

IN THE MATTER OF JAMES MILNE STRANG, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A G Gibson (in the Chair)
Mr. J N Barnecutt
Lady Bonham Carter

Date Of Hearing: 8th April 1997

FINDINGS

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

An application was duly made on behalf of the Law Society by Geoffrey Williams solicitor of 36 West Bute Street, Cardiff on the 3rd October 1996 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 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 James Milne Strang of Beechwood, Birkenhead, L43 a person who was or had been a clerk to a solicitor or that 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 had occasioned or been a party to with or without the connivance of the solicitor to whom he was a clerk acts or defaults in relation to that solicitors' practice which involved conduct on his part of such a nature that in the opinion of the Law Society it would be undesirable that he should be employed by a solicitor in connection with his or her practice in that he had improperly operated the Green Form Legal Advice Scheme.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 8th April 1997 when Geoffrey Williams solicitor and partner in the firm of Messrs. Cartwrights Adams and Black appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included the admissions of the respondent contained in a letter addressed by him to the Solicitors Complaints Bureau on the 14th November 1995. Details of this letter are set out under the heading below "The submissions of the respondent".

At the conclusion of the hearing the Tribunal ORDERED that as from the 8th April 1997 no solicitor should accept 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 James Milne Strang of Birkenhead, L43 a person who was or had been a clerk to a solicitor and the Tribunal further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £716.75p

The facts are set out in paragraphs 1 to 3 hereunder:-

1. The respondent who was not a solicitor was until the 10th February 1995 employed as a clerk in the Welfare Rights Department of Messrs Christopher Thomas & Co., solicitors which firm had two offices in Birkenhead, Merseyside. By a letter to the Solicitors Complaints Bureau dated the 14th March 1995 Messrs. Christopher Thomas & Co. confirmed that they had discovered irregularities on files of which the respondent had conduct. (A full investigation was carried out. The Legal Aid Board was involved)
2. In the course of the investigation it had been ascertained that the respondent had in certain cases signed a Legal Aid Green Form himself. That signature had purported to be that of the client being advised. In thirteen cases the respondent had advised clients under the Green Form Scheme when those clients were not eligible to be so advised. In seven cases the respondent completed two separate Green Forms on behalf of the same client in the same matter. In one case the respondent completed three Green Forms in respect of advice given to the same client in the same matter. In a number of cases the respondent received Green Form contributions from clients, sometimes issuing receipts for these contributions, but in all cases failing to pay the contributions into his employers' client account.
3. On the 15th May 1996 the Adjudication and Appeals Committee of the Solicitor's Complaints Bureau resolved that an application should be made to the Tribunal for an Order made pursuant to Section 43 (2) of the Solicitors Act 1974 in respect of the respondent

The submissions of the applicant

4. Those instructing the applicant had considered the level of supervision of the respondent and had concluded that it was entirely adequate and no criticism was made of the firm of solicitors employing the respondent.
5. The matters before the Tribunal had been discovered when a member of the firm's staff recognised a signature on a Green Form as apparently being in the respondent's handwriting.

6. It was accepted that the respondent suffered from health and domestic problems. He had to be given credit for his admission. Nevertheless it was right that his future employment within the solicitors' profession should be controlled.

The submissions of the respondent (contained in his beforementioned letter of the 14th November 1995)

7. "In response to your letters 29 Sept. 95 and 9 Nov. 95 I would state the following.

After taking up the job at Christopher Thomas & Co. I soon became engulfed in work which no person could have reasonably been expected to handle given the staff allocated to the Welfare Rights Department.

Being under so much pressure and working all the hours I could it was only a matter of time before errors were made. My health did suffer and domestic problems arose. I failed to get Green Forms signed and I admit I then signed them myself. However whether people were entitled to Green Forms did not really arise as I treated everybody as entitled. This I now know was a mistake on my behalf. I did not deliberately take any money and do not remember doing so such was my state of mind.

If the Bureau should deny me of further employment with a legal firm it would be unfair and a restriction of my trade. Given the circumstances which caused the irregularities I ask for this not to happen.

Yours faithfully,
{signed} JIM STRANG"

The Findings of the Tribunal

The Tribunal find the allegation to have been substantiated. The Tribunal has noted his difficulties as perceived by the respondent. However, a person employed by a solicitor to handle Legal Aid work was placed in a position of very great trust. If there was any possibility that such trust might be abused, then it was entirely right that the public and the solicitors' profession should be protected and that could only be achieved by the control of a clerk within the solicitors' profession as provided by Section 43 of the Solicitors Act 1974. The Tribunal made the order sought and ordered the respondent to pay the applicant's costs in connection with the application and enquiry in a fixed sum.

DATED this 9th day of May 1997

on behalf of the Tribunal

A G Gibson
Chairman

