



Mr Scott Andrew Churchill  
49 Charlecote Close  
Redditch  
Worcestershire  
B98 0TQ

Ref: NCL1  
Case Reference: 10.039948.1  
Amount Outstanding: £89.91

Civil Recovery Specialists  
since 1998

Wednesday, 26 October 2011

Dear Mr Churchill

**Without Prejudice Save as to Costs**

We act on behalf of Tesco. We are instructed that on 10th October 2011 at our client's premises in Redditch you committed a wrongful act causing loss to our client.

In addition to the cost of any goods not recovered or fit for resale, your wrongful actions diverted our client's staff from their normal duties for a significant period of time causing disruption to its business, for which our client is legally entitled to be compensated for. This includes the time taken by personnel involved such as, security, management, administrative and shop floor staff. Collectively a substantial amount of time was taken up in vigilantly observing your actions and apprehending, detaining and interviewing you in relation to the incident. Thereafter our client had to follow all recording, reporting and back office procedures in relation to your actions and the goods involved. Time is also taken in advising police and crime partnerships in relation to the incident for the detection and prevention of crime. The incident also gives rise to administration costs and maintaining systems to deal with this incident.

Although the costs our client is entitled to recover are considerable, our client seeks only a contribution towards those losses from you by way of a fixed amount of £89.91, a figure which our client considers is proportionate, but sufficient to act as a deterrent to future incidents. Provided our client does not seek to recover in excess of its losses, such losses are recoverable in law.

This matter is in relation to civil proceedings, and is entirely separate from any police action or criminal proceedings. The purpose of criminal proceedings is to convict, punish and rehabilitate. The purpose of our client's civil action is to be compensated for its losses, and to serve as a deterrent to further incidents.

The Practice Direction relating to Pre Action Conduct and the Civil Procedure Rules 1998 encourage early exchange of information to promote settlement of claims. Accordingly, you now have these options

- You can pay the amount in full of £89.91 (payment methods are detailed in the enclosed sheet)
- If you cannot pay the amount in full, we may be able to offer instalment payments (see enclosed sheet)
- Negotiate settlement by contacting our Collections Department (see enclosed sheet)
- Submit a written defence to the claim with a full account of your version of events

You should take independent legal advice about your position if in doubt. You may be entitled to free legal advice from a law firm who hold a Public Funding Franchise or a law centre or other advice agency.

We require payment or a response from you within 21 days from the date of this letter. Our offices can be contacted by telephone on 0844 245 1145 Monday to Friday 8:30am to 5:30pm and Saturday 9:00am to 2:00pm.

Yours sincerely

Retail Loss Prevention Limited

## How to Make Payment

### Online Debit or Credit Card Payment

To make a payment online, please visit our secure online payment gateway at [www.lossprevention.co.uk](http://www.lossprevention.co.uk).

### Debit or Credit Card

Payment can be made by debit or credit card by telephoning **0844 245 1145** or if outside the UK **+44 844 245 1145**. These payments incur a small bank charge. Debit cards incur a 50p charge and credit cards incur a 2% charge of amount being paid.

### Postal Payments

Make Cheques and Postal Orders payable to **RLP**. It is recommended that cash is sent by a secure means of delivery as RLP accepts no responsibility for payments not received.

Send all postal payments to **Retail Loss Prevention Limited, PO Box 5413, Nottingham, NG7 2BJ**. Please enclose; CR/ Reference Number (found on the top right corner of the letter overleaf), full name of person the case relates to & their address to ensure it can be allocated to the correct case. RLP accepts no responsibility for payments that do not reach this office or for those that have no case details on them.

If your cheque bounces you will incur an administration charge of £15.

If an incorrect payment is received, incurring unnecessary administrative costs, a £10 charge may be made as a contribution towards the banking and administrative costs incurred as a result of the incorrect payment. If you are unclear as to what payment is required, please contact our collections team on **0844 245 1145** who can advise you accordingly.

### Payment by Instalments

If you have financial constraints and cannot settle the claim in one payment, we may be able to offer you an instalment facility. If you wish to be considered for this, you need to telephone our collections department – we cannot set this up without talking to you. You will need to supply your income and expenditure details. If over 18, you will be required to enter into a legally binding settlement agreement (under 18 settlement agreements not legally binding). You will be advised of the administration fees, default charges and bank charges when you call. You will need to be able to make the first payment when you call us by debit or credit card. Please ensure when making a payment that the correct payment is made.

## Contact Details

Our Contact Address - **Retail Loss Prevention Limited (RLP), PO Box 5413, Nottingham, NG7 2BJ**

Our Telephone Number - **UK - 0844 245 1145** or if outside of the UK **+44 844 245 1145**

Our Fax Number – **0844 245 1144** or if outside of the UK **+44 844 245 1144**

Our E-Mail Address – [info@lossprevention.co.uk](mailto:info@lossprevention.co.uk)

Our offices are open 8:30am to 5:30pm Monday to Friday and 9:00am to 2:00pm Saturday.

## Legal Advice

You should take independent legal advice about your position if in doubt. You may be entitled to free legal advice from a law firm who hold a Public Funding Franchise or a law centre or other advice agency.

## Data Protection

Our client has provided us with your personal information, which is required to pursue a civil claim. In principle, this is permitted pursuant to Section 35 the Data Protection Act 1998 (or in Republic of Ireland, Section 8(f) the Data Protection Acts of 1988 and 2003).

Within the UK if you are over 16, ultimately, your data could also be held on a database of civil recovery incidents, which could be made available, to a closed member user group, for the purpose of employment screening. Such information could not be disclosed without your prior consent. If you are aged between 16 and 18 at the time of the incident, we will only retain the information for 3 years. If you are over 18 at the time of the incident, the information may be held for 6 years. Within the UK this again is permitted under the Data Protection Act 1998.

Section 29 The Data Protection Act 1998 (and Section 8(b) the Data Protection Acts of 1988 and 2003 in the Republic of Ireland) further permits us to process data where it is necessary for the prevention and detection of crime and may therefore be passed to the Police, Courts, legal advisers and crime partnerships, where there is a legitimate reason for doing so (or in Republic of Ireland to a law enforcement agency).

If you have any queries or complaints regarding your data, you are required to contact RLP in the first instance. If we cannot resolve your query, to your satisfaction, you can complain to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF (or in Republic of Ireland the Data Protection Commissioner, Canal House, Station Road, Port Arlington, County Laois).

## **Frequently asked Questions & Answers**

### **1. What personal data to you hold?**

We hold the basic information you provided to our client, together with details of the incident. In principle the Data Protection Act 1998 ("DPA") does not prevent the use of data for civil recovery purposes. This is permitted pursuant to Section 35 DPA. If you are over 16, ultimately, your data could also be held on a database of civil recovery incidents, which could be made available, with your prior consent, to a closed member user group, for the purpose of employment screening. This is permitted pursuant to Section 29 DPA. If you are between 16 and 18, the information may be held for 3 years. If you are above 18, the information may be held for 6 years. The data may be held pursuant to Section 29 for the prevention and detection of crime and may therefore be passed to the Police, Courts, legal advisers and crime partnerships, where there is a legitimate reason for doing so. Your information is available to you under the provisions of Section 7 DPA, upon receipt of the relevant notification and fee. If you have any queries regarding your data, you are required to contact us in the first instance on 0844 893 2181. If we cannot resolve your query, you can complain to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

### **2. A Third Party wishes to discuss my case with you on my behalf. May he do so?**

We can correspond or communicate with a third party on your behalf, but you must first give your consent, in order to comply with the DPA. If you wish us to speak on the telephone to a third party, please call us and give your permission first. If you wish us to write to a third party, please provide your written consent.

### **3. What is the basis in law for recovering the compensation sought?**

The claim is a civil claim for damages for trespass to goods and/or conversion. This means wrongfully interfering with our client's goods or cash. There may also be a claim for breach of contract where you were an employee. These are long established principles in common law, further reinforced by Parliament under the Torts (Interference with Goods Act) 1977. Under the Act and in common law, compensation may be recovered for consequential losses which arose from your wrongful act. Such losses comprise the value of the goods/cash removed, together with the costs of the disruption to our client's business in dealing with your wrongdoing. The leading case which provides authority for recovering these losses is: *Aerospace Publishing v Thames Water Authorities* 2007 EWCA Civ 3.

### **4. I was with the person who committed the act, but I had nothing to do with it. What should I do?**

We have been advised that you committed the act together with your co-Defendant/s. If you were not directly involved, you need to advise us immediately giving your version of events. RLP will investigate further and check against evidence supplied by our client. Where parties do commit wrongful acts together, they may in law be held jointly and severally liable to compensate their victims for the losses. There cannot be double recovery. All are liable for the full amount, irrespective how you apportion settlement.

### **5. In the criminal proceedings I have entered a not guilty plea. How can you seek payment from me?**

Any criminal proceedings are entirely separate from the civil proceedings. Criminal proceedings are being brought to convict, punish and rehabilitate. You will be at risk of a criminal conviction and a criminal penalty. The burden of proof is beyond reasonable doubt. The civil claim is to compensate our client for its losses. You will be at risk of a County/Sheriff Court Judgment. The burden of proof is on the balance of probability. You should advise us on the outcome of the criminal matter, and if you are ordered to pay any compensation (not a fine), as compensation ONLY needs to be deducted from the civil claim.

### **6. I have paid a fine / fixed penalty / payment to the Police/Courts. How can I still be liable to pay you?**

We seek payment of compensation in the civil matter. Any fine or fixed penalty paid to the police was an alternative to a criminal prosecution. Any fine paid to court upon conviction was a criminal penalty. Those funds go to Government and not to compensate the victim. A criminal conviction is admissible in civil court as evidence of wrongdoing, pursuant to Section 11 Civil Evidence Act 1968.

### **7. What can I do if the incident was caused by the medication I was on, or due to the illness or condition from which I suffer?**

If you have an illness or condition, or are on medication, which affected your intention with regard to the incident, you may have a Defence to the claim. If you wish to rely on this Defence, you are required to provide evidence of your illness, condition or medication, and the effect on your intent on the day. This can be provided by way of a letter from your treating doctor and/or proof of your medication and an explanation as to how you were affected. Any information provided will be kept in strict accordance with the DPA.

Where illness, medication or crisis did not impact on your intention, however you wish our client to take it into account in conjunction with a settlement offer, we require as much information and evidence as possible.

### **8. I paid the full price for the goods/services. Why should I pay more?**

You should not have been permitted to pay for the goods. If so, you must notify us immediately, giving your version of events so that we can investigate whether it is appropriate to proceed. If you were asked by Police to make payment for goods/donate to charity, this was an alternative to a criminal prosecution under restorative justice. In this case, a claim for compensation may still be pursued.

### **9. Somebody else has used my identity or address. What should I do?**

We can only work from the information provided to us. If you believe there has been a case of false identity, you must notify us immediately, giving details. You will need to send us copy photographic evidence (e.g. copy driving licence, passport, bus pass) and official identification documentation (e.g. recent utility bill). Your details may have been verified by the Police. You should also take your details to the police and report the matter. You must then notify us of the police station, officer, and crime reference number.

### **10. You can't charge me for this, that is what staff are paid to do**

Security staff are to be on shop floor deterring crime, store staff and management are employed to manage store and build company business. Where diverted from these duties to deal with a wrongful act the time spent is claimable at the whole cost of employment.

## **Important Information**

### **How to make payment:**

#### **Online Debit or Credit Card Payment**

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#### **Debit or Credit Card**

Payment can be made by debit or credit card by telephoning **0844 893 2181**. These payments attract a small bank charge which you will be advised of when you call.

#### **Postal Payments**

Send all postal payments to **Retail Loss Prevention Limited (RLP), PO Box 5413, Nottingham, NG7 2BJ**. Enclose; Full Name of person the case relates to, CR Number (found on the top right corner of the attached letter) & Postcode to ensure it can be allocated to the correct case. RLP accept no responsibility for payments that do not reach this office or for those that have no case details on them.

#### **Cheques or Postal Orders**

You need to make these payable to **RLP**. If your cheque bounces you will incur an administration charge of £15.

#### **Cash**

RLP accepts no responsibility for payments not received. It is recommended that cash is sent by a secure means of delivery.

#### **Payment by Instalments**

If you have financial constraints and cannot settle the claim in one payment, we may be able to offer you an instalment facility. If you wish to be considered for this, you need to telephone our collections department on **0844 893 2181** – we cannot set this up without talking to you. You will need to supply your income and expenditure details. You will be required to enter into a legally binding settlement agreement (if you are over 18) and you will be advised of any administration fees, default charges and bank charges when you call. You will need to be able to make the first payment when you call us by debit or credit card.

#### **I need more time to pay**

If you require more time to pay, you may contact our collections department on **0844 893 2181**. Circumstances dependant it may be possible to arrange an interest free deferment in payment. This will prevent further correspondence being sent to you in the meantime, or the matter being referred for further action. We cannot advise on options if you do not contact us.

#### **I am in financial hardship and cannot afford to pay. What can I do?**

You may wish to consider either of the two options above. Legally the circumstances of an individual are irrelevant to both the liability and quantum of damages, however our clients will consider an individual's specific circumstances where evidence is provided. If you wish your circumstances to be considered you need to contact our claims department on **0844 893 2181** who will advise what income and expenditure information is required. Alternatively you can write in providing information and supplying photocopies of all relevant incomings and outgoings. In certain cases, clients are willing to suspend a claim indefinitely. Please note that any information you provide will be processed in strict accordance with the Data Protection Act 1998.

#### **What will happen if I don't pay?**

Where payment is not made and where you have not contacted us to advise of any reason for non payment, the claim may ultimately be issued in the County Court (or Sheriff Court in Scotland). If proceedings are issued, your liability will be increased to include the court fee, legal costs and interest claimed at the rate of 8% per annum. In the absence of a valid defence, a County Court Judgment (or a Decree in Scotland) may be ordered. This is not a criminal penalty. Your credit rating may be affected where a Judgment is not satisfied within 30 days. A Judgement remains enforceable for 6 years (5 years in Scotland). It can be reinstated at the end of the six year period. You should not ignore this. We cannot advise on options if you do not contact us.

#### **I wish to defend or dispute the claim. What should I do?**

If you believe you are not liable, you must notify RLP in writing within 14 days of receiving our letter. You are required to notify us of your version of events and the basis upon which liability is denied, providing any supporting evidence. We will then consider your response with our client. If there is merit in your Defence, the matter will be closed. We cannot consider information or evidence which we do not know about. The Practice Direction for Pre-action Conduct and the Civil Procedure Rules 1998 requires that you provide details of any Defence you wish to raise. We urge you to seek your own independent legal advice. You may be entitled to free legal advice, from a local law centre or from a law firm with a public funding franchise (the old legal aid system). You may also have an insurance policy which covers you for legal expenses. If a Defence is raised, which our client believes has no merit, the case may proceed to Court to determine the outcome.

#### **You recovered the stolen items. What losses is your client claiming?**

Under health and safety, not all items are permitted to be fit for resale. E.g. certain cosmetic and medical items may not be offered for resale, particularly if labels or packaging are tampered with. Where goods are recovered and fit for resale, it is a mistaken belief that there is no loss to the company. Several members of staff from security, shop floor, management and back office are involved in the full process of dealing with wrongful actions. This amounts to a significant disruption to the business. There are further significant costs spent on surveillance, equipment and the administrative expenses. The law provides for a business to recover such losses from those who commit wrongful acts such as wrongful interference with goods/cash (known in legal terms as trespass and conversion).

#### **I don't understand**

As we have set out above, you must seek your own independent legal advice without delay.