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POST OFFICE LTD – CASE REVIEW

R –v- SUNIL PATEL

CANTERBURY CROWN COURT

Offence and Case History

1. On the 6th April 2010 at the Canterbury Crown Court before HHJ O'Sullivan, this defendant was sentenced to 15 months imprisonment. He was charged on an indictment containing 4 counts:
    i. Theft of £47,920.22 belonging to Post Office Limited;
    ii. False accounting on or about 9th April 2008 in that he falsified a Final Branch Trading Account for St Mary's Bay Sub Post Office for the period ending 9th April 2008;
    iii. False accounting on or about 10th December 2008 falsified a Final Branch Trading Account for the period ending 10th December 2008;
    iv. False accounting on or about 12th August 2009 falsified a Final Branch Trading Account for the period ending 12th August 2009.

2. No confiscation order was made as the defendant repaid £15,000 on or before 15th January 2010 and the remaining amount (including RPI increase) of £33,456.32 was repaid in full on or about 23rd April 2010.

3. The defendant was born on the GRO and was aged 47. He was summonsed and appeared before the Folkestone Magistrates Court on 7th December 2009. The magistrates declined jurisdiction and he was committed to the Canterbury Crown Court on the 1st February 2010 for a Plea and Case Management Hearing on the 8th March 2010.

4. On the 8th March 2010 he pleaded guilty to Counts 2, 3 and 4 of the indictment (the False Accounting counts) but not guilty to Theft (Count

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1). These pleas were acceptable to the prosecution and the case was adjourned for sentence to 6th April 2010 when he was sentenced as outlined in paragraph 1 above. A confiscation hearing was listed for 2nd July 2010 and the section 18 prosecution statement was served and a POCA timetable set. Payment in full of the balance was then made by the defendant in April of the outstanding amount. Solicitors for the Post Office notified the court but the defendant was still produced on the 2nd July. In the event the confiscation proceedings were not proceeded with.

Prosecution case

5. The defendant had been employed by St Mary's Bay Post Office since October 2005 as a sub-postmaster. On 26th August 2009 officers arrived at 0820 hours to perform an audit. At 0855 hours a preliminary cash check revealed that the branch was approximately £50,000 short. The defendant arrived at 0910. He was invited to do an independent count of all the cash on hand but declined and said he would accept the audit. He made the following admissions:

   "It started with approx. £8K of shortages due to errors made processing Alliance and Leicester business deposits. Not at the office but at processing at Alliance and Leicester. Then got into some financial difficulty. Whenever there was a shortage, I would make a deposit into my Alliance and Leicester Account through Horizon to cover it but not actually put the money into the till. This shortage is cumulative over approx one year. There were also other customers' Alliance and Leicester deposits that were processed but somehow caused shortages".

   The audit resulted in a shortage of £47,920.22.

   A spreadsheet of all deposits made to the defendant's Alliance and Leicester account was prepared between 3rd March 2009 and 25th August 2009.

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6. The defendant was interviewed under caution on 1st September 2009. He said as follows:
   i. In February or March 2008 a local business customer said she had made 2 deposits totalling £8,000 into her Alliance and Leicester Account;
   ii. Both the deposits were entered onto HORIZON and she had date stamped receipts. However, the money was not in the system.
   iii. As she had receipts he had to make good the £8,000, leaving the till £8,000 short;
   iv. He inflated the cash in hand figure to cover the shortage
   v. He got into financial difficulties consisting of arrears in his mortgage payments for the Post Office;
   vi. Around April 2008 he started to put Post Office cash into his A and L account so that he could pay standing orders and direct debits;
   vii. The way he would take the money would be, for example, if he had £1,800 in direct debits and only had £1,500 in the account he would enter £1,800 on the HORIZON making a shortfall of £300.
   viii. He would do this weekly. The majority of the deposits were done on Tuesdays as the payments came out of his account on Wednesdays;
   ix. He used the shop takings to pay staff wages and bills rather than paying the shop takings into his A and L account;
   x. He would log on under staff member's user identifications;
   xi. He could not obtain loans as his credit history 'was not good enough'
   xii. He did not speak to anyone at the Post Office personnel about his financial position or obtain permission to use Post office funds.
   xiii. He confirmed that between April 2008 and December 2008 he would have used approximately £17,000 of Post office funds;
   xiv. He was shown the spreadsheet mentioned at the end of paragraph 3 above and said that in 2009 his financial situation worsened as a tenant on his buy to let property failed to pay his rent;
   xv. £40,000 was paid into his A and L account by him;
   xvi. A lot of the shortage in the audit was because he paid Post Office funds into his own account.

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xvii. He required £8,000 per month to cover his outgoings.

xviii. He was shown trading statements for 5th March – 9th April 2008, 12th November – 10th December 2008 and 8th July – 12th August 2009 and confirmed that all those Final Trading statements were false accounts;

xix. He had been false accounting since 5th March 2008 until the audit on 26th August 2009.

Defence case

7. The defendant pleaded guilty to the 3 counts of false accounting at his plea and case management hearing. In his interview he accepted that £40,000 of the £47,920.22 shortfall was paid into his own account for his own use and the spreadsheet of his bank account was available showing the payments in. I can find no record of his contesting the amount averred in the indictment, apart from a document headed "Schedule of Sensitive Material", where the officer in the case, Natasha Bernard, refers to the defendant supplying her with an article relating to the integrity of the HORIZON system, with an accompanying letter from the defendant.

Discussion

8. The defendant raised, by inference, what he would call an 'error' in the workings of the HORIZON system when he made reference to the 'disappearance' of £8,000 deposited by a business customer in his interview under caution. The interviewing officer pointed out that, had £8,000 been deposited but not entered onto the system, the Post office till should have shown an £8,000 surplus.

9. This is a case where the defendant was lucky that the Crown accepted the pleas that they did. His admissions in interview were easily sufficient to mount a strong case on the Theft count. He admitted false accounting over

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17 months in interview. I cannot see how any disclosure of the issues in raised in the Second Sight Interim Report could assist in the mounting of an appeal against either sentence or conviction. In this case we would not have disclosed the material had we had it at the time as the defendant had pleaded guilty at the PCMH before any defence statement was served.

Conclusion

7. In this case I can see no requirement to disclose anything to this defendant's lawyers.

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HARRY BOWYER **3rd September 2014**

BARRISTER

CARTWRIGHT KING SOLICITORS