

Restricted

In Confidence

Our Ref: PJT/DB/MMan

Your Ref: LB2/893/02

RESTRICTED

For the attention of

Crown Prosecution Service

Casework Directorate

50 Ludgate Hill

LONDON

EC4M 7EX

RESTRICTED

2nd June 2005

Dear Sir,

RE:- R v Whittamore, Dewes, Jones, Gunning and Lyle – Southampton

Crown Court

I refer to the above and you fax and letter. I apologise for the delay in responding.

This letter will explain why in due course.

Please find enclosed a set of the summonses which were issued in respect of the 6 defendants. At the last hearing on 24th May at Southampton Magistrates' Court the summonses issued against [redacted] were withdrawn. Extensive enquiries had failed to locate [redacted] for the purposes of service. The case against the remaining 5 defendants was sent under the provisions of Section 51 of the Crime and Disorder Act 1998 to Southampton Crown Court. I also enclose a copy of the case summary which was served by way of advance disclosure.

You will recall that at the time this Office laid informations at the start of April 2005 proceedings were still ongoing at Blackfriars Crown Court in respect of the 4 Defendants in the case known as Operation Glade which was prosecuted by CPS Headquarters. One of those defendants, Mr Whittamore, is a defendant in our case.

Following the conclusion of Operation Glade at the sentencing hearing on Friday 15th April 2005, and in light of the sentences handed out by HHJ Samuels, it was felt appropriate to consult with Counsel retained by the Commissioner, Bernard Thorogood. On Friday 27th May 2005 Mr Thorogood advised in conference on a number of issues impacting upon our case, the conclusion being that our case no longer fulfilled the requisite criteria in the Code for Crown Prosecutors appertaining to the public interest, the obligation to consider the public interest being ongoing throughout the duration of the case.

At Blackfriars Crown Court, submissions made on behalf of Mr Whittamore (accepted by the Crown and the Court) were that his commission of offences

under the Data Protection Act 1998 were committed recklessly. We believe our evidence told a different story. In addition the Court accepted that contents of a medical report indicating that Mr Whittamore no longer enjoys good health (being clinically depressed) and furthermore, as a result of the Operation Glade proceedings he was a "broken man" and was "untouchable" in his industry.

Mr Whittamore received a 2 year conditional discharge in respect of those proceedings. In the event that he is convicted in our case, it was Counsel's view that he would not receive a sentence that was any greater. As a result of this we would find ourselves in the position of bringing a case where our main defendant and the hub of our conspiracy would receive a discharge. The remaining defendants would then also be likely to benefit from this de minimis disposal. Accordingly the Commissioner takes the view that the continuation of the prosecution would no longer be in the public interest.

Therefore our case has been discontinued under the Prosecution of Offences Act 1985. The Court has received the appropriate notice and the defendants representatives have been informed.

However there still remains the issue of Disclosure in your case. I enclose a copy of the non-sensitive schedule of Unused Material together with the index to our witness statements and exhibits. We cannot assess the impact of this material on your case. No doubt your disclosure officer will wish to assess this material personally in due course.

In the event that Mr Bright-Heron has any queries about this that he wishes to ask Counsel I understand he already has Mr Thorogood's contact details.

Please note the classification we have attached to this document.

In addition, the proceedings at Southampton Magistrates Court were made the subject of an order under Section 4 of the Contempt of Court Act 1981. The application was made by Mr Dewse's counsel as his client was fearful of his interests at Exeter Crown Court being prejudiced by reporting of the proceedings at Southampton Magistrates Court. This application was granted by the Magistrates who decided that it should continue until further order.

Yours faithfully,

PHILIP TAYLOR

Solicitor