

POST OFFICE LTD – CASE REVIEW

R. v. LYNETTE HUTCHINGS

Portsmouth Crown Court

Offence

1. On the 24th August 2012 this defendant was sentenced to a Community Order of 12-months with a requirement that she complete 120 hours of Unpaid Work. The sentence was imposed for a single charge of False Accounting, alleging that between 13th day of January 2010 and 30th March 2011 she had falsified Branch Trading Statements on Horizon so as to show that she had more cash and stock in hand than she in fact did have, thereby to conceal shortages totalling £10,868.08

Case history

2. The defendant appeared before the Portsmouth Magistrates Court on 19th April 2012. She gave no indication of her intended plea and the Magistrates deemed the case unsuitable for summary trial. The case was adjourned for the preparation of committal papers and the committal hearing took place on 6th June 2012.
3. The matter next came before the court for a Pleas and Case Management Hearing at Portsmouth Crown Court on the 30th July 2012, whereupon the defendant was arraigned and pleaded guilty to the charge and signed a written Basis of Plea documents, which reads:

“Lynette Hutchings pleads guilty to False Accounting on the basis that she made the books balance in order to “put off the evil day of having to sort out the muddle” (see R. v. Eden Archbold 21-235) and not on the basis that she took, or intended to take, any money.”

L.L Hutchings

4. The matter was adjourned to the 24th August 2012 for sentencing, with the outcome recorded at paragraph 1 above.

Prosecution case

5. The defendant Lynette HUTCHINGS had been sub-postmaster at the Rowlands Castle Sub Post Office Office since 22nd January 2009. This was a fortress-type sub-post office located in a pet supplies and grooming business.
6. On 30th March 2011 an audit revealed a deficit in the accounts of £9,743.76. The audit had been arranged after the branch failed to return £30,000 as requested, returning only £14,000. When errors in favour and against the branch were subsequently processed, the outstanding debt at the branch was found to be £10,814.83
7. There is very strong evidence to support the allegation that Mrs. Hutchings had inflated the amount of cash held within the branch, usually by inflating the figure for cash held in £50 notes, on the days upon which Branch Trading Statements were completed. It would appear that deficits in the accounts were covered up in this manner for some considerable period of time.
8. In interview on 20th April 2011, conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice, a prepared statement was read out by Mrs. Hutchings' solicitor, following which Mrs Hutchings exercised her right to silence. The relevant part of that prepared statement reads:

We migrated to Horizon on Line in approximately May/June 2010 (in fact 5th July 2010). At the time of migration all of the accounts balanced.

Ever since we have been with HOL, the balances have been wrong. When I talk about "we" I also refer to my husband who assists me in the Post Office.

At no stage have we stolen money from the Post Office nor are we aware of making mistakes in our day to day operation of the system.

Because of this we have always believed that the incorrect balances would be sorted out through transaction corrections.

When I altered the cash declarations this was not done in order to create a financial gain for myself or a loss to the Post Office. I genuinely believed that there was no loss and that the balances would be corrected in the fullness of time. The only reason the case declarations were altered was to enable me to operate the Post Office.

I am unable to explain why the balances are incorrect, but would give examples of some difficulties as follows:

- The Helpline was difficult to access and unreliable.
- Secure stock created unexplained discrepancies on a weekly basis.
- The screen on the stock unit needs recalibrating on occasion due to the cursor sticking.
- The back office printer was replaced because it was unreliable.
- The small counter printers have stuck and not produced expected receipts.
- One monitor crashed and the power pack had to be replaced.

Only myself and my husband worked in the Post Office.We only ever used our own Log-ins and did not know each others passwords.

I did not sign any Trading Statements.

At no time did I act dishonestly.

Defence case

9. Negated by the guilty plea, however see discussion below.

Discussion

10. The defendant has unequivocally admitted making false entries into Horizon in the belief that the balances would be corrected in the fullness of time. In particular she stated in her prepared statement that she did not do so dishonestly. Had she chosen to advance that account at trial the jury would have been entitled to accept what she said and to acquit her; or to reject the account and convict her. Thus the opportunity was there for her to seek an acquittal.

11. The reference in the defendant's signed Basis of Plea document (reproduced at para.3 above) to the case of "R. v. Eden" is a reference to Lord Justice Sach's judgement in the well-known Court of Appeal decision in R. v. Eden, (1971) 55 Cr. App. R. 193 in which he said:

"It could be perfectly proper for a jury....to find that an accused person who has deliberately made false entriesin order to cover up a muddle guilty The question for the jury would be whether he had dishonestly falsified the accounts for "gain" that could obviously include temporary gains of many types. Such a gain could be constituted *by putting off the evil day of having to sort out the muddle* and pay up what may have been in error kept within the sub-post office when it ought to have been sent to head office." (*my emphasis*)

12. Given the reference to the extract from *Eden* in the signed Basis of Plea, it seems to me that this plea is unequivocal and unimpeachable – it is plainly entered following advice from counsel who has properly considered the issues and has appropriately advised.
13. As for the defendant's reference to the inadequacy of the Helpline, this does not seem to have been pursued; indeed no Defence Statement was served, and it is in that document that I would expect to see the real nature of the defence including such assertions. It should not be forgotten that it is the Defence Statement which' in setting out the defence, acts as a trigger for disclosure. The failure to serve a Defence Statement may militate against disclosure.

Safety of Conviction

14. It is not the purpose of this review, nor of the review process overall, to determine whether or not any particular conviction is unsafe: that decision is reserved to the Court of Appeal only. The purpose of this process is to identify those cases where the material contained within the Second Sight Interim report would have met the test for disclosure as provided in the Criminal Procedure and Investigations Act 1996, the Code of Practice enacted thereunder and the Attorney-General's Guidelines on Disclosure, had that material been known to Post Office Ltd. during the currency of the prosecution and accordingly would or ought to have been disclosed to the defence.

15. In this case I advise that, given the chronology and circumstances of the guilty plea, and the reference in the Basis of Plea to the leading case on the topic of the charging of False Accounting, the Second Sight Interim report and the Helen Rose report would not have been disclosable during the currency of the prosecution and accordingly do not now fall to be disclosed.

Conclusion

16. 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 and the Helen Rose's 6th June report.

17. Accordingly we are not required to disclose that material now.

Simon Clarke
Barrister
Cartwright King Solicitors

19th July 2013