

## CARTWRIGHT KING

### Response To Initial Complaint Review & Mediation Scheme Post Office Preliminary Investigation Report

<b>Branch Name:</b>	South Warnborough
<b>SPMR Name:</b>	Josephine Hamilton

1.

<b>Heading</b>	<b>Text</b>
<b>Case review actions and findings</b>	Ms Hamilton was the SPMR for South Warnborough from October 2003 until her contract for services was terminated in March 2006. During that time the branch suffered losses totalling £36,644.89.  On the 19 <sup>th</sup> November 2007 at Winchester Crown Court she admitted and pleaded guilty to falsifying accounts and pleaded not guilty to theft. This plea was accepted by the Crown
<b>CK Response</b>	
We have not seen the prosecution file in this case as it pre dates the cut-off period for the review process.  Ms Hamilton was initially charged with Theft. At some stage in the Crown Court proceedings she pleaded guilty to a count of False Accounting and the Theft count was not proceeded with either by the offering of no evidence or by being left on the file.  In either event the practical result is the same: the prosecution inform the court that the pleas are acceptable. In the case of offering no evidence the Crown formally offer no evidence and a verdict of Not Guilty is entered by the Judge. If a count is left on the file it cannot be proceeded with without leave of the Crown Court or the Court of Appeal. Instances of cases being reopened after being left on the file, whilst not unknown, are vanishingly rare.	

**The meaning of a “Not Guilty” verdict.** In the courts of England and Wales no defendant is ever found to be “innocent”. Rather, defendants are found to be “not guilty” of the offence charged. This distinction arises because the test to be applied, in both the Magistrates’ Court and by juries in the Crown Court, is the same: defendants are guilty only if the tribunal is “satisfied so that they are sure” of guilt. This of course means that many defendants are acquitted not because he or she is “innocent” but rather because the tribunal is not sure of guilt. The distinction between the two concepts is important here because “not guilty” does not and cannot mean “innocent”; it means “not proved”, a very different proposition from “innocent”.

It is to be noted that distinction between the two concepts of “innocent” and “not guilty” is regularly made by Crown Court judges in answer to costs applications made by acquitted defendants.

The distinction drawn above between ‘not guilty’ and ‘innocent’ applies equally to Ms Hamilton’s circumstances. Where a prosecutor accepts guilty pleas to one charge and in consequence foregoes a trial on another; that does not mean that he is declaring the defendant to be innocent of the charge not pursued. It simply means that he does not intend to pursue the matter.

## 2.

Heading	Text
<b>The Applicant’s Issues and Post Office Ltd’s Headline Response</b>	Ms Hamilton raises four issues: 1) Lack of training provided by the Post Office; 2) Lack of support provided by the helpdesk; 3) The inability to “park” issues and investigate further; 4) The “unexplained” issues that arose in the first place.
<b>CK Response</b>	It seems to us that the headline responses are appropriate. The reality of these allegations are that the position of Post Office Ltd was hopelessly compromised by the criminal behaviour of this defendant when she falsified the accounts – on her own version to conceal what was going on.

3.

Heading	Text
Response to Issues Raised by the Applicant	
<b>CK Response</b> Please refer to response 2	

We have seen none of the documents provided to Second Sight (Pt\_001 – PT\_016)

**Conclusion.**

This was a case where a legally represented defendant pleaded guilty to False Accounting. We conclude that there are no prosecution/conviction issues with this case.

On the material we have seen we do not see any scope for a successful appeal against conviction; indeed we are well past the time when any such appeal could properly be launched.

It seems to us that almost all liability lies with Ms Hamilton and her False Accounting activities.

---

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

**14<sup>th</sup> January 2014**