

IN THE MATTER OF ANTHONY ROGER NEWELL, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. Gaynor Smith (in the Chair)
Mr. Faull
Mr. Baughan

Date Of Hearing: 19th December 1996

FINDINGS

of the Solicitors' Disciplinary Tribunal
constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Gerald Malcolm Lynch a solicitor of 16 Warrior Square, Southend on Sea Essex on the 1st September 1995 that an order be made by the Tribunal directing that as from a date to be specified in such order no solicitor should except in accordance with permission in writing granted by the Law Society for such a period and subject to such conditions as the Society might think fit to specify in the permission employ or remunerate in connection with the practice as a solicitor Anthony Roger Newell (whose address was subsequently notified as Barnet, Hertfordshire) a person who was or had been a clerk to a solicitor or such other order might be made as the Tribunal should think right. The allegation was that the respondent, having been a clerk to a solicitor but not being a solicitor, in the opinion of the Law Society occasioned or been a party to, with or without the connivance of a solicitor to whom he was or had been a clerk, an act of fraud in relation to that solicitor's practice which involved conduct on his part of such a nature that in the opinion of the Law Society it would be undesirable for him to be employed by a solicitor in connection with his or her practice.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 19th December 1995 when Gerald Malcolm Lynch solicitor and partner in the firm of Messrs.

Drysdales & Janes of 16 Warrior Square, Southend-on-Sea Essex appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included the written admission of the respondent and exhibit "ARN1".

At the conclusion of the hearing the Tribunal ORDERED that the order sought be made as from the 19th December 1995 and further ordered that the respondent pay the costs of and incidental to the application and enquiry fixed in the sum of £823.90p inclusive.

The facts are set out in paragraphs 1 to 5 hereunder:-

1. At all material times the respondent was a legal clerk in the employ of J.R. Bottrill carrying on practice at 169 High Street, Barnet and thereafter of Messrs Braby Waller of 48/50 St Johns Street, London EC1M 4DJ.
2. On the 1st May 1995 the respondent attended at the offices of the Solicitors Disciplinary Tribunal, handing in a note. It was said that he had acknowledged that he had fraudulently utilised clients' moneys in connection with his employment at the above firms for his own benefit alternatively for the benefit of other clients not entitled thereto.
3. On the 10th May 1995 the respondent prepared and signed a hand-written statement in regard to the matter from which it emerged that:-
 - a. During the late 1980's he had become involved in property speculation but by virtue of increasing interest rates and the collapse in the property market, had found himself in need of funds. He had improperly utilised clients' funds initially while in the employment of J R Bottrill and applied clients' moneys to various projects, of which all had failed.
 - b. The deception and illegal use of clients' funds had continued when the respondent took employment with Braby & Waller in January 1992.
 - c. No other person in the firms of solicitors or otherwise have been involved in the fraud.
 - d. Shortage of capital had forced the respondent to continue with his activities and he had diverted clients' funds from one client to another, created false records and documents in support, had forged the signature of Mr F H Robertson a principal in the firm of Braby & Waller and had intercepted and diverted post including post from the Solicitors Complaints Bureau to prevent matters from coming to light.
 - e. The respondent admitted misuse of clients' funds in respect of sixteen named matters.
 - f. The original sum misappropriated was £75,000 but the respondent was not able to say what was the total fraud involved as he had not kept records.

- g. He would co-operate with the Bureau and the Law Society in regard to the matter. The diversion of funds was a "knee jerk" reaction to any given crisis.
 - h. Misappropriated clients' funds were either recycled through clients account or through the respondent's own account at Midland Bank and at the Nationwide, Bradford and Bingley and Abbey National Building Societies.
 - i. The respondent had arranged for a duplicate Document Exchange key to be made to enable him to intercept and conceal any correspondence that might alert his employers to the deception.
4. The contents of the respondent's statement were confirmed in interviews held on the 2nd, 9th and 11th May 1995 in the presence of the partners of Messrs. Braby & Waller, Mr F H Robertson and Ms. P J Devine.
 5. The Adjudication and Appeals Committee of the Solicitors Complaints Bureau on the 21st June 1995 resolved that an application should be made under Section 43 (2) of the Solicitors Act 1974.

The submission of the applicant

6. The matters to which the respondent had confessed spoke for themselves and it was right that the order sought be made in order to control the respondent's future employment within the solicitors' profession.

The Tribunal FOUND the allegation to have been substantiated. The respondent had been guilty of serious misconduct and had betrayed the trust of his solicitor employers. It was right that his future employment within the solicitors profession be controlled. The Tribunal made the order sought and further ordered that the respondent pay the costs of and in connection with the application and enquiry.

DATED this 26th day of February 1996

on behalf of the Tribunal

Ashian Gaynor-Smith

A Gaynor-Smith
Chairman

*Findings filed with the
Law Society on the 27th
day of February 1996*

