

**IN THE CROWN COURT
AT CAERNARFON**

**INDICTMENT
TRIAL NO.**

**STATEMENT OF INFORMATION RELEVANT IN
ACCORDANCE WITH SECTION 16 (3)**

OF THE PROCEEDS OF CRIME ACT 2002

REGINA

V

HUGHIE NOEL THOMAS

STATEMENT DETAILS

Prepared By : Michael Francis MATTHEWS

**Address : Post Office Ltd Investigation
Team
PO Box1
Croydon
CR9 1N**

Signature :

Date :

Statement Tendered By

Prosecutor : **Juliet McFARLANE**

Address : **Solicitor**
Criminal Law Team
Royal Mail Group plc
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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)), or the Court has considered it appropriate so to do under Section 6 (3(b)), of the Proceeds of Crime Act 2002 (hereinafter called the Act). 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. #
- 1.2 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 his general criminal conduct. If the court decides the defendant does not have a criminal lifestyle the court must decide if he has benefited from his particular criminal conduct
- 1.3 This is the statement of information dealing with all matters deemed relevant by the Prosecutor in relation to the financial affairs of Hughie Noel THOMAS (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 Prosecutor knows it, from which any Confiscation Order made by the Court may be satisfied.

2 Civil Proceedings

- 2.1 Section 6(6) of the Act indicates that the duty of the Court outlined in Section 6(5) becomes a power if it believes that any victim of the conduct has at any time started or intends to start proceedings against the defendant in respect of any loss, injury or damage sustained in connection with the conduct.

- 2.2 To the best of the Prosecutors knowledge no persons have commenced any civil proceedings against this Defendant in connection with the criminal conduct to which this statement relates.

3 Summary of Offences

- 3.1 On the 13th October 2005 an audit was undertaken at Gaerwen Post Office® branch Pentra Berw Gaerwen Anglesey LL60 6DB. The audit identified a shortage in the branch cash account of £48,454.87
- 3.2 The Defendant was interviewed, under caution, on the 13th Oct 2005 by Investigators from Post Office Ltd Investigation Team. During the interview Mr Thomas agreed that the loss had built up over a period of time. He also stated if anything was found to be wrong it was down to him and nobody else. The defendant agreed that he was fully responsible for the £48,000 audit shortage. The defendant nevertheless, in the main declined to answer questions, which would incriminate him.
- 3.3 On the 29th of September 2006 at Caernarfon Crown Court the Defendant pleaded guilty to a count on the intendment of False Accounting contrary to Section 17 (1) (a) of the Theft Act 1968. The offence was committed between the 30th of September 2004 and the 14th of October 2005.
- 3.4 The False Accounting plea was accepted in place of a count of Theft of £48,454.87 contrary to Section 1 of the Theft Act 1968. This was pursuant to a Basis of Plea which makes it clear that no blame was attributed to the computer accounting system in the Post Office® branch.
- 3.5 The defendant accepted that there was a shortage but he could not explain how it came about. The prosecution does not accept this, as the defendant must have an understanding of how the shortage came about. Nevertheless the False Accounting plea was accepted, as there was a risk of failure in respect of the Theft count on the incitement, when tested against the burden of proof, beyond reasonable doubt.

4 Personal History / Lifestyle

- 4.1 The Defendant is 60 years old and was born on the GRO GRO

4.2 The Defendant is thought to be living at the property known as

GRO

GRO

4.3

GRO

4.4 There are no known convictions recorded against the Defendant other than the one in these proceedings.

5 Legitimate Sources of Income

5.1 The defendant as the subpostmaster at Gaerwen Post Office® branch received remuneration from Post Office Ltd to provide Post Office services. The remuneration, which was paid monthly, varied and was typically in the region of £2,000 to £2,200.

5.2 The defendant is in receipt of a monthly pension from Royal Mail Group of a sum in the region of £400

6 Restraint Order

6.1 On Tuesday, 7th November 2006 in the Croydon Crown Court His Honour Kenneth MacRae made a Restraint Order against the defendant, which prohibited him from dealing with his assets save as authorised by the Crown Court.

6.2 A copy of the Restraining Order and witness statement is associated as appendix 1

7 Extent of Benefit

Particular Criminal Conduct

7.1 The Defendant has pleaded guilty to one count of False Accounting. The benefit to the Defendant as a result of this fraud is **£80,967.20**. This figure is obtained as follows;

7.2 The audit shortage of **£48,454.87** from the Post Office® account for which he has not paid yet although he was immediately liable for it.

- 7.3 The increase in the value of this money between the commission of the offence and Nov 2006 (the latest month Retail Price Figures (RPI) figures are available) is **£2,480.87**

Notes to 7.3 The figure is worked out as follows:

Period of Offending (RPI figure for Sep 2005) minus (RPI figure for Oct 2004), divided by (RPI figure for Oct 2004), multiplied by £48,454.87. To get an average value over the period of offending, this figure is then divided by two. Therefore $193.3 - 188.6 \div 188.6 = 0.0249204 \times £48,454.87 = £1207.51 \div 2 = £603.75$.

Period from end of offending to Nov 06 (RPI figure for Nov 2006) minus (RPI figure for Nov 2005), divided by (RPI figure for Nov 2005), multiplied by £48,454.87. Therefore $201.10 - 193.60 \div 193.60 = 0.0387396 \times £48,454.87 = £1,877.12$.

- 7.4 The sum of **£28,519.76**, which he was paid as remuneration, between October 2004 and October 2005. Post Office Ltd paid this money as the defendant provided Post Office Ltd Services. This money would not have been paid had Post Office Ltd been aware of the true state of the cash account, as the defendant's contract to provide services would have been suspended.
- 7.5 The increase in the value of this money between the commission of the offence and Nov 2006 on a month-by-month basis is **£1,511.70** A schedule detailing how this figure was arrived at is associative as appendix 2.
- 7.6 The figures above have been calculated on the dates detailed in the incitement. The exact date that Mr Thomas incurred his first shortage is not known however the prosecution is content to accept these dates for the purpose of confiscation.
- 7.7 The calculation of 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.

General Criminal Conduct

7.7 Assumptions

A Property transferred to the defendant after the relevant date

- i. I have not scheduled any accounts showing unidentified lodgments within bank accounts held in this case. This is because although the defendant in this case has by definition a “criminal lifestyle” it is thought that the only benefit that the defendant has derived from his criminal conduct is that as detailed above in his “Particular Criminal Conduct” In these circumstances there would be a serious risk of injustice if the assumption were made.

B Property held at any time after the date of Conviction

- ii. I have not identified any property held by the defendant that is the benefit from his general criminal conduct except as detailed in benefit from Particular Criminal Conduct for the same reason as detailed in 7.7 A i. In these circumstances there would be a serious risk of injustice if the assumption were made

Summary of Benefit

7.1 Table of Benefit

Source	Detail	Amount

Available Amount

- 6.3** The onus is on the Defendant to provide the Court with full details of all his realisable property, including full internal valuations (carried out by a professional valuer) for any houses he has an interest in. He will also need to supply the Court with details of the likely costs that will be incurred in realizing the property.
- 6.4** The free property that I have identified is the £64,947, which the defendant has lodged with his solicitors. The information from Mr Philip M Rose of PricewaterhouseCoopers, the insolvency practitioners who are dealing with the bankruptcy estate of the Defendant has informed me that due to the date that the defendant petitioned for bankruptcy, none of the debts can be described “preferential debts in bankruptcy.

7 Confiscation Order

If the Court accepts that the Defendant has benefited from the proceeds of crime to the extent of £121,289.44 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.

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.

8 Effect of Compensation on Confiscation

The effect of Section 13 (5) of the Act permits the Court to make a compensation order under section 130 of the Sentencing Act as if a confiscation order had not been made.

If the Defendant cannot pay both, compensation can be recovered from sums paid in satisfaction of the confiscation order.

Any reply to this statement made under the Proceeds of Crime Act 2002 should be served on Maidstone Crown Court, and a copy sent to the Criminal Law Team Royal Mail Group plc.