

From: Owain Draper <GRO>
To: Anthony de Garr Robinson <GRO>
Cc: Andrew Parsons <GRO>, "Simon Henderson"
 <GRO>, "Rebecca Keating" <GRO>
 <GRO>, Jonathan Gribben
 <GRO>

Subject: Re: 1700 Peaks [WBDUK-AC.FID26896945]

Date: Thu, 28 Mar 2019 20:22:01 +0000

Importance: Normal

Inline-Images: image001.png; image002.png; image003.png

I agree entirely.

If the results are good, RW will be slaughtered for raising it so late, and the Judge would attach very little weight to it. It's almost a one-way bet against PO in that bad results would be awful.

It's already a big problem that RW has identified the Peaks. If he now does no work on them, it will look awful if it comes out. If he does the work and we do not provide it to Cs, it will look awful if it comes out.

I'll think further on it, though, because it seems counterintuitive that all available options are so bad!

Best,

Owain

On 28 Mar 2019, at 19:23, Anthony de Garr Robinson

<GRO> <mailto:GRO> wrote:

Dear Andy,

My immediate reactions to this suggestion are as follows:

1. on its own, the sheer number of peaks referring to claimant branches (1700) looks very bad for us;
 2. so far, there has been no suggestion of any evidence of a bug affecting any claimant branch, this exercise appears to give rise to such a suggestion, why would we ever want to do that;
 3. it feels dangerous even to mention these peaks unless and until we have read them all and satisfied ourselves that they do not record any bugs affecting claimant branch accounts;
 4. putting the last point the other way round, if we had read them all and satisfied ourselves of this, I would love to talk about them, but not before;
 5. RW suggests a sampling exercise, but what if a significant proportion of his sample looked as if they might be claimant-branch-affecting bugs;
 6. we already have too much maths, too much averaging and too many assumptions about what it would take to make Post Office go mad;
 7. I doubt that this new calculation will help much (in the sense of establishing something that might cause the judge to take a more positive view of our case) and I strongly suspect that it will do more harm than good (in the sense that the optical problems which it will create for us as discussed above will be greater than any help it might give us); and
 8. this is the sort of exercise to be done in breach trials, not this trial;
 9. it troubles me that RW has already found 1700 peaks without discussing it with us first – thereby creating a risk that if Green gets in a lucky question, RW could be required to talk about them in cross examination;
- and

10. what the hell does RW think he is doing moving the goalposts in this dangerous way this close to the endgame?

I would welcome any further thoughts that the rest of the counsel team might have, in case I'm missing something important going the other way.

Best wishes,

Tony

From: Andrew Parsons <[redacted]>
Sent: 28 March 2019 17:55
To: Anthony de Garr Robinson <[redacted]>; Simon Henderson <[redacted]>; Owain Draper <[redacted]>; Rebecca Keating <[redacted]>; Jonathan Gribben <[redacted]>
Subject: FW: 1700 Peaks [WBDUK-AC.FID26896945]
Importance: High

Argghhh... Robert is threatening more maths!!!

I've spoken to him about this today and he is reconsider his position. Unless anyone shouts, I presume our collective view is that more maths is bad?

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

d:
m:
t:
e:

[redacted]
[redacted] <mailto:[redacted]>

Stay informed: sign up to our e-alerts<<https://www.womblebond Dickinson.com/uk/preferences>>

<image001.png><http://>

womblebond Dickinson.com<<https://www.womblebond Dickinson.com>>

<image002.png><https://www.twitter.com/wbd_uk>

<image003.png><<https://www.linkedin.com/company/womble-bond-dickinson-uk-llp/>>

From: robert worden <[REDACTED] GRO [REDACTED] mailto:[REDACTED] GRO [REDACTED]>
Sent: 27 March 2019 11:33
To: Andrew Parsons <[REDACTED] GRO [REDACTED] mailto:[REDACTED] GRO [REDACTED]>; Jonathan Gribben <[REDACTED] GRO [REDACTED] mailto:[REDACTED] GRO [REDACTED]>
Cc: 'Chris Emery' <[REDACTED] GRO [REDACTED] mailto:[REDACTED] GRO [REDACTED]>
Subject: 1700 Peaks
Importance: High

Andy, Jonny -

I'd like to give you an early heads up on a type of analysis I have been doing recently, which I think is very promising.

It can give me another independent way to estimate the 0.4% upper limit on the impact of bugs on claimants, that can be done quite quickly as follows:

- * If there is a bug affecting a branch's accounts, the branch FAD code is quite likely to appear in a Peak (as is confirmed by Callendar Sq, Receipts Payments mismatch, suspense account). Say the probability is as low as 50%; it is probably higher, for any significant financial impact.
- * Out of 218,000 Peaks, there are about 1,700 which mention the FAD code of one or more claimants, at a date when the claimant was in post. (I have written a program to find them)
- * To calculate the total impact of bugs on all claimants accounts, we just have to sum the likely financial impact for each Peak that indicates a bug, over those 1,700 Peaks.
- * To get a total impact of £18.7M, the average impact on a branch per Peak has to be £10,000 (or £5000, if you allow for the 50% factor above). This is very high indeed, for an impact on one branch. PO would have been going mad about it.
- * For most of the 1700 Peaks, it is pretty obvious that they had no impact at all, and were not bugs - they are about ISDN or something irrelevant.
- * It would be quite simple to examine a random sample of 100 Peaks out of the 1700, and scale up by 17
- * I have not done this, but I will bet that the resulting number is tiny - probably less than 1% of £18.7M

This would give three very independent upper limits for the proportion of claimants' losses arising from bugs - which will probably be 8%, 0.4% and say 1%.

These limits come respectively from the claims data, KELs, and Peaks. Three very different sources and assumptions. It will be very hard for the Cs to get away from these three independent analyses - i.e. to prove that they are all wrong.

Note that for future trials of lead claimants, it is very easy to pick out the small number of Peaks which mention each claimant's FAD code or codes, and examine them one by one. Those Peaks will tell you all about remote access as well as bugs - to put each claimant under the spotlight - even without ARQ data.

Peaks have been churning out at a rate of 50 per working day since 2000 - there is not much they miss.

Perhaps we can discuss tomorrow at chambers?

Robert

Please consider the environment! Do you need to print this email?

The information in this e-mail and any attachments is confidential and may be legally privileged and protected by law. arobinson:GRO<mailto:arobinson:GRO> only is authorised to access this e-mail and any attachments. If you are not arobinson:GRO<mailto:GRO>, please notify andrew.parsons:GRO<mailto:GRO> as soon as possible and delete any copies. Unauthorised use, dissemination, distribution, publication or copying of this communication or attachments is prohibited and may be unlawful. Information about how we use personal data is in our Privacy Policy<<https://www.womblebonddickinson.com/uk/privacy-policy>> on our website.

Any files attached to this e-mail will have been checked by us with virus detection software before transmission. Womble Bond Dickinson (UK) LLP accepts no liability for any loss or damage which may be caused by software viruses and you should carry out your own virus checks before opening any attachment.

Content of this email which does not relate to the official business of Womble Bond Dickinson (UK) LLP, is neither given nor endorsed by it.

This email is sent by Womble Bond Dickinson (UK) LLP which is a limited liability partnership registered in England and Wales under number OC317661. Our registered office is 4 More London Riverside, London, SE1 2AU, where a list of members' names is open to inspection. We use the term partner to refer to a member of the LLP, or an employee or consultant who is of equivalent standing. Our VAT registration number is GB123393627.

Womble Bond Dickinson (UK) LLP is a member of Womble Bond Dickinson (International) Limited, which consists of independent and autonomous law firms providing services in the US, the UK, and elsewhere around the world. Each Womble Bond Dickinson entity is a separate legal entity and is not responsible for the acts or omissions of, nor can bind or obligate, another Womble Bond Dickinson entity. Womble Bond Dickinson (International) Limited does not practice law. Please see www.womblebonddickinson.com/legal<<http://www.womblebonddickinson.com/legal>> notices for further details.

Womble Bond Dickinson (UK) LLP is authorised and regulated by the Solicitors Regulation Authority.

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

