

File 2005

FILE NOTE

FILE NO:

DATED: 21 April 2005

SUBJECT: MOTORMAN

PJT telephone call in from Bernard Thorogood.

Bernard Thorogood called for an update in relation to the proceedings at Blackfriars Crown Court. PJT appraised BT of the sentences passed down by His Honour Judge Samuels QC together with the comments made in the Judge's summing up and sentencing.

Bernard Thorogood stated that he feels that we can distinguish our case from that of the Crown Prosecution Service in that our material is different, and that we are prosecuting for different offences and also relating to different data controller.

He stated however that there will be a big fuss made by Whittamore's Counsel. In particular the comments made by the Judge could prove to be fatal.

Bernard stated that it is ironic that we now find ourselves in this situation having held off from commencing proceedings for some while now in order to accommodate the Police and CPS and their cases.

Bernard stated that whilst we proceeded in the ordinary course of events we find now that we have issued a Judge has been encouraged by the defendant and ends up getting the wrong end of the stick in relation to the magnitude of the ICO case.

BT stated that should Whittamore plead to our case then there ought to be a significant penalty. However, he stated that the initial reaction to the events of last week is one of some concern.

He stated that his Honour Judge Samuels QC is a very well respected Judge (a Senior Judge), whose word will carry some weight, and in particular stated that His Honour Judge Samuels was also either an editor of Archbold or Blackstones.

He stated that his gut reaction is that we are right to proceed with our case at this time, however, there are real prospects of the proceedings grinding to a halt insofar as they relate to Whittamore, and that even if we were to withdraw against Whittamore we would find ourselves in the position that it hampers the case against the other defendants, as the Courts would look to the sentence imposed by the Court in relation to Whittamore and would, taking him as the ring leader, sentence downwards from there, and obviously the problem comes from the fact that Whittamore only received a conditional discharge.

He stated that it may well be appropriate for there to be a further conference in this matter prior to our first hearing.

PJT stated that there were some Instructions coming down and that they would hopefully be with him tomorrow.

PJT/JT