POL00048806

IN THE CROWN COURT SITTING AT HULL

REGINA

V

JANET LOUISE SKINNER

CONFISCATION PROCEEDINGS

PROSECUTION RESPONSE TO SKELETON ARGUMENT

ON ABUSE OF PROCESS OF THE COURT

1. The Defendant, Janet Louise Skinner pleaded guilty on the 5th January 2007 to a charge of false accounting, an offence of theft was ordered to lie on the file.

2. On the 2nd February 2007 the Defendant was sentenced to 9 months imprisonment and as outlined in the defence skeleton argument in paragraph 6, His Honour Judge Barber, when sentencing the Defendant indicated that this case was a breach of trust where the debit grew larger through the Defendant's false accounting.

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FACTS OF THE CASE

3. The Defendant was a sub-post mistress at North Brandsholme from the 27th February 2004. She had, however, worked at post offices since 1995 as an employee of United News Group, the previous owners of the branch office.

4. Enquiries began concerning the theft of money from post office accounts by the Royal Mail.

5. The accounting system employed is that sub-post mistresses or masters are helped in their accounting duties by the Horizon computerised system.

6. The system records all transactions entered through the stock by the Clerks and acts as an aid to balancing at the end of the accounting period.

7. All losses must be shown in the account as soon as they occur and must be made good by the sub-post master / mistress.

8. To access the Horizon computerised system and to input transactions each member of staff has a user name and password.

9. On the 30th May 2006 managers attended North Brandsholme Post Office to discuss concerns about cash holdings at the office.

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10. Miss Skinner informed the managers that there would be a shortfall of about £40,000.00 in the account. She said she suspected a member of staff whom she named as Catherine Ayres.

11. While managers were at the Post Office it was noted that an attempt was made to deliver a cash remittance of £40,000.00. Managers refused this as the account when inspected showed that the cash holding at the Post Office was already excessive.

12. The Defendant was suspended from duty and audit arranged for the following day, i.e. 31st May 2006.

13. The audit revealed a shortfall of £59,216.43 which was made up of £58,942.41 in cash and £274.02 in stock.

14. Post Office investigators were notified and they attended the Post Office on the 1st June 2006.

15. The Defendant was interviewed under caution. She had admitted that she had considerable experience of transactions and procedures. When asked about the shortages at the branch she said she knew the Post Office was carrying a

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large loss and that she had inflated the cash to enable her to produce a clear trading statement.

16. The Defendant said that the losses had begun in January 2006 when a shortage of £7,500.00 had been revealed. She said the staff knew about the loss but she did not question them about it. Instead, she hid the loss by inflating the cash holding in the cash account. When she completed her next branch trading statement in February 2006 the loss had arisen to £9,500.00. Again, she concealed this. She had no idea how the loss rose to be over £59,000.00. As far as she was aware when she completed her trading statement for the 24th May 2006 the loss stood at £40,253.85.

17. The Defendant denied stealing the money and claimed she suspected a member of staff whom she named. This person was fully investigated and there was no evidence to suggest that GRO was involved at all.

18. Despite suspecting this member of staff the Defendant told the interviewing officers that she entrusted her with the keys to open the branch. Miss Skinner admitted she did not contact anyone about the problem or alerted the Post Office about the deficit.

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19. In Miss Skinner's contract of employment it was stipulated that any losses concerned at the sub Post Office had to be made good by the sub-post mistress / master.

THE LAW – BENEFIT

20. The Defendant has pleaded guilty to one count of false accounting and an offence of theft was left on the file.

21. Section 76(4) of the Proceeds of Crime Act 2002 states that a person benefits from conduct if he obtains property as a result of or in connection with the conduct.

22. Section 76(5) state *"If a person obtains pecuniary advantage as a result of or in connection with conduct, he is to be taken to obtain as a result of or in connection with the conduct a sum of money equal to the value of the pecuniary advantage."*

23. An example of Section 76(5) is where an offer of employment gained by the Defendant lying about his criminal record, the Defendant is taken to have obtained a property equal in value to the pecuniary advantage.

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24. A case to illustrate the obtaining of a pecuniary advantage under the former enactment, namely the Criminal Justice Act 1988 is David Cadman Smith (2002) UK HL68 2002 1WLR54 (copy attached). This case turned on whether a smuggler had obtained a pecuniary advantage by evading payment of duty at the point of importation and therefore the smuggler had derived benefit in accordance with Section 74 of the Criminal Justice Act 1988 even though he had not realised the value of the goods because they had been seized by Customs.

25. The House of Lords held that the evading or deferring of a debt fell within the ordinary and natural meaning of deriving a pecuniary advantage, accordingly the respondent ~~he responded and~~ derived a pecuniary advantage when he evaded payment of the excise duty on the cigarettes even though they were seized by the customs officers.

26. Under Section 71(1A)(5) of the Act an offender who had derived a pecuniary advantage was treated if he had obtained a sum equal to the value of the pecuniary advantage. Under Section 71(4) of the Act property properly obtained as a result of or in connection with the commission of an offence included money. Therefore, someone who had derived a pecuniary advantage from an offence was treated as benefiting in a sum of money equal to the value of the pecuniary advantage.

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27. In Miss Skinner's case, as a sub-post mistress, she was contractually liable for losses in her branch account. The false accounting enabled the Defendants to defer the debt to the Royal Mail. In conclusion the Prosecution have not manipulated or misused the process of the Court in bringing the application for confiscation as is suggested by the defence.

28. The Prosecution do not have to prove that any money was actually stolen in order to make an application for confiscation.

29. The suggestion by the defence that the Prosecution took advantage of a technicality when accepting the plea to false accounting is strenuously denied.

30. The shortfall in the accounts in the instant case was £59,175.39 a sum which is conceded by the Defendant.

PATRIZIA DOHERTY

14th June 2007

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