

IN THE MATTER OF GERALD ALFRED GRAHAM TUFTS AND THERESA MARY
CUMBERS, unadmitted clerks

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. R B Bamford (in the Chair)
Mr. D W Faull
Mr. G Saunders

Date Of Hearing: 17th January 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 Roger Field solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands on the 27th October 1995 that orders 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 Gerald Alfred Graham Tufts of Sprowston Green, Norwich NE7 or Theresa Mary Cumbers of Near Swardeston, Norwich NR14 persons who were or had been clerks to a solicitor or that such other order might be made as the Tribunal should think.

The allegation was that in the opinion of the Law Society the respondents, having been clerks to a solicitor but not being solicitors, had occasioned or been a party to, with or without the connivance of the solicitor to whom they were or had been clerks, acts or defaults in relation to that solicitor's practice which involved conduct on their part of such a nature that in the opinion of the Law Society it would be undesirable for them to be employed by a solicitor in

connection with his or her practice. The actions concerned breaches of Rules 10 and 13 of the Solicitors Practice Rules and breaches relating to investment business.

The evidence before the Tribunal included the admissions of the respondents, as to Mrs Cumbers contained in a letter addressed by her to the applicant dated the 11th December 1995 and in respect of Mr Tufts in a letter dated the 20th December 1995 written to the applicant by Messrs Wright Son & Pepper solicitors of Grays Inn Square, London WC1.

At the conclusion of the hearing the Tribunal ORDERED that an order be made pursuant to Section 43 of the Solicitors Act 1974 in respect of each of the respondents and further ordered that each of them should pay the costs of and incidental to the application and enquiry fixed in the sum of £400.00 inclusive (the total costs being £800.00 inclusive).

The facts are set out in paragraphs 1 to 8 hereunder:-

1. Mr Tufts and Mrs Cumbers were not solicitors and were clerks employed by Stanger Krol & Co. solicitors of 15a Market Place, North Walsham, Norfolk and at 1/3 Bull Street, Holt, Norfolk (hereinafter called "the firm"). At the material times Mr Tuft and Mrs Cumbers were clerks to the firm and were responsible, under the supervision of a partner, for providing investment advice to clients of the firm.
2. The Monitoring Unit of the Law Society visited the firm in September 1993 and its report was produced on 13 June 1994. The report revealed, inter alia, the following matters:-
 - (a) Mr Tuft and Mrs Cumbers had conducted discrete investment business from premises other than those of the firm with no direct supervision in breach of Rule 13 of the Solicitors' Practice Rules 1990.
 - (b) A review of some client matters revealed that the provisions of Rule 10 of the Solicitors' Practice Rules 1990 had not been satisfied since the amount of commission had not been specified in the clients' agreements
 - (c) Breaches of the Solicitors' Investment Business Rules 1990 had occurred in relation to Rule 8(5), Rule 9(1), Rule 9(2) and Rule 11(b).
 - (d) A breach of the Securities and Investment Board Principle 9 had occurred as a result of the lack of supervision and organisation at the firm.
3. The firm wrote to the Solicitors Complaints Bureau (the Bureau) on 23 June 1994 enclosing copies of a letter they had received from the Monitoring Unit and of their reply. In response to letters under warning the firm wrote to the Bureau on 14 July and 19 July 1994.
4. In response to letters inviting comments from Mr Tuft and Mrs Cumbers upon the Monitoring Unit report, Mr Tuft replied on the 6 October 1994 denying that he had been employed by the firm and he denied that he had been a clerk and he sought clarification of the allegations made against him. Mrs Cumbers replied at length on 11 October 1994.

5. The Bureau replied to Mr Tufts letter on the 26 October but he did not reply to that letter nor to a reminder in November 1994.
6. The Monitoring Unit of the Law Society prepared a further report on 7 December 1994 following another visit to the firm. It revealed further breaches of the Solicitors' Investment Business Rules 1990. Copies of the further report were sent to the firm and to Mr Tufts and Mrs Cumbers and to the Bureau. The firm provided its comments in letters dated 18 January, 25 and 27 January 1995.
7. Mrs Cumbers wrote to the Bureau on 1 June 1995 and acknowledged, inter alia, that she had been at fault in relation to certain procedures.
8. On the 9th August 1995 the Adjudication and Appeals Committee of the Bureau appointed by the Council of the Law Society resolved that an application should be made to the Tribunal for an order under Section 43(2) of the Solicitors Act 1974 in respect of both the respondents.

The submission of the applicant

9. Mr Tuft and Mrs Cumbers had occasioned such acts or defaults and as result had been guilty of conduct to justify orders being made in respect of them in the terms of Section 43(2) of the Solicitors Act 1974.

The Tribunal was concerned that both respondents had placed the firm in breach of important practice and investment business rules. It was right that orders controlling their future employment within the solicitors' profession be made and it was further ordered that they should share equally the costs of and incidental to the application and enquiry.

DATED this 26th day of February 1996

on behalf of the Tribunal



R B Bamford
Chairman

