

CCRC CASE BRIEFING NOTE

Name: : Khayam Ishaq
Subpostoffice: Birkenshaw
Offence(s) : Theft
Loss : £21,168.64
Plea(s) : Guilty
Sentence : 54 weeks imprisonment

Date:
Convicted : 17th March 2013
Sentenced : 22nd April 2013

Prosecution case :
Audit: 8th February 2011 – loss ascertained

Horizon data for the period of 2nd November 2010 to 31st January 2011 indicated that during the relevant period a large number of stock reversal transactions relating to stamp sales had been conducted on Horizon, both under this defendant's own Log-in IDs and that of his clerk Mr. Umair LIAQUAT

In interview he denied taking any money. He had been having unexplained shortages which he had reported. He was unable to explain the losses.

Defence case :
In a Defence Statement dated the 29th August 2012 raised the following assertions:

- i. 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

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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 and with very little support thereafter)....

In his request for disclosure contained within his Defence Statement the defendant sought disclosure of:

- iii. All material to the knowledge of the prosecution in existence ...that reasonably supportsthe contention that the Post Office Horizon software/hardware system has proved to be unreliable and/or inaccurate and/or susceptible to malfunction and/or otherwise prone to the production of erroneous results.
- iv. The full resultsof all internal and/or external investigations and/or enquiries and/or reviews ...into the correct functioning of the Post Office Horizon hardware/software system.

In an Addendum Defence Statement dated the 20th February 2013 disclosure of material relating to telephone calls to the helpline. He indicated that Horizon would “freeze” and would give inaccurate total figures at the end of trading/balance periods. He had called the helpline some 10 or more times per month. He sought disclosure of details of his calls.

A few days prior to the commencement of the first trial, the defendant served an expert report written by Beverley IBBOTSON of PKF Accountants and Business Advisers. Ms. Ibbotson identified a number of minor audit and stock discrepancies

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but did not seek to suggest that the underlying Horizon transactions were not conducted by the defendant, under either his own Log-in ID's or that of Umair Liaquat.

Prosecution response to defence

Gareth Jenkins provided two statements in response to the Defence Statements served by the defendant. On the 15th January 2013 he provided an expert report detailing what he described as "...further background information" on the Horizon system. The statement dealt with the operations capability and function of Horizon; operating architecture; and the checks and balances built into and conducted by the system. He concluded that it was his belief that Horizon "...will accurately record all data that is submitted to it and correctly account for it."

In his second expert report, dated the 6th March 2013 Mr, Jenkins sought to respond the matters raised in the defendant's Addendum Defence Statement. This report adds little to the case for the prosecution and does not undermine the defence case.

Ms. Ibbotson and Mr. Jenkins conducted joint expert talks on the 25th and 26th February and on the 26th produced a joint expert report. That report largely confirmed that both experts agreed that there had been a number of otherwise unexplained reversals on Horizon. Ms. Ibbotson added her concern that, despite requests for disclosure, she had not seen any evidence as to how much physical cash was held at the post office on the date of audit.

Issues : Full on attack on the Horizon System – involvement of Gareth Jenkins as Prosecution Expert.

Comments : This is a case where Gareth Jenkins attended court and it was after his conference with the defence expert that the defendant pleaded guilty. Mr Jenkins is a tainted witness owing to his failure to disclose the matters referred to in the Second Sight Interim report that were within his knowledge as shown by the Helen Rose Report.

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Notwithstanding the fact that there was evidence independent of the Horizon System and the defendant's belated guilty plea this is one of the cases that more likely to be picked up by the CCRC owing to the presence of Mr Jenkins and his involvement with the prosecution expert just before the guilty plea was tendered.

Harry Bowyer

22nd June 2015