POL00294518

POST OFFICE LTD – CASE REVIEW

R –v- PETER HUXHAM

Exeter Crown Court

PRE-HORIZON ON-LINE CASE

Offence and Case History

1. On the 29th March 2010 at the Exeter Crown Court before HHJ Wassall, this defendant was sentenced to 8 months imprisonment. The single charge of Fraud by misrepresentation contrary to section 1 of the Fraud Act 2006 alleged that between 1st October 2008 and the 29th September 2009 he made false representations in Final Trading Accounts for Starcross Post Office amounting to £16,158.56.

2. The defendant was summonsed and appeared at Torquay Magistrates Court on 3rd March 2010. He pleaded guilty and the magistrates committed him for sentence to the Exeter Crown Court where he appeared on the 29th March 2010. On that date the learned judge held a 'mini-Newton' hearing with the defendant giving evidence on oath. The defendant had maintained throughout the case that he did not take the money and knew nothing about where it went. The judge disbelieved the defendant and sentenced him as in paragraph 1 above.

Prosecution case

3. On 29th September 2009 Post Office Network Auditors attended Starcross Post Office to conduct a verification of assets on hand. At the commencement of the audit the defendant told the lead auditor that the accounts would be about £15,000 short. He said that it started at about £2,000 two years ago and has risen each month and that he had been covering up the loss each month, but that he had not taken any of the

POL00294518

money. He suggested that a member of staff might be responsible. The audit was completed and a total deficiency of £16,158.56 was reported, made up of

(1) £16,056.28 cash deficiency

(2) £102.28 stock deficiency

4. The officer went with the defendant to his private accommodation and he maintained he had not taken the money and that he had made an appointment with the police to report the loss. He was upset and shaken and referred to his wife divorcing him. However, he was fully co-operative.

5. The defendant was interviewed under caution on 22nd October and 25th November 2009. He said as follows:

- He had worked since April 1994 at Starcross, from 0400 – 1800 hours, with his wife also working in the post office.
- he never did the daily cash declarations but would accept the previous day's figures.
- The only time he would know of a deficiency was when he was completing the monthly trading statement.
- small losses started occurring from about 18 months previously which he would repay from his business (the newsagents attached to Starcross which he also owned) but that the losses continued to increase.
- He told his wife in October 2008.
- All trading statements from October 2008 would show false balances.
- His children would enter the Post Office from time to time and there was also a part time worker but she did not have access.
- He continued to deny taking the money but admitted covering up the shortfall.

POL00294518

6. The defendant's wife was also interviewed and also denied taking the money. She was concerned about the amount the defendant was spending GRO but did not think this is where the money was going. She said that he only told her about the accounting shortfall a couple of months previously.

<u>Defence case</u>

7. The defendant pleaded guilty but at his committal for sentence hearing, HHJ Wassall indicated that he would sentence the defendant on the basis that he must have taken the money unless he established his basis that he knew nothing about where the money went. There is some indication on counsel's back sheet endorsement that the defendant stated on oath that his wife took the money. The judge found that he did not believe that.

8. The defendant paid back the £16,158.56 in full.

9. When the auditors arrived they found that the premises were in disarray and there were a number of uncollected postal packets found at the office, one dating back over 4 years.

<u>Discussion</u>

10. This is an unexplained loss case where the defendant states that he was covering up losses that had occurred for reasons outwith his knowledge. There is no danger of the defendant's conviction being found to be unsafe as he has admitted his guilt from the very first but he has been adamant that he did not take the money to the point of fighting and losing a "Newton hearing". His explanations as to the possible loss relate to possible thefts either by a member of staff or, seemingly, at the "Newton" hearing, his wife may well have been modified into an attack on the Horizon system had he but had the material to mount it.

POL00294518

11. I doubt that an Appeal against Sentence will be mounted after any disclosure that we might make in this case as the sentence has been long served. The reality is that the Second Sight Interim Review deals in the main with Horizon on Line, the system that superseded Mr Huxham's system but it did deal with pre Horizon on Line issues and in my view had we had the material contained in the Second Sight Interim Report at the time of the Newton Hearing we would have served it on the defence.

Conclusion

12. In my view had we had the material contained in the Second Sight Interim Report at the time of the Newton Hearing we would have served it on the defence. Those instructed by Mr. Huxham should be written to in order to make disclosure of the material contained in the Second Sight Interim Report.

__Harry Bowyer **4th September 2014**

BARRISTER

CARTWRIGHT KING SOLICITORS