

14-09-'12 10:38 FROM-

T-223 P0001/0013 F-527

Laurence Lee & Co
Solicitors

Miss Waters

Our Ref: LML.BW.JW.NEI

13th September 2012

529 West Derby Road

Tuebrook

Liverpool L13 8AA

United Kingdom

URGENT

By Fax: **GRO**
Mr Andrew Boic
Cartwright King Solicitors

T+ **GRO**
F+

DX 14123 Liverpool

Dear Sirs,

Re; **REGINA -V- ANNE NEILD**
LIVERPOOL CROWN COURT T2012 0930
FOR TRIAL 17TH OCTOBER 2012

We refer to the above.

We now enclose copy application for disclosure in this matter which was forwarded to Liverpool Crown Court today.

We trust this assists but should you wish to discuss any aspect of same then please do not hesitate to contact us.

Yours faithfully,

GRO
LAURENCE LEE & CO

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T-223 P0002/0013 F-527

IN THE CROWN COURT AT LIVERPOOL

REGINA

-V-

ANNE NIELD

APPLICATION FOR DISCLOSURE

The Charge

1. The defendant faces an Indictment containing one Count, namely False Accounting, contrary to s.17 of the Theft act 1968.
2. The defendant denies that she (a) acted dishonestly and (b) had an intention to gain or cause loss to any person as set out in her Defence Statement (Appendix 1).

The Application

3. This application is made under s.8 of the Criminal Procedure and Investigations Act 1996.
4. The defendant has sought, and been refused by letter dated 28th August 2012 (Appendix 2), disclosure of the following:
 - a. Details of complaints and investigations into the Horizon computer system;
 - b. Access to the Horizon computer system used by the defendant between the installation of the system in 2005 – 6th January 2012 for the purposes of expert examination by a Forensic Accountant.
5. The defendant now seeks an Order of the Court for disclosure of or access to the items listed at paragraph 4.a. and 4.b. above.

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Background

6. At the relevant time the Post Office held Sub-postmasters/mistresses personally liable for any monetary losses incurred by the Post Office they managed.
7. Horizon is a computer accounting system used by the Post Office. It was introduced to the defendant's Post Office around 2005. Prior to that the accounting system had been paper-based.
8. The defence are aware from articles in the Press and communications from the House of Commons (Appendix 3) that the Horizon system has been the subject of much controversy over the past few years and that a significant number of Sub-postmasters allege that the Horizon system published incorrect losses on the system. Further, that they have in many cases been wrongly convicted of False Accounting. The issue is serious enough to have warranted the involvement of Members of Parliament, the establishment of an action group 'Justice for Sub-postmasters', the launch of a class action against the Post Office and an agreement by the Post Office in June 2012 to appoint an independent review of some cases.
9. The defence are therefore confident that the Prosecution have in their possession, or easily accessible to them, records of complaints and investigations into the Horizon system.

Reasons for Application

Dishonesty

10. The first relevant issue is the question of dishonesty; in particular the subjective test expounded in the case of R. v. Ghosh [1982] 75 Cr.App.R. 154.
11. The Prosecution case is that the defendant dishonestly attempted to disguise losses raised by the Horizon system by attributing monies from other charity accounts to the deficit, rather than re-paying it herself. In fact, we understand that the Prosecution case is that the defendant took the money which created the apparent loss on the Horizon system.
12. When the Jury consider whether the attribution of monies in this way by the defendant was dishonest it is a relevant consideration whether or not the losses were 'real' and whether they were attributable to her. If the losses were the result of a computer error the Jury may well take

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a very different view of the defendant's mental state than they would if she had taken the money.

Intent to gain or cause loss

13. The second relevant issue is the question of the defendant's intention; whether she intended to make a gain for herself or cause loss to another.

14. If the apparent losses were caused by the defendant taking money from the Post Office, a Jury will have little difficulty in concluding that she covered the losses in order to make a gain for herself. Similarly, if the apparent losses were actually incurred, for example as a result of the defendant's human error, the Jury may come to the conclusion that she covered the losses in order that she did not have to re-pay the Post Office for losses caused as a result of her errors. However, the Jury may take a different view of the defendant's intention if the apparent losses were the result of a computer error such that the defendant neither gained in fact (by taking the money) nor had any reason to believe that she owed the money as a result of her own error.

Submissions

15. It is submitted that material which suggests that the Horizon system has accounting faults is therefore relevant to, and of potential assistance to, the defence for the reasons outlined at paragraphs 12-14 above.

16. It is submitted that access to the Horizon system by a defence Forensic Accountant is necessary in an effort to detect faults in the Horizon system used by this defendant. Further, to identify where the apparent disguised losses occurred and whether they can be attributed to this defendant. The case against the defendant both at Trial and in any subsequent sentence would be very different if it can be established that the defendant did not take the money herself.

17. Furthermore, if a forensic examination of the Horizon system used by this defendant reveals that the losses were incurred as a result of computer error it may be that the Prosecution review the decision that pursuance of this case is in the public interest.

Charlotte Atherton
Exchange Chambers

12th September 2012

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IN THE CROWN COURT AT LIVERPOOL

REGINA

-V-

ANNE NIELD

DEFENCE STATEMENT

Charge: False Accounting, contrary to s.17 of the Theft act 1968.

Date of PCMH: 9th August 2012

Solicitors: Lawrence Lee & Co
529 West Derby Road
Liverpool
L13 8AA

General Nature of the Defence

1. The defendant denies:
 - (a) that she acted dishonestly; or
 - (b) that she had an intention to gain or cause loss to any person.

Matters upon which the defendant takes issue with the Prosecution case

2. The defendant takes issue with the prosecution case in the following ways:

- (a) The defendant accepts that losses were shown on the Horizon computer system from 2005. The defendant does not know how the losses were incurred. The defendant now believes that such

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losses may have shown as a result of failures in the Horizon computer system;

- (b) Initially the defendant and Angela Sefton repaid the apparent losses from their own money;
- (c) The defendant accepts that as time progressed she was unable to maintain the repayment of the apparent losses. At this stage, the defendant accepts that she delayed entering the value of some cash or cheques onto the Horizon system. Latterly, the defendant admits that she delayed crediting payments in by Animals in Need. However, this was not done with a dishonest intent or with any intention to make a gain or cause the complainant any loss. Rather, it was a desperate attempt to make good the apparent losses on the system. At no stage were Animals in Need ever deprived of any money they paid in, rather, the crediting of it to their account would be delayed.
- (d) When the first shortfall showed on the Horizon system (£4000), Anne Nield immediately notified Ali Asker, the Sub-Post master. The Post Office was contacted and a representative attended but was unable to locate where the shortfall had arisen. Mr Ali Asker became very angry about the situation. The defendant found Mr Asker very intimidating. She lives on her own. She became aware that Mr Asker had been suspended for a number of months following an allegation assault. As a result of her fear of Mr Asker, the defendant was too afraid to tell him of the difficulties with the apparent losses. The defendant was also

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afraid to notify the Post Office as a result of the scale of the problem.

3. The defendant requests disclosure of the following items:

- (a) Any material that points towards other suspects in this case;
- (b) Details of any bad character of any prosecution witness;
- (c) Details of complaints and investigations into the Horizon computer system.

4. The defendant takes issue with all evidence that is inconsistent with the terms of this defence statement.

SIGNED

ANNE NIELD

DATED.....

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Lawrence Lee & Co Solicitors

DX 14123 LIVERPOOL

Email: [REDACTED]
Secure Email: [REDACTED]

Date: 28 August 2012
Our Ref: AB2/24518
Your Ref:

Dear Sirs,

Letter to Defence where there is no material to disclose - ongoing disclosure (Defence Case Statement)

R v Anne Nield

Court and Next Hearing: Liverpool Crown Court - 17th October 2012

Disclosure of Prosecution Material under Section 7 Criminal Procedure and Investigations Act 1996

I have considered your defence statement dated 9th August 2012 provided under section 5 Criminal Procedure and Investigations Act (CPIA). Under section 7 CPIA I am required to disclose to you any prosecution material which has not been previously disclosed and which might reasonably be expected to assist your defence, as described in your statement.

On the basis of the defence statement that you provided, I have not identified any further prosecution material which is disclosable to you in accordance with the CPIA.

Specifically in relation to the points raised in your statement:-

1. There were no other suspects in this case, and no material relating to the same.
2. None known

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3. Your client is charged with false accounting by failing to make entries onto the Horizon system regarding the deposit slips found, and thus the offence has occurred outside of the system. Material relating to the Horizon system is therefore not deemed disclosable at this time.

If you consider that there is other prosecution material which might assist your defence and which has not already been disclosed, please let me know and I will reconsider my decision in the light of any further information that you provide. Alternatively, you may apply to the court under section 8 CPIA. The court will assess your application in the light of your defence statement.

If you have any query in connection with this letter, please contact me.

Yours sincerely

GRO

Andrew Bolc
Solicitor



14-09-'12 10:40 FROM-

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From: The Rt. Hon. James Arbuthnot, M.P.



HOUSE OF COMMONS

LONDON SW1A 0AA

Miss Bridget Waters
Laurence Lee & Co Solicitors
520 West Derby Road
Tuebrook
Liverpool L13 8AA

Dear Miss Waters,

Re: Your ref BW KJA Nield
Ann Nield of 10 Buckingham Rd, Liverpool L9 4RD

Thank you for your letter of 16 August 2012 to Mr Arbuthnot. I am afraid Parliament is currently in Recess, and Mr Arbuthnot is not at Westminster at present. I am able to answer your queries on his behalf, and hope this letter may be of help to you.

Mr Arbuthnot has met with senior Post Office personnel, and persuaded them to appoint independent forensic accountants to investigate a number of cases where SubPostmasters and mistresses believe that they have been wrongly accused of false accounting. These investigations are now underway.

Should you client wish her case to be considered, she must first approach her own constituency MP, who is Steve Rotheram MP. There is a Parliamentary convention which does not permit an MP to act on behalf of another MP's constituent, and so Mrs Nield must contact Mr Rotheram and let him know that she wishes her case to be passed to Mr Arbuthnot's office so that we may pass it on. I know this is circuitous, but MPs do not appreciate other MPs interfering with their own constituency matters, and so the convention is strictly observed.

Secondly, she must be aware that the details of her case will be passed to the Post Office. They are passing details on to the investigators, and need these details so that they can gather the relevant data which the investigators need for their work. If she would like to pursue this course of action, she does need to be aware of this.

Please come back to me should you require any further details as I am happy to help.

Yours sincerely

GRO

GRO

Janet Walker
Office of James Arbuthnot MP

GRO

cc Steve Rotheram MP (and enclosed letter from solicitor)

Telephone:

GRO

Email: arbuthnot

GRO

Website: www.jamesarbuthnot.com

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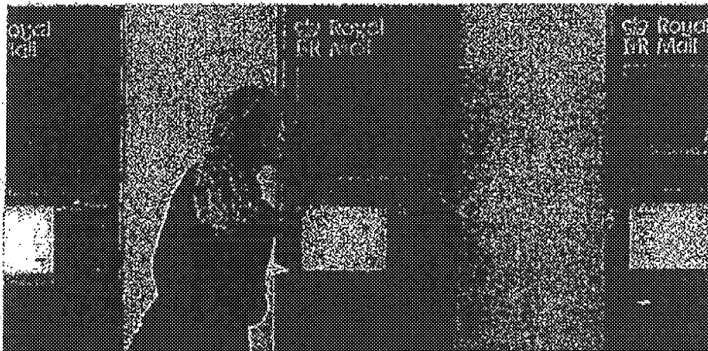
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THURSDAY | 21 JUNE 2012 | UK

MPs raise concerns over post office payment system

Tweets 4 | Recommended 0

MPs meet with Post Office officials to raise subpostmasters' concerns over a payment system that they say has caused inaccuracies for which staff are charged and held legally accountable.



A group of MPs led by the Conservative James Arbuthnot presented a number of cases where subpostmasters have been charged with theft and held responsible for false accounting that they say are the fault of the system they use.

The Horizon system was introduced in 2000 and is used to process Royal Mail services by those running a post-office within a shop. But since its introduction, subpostmasters have complained that the system consistently records errors in accounting which they are unable to correct, and that they are held liable for the subsequent recorded losses.

One subpostmaster was charged with theft and told to pay back £36,000, despite calling the system's support services when she realised that errors were being processed.

At first they took money out of her wages to make up the difference in the accounting errors, and then took her to court after an auditing visit.

"I remortgaged my house, borrowed and was generously given enough money to repay the post office in full in order to get them to drop the theft charge," she said. "I had to plead guilty to 14 counts of false accounting in (the) Crown Court and only escaped prison because over 70 people turned up to support me."

MPs are calling for disputed cases to be examined individually through a robust, transparent process. One of the problems raised by the campaign group, Justice for Subpostmasters Alliance,

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* MPs raise concerns over post office payment system - Channel 4 News

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is that subpostmasters' appeals against theft are dealt with solely by the Post Office, with no independent arbitrator.

"It is in the interests of everyone involved - constituents, their MPs, and Post Office Ltd - to get this matter resolved," said James Arbuthnot MP, who said he was positive about the meeting's outcome.

Paula Vennells, Post Office Limited's chief executive said: "The Post Office continues to have absolute confidence in the robustness and integrity of its branch accounting processes. We have no hesitation in agreeing to an external review of these few individual cases that have been raised with us by Mr Arbuthnot and some of his fellow MPs."

Alan Bates from the Justice for Subpostmasters Alliance welcomed that the issue was being raised, "but unfortunately it only seems to be concentrating on one particular area," he told Channel 4 News. "They're purely looking at false accounting - it is only one part of what's wrong with Horizon."

He lists issues to do with a lack of training, lack of access to the system, subpostmasters' liability for losses and the failure of the system to produce an audit trail.

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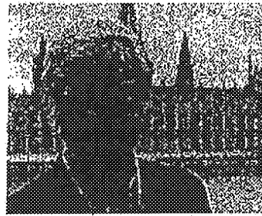


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MP Welcomes Review Into Post Office Horizon Accounting System

Published: 22nd June 2012 13:06



MP Welcomes Review Into Post Office Horizon Accounting System

Local MP, Graham Stuart, welcomes this week's promise by the Post Office that it will undertake an external review of the Horizon Post Office accounting system. This announcement follows pressure put on the Post Office by MPs, including Graham.

The Horizon accounting system, used in sub post offices, has given rise to controversy over the past few years, with many sub-postmasters being accused of fraud and theft.

At a meeting in Parliament on Monday night MPs robustly questioned Post Office Ltd Chairman, Alice Perkins, and Chief Executive, Paula Vennells, on the reliability of the system.

At the meeting the Post Office Chairman and Chief Executive agreed to examine individually cases where Sub-postmasters have been held accountable for monetary losses, which many claim is the fault of the Post Office's electronic accounting system, Horizon.

Graham said: "I have heard from several Sub-postmasters who believe Horizon is to blame for accounting errors which the Post Office forces them to pay back personally. If the losses aren't repaid the Post Office may well prosecute the Sub-postmaster for false accounting."

Graham went on to say: "I have grave concerns about Horizon as it seems there are numerous ways in which mistakes could occur, and not all of them would be the Sub-postmaster's fault. I wrote to the Post Office and to the Minister with responsibility for Postal Affairs about Horizon, but both wrote back to say they had absolute confidence in it. So I'm pleased that following pressure from me and other MPs the Post Office has now been pushed into looking at Horizon to see if there are any technical problems with it. Sub-post offices are at the heart of our communities providing many of our much-needed services, and the last thing we want is people not coming forward for this important work because they don't feel the Post Office would deal with them in a just and fair manner."

Paula Vennells, Chief Executive of the Post Office said: "The Post Office continues to have absolute confidence in the robustness and integrity of its branch accounting processes. We have no hesitation in agreeing to an external review of these few individual cases that have been raised with us by Mr Arbutnot and some of his fellow MPs."

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