

**ROYAL MAIL GROUP (POST OFFICE LTD) – CASE REVIEW**

**R. v Nicholas James Clark**

**Scunthorpe Magistrates Court and Grimsby Crown Court**

**Offence and Case history**

1. On the 24<sup>th</sup> February 2010 Nicholas Clark was sentenced, at Grimsby Crown Court to 6 months imprisonment suspended for 2 years with a 220 hour unpaid work requirement for 7 offences of False Accounting to the value of £7694.49. £250 costs were awarded.
2. This plea was entered on a written basis between 3<sup>rd</sup> September 2008 and 4<sup>th</sup> March 2009 that there were shortfalls in the cash on hand. He falsified the accounts to give himself more time in the hope that the shortfall might balance. At item 5 on the basis he says, “I paid in approximately £500 odd pounds towards the shortfall but then finding myself short of funds to pay my 2 bills took most of the money back to pay my bills. This was also in breach of contract.”
3. He had appeared at Scunthorpe Magistrates Court on the 12<sup>th</sup> August 2009 and had provided a basis of plea which contained a denial that he had taken the missing cash.
4. The PCMH took place at Grimsby Crown Court on 7<sup>th</sup> December 2009 and Mr Clark entered not guilty pleas to the single count of theft and all 7 counts of false accounting.

5. On 24<sup>th</sup> February, when the matter was listed for trial, Mr Clark entered his pleas and was sentenced as above.

**Prosecution case**

6. The defendant, Nicholas Clark, was during the relevant period the sub postmaster at Barrow on Humber Sub Post Office.
7. On 10<sup>th</sup> March 2009 auditors attended the Barrow on Humber Sub Post Office to verify financial assets due to the Post Office Ltd and confirm compliance with a range of business protocols.
8. On the date of the audit, 10<sup>th</sup> March 2009, the auditor found a total shortage of £7,694.49 made up from shortages in the ATM machine and Stock Unit AA
9. Mr Clark initially told the auditors that he did not know how the losses had occurred but when his mother left he told the auditors that he knew of the shortage in the ATM but not Stock Unit AA. He said that his parents were unaware of the situation. He told the auditor that he had been taking money in November 2008 but had every intention of paying it back.
10. He signed a note which read, "I owe the Post Office £7,000 and have always intended to pay it back but one thing or another has stopped me from doing so in time Started in November 2008. I tried to get a loan to pay it off but was refused."
11. Mr Clark in his interviews, conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice, on the 17<sup>th</sup> March 2009, handed in a prepared statement which said that he was owed money. He tried to sort out the loss with each balance but it got out of hand. The Post Office was popular with their clients. He had let POL, his clients and his family down.

12. He then said:

- That he had had a “bad balance” in 2008.
- It was £2-300 but never got to £1000
- By November 2008 it had reached £7,000
- At 21.12 Officer, “So at some point did you actually physically start taking money out to support?”
- NC, “I didn’t it wasn’t like, well it wasn’t like I took the money out like that. I’d just, like I say I always thought I could sort it out.
- Officer, “Did you take it out to just tide you over for a bit just to fill a gap?”
- NC, “Well obviously ‘cos I’m a sub postmaster I pay as many bills as I can at the Post Office and I was just, I had all these bills coming in and I pay ‘em at the Post Office and I just thought you know like I say I just thought I could.”
- Officer, “Personal bills?”
- NC states that he was not in a position to pay the money back and was caught in a vicious circle.
- Lyn would take wages in cash and he would cover it on his cash card but sometimes he would forget.
- NC admits to paying his bills with the intention of putting the money later before the balance.
- On one occasion he repaid £500 but was short again by the end of the month

### **Defence case**

13. In interview the defendant accepted false accounting to cover losses. He admitted paying his staff with Post Office funds and paying his bills through the Post Office and failing to put the money in before the balance.

14. There certainly might be an implied suggestion that the Horizon system itself had generated the losses.

## **Discussion**

15. This is a case where there was plenty of material independent of Horizon that the defendant had been using POL funds as his own. He admitted to the auditors that he had started taking money in 2008. He admitted in interview paying his staff with POL funds without reimbursing them. He admits paying bills without reimbursing the funds

16. In this case it was extremely generous to accept the pleas to counts 2-8 as there was ample evidence to support a conviction on count 1 from the defendant's admissions to the auditor, his admissions in interview and indeed the final basis of plea. This is not a case which is in any danger whatsoever of being overturned by the Court of Appeal and the defence would not be assisted by any disclosure of the Second Sight Report.

## **Conclusion**

17. This is a case in which, had we been possessed of the material at the relevant time, we would not have disclosed to the defence the matters identified in the Second Sight Interim report. No further disclosure need be made.

---

**Harry Bowyer**  
**Barrister**  
**Cartwright King Solicitors**

**18<sup>nd</sup> March 2014**