

## Henrietta Paget

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**From:** Henrietta Paget [GRO]  
**Sent:** 14 August 2009 18:14  
**To:** 'jarnail.a.singh' [GRO]; 'marilyn.benjamin' [GRO]  
**Subject:** Rudkin

Dear Jarnail,

Thank you for sending me Mr. Dove's response, which I agree needs to be regarded as a concession that the defence are correct, and Mr. Ward's helpful e-mail.

Briefly, my thinking is this:

1. I am not sure that there is even ground for an abuse of process argument (there being no indictment to stay), but I suppose that we know what the defence mean: they will invite the court to hold us to the indication given and/or make no confiscation order.
2. I am not sure that an abuse of process style argument would succeed, unless the defence can show real prejudice by their reliance on Mr. Dove's indication between 1<sup>st</sup> May and receipt of the Section 16(3) statement.
3. Otherwise, that indication would probably only serve to gain the sympathy of the court in deciding what order to make.
4. Applying Neuberg as modified by Seager, I do not think it likely the benefit figure would be found to be the full turnover, minus deductions (as helpfully set out by Mr. Harbinson).
5. But nor would the court necessarily fix the benefit at the level of direct loss and leave the running of the business out of account. The precise finding might perhaps depend on the proportions of stolen monies versus legitimate monies used to shore up the business.
6. It seems to me that it is a matter for Royal Mail whether to agree to fix the benefit on the basis of the stolen monies alone or go on to seek part of the turnover as well. If the latter, I obviously the hearing will not be effective for the reasons helpfully explained by the defence.

I hope this helps.

Yours,  
Henrietta

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## HENRIETTA PAGET

9-12 Bell Yard  
London WC2A 2JR  
Telephone: [GRO]  
Fax: [GRO]  
DX: LDE 390

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