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ROYAL MAIL GROUP (POST OFFICE LTD) – CASE REVIEW

R. v Rabina Shaheen

Shrewsbury Magistrates Court and Shrewsbury Crown Court

Offence and Case history

1. On the 17th December 2010 Rabina Shaheen was sentenced, at Shrewsbury Crown Court to 12 months imprisonment for an offence of Fraud by False Representation to the value of £43,269.10. No costs were awarded.

2. The defendant first appeared at Shrewsbury Magistrates Court on the 26th February 2010. The case was adjourned to 23rd April 2010 for committal. The PCMH was listed on the 7th June 2010. Not Guilty pleas were entered to both counts on the indictment (Theft and False Accounting).

3. A Defence Statement was served on the 2nd November 2010. In it the defendant denied stealing the money. She could not account for the shortage. Her husband had use of her log in code for Horizon to assist her when necessary. He also had control of their bank account.

4. The case was listed was listed for trial on the 22nd November 2010 where the defendant pleaded guilty to Count 2 of the indictment on the basis that the defendant was aware that monies had been abstracted and concealed the fact but did not steal the monies.

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Prosecution case

5. The defendant, Rabina Shaheen, was during the relevant period the sub postmistress at Greenfields Sub Post Office, Shrewsbury.

6. On 3rd September 2009 auditors attended the Greenfields Sub Post Office to verify financial assets due to the Post Office Ltd and confirm compliance with a range of business protocols.

7. On the date of the audit, 3rd September 2011, the auditor found a total shortage of £43,269.10 made up as follows:

   - £43,093.79 (-) identified as a difference in cash figures
   - £175.14 (-)identified as a difference in stock figures
   - £0.17 (-) Discrepancy as per office snapshot
   - £43,093.79 (-) Total shortage.

8. Whilst the auditor became aware that there was going to be a cash shortage he asked Ms Shaheen about the shortage of cash and also the fact that her declaration of the previous night did not resemble the cash in the Post Office.

9. Ms Shaheen said that when her remittances were delivered the auto settlement had been booking in the incorrect cash. She said that she had been in contact with the helpline on a few occasions about the problem. She was able to produce one reference from the calls made. She said that she had been making incorrect declarations for the last 6 months. She would make up the figures each night to make the cash appear correct.

10. Ms Shaheen in her interviews, conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice, on the 10th September 2010, said that:
    - That she had been sub postmistress since August 2006
    - Her user ID is RSH001 which her husband also uses. He knows her password.

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- She does the cash declarations and Branch Trading Statements
- She thought that she had made a mistake. She phoned her helpline to ask for a BDM or trainer to come and ascertain the error that caused the loss.
- She discovered the error some 6 months before.
- She had backtracked the figures and the error on the REM sheets.
- She produced a sheet of REMs (Item 1) that she queried between February to September 2008.
- She admits that she did not contact the helpline when her figures were first out and on the second occasion she put £2,300 in which she got from family and friends.
- On the third occasion she wanted to contact the DM but no one would release his name.
- She confirmed that she had inflated the figures from this point forth.
- Put to her that she was £41,000 short in September 2008 and had had no discrepancies since.
- She denies taking the money and says that Horizon has gone funny with the figures.

11. She was re interviewed on 13th October 2010. The defendant produced a typed schedule of the 2008 figures (Item 2). She said that:
    - The Horizon system had been adding the figures.
    - She had not taken the money

Defence case

12. In interview the defendant accepted false accounting to cover losses. She denied stealing the money but admitted concealing the losses as she was liable for the losses.

13. There is a straight forward attack on the Horizon System in that it is suggested that the Horizon system itself had generated the losses.

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Discussion

14. This case pleaded out on the defendant's own basis of plea but the Judge gave her an immediate term of imprisonment on the basis that the offence had taken place over a period of time and she had a responsibility to safeguard public money. The Judge also added that the loss had increased as a result of her dishonesty.

15. The defendant maintained her position to the day of trial that the system itself had generated the figures. It is clear from the defence statement that anything that undermined our position in relation to the Horizon system would have been disclosable to the defence both because it undermined our case and might have supported the defence case.

16. It is my view that had we been in possession of the Second Sight Interim Report at the relevant stage of these proceedings we would have disclosed it.

Potential Appeal

17. It is not within the remit of this advice to deal with all potential avenues of appeal in this case but the fact remains that the defendant has admitted false accounting in interview which is the count to which she pleaded. It is possible that she could have fielded some type of lack of dishonesty defence had she known of the imputations cast on Horizon by the Second Sight Interim Report. I doubt that there is enough there for the Court of Appeal to conclude that the conviction by guilty plea was unsafe.

18. It may be that the court might be swayed by an argument that as the figures from Horizon may not be reliable the Learned Judge should not have sentenced on the basis that the losses increased owing to her dishonesty. Again I doubt that this argument will make much headway - a sentence of imprisonment was inevitable and she was specifically not sentenced on the basis that she had taken the money.

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Conclusion

19. This is a case in which, had we been possessed of the material at the relevant time, we would have disclosed to the defence the matters identified in the Second Sight Interim report. Defence solicitors should be written to accordingly.

Harry Bowyer **18th March 2014**
Barrister
Cartwright King Solicitors