

Musa Patels

Solicitors
Commissioners for Oaths

OUR REF: AN/CP646/Ishaq
YOUR REF: MS2/24676
WHEN CALLING ASK FOR:
DATE: Mr Arfaq Nabi
29th August 2012

Cartwright King Solicitors
DX700895 Derby 4

Dear Sirs

Re: Khayyam Ishaq Bradford Crown Court 4th September 2012

We write with reference to the above.

We enclose herewith Defence Statement prepared for our above named client.

Also with regards to the Rule 5 witness requirements, please be on notice we require the following witnesses to give evidence:

- Umar Liaquat
- Kathleen Smith
- Stephen Bradshaw
- Equivalent of Officer in the case if different from the above.

Should you have any questions or queries, please do not hesitate to contact us.

Yours faithfully

Musa Patels Solicitors

GRO

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Mohammed Loonat
Conveyancing Executive

ALSO AT:

GRO

IN THE BRADFORD CROWN COURT

REGINA

-v-

KHAYYAM ISHAQ

DEFENCE CASE STATEMENT

1. This Defence Case Statement sets out in general terms the defence of Khayyam Ishaq and the principal matters upon which issue is taken with the Crown. It is served for no other purpose.
2. Nothing in this Defence Case Statement should be taken as constituting an admission as defined in Section 10 of the Criminal Justice Act 1967. No admission is made in respect of any matters or any assertion in the Prosecution case except where there are specific statements to the contrary in this document.
3. The Defendant reserves the right to challenge the admissibility of any material referred to in the Prosecution evidence. The Defendant further reserves the right to amend the Defence Case Statement upon disclosure of additional evidence or if further issues arise from material already served or served in the future.
4. Any failure to refer in this Defence Case Statement to the matters set out in the Prosecution evidence should not be taken as an agreement or acceptance of any such matter.

5. It is the defence contention at the outset that upon the limited material served by the Crown to support the prosecution case, that the prosecution case is unclear most particularly in relation to the manner by which the figure of £21,168.84 is quantified.

General nature of the defence case.

6. The Defendant is charged with theft of £21,168.64 contrary to Section 1(1) of the Theft Act 1968.

7. The nature of the Defence in relation to this allegation is :

(i) There was no appropriation of monies. The Post Office "Horizon" software / hardware system had in the past on numerous occasions malfunctioned causing difficulties in reconciling sales, receipt and stock figures. The Defendant had reported the same to the Post Office helpline seeking assistance but little or no successful assistance was afforded to him despite the said requests.

(ii) The Defendant had of necessity to make certain adjustments by way of "reversals" on the Horizon system so as to ensure the sales, receipt and stock figures reconciled. This was done on the basis of clear malfunctioning of the system (and in accordance with the limited training given to the Defendant by the Post Office in the past with very limited support thereafter) and not in order to appropriate any sums of money.

(iii) Accordingly there was no dishonest or otherwise appropriation of property and/or monies belonging to the Post Office.

(iv) The defendant contends that upon all core data from the Horizon hardware / software system (used by the Post Office Auditors) being provided to him the defence should be able to demonstrate that all sales, receipt and stock figures properly reconcile.

8. The defendant accordingly denies that he was a party to any theft that may be proved by the prosecution.

9. The defendant takes issue with each and every prosecution witness that asserts otherwise than the defence outlined above.

10. The defence requires disclosure of all material in the hands of the prosecution and/or third parties (cited herein or otherwise) pursuant to the provisions of the Attorney General's Guidelines on Disclosure (as revised) that might reasonably assist the defence of Khayyam Ishaq and/or might reasonably undermine the prosecution case against him.

11. Without prejudice to the foregoing the Defence specifically request :

- i. The full file of papers relating to this investigation (as the paginated papers served upon the defence to support the prosecution are clearly a small extract of the full file of papers relating to this case) ;
- ii. All material to the knowledge of the prosecution in existence (whether in the hands of the prosecution or third parties) that reasonably supports (or is reasonably capable of supporting) the contention that the Post Office Horizon software / hardware system has proved to be unreliable and/or inaccurate and/or unstable and/or susceptible to malfunction and/or otherwise prone to the production of erroneous results ;
- iii. The outcome of all enquiries in relation to other Post Office Staff and/or contractors who have been the subject of investigation by the Post Office or any other investigative body in relation to allegations of dishonesty related to the use of Post Office Horizon hardware / software ;
- iv. The full results (whether provisional or final) of all internal and/or external investigations and/or enquiries and/or reviews (whether instigated by the Post Office or any other body) into the correct functioning of the Post Office Horizon hardware / software system ;

- v. Any internal memoranda and/or guidance notes and/or other material dealing with the correct or incorrect functioning of the Post Office Horizon hardware / software system ;
- vi. All Horizon system data for the period 2nd November 2011 to 31st January 2012 used to produce exhibit SB/21 ;
- vii. An indication of the actual Horizon system data as would have been visible to the Defendant showing sales of stamps on dates referred to in Stephen Bradshaw's statement (Pages 17 to 21) and subsequent reversals referred to therein.
- viii. The original signed statement of Umair Liaqat

This defence statement has been read and approved by me.

Signed **GRO** (Khayyam Ishaq)
Date 29/8/12

Musa Patels Solicitors LLP

GRO