

No. 7277/1996

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(consolidated)

IN THE MATTER OF JOHN ANTHONY SNAILHAM GRIFFITHS, solicitor; and  
ANDREW JAMES CROSS, solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. R B Bamford (in the Chair)

Mr. A G Ground

Mr. K J Griffin

Date Of Hearing: 25th February 1997

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## FINDINGS

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

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An application was duly made on behalf of the Office for the Supervision of Solicitors by Peter Harland Cadman of 2 Putney Hill, Putney, London, SW15 on the 4th November 1996 that John Anthony Snailham Griffiths, solicitor of Oldham, Lancashire, OL4 solicitor, might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegations were that the respondent (Mr. Griffiths) had been guilty of conduct unbecoming a solicitor in each of the following particulars, namely that he had:-

- (i) contrary to Rule 8 of the Solicitors Accounts Rules 1991 drawn money out of client account other than as permitted by Rule 7 of the said Rules;
- (ii) utilised clients' funds for his own purposes;

- (iii) misappropriated clients' funds;
- (iv) failed to exercise proper supervision of staff;
- (v) with intent to mislead deliberately produced to the Investigation Accountant a witness statement that he had been materially altered;
- (vi) behaved in a manner which was unbecoming a solicitor of the Supreme Court.

An application was also made by Peter Harland Cadman, solicitor, of 2 Putney Hill, Putney, London, SW15 on the 4th November 1996 on behalf of the Law Society that an order be made by the Tribunal directing that as from a date specified in the order no solicitor should except with the permission of the Law Society for such a period and subject to such conditions as the Law Society might think fit to specify in the permission, employ or remunerate in connection with the practise as a solicitor Andrew James Cross of Carnforth, Lancashire, LA5 a person who was or had been a clerk to a solicitor within the meaning of the Solicitors Act 1974 or that such order might be made as the Tribunal should think right.

The allegations made against the respondent (Mr. Cross) were that he had been guilty of conduct 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 practice as a solicitor namely that he had:-

- (i) misappropriated clients' funds;
- (ii) utilised clients' funds for his own purposes.

At the opening of the hearing the Tribunal was told that Mr Griffiths was the solicitor employing Mr. Cross and the two applications arose out of the same facts. The Tribunal agreed that the two matters be consolidated and heard together.

The applications were heard at the Court Room, No.60 Carey Street, London, WC2 on the 25th February 1997 when Peter Harland Cadman solicitor and partner in the firm of Messrs.. Russell-Cooke Potter & Chapman of 2 Putney Hill, Putney, London, SW15 6AB appeared for the applicant and each of the respondents appeared in person.

The evidence before the Tribunal included the admissions of the Mr. Griffiths as to allegation (i), he admitted allegations (ii) and (iii) (relating to misappropriation and utilisation of clients' monies) in his capacity as sole principal of the firm but not as a beneficiary. He admitted allegation (iv) that he failed to exercise proper supervision of staff in respect of his clerk Mr Cross. With regard to allegation (v), that he intended deliberately to mislead the Investigating Accountant by producing a witness statement that had been materially altered, he admitted that the statement, which had been witnessed by a police officer, had thereafter been altered but the altered document reflected a true statement of the circumstances. Mr. Griffiths accepted that those allegations admitted by him did amount to conduct unbecoming a solicitor. Mr. Cross admitted that he had taken the cash referred to but he denied the other matters alleged against him.

At the conclusion of the hearing the Tribunal ORDERED that the respondent John Anthony Snailham Griffiths of Oldham, Lancashire, OL4 be struck off the Roll of Solicitors and they further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,020.78; and

The Tribunal ORDERED that as from the 25th February 1997 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, Andrew James Cross of Warwickshire (formerly of Lancashire) 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 £1,020.78. (The sum of £1,020.78 represented the whole of the applicant's costs and the Tribunal intended them to be a joint and several liability of the two respondents)

The facts are set out in paragraphs 1 to 14 hereunder.

1. Mr. Griffiths, born in 1943, was admitted as a solicitor in 1970. At all material times he carried on in practice on his own account under the style of Griffiths Jones at 17 Emesgate Lane, Silverdale, Carnforth, Lancashire.
2. Mr. Cross, who was not a solicitor was employed by Mr. Griffiths in his practice as a bookkeeper and legal clerk between November 1994 and 8th March 1995.
3. Mr. Cross was Mr. Griffiths' son in law. Mr. Griffiths disposed of his practice in 1995 and had not practised as a solicitor since then. He did not hold a practising certificate.
4. Upon due notice the Investigating Accountant of the Law Society carried out an inspection of the firm's books of account. A copy of the Investigating Accountant's Report of 3rd May 1995, which showed a minimum cash shortage of £16,871.13, was before the Tribunal.
5. The Investigating Accountant pointed out that the books of account were not in compliance with the Solicitors Accounts Rules as they contained false entries. He was unable therefore to express an opinion as to the liabilities to clients as at 28th February 1995 but Mr. Griffiths admitted that a minimum cash shortage of £16,871.13 existed on client bank account at that dated arising in the following way:-

|      |                       |                   |
|------|-----------------------|-------------------|
| (i)  | improper payments     | £16,111.63        |
| (ii) | misappropriated cash  | <u>759.50</u>     |
|      | Minimum Cash Shortage | <u>£16,871.13</u> |
6. During the inspection Mr. Griffiths rectified the minimum cash shortage by transferring funds from private sources into the client bank account.
7. The improper payment arose in connection with a conveyancing transaction of which Mr Griffiths had conduct. He acted for Mr V, Ms A and Mr G. On the 9th December 1994 the relevant account in the clients' ledger was charged with £10,677.34 in respect of a payment which was recorded as having been made to Barclays Bank Plc. An

examination of the client file did not reveal any reasons for that payment. Mr Griffiths said it had been made in connection with a mortgage redemption. The pay cheque was obtained and was found to be payable to Mr H. Mr Griffiths said that the payee's name on the cheque was not in his handwriting but the amount and signature were. He admitted that the payment of £10,677.34 had no connection whatsoever with affairs of the clients in the transaction. Mr Griffiths said that Mr Cross's wife had told him that Mr H was a creditor of Mr Cross. Mr Griffiths had provided the Investigation Accountant with a statement purported to have been signed by Mr Cross in which he admitted to having "borrowed" the £10,677.34.

8. The Investigation Accountant had been unable to discuss the matter with Mr Cross but did contact the police officer who, in a personal capacity, had witnessed the statement. The police officer confirmed that whilst he had witnessed the statement all references to the amount of £10,677.34 had been added to the statement subsequently. When that was put to Mr Griffiths he admitted that he had added the reference to that sum subsequent to his son in law's statement being witnessed. Mr Griffiths maintained that it was his son in law not himself that had benefitted from the improper withdrawal of £10,677.34 from client bank account.
9. With regard to the improper payment of £5,434.29 Mr Griffiths said that he acted in connection with the affairs of two unconnected estates S deceased and F deceased.
10. On the 16th February 1995 the relevant accounts in the clients' ledger were charged with amounts of £5,025.00 and £20,050.80 totalling £25,075.80 thereby reducing the respective client ledger balances to £36,548.38 and £613.67. The narrative was shown as CN and NC Investment respectively.
11. Mr. Griffiths had admitted that the payments totalling £25,075.80 had no connection whatsoever with the affairs of those clients and said that the purported payments related to an actual withdrawal of £25,075.80 from client bank account on the 16th February 1995 in favour of Barclays Bank Plc.
12. Mr Griffiths said that the payment had been made in order to redeem a mortgage in respect of Mrs G, an unconnected client. He admitted that funds amounting to only £19,641.51 had been properly held at that time on behalf of Mrs G and admitted that the payment of £25,075.80 had given rise to a net improper payment of £5,434.29. Mr Griffiths said that he had been aware of the fact that insufficient funds had been held on client bank account on behalf of Mrs G but contended that Mr Cross had undertaken the false accounting without his knowledge.
13. With regard to the misappropriated cash, on six occasions between 25th November 1994 and 1st February 1995 cash varying in amount between £50 and £247 and totalling £759.50 had been received on behalf of clients and recorded as such. No evidence had been available to suggest that those funds had ever been lodged in any of the firm's bank accounts. When interviewed Mr Cross admitted that he had borrowed an amount of £50.00 on the 21st February 1995. Mr Cross had made the statement referred to above which had been witnessed by a police officer and that officer was able to confirm that Mr. Cross's statement was authentic in so far as it related to the misappropriation of cash.

14. The matter of Mr Cross's conduct was considered by the Conduct Committee of the Office for the Supervision of Solicitors on the 7th August 1996 when it was decided to make application to the Tribunal for an order pursuant to section 43 of the Solicitors Act 1974.

#### **The Submissions of the Applicant**

15. Neither respondent gave evidence to the Tribunal and both had made partial admissions as to the matters alleged against them. The applicant relied upon an affidavit filed prior to the hearing from the police officer who had witnessed the altered statement and the affidavit of the Law Society's Investigation Accountant.
16. False entries had been made in the books, a shortfall had arisen on client account and monies belonging to one client had been used for the purposes of other unrelated clients. Mr Griffiths accepted responsibility in his capacity as sole principal for those matters.
17. Mr Cross maintained his position that he had taken for his own use certain sums of cash paid to the firm which he intended only to borrow. He denied responsibility for any of the other matters. The taking of cash paid to the firm in good faith by a clerk, was, however, reprehensible behaviour by a person who was in a position of trust. Despite the true and accurate position, it was equally reprehensible for a solicitor and an officer of the Court to seek to amend a statement after it had been witnessed by a senior police officer.

#### **The Submissions of Mr Griffiths**

18. Mr Griffiths confirmed that he was able to agree with the applicant's statement. He came to realise that he must accept the allegations made against him although it was clear that his admissions were made on the basis of technicality in respect of some of them.
19. Mr Griffiths said he had not utilised clients' funds for his own purposes intentionally but had to accept that what had happened had led to his making that utilisation inadvertently. He did, however, repay the outstanding money as soon as the figure was brought to his notice.
20. Mr Griffiths accepted that he had not exercised proper supervision of his staff and in particular he should have paid a greater regard to Mr Cross's past history.
21. Mr Griffiths accepted that he had been wrong to amend a statement which had already been witnessed by a police officer. Although Mr Cross denied the items inserted into the statement, Mr Griffiths said at the time he made the insertion he assumed and believed that what he had inserted had been correct.
22. In the unfortunate circumstances Mr Griffiths was unable to deny that he had been guilty of conduct unbecoming a solicitor.

23. Mr Griffiths had sold his practice in July of 1995 when he went to work for the Plain English Campaign. At the time of the hearing he was working for another organisation. He was not employed as a solicitor and had not practised as a solicitor since he disposed of his practice. His job was a permanent one.
24. The matters before the Tribunal had caused turmoil within Mr Griffiths's family. Mr Griffiths said he was not proud of his own actions and he did not wish to return to the practice of the law.

#### **The Submissions of Mr Cross**

25. Mr. Cross said he had worked for Mr Griffiths for a period of some four months. He admitted taking the cash but had always and continued to deny the rest of the matters alleged against him. He disagreed with what the applicant said.
26. At the time of the hearing Mr Cross was unemployed and had been for about one year.


#### **The Findings of the Tribunal**

The Tribunal FOUND all of the allegations to have been substantiated. The situation placed before the Tribunal represented a sorry state of affairs. As neither respondent gave evidence it was difficult for the Tribunal precisely to apportion culpability in so far as the monies withdrawn from client account were concerned. However it was noted that Mr Griffiths admitted making a payment on behalf of client when he knew there were insufficient monies held on client account. Even if Mr Griffiths was, as he himself suggested, only responsible in a technical sense for the breaches of the Solicitors Accounts Rules and the mishandling of clients monies, Mr Griffiths alone was responsible for making an amendment to a statement which had already been witnessed and signed by a senior police officer. That behaviour on the part of a solicitor and officer of the court was entirely reprehensible and in the circumstances the Tribunal were in no doubt that the appropriate sanction to be applied to Mr Griffiths was that of striking off. The Tribunal noted Mr Cross's denial of all matters except the taking of cash. Again the taking of cash intended to go to his employer firm by a clerk was a serious abuse of the trust of a solicitors clerk and behaviour that could not be tolerated. It was right in those circumstances that Mr Cross's employment within the solicitors profession should be subject to control.

The Tribunal made a striking off order in respect of Mr Griffiths and a section 43 order in respect of Mr Cross and ordered them to pay the costs of and incidental to the application and enquiry.

DATED this 11th day of April 1997

on behalf of the Tribunal



R B Bamford  
Chairman