

**RESTRICTED (when complete)****WITNESS STATEMENT**

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B: Criminal Procedure Rules 2005, Rule 27.1)

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Statement of: Lee HOLMESAge if under 18: Over 18 (if over 18 insert 'over 18')Occupation: Police Constable CH837

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false or do not believe to be true.

Signature: \_\_\_\_\_

Date 21<sup>st</sup> February 2010Tick if witness evidence is visually recorded  (supply witness details on rear)

At approximately 04:10 hours today, 21/02/2010, I was in uniform and on motor patrol travelling north on the onslip of Junction 11 on the M23 with my colleague PC Cole CC601, when we saw a vehicle travelling at excessive speed, also northbound, on the M23 itself.

We caught up with the vehicle and followed it for a short time whilst we checked it on PNC. The vehicle was a green VW Passat Estate registration number N853BCF. As we did so, and observed it, I could see that the vehicle was not holding a steady line in the road as it travelled in lane two of three. As we continued to observe, the vehicle drifted several times from side to side touching both the near and off side lane markers for lane two. In view of this, we required the vehicle to stop in the approved manner by illuminating our blue lights and indicating for it to pull over onto the hard shoulder. It eventually drew to a stop, albeit some distance further on to where we had made the original attempt, at traffic lights showing red at the top of the off slip, Junction 10 of the M23 northbound.

I got out and approached the vehicle, only for it to start moving forward again without warning. Due to how long it had taken to stop, and the fact it was now moving off again, I thought it may be failing to stop. However, after several feet it stopped with it's nearside wheels on the grass verge.

I again approached the vehicle and opened the nearside front passenger door. It was then that I spoke to the driver, a male I now know to be a Louis John Mark RUSHTON DOB 22/01/1985, and told him to turn the engine off. He did so and I stepped round to the driver's door and said to him, "THE REASON WE HAVE STOPPED YOU IS BECAUSE YOU WERE TRAVELLING AT EXCESS SPEED AND NOT HOLDING A STEADY LINE IN THE ROAD. CAN YOU TELL ME IF YOU'VE DRUNK ANY ALCOHOL THIS EVENING?"

He replied "I'VE HAD ONE JACK DANIELS AND COKE".

I then said "BECAUSE OF THE MANNER OF YOUR DRIVING AND BECAUSE YOU'VE TOLD ME YOU'VE DRUNK ALCOHOL THIS EVENING, I NOW REQUIRE A SPECIMEN OF BREATH FROM YOU, HERE AT THE ROADSIDE, FOR THE PURPOSE OF ANALYSIS BY WAY OF A BREATH TEST. FAILURE OR REFUSAL TO PROVIDE ME WITH AN ADEQUATE SAMPLE OF BREATH FOR THE TEST MAY RENDER YOU LIABLE TO ARREST AND OR PROSECUTION. DO YOU AGREE TO PROVIDE A SAMPLE OF BREATH FOR ANALYSIS?"

He replied "YES."

I then asked him to step out of the car and join me at the curb side, which he did. I then asked "HAVE YOU SMOKED, DRUNK ANY ALCOHOL OR USED ANY MOUTH SPRAY OR MOUTH WASH IN THE LAST 20 MINUTES?"

To which he replied "NO."

PC Cole then took RUSHTON through the procedure of administering the breath test, recording several

Signature: \_\_\_\_\_

Signature witnessed by: \_\_\_\_\_

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details on the device itself before asking him to seal his lips around the tube and blow. RUSHTON gave an adequate sample of breath which resulted in the device showing he had 'failed' the test. PC Cole showed the device to RUSHTON. I then said to RUSHTON "I AM ARRESTING YOU ON SUSPICION OF DRIVING WHILST OVER THE PRESCRIBED LIMIT", and cautioned him. The time was 04:15 hours and he said "SO WHAT DOES THIS MEAN NOW?"

Once I had explained, we enlisted the help of our colleagues PC Mills CM027 and PC Brown CB485 who helped convey RUSHTON and his friend to Crawley Custody where we arrived at approximately 04:35 hours. Once there we presented him to PS Abbot CA017 who authorised his detention.