

**POST OFFICE LTD – CASE REVIEW**

**R –v- SENAPATHY PONNAMPALAM NARENTHIRAN**

**Kingston Crown Court (Inner London Crown Court)**

**PRE-HORIZON ON-LINE CASE**

**Offence and Case History**

1. On the 3<sup>rd</sup> February 2009 at the Kingston Crown Court before Mr Recorder Gerald (Now HHJ Gerald), this defendant was sentenced to 3 years imprisonment. He was charged on an indictment containing 4 counts:
  - a) Theft of £75,000 belonging to Post Office Limited on or before 29<sup>th</sup> March 2006;
  - b) Theft of £49,211.52 belonging to Post Office Limited on or before 1<sup>st</sup> April 2006;
  - c) Theft of £50,000 belonging to Post Office Limited on or before 5<sup>th</sup> April 2006;
  - d) Theft of £31,556.14 belonging to Post Office Limited on or before 10<sup>th</sup> April 2006.
2. During the POCA proceedings at the Inner London Crown Court on the 10<sup>th</sup> September 2010, it was agreed that the benefit obtained from criminal conduct was £210,339.24. A nominal confiscation order of £1 was made with 7 days imprisonment in default.

3. The defendant was summonsed and appeared before the South Western Magistrates Court on 29<sup>th</sup> January 2007. The magistrates declined jurisdiction and he was committed to the Kingston Crown Court for a Plea and Case Management hearing on the 25<sup>th</sup> March 2007.
4. On that date he pleaded not guilty to the 4 counts of the indictment and the trial was put in the warned list of 17<sup>th</sup> September 2007. However, it was not tried until 5<sup>th</sup> January 2009 for various reasons, partly because the defence were instructing a forensic accountant and the accountant was asking for weekly transaction statements held by Fujitsu. The trial resulted in a unanimous guilty verdict on all counts.

### **Prosecution case**

5. The defendant was born on GRO and was aged 51. He was sub-postmaster at Orford Road Sub Post Office in Walthamstow from May 2002 to 10<sup>th</sup> April 2006. On 10<sup>th</sup> April 2006 officers arrived at 0820 hours to perform an audit and introduced themselves to the defendant. Before they started the defendant told them that he had a number of pouches that he had claimed on his office account as outwards remittances (cash in pouches). He was asked how much money was involved and he replied "about £200,000". He was asked where the money was and what he had used it for. He said he had "used it for my own purposes for stock in my shops". He either wrote or signed a statement as follows:

6. "I Senapathy Ponnampalam Narenthiran of **GRO** **GRO** has taken out nearly 200K from the Post Office and used for my own purposes such as for stocking for my stores and others and I covered by declaring false figures on my cash declarations every day and also cash in pouches and actually not send or any money in there".
7. The audit resulted in a total shortage of £205,767.66.
8. The defendant was suspended from duty and enquired as to how long the suspension would last. He was informed that it was unlikely he would be reinstated and that he should think about how he was going to repay the money, to which he said "I will not be able to pay the money back straight away. I will have to sell a couple of my houses first".
9. The defendant was interviewed under caution on 10<sup>th</sup> April 2006. He said as follows:
- He earned £3800 per month as a sub postmaster;
  - His wife owned the YALNAS businesses, the shop connected with Orford Road Post Office and 2 other businesses
  - His wife would cover at the Post Office for his lunch breaks
  - They both had their own log on names for the terminal
  - He declined to comment on the findings in the audit;
10. The defendant was further interviewed on 4<sup>th</sup> July 2006. He made no comment to questions asked on this occasion.

**Defence case**

11. The defendant served a defence statement by letter dated 26<sup>th</sup> April 2007 which states: "The defendant received a telephone call telling him that money waiting to be sent out of the Post Office in pouches was to be re-credited in the accounts for insurance purposes. The effect of this was to make it appear that a corresponding sum of money was at Orford Road Post Office, despite its having been removed in the usual way. As a consequence the Defendant found that his accounts were showing Orford Road Post Office to be in possession of far more cash than was in fact the case. Further it may be that the electronic system at Orford Road Post Office failed to make accounting deductions of the amounts of money in the pouches in the first place. That is why he was unable to fill the pouches with the cash demanded. It was simply that he did not have it, not that he had stolen it."

12. The defendant served a further defence case statement dated 21<sup>st</sup> April 2008 in which he denied stealing any money from the Post Office. He said that he received a telephone call telling him that money sent out of the Post Office in pouches was to be re-credited in the accounts. In order to correct the accounts, the following day he would make up an empty pouch for a corresponding sum and scan that into the system. The effect of this was to make it appear that a corresponding sum of money was at Orford, The defendant further said that before he received the telephone call, he did send a sum of £18,000 to the Post Office cash centre, but it went missing. He claimed he repaid it by putting cash in the pouch and not scanning it on the system. Regarding the rest of the money, he did not steal it.

13. At his trial, the defendant unsuccessfully sought to argue against the admissibility of his written admissions to the auditors.

14. His evidence at trial was that he was following an instruction from the Office in Leeds who said that the money in the pouches should be reversed back for insurance purposes. This had gone on for some time and he had not spoken to anyone about it

### **Discussion**

15. At a mention hearing on 13<sup>th</sup> June 2008, the defence sought a 3<sup>rd</sup> party summons to obtain the weekly transaction reports (WTRs) from Fujitsu – but the relevance of this was questioned, as the defendant did not dispute making false entries onto the system.

16. The defendant also signed a statement making what looks like full and frank admissions to ‘taking out nearly 200K from the Post Office’. He sought to argue against the admissibility of this statement at his trial but this was refused by the trial judge.

17. I have had sight of a defence expert report from a forensic accountant which does not really assist. His instructions were to examine the financial paperwork that existed and comment on whether the cash surpluses arising in the Post Office were greater or less than the sums remitted to the cash

centre. He was unable to “rebuild” the accounts on the information that he was given and therefore unable to say whether or not there was a £206,000 loss.

18. In my view had we been in possession of the Second Sight Interim Report during these proceedings we would have made disclosure of some of the matters contained therein. The Second Sight Interim Report deals largely with Horizon on Line, the system that replaced the system that the defendant was using but it did deal with pre Horizon on Line issues. The first defence statement in this case directly questioned “the electronic system at Orford Road Post Office.”

19. I would sincerely doubt that the defendant would get anywhere near mounting a successful appeal against either conviction or sentence based on the issues contained in the Second Sight Interim Report as his admissions to the auditors are damning and his explanation about being instructed to reverse the money from the pouches back into the system is absurd but it is my view that as we would have disclosed the material at the time had we had it we should make such disclosure now in order that he and his legal advisors can take stock of it.

### **Conclusion**

20. This is a case where disclosure should be made of the issues contained within the Second Sight Interim Report.

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**Harry Bowyer**

**8<sup>th</sup> September 2014**

**BARRISTER - CARTWRIGHT KING SOLICITORS**