

Richard Nelson
Solicitors



Our Ref: CEK/DL/2008-6168CF

Your Ref:

Date: 12 August 2010

Urgent - For the Attention of Jarnail Singh

Senior Lawyer
Criminal Law Division
Legal Services
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By E-mail & Post: jarnail.a.singh

GRO

Dear Mr Singh

**Re: R v Susan Jane Rudkin - Outstanding Confiscation Order – £29,894.15
Deadline for payment Wednesday 18th August 2010**

I write to address the above case and to provide you with a full update in respect of the sustained efforts by Susan Rudkin to realise the monies to settle the outstanding Confiscation Order which currently stands at £29,894.15 as confirmed in your e-mail dated 12th July 2010.

As you are aware, the attempts have centred around the realisation either by way of sale or refinancing of the asset 118-120 High Street, Ibstock, LE67 6LJ – a retail and Post Office business combined with a domestic property.

This is a substantial asset given that the current market valuation of the freehold property and 'going concern' to include the Post Office appointment is in the region of £595,000 plus stock at valuation. Mr & Mrs Rudkin currently have liabilities in the total sum of approximately £305,000 which include the above outstanding Confiscation Order, mortgage liabilities to the Lloyds TSB and credit card liabilities.

The current valuation of the asset without the Post Office as part of the 'going concern' is £400,000 plus stock at valuation. I refer you to the enclosed update from Humberstones, National Specialist Agents & Valuers dated 13th July 2010. They are currently marketing this property and business. They are a specialist company dealing with this type of business.

I have enclosed a copy of the application that we served in February 2010 in support of an extension to the deadline for payment as this details the efforts made by Susan Rudkin following the making of the Confiscation Order and through to February 2010. I now write to address the efforts sustained since February 2010 and to put you in the picture as regards the current circumstances of Mr & Mrs Rudkin and to seek your

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view as to the way forward in this matter. Susan Rudkin has stayed in contact with us throughout the last 12 months and continues to provide us with updates. Susan Rudkin remains extremely anxious about the impending deadline, the amount outstanding and the enforcement procedures that could follow.

You will be aware from our extension application that an audit was carried out at the Ibstock Post Office on 27th January 2010. Following this, Michael Rudkin's contract for services as Sub Post Master of the Post Office, Ibstock Branch was suspended in relation to misappropriation of Post Office monies and failing to keep the branch account in the prescribed manor.

This matter was only resolved in June 2010 following interview, investigation and an appeal process. I refer to the enclosed e-mail from Mark Baker, Executive Officer with the National Federation of Sub Post Masters to Peter Pycock, HNG Senior Manager who determined the outcome of the procedure. Mark Baker assisted Mr Rudkin in respect of these matters and his e-mail dated 3rd June 2010 details the basis of the appeal. You will note the representations made in respect of small discrepancies and misinterpretation of the contract for services.

The outcome was that the contract for services was terminated and this was communicated to Mr Rudkin in June 2010. I enclose a copy of the letter from the Post Office to Michael Rudkin dated 1/6/10. The result is a significant financial impact upon Susan and Michael Rudkin. I understand that as a result, the retail side of their business has suffered as Mr & Mrs Rudkin have been unable to meet their supplier's credit requirements and therefore, can only retail on a limited basis. I understand that the position is that there is no further recourse with the Post Office in relation to the termination of the contract and any further action would be by way of a breach of contract claim which Michael Rudkin is not in a position to fund due to his financial constraints.

However, despite adverse circumstances, efforts have been maintained to realise the sale of the property at Ibstock Post Office.

I refer you to the updates received from Humberstones National Specialist Agents & Valuers dated the 13th July 2010 and 6th August 2010. These updates should be considered alongside the letter and e-mail from Peter Wilkinson at Lloyds TSB.

You will note from the Humberstones' update dated 13th July that the business was marketed as a lock up lease and on 3rd February 2010 an offer was accepted by Mr & Mrs Rudkin at an agreed price of £165,000 with an initial rent of £15,000 per year. The purchasers were in a position to proceed and were anxious to do so but unfortunately this could not go ahead as the bank would not agree with this way forward at that time.

I refer you to the letter from Peter J Wilkinson, Customer Support Manager at Lloyds TSB. In the second paragraph, Mr Wilkinson comments that his input was to assess whether Mr & Mrs Rudkin needed the bank's permission to agree to lease part of the premises and to assess what the resulting transaction would have meant in terms of debt reduction and ongoing security. Mr Wilkinson goes on to state that the issue regarding the letting of part of the property was discussed with a colleague of his on



24th February and the consensus was that the rental income of circa £15,000 per annum would not have been sufficient to cover the remaining indebtedness ongoing.

You will note that the financial circumstances of Mr & Mrs Rudkin were addressed by Lloyds TSB on 25th February and at that stage Mr Wilkinson proposed to submit an application to increase the bank's funding to support the repayment to the Post Office (repayment of the Confiscation Order).

I refer you to the update received from Roger Harris at Humberstones dated 6th August 2010 which confirms that the person who agreed to purchase Ibstock Post Office in February 2010 on a lease basis has now completed the purchase of a different Post Office in Rothley and is now "happily ensconced as a Sub Post Master". This therefore demonstrates that this was a genuine offer in February. Unfortunately, the bank was not prepared to consider this at the time.

Therefore, efforts continued to market the property on a freehold basis. As a result, the property was marketed as a freehold at a price of £595,000 plus stock at valuation. The update from Humberstones dated 13th July 2010 details the interest in the property since this time and their efforts to secure a purchaser. The update dated 6th August 2010 confirms that there is a current interested party who is seeking to obtain finance for the purchase. I have been instructed that the prospective purchaser is a Mr Amrik Dhesi and he has requested a meeting to further sale negotiations with the Rudkin's. This has been arranged to take place tomorrow, Friday 13th August 2010. I await further news in this regard.

You will note that Lloyds TSB became aware of Michael Rudkin's suspension by the Post Office in April 2010 and as a result Mr & Mrs Rudkin were advised that the chances of raising the funds via the bank were now very remote and that an alternative source of funding would be advisable.

Recommendations were made by Peter Wilkinson of Lloyds TSB and as a result Michael Rudkin contacted Stuart Almond at ISIS mortgages. I refer you to the e-mail from Stuart Almond dated 7th July 2010. He confirms that given the outstanding liability of approximately £240,000 to Lloyds TSB and given that in today's financial climate, the maximum any lender will go to on a 2nd charge against the property will be 60% loan to value which would equal £240,000, it is unlikely that Mr & Mrs Rudkin would be able to raise any additional funds against property at this current time. Therefore, this avenue was closed off to Mr & Mrs Rudkin.

A further meeting took place between Mr & Mrs Rudkin and Peter Wilkinson of Lloyds TSB in July 2010 and on that date, it was suggested that the Rudkin's look to offer a lock up lease option again. This took Mr & Mrs Rudkin by surprise given the view of the bank in February 2010. You will note that as a result, Humberstones are now also offering the business on the basis of a lock up lease as well as on a freehold basis. Please see their update dated 6th August 2010. Mr Harris of Humberstones confirms that as a result, on 5th August 2010, they re-matched the business to their mailing list and sent out 173 sets of details. Therefore, Humberstones continue to aggressively market the business for sale.



I also refer you to the further e-mail from Peter Wilkinson dated 5th August 2010 which confirms that Lloyds TSB are open to consider any proposal dependant upon the capital reduction achieved and the income available to service the remaining debt on a capital and interest basis. Therefore, it appears that any offer to purchase a lock up lease received by Mr & Mrs Rudkin would need to be again considered by Lloyds TSB and meet their approval as regards security for the outstanding liabilities and servicing of the same.

Obviously, we are aware of the enforcement procedures and would take this opportunity to remind the Prosecution of the sustained efforts since the making of the Confiscation Order to realise the funds. The original plan of Mr & Mrs Rudkin was to restructure their finances at the end of 2009 and remortgage in order to release monies from the equity in the property/business in order to settle the outstanding Confiscation Order. Unfortunately, given that the Post Office were deducting £1,000 at source at this time from the salary of Michael Rudkin, in order to recoup the shortfall which formed the basis of the criminal proceedings, the bank were not prepared to offer this facility due to Mr Rudkin's limited disposable income.

Thereafter, Mr Rudkin faced an audit and subsequent investigation which ultimately led to the termination of his contract for services. At the conclusion of the audit, the auditors declared a loss of only £232.17 against Ibstock Post Office. I have enclosed a copy of the official receipt. You will see in the e-mail from Mark Baker to Peter Pycock on 3rd June 2010 that very strong representations were made regarding the conduct of the audit, unsubstantiated claims, minor discrepancies and misinterpretation of the contract for services.

Mr & Mrs Rudkin find themselves in a situation whereby they can only realise monies from either the freehold sale of a complex asset which includes the Post Office business, a retail business, a domestic property and also a detached coach house in the grounds or the sale of the business on a lock up lease basis which involves negotiating a sale price for the goodwill, fixtures and fittings plus stock at valuation plus a yearly rent. The bank would have to review any offer in order to assess the capital reduction achieved (sale price) and the income available (agreed yearly rent) to service the remaining liability to Lloyds TSB.

In addition to this they face an extremely difficult property market and economic climate. In almost a year of marketing the asset there have only been 2 prospective purchasers – the purchaser in February 2010 who has since purchased a different Post Office and Mr Dhesi who is due to see Mr & Mrs Rudkin tomorrow to further sales negotiations.

Mrs Rudkin has made continued and sustained efforts despite these adverse circumstances and we would ask that this is taken into consideration by the Prosecution in reviewing their position and addressing the way forward.

I also refer to your e-mail dated 12th July 2010. You confirmed that in the case of Ibstock Post Office, the modelling exercise identifies that the branch should remain as a conventional Sub Post Office and that you understand that Royal Mail has also confirmed that they wish to retain a sorting facility at Ibstock and in view of this the branch vacancy was to be advertised with the mail work i.e. sorting office element



included. I have enclosed a copy of the letter from the Post Office to Michael Rudkin dated 26th June 2010.

You have also confirmed that the vacancy is also being advertised on an 'at or near' basis which would mean that the business would accept applications from anyone wishing to offer the existing premises or suitable alternative premises. You have advised that any alternative premises would firstly have to be visited by members of the Agency Network Change Team to determine their suitability. If the Post Office moves into new premises, then the new Sub Post Master would be expected to pay an introductory payment to Post Office Ltd equating to 25% of the current warranted remuneration.

You have also confirmed that with regards to Ibstock, the business will welcome applications from anyone able to offer the existing or suitable or alternative premises. You also confirmed that Post Office Ltd were not progressing any application at that stage.

Therefore, if a purchaser is found then they have to be assessed as suitable and if the business was taken to suitable alternative premises then I understand that this would seriously affect the valuation of Ibstock as a 'going concern' as confirmed by the update from Humberstones dated 13th July. This would mean a reduction in value from £595,000 to £400,000. Therefore, the Rudkins will be potentially further constrained by Post Office Ltd and their procedures and therefore, any sale is not a straight forward process and is also likely to be a lengthy process.

Confiscation proceedings and ancillary matters are always complicated in our experience but in relation to Post Office prosecutions, are further complicated by the continued link to Post Office Ltd in order to sell the business as a going concern for its full value. Therefore, it appears that sales are much more difficult to achieve with this type of business and the going concern valuation is seriously affected if the Post Office facilities are reinstated in a nearby facility rather than maintained at the original site.

In all the circumstances, I would ask you to consider the position taking account of Mr & Mrs Rudkin's constrained financial circumstances and sustained significant efforts to realise monies to settle the order. Mr Rudkin does not believe that his contract should have been terminated but finds himself in a position where he cannot fund any further action in this matter.

Can you please confirm your view in respect of the way forward and whether you consider that a variation on the basis of inadequacy would be a suitable way to resolve matters.

Given the imminent deadline of 18th August 2010, I would be obliged if you would kindly liaise with the Financial Investigator, Graham Ward at the very earliest opportunity. I spoke to Mr Ward in July 2010 and he suggested that a variation of the outstanding Confiscation Order on the basis of inadequacy could be a suitable way forward if a sensible approach was taken, in light of their circumstances.



I look forward to hearing from you and take this opportunity to thank you for your consideration of this detailed application.

Should you require any clarification then please do not hesitate to contact me directly on **GRO** or by e-mail, charlotteknight@**GRO**

I have forwarded a copy of this letter to Sarah Warrington at the Confiscation Unit.

Kind regards

Yours sincerely

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Charlotte Knight
Solicitor
Richard Nelson Solicitors

Encs: