explain the difference, what happens is Fujitsu runs the computer system. They install it. They have the contract. They provide the equipment and so on and so forth and the engineers. Yes?

B A. That is true.

Q. But the people concerned with the money are the Post Office?

A. That is right.

C Q. They send the van to collect the cash and to deliver cash?

A. Yes.

Q. Stamps, foreign exchange in regard to transactions with bonds and so on and so forth. Yes?

D A. That is true.

Q. So all the information from your computer would be going through Fujitsu and then streamed off to Chesterfield which is the financial centre?

E A. Yeah.

Q. If there is an error correction it will flash up on your screen, will it not? If there is an error to be corrected it will flash up on your screen. Supposing this. Supposing you have taken a cheque and paid over £100, yes?

F A. Okay.

Q. And you enter the cheque as £1,000. Yes?

G A. Yes.

Q. At some stage a week later, whichever is the issuing bank, Barclays, HSBC or whatever, will write to or communicate with the Post Office and say "it is not a thousand. It is £100." Yes?

H A. That is true.

- A** Q. So the Post Office or the head Post Office at Chesterfield will flash through a message saying "we are correcting your balance. You owe us 900 quid?"
- A. May I just add something on there?
- B** Q. Yes.
- A. When you enter a cheque up under a pound on the system and accidentally put in a thousand pounds the difference of £900 will be shown as a gain on the system.
- C** Q. Yes, it should be.
- A. It does.
- Q. On your system it shows as a gain. I am just giving an example.
- D** A. Yeah, that is right, so it will balance itself out, so you should be holding a £900 gain on your system, so when the error notice comes through from Chesterfield it compensates that.
- E** Q. We are going to hear from the experts. This is what you are ---
- A. Okay.
- Q. But what that relies upon is somebody manually inputting information at Chesterfield, does it not?
- F** A. It is from the aspects that you are talking, but there are stages to go through in the office.
- G** Q. We are going to hear from the experts. I am just asking you.
- A. Okay.
- Q. But error notices will flash up on the screen with a telephone number you should phone?
- H** A. Yes.

A

Q. The other problem often is that the Horizon system does not, as it were, when you carry out a transaction it does not give you a paper voucher so you can add these up to collect all your figures at the end of the day, does it?

B

A. No.

Q. So you have to rely upon the computer doing its calculations, additions and subtractions to the exact penny of being correct?

C

A. That is true.

Q. Because you have got no paperwork in any shape or form to challenge the Horizon system?

D

A. Not true.

Q. We will come to the experts in a second. So at the end of the day the computer comes up with a figure you should have in the till?

E

A. Yes.

Q. If you have not got it you pay it, the difference?

A. Yes.

F

Q. And if you have not paid it you lose your post office?

A. If it goes that little line, yes.

Q. You rely totally upon the quality of the training of the staff you employ to get it right ---

G

A. Yes.

Q. --- otherwise there are shortfalls?

H

A. Mmm.

MR HADRILL: Thank you.

Re-examined by MR TATFORD:

A

Q. I am going to ask you some questions that you perhaps cut off a little bit because we are going to hear from experts, but you of course have run this post office for two years so I want to ask about your understanding of how the system works on a practical level.

B

First of all, to use the example, let us say you receive a transaction notice from Chesterfield saying "your records say this was a £50 cheque. In fact it is a £500 cheque." If that sort of error comes up and say that it is an error that means they want you to pay money, do you have to accept it or can you do anything to check whether they have got it right?

C

A. You can check the whole transaction with Chesterfield, ask them for information so you know exactly what the error notice is for.

D

Q. So can you get the date and time of the transaction?

A. You can get everything on the transaction, yes.

E

Q. So if you are told that "we want money back from you in relation to a transaction that took place at 1.59 on 9th January", something like that, with that information are you able to make checks in your records to see whether the correction is justified or not?

A. Yes, you are.

F

Q. And would you do that?

A. Yes, I would.

G

Q. So when you in your experience receive a transaction correction do you assume it is right or do you check it?

H

A. I check it against the records I have on the computer system. I would print it off and see if it is justifiable because if a cheque is gone through for £50 then I should have £4,950 in the office which would compensate it, in which case I would be rightly accepting it.

A

Q. On the other hand, if Chesterfield have got it wrong are you able, using the computer system yourself, to show that they have got it wrong?

A. Yes, we are.

B

Q. How would you do that?

A. In the same manner. We would print it off and go back to Chesterfield saying that they have issued the wrong error notice. If we take the same example of £50 and they are sending me a credit note for £4,950 instead of an invoice for £4,950, because I have got a gain in the office.

C

Q. You were asked about training your staff and the need to train your staff so they don't make mistakes. So how important to you has training your staff been?

D

A. It is very important to train the staff with regards to the product knowledge and the use of the computer system. The transactional process is actually the errors are made when you are actually taking and exchanging money with the customers. Those are the transactional errors you can make. But as far as the system is concerned and with the number of offices I have you can actually see whether the system is working right or not.

E

Q. So if something has gone wrong are you able to trace in the normal circumstances what has gone wrong?

F

A. Yes, I have been.

Q. So if your office is down £500 at the end of the month are you able using the Horizon system to get to the bottom of it?

G

A. I am, with speaking to the staff and the person in question, the clerk in question, yes, I am.

H

A

Q. You were asked about turnover and again I am asking you questions about your own experience at West Byfleet. In a normal week at West Byfleet what approximately would the turnover be from your experience?

B

A. I would guess in the region of about 20,000 maybe a month.

Q. Can I ask you another question about your experience of West Byfleet? How much money would you tend to have in the office overnight, just approximately?

C

A. Yeah. We would never have more than, including the coins which would amount to about £5,000, I would say no more than £10,000 at any one time.

Q. Why is that?

D

A. Because we never used to have too many change orders going through the office and it is a self-sufficient office so it does not need to hold too much cash.

E

Q. You say it is a self-sufficient office that does not need to hold too much cash. In the time of your experience, I am only asking about the two years you have been in charge, has the demand of the shop changed at all or has it remained pretty much the same?

A. It remained pretty much the same.

F

MR TATFORD: Does your Honour have any questions for the witness?

JUDGE STEWART: No, thank you.

MR TATFORD: Might he be released then, please?

G

JUDGE STEWART: Yes. If you have had to hang around all day I am terribly sorry about that but at least you are finished now. That is it for today. Thank you.

A. That is fine. Thank you, your Honour.

H

(witness withdrew)

MR TATFORD: Your Honour, would that be a convenient moment to adjourn?

JUDGE STEWART: Yes, certainly. 10.15 tomorrow then, please. (Court adjourned)