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Post Office Mediation Scheme

Second Sight - Case Review Report

Case Reference: M118

Applicant: Carl PAGE

Advisor: Tom Cleary (Frisby & Co Solicitors)

6 July 2015

This report and accompanying documents are confidential and are not to be disclosed to any person other than a person involved in the processing of the Applicant's claims through the Scheme.

1. Introduction

1.1. This report has been prepared by Second Sight, which is the trading name of Second Sight Support Services Limited, the company appointed to conduct an independent investigation of a number of matters raised by Subpostmasters, or former Subpostmasters.

1.2. This report should be read in conjunction with the following:

- a) the documents submitted by the Applicant and his Professional Advisor;
- b) comments by the Applicant on the previously issued draft of this report;
- c) Post Office's Investigation Report ('POIR') including attachments (note: Post Office had prepared an earlier version of that POIR but this was later replaced in order that substantial additional prosecution-related documents could be taken into account);
- d) comments by Post Office on the previously issued draft of this report;
- e) Second Sight's Briefing Report - Part One; and
- f) Second Sight's Briefing Report - Part Two.

1.3. The Terms of Reference for Second Sight as set by the Mediation Working Group for this work are as follows:

- a) To investigate the specific complaints raised by each Subpostmaster who has been accepted into the Scheme with the aim of providing:
 - i. an assessment of points of common ground between Post Office and that Subpostmaster;
 - ii. an assessment of points of disagreement between Post Office and that Subpostmaster;
 - iii. where there is disagreement, a logical and fully evidenced opinion on the merits of that Subpostmaster's complaint where it is possible to do so;
 - iv. a summary of any points on which it is not possible to offer a fully evidenced opinion due to a lack of evidence/information;
 - v. a view on whether a case is suitable for mediation; and
 - vi. assisting with any reasonable requests made by the Working Group and/or Post Office.

1.4. Second Sight has been provided with the following documents:

- a) the Initial Application to the mediation scheme submitted by the Applicant;

- b) the Case Questionnaire Response ('CQR') submitted by the Applicant's Professional Advisor; and
- c) Post Office's Investigation Report ('POIR'), prepared in response to the above mentioned documents.

1.5. The following are the issues raised by the Applicant:

- a) responsibility for losses that total £282,000.00 (of which he pleaded guilty, at a second theft trial, to stealing £94,000.00);
- b) mis-advice by Post Office (including his having, he alleges, been told by his Retail Network Manager (RNM) that he could sell currency at below-market rates "*as long as he showed a weekly profit*");
- c) adequacy of training and support;
- d) Post Office's Investigations and Prosecutions processes; and
- e) other consequential losses, not dealt with in this report, but which may be raised if the case progresses to mediation.

1.6. This report focuses on the results of our efforts to determine how a branch shortfall, that Post Office says comprised "*a shortage of foreign currency having a sterling equivalent of £282,000.00*", arose. We have focussed on this because the Applicant repeatedly denies, despite his guilty plea in the second theft trial in 2006, that he ever stole anything at all. We have therefore also focussed on the Applicant's prosecution during the two trials and his conviction, for the theft of £94,000.00, in the second trial. The basis of his guilty plea at that second trial was that "*the remaining £188,000 may have been the result of incompetent accounting or possibly theft by other person(s)*". The Applicant comments, in his response to the previously issued draft of this report, on the rationale for changing his plea to guilty prior to that second trial. This is addressed in greater detail in paragraph 4.21. below.

1.7. The main driver of this branch's losses is alleged by the Applicant to be mis-advice by Post Office, including his assertion that his Post Office Line Manager, Mr. Geraty, had not only given him permission, when he had first asked whether he was allowed to sell foreign currency at preferential rates, but that, throughout the ensuing years, neither Mr. Geraty, nor anyone else in Post Office, ever suggested that he was doing anything wrong until both he and his customer were arrested on 13 January 2003, with the arrest being based on documents openly supplied on a weekly basis by the Applicant. In its comments on the previously issued draft of this report Post Office states that "*neither Post Office, nor Mr Geraty in his statement in the criminal proceedings (and who is no longer employed by Post Office), accept the Applicant's story as to the "permission" allegedly given. Second Sight is aware of Mr Geraty's evidence, which contradicts the Applicant's evidence*". Post Office also states that it "*also notes that Mr Geraty's statements were only provided to Post Office by Second Sight on 26 May 2015 and so were not*

considered as part of the POIR". We note these statements although would emphasise that at all relevant times Mr Geraty was a Post Office employee. It follows that there is a clear conflict of evidence between what the Applicant asserts as having been Post Office 'approval' to offer special rates and Post Office's denial of that.

- 1.8. The Applicant criticises Post Office's training and support, as well as its audit and investigation processes, asserting that its two prosecutions of him were largely baseless in that, although he concedes that the branch Audit purported to disclose a shortfall that was later found to have included a currency-related shortfall having a sterling equivalent of £282,000.00. No evidence was provided, nor has there ever been any evidence, as to where the missing money had gone. He also says that no evidence was offered to show that he had stolen anything nor, for that matter, was there any evidence to show that any branch funds had been stolen by anyone else. In its comments on the previously issued draft of this report, Post Office says: *"The comment regarding the lack of evidence as to "where the missing money had gone" is not relevant to the stated focus of the CRR which is to "determine how a branch shortfall...arose" (as set out at paragraph 1.6), particularly when it is acknowledged in the CRR that the parties agreed that a shortfall was discovered (see paragraphs 2.1 to 2.2). As stated in the POIR, the evidence shows that there was £282,000 sterling equivalent stated by the Applicant as being "on hand" in the AM stock unit. Both expert witnesses agreed with Post Office that there had been an inflation in foreign currency since 28 August 2002 (week 22-41). The Applicant completed the account and stated that there was £282,000 in currency on hand when in fact, this was not true. The Applicant therefore knew, or should have known, that this resulted in a cash loss to the branch, for which he was responsible"*.
- 1.9. The Applicant was in post as Subpostmaster of the six-position Rugeley branch from 1 April 1997 until his Contract was terminated on 14 January 2003. The Applicant and his wife (now ex-wife) had bought from Post Office, at a cost of £102,496.00 including VAT, a ten year licence to run the branch. Classified as a 'Modified Sub Post Office' (MSPO), it had formerly been a Crown Office. It had an adjacent Royal Mail Sorting Office but no Bureau de Change until the Applicant, with Post Office's approval, created one in 1998. The branch won an award (of shopping vouchers) from Royal Mail in 2000 for increasing its sales. The branch's exceptionally large volume of foreign currency transactions will have significantly boosted those sales.
- 1.10. The branch had gone to the trouble of establishing and maintaining nine separate stock units on the Horizon system: one for each of the six counter clerks plus one for the 'philatelic unit' (a stamp-vending machine mounted to the exterior wall of the building), one called the 'BU' for the Bureau de Change, and one called the 'AM' (Assistant Manager's) stock unit (i.e. the safe where bulk cash, bulk foreign currency, bulk stamps and other stock was held). This represented good practice in that it ensured that the Applicant would always be able to isolate discrepancies either to a named individual or to a specific device/function, although Post Office does note that *"Being an ex-Crown office separate stock units would have already been in place on transfer of the branch"*. It also comments that *"this system (as with all such systems) relies on the operator undertaking transactions properly and correctly"*.

- 1.11. The Applicant was suspended, on 14 January 2003, after an Audit had discovered a shortfall that was initially stated as amounting to £645,345.18. The bulk of that shortage related to five cheques, aggregating to £638,675.65, that had been seized by the Police prior to the audit and that had therefore not been included in the cash on hand and stock figures counted by the auditors. The Audit also concluded that £282,000.00 worth of foreign currency, which Post Office asserts should have at that time been held at the branch, was not present. It appears, although now disputed by Post Office, that some confusion initially arose as to the branch's true shortfall, owing to doubt as to whether one of those cheques served to offset the apparent shortfall. In the event, that cheque, in the amount of £278,181.82, had been issued, by a branch customer ('JW') who had the previous day been arrested, in replacement of three of his other cheques because he had apparently expected those three earlier cheques, which aggregated to that figure, to be 'bounced' by his bank due to inadequate funds and that is exactly what happened.
- 1.12. The Applicant's position is that the alleged £282,000.00 foreign currency shortfall revealed by the Audit was, in his opinion, illusory, rather than real, and that, if it was a real loss, then it may have been caused either through errors by branch staff, or because a false starting point had been taken in the 'Audit'. Post Office, however, contradicts that position, stating that *"it was an actual loss suffered by the branch which had been gradually inflated. Indeed, the Applicant's admission of theft to the sum of £94,000 and his assertion that there should have been a cheque which covered the loss indicates that he did not consider the loss to be illusory on those previous occasions"*.
- 1.13. The Applicant reports that Post Office initiated a civil claim to recover the £282,000.00 but *"the civil proceedings did not appear to progress"*. Post Office says that it *"did not issue civil court proceedings"*. Instead it brought criminal charges against the Applicant and his customer for conspiracy to defraud and a separate charge of theft, in the amount of £282,000.00, against the Applicant alone. After a nine week trial, the conspiracy charge resulted in the acquittal of both Defendants, whilst the theft trial resulted in a hung jury. Post Office then initiated a retrial of the Applicant, on the theft charge, and again in the amount of £282,000.00. The Applicant pleaded guilty to stealing £94,000.00 and was consequently convicted on that theft charge. He spent a short period in secure custody before being moved to an open prison. He was tagged and released after about six months.
- 1.14. Post Office asserts, in its POIR, that the total losses that it suffered as a result of this branch's foreign currency dealings, as described in this report, exceeded £900,000. That figure includes the branch's above-mentioned currency shortfall of £282,000.00 along with a further £630,000.00 in *"lost profits"* (i.e. profits that it claims it would have made if the currency had been sold at its proper, approved, rates).
- 1.15. This report was originally scheduled for completion in February 2015 but was delayed awaiting receipt of copies of available documentation relating to the Applicant's prosecution. Post Office was, in the event, unable to supply any further documentation but the Applicant's Professional Advisor provided a substantial quantity of Court-related documents and that

additional information has been taken into account by Post Office in its revised POIR and by ourselves in preparing this CRR.

2. Points of common ground between the Applicant and Post Office

- 2.1. It is common ground that an Audit of the Applicant's branch, on 14 January 2003, discovered a shortfall of £645,345.18, although the shortfall was later much reduced, once four of the five cheques referred to in paragraph 1.11. above, that had been seized by the Police on 13 January 2003, were taken into account. The fifth cheque was a replacement for a cheque that bounced in the previous Trading Period (see also paragraph 4.22. below). The Applicant continues to assert, however, that he has no idea how the branch's shortfall arose.
- 2.2. The Applicant does not dispute Post Office's assertion that it is now clear (though he consistently asserts that it was not clear to him at the time) that, by granting beneficial exchange rates to his customer (referred to throughout this report as 'JW'), that customer was able to make profits, that have been estimated to have exceeded £630,000.00, by routinely selling the notes that he bought from the Rugely branch to other Bureaux de Change.
- 2.3. It is also common ground that both the Applicant and his customer (JW) were both found not guilty following a trial on a charge of conspiracy to defraud. The jury at that first theft trial was unable to reach a verdict. A Case Summary, that had been produced by the Crown in advance of that trial, provides a clear overview of what the Crown considered its case to have been. A copy of that document is available (see document entitled 'M118 Prosecution Case Summary'). In its comments on the previously issued draft of this report Post Office records that "*This document was not provided to Post Office until 26 May 2015*". Indeed, the document referred to was submitted to us by the Applicant, rather than by Post Office, even though it had been produced by the prosecution barrister for the attention of Royal Mail Group's Legal Services Department.
- 2.4. On the day of his later retrial, the Applicant pleaded guilty to theft on an agreed basis of plea where the amount stolen was recorded as £94,000.00, and it had been agreed that "*the remaining deficit of £188,000 may have been the result of incompetent accounting or possibly theft by other person(s)*",

3. Points of disagreement between Post Office and the Subpostmaster

- 3.1. The Applicant says that he was misadvised by his Retail Network Manager (RNM), in that he says the RNM gave him permission to provide special foreign currency exchange rates to the customer, JW, with whom he was later accused of conspiring to steal from Post Office. He says that Post Office was fully aware of all the transactions relating to JW and that they were never queried, which he says lends support to his claim that he was doing nothing wrong. In its comments on the previously issued draft of this report Post Office states that "*There is no evidence to support the Applicant's claim. As noted above, the recently released statements of Mr Geraty, together with the interviews and the transcripts, do not support the Applicant's claim. In any event this is wholly unconnected to the loss in the Applicant's stock unit as there*

was no actual currency to the value of loss on hand. Additionally, the Applicant also failed to comply with mandatory operational procedures and protocols, as detailed in the POIR".

- 3.2. In relation to training and support, the Applicant says that, despite being aware of the high number of Transaction Corrections (TCs) issued to the branch, the Applicant did not request any further training. In his court testimony, he also says that he only had two hours training in operating the branch's new Bureau de Change. In its comments on the previously issued draft of this report Post Office states that *"The Applicant is not consistent on his claim on time spent on training. In his interview with the Police and Post Office security he stated that he had 10 minutes training, in his CQR he states approximately 3 hours. The audit of 9 November 2001 suggests that he did know what he was doing and that training was not inadequate in any way given the amount of transactions he processed and he evidently had sufficient knowledge and skill to use the systems to alter the currency rates"*.
- 3.3. The Applicant also says that the prosecutions were based on an Audit which carried out no verification against source documents, and that Post Office could not say when the money was stolen, or by what means. He says that the prosecution against him should therefore never have been initiated. Post Office's position is that *"A comprehensive investigation was undertaken"* and that *"as is always the case when there is any falsification of the account, it is difficult to determine the exact point when it started. However 2 expert witnesses and Post Office agreed that there had been a steady inflation in the accounts and particularly in the stock unit that the Applicant controlled and had balanced"*. Care should be taken to consider whether the extracts quoted here by Post Office have been selected to give the impression that the experts' reports supported Post Office's position (see paragraph 4.42. below).
- 3.4. It is Post Office's position that the Applicant's conviction was correct and that he stole at least the £94,000.00, as reflected by his plea of guilty.

4. Where there is disagreement, a logical and fully evidenced opinion on the merits of that Subpostmaster's complaint where it is possible to do so

- 4.1. In relation to his complaint of misadvice by Post Office, the Applicant says that his main point of contact with Post Office at the material time was his RNM, Mr. Steve Geraty. He says that Mr. Geraty, who had worked in the Post Office for many years, had encouraged him and his ex-wife to try new ventures. He says that Mr. Geraty helped them to introduce the Bureau de Change and National Lottery products into the branch. The Applicant also says that, when asked, Mr. Geraty confirmed that he could provide favourable exchange rates for his customer, JW, who wanted to purchase large quantities of foreign currency, *"provided those rates were attractive enough"*. The Applicant says that Mr. Geraty told him that he could sell currency at any level *"as long as the rates ensured that everyone gained"*, noting that would be the case *"as long as the rates he used were always higher than the Retail Buyback Rate so that Post Office would still make a profit"*. It would appear that, if that advice was given, then despite it being followed by the Applicant and his staff for many years, it never resulted in any criticism or challenge by anyone in Post Office. Equally, it never resulted in the establishment of a properly authorised contractual 'Corporate Customer' relationship between JW's company, RPX Recycled Plastics

Ltd, and Post Office. Indeed, we have found no evidence that any properly-authorised Corporate Customer relationships were ever established at this branch, nor any evidence that Post Office ever noticed that fact. This was despite the branch's substantial, award-winning, sales volumes; several branch audits; the fact that Post Office had, at that time, fewer than 40 registered 'Corporate Customers' in the whole of the UK; and despite the Applicant having personally contacted, in December 2002, Post Office's specialist foreign currency unit in Hemel Hempstead when he tried to find a more efficient and less expensive (to Post Office) arrangement for sending those frequent and large quantities of Euros to his branch. This is referred on page 47 of 86 in File 7 part 2 of the Court documents. In its response to the previously issued draft of this report, Post Office says *"Post Office does not accept that the lack of any "Corporate Customers" at this branch has any relevance whatsoever. The customer concerned (referred to in the CRR as JW) was not a corporate customer and there is no indication that there was a request for him to become one. This point bears no relation to how the loss arose (which is, as noted above, Second Sight's intended focus of the CRR)".* We strongly disagree with Post Office's assertion here. In our view, Post Office should have noticed the exceptionally high currency sales values in the absence of any approved Corporate Customer relationships. Had JW's company ('RPX') been established as a proper 'Corporate Customer', and had the fact that the currency sales were routinely being paid for with cheques drawn on that company, rather than on JW's personal account, the losses would have been mitigated. In that context, Post Office acknowledges that *"it was slow to react to the questionable level of transactions taking place at the branch"*.

- 4.2. The Applicant says, that, as a result of Mr. Geraty's suggestion and assurances, he and his staff sold foreign currency to JW at favourable rates that were slightly better than the daily 'sell rate' faxed each day to his branch by Post Office. The Applicant also said, in a 27 March 2014 email responding to questions asked by Second Sight, that he *"assumed that Mr. Geraty had cleared this arrangement with others in Post Office"*. It was also his position that, since all the transactions showed the rate at which the currency was being sold (but see our observations on this matter in paragraph 4.11. below), and because none of those had resulted in any queries, he had no reason to suspect that Post Office had any issues with the sales. In its response to the previously issued draft of this report, Post Office says that it *"does not accept the allegation made by the Applicant. In any event the loss of profit arising out of foreign currency transactions is unconnected and does not in any way relate to the £282,000 cash loss at the branch"*. The Applicant also asserts that, at the first trial, Post Office confirmed that, whilst it had a policy that any branch ordering a substantial quantity of foreign currency should be telephoned first, no such calls were ever made to his branch. We have seen no evidence that either supports or contradicts that assertion, but we do note that we have not seen all of the Court documents and all of those that we have seen have been supplied to us by the Applicant's Professional Advisor, rather than by Post Office.
- 4.3. We have examined the only Witness Statements, dated 14 February 2003 and 15 May 2003, provided by Mr. Geraty (see pages 10 and 11 of 109 in the Statements File 1 part 3). The first Statement merely confirms that Geraty had worked for the Royal Mail Group for 31 years and that he had indeed been an RNM, with responsibilities that included the Rugely branch. It also included the comment that: *"when I began covering this office as Retail Network Manager the*

office did not conduct bureau de change transactions, and it is my belief that Carl Page began doing these transactions at a later date. As this happened some four years ago I cannot recall too many other details". Mr. Geraty's later Witness Statement added very little, comprising only three sentences as follows: "Further to my statement dated 14th February 2003, as previously stated my involvement as the Retail Network Manager for Rugeley Post Office and Mr Carl Page occurred some 4 years ago and therefore I cannot now recall specific conversations or dealings I had with Mr Page, however I can state that I as a Retail Network Manager for Post Office Ltd do not have the authority nor would I sanction an agent or Subpostmaster to sell products or provide services for less than the specified monetary value either as stipulated by Post Office Ltd or its clients for whom products are sold by Post Office Ltd on their behalf. This includes the Bureau de Change product for which our joint partner First Rate Travel stipulates the selling and buying exchange rates for all currencies and travellers cheques sold at Post Office outlets". In our view this Statement does not constitute a full and firm denial that Mr. Geraty approved, or even suggested, the processing of special-rate deals with JW, as had been asserted by the Applicant. Post Office, in its comments on the previously issued draft of this report, disagrees with our prior suggestion that Mr. Geraty's two Witness Statements were "unhelpful", and that Mr. Geraty's words did not constitute a full and firm denial, saying that: "on the contrary, Mr Geraty's evidence was of crucial importance to the foreign currency allegations because it does not support the Applicant's version of events. Critically, Mr Geraty does deny giving authority to the Applicant to sell currency at an undervalue: "nor would I sanction an agent or Subpostmaster to sell products or provide services for less than the specified monetary value either as stipulated by Post Office Ltd or its clients"". Our position is that Mr. Geraty's Witness Statement did not include the firm denial now used by Post Office (i.e. "I deny giving authority to the Applicant to sell currency at an undervalue").

- 4.4. The key issue of whether Mr. Geraty had given the Applicant approval to offer approved special rate deals and, if so, at what rates, was raised in the cross-examination of the Applicant during the first trial (see transcript at page 92 of 106 of File 7 part 3 of the Court documents). Pages 38 and 39 of 62 of File 7 part 4 also repeat the Applicant's testimony as to Mr. Geraty's approval of preferential rates being made available to JW. Post Office says that "*Mr. Geraty is no longer in the business and so Post Office has been unable to obtain his comments. However, there is no evidence to support that Mr. Geraty knew of or sanctioned such a practice*".
- 4.5. In that context, we have noted (from the Court transcript shown on page 32 of 86 in file 7 part 2 of the Legal File documents) that the Applicant, while giving evidence under oath, describes a situation where he used to routinely (i.e. several times a week) take car tax discs out to a Used Car Dealership and issue large numbers of them at the Dealership. The inference here is that this practice would have been a serious breach of Post Office's security rules. The Applicant, when asked in Court what Mr. Geraty had said when he heard that he (the Applicant) had been doing that, testified that Mr. Geraty had said "*As long as there's no comebacks and the Post Office don't know. If they do know, I don't know anything about it*". In response Post Office, in its comments on the previously issued draft of this report, now states that "*The practice of issuing car tax to dealerships is common in car tax branches. The key point is that the transaction is carried out following proper procedures and that payment is taken at the time of issuing the disc to the customer*".

- 4.6. In the absence of any evidence to inform us whether this alleged statement by Mr. Geraty was addressed by the Court in its questioning of him, it is consistent with the Applicant's assertion relating to Mr Geraty's position in regard to his 'approval' of preferential foreign exchange rates. In that context, we have been unable to assess whether Mr. Geraty's alleged confirmation (that he could not remember approving the request, made both by the Applicant and his ex-wife, to offer JW preferential foreign exchange dealing rates), can be relied upon (see pages 34 and 35 of 86 of the Court transcript). We note that Post Office's QC refers to this matter, at that point in the trial, as being "*central*" to the Crown's case, which is why we have asked Post Office to reveal to us how Mr. Geraty responded, under oath, when his alleged 'approvals' (of practices that were later claimed to be unacceptable to Post Office) were put to him in Court. We invited Post Office to clarify this important matter in its response to the draft of this report. It has now stated "*Post Office has seen no evidence which contradicts Mr Geraty's version of events, as outlined in his statement in the criminal proceedings. Post Office has been unable to raise further questions of Mr Geraty because he is no longer employed by Post Office*".
- 4.7. In light of such evidence as we have been able to examine, we consider it more likely than not that the Applicant *was* advised by Mr. Geraty that he could offer special rates and that it may not have been fully and properly explained, at the time, how in practice those rates should have been calculated and applied. We do not find Post Office's assertion that it is "*unlikely*" that the Applicant had been authorised by Mr. Geraty, to be particularly compelling, although we do consider it plausible that he may have wrongly interpreted whatever Mr. Geraty said to him. Mr. Geraty (and others in Post Office) had, in our view, ample opportunity to detect and correct the Applicant's misunderstandings and yet both Mr. Geraty, his successors in the role of RNM, and others in Post Office all failed to realise what was going on until 13 January 2003. We cannot ignore the fact that, although Post Office's procedures in operation at that time did not ensure that it saw every transaction (see paragraph 4.11. below), it ought, in our view, have been able to see the impact of this branch's many hundreds of foreign currency transactions, yet none were queried.
- 4.8. Post Office's operating 'platform' for handling foreign currency transactions, required every Subpostmaster (who was running a Bureau de Change) in the country to key in all of the FX rates every day. Those rates were faxed to them every day. It seems obvious to us that such a process could not only have been expected to result in errors being made but also, as in this case, it introduced a substantial exposure to material financial loss to Post Office because, in effect, anyone in the branch could key in whatever rates they wanted to. This risk not having been *prevented* (i.e. by being designed out of the system), there also seems to us to have been no after-the-event control designed to *detect* accidental keying errors or inappropriately generous (loss-generating) rate overrides. We regard those as control deficiencies (i.e. deficiencies in error and fraud repellency) for which Post Office itself must accept primary responsibility, especially considering the number of audits that had taken place over the years, which had failed to identify the problem. Post Office does not accept that there are "*control deficiencies*" or that it must accept "*primary responsibility*". It states, in its comments on the previously issued draft of this report, that "*The exposure to financial loss for Post Office as a result of these actions does not negate the fact that there was a loss of £282,000 and that the Applicant had inflated figures in his stock unit*".

- 4.9. We also regard it as relevant to note that the Applicant says that he had been granting preferential rates to JW (when he visited the branch, at a frequency of up to four, or even five, times a week for nearly four years and, on very large transactions, for over eleven months) before the fact that those transactions produced a net loss for Post Office was discovered. Even then, it was apparently HMC&E, rather than Post Office, that 'discovered' the problem and only then after over 14 million Euros had been sold to JW in quantities of up to 400,000 Euros at a time. This provides, in our view, compelling evidence that Post Office had no proper system of internal control to prevent, or even to detect after-the-event, materially off-market foreign currency transactions, nor any process to detect and investigate the propriety of very large transactions that ought to have been flagged up as indicative of potential money laundering. Post Office also seems to have been unaware that, in every instance, those transactions were generating material financial losses for it. It seems to us that none of the many safety nets that would ordinarily be in place worked here. Post Office's position is that "*Money Laundering checks are the responsibility of the individual who is conducting the transaction*".
- 4.10. It appears to us that Post Office was 'blind' to those material financial losses (and to potential money laundering transactions), probably because its single-currency Horizon accounting system aggregated together, into one weekly 'Sterling Equivalent' figure, so many transactions, in so many different currencies, across so many Bureaux de Change throughout the country, that this branch's aberrant transactions became subsumed among all the others and therefore disappeared from view. The process designed by Post Office did not require *individual* FX transactions to be reported to it. Rather, the *net financial impact* of all of each branch's FX transactions, across all currencies, were reported only as *one lump sum* in a weekly 'Revaluation' figure. This process was, in our view, deeply flawed and functionally inadequate in its initial design. This design flaw is, in our view, acknowledged in the comments made by Post Office's Investigator Manish Patel in the 14 January 2003 interview (see transcript at pages 196, 197, 199, 200 and 292 of the Court documents supplied by the Applicant's Professional Advisor). Indeed, on page 292 of the Court documents (to be found at page 20 of 85 in File 4 part 4 in those Court Documents), Mr. Patel acknowledges "*your revaluation figures should have been very high compared to what they were and granted maybe those should have been picked up by the Business earlier but they weren't*". Post Office comments that it "*accepts that issues should have been picked up earlier, however, it does not accept that its processes are flawed or "functionally inadequate" – the systems do function properly and in the vast majority of branches, there have been no such issues*".
- 4.11. We question why the aggregation of so many branches' holdings of so many currencies, into one 'Sterling Equivalent', that was only accounted for at the end of each week, was ever determined by Post Office to be functionally adequate. By comparison, banks and other entities that deal in multiple Foreign Currencies, all have Multi-currency Accounting Systems, whereas Horizon is a Single-currency system that can only hold balances expressed in Pounds Sterling. This meant that, instead of being able to tell, at any point, how many notes of each currency were meant to be held in every one of its branches, Post Office only knew, once a week, what the *Sterling Equivalent of the aggregate of each branch's holdings of all currencies* was. Post Office was consequently unable to account for its many branches' holdings of multiple currencies in the way that any bank is able to. In our view, consolidating so many

branches' holdings of so many currencies into just one massive 'Sterling Equivalent' figure was almost certain to result in the sort of serious and undetected problems that were systematically recurring in this branch for over four years. We are in no doubt that, had Post Office noticed much earlier, as we believe it should have, then this situation would never have got out of hand in the way that it did.

- 4.12. The Applicant refers, in the 14 January 2003 interview, to "*always having had a positive revaluation*" figure at the end of each week. It is clear to us that his position is that his branch's consistently positive revaluation figures led him to believe that, despite transacting at rates that were clearly attractive to JW, Post Office was nonetheless making a profit on all of them. It only later becomes apparent, due to Post Office's practice of immediately materially devaluing (by approximately 6%) all of the currency that it purchased through First Rate Travel Services (FRTS) in the wholesale currency markets that, although those branch-level revaluations were showing that small profits were being made, in truth, those small profits were nowhere near large enough to offset the substantial losses that Post Office had already (unbeknown to the Applicant) booked. It is, in our view, extraordinary that Post Office failed for over four years to detect the fact that it was making substantial and recurring losses on this branch's foreign currency sales until its attention was drawn to the matter by HMC&E.
- 4.13. In that context, the Applicant said that Post Office first reacted (to the issue of the foreign exchange rates he was offering JW) on 14 January 2003, after JW had been arrested. He says that, prior to that, and despite his having provided the information every week for a number of years; having undergone various Audits; and having been lauded as running one of Post Office's highest volume foreign exchange dealing branches, nobody in Post Office ever voiced any concerns about those beneficial rate deals. He also refers to having asked, before Christmas 2002, "*the gentleman in Hemel Hempstead to get in touch with me after Christmas because it's ridiculous that the Post Office are sending special deliveries [i.e. bags containing amounts of foreign currency], 30 packs of special deliveries a day. Why can't he send me one big bulk on a Monday?*". Post Office seems not to have challenged the Applicant's statements, so we have treated them as truthful. In that context, we have to question why, if the Applicant was aware that what he was doing was improper, he would have drawn Post Office's, attention to it.
- 4.14. In considering why the Applicant failed to realise that what he was doing was incorrect, he says that his wife was more adept at the accounting side of running the branch than he was, and that, after she left the branch, he started to receive letters from Post Office regarding the branch's poor performance and high level of errors. Despite this, he did not request, nor did Post Office provide, any further training. He says he received an initial two weeks' 'on the job' training on the ECCO computer system, and that when the Forde Moneychanger ('FM') was installed in branch, he and his staff were given three hours' instruction and a manual. It should be noted that the FM system was totally 'standalone' having no electrical nor mechanical connection to the Horizon system. This meant that the branch's Bureau de Change position only became known to Horizon once a week (on a Wednesday evening), and only then based upon what the branch staff entered into Horizon when they keyed into Horizon the sterling values shown on the FM system's 'Command 10' print out (this also seems to have been referred to as the 'Print 10 Weekly Summary').

- 4.15. In his CQR, the Applicant says that, at the second trial, Post Office maintained that he had stolen the money *"by hiding it in the foreign exchange account"*. On page 16, paragraph 4 of his CQR, the Applicant's position, as stated by his Professional Advisor, is as follows: *"If there were any errors in the figures, it is Mr. Page's position that these must have been due to erroneous inputting of figures by either him or members of the staff"*.
- 4.16. Post Office says that the Applicant's training records are no longer available, but that it is very likely that the Applicant received the standard training package in place in 1997, and that he would have received training on the use of the FM in processing foreign currency transactions, adding that, in its view, this would have been adequate for the role of Subpostmaster. Post Office says that, if the Applicant had felt that he needed additional training, he could have requested it via his RNM. Post Office says that there were no calls by the Applicant to the National Business Support Centre (NBSC) Helpline requesting further training, and that *"as it was the responsibility of the Applicant to access the support available to him Post Office reasonably expected the Applicant to do this"*, although as we have commented elsewhere, if he did not understand that what he was doing was incorrect then he would not have realised that he needed to ask for support.
- 4.17. Post Office accepts that, during an interview held on 3 July 2002, reference was made to the Applicant shadowing a *"good branch Manager"*, but that there are no records to indicate whether this ever took place and the Applicant says that it did not. Post Office adds that there are no records of any calls made by the Applicant to follow up on this matter, and that, as the meeting was held six months before the Audit which led ultimately to the termination of his contract, *"it is Post Office's view that, had the Applicant been so minded, he could have taken it upon himself to arrange a visit to another branch or contacted NBSC to request one. The fact that the Applicant states that this did not happen would indicate that he was not so minded"*.
- 4.18. In its POIR, Post Office says that the Applicant was contacted regarding performance issues 16 times in 2001 and 24 times in 2002. Post Office adds, in relation to Error Notices (later known as Transaction Corrections or TCs) that the purpose of TCs was to highlight (and of course to correct) errors made at the branch, and that, once highlighted, the expectation was that this would prevent future errors of this type. We have asked the question of Post Office as to what identified level of error, if any, triggered the requirement that Subpostmasters undergo further training. We have seen no evidence that there was any standard process by which that sort of identification did take place, and it is clear that to us, not only from this case but also from others that we have examined, that as far as Post Office was concerned it was entirely the *Subpostmaster's* responsibility to identify further training needs, and for him or her to request, arrange, and attend such further training. We consider that a process that relies upon those people who need training being responsible for identifying that need is simply not good enough, and is unlikely to correct *systematically recurring* errors (like those made by this Applicant). We address this matter in our Briefing Report - Part Two.
- 4.19. In relation to the Applicant's prosecution and conviction, Post Office says the agreed basis of the guilty plea was that *"the Defendant stole £94,000.00 from the Post Office having begun to do so on return from holiday in August 2002. The remaining deficit of £188,000 may have been*

the result of incompetent accounting or possibly theft by other person(s)". We note the use of the words "may" and "possibly" here.

- 4.20. The Applicant was first arrested and interviewed by Staffordshire Police on the evening of 13 January 2003, the day before the Audit, and about 12 hours after his customer JW had been arrested when, carrying a holdall containing Euros 582,000, he was about to enter a Bureau de Change (Thomas Cook) in Birmingham. As mentioned above, those arrests were carried out in furtherance of an investigation, led by HMC&E, into suspected money laundering. Following an initial investigation, including interviews by the Police and, the following day, by a Royal Mail investigator, and following enquiries into the Applicant's and his customer's bank accounts and lifestyles, the Police decided to take no further action against either of them. It was therefore Post Office/Royal Mail that pursued the matter into the courts.
- 4.21. The Applicant says that he was at that time suffering with depression and, facing the prospect of another lengthy trial, and in light of another matter (of which both he and Post Office's prosecution team were aware) that he was told would negatively impact any sentence, he considered the effect that this reduced theft charge would be likely to have on the inevitable custodial sentence and decided to plead guilty. His CQR records him as having said *"I didn't do this, but I just want it to go away"*. The Applicant's Professional Advisor has also provided a further submission on his behalf, which should be studied in full as part of a consideration of this case. That submission includes the following significant statements: *"During the lead up to the second trial, the Prosecutor told the defence that he proposed to apply to amend the indictment to add the charge of perjury. Mr. Page's white lie had come back to haunt him. It was then that the prosecution proposed that alternative. This did not come from the defence. The prosecution said that they would be prepared to reduce the theft amount to £94,000 and Mr. Page would receive a lesser prison sentence for this than he would for perjury... He therefore decided to accept the offer of pleading to a charge of theft of £94,000. The truth of the matter is that Mr. Page did not steal £94,000 no more than he stole £282,000. The figure of £94,000 was not selected by him. It was proposed by those prosecuting to entice a plea knowing the penalty for theft of less than £100,000 would be less than for theft of £282,000"*.
- 4.22. In addressing the key question: *"where did the missing money go?"* we are aware that the bulk of the £645,000.00 shortfall found by the 14 January 2003 Audit related to cheques held at the branch, that had been disallowed for the purposes of that Audit. It is not completely clear, from the submitted evidence, how many of those cheques (all of which had been presented by JW) were sent for processing and subsequently paid, although it appears that four of them were paid and the proceeds served to substantially reduce the apparent shortfall. In any event, the amount the Applicant was charged with stealing related to a balance snapshot produced for the AM stock unit, which stated that a sterling equivalent of £282,000.00 of foreign currency was (meant to be) held within that stock unit. Since, on the day of the Audit there was no foreign currency at all in that stock unit, Post Office concluded that all of it was missing, later concluding that it had been stolen by the Applicant. Post Office says that it had initially been presumed that one of the cheques (number 100148) for £278,181.82 was payment for that 'missing' foreign currency. This thought was later disproved when it was found that the cheque had been presented to cover three previous cheques, issued by JW in December 2002, that had

been returned 'refer to drawer' due to insufficient funds in the company's bank account, just as he had expected when he issued that new cheque. Post Office's auditors then drew the conclusion that the £282,000.00 was not only a real shortfall but that the money had been stolen, either in the form of foreign currency, or of sterling.

- 4.23. While we have seen evidence that supports the auditors' conclusion that there was a real shortfall, we have as yet seen no evidence that convinces us that all of that shortfall was the result of theft. The Applicant, in his CQR asserts that Post Office *"could not say when the money was stolen, nor by what means, nor from what account or fund ... Essentially, the Prosecution case was the Computer says there is money missing so it must be theft"*. As far as we have been able to establish, the Applicant's recollection is correct because Post Office was unable to attest, during the two trials, to anything more than that the branch Audit had established that foreign currency to the value of £282,000.00, that was meant to be in the branch, was simply not there. That does not, in our view, constitute evidence that that amount of currency was stolen at all, let alone by the Applicant. Indeed, in the second trial, £188,000 of that shortfall was attributed to other causes than theft by the Applicant.
- 4.24. At that first trial, the Prosecution alleged that the £282,000.00 shortage, that eventually manifested itself in the AM stock unit, had been built up over a period of time. A Forensic Accountant, instructed by the defence, Mr. Liddell, concluded that there was a potential for timing differences to have built up between the amounts of cash recorded on Horizon and the FM systems, which might, he asserted, have explained the shortfall. His report says, correctly in our view: *"I refer in particular to instances where JW purchased a large quantity of Euros before the end of the cash account week, so the sale was entered in FM, but where JW did not physically collect the cash until the beginning of the following cash account week. In these instances the Horizon figure would differ from FM by the amount of Euros sold to JW and awaiting collection"*. Mr. Liddell noted that there was no automatic link between FM and the Horizon systems and that it was necessary for the data to be transferred manually. He says *"Clearly this gives increased capacity for human error and for incorrect totals to be entered on the Horizon system"*.
- 4.25. Mr. Liddell also investigated whether the £282,000.00 actually existed, and concluded that a surplus of Euros, with an approximate value of £282,000.00, could not physically have been built up in the AM stock or elsewhere. All the Euros delivered to the branch were entered into the FM, and the Applicant says that his analysis of sales shows that they matched, or exceeded, the deliveries. Post Office countered that by suggesting that it had been suspected that JW was selling Euros back to the branch, which would account for any 'excess'.
- 4.26. It is of note that this expert reported that he had been *"unable to identify a clear explanation or definition of the Revaluation Total from the Post Office Operators Manual – Bureau de Change on Demand, copies of which are provided to Subpostmasters"*, and that similarly he could find *"no explanation in the Manual of the Wholesale Buy Rate, the Retail Buy Rate and the differences arising between the two"*. Mr. Liddell says in his report that, in the majority of cases, Euros were sold to JW at a rate just below the Retail Buy Rate (the rate at which they had been booked into the FM). At paragraph 3.32. Mr. Liddell says: *"[the Applicant]*

states that he understood a positive revaluation total [...] to mean that income and profit was being generated for [Post Office]. He was not aware that an initial devaluation had occurred which, if taken into account, could turn a positive revaluation total into a loss to [Post Office]". We regard this (correct) statement as critically important to this case. It was not at all clear, from anything that we have seen as having been available to the Applicant at the time, that Post Office had already booked, prior to transferring currency to its branches, a 6% loss, thereby indicating to the Applicant, that the cost of the currency was 6% lower than it truly was. This peculiar accounting treatment had the, to us unsurprising, effect of confusing the Applicant (and no doubt other Subpostmasters) into believing that the currency they were selling had cost far less than it really had. In its comments on the previously issued draft of this report Post Office now deals comprehensively, but simplistically, with the fundamental issue underlying this case, by saying: *"As with all subpostmasters transacting foreign currency, the Applicant was required to undertake the transactions and was remunerated per transaction. His role was to follow the instructions in the manual and operate the systems within the banking/money laundering rules and regulations and to offer the rates set. The negotiation and the effect of the revaluation was not a concern for him other than recording the correct amount at the end of the week. The rates were set nationally so that all branches offering the FC service offered a consistent product. He was not permitted by Post Office to alter the rate, just as he was not permitted to change the price of any other products (such as postage stamps)".* In light of all of the analysis of whether or not permission was given by Post Office for the Applicant to transact at off-market rates, we find these latest comments surprising in that, far from there being any question as to whether Mr. Geraty had approved special rates, there was meant to be no flexibility at all, anywhere.

- 4.27. By his calculation, Mr. Liddell says that, if JW had paid the correct rate for the Euros that the prosecution schedule showed that he had purchased, the difference would have amounted to £592,802.00. He also said that in the majority of instances, the transactions generated a *"small profit when measured against the Retail Buy Rate"*.
- 4.28. We have studied all of the considerable amount (approximately 3,000 pages) of evidence submitted by the Applicant and his Professional Advisor (Post Office having submitted only four documents, none of those relating to the prosecutions) in order to try to fully understand how Post Office accounted for foreign currency transactions.
- 4.29. Having done that, we have concluded that the only clear explanation, of Post Office's foreign currency accounting, that we have discovered was the one included in the court-appointed Expert Accountant David Liddell's Report (see Tab 4 to the Applicant's CQR). In that Report, Mr. Liddell quoted (see paragraphs 3.19 and 3.20 of Tab 4 to the Applicant's CQR) Post Office employee Hugh Stacey's Witness Statement. The quotes from Stacey's Witness Statement (and the related diagram) shows that there were two *"Buy Rates"*. In the figures used in the diagram, one Buy Rate (the Retail Buy Rate) was, in the example used by Mr. Stacey, £95, whereas the other (The Wholesale Buy Rate) was £101. That second rate (£101) was what the currency really had cost Post Office when it was purchased from First Rate Travel Services (FRTS) the company that had purchased the currency (at a cost of £100) in the wholesale (i.e. Inter-bank) market. The Retail Buy Rate (£95) was a notional rate that was meant, it seems, to

represent the rate that the branch would be expected to use were it to buy back that same currency from a retail customer. The Applicant testified in Court (see page 86 of File 7 part 2 in the Legal File papers) that he had no knowledge of the rates at which the currency had been purchased by FRTS in the wholesale market and that he was unaware that Post Office was routinely 'devaluing', by approximately 6% , the currency that it was supplying to his, and other, branches. In its response to the previously issued draft of this report, Post Office states that it *"does not accept that the reasoning behind its valuation or foreign currency, or the processes by which foreign currency transactions were accounted, either lacked clarity or in any way contributed to the actual loss at the branch. If these processes were flawed such that they generally resulted in losses to branches then there would be many instances of such losses. That is not the case, which indicates that the processes themselves do not lead to branch losses"*.

4.30. It has never been made clear, in any of the evidence that we have examined, why Post Office carried out that devaluation and we believe Subpostmasters should have been informed that this was happening. We are unaware of any reason for holding currency (that had just been purchased) at a value far lower than it could immediately be re-sold in the Inter-bank wholesale market, let alone at a value far lower than it could be sold to retail customers . As described in paragraph 4.29. above, by reducing the carrying cost of currency that it had just purchased for £101, to only £95, Post Office will have booked a loss but it would have been an artificial one. It seems clear to us that Post Office was destined, in using that strange accounting methodology, to lose track of the profits (or losses) that its branches were making and that is exactly what happened in this case. All of its branches would routinely appear to be making far more profit than they really were and it was that mis-information that led to the problems that Post Office suffered in its Rugely branch. By telling its branch manager (the Applicant) that a block of currency had only cost £95 when in truth it had really cost £101, it was all but inviting him to sell at an *apparent profit* that constituted a *real loss*. That mis-communication goes a long way towards explaining why the Applicant (and also perhaps his Retail Network Manager Mr. Geraty) might have mistakenly concluded - and thereafter acted in the belief - that the branch was making profits for Post Office when it was in truth making substantial losses.

4.31. After careful examination of the documents submitted to us (and to the Court) we have concluded that the description of the way that Post Office (and its business partner FRTS) accounted for FX transactions is lacking in clarity.

4.32. In this case, the Applicant was typically selling Euros (particularly to JW) at a rate (using the above example rates) of approximately £95.50, which would generate a real loss to Post Office of £5,500 on a sale of Euros 150,000, whereas it appears the Applicant thought that a sale at that price would generate for Post Office a small profit of £500 (i.e. the sale proceeds of £95,500 minus the £95,000 that he (wrongly) thought was the real cost of that amount of currency). The Applicant testified, in the first trial, to this effect, as shown on pages 38, 45 and 46 of 86 in File 7 part 2 of the Court documents supplied by the Applicant's Professional Advisor. Post Office's position is that *"the changing and offering of preferential rates has no impact on the actual loss in the branch which in this case is £282,000"*.

- 4.33. In our view, if the evidence submitted by the prosecution to the court was representative of the information and advice that had earlier been given by Post Office to the Applicant, then we see it as highly likely that the Applicant really did misunderstand the true price that had been paid for the currency that they were selling and that, throughout (from 1999 onwards) the Applicant was under the (false) impression that, as long as he showed a profit each week when he produced the 'Command 10' printout from his branch's Forde Moneychanger, then Post Office really had made a profit on his branch's foreign currency dealings. In its response to the previously issued draft of this report, Post Office says that *"In any event, the Applicant did not need to understand the profit margins on the sales of foreign currency. He was directed to sell the currency at the rates prescribed by Post Office and these rates were provided to him daily. On this basis, the CRR's analysis of the profit position on foreign currency is irrelevant to this case"*. We disagree with Post Office's position. Had the Applicant been aware of the magnitude of the losses that his transactions with JW were generating, it seems reasonable to question why he would have continued with them in the face of their visibility to him and to Post Office.
- 4.34. We have also seen no evidence to show that Post Office realised that it had been incurring accumulating material transactional losses until HMC&E drew its attention to the matter as a result of its (as it turned out unfounded) suspicions of Money Laundering.
- 4.35. In his CQR, the Applicant says that, at the second trial, Post Office said the theft had nothing to do with AM Stock, but that the money had been stolen by the Applicant from somewhere else in the office and *"hidden in the foreign exchange account using Horizon"*. The Applicant says that, if there were any errors in the figures, they must have been due to erroneous inputting of figures by either him or members of his staff. In our view, both Post Office and the Applicant were wrong here.
- 4.36. The Applicant's CQR reports that a second Forensic Expert Accountant, Mr. Timothy Taylor, who was appointed by the Defence team for the second theft trial, concluded that it was extremely unlikely that any money was concealed by hiding it by some means in the foreign exchange account using Horizon. According to Mr. Taylor's report, the Prosecution's opening note stated that the indictment period for the alleged theft of the £282,000.00 was between March 2002 and January 2003 and that, from the week ended 28 August 2002 (Week 22), the Applicant concealed the cash by routinely inflating the foreign currency held on Horizon in the AM stock unit. He says that the opening note also alleged that, some time prior to the end of Week 22, the Applicant concealed the theft by overstating the amount of Overnight Cash Holdings (ONCH), as opposed to the foreign currency sterling equivalent figure in Horizon.
- 4.37. Mr. Taylor explained that the schedule prepared by the witness, Post Office's employee, Mr. Patel, for the purposes of illustrating how the alleged deficiency, or 'inflation' of the £282,000.00 occurred over time, is simply the difference between the foreign currency on hand figure as recorded in Horizon, and the sterling equivalent foreign currency on hand figure, as identified from the weekly FM printouts referred to as the 'Command 10' Reports. The weekly Command 10 Reports showed the sterling value of all the foreign currencies in the branch's stock as well as the commission earned by the branch in that week.

- 4.38. Mr. Taylor also noted that, for weeks 14 and 16 in 2002, the apparent inflation figure was negative. One of the negative figures was explained as being the result of typing an incorrect revaluation figure into Horizon, demonstrating that, since Horizon and the FM were not integrated, differences could arise as a result of manual inputting errors.
- 4.39. Mr. Taylor's report concludes with an agreement that, from the week ended 28 August 2002, the Horizon foreign currency sterling equivalent figure was inflated, initially by £138,000.00 and increasing to £282,000.00 by the date of the 14 January 2002 Audit. However, he adds that the alleged deficiency of £282,000.00 in the AM stock unit does not necessarily indicate theft by the Applicant - he says that the shortfall could in practice be the result of other unidentified errors or differences in Horizon.
- 4.40. He continues by stating that it is implicit in the Prosecution's case that, by simply stating that the £282,000.00 shortfall in the AM stock unit equated to a theft of the same amount, all other figures in Horizon were correct. Mr. Taylor said he had seen no evidence that was the case, and that he also noted the high incidence of errors occurring at the branch.
- 4.41. He said that it was not possible to establish whether the declared ONCH figures were correctly recorded, as they were not independently checked at the time other than at the two branch Audits. We note here that one of the matters under consideration during the interview held with the Applicant on 3 July 2002, to discuss his performance, was that during an Audit of the branch on 27 June, it was found that Bureau transactions were not being entered onto the system on a daily basis, resulting in the ONCH declarations being inaccurate.
- 4.42. Mr. Taylor ends by saying that, if it is alleged that by Week 18 the theft had reached £177,500.00 and that it was being concealed either by overstating the true foreign currency balance or the ONCH figure, then, in his opinion, there was an unexplained inconsistency in the Prosecution case. That was because in Weeks 20 and 21, the inflation figures, as stated by Mr. Patel in the schedule, were nil, and the recorded ONCH figures were only £79,810.00 and £91,249.69 respectively, and therefore they could not have been overstated by £177,500.00.
- 4.43. Both experts' reports raised the question as to whether the 'Audits' actually constituted a proper Audit in the sense that data was not verified back to source documentation nor critically examined before conclusions were drawn. Both experts concluded that they were more akin to a stock take at a particular time and that it was dangerous to draw the conclusions the Post Office had drawn from them. The Applicant suggests, in his CQR, that it is a significant feature of the case that in the middle of the indictment period, an Audit of the branch concluded that the office was not well run but did not find evidence of theft or fraud.
- 4.44. In answer to the Applicant's suggestion that the Audit conducted at the branch on 14 January 2003 was not verified against source documents or critically examined, Post Office says that records of the Audit are no longer available. The POIR explains that an Audit is *"conducted to reflect the current trading position of a branch at the moment the Audit is undertaken. This is completed by comparing the cash and stock physically on hand to that stated as on hand by*

Horizon". We consider this explanation does sound very much like a 'stock take', rather than what is normally understood to be an 'Audit'.

4.45. In answer to the Applicant's question as to how the alleged shortfall built up in the AM stock unit, or how the shortfall was "*hidden in the foreign exchange stock unit*", Post Office says that it no longer holds any audit or investigation records for this case, and is therefore unable to comment on this particular issue, other than adding that it should be noted that the Applicant pleaded guilty to the charge of theft.

4.46. Post Office says, that whilst it is unable to determine with certainty the most likely cause of all of the discrepancy, and having reviewed the limited data now available, it has formed the view that, just as had been reported by the auditors on 14 January 2003, the shortfall was the result of foreign currency being 'missing' from the AM stock unit. Post Office says that the theft charge was reduced from £282,000.00 to £94,000.00, as it was "*willing to accept that a smaller amount of the loss had been caused by theft*", however, it adds that, in its view, "*had a trial been required then the case would have been found in the prosecution's favour*".

4.47. It is Post Office's position that its post-Audit security investigation, and its criminal proceedings, were all conducted fairly and in accordance with the strict rules and procedures in place, and that there is no indication that the Applicant was treated unfairly. We find ourselves unable to support that position.

5. A summary of any points on which it is not possible to offer a fully evidenced opinion due to a lack of evidence/information

5.1. Post Office now asserts, in its revised POIR, that "*these two prosecutions relate to two entirely separate losses. The first related to the loss of profit suffered by Post Office as a result of selling foreign currency at preferential rates. The second related to the physical theft of foreign currency notes from the branch*". This statement does not seem to be correct. It is our understanding that, in December 2003, Post Office instigated criminal proceedings against both the Applicant and JW. Specifically, the Applicant was charged with two offences: the first being that, jointly with JW, he had conspired to defraud Post Office in relation to JW's purchases of foreign currency, and the second that he alone had stolen foreign currency having a sterling equivalent of £282,000.00. Eighteen months later, in July 2005, following a 9-week trial during which all of the charges had been denied by both men, both were found not guilty of the conspiracy charge. There was, however, a hung jury in relation to the theft charge against the Applicant. Post Office/Royal Mail then decided that the Applicant should be retried in relation to the theft charge, this time asserting that the Applicant had taken money from somewhere else in the office and then, in some unspecified way, he had hidden the theft in the foreign exchange account. That second trial, in 2006, did not accuse the Applicant of stealing foreign currency notes to the value of £282,000.00 as it had in the first trial, but rather of stealing something else and somehow *converting the loss into a foreign exchange shortfall*. The Applicant's Professional Advisor, asserts, in the Applicant's CQR, that in January 2006, during the preparation for the retrial: "*Post Office could not say when the money was stolen, nor by what means, nor from what account or fund within the sub post office. Mr. Page's defence*

teams were incredulous that a prosecution would proceed on that basis. Essentially, the Prosecution case was "the Computer" says there is money missing so it must be theft".

- 5.2. It follows that, at the first trial, the Crown had been unsuccessful in persuading the jury that the Applicant and his customer had conspired to deprive it of profits that it asserted that it would, but for those beneficial exchange rates, have made. It had also failed in convicting the Applicant of stealing foreign currency to the value of £282,000.00. In the second trial it had again brought a charge of theft, asserting that the Applicant had stolen £282,000.00 in an unspecified way. Given the Applicant's guilty plea to theft of £94,000.00, prior to the second trial commencing, any further evidence of theft that Post Office may by then have gathered (i.e. beyond the evidence that was presented, unsuccessfully, at the first trial) was never tested in Court and indeed we have seen no such evidence among all of the documents that we have examined.

- 5.3. In that context, in its POIR, Post Office says that *"Following the submission of the original POIR in October 2014, Second Sight formed the view that Post Office had prosecuted the Applicant for theft of £282,000 but the £282,000 actually formed part of the loss of profit claim Post Office had made against the Applicant but was unsuccessful in obtaining a guilty verdict for. Post Office does not consider that there is any merit in this"*. It continues: *"Essentially, the audit in January 2003 revealed a shortage of £645,345.18 which included £282,000 worth of foreign currency that was declared as being present in the branch in the accounts but was not physically present in the branch when the audit was undertaken. Prior to the audit, the Police had seized cheques to the value of £638,675.65 from the branch. Once these cheques were correctly accounted for and other minor adjustments were made, this left a real shortage in the branch of £282,000. This sum had been falsely declared by the Applicant as being held in branch as foreign currency. In reality there was not an additional £282,000 of foreign currency in the branch and the Applicant had gradually been falsely inflating the amount of foreign currency alleged to be in branch to disguise the actual loss from Post Office. This shortage led to Post Office's second prosecution of the Applicant (which was successful following a guilty plea)".* Finally, Post Office says: *"Put another way, the missing £282,000 of foreign currency could not have been caused by selling currency at preferential rates"*.

- 5.4. In analysing whether the Applicant really had been *"falsely inflating the amount of foreign currency"* and, if so, why, we have studied the 'Foreign Currency Discrepancies Schedule', a copy of which is shown at pages 24 - 26 of File 3 part 3 in the Court documents). That Schedule shows that, from Week 18 in 2002 (that was the week ending 31 July 2002 in which a visiting Post Office RLM remitted back to Post Office, from the branch, £160,000.00) until week 41 (that was the week ending 3 January 2003) the 'Foreign Currency on hand' figures (these are sterling equivalents) rise substantially higher than any figures previously declared and that all of those declared numbers are materially higher than the 'Forde Moneychanger' numbers shown on that Schedule. The effect of those very large currency on hand declarations was that the difference between the figures that had been declared (by the Applicant) as being on hand in the branch grew substantially from a starting difference of £177,500.00 to a closing difference (as discovered by the Audit) of £282,000.00. During the trial, under cross-examination, the Applicant seems to have found difficulty in explaining why he had declared such large currency

on hand figures (see pages 24 - 27 of 106 of File 7 part 3 of the Court documents) or why, prior to the foreign currency notes on hand figures increasing so substantially after that £160,000.00 in sterling cash had been remmed out in week 18 by the RLM who had visited the branch to find out why it was holding such an inappropriately large quantity of cash (see page 42 of 106 of File 7 part 3 of the Court documents). Post Office asserts that the Applicant had been inflating the sterling cash on hand figures prior to week 18, and then inflating the foreign currency cash on hand figures after week 18, because he had been routinely stealing money from the branch and had been balancing his branch's books by inflating the amount of sterling (and later foreign currency) that his branch was meant to have on hand. It is not clear to us why, if the Applicant really had, as Post Office alleges, been so materially inflating the branch's sterling cash on hand figures prior to week 22 (the alleged inflation being in excess of £180,000.00) the visiting RLM failed to detect that cash on hand inflation (and failed to detect the sterling cash shortfall that ought therefore to have existed) when he visited the branch *"without prior warning"* in order, according to his Witness Statement (see pages 23 to 27 of 109 in the Statements File 1 part 3), to *"carry out a spot check of the cash on hand"*. In fact, in that same Witness Statement, the RLM confirms that *"I actually asked the two ladies to count the bulk cash held in the main safe in front of me and it was evident that the bulk cash represented the majority of the figure shown on the snap shot. I did not retain this Horizon snap shot printout"*. Based on his findings, the RLM arranged for £160,000.00 to be remmed out of Horizon, bagged up and made ready for later collection that day by a Cash In Transit (CIT) vehicle but he did not detect any sterling cash shortfall.

- 5.5. At a later point in his cross-examination (see pages 76 to 78 of 106 of File 7 part 3 of the Court documents), the Applicant provides a more compelling explanation as to why there were large and, after week 18 ever-increasing, differences (culminating in the £282,000.00 Audit-date shortfall) between what the Forde Moneychanger's 'Command 10' print out said should be in stock (by way of foreign currency notes) and what was actually shown in the branch's Horizon records as being in stock (shown as columns 5 and 4 of the above-referenced 'Foreign Currency Discrepancies Schedule' - see pages 24 - 26 of File 3 part 3 in the Court documents). The explanation that he gave is that, where he had booked sales of large quantities of Euros to JW based upon telephone calls from JW (but where JW had yet to arrive at the branch to collect them), those large quantities of Euros would not therefore be included in the Forde Moneychanger's running total (since they had already been sold through it) but the Euro notes instead would be held in the main safe, allocated to the AM stock unit. Those notes needed to be shown as branch stock because no money had, at that point, been received from JW in payment for them. In simple terms, the Applicant's practice of selling currency, in telephone deals with JW, meant that the Forde Moneychanger's weekly 'Command 10' print out would materially understate the branch's true currency notes on hand figure, and those sold-but-not-paid-for notes would need to be added back into the branch's stock when carrying out the weekly branch balancing. Even in the face of that convoluted explanation, it still remains unclear to us how that that £282,000.00 shortfall was generated and indeed Mr Liddell's report questions whether it could have been attributable to *"timing differences"*.

- 5.6. Later in the cross-examination, the Applicant refers to what was his normal practice, when he received foreign currency notes that he had, in effect 'pre-sold' to JW, of entering the sterling

equivalent into both the AM stock unit as well as the BU stock unit and also into the Forde Moneychanger. The correct practice would be to only book the currency into the BU stock unit and the Forde Moneychanger. Booking the incoming currency into both stock units would, of course, duplicate the stock value on Horizon and that ought to have generated enormous (false) surpluses in the branch's books. This practice is referred to on pages 4 to 8 of 62 of File 7 part 4 of the Court documents and we have been unable to establish whether it led to the £282,000.00 overstatement of currency.

- 5.7. Despite carefully examining all of the detailed and, frankly complicated and confusing, evidence, we have been able to determine with certainty whether the £282,000.00 shortfall really was caused by the Applicant's theft. The doubt persists that it might simply have arisen because Euros of that sterling equivalent had been sold to JW but not paid for by him as of January 13 2003.
- 5.8. In our view, the fundamental reason why it has proved so difficult to establish exactly how that shortfall arose, is that Horizon's was unable to handle multiple currencies other than by recording, just once a week, a revaluation figure expressed as a sterling equivalent of the currency notes that each branch was meant to have in hand. Establishing, and clearly explaining, exactly what happened proved (as evidenced by its failure to secure a conviction against either Defendant at the first trial) beyond the combined skills of Post Office's investigation and legal teams and also beyond the skills of the Crown's prosecuting QC.
- 5.9. Post Office says, in that POIR, *"there has been no evidence presented to Post Office that questions the validity of the prosecution or the Applicant's guilty plea"*. Second Sight is a firm with technology, accounting and investigative skills that claims no particular expertise in regard to criminal law matters. Indeed, Post Office has made this point quite clear in its communications to Applicants and to their Professional Advisors as well as in its Press Releases. It follows that any views that we have expressed, in this report, in regard to the criminal trials, are based upon our examination of the evidence, in our capacity as professional accountants and fraud investigation specialists. Should the Applicant wish to pursue his expressed desire to have his case re-examined, then there are avenues available to him to do so.
- 5.10. Having heavily criticised, in this CRR, Post Office's failure to detect the huge volume and value of this branch's off-market foreign exchange deals prior to being alerted to them by HMC&E, we must also here criticise the Applicant. It seems to us quite remarkable that, if his consistently repeated testimony is to be believed, he failed ever to realise that the beneficial foreign exchange sales rates that knew that he was, over the years, granting to JW were so wildly different from those offered by other Bureaux de Change that JW was able to make massive profits simply by buying from his branch and selling to other Bureaux de Change. It is also clear to us that, in accepting post-dated cheques in payment for foreign currency cash, the Applicant was taking substantial credit risks, way beyond the losses that he could possibly afford to sustain (indeed he acknowledged that during the first trial, as shown on page 69 of 86 of the Court transcript shown in File 7 part 2 of the Court documents). He repeatedly took those substantial risks for no reward (other than the tiny £1.12 fee that he received for every foreign currency transaction, irrespective of its value). Our position is that, if he was doing all

that *without sharing in JW's massive profits*, then he must have been extraordinarily naive. That said, it must be appreciated that those practices had become the 'norm' in that branch and they were followed by all of the branch's staff *for more than four years*.

5.11. Post Office concedes, in its POIR, that *"It is regrettable that Post Office did not take action before the events of January 2003. Post Office appears to have been slow to react in questioning the levels of currency being sold, particularly Euros and the high value of cheques. A possible reason for this is that as the two Post Office departments responsible for foreign currency and cheque processing are independent of each (cash centre and the cheque processing centre respectively) and may not have communicated any concerns with one another regarding the branch. Alternatively, it is possible that both of these departments may have attributed the high foreign currency and large cheque amounts to a corporate customer of the branch"*. We are pleased to note that Post Office is aware of those shortcomings, although it has not conceded that, had it not been for those systemic failings, this business relationship, which we view as absurd, would never have flourished.

5.12. In its response to the previously issued draft of this report, Post Office emphasises that *"Where a point is not specifically responded to by Post Office, it must not be seen as being an acceptance of the point"*, adding: *"the audit and subsequent investigation process revealed a catalogue of errors made by the Applicant, including a failure to carry out basic and daily operational procedures, accepting post-dated cheques in payment for foreign currency cash and the manipulating of foreign currency rates which was not sanctioned or authorised by Post Office"*.

6. Is this case suitable for mediation?

6.1. Whilst, in our opinion, this case ought to be suitable for mediation, Post Office has made it clear, in its response to the previously issued draft of this report, that it *"does not consider this case to be suitable for mediation because: (a) there is no evidence that Horizon or associated software caused or contributed to the branch loss, (b) the Applicant maintained poor financial accounting and control procedures and operated an unauthorised process for conducting large scale foreign currency transactions which exposed Post Office to substantial financial risk, and (c) the Applicant admitted to and was convicted of theft"*.

6.2. We consider that mediation would offer both parties the opportunity to resolve the matters relating to allegedly inadequate training and support in respect of foreign currency transaction processing; misadvice that the Applicant says he received from his RNM, and from others in Post Office; and Post Office's failure to notice and respond to the off-market rates that he was offering to JW.

6.3. If the case does proceed to mediation, then the following issues should also be considered:

- a) whether Post Office or the Applicant is responsible in part or in whole for the £282,000.00 in losses, that we assume have already been written off by Post Office in addition to the losses that it had already suffered when the branch's small weekly profits failed to extinguish the losses that it had already booked when it devalued all of the currency that it sent to the branch.