

IN THE MATTER OF KEVIN WINSTON MILLS, former solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. D J Leverton (in the Chair)  
Mr. A G Ground  
Mr. K J Griffin

Date Of Hearing: 7th October 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 Law Society by Gerald Malcolm Lynch of Cumberland House, 24/28 Baxter Avenue, Southend on Sea on the 17th March 1997 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, Kevin Winston Mills whose address was unknown at the time of the application, 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, in the opinion of the Law Society, occasioned or been a party to with or without the connivance of the solicitor to whom he was or had been a clerk, an act or default in relation to that solicitor's practice which involved conduct on his part of such a nature that in the opinion of the Society it would be undesirable for him to be employed by a solicitor in connection with his or he practice.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 7th October 1997 when Gerald Malcolm Lynch solicitor and partner in the firm of Messrs. Drysdales of Cumberland House, 24/28 Baxter Avenue, Southend on Sea appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included exhibits "KWM1" and "KWM2". The respondent had been served with all of the papers in the matter by an enquiry agent who had left them at the address set out in the order upon receiving the assurance of the respondent's mother that the papers would certainly be passed to him.

At the conclusion of the hearing the Tribunal ORDERED that as from the 7th October 1997 no solicitor, except in accordance with permission 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, Kevin Winston Mills of Orpington, Kent, 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 £1,072.38 inclusive.

The facts are set out in paragraphs 1 to 4 hereunder.

1. At the relevant times the respondent was a clerk employed by Messrs. Strachan St. George, solicitors of Kingsland High Street, London, E8. His employment ran from July 1992 until he was dismissed on the 11th December in the same year. The respondent had been dismissed because of his misappropriation of clients' money.
2. The respondent had accepted instructions from a client in relation to the occupation by licence of a shop where expedition was required. £1,375 was due to be paid to the licencors' solicitors at completion. A few days before completion it became apparent to Messrs. Strachan St. George that the sum of £770.63 remained outstanding.
3. Enquiry made by the firm revealed that the respondent had been put in funds by the client in cash by two separate payments made on two separate occasions which together totalled £1,776.00. Of the sum received only £900 had been paid into client account. No satisfactory explanation as to the whereabouts of the balance of £876 was given by the respondent.
4. On the 22nd January 1997 the Compliance and Supervision Committee of the Office for the Supervision of Solicitors resolved that application be made to the Tribunal for an order pursuant to Section 43 of the Solicitors Act 1974.

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

5. At the very least the respondent had been guilty of a breach of the Solicitors Accounts Rules in failing to pay clients' money into client account. He was unable to offer any explanation as to what had happened to a substantial outstanding balance. In view of the respondent's unexplained position, it was right that an order should be made in respect of him controlling his future employment within the solicitors' profession.

**The Findings of the Tribunal**

The Tribunal FOUND the allegation to have been substantiated. The Tribunal would have been happier if the respondent had provided some explanation as to what had happened to the balance of clients' monies which he had received but had not paid into client account. However they took the view that the overall circumstances and the absence of any proper explanation led them to infer that the respondent's position demonstrated impropriety on his part. It was absolutely clear that the respondent had breached the Solicitors Accounts Rules and it was right that an order should be made controlling his future employment within the solicitors' profession. The Tribunal made the order and further ordered the respondent to pay the fixed costs of the applicant.

DATED this 19th day of November 1997

on behalf of the Tribunal

D J Leverton  
Chairman



*Findings filed with the  
Law Society on the 21<sup>st</sup>  
day of November 1997*