POL00297631

POST OFFICE LTD – CASE REVIEW

R. v.JAMIE DIXON

Exeter Crown Court

Offence

1. On the 30th May 2013 this defendant was sentenced to a term of 12 months imprisonment suspended for two years for an offence of false accounting. The single charge alleged that between 5th January 2011 and 18th August 2011 he had falsified the accounts at the Hartland Sub Post Office Branch to the tune of £14,222.02.

Case history

2. The defendant appeared before the North Devon Magistrates Court on 3rd May 2012. He gave no indication of his plea and the Magistrates deemed the case unsuitable for summary trial. The case was adjourned for the preparation of committal papers and the committal hearing took place on 14th June 2012.

3. A defence statement was served dated 24th July 2012 which alleged lack of training, stated that the defendant did not have confidence in the Horizon System and that transactions were not accurately recorded.

4. The matter next came before the court for a Pleas and Case Management Hearing at Bradford Crown Court on the 3rd August 2012, when the defendant entered a not guilty plea (at this stage the indictment contained a single count of Fraud, contrary to section 1(1) of The Fraud Act 2006.). He indicated to the

POL00297631

court that he intended to instruct a forensic accountant with a view to attacking the Horizon System.

5. The trial was later fixed for the 13th August 2013.

6. On the 15th February 2013 the defendant's solicitors wrote to the Crown inviting the Crown to accept a plea to false accounting. The letter begins, "We have now had a further conference with Counsel and Mr Dixon has been considering his position. There is no dispute that £14,222.02 was missing."

7. The case was listed on the 30th May 2013 where the defendant pleaded to False Accounting and was sentenced.

Prosecution case

8. The defendant Jamie Dixon was during the relevant period the sub-postmaster at the Hartland Sub Post Office.

9. On 18th August 2011 auditors attended the Hartland Sub Post Office after a number of accounting irregularities had come to the attention of the Fraud and Conformance Team. A net shortage of £7,224.67 was identified in the accounts. As a transaction correction had been accepted by the branch and settled centrally, the outstanding debt to the Post Office on that date was £12,094.73. It increased to £14,222.02 after cheques to the value of £2,127.29 had been remitted out of the branch on the date of the audit but not received by IPSL.

10. On the date of the audit Mr Dixon said that he had added £4,870.06 to his last trading statement as he thought that he had to in relation to the transaction correction which he had received. He also said that he expected the accounts to be about £5,000 short.

POL00297631

11. The Branch Trading Statements between the 16th February 2011 and the 18th August 2011 were analysed and did not reveal any discrepancies, apart from the one completed on the 18th August 2011 when the auditors were present and a deficit of £6,502.51 was declared.

12. The cheque entries , including remittances and adjustments, between 7th June 2011 and 19th August 2011 were also analysed. On 15th June 2011 the cheques were positively adjusted by £5,986.24 before being reduced by the same amount the following morning.

13. On the 13th July 2011 the cheques were again adjusted by £4,870.06 before being reduced by the same amount the following morning. This figure is the same as the transaction correction issued and settled in June 2011.

14. In his interviews, conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice, the defendant said:
    - That he could not give any explanation of the audit deficit.
    - He accepted that he had adjusted the cheques by £4,870.06 on the 13th July 2011 and had reversed the transaction the next morning in panic.
    - He was asked why there were cheque figures on hand of £4,640.45 on the 18th May 2011 and £5,986.24 on the 15th June 2011. He accepted that he had deliberately inflated the cheque figures on those particular trading statements as it would reduce the amount of cash needed to balance.
    - He wanted to receive a larger cash remittance as he was regularly close to running out of cash on Fridays.
    - On days where he wasn't completing a trading statement he would understate the cash on hand with a view to getting more cash into the branch.
    - So far as the cheque remittance transaction correction was concerned Mr Dixon could not give any explanation as to why the cheques had not been received by IPSL. He denied stealing any Post Office money.

POL00297631

– After the interview Horizon data from the 4th January 2011 to the 18th August 2011 were obtained which show that cheques were settled to cash and reversed prior to the daily remittance being conducted as far back as January 2011.

Defence case

15. In interview the defendant indicated that he did not know how the losses arose and offered a number of speculative explanations.

16. In a Defence Statement dated the 24th July 2012 raised the following assertions:

    i. The defendant entered cash as cheques on the system to ensure that the Post Office sent him sufficient cash to be able to carry out his functions and deal with customers

    ii. The defendant had been ill and suffered from depression and had made mistakes as a result.

    iii. He did not understand the Horizon system even though he thought that he did at the time.

    iv. He did not have confidence in the Horizon System and that transactions were not accurately recorded. He denied taking the money.

Discussion

17. The defendant sought to rely for his defence on what he asserted to be failings on the part of Horizon, coupled with a lack of training provided by Post Office Ltd. and a lack of customer support. I deal with each in turn:

    i. **Horizon**

    The defendant raised his concerns about the Horizon system at an early stage in this case. He stated through his representatives that he intended to instruct an expert. Had the Second Sight Interim report

POL00297631

been available to us during the currency of this prosecution it would undoubtedly have met the test for disclosure to the defence. In my view the report meets the test for both initial disclosure and ongoing disclosure in that that it undermines the prosecution case and, in this case, supports the defence case.

ii. **Training**

Similarly, that part of the Second Sight Interim report which deals with this topic refers and I arrive at the same conclusion.

iii. **Customer support**

As i. and ii. above.

Safety of Conviction

18. In this case I have no doubt that, had we known of those matters identified in the Second Sight Interim report and Helen Rose's 6th June report that material should and would have been disclosed to the defence in accordance with our disclosure duties as prosecutors. For that reason alone we must inform those who represented the defendant and disclose to him the Second Sight Interim report.

19. I consider it quite likely that, upon receipt of this material, the defendant will seek the leave of the Court of Appeal to appeal his conviction. Where a defendant seeks leave the Court of Appeal will, often before the grant of any leave, invite the prosecution to comment upon the application.

20. I advise that, should we be so invited and/or should the defendant be granted the requisite leave, we oppose his the grant of leave and any substantive appeal, on the basis that the conviction may properly be regarded as safe for, amongst other reasons, the following matters:

    1. By his guilty plea he admits having committed the offence of theft. I have no doubt that he would have been advised that:

POL00297631

1. By pleading guilty he was admitting guilt;

2. he should only enter a guilty plea if he were truly guilty;

3. he should not plead guilty if he was in fact not guilty;

4. he should not plead guilty solely or mainly in order to achieve a lesser sentence in circumstances where he was not guilty.

2. In this case the defence contacted the prosecution on their own volition to offer the plea of guilty to False Accounting. This was not the normal horse trading at the door of the court. The defence state in terms that “there is no dispute that £14,222.02 was missing.” This assertion must have been made on instructions.

3. In his interviews the defendant is at pains to explain that he does not know how the shortages arose but he admits to his use of transaction reversals.

4. Despite his protestations that he did not understand the system I understand that the defendant was involved in the testing and rolling out of the Horizon Software.

Conclusion

21. This is a case in which, had we been possessed of the material at the relevant time, we should and would have disclosed to the defence the matters identified both in the Second Sight Interim report and Helen Rose’s 6th June report..

22. Accordingly our duty is now to place the defence on notice of this fact and to serve on them those documents. I advise that we comply with that duty in this case.

23. Should the defendant be granted leave to appeal against his conviction, we should oppose the appeal.

POL00297631

24. Subject to specific instructions to the contrary, I will draft a letter to the defence for Post Office Ltd's approval and, in accordance with your instructions to us, serve that letter and the reports on defence solicitors.

Harry Bowyer
11th July 2013
Barrister
Cartwright King Solicitors