

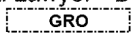

Alison Bolsover

From: Emily B Springford
Sent: 21 September 2011 10:31
To: Jacqueline Whitham
Cc: Zoe Topham; Alison Bolsover; Rebekah Mantle
Subject: RE: McAlerney- Leitrim SPM

Jackie,

Thank you for the update on this case. My preliminary view is that we should seek a confidential settlement at £4k - £6k (or more if this can be negotiated), on commercial grounds and to avoid any risk of any criticism of Horizon by the Judge. However, I will discuss this with Sabrina in POL and come back to you as soon as I can.

Kind regards

Emily Springford
Principal Lawyer - Dispute Resolution
Postline 
Mobex 

First Floor, 35-50 Rathbone Place
London W1T 1HQ

From: Jacqueline Whitham
Sent: 21 September 2011 09:35
To: Alison Bolsover; Emily B Springford
Cc: Zoe Topham
Subject: FW: McAlerney- Leitrim SPM

Dear Alison and Emily

Please see below update from Joe Napier regarding a former agent of Leitrim Post Office.

Leitrim is on our Horizon integrity list.

I have some reservations about this case and my view would be that the information from Fujitsu would be vital whatever the costs.

I suppose the first question we need to address is whether we want this case progressing to Court with the questions on Horizon cases still undecided.

Al - I have the file with me and if you want to review it and discuss please give me a shout.

Cheers
Jackie

Jackie Whitham
Former Agent Accounting Team Leader


Product & Branch Accounting

Post Office Ltd

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21/09/2011

 <mailto:GRO>

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From: Joe Napier [mailto:GRO]
Sent: 21 September 2011 07:27
To: Lynn, Zoe; Jacqueline Whitham
Subject: McAlerney- Leitrim SPM

Zoe,

The planned meeting with Katherine McAlerney and her legal time went ahead on Monday 19th September 2011.

Post Office Limited seeks to recover £10,587.44 plus costs on foot of County Court proceedings alleging breach of contract in respect of Ms McAlerney's appointment as SPM of Leitrim SPO.

On 19th January 2007 an audit of the branch revealed a shortage of £2494.94. At this time the office already had an outstanding deficit of £8092.50. This had been made up as follows;

29/03/2006 £1442.97 gain
16/08/2006 £9482.03 gain
22/11/2006 £1628.56 loss
22/11/2006 £15148.73 loss
03/01/2007 £2240.21 loss

The defendant has consistently denied 'stealing or misappropriating monies'. It was pointed out to her advisors that she is being accused of neither.

She pleads that she had problems with her Horizon system. The records support her contention that she did call the helpline from time to time. She also pleads that power failures caused additional problems. The Horizon system was replaced in the office in September 2006. The 'losses' actually post date that period.

It has been suggested that there has been no actual 'loss'. That cannot be correct in respect of the final audit - there being a real physical deficit on inspection. The 22/11/2006 loss of £1628.56 has been identified as a cheque logged to the system which never arrived in the cash centre. Again, the loss accrual can be seen; the defendant having been credited for the value of the cheque but POL prevented from benefitting from it by being unable to cash it. (It has been suggested that POL would have had details of the payer/payee and could have followed up once the cheque was noted to be missing. I'm not clear as to whether POL would have had those details but in any event I respectfully suggested that it was not POL's role to pursue.)

POL do not have details of Cheques on Horizon only registered as a mof.

It follows, subject to a potential argument re the cheque that POL should be able to readily demonstrate a 'real' loss of £4,123.50.

The issues in respect of the additional losses and gains are much more difficult to decipher and explain. We have consulted with Suzanne Winter, Investigator and Linda McLaughlin, Auditor. It is clear that Ms McAlerney was disorganised. She continually missed closing Branch Trading Statements and appears to have developed a habit of rolling over and settling, sometimes with her

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own money, in order to keep trading. The description given at interview is chaotic. **GRO**
GRO The administration of the system was
beyond her.

However, it is for POL to prove that there was an 'actual loss' as opposed to an illusory loss. I have read the decision of the English High Court in POL v Castleton. The facts are not dissimilar. What I would say is that it does not bind Courts in this jurisdiction and the level of detail is considerable. POL had to strip back out the weekly account trading returns in order to illustrate the case that they were making. We have the branch trading statements for 16/08/2006 to 21/09/2006 but the BTS's from 21/09/2006 to final audit would have to be obtained from Fujitsu. Fujitsu have quoted a price of £6,331.00 for this information. It seems excessive but I'm led to believe that it is a contractually agreed price fixed to a daily rate.

To prove this case we would need, as witnesses, the above named Suzanne Winter, Linda McLaughlin and Contract Manager Brian Trotter. I can't see the case being disposed off in less than 2 days.

The defendant has assets. This was checked in 2009 before proceedings commenced but it now appears that, with falling property prices, equity in the assets is limited and the defendant's liquidity in jeopardy. She is being actively pursued by at least one bank. There is a genuine impecuniosity issue which we need to consider. It is all the more relevant given the difficulties re proofs and the cost of trial. I am certainly not going to recommend spending excessive sums obtaining information from Fujitsu or tying up senior grade employees where the costs of such action is either not recoverable in a legal or practical sense.

The defendant is not in a position to discharge any Judgment immediately. Even if we succeed on all grounds the best that we can hope for is an Order Charging Land, giving POL security for up to 12 years. It is likely to rank in 2nd or 3rd place to other secured creditors. If the value of property continues to fall and a lender takes a 'shortfall possession' there may not be enough to discharge POL and the charge will 'die'.

The defendant's advisors are prepared to recommend that she concede to Judgment - of a certain element. We had extensive discussions re the final audit and cheque aspect. They started with a £1k offer, which when dismissed out of hand was increased to £2.5k. That too was dismissed as unattractive. At that point, having at least obtained a principal concession that they would consider something I broke off discussions to take an authority from POL.

It may well be that a Judge is swayed by the difficulties and potential inability of POL to prove the Trading Corrections aspect of the case to such an extent that he dismisses the entire action but in reality the worst case scenario would seem to be an award of approx £4k plus costs in favour of POL. The prospects of proving the rest of the case, £6k's worth, will be limited unless we pay £6k to Fujitsu which will not be recoverable from the defendant - even if she had the money. That does not appear to be a sensible step to take. £4k plus costs would take the entire settlement to £6/£6.5k. I'm not convinced that they would come to that level.

What is POL's position on the matter?

Would a conceded Judgment of £5-6k be attractive?

Currently we are faced with a two day trial, requiring 3 senior employees, and perhaps a Fujitsu rep with £6k worth of Fujitsu info for a £10k debt and a virtually insolvent defendant. The practical reality shouts loudly. It may well be however, given the principal at stake that the case must be pursued.

I have asked the defendant's solicitor to provide an open letter of assets and liabilities. If POL are to

take a charge over a property I want to ensure that there is equity in it and a limited number of secured creditors in 'priority'.

I appreciate that this type of solution is not ideal but it may well be the best that can be delivered whether in or out of Court.

Regards

Joe Napier

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