

IN THE CROWN COURT
AT STAFFORD

INDICTMENT
TRIAL NO. S20090079

STATEMENT OF INFORMATION RELEVANT IN ACCORDANCE WITH SECTION 16 (3)
OF THE PROCEEDS OF CRIME ACT 2002

REGINA

V

SUSAN JANE RUDKIN

STATEMENT DETAILS

Prepared By:

Gerald Owen Harbinson

Address:

Croydon (PO Box 1, Croydon, CR9 1WN)

Signature:

GRO

Date:

06.07.2009

Statement Tendered By

Prosecutor:

Jarnail SINGH(Principle Lawyer)

Address:

Royal Mail Group Legal Services **GRO**

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1 Statement of Information

- 1.1 The prosecutor has requested that the Court proceed to confiscation under Section 6 (3(a)), of the Proceeds of Crime Act 2002 (hereinafter called the Act).
- 1.2 It is considered appropriate for the court to proceed under Section 6(4), as it is believed that the defendant has a criminal lifestyle as defined, and that it is therefore appropriate for the Court to make the assumptions under Section 10 of the Act in determining the defendant's benefit. The defendant is believed to have a criminal lifestyle as-
- The defendant has been convicted of an offence committed over at least six months and the benefit is at least £5,000 (Sections 75(2)(c), 75(4)
 - *between the 1st day of January 2007 and the 20th day of August 2008 at Ibstock Post Office stole £43,894.15 belonging to Post Office Limited*
- 1.3 The Court is therefore required to decide if the defendant has a criminal lifestyle. If the court decides the defendant has a criminal lifestyle it is required to decide if he has benefited from her general criminal conduct. If the court decides the defendant does not have a criminal lifestyle the court must decide if she has benefited from her particular criminal conduct
- 1.4 This is the statement of information dealing with all matters relevant by G Harbinson an Accredited Financial Investigator into the financial affairs of Susan Jane Rudkin (hereinafter referred to as the defendant) for the purposes of establishing
- a) The benefit derived by the defendant
 - b) The nature of the defendant's available property, so far as it is known to me, from which any Confiscation Order made by the Court may be satisfied.

2 Civil Proceedings

- 2.1 No civil proceedings have been commenced by the victim against the defendant.

3 Summary of Offence

- 3.1 On Wednesday the 20th August 2008 an audit at Ibstock Sub Post Office, 118-120 High Street, Ibstock, LE67 6LJ revealed a shortage in the office accounts of £43,856.89. As a result of the audit shortage, Mr Rudkin was precautionary suspended from his position as Sub-Postmaster.
- 3.2 The defendant was an assistant working at Ibstock Sub Post Office, 118-120 High Street, Ibstock, LE67 6LJ. The incumbent Subpostmaster was the defendant's Husband, Ernest Michael Rudkin who had been in post since the 26th October 2000.
- 3.3 On the 20th August 2008, Post Office Investigators interviewed the defendant under caution.
- 3.4 During that interview the defendant stated that the office had been experiencing losses in the Post Office accounts from approximately January 2006 and that she had been inflating the cash on hand figure in the accounts to cover the shortages.
- 3.5 She further stated, during interview, that she had taken cash from the Post Office to cover payment of general bills, which had been paid into a joint bank account held with her husband. The defendant stated that she alone was responsible and that no one else had any knowledge of the theft.

- 3.6 The Defendant appeared at Burton-on-Trent Magistrates Court on the 23rd March 2009 at 10am. And pleaded Guilty to the charge of-
- 3.7 Between the 1st day of January 2007 and the 20th day of August 2008 at Ibstock Post Office stole £43,894.15 belonging to Post Office Limited". (Contrary to Section 1(1) of the Theft Act 1968)
- 3.8 The case was then transferred for Sentence at Stafford Crown Court on the 1st May 2009 at 10.30am where the defendant was sentenced to 12 months imprisonment suspended for 2 years with a Community Order of 300 hours unpaid work and electronically monitored curfew for 6 months requiring the Defendant to stay indoors between the hours of 10pm and 5am
- 3.9 Following this the confiscation timetable was set.

- Copy of tape transcription of Interview dated 20th August 2008 associated as appendix a.

3 Valuation of Drugs (Drugs cases only)

4.1 N/A.

5 Personal History / Lifestyle

- 5.1 The defendant is a 54 year old female (Date of Birth [GRO]) she currently resides with her husband Mr. E. M. Rudkin at [GRO]
- 5.2 The defendant is subject of an electronically monitored curfew order requiring the Defendant to stay indoors between the hours of 10pm and 5am.
- 5.3 There are no recorded previous convictions.

6 Legitimate Sources of Income

- 6.1 The defendant owns, with Mr. E. M. Rudkin, [GRO] which operates as a Sub-Post office and retail outlet. The income from these outlets are
- 6.2 Post Office pay to Mr. Mr. E. M. Rudkin January 2007 to 31 July 2008 £137,351.15
- 6.3 Taxable profits for defendant dated for 20006/07 £17,500
- Copy of sub-postmasters payments associated at appendix b.

7 Financial Record Examination

- 7.1 Lloyds TSB account [GRO] sort code [GRO] in the names of the defendant and Mr. E. M. Rudkin. The account received payments relating to the partnership retail outlet at [GRO] [GRO] It is into this account that the criminal property has been paid. I have scheduled the business payments into the account between 4th January 2007 and 20th August 2008.
- 7.2 Alliance & Leicester account [GRO] in the names of the defendant and Mr. E. M. Rudkin. The account received payments relating to the partnership retail outlet at [GRO] [GRO] I have scheduled the business payments into the account between 4th January 2007 and 20th August 2008 and combined this with Lloyds TSB account [GRO] sort code [GRO] to show the gross turnover of the retail outlet. £444,646.30
- Copy of schedule of TSB account [GRO] sort code [GRO] and Alliance & Leicester account [GRO] associated as appendix c.

7.3 Lloyds TSB loan account [GRO] sort code [GRO] in the names of the defendant and Mr. E. M. Rudkin. This account deals with the mortgage payments for [GRO] [GRO] I have scheduled the payments into the account between January 2007 and August 2008 all these payments were made from Lloyds TSB account [GRO] sort code [GRO] into which criminal property was paid.

7.4 Lloyds TSB loan account [GRO] sort code [GRO] in the names of the defendant and Mr. E. M. Rudkin. This account deals with the mortgage payments for [GRO] [GRO] I have scheduled the payments into the account between January 2007 and August 2008 and combined them with the payments from Lloyds TSB loan account [GRO] sort code [GRO] all these payments were made from Lloyds TSB account [GRO] sort code [GRO] into which criminal property was paid. The total payments made were £52,474.21

- Copy of schedule of Lloyds TSB loan accounts [GRO] and [GRO] sort code [GRO] associated as appendix d.

7.5 M&S Money Account [GRO] in the name of the defendant. I have scheduled the payments made and listed As 'Payment Received Via Post Office Giro' As it may be agreed that these constitute potential criminal property payments of the money stolen.

- Copy of schedule of M&S Money Account [GRO] associated as appendix e.

8 Restraint Order

8.1 On 22nd September 2008 in the Croydon Crown Court His Honour Judge AINLEY made a Restraint Order [GRO] against the defendant which prohibited her from dealing with her assets, listed in section 4 of that order, save as authorised by the Crown Court.

- A copy of the restraint order and witness statement associated as appendix f.

9 Extent of Benefit from Criminal Conduct

9.1 Benefit derived from Charges

9.2 The total amount of benefit obtained by this defendant as a result of the offences in these proceedings is calculated as follows:

Benefit derived as a result of the offences as charged

a) Benefit as a result of the theft.	£43,894.15
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Benefit as a result of or in connection with the crime

b) The gross turnover of the business during the relevant period	£266,565.99
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c) Total benefit	£310,460.14
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The calculation of benefit (b) derived by the defendant has been made on the basis of the judgement of Lord Justice Leveson in the Court of Appeal (Criminal Division) in the matter of R v Neuberg [2007] EWCA CRIM 1994 and Lord Justice Aikens in the Supreme Court of Judicature Court of Appeal (Criminal Division) in the matter of R v SEAGER [2009] EWCA CRIM 1303 namely, that the benefit is the gross income or turnover of the business for the period specified in the count on the indictment.

Calculation of Benefit

a) = the loss recorded at audit and the charge (Contrary to Section 1(1) of the Theft Act 1968)

$b) = (\text{The gross turnover of the retail outlet at } \boxed{\text{GRO}} \text{ from 4th January 2007 to 20th August 2008}) \text{ minus } (\text{The Sup-postmasters pay from January 2007 to July 2008}) \text{ minus } (\text{the audit loss} - \text{minus- the M\&S Money payments from 25th January 2007 to 11th August 2008})$

$c) = a) + b)$

Therefore $a) = £43,894.15$

Therefore $b) = (£444,646.30) - (£137,351.15) - (£43,894.15 - £3,164.99) = (£266,565.99)$

Therefore $c) = £43,894.15 + £266,565.99 = £310,460.14$

The calculation of the benefit derived by the defendant has been made on the basis of the judgement of Mr Justice McCulloch in the High Court of Justice, Queens Bench Division, in the matter of R v K (TLR 01/10/1990), namely, that the benefit is the value of the property obtained. This judgement has been followed by the Court of Appeal, Criminal Division, in the matter of R v John Adeyemi Layode, Court of Appeal, Criminal Division 12 March 1993.

- Copy of R v Neuberger [2007] and R v SEAGER associated as appendix g.
- Copy of R v John Adeyemi Layode associated as appendix h.

9.4 Assumptions

A Property transferred to the defendant after the relevant date

I have not scheduled any accounts showing unidentified lodgements within bank accounts held by the defendant in this case. This is because although the Court may decide under section 1:2 of this statement that the defendant in this case has by definition a "Criminal Lifestyle" the prosecution is content that the benefit that the defendant has obtained from her criminal conduct is wholly detailed in the defendants "Particular Criminal Conduct" of this statement and in this circumstance there may be a serious risk of injustice if this assumption was made.

B Property held at any time after the date of conviction

I have not scheduled any property held in this case. This is because $\boxed{\text{GRO}}$ (Title Number $\boxed{\text{GRO}}$ was purchased in November 2000. However the payments made against the mortgage account for the property came from account $\boxed{\text{GRO}}$ sort code $\boxed{\text{GRO}}$ $\boxed{\text{GRO}}$ and into which criminal property was placed and as such it may be that the court considers the equity in the property benefit from crime.

C Expenditure incurred after the relevant date

I have not scheduled any accounts showing expenditure within bank accounts held by the defendant in this case. This is because although the Court may decide under section 1:2 of this statement that the defendant in this case has by definition a "Criminal Lifestyle" the prosecution is content that the benefit that the defendant has obtained from his criminal conduct is wholly detailed in the defendants "Particular Criminal Conduct" of this statement and in this circumstance there may be a serious risk of injustice if this assumption was made.

D Free Property

If the court considers that the equity from the property [GRO] (Title Number [GRO]) to be benefit from crime then it may consider the equity to be free of any other interests in it.

10 Summary of Benefit

10.1 Table of Benefit

Source	Detail	Amount
Benefit from conviction	Theft	£43,894.15
	The gross turnover of the business during the relevant period	£266,565.99
	Total	£310,460.14
Assumptions		
Transfers		
Property held		
Expenditure		
	Total Benefit	£310,460.14

11. Available Amount

11.1 The onus is on the defendant to provide the Court with full details of all his free property, including full internal valuations (carried out by a professional valuer) for any houses she has an interest in. He will also need to supply the Court with details of the likely costs that will be incurred in realising the property.

11.2 The free property that I have identified is as follows:

11.3 The defendant owns jointly with Mr. E. M. Rudkin [GRO] (Title Number [GRO]) this property has an outstanding mortgage with Lloyds TSB (£245,110.30) the current market value is £391,294.00 based on the valuation of 8th August 2005 which was £400,000.00. However evidence from the M&S Money Account [GRO] and conversation between the defendant and the Post Office Limited Investigator (M Wilcox) suggest that the property has been improved since then and that the valuation may be higher than that indicated. The Equity is in the region of £146,183.70.

- Copy of Land registry Title document for [GRO] associated at appendix i.
- Copy of Nationwide house price calculator associated at appendix j.

The onus is on the defendant to provide the Court with full details of all his free property, including full internal valuations (carried out by a professional valuer) for any houses she has an interest in

11.4 The defendant owns a 5 door diesel Vauxhall Vectra CDTI 2005. registration [GRO] the current market price for this vehicle is £6,500.00

11.5 The above assets and their valuations are provided for the assistance of the Court. The onus remains with the defendant to show, with evidence that she does not have sufficient assets to meet the benefit and I rely on the defendant to give full details of all her assets held. (R v Barwick) (R v Barnham)

- Copy of R v Barwick and R v Barnham associated as appendix k.

12 Summary of Realisable Assets

Use the table to set out the assets in short form to assist the Court.

Reference	Asset	Value
11.3	GRO Title Number	£146,183.70
11.4	5 door diesel Vauxhall Vectra CDTI 2005. registration GRO	£6,500.00
	Total Known Assets	£152,683.70

13 Defence Response

- 13.1 Section 17 of the Act allows the Court to order that the defendant respond to the Prosecution statement indicating the extent to which he accepts each allegation and to give particulars of any matters upon which he relies. If the defendant fails to comply with such an order he may be treated as accepting every allegation apart from any allegation he has replied to or any allegation that he has benefited from his general or particular criminal conduct.

- 13.2 Any reply to this statement made under the Proceeds of Crime Act 2002 should be served on STAFFORD Crown Court, and a copy sent to the Royal Mail Group Legal Services **GRO**

- 13.3 The court ordered the defence to serve a reply to this statement by 24th July 2009.

14 Confiscation Order

- 14.1 If the Court accepts that the defendant has benefited from the proceeds of crime to the extent of £310,460.14 then the court should declare the benefit in that amount, or in any other amount in respect of which the court finds the defendant has benefited.
- 14.2 The recoverable amount is an amount equal to the Defendant's benefit from the conduct concerned. If the defendant shows that the available amount is less than the benefit, the court should make a confiscation order in that sum. (Section 7 POCA 2002)

15 Effect of Compensation on Confiscation

- 15.1 The effect of Section 13 (5) of the Act permits the Court to make a compensation order under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 as if a confiscation order had not been made.
- 15.2 If the defendant cannot pay both, compensation can be recovered from sums paid in satisfaction of the confiscation order. (Section 13(6) POCA 2002)

Compensation to Post Office Ltd.

Shortage Identified at audit	£43,894.15
Total	£43,894.15

16 Time to Pay

- 16.1 Section 11 of the Act states that a confiscation order must be paid on the making of the order. However where the defendant shows that he requires time to pay the Court may order payment within a specified period. That period must not exceed six months from the date the order is made.

17 Default Sentence

- 17.1 The Court should impose a period of imprisonment in default. The table below is included for reference and the assistance of the Court. See the Powers of Criminal Courts (Sentencing) Act 2000 Sec.139 (4).

Amount of Confiscation order	Default Sentence
An amount not exceeding £200	Up to 7 days
An amount exceeding £200 but not exceeding £500	Up to 14 days
An amount exceeding £500 but not exceeding £1,000	Up to 28 days
An amount exceeding £1,000 but not exceeding £2,500	Up to 45 days
An amount exceeding £2,500 but not exceeding £5,000	Up to 3 months
An amount exceeding £5,000 but not exceeding £10,000	Up to 6 months
An amount exceeding £10,000 but not exceeding £20,000	Up to 12 months
An amount exceeding £20,000 but not exceeding £50,000	Up to 18 months
An amount exceeding £50,000 but not exceeding £100,000	Up to 2 years
An amount exceeding £100,000 but not exceeding £250,000	Up to 3 years
An amount exceeding £250,000 but not exceeding £1,000,000	Up to 5 years
An amount exceeding £1,000,000	Up to 10 years

STAFFORD CROWN COURT

THE QUEEN

v

SUSAN JANE RUDKIN

COPY PROSECUTION STATEMENT OF
INFORMATION RELEVANT IN
ACCORDANCE WITH SECTION 16(3) OF
THE PROCEEDS OF CRIME ACT 2002

General Counsel to
Royal Mail Group Limited
Legal Services

GRO