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Memo

The Real Network

Legal Services
3rd Floor
6a Eccleston Street
Victoria
LONDON SW1W 9LT

Tel: GRO
Fax: GRO
Postline GRO
www.royalmail.com

22nd October 2010

Post Office Security

c.c. Jon Longman
Press Office

REGINA v SEEMA MISRA
GUILDFORD CROWN COURT
SENTENCE – 11TH NOVEMBER 2010
CASE NO: POLTD/0708/0249

After a length trial at Guildford Crown Court commencing on the 11th October 2010 when the Jury came to a verdict on the 21st October 2010 when they found the Defendant guilty of theft. The case turned from a relatively straightforward general deficiency case to an unprecedented attack on the Horizon system. We were beset with with unparallel degree of disclosure requests by the Defence. Through the hard work of everyone, Counsel Warwick Tatford, Investigation Officer, Jon Longman and through the considerable expertise of Gareth Jenkins of Fujitsu we were able to destroy to the criminal standard of proof (beyond all reasonable doubt) every single suggestion made by the Defence.

It is to be hoped the case will set a marker to dissuade other Defendants from jumping on the Horizon bashing bandwagon.

The case was adjourned for pre sentence report for Sentence at Guildford Crown Court on the 11th November 2010.

Jamail Singh
Senior Lawyer
Criminal Law Division

GRO

Ref: CRM/258932/JSX

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IN THE CROWN COURT
AT GUILDFORD

INDICTMENT
TRIAL NO. T20090070

STATEMENT OF INFORMATION RELEVANT IN ACCORDANCE WITH SECTION 16(3)

OF THE PROCEEDS OF CRIME ACT 2002

REGINA

V

SEEMA MISRA

STATEMENT DETAILS

Prepared By	:	Paul Southin
Address	:	Post Office® Ltd Security, Bury St. Edmunds Post Office, 17/18 Cornhill, Bury St. Edmunds, IP33 1AA.
Signature	:	GRO
Date	:	20th January 2011

Statement Tendered By

Prosecutor	:	Royal Mail Group Ltd.
Address	:	6A Eccleston Street, London, SW1W 9LT

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1 Statement of Information

1.1 The prosecutor has requested that the Court proceed to confiscation under Section 6 (3(a)) of the Proceeds of Crime Act 2002 (hereinafter called the Act).

1.2 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, and that it is therefore appropriate for the Court to make the assumptions under Section 10 of the Act in determining the defendant's benefit. The defendant is believed to have a criminal lifestyle as:

- The defendant has been convicted of an offence committed over at least six months and the benefit is at least £5,000 (Sections 75(2)(c),75(4).
- The defendant having been found guilty at trial of 1 count of theft at West Byfleet Post Office to the sum of £74,609.84 (Contrary to Section 1 of the Theft Act 1968) covering the period 29th June 2005 to 14th January 2008 and 6 counts of false accounting, (Contrary to 17(1) of the Theft Act 1968).

1.3 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 she has benefited from her general criminal conduct. If the court decides the defendant does not have a criminal lifestyle the court must decide if she has benefited from her particular criminal conduct.

1.4 This is the statement of information dealing with all matters relevant by Paul Southin an Accredited Financial Investigator into the financial affairs of Seema Misra (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 it is known to me, 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 No civil proceedings have been commenced by the victim against the defendant.

3 Summary of Offence

3.1 The defendant was the Subpostmaster at West Byfleet Sub Post Office, 17a Station Approach, West Byfleet, KT14 6NF. The defendant had been in post since the 30th June 2005.

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3.2 An audit of the office accounts on the 14th January 2008 revealed a shortage of approximately £74,000.00. As a result of the audit shortage, the defendant was suspended from her position as Subpostmaster.

3.3 On the 14th January 2008, Post Office Investigators interviewed the defendant under caution. During that interview the defendant made admissions to the falsification of Post Office accounts, but denied theft.

3.4 The defendant was subsequently summonsed to appear at Woking Magistrates court on the 19th December 2008, 5 charges as follows:

1 *Charge 1 - "FOR THAT YOU Seema Misra between the 15th day of November 2006 and the 14th day of January 2008 at West Byfleet Post Office stole £74,609.84 belonging to Post Office Limited". (Contrary to Section 1(1) of the Theft Act 1968)*

2 *Charge 2 - "FOR THAT YOU Seema Misra between the 15th day of November 2006 and the 14th day of December 2006 at West Byfleet Post Office dishonestly with a view to gain for yourself falsified an account required for an accounting purpose namely the Monthly Trading Statement for West Byfleet Post Office dated 14th December 2006 by making an entry therein purporting to show that the cash in hand at the close of business that day was £19,704.06 when it was not". (Contrary to Section 17(1) of the Theft Act 1968)*

3 *Charge 3 - "FOR THAT YOU Seema Misra between the 16th day of May 2007 and the 16th day of June 2007 at West Byfleet Post Office dishonestly with a view to gain for yourself falsified an account required for an accounting purpose namely the Monthly Trading Statement for West Byfleet Post Office dated 16th June 2007 by making an entry therein purporting to show that the cash in hand at the close of business that day was £30,604.60 when it was not". (Contrary to Section 17(1) of the Theft Act 1968)*

4 *Charge 4 - "FOR THAT YOU Seema Misra between the 14th day of November 2007 and the 15th day of December 2007 at West Byfleet Post Office dishonestly with a view to gain for yourself falsified an account required for an accounting purpose namely the Monthly Trading Statement for West Byfleet Post Office dated 15th December 2007 by making an entry therein purporting to show that the cash in hand at the close of business that day was £39,135.73 when it was not". (Contrary to Section 17(1) of the Theft Act 1968)*

5 *Charge 5 - "FOR THAT YOU Seema Misra on the 9th day of January 2008 at West Byfleet Post Office dishonestly with a view to gain for yourself falsified an account required for an accounting purpose namely Cash Declaration for West Byfleet Post Office dated 9th January 2008 by making an entry therein purporting to show that the cash in hand that day was £14,000 when it was not". (Contrary to Section 17(1) of the Theft Act 1968)*

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3.5 A prosecution by Royal Mail Group Ltd was concluded at Guildford Crown Court on the 11th November 2010, where the defendant having been found guilty of 1 charge of theft and 6 charges of false accounting was sentenced to 15 months imprisonment for theft and 6 months imprisonment to run concurrently for the remaining 6 charges of false accounting. A Proceeds of Crime confiscation timetable was also set at that hearing.

4 Valuation of Drugs *(Drugs cases only)*

N/A

5 Personal History / Lifestyle

5.1 The defendant is a 35 year old female GRO and is currently serving a custodial sentence. Prior to her incarceration the defendant resided at GRO GRO with GRO

5.2 The defendant was employed by Post Office® Ltd as a Subpostmaster at West Byfleet Sub Post Office, 17a Station Approach, West Byfleet, KT14 6NF from 30th June 2005 until the date of her suspension on the 14th January 2008.

5.3 The defendant has no previously recorded convictions.

6 Legitimate Sources of Income

6.1 The defendant received a net monthly income of approximately £6,400.00 per month from the Post Office® that varied dependant on the volume of work conducted each month.

6.2 The defendant further states in her reply to the section 18 request for information that she receives rent from the property owned at GRO, GRO although the amount of the rental income is unknown.

- *A copy of response to Section 18 request for information associated at Appendix A*

7 Financial Record Examination

7.1 The defendant holds a Halifax account, number GRO, sort code GRO This account is currently £400.00 overdrawn.

7.2 The defendant holds a Nat West account, number GRO, sort code GRO This account is currently £15,000.00 overdrawn.

7.3 The defendant holds a HSBC account, number GRO sort code GRO This account is currently approximately £80.00 overdrawn.

7.4 The defendant holds a mortgage for the property at GRO GRO (Title number GRO) with Barclays Bank. The property was purchased on the 10th November 2000 for £82,000.00. In her response to the section 18 request for information, the defendant states that the property is currently valued at £210,000.00, with an outstanding mortgage of £128,000.00.

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8 Restraint Order

N/A

9 Extent of Benefit from Criminal Conduct

9.1 Benefit derived from Charges

9.2 The total amount of benefit obtained by this defendant as a result of the offences in these proceedings is calculated as follows:

i.	Benefit derived as a result of the offences as charged	£74,609.84
ii.	Benefit derived from increase in value of money on £74,609.84 from June 05 to October 08	£4,949.40
iii.	Benefit derived from increase in value of money on £79,559.24 from October 08 to December 10	£3,910.35
iv.	Total benefit	£83,469.59

Notes (ii) (RPI for October 08) minus (RPI for June 05) divided by (RPI for June 05) multiplied by £74,609.84 divided by 2 = interest. Therefore 217.7 – 192.2 ÷ 192.2 x 74,609.84 ÷ 2 = £4,949.40.

Notes (iii) (RPI for December 10) minus (RPI for October 08) divided by (RPI for October 08) multiplied by £79,559.24 = Interest. Therefore 228.4 – 217.7 ÷ 217.7 x £79,559.24 = £3,910.35.

- *RPI associated at Appendix B.*

9.3 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.

Total Benefit from Particular Criminal Conduct	£83,469.59

9.4 Assumptions

A Property Transferred to the defendant after the relevant date

i I have not scheduled any accounts showing 'unidentified lodgements' within bank accounts held by the defendant in this case. This is because although the Court may decide under section 1:2 of this statement that the defendant in this case has by definition a "Criminal Lifestyle" the prosecution is content that the benefit that the defendant has obtained from her criminal conduct is wholly detailed in the defendants "Particular Criminal Conduct" of this statement and in this circumstance there may be a serious risk of injustice if this assumption was made.

B Property held at any time after the date of conviction

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i Nil

C Expenditure incurred after the relevant date

i. I have not scheduled any accounts showing expenditure within bank accounts held by the defendant in this case. This is because although the Court may decide under section 1:2 of this statement that the defendant in this case has by definition a "Criminal Lifestyle" the prosecution is content that the benefit that the defendant has obtained from her criminal conduct is wholly detailed in the defendants "Particular Criminal Conduct" of this statement and in this circumstance there may be a serious risk of injustice if this assumption was made.

D Free Property

i. Nil

10 Summary of Benefit

10.1 Table of Benefit

Source	Detail	Amount
Particular Criminal Conduct	Benefit derived as a result of the offences as charged	£74,609.84
	Increase in value of money	£8,859.75
	Total	£83,469.59
Assumptions		
Transfers		Nil
Property held		Nil
Expenditure		Nil
	Total Benefit	£83,469.59

11 Available Amount

11.1 The onus is on the defendant to provide the Court with full details of all her free property, including full internal valuations (carried out by a professional valuer) for any houses she has an interest in. She will also need to supply the Court with details of the likely costs that will be incurred in realizing the property.

11.2 The free property that I have identified is as follows:

11.3 The defendant owns the leasehold on the property at GRO GRO The registered title number of this property is GRO The property was purchased in November 2000 for £82,000.00 and is currently valued at £210,000.00.

- *A copy of the Land Registry Title is associated at Appendix C.*

12 Summary of Realisable Assets

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Reference	Asset	Value
1	The equity in the property at GRO GRO	£82,000.00
	Total	£82,000.00

13 Defence Response

13.1 Section 17 of the Act allows the Court to order that the defendant respond to the Prosecution statement indicating the extent to which she accepts each allegation and to give particulars of any matters upon which she relies. If the defendant fails to comply with such an order she may be treated as accepting every allegation apart from any allegation she has replied to or any allegation that she has benefited from her general or particular criminal conduct.

13.2 Any reply to this statement made under the Proceeds of Crime Act 2002 should be served on Guildford Crown Court, and a copy sent to Criminal Law team, Royal Mail Group Ltd. 6A Eccleston Street, London, SW1W 9LT.

13.3 The Court ordered the defendant to serve a reply to this statement by 24th February 2011.

14 Confiscation Order

14.1 If the Court accepts that the defendant has benefited from the proceeds of crime to the extent of £83,469.59 then 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.

14.2 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. (Section 7 POCA 2002)

15 Effect of Compensation on Confiscation

15.1 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.

15.2 If the defendant cannot pay both, compensation can be recovered from sums paid in satisfaction of the confiscation order. (Section 13(6) POCA 2002)

Compensation to Royal Mail Group Ltd

1. Identified Fraud £74,609.84
2. Increase in value of money £8,859.75
3. Total £83,469.59

16 Time to Pay

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16.1 Section 11 of the Act states that a confiscation order must be paid on the making of the order. However where the defendant shows that she requires time to pay the Court may order payment within a specified period. That period must not exceed six months from the date the order is made.

17 Default Sentence

17.1 The Court should impose a period of imprisonment in default. The table below is included for reference and the assistance of the Court. See the Powers of Criminal Courts (Sentencing) Act 2000 Sec.139 (4).

Amount of Confiscation order	Default Sentence
An amount not exceeding £200	Up to 7 days
An amount exceeding £200 but not exceeding £500	Up to 14 days
An amount exceeding £500 but not exceeding £1,000	Up to 28 days
An amount exceeding £1,000 but not exceeding £2,500	Up to 45 days
An amount exceeding £2,500 but not exceeding £5,000	Up to 3 months
An amount exceeding £5,000 but not exceeding £10,000	Up to 6 months
An amount exceeding £10,000 but not exceeding £20,000	Up to 12 months
An amount exceeding £20,000 but not exceeding £50,000	Up to 18 months
An amount exceeding £50,000 but not exceeding £100,000	Up to 2 years
An amount exceeding £100,000 but not exceeding £250,000	Up to 3 years
An amount exceeding £250,000 but not exceeding £1,000,000	Up to 5 years
amount exceeding £1,000,000	Up to 10 years

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