

## **POST OFFICE LTD – CASE REVIEW**

### **R. v. DELLA LYNNE ROBINSON**

#### **Manchester Minshull Street Crown Court**

##### **Offence**

1. On the 18<sup>th</sup> January 2013 this defendant was sentenced to Community Order with a requirement that she complete a total of 180 hours of Unpaid Work, for a single offence of False Accounting. That charge alleged that between 1<sup>st</sup> day of January 2011 and the 25<sup>th</sup> day of January 2012 she had falsified Branch Trading Statements by making false entries so as to disguise a shortage in cash of £17,587.86 at the Dukinfield Post Office.

##### **Case history**

2. On the 23<sup>rd</sup> May 2012 Della Lynne Robinson appeared before the Ashton-under-Lyme Magistrates Court in answer to a summons alleging False Accounting. Her solicitor indicated a Not Guilty plea on her behalf and the case was adjourned to the 11<sup>th</sup> July 2012 in order that the committal papers could be prepared.
3. On 11<sup>th</sup> July 2012 the Defendant again attended at the Ashton-under-Lyme Magistrates Court whereupon the magistrates deemed the case unsuitable for summary trial and committed the matter to the Crown Court at Manchester Minshull Street for trial. She was granted unconditional bail to appear at a Pleas and Case Management Hearing at the Crown Court on the 29<sup>th</sup> August 2012.
4. It is to be noted that at the Committal Hearing of the 11<sup>th</sup> July, counsel representing Ms Robinson raised issues of disclosure and the reliability of Horizon Online. He said that he was considering the possibility of advancing an application to stay the proceedings. Counsel also indicated that he wished to acquire a better understanding of how the Horizon system worked. Mr Smith, representing POL, said that arrangements might be made for him to see and experience the system if the case was going to proceed to a trial however matters were not pursued by defence counsel or his instructing solicitors.

5. At the Pleas and Case Management Hearing Ms Robinson entered her Not Guilty plea and the matter was listed for trial to commence on the 12<sup>th</sup> January 2013.
6. On the 12<sup>th</sup> January Ms Robinson changed her plea to one of Guilty – she did not enter any Basis of Plea and so accepted the prosecution case against her in its entirety. On the 18<sup>th</sup> January 2013 she was sentenced as noted in paragraph 1 above. Proceeds of Crime proceedings were abandoned upon noting that Ms Robinson was devoid of realisable assets.

#### **Prosecution case**

7. Ms Della Lynne Robinson was the sub postmaster of Dukinfield Post Office branch and had been since January 2006. Two other members of staff worked at the office, as did Ms Robinson's partner.
8. On the 24<sup>th</sup> January 2012 members of the Post Office Security Team visited the office as part of the Operation Torch. Upon arrival the team was informed by staff that they had concerns related to the large amount of mutilated notes declared in the cash summary. A check revealed a substantial discrepancy in cash holdings. An audit was conducted that same day, during the course of which Ms Robinson told auditors that she knew of the cash shortage and had declared the losses on Horizon on the unusable notes line. She said that she had been hiding the shortages for about 12 months. The audit revealed a shortage of £17,587.86 with £17,549.98 being a shortage in cash, the remainder being minor shortages in stock and postage.
9. Ms Robinson was asked how the shortage had occurred: she replied:

“About 12 months ago I started to be aware that the office was losing cash. At first I paid cheques/cash into the office to cover the losses. After a while I realised I couldn't keep doing this, but did not know what to do for the best. I didn't know why there were so many losses every month. So when I declared the cash I added the shortfall onto the 'muts' (unusable notes). I made a note of all the discrepancies on the cash declarations in pencil.”

10. Ms Robinson was interviewed about these matters on the on 2<sup>nd</sup> March 2012, the interviews being conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice. Ms Robinson declined the assistance of a solicitor but had a Post Office 'friend' present. She told officers:

- The losses started about two years ago (*i.e.* March 2010). She and her partner had made good those losses themselves. She had initially viewed these losses as being the result of mistakes.
- She had stopped making good the losses around August or September 2010 because she could no longer afford to do so.
- She had never inflated the cash in hand but instead had asked her partner to maintain a record of the shortages as she intended to pay them back. This record was kept by declaring the amount on the mutilated notes line.
- She denied stealing money belonging to Post Office Limited. She said that other members of staff may have been responsible: staff had made significant errors and money had continued to go missing when a particular member of staff was appointed. Matters got no better when a second staff member joined. Ms Robinson suggested that those staff-members were aware that she was falsely recording the figures; they had warned her that if the office was audited she would be discovered and suspended. She trusted her staff "...80%..." Ms Robinson suggested that one member of staff may have stolen from the office to purchase a coat and two electrical items for her home. She accused another staff-member of having "...a lavish life-style."
- The shortages increased on a daily basis and escalated to about £6,000. She did not know what to do to rectify the situation. She thought that there were mistakes being made over the counter.
- She sought no advice about the shortages.
- She confirmed that she did the balance herself and had no help from her partner or staff.
- Any member could complete the cash declarations. They knew each day how much the discrepancy was.
- She accepted that she had falsified her accounts.
- She confirmed that cash declared as being carried forward on each branch trading statement included previous losses that had not been made good.

### **Defence case**

11. As set out in interview: she had taken no money from POL but had deliberately falsified the mutilated note line so as to achieve a balance. She could not explain the shortages but suggested error or theft by staff.
12. A Defence Statement was served on the 29<sup>th</sup> August 2012 in answer to an allegation of theft (not charged). I reproduce extracts from relevant passages here:
  - i. The defendant denies having any dishonest intention to make a gain for herself or to cause a loss to another, specifically the Post Office. The prosecution is put to proof.
  - ii. The evidence produced by the prosecution fails to show that the defendant misappropriated any funds or otherwise received a benefit in any way other than that which she was entitled.
  - iii. The prosecution have failed to identify what evidence they intend to rely upon to prove ....dishonesty.
  - iv. The defendant maintains that errors or deficiencies in accounting or record keeping were contributed to be the difficulty she experienced with the Post Office online database, the Horizon system.(sic)
13. Notwithstanding the poor drafting of this Defence Statement, I regard the defendant to be raising the integrity of Horizon Online as an issue.

### **Prosecution response to defence**

14. No further disclosure appears to have been made in response to the Defence Statement beyond that already provided with the s.3 CPIA letter.

### **Discussion**

15. Whilst in interview Ms Robinson admitted false accounting to hide unexplained losses, upon having taken legal advice after interview she advanced a defence based upon her lack of dishonesty to the charge of False Accounting. The Defence Statement made that stance clear and suggested that “...errors or deficiencies in accounting or record keeping were contributed to...” by Horizon. I therefore find Ms Robinson’s last-minute change of plea somewhat surprising, particularly given that she advanced no Basis of Plea designed to limit her criminal liability.
16. Had the Second Sight Interim report been available at or before the date of the trial, I advise that it would have fallen to be disclosed to the defence, on the basis that it might have assisted her in advancing the defence set out in the Defence Statement, *i.e.* no dishonesty. Similarly I would have disclosed the Helen Rose Report. The fact that Ms Robinson had initially made good losses reinforces me in this view, as does the proposition that, had the defence seen the report they might then have decided to proceed with the trial.
17. I do not consider there to be any issues related to either training or support in this case: Ms Robinson had been in-post for a little over four years when her first loss occurred (according to her in interview).

### **Safety of Conviction**

18. 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.
19. In this case I have no doubt that, had we known of those matters identified in the Second Sight Interim report the and the Helen Rose report, both should and would have been disclosed to the defence in accordance with our disclosure duties as prosecutors. For that

reason alone we must inform those who represented the defendant and disclose to him both reports.

20. I consider it quite likely that, upon receipt of this material, the defendant will seek the leave of the Court of Appeal to appeal her conviction. Where a defendant seeks leave the Court of Appeal will, often before the grant of any leave, invite the prosecution to comment upon the application.

21. I advise that, should we be so invited and/or should the defendant be granted the requisite leave, we oppose the grant of leave and any substantive appeal, on the basis that the conviction may properly be regarded as safe for, amongst other reasons, the following matters:

- By her plea of guilty, without any Basis of Plea, Ms Robinson admits having committed the offence, as she did in her PACE interview. I have no doubt that she would have been advised that:
- By pleading guilty she was admitting guilt;
- She should only enter a guilty plea if she were truly guilty;
- She should not plead guilty if she was in fact not guilty;
- she should not plead guilty solely or mainly in order to achieve a lesser sentence in circumstances where she was not guilty.

### **Conclusion**

22. This is a case in which, had we been possessed of the material at the relevant time, we should and would have disclosed to the defence the matters identified in the Second Sight Interim report and the Helen Rose's report.

23. Accordingly our duty is now to place the defence on notice of this fact and to serve on them those documents. I advise that we comply with that duty in this case.

24. Should the defendant be granted leave to appeal against her conviction, we should oppose the appeal.

25. I will draft a letter to the defence for Post Office Ltd's approval and, in accordance with your instructions to us, serve that letter and the reports on defence solicitors.

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**Simon Clarke**  
**2013**  
**Barrister**  
**Cartwright King Solicitors**

**27<sup>th</sup> September**