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IN THE HIGH COURT OF JUSTICE

Claim No. HQ05X02706

QUEEN'S BENCH DIVISION

BETWEEN:

POST OFFICE LIMITED

Claimant/
Part 20 Defendant

-and-

LEE CASTLETON

Defendant/
Part 20 Claimant

FURTHER INFORMATION OF THE DEFENCE AND PART 20 CLAIM

Request

1. In paragraph 5 of the Defence, of the words "*The Defendant avers that any apparent shortfall is entirely the product of problems with the Horizon computer and accounting system used by the Claimant*" please state precisely:

- 1.1. the full nature and extent of the problems that the Defendant alleges he encountered with the Horizon system and on what occasions he encountered them.
- 1.2 how and why each of the alleged problems with the Horizon system meant that the losses in question were allegedly theoretical rather than real.
- 1.3 Between cash weeks 42 and 49 whether the Defendant admits:
 - (a) ordering approximately £305,000 cash from the Claimant (and if not, what sum the Defendant ordered over this period);
 - (b) returning only approximately £20,000 of that cash to the Claimant (and if not, how much was returned);

- (c) that the Marine Drive branch never ran out of cash (i.e. it always had sufficient cash to service its transactions).

Reply

1.1 The problems that the Defendant encountered with the Horizon system and the occasions on which he encountered them were as follows:

- i) *Not communicating properly.* The Horizon system, as installed at the Marine Drive branch, included 2 computer terminals with touch screens and keyboards, together with bespoke software developed and maintained on behalf of the Claimant by Horizon Systems. One of the terminals was known as the base unit, which the Defendant believes had a small amount of internal memory, and had an ISDN, (subsequently broadband), connection off-site to a central monitoring and/or data storage and/or controlling station, which was maintained on behalf of the Claimant by Fujitsu Services. The other terminal was known as node unit, which the Defendant believes had no separate internal memory, was connected to the base unit and communicated to it such data as might be input to it. The Defendant believes that periodically, several times throughout a day's trading, the base unit would then transmit data input both to it and through the node unit, onwards to the central station. On occasions too numerous to recall during the period in question, the Defendant told the Claimant that he considered that the 2 units were not communicating with each other properly.
- ii) *Screen freezing.* The display of one or other or both of the terminals would 'freeze', i.e. lock up and fail to respond, either to commands attempted to be entered through the terminal's keyboard or commands attempted to be entered by hand through the touch screen function of the terminal's display, requiring the system to be re-booted. This problem was a regular occurrence and happened approximately weekly during the period in question.

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- iii) *Blank screen.* The display of one or other or both of the terminals would suddenly go blank before returning to the sales screen. This problem occurred approximately monthly during the period in question.
- iv) *Card swipe not reading.* The electronic card swipe of one or other or both of the terminals, used to read a customer's payment card, would fail to read the card properly. This problem was a very regular occurrence and happened approximately daily during the period in question.
- v) *Rolling over cash figures.* The Defendant believes that the Horizon system 'rolled over' cash figures in the weekly cashflow figure (a report that can be produced, also known by the Claimant as On Hand Cash Handling, or ONCH) giving a figure that was 4-5 times as big as the actual cash declaration for that day. The Defendant first became aware that this information was available to be printed out during cash week 48, the week ending 25 February 2004, when it was printed out by one of the Claimant's business support workers (although he subsequently became aware that his assistant, Christine Train, had been aware of it since in or around week 43, and had periodically run off cashflow reports). The Defendant looked at this figure several times each week from that time onwards until his suspension by the Claimant on 23 March 2004. On average, the figure given by the system was incorrect on at least one occasion each week (although previously, prior to the Defendant being aware of the facility to print the figures, Ms Train had noted that the figure was incorrect more frequently, often several times each week).
- vi) *Lost transactions.* The Horizon system would 'lose', i.e. fail to record, transactions which the Defendant knew he had entered onto the system. By way of example only, a cheque which the Defendant knew he had entered into the system as being a cheque, would not appear identified as a cheque. This problem would occur at least weekly during the period in question, sometimes as frequently as twice a day but then not for about 4 days.

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1.2 How and why each of the problems experienced by the Defendant with the Horizon system means that the alleged losses in question were theoretical rather than real, is an issue that will require disclosure from the Claimant for the period in question, in particular as to the correct operation of the Horizon Systems' software, (including any modifications or upgrades), and the correct operation of the hardware maintained by Fujitsu Services, (including any replacement equipment), together with expert evidence, both in the field of Information Technology and Accountancy. Without prejudice thereto the Defendant replies as follows:

- i) If the Horizon system missed a transactional piece of information it would alter the balance recorded on it. If it failed to record a payment out, there would be less actual cash at the branch than the amount of cash recorded on the system. As more cash tends to go out from a Sub Post Office than comes in, such a discrepancy would tend to operate so that the balance showing in the system was greater than the actual balance held at the branch.
- ii) By way of example only, if a cheque paid in is input to the Horizon system and the system sends that data off-site but the system loses that information locally, when it is time to 'cut off', i.e. print a cheque report to send with a bundle of cheques to be sent away, the report will not correspond to the number of cheques present and it is necessary to re-input, manually, the additional cheque, so the report matches. However, a further amount may have been added to the balance recorded centrally by the amount of the lost cheque, although possibly as cash. Thus the Sub Post Office appears to have more money than it does.

The Defendant reserves the right to amend this reply following disclosure and expert evidence.

1.3 Between cash weeks 42 and 49, the Defendant:

- (a) denies ordering approximately £305,000 cash from the Claimant. The Defendant ordered approximately £288,850. The relevant figures are shown in 'Table 6 Remittances from ADC' line 14 in the documents headed 'Cash Account (Final)' for this period.
- (b) denies returning approximately £20,000 to the Claimant. The Defendant returned approximately £34,891.28 to the Claimant. The relevant figures are shown in 'Table 9 Remittances to ADC' line 1 in the documents referred to in the answer to (a) above.
- (c) admits that the Marine Drive branch did not run out of cash.

Request

- 2. In paragraph 6 of the words "*upon disclosure by the Claimant of the daily balance snapshot documents*" please state:
 - 2.1 What the Defendant believes is the purpose and functionality of a balance snapshot and the basis of his belief.
 - 2.2 Whether the Defendant admits that a balance snapshot is a running total printout showing a balance of what cash a branch should have, not necessarily what cash it actually does have. If the Defendant does not admit this, please state why not.
 - 2.3 Whether the Defendant maintains that a balance snapshot is able to (and should) show the actual transfer of cash from a Cash Account into a suspense account.
 - 2.4 How and why the Defendant believes that a balance snapshot is capable (i.e. has the functionality) of conclusively demonstrating that the shortfalls were only accounting errors rather than genuine shortfalls.
 - 2.5 Whether the Defendant relies upon any other receipts apart from balance snapshots to be able to demonstrate that the shortfalls are nothing more than

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alleged accounting errors and if so, specify which documents and categories of documents are those upon which the Defendant seeks to rely.

Reply

- 2.1 The Defendant believes that the purpose and functionality of a balance snapshot is to give a picture of what the Horizon system believes to be the level of cash and stock held and receipts and payments made at a given point during the current balance period but it is not a real time picture. (cf the Claimant's Horizon System User Guide Navigation Booklet – Ref: HSUG 14/1 – at page 17 line 8) It is not possible to be sure when it is printed that everything is up to date. The data that comprises a balance snapshot is held off site. A request for a balance snapshot may not include the last 'packet' of data yet to go from the base unit in the Sub Post Office and it is not possible to check whether it has gone or not, so the balance snapshot may not be fully up to date. It will also be subject to any errors that have occurred in the operation of the system (as to which see the Defendant's answer to request 2.2 below). The Defendant's belief is based on speaking to Post Office staff such as Ms Oglesby, engineers, Horizon Systems helpdesk staff, Network Business Support Centre staff and the Horizon system manual.
- 2.2 The Defendant admits that a balance snapshot is a running total printout which may show the balance of what cash a branch may have but equally it may not for a number of reasons:
- i) all data 'packets' may not have been sent from the base unit;
 - ii) some data may have been lost or additional data input;
 - iii) wrong amounts may have been input;
 - iv) an amount may have failed to be input.

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If all of these aspects have been performed correctly, a balance snapshot should show a balance of what cash a branch should have but often it does not. A balance snapshot will also show individual transactions successfully entered onto and recorded in the Horizon system.

- 2.3 The Defendant maintains that a balance snapshot is able to and should show the actual transfer of cash from the cash account into the suspense account to the extent that it will show the transactional aspect of that transfer and how it affects the rest of the balancing procedure. It is a notional transfer and it is recorded on a balance snapshot as a payment. However, it is necessary to be able to interpret the information recorded on a balance snapshot to understand that it is a transfer to the suspense account as it will tend to be described, (below a heading "*OTHER PAYMENTS*"), as "*Loss a 2a in*".
- 2.4 How and why a balance snapshot is capable of demonstrating that the alleged shortfalls were only accounting errors rather than genuine shortfalls will be a matter for expert evidence in the field of Accountancy. Without prejudice thereto, the Defendant believes that by comparing the actual balance snapshots which he took daily after the close of each day's trading over the period in question, with the final balance produced by the Horizon system at the end of each week's trading, the daily cash declarations, and final weekly cash declaration, (both compiled manually), it should be possible to demonstrate that the alleged shortfalls were only accounting errors rather than genuine shortfalls. The daily balance snapshots should (but may not, for the reasons set out in reply 2.2 above) equal the daily cash declared. The daily balance snapshots should (but may not, for the reasons set out in reply 2.2 above) produce the final weekly balance (transactionally). The daily cash declarations should produce the final weekly cash declaration. A comparison between all 4 sources of data should be able to show where error has arisen.
- 2.5 The Defendant does not rely upon any other receipts apart from balance snapshots but considers that it will be necessary to reconstruct all transactions carried out at the Marine Drive branch for the period in question. In order to do

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so, the documents or categories of document upon which the Defendant will seek to rely will include the following reports as may be necessary:

Daily Reports

- i) Balance Snapshots;
- ii) Daily Cash Declaration;
- iii) Cheque Listing Report;
- iv) National Savings and Investments Bank deposits and withdrawals;
- v) Personal Banking;
- vi) Alliance & Leicester deposits and withdrawals;
- vii) APS Transaction Report;
- viii) TV Licensing Report;

Weekly Reports

- i) Green Giro Report;
- ii) P+A Report;
- iii) PO Paid Report (P490);
- iv) Redeemed Stamps Summary;
- v) Miscellaneous Transactions;
- vi) P+A Report (P2311MA, P+A P2311MA(6));
- vii) Milk Token Summary (P3890);
- viii) PO Paid Report (P492MA/P2037MA);
- ix) Suspense Account Report;
- x) Cash Account;
- xi) Final Balance.

In addition there were weekly cash/stock ordering e-mails received and faxes sent. Further, the Defendant believes that an audit trail or transactional log of transactions carried out at the Marine Drive branch was kept by the Claimant. The Defendant will seek to rely on these documents following disclosure. The purpose of so doing is in order to be able to cross-reference as many different sources of data as are necessary in order to identify where the discrepancies have arisen.

Request

3. In paragraph 9 of the Part 20 Claim of the words "*wrongfully terminated the Defendant's Contract as a Sub-Postmaster following his suspension*" please state:
- 3.1 how allegedly was the Claimant at fault in wrongfully terminating the Defendant's Contract as Sub-Postmaster. In other words please identify whether the Defendant relies upon an alleged procedural irregularity or wrongful ground(s) for termination or both and in what respect?
 - 3.2 how allegedly should the Claimant have dealt with the shortfall that forms the basis of the claim given the right to determine the Defendant's Contract on 3 months notice without cause?
 - 3.3 how allegedly should the process of termination have taken place that did not otherwise take place?

Reply

- 3.1 The Defendant relies upon both procedural irregularity and/or wrongful grounds for termination in the following respects:

Procedural Irregularities:

- i) The Claimant held meetings that lead to the Defendant's suspension and termination without having first called in one of its investigation teams. The Defendant believes that it was the Claimant's practice to call in such a team within a period of 3 weeks. The Defendant had been asking the Claimant to call in an investigation team since the discrepancies between the Horizon system and the actual cash position had first come to light, a period of approximately 12 weeks by the time of his suspension, but the Claimant failed to do so. Likewise, the Defendant asked for the Police to become involved but the Claimant declined to involve them.

- ii) Information that the Defendant had requested prior to the meeting that lead to his termination, as set out in his letter dated 28 April 2004 was not provided to him.
- iii) The Claimant would not allow tape recording, either of the meeting that lead to his termination or of the appeal hearing against his termination.
- iv) The Claimant's notes of the meetings are not accurate.
- v) There had been no on site investigation of the Defendant's complaints by either Horizon Systems or Fujitsu Services.
- v) The Claimant had not checked the events on the software system before 1 March 2004, when the apparent discrepancies experienced by the Defendant had started to occur in cash week 42, the week ending 14 January 2004.
- v) The note taker in the appeal, GRO had previously been involved in the matter as she was the Personal Assistant to Mr David Mellows-Facer, the Claimant's Head of Area, with whom the Defendant had been speaking and corresponding. The Defendant had also previously discussed the situation with GRO when Mr Mellows-Facer would not return his calls.
- vi) At or following both the termination and the appeal meetings, the Defendant was given no opportunity to address what issues would be put by Ms Oglesby or Mr Jones to others, namely Elizabeth Morgan and Mr Davlynn Cumberland and Ms Anita Turner for their consideration., nor, subsequently, to address the conclusions reached by them.

Wrongful grounds

- i) The Defendant did not have several large unexplained losses, whether totalling £25,758.75 or at all, although there was an apparent discrepancy

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between the amount of cash recorded in the Horizon system and the actual cash held by the Defendant at the Marine Drive branch.

ii) The Defendant was not unable to make the losses good as alleged as there were no such 'losses' to be 'made good'.

iii) Had such alleged losses in fact existed, the Defendant would not have been unable to make them good but wished to be satisfied that they did so exist.

ii) The Defendant did not fail to manage the Marine Drive branch or perform his work properly satisfactorily. No dissatisfaction had previously been expressed by the Claimant with the Defendant's management of the Marine Drive branch or his performance of his work, whether by way of formal or informal, written or verbal warning.

3.2 How the Claimant might have chosen to deal with the alleged shortfall which forms the basis of its claim, given its alleged right to determine the Defendant's Contract on 3 months notice without cause is a matter within the Claimant's own knowledge and in any event it is not a matter that is presently in dispute in these proceedings. Accordingly, this is not a request coming within CPR Part 18.1(1).

3.3 The Claimant should have acted or refrained from acting in the opposite manner to that set out in the replies to requests 3.1 and 3.2 above.

Request

4. In paragraph 9 thereof of the words *"the true cause of the apparent shortfall in the accounts of Marine Drive Post Office is the Claimant's own computer system not any misconduct or negligence on the part of the Defendant or his assistant"*:

4.1 please provide full particulars of the evidence that the Defendant relies upon to show and/or demonstrate this.

- 4.2 please provide copies of all documents not otherwise disclosed so far and relied upon to evidence the allegations relating to the Claimant's computer system.

Reply

- 4.1 Please see the Defendant's replies to requests 1 and 2 above. The Defendant will provide such evidence following disclosure on exchange of witness statements and expert evidence in accordance with the timetable that has been agreed between the parties and ordered by the court.
- 4.2 The Defendant will provide such documents on disclosure in accordance with the timetable that has been agreed between the parties and ordered by the court. Moreover, the Defendant believes that many of the documents relevant to this issue are within the possession custody or control of the Claimant, in particular, at its Network Business Support Centre and/or Horizon Systems and/or Fujitsu Services.

Request

- 5. In paragraph 10 thereof and sub paragraphs (a), (b) and (c) the Defendant alleges that he has suffered various losses by reference to his wrongful termination. Please state:
 - 5.1 given that the Defendant's position could have been determined without cause on three months notice, what losses beyond this period, if at all, does the Claimant claim and on what basis?
 - 5.2 please provide copies of all documents relied upon to evidence the alleged diminution in capital value of the Defendant's premises.
 - 5.3 Please provide copies of all documents relied upon to evidence the "[alleged] loss of profits from the Post Office...as a result of the removal by the Claimant of the Post Office franchise from the premises."

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Reply

- 5.1 Whether the Claimant could or would have sought to terminate the Defendant's position without cause on 3 month's notice is not a matter that is presently in dispute in these proceedings. Accordingly, this is not a request coming within CPR Part 18.1(1).
- 5.2 The Defendant will provide such documents on disclosure in accordance with the timetable that has been agreed between the parties and ordered by the court.
- 5.3 The Defendant will provide such documents on disclosure in accordance with the timetable that has been agreed between the parties and ordered by the court.

ALEXANDER GOOLD

I believe that the contents of this statement of case are true

SIGNED:

DATE:

Served by Rowe Cohen of Quay House, Quay Street, Manchester M3 3JE (Ref: MDT.113969)

Solicitors for the Defendant/Part 20 Claimant

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Reply

- 5.1 Whether the Claimant could or would have sought to terminate the Defendant's position without cause on 3 month's notice is not a matter that is presently in dispute in these proceedings. Accordingly, this is not a request coming within CPR Part 18.1(1).
- 5.2 The Defendant will provide such documents on disclosure in accordance with the timetable that has been agreed between the parties and ordered by the court.
- 5.3 The Defendant will provide such documents on disclosure in accordance with the timetable that has been agreed between the parties and ordered by the court.

ALEXANDER GOULD

I believe that

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to be true

SIGNED:

DATE:

10-04-08

Served by Rowe Cohen of Quay House, Quay Street, Manchester M3 3JE (Ref: MDT.113969)

Solicitors for the Defendant/Part 20 Claimant

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