

IN THE MATTER OF BERNADETTE PAULA HEYWOOD,  
A person (not being a solicitor) employed or remunerated by a solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A H Isaacs (in the chair)  
Mr R J C Potter  
Lady Maxwell-Hyslop

Date of Hearing: 1st August 2006

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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 Jane Willetts, Solicitor Advocate of Hammonds, Rutland House, 148 Edmund Street, Birmingham, B3 2JR on 20<sup>th</sup> December 2005 that an Order be made by the Tribunal directing that as from the 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 practice as a solicitor Bernadette Paula Heywood of Great Barr, Birmingham, 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.

Subsequently the Tribunal was notified that the Respondent had changed address to Leegomery, Telford, Shropshire.

The allegation was that the Respondent had been guilty of conduct of such a nature that in the opinion of The Law Society it would be undesirable for her to be employed by a solicitor in connection with his or her practice as a solicitor in that she failed to account between

November 2000 and September 2004 to her then employer, Millichips Solicitors, for cash payments received from clients totalling £5,700.42.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 1<sup>st</sup> August 2006 when Jane Willetts appeared as the Applicant and the Respondent did not appear and was not represented. The Respondent had addressed a letter to "To Whom It May Concern" dated 8<sup>th</sup> March 2006. This letter is set out below under the heading "The Submissions of the Respondent".

**At the conclusion of the hearing the Tribunal made the following Order:**

The Tribunal Orders that as from 1<sup>st</sup> August 2006 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Bernadette Paula Heywood of Leegomery, Telford, person who is or was a clerk to a solicitor and the Tribunal further Orders that she do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties.

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

1. The Respondent, who was not a solicitor, was employed as a paralegal by Millichips Solicitors of 317 High Street, West Bromwich, West Midlands, B70 8LS.
2. Millichips employed the Respondent from 3<sup>rd</sup> July 2000 until 20<sup>th</sup> September 2004 when she tendered her resignation following a period of maternity leave. She worked in the conveyancing department of Millichips and was supervised by a partner of the firm.
3. By a letter dated 11<sup>th</sup> January 2005 Millichips reported to The Law Society that it had been discovered that moneys received by the Respondent in cash from clients had not been passed to the firm's accounts department. The Respondent had volunteered to make good the funds that were unaccounted for and had agreed to a second charge being taken over her home by Millichips as security for the moneys owed to the firm.
4. The Respondent had provided receipts to clients for payments in cash but had neglected to pass the cash to the firm's accounts department. The problem had come to light when the accounts department had chased clients for payment of outstanding invoices. The clients had then produced receipts issued by the Respondent.
5. The Respondent had written to The Law Society denying any allegations of misappropriation of moneys and explaining that she might have made financial errors on some matters by duplicating searches or miscalculating costs. She put this down to the extreme pressure of her job and her vast workload. She further explained that she had signed the legal charge in favour of Millichips just after she had given birth to her daughter when she was not in the best of health.

6. On 10<sup>th</sup> March the caseworker wrote to Mr Viner of Millichips requesting his comments on the matters raised by the Respondent in her letter dated 7<sup>th</sup> March.
7. Millichips responded that the Respondent was busy but had a moderate workload. The issue with the Respondent was not financial errors or miscalculating costs but the failure to pass to the accounts department cash collected from clients to whom she had given handwritten receipts.
8. A schedule listing 17 clients from whom money had been collected by the Respondent and had not been passed to the accounts department had been prepared. The total of such receipts was £5,700.42, and full details were before the Tribunal. Further investigation by Millichips established that a rather larger amount of cash receipts from clients had not been passed to the firm's accounts department by the Respondent.

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

9. The Respondent had issued receipts to clients who had made payments in cash and those clients had produced the receipts. The cash had not been passed to Millichips accounts department. In a letter addressed to The Law Society in March 2005 the Respondent denied that she had misappropriated the cash sums, she had however agreed that Millichips might take a charge over her property in order to secure the funds they calculated to be due to the firm.

#### **The Submissions of the Respondent**

10. The before-mentioned letter dated 8<sup>th</sup> March 2006

“I refer to my recent telephone conversation with Hammonds Solicitors and confirm that I will not be contesting the allegations.

Firstly, I wish to apologise for any inconvenience caused to yourselves and my former employers, Millichips.

I have had many personal problems whilst in my employment with Millichips, bad relationship, financial problems together with family issues.

I understand that an Order will be made to restrict me from working within the legal profession without the consent of The Law Society.

I have now moved from the Birmingham area to start afresh with my daughter and I am actively seeking employment on a part time basis, to try and pursue another career.

Once again my apologies.

Yours sincerely  
Bernadette Heywood”

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

11. The Tribunal found the allegation to have been substantiated. The evidence of a failure to account for moneys received by the Respondent was overwhelming and accepted by the Tribunal. The Tribunal has taken into account the representations made by the Respondent but whatever her personal difficulties her course of conduct was one that was unacceptable for an employee in a solicitors' firm. She had recognised this by agreeing to reimburse her former employers and by her acceptance of the appropriateness of the order sought by the Applicant.
12. The Tribunal considered that it was both right and proportionate to make an Order pursuant to Section 43 of The Solicitors Act 1974 (as amended) and made the Order sought.
13. It was also right in the circumstances that the Respondent should pay the costs of and incidental to the application and enquiry. The Applicant had quantified those costs in a fairly substantial sum and in the absence of the Respondent the Tribunal declined to fix the costs in the sum sought but ordered that the costs should be subject to a detailed assessment unless agreed between the parties.

DATED this 18th day of September 2006  
on behalf of the Tribunal

A H Isaacs  
Chairman