

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**

GRO

Signature :

Date : 16 January 2007

Statement Tendered By

Prosecutor : **Juliet McFARLANE**

Address : **Solicitor**



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 Holyhead Road 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 October 2005 by Investigators from Post Office Ltd Investigation Team. During the interview the defendant intimated 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. Additionally the defendant accepted that he was fully responsible for the audit shortage. In the main however, the defendant declined to answer questions of an incriminating nature.
- 3.3 On the 29th September 2006 at Caernarfon Crown Court the defendant pleaded guilty to the count on the intendment of False Accounting contrary to Section 17 (1) (a) of the Theft Act 1968. The false accounting was admitted over the period of time between the 30th September 2004 and the 14th October 2005.
- 3.4 The false accounting plea was accepted in place of a count on the incitement 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 particularly in light of the fact that the defendant has been the subpostmaster at the branch since June 1994.

4 Personal History / Lifestyle

- 4.1 The defendant is 60 years old and was born on the 24th December 1946.
- 4.2 The defendant is thought to be living at the property known as Gaerwen Post Office Holyhead Rd Gaerwen Anglesey LL60 6DB 21. This address is a residential property as well as the site previously used as a Post Office

- 4.3 The defendant is understood to be married and has two adult children
- 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 from Post Office Ltd remuneration to provide Post Office services. The remuneration, which was paid monthly, varied and was typically in the region of £2,000 to £2,200. Details of his net remuneration between October 2004 and October 2005 are on the schedule associated as Appendix 1
- 5.2 The defendant is in receipt of a pension, currently £476.89 gross per month from Royal Mail Group.

6 Restraint Order

- 6.1 On Tuesday, 7th November 2006 in Croydon Crown Court His Honour Judge Kenneth MacRae made a restraint order against the defendant, which prohibited him from dealing with his assets save as authorised by the Crown Court. A copy of the restraining order and witness statement are associated as appendix 2

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 count is **£80,967.20**. This figure is obtained as follows;
- 7.2 The audit shortage of **£48,454.87** from the Post Office® account. Subpostmasters are immediately liable for losses in their branch account. As a result of the false accounting the defendant obtained a pecuniary advantage by failing to repay the loss and continuing to earn remuneration as a subpostmaster. Post Office Ltd would have terminated the defendants contract to provide Post Office Services had they been aware of the true facts in this matter.

- 7.3 The increase in the value of this money between the commission of the offence and November 2006 (the latest month that Retail Price Index (RPI) figures have been produced) is **£2,480.87**

Notes to 7.3 The figure is worked out as follows:

Period of Offending (RPI figure for September 2005) minus (RPI figure for October 2004), divided by (RPI figure for October 2004), multiplied by £48, 454.87 and then divided by 2 (This is to deal with the unknown rate of the increasing value of the shortage during the false accounting period). 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 November 2006 (RPI figure for November 2006) minus (RPI figure for November 2005), divided by (RPI figure for November 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 facts in this matter as defendant's contract to provide services would have been suspended. The amounts of the monthly payments are detailed on the schedule associated as appendix 1
- 7.5 The increase in the value of this money between the commission of the offence and November 2006, on a month-by-month basis is a total of **£1,511.70**. A schedule showing the relevant calculations is associated as appendix 1.
- 7.6 The figures above have been calculated on the dates detailed in the incitement. The exact date that the defendant incurred his first shortage and as such benefited is not known, however the prosecution is content to accept these dates for the purpose of confiscation, especially as the exact loss to the victim in the case was established by audit.
- 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” the prosecution is content that the benefit that the defendant has derived from his criminal conduct is detailed 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

- i. 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 paragraph 7.7 A i. above. In these circumstances there would be a serious risk of injustice if the assumption were made.

C Expenditure Incurred after the relevant date

- I I have not scheduled any expenditure incurred after the relevant date for the same reason as detailed in paragraph 7.7 A i. above.

8 Summary of Benefit

8.1 Table of Benefit

Source		Detail	Amount
Particular	Criminal	Money short on audit	£48,454.87
		Increase in the value of	£2,480.87
		Money paid as	£28,519.76
		Increase in the value of	£1,511.70
General	Criminal		
Transfers		Assumptions	£0.00
Property held		Assumptions	£0.00
Expenditure		Assumptions	£0.00

Total Benefit		£80,967.20
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9 Available Amount

- 9.1 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 realising the property.
- 9.2 On Monday 6th November 2006 in Caernarfon Crown Court His Honour Winston Roddick made an order against the defendant requiring him to disclose financial information in accordance with Section 18 of the Proceeds of Crime Act 2002. The defendant's statement was to be returned to the Court by the 8th December 2006. To date the Prosecutor has not received such a statement.
- 9.3 A Land Registry Official Copy of Register dated the 8th November 2006 details that the defendant and his wife Eira Vaughn Thomas are the proprietors of the property known as The Post Office, Holyhead Road, Garwen, LL60 6DB. The Land Registry document is associated as Appendix 3
- 9.1 The property value stated at the 4th May 2000 was £90,000. The property was re-valued by the Nationwide Building Society as a new mortgage was taken out in January 2004. The society valued the property in June 2003 at £125, 000.00. According to the Nationwide Building Society House Price Calculator a property located in Wales which was valued at £125, 000.00 in quarter two of 2003 would be worth approximately £188,782.00 in quarter three of 2006.
- 9.2 Information has been received from R Gordon Roberts Laurie & Co Solicitors that Gaerwen Post Office was sold to a Mr & Mrs E Thomas for the sum of £100,000 with the completion of the sale taking place on the 3rd October 2006. It is thought that the defendant sold the property, to one of his children, at a much-reduced rate in order to repay his liabilities on the property, but to prevent the equity being realised to satisfy any subsequent Confiscation Order. As such the Prosecution believe that the sale of the property at a reduced value should be treated as a tainted gift in accordance with section 77 of the Proceeds of Crime Act 2002

**Approximate amount that Gaerwen Post Office was undersold -
£88,782.00**

- 9.5 The defendant has an occupational pension with Royal Mail Group that he has been in receipt of since 1991. He currently receives £476 .89 gross per month. Enquiries are currently in hand with the Pension Trustees to see if any of the Pension fund is available for confiscation.
- 9.6 The defendant has an Alliance and Leicester Account number 468906002 with a balance in thought to be £4,474.22. The Royal Mail pension net payment currently funds this account monthly

Money thought to be in the Alliance & Leicester Account - £4,474.22

10 Confiscation Order

If the Court accepts that the Defendant has benefited from the proceeds of crime to the extent of **£80,967.20** 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.

11 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.

12 Royal Mail Group Plc request compensation in this case as follows:

Detail	Amount
Money short on audit	£48,454.87
Increase in the value of money	£2,480.87
Money paid as remuneration	£28,519.76
Increase in the value of money	£1,511.70

Any reply to this statement made under the Proceeds of Crime Act 2002 should be served on Caernarfon Crown Court, and a copy sent to Royal Mail Group plc, Legal Services, 6A Eccleston Street, LONDON, SW1W 9LT