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Our ref:
SJD3/KAK2/348035.134
Your ref:
Geoff Porter

Dear Geoff,

Post Office Limited -v- Mr Lee Castleton, Claim number HQ05X02706
14 South Marine Drive, Bridlington, YO15 3DB
Accountancy Expert's Report

I refer to our recent telephone conversation.

(1) Background

We act on behalf of the Post Office Limited (**the P.O.**). From approximately 18 July 2003 to 23 March 2004, Mr Castleton was a Sub Postmaster at 14 South Marine Drive, Bridlington, YO15 3DB (**the Marine Drive branch**). His contract provides (and this point is not contentious) that:

- (a) He was strictly responsible for the safe custody of cash, stock of all kinds and property of the P.O, whether held by himself or by his assistants and was obliged to keep them in a place of security.
- (b) He was responsible for maintaining a standard of security sufficient to enable him to meet such obligations for the safekeeping of the P.O's cash and stock placed in his care;
- (c) He was responsible for and was obliged to make good without delay, all losses caused through his own negligence, carelessness or error and also losses of any kind caused by his assistants; and
- (d) His financial responsibility (for example, to make good losses) did not cease when he relinquished his appointment and he remains obliged to make good any losses incurred during his term of office which subsequently came to light.

Pursuant to his contract and position as the P.O's agent, he dealt with financial transactions between the P.O and its customers and was obliged to keep true and accurate records of all such transactions and to account to the P.O for all monies the subject of such transaction and to deliver up to the P.O the proper balance from time to time resulting from such transactions.

(2) The P.O's Claim

The Post Office claims that between 18 July 2003 and 25 March 2004, net losses of £27,115.83 occurred at the Sub Post Office. Mr Castleton was suspended on 23 March 2004 and dismissed on 17 May 2004. The Post Office has now issued a claim against him to try and recover these net losses. Mr Castleton has issued a Counterclaim claiming wrongful termination of his contract. Following disclosure the P.O will only be pursuing the sum of £25,858.95 plus interest and costs, rather than £27,115.83. This is to reflect the repayment by a customer (Dorothy Constable) of the sum of £1,256.88 in January 2005.

(3) Mr Castleton's Defence and Counterclaim

Mr Castleton's defence is that the apparent shortfalls are nothing more than accounting errors arising from the operation of the Horizon computer system and that the PO wrongfully terminated his Sub Postmaster contract in respect of which has suffered loss not exceeding £250,000.

(4) The Horizon Computer system

We are instructed that each counter position in a P.O branch has a computer terminal, a touch sensitive screen, a keyboard, barcode scanner and printer. The system records all transactions input by the counter clerk working at that counter position. Each clerk logs on to the system by using a series of passwords. The transactions performed by each clerk, and the associated cash and stock level information are recorded by the computer system in a stock unit. Once logged on, any transactions performed by the clerk must be recorded and entered on the computer and are accounted for within the user's allocated stock unit. The Marine Drive branch where Mr Castleton was the sub postmaster has 2 counter positions whose transactions are combined together and recorded as 1 shared stock unit. This means that all the cash and stock is contained on 1 balance sheet as opposed to having a separate stock and cash balance for each terminal.

P.O branches operate double entry accounting. Apart from APS, every transaction recorded by the clerk on to their computer has a corresponding physical document, such as a TV license counter foil, savings bank deposit and withdrawal slips or cheques. The P.O maintains that this is fundamental, because it means that even if Mr Castleton did experience problems with computers at the branch and even if they recorded losses erroneously (which is denied), this would have been picked up when the information Mr Castleton recorded into his computer did not correspond with the paperwork he sent each day to the Processing Centre and an error notice would have been generated.

(5) Mr Castleton's specific allegations and the P.O's view

IT Problems

Mr Castleton's allegations about the Horizon computer system are set out in more detail in the further information of the defence and part 20 claim (copy enclosed). In summary, he alleges that the two computers in his office were not communicating properly, the screen was freezing, sometimes the screen would go blank, the card swipe would not read, the Horizon system rolled over cash figures and failed to record transactions. The P.O maintain that irrespective of whether Mr Castleton did experience those computer problems, it would not have caused the losses.

Inconsistencies between transaction logs and cash accounts

Mr Castleton's latest allegation is set out in his solicitor's letter dated 25 July 2006 and is basically that the Horizon transaction logs are inconsistent with the Final cash accounts for week 42. We would like you to review this and consider whether there is any merit in his assertions in your report.

(6) Documents enclosed

We enclose with the hard copy of this letter the following:

- (a) Document numbers 1 to 57, 60 to 64, 78 to 83 and 86 to 88 from the P.O's disclosure list (and a copy of that list which is a useful index). This includes financial documents such as electronic Transaction logs, product codes, event logs, giro receipts, balance snapshots and cash accounts as well as P.O witness statements of Mrs Oglesby, Mrs Rose and Mr Jones;
- (b) 2 information sheets given to sub post-masters, which explains the daily procedures and reports and the balance procedure. We are instructed that similar sheets would have been given to sub postmasters at the time when Mr Castleton was sub postmaster at the Marine Drive branch.
- (c) Stock Remittances schedule. This is a record of what the P,O say they sent to the Marine Drive branch.
- (d) Spreadsheet with errors from 2003 - 2004 brought to account by Marine Drive
- (e) Letter dated 25 July 2006 from Mr Castleton's solicitors to Bond Pearce setting out their latest allegations about transaction logs being inconsistent with cash accounts.

(7) Accountancy Report and timetable

Please could you review the enclosed documents investigate and prepare a formal Accountancy Report dealing with whether in your expert opinion, the P.O did suffer losses of £25,858.95. We want the focus of the Accountancy Report to deal with the issue of whether the losses can be proved arithmetically.

You may require further information or wish to discuss this matter with other parties. If you do need this please could you make any requests through us. Please could you also let me have a look at your draft report before submitting the final version.

The trial is due to start some time during the week commencing 4 December 2006. It will probably start on 4 December and last 5 to 8 days, but could start as late as the 8 December and finish on the 19 December at the latest.

We are awaiting Court approval of the following timetable but it will probably be:

- (a) Experts to simultaneously serve their reports by 4pm on **13 October 2006**; and
- (b) Each parties' experts to meet by **27 October 2006** to identify points on which they are agreed and not agreed and by **10 November** to produce a joint statement of the issues on which they agree or disagree.

The author of the Accountancy Report will then be called as an expert witness to give evidence at trial in London in December, so they need to have previous experience of giving evidence and be comfortable with being cross examined.

As discussed, please provide us with quotations for preparing the Reports for carrying out work so that we can obtain P.O sanction to instruct you.

(8) Duty to the Court

As a result of the instruction you may be asked to give evidence before the Court. Whilst the PO will be liable to pay your fees, in preparing your Report and giving evidence, your overriding duty will be to help the Court on the matters within your expertise.

You agree to meet the requirements of the Civil Procedure Rules Part 35 Practice Direction (copy enclosed) and that your Report will:-

1. Be addressed to the Court and not to the Post Office (but it should be sent to Mr Dilley of this firm).
2. Confirm that you understand your duty to the Court and that you have complied and will continue to comply with that duty;
3. Contain a statement setting out the substance of all material facts and instructions (whether written or oral) on the basis on which your Report is written. This statement should summarize the facts and instructions given to you which are material to the opinions expressed in the Report or upon which those opinions are based and if any of the facts are within your own knowledge which they are;
4. Contain a chronology of the relevant events;
5. Contain a Statement of Truth in the following form:

"I confirm that insofar as the facts stated in my Report are within my own knowledge I have made clear which they are and I believe them to be true and that the opinions I have expressed represent my true and complete professional opinion".
6. You should not that proceedings for contempt of Court may be brought against you if you make a false statement and Report verified by a Statement of Truth without an honest belief it was true;
7. Contain a declaration that the Report has been prepared in accordance with the Code of Guidance on Expert Evidence (enclosed).
8. Give details of your qualifications;
9. Give details of any literature or other material which you rely on in making the Report;

10. So who carried out any test or experiment which you use for the Report and whether or not the test or experiment has been carried out under your supervision;
11. Give the qualifications of the person who carried out any such test or experiment;
12. Where there is a range of opinion on the matters dealt with in the Report – sub-paragraph 11.1 summarises the range of opinion.
13. Give reasons for your own opinion.
14. Contain a summary of the conclusions reached including any qualifications to the same;

Given the fundamental importance of meeting these requirements, you should endeavour in your Report to be not only accurate but complete. You should mention all matters which you regard as being material to the opinions you express and draw the Court's attention to any matter to which you are aware which might adversely affect the validity of those opinions. This applies in relation to the factual matters to which you refer and also to the opinions which you express.

You should not include in your Report anything that is suggested to you by anyone without forming your own independent view.

If, on reading the Report of any other expert in this matter, or for any reason, you consider, at any stage, that any existing report of yours requires correction or qualification you will immediately notify us in writing of that fact.

(9) Duty to the Post Office

In performing all your duties for which the client will pay, you will owe a duty to the client to act with the professional standards of skill, care and diligence adhered to by experienced and competent consultants acting as expert witnesses.

You will take reasonable care of any documents, materials or samples sent to you by the clients and shall return them immediately (together with any copies taken) to the clients upon request.

In complying with your duties to the Court, you will not, without having first obtained prior written approval of the client, divulge to any third party any information relating to the dispute.

You confirmed that you:

1. Are an independent party and not the P.O's employee or agent;
2. Know of no reason why you should not act as a witness for the P.O in relation to the dispute; and
3. Will advise us in writing immediately if any conflict between your interests and the P.O's interests should arise in relation to the dispute.

I look forward to hearing from you as soon as possible.

Yours sincerely

Stephen Dilley
Solicitor
for and on behalf of Bond Pearce LLP