

**THE SOLICITORS (SCOTLAND) ACT 1980
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL**

F I N D I N G S

in Complaint

by

**THE COUNCIL OF THE LAW
SOCIETY of SCOTLAND, 26
Drumsheugh Gardens, Edinburgh**

against

**ALAN MONRO SIMPSON of 48
Thomson Drive, Bearsden,
Glasgow**

1. A Complaint dated 10 February 2006 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Alan Monro Simpson of 48 Thomson Drive, Bearsden, Glasgow (hereinafter referred to as "the Respondent") be required to answer the allegations contained in the statement of facts which accompanied the Complaint and that the Tribunal should issue such order in the matter as it thinks right.
2. The Tribunal caused a copy of the Complaint as lodged to be served upon the Respondent. No answers were lodged for the Respondent.
3. In terms of its Rules the Tribunal appointed the Complaint to be heard on 4 May 2006 and notice thereof was duly served on the Respondent.
4. The hearing took place on 4 May 2006. The Complainers were represented by their Fiscal, Paul Reid, Solicitor, Glasgow. The Respondent was not present or represented. After hearing evidence that the Respondent was aware of the Complaint and that the Notice of

Hearing had been served upon him, the Tribunal resolved to proceed in the Respondent's absence.

5. The Fiscal led the evidence of one witness and affidavit evidence of a further five witnesses.
6. The Tribunal found the following facts established

6.1 The Respondent was born 2nd November 1950. He was admitted as a solicitor on 18th October 1974. He was enrolled in the Register of Solicitors in Scotland on 1st November 1974. From 14th November 1988 until 30th June 1999 he was a Partner with the firm Wright Johnston & Mackenzie, Solicitors, Glasgow. At present the Respondent is not currently employed by a firm.

6.2 Miss A & Mrs B

Miss A, resides at Property 1. Mrs B resides at Property 2. In or about mid 1996 the Respondent was a Partner with the firm Wright Johnston & Mackenzie, Solicitors, Glasgow. He acted on behalf of the said Miss A and Mrs B. These clients owned land in the village of Property 1 & 2. The Respondent was instructed by them to proceed with conveyancing transactions in respect of three properties which were situated at Property 1, Property 2 and an adjacent field between numbers Property 2 and Property 3, all of which were situated within a village. To comply with these instructions it was necessary for the preparation of three separate Dispositions in respect of each of the properties. No money was being exchanged for the transactions. The transactions were being effected for nil consideration. Having completed the Dispositions and having had these Dispositions signed by Miss A and Mrs B on 3rd December 1996, it was necessary

thereafter for the Dispositions to be presented to the General Register of Sasines for registration.

6.3 For a number of different reasons, the clients Miss A and Mrs B were dissatisfied with the level of service provided by the Respondent. They were anxious that the conveyancing transactions in which the Respondent had been instructed were completed. They contacted the Respondent on a repeated basis to obtain assurance from him that the transactions had been completed. The Respondent indicated that the documentation had been presented to the General Register of Sasines and the process of registration was ongoing. Miss A and Mrs B decided to instruct an alternative firm of solicitors to act on their behalf. They chose to instruct the firm of Messrs Laird & Macintyre, Solicitors, Glasgow to act on their behalf. They instructed the Respondent to pass the three Dispositions relating to the conveyancing transactions to be forwarded to their new solicitors, Messrs Laird & Macintyre. A number of requests were made of the Respondent to forward the documentation to the new solicitors which were ignored. Eventually on 20th November 1997, Miss A and Mrs B attended at the offices of the Respondent and collected from him the three Dispositions. They thereafter delivered the three Dispositions to the firm, Messrs Laird & Macintyre, Solicitors, Glasgow.

6.4 Messrs Laird & Macintyre, Solicitors were instructed by Miss A and Mrs B to carry out certain further conveyancing work relating to the properties which formed the basis of the three Dispositions. In accordance with the instructions provided, Messrs Laird & Macintyre considered the terms of the three Dispositions received from the Respondent and the plans which were attached thereto. In their professional opinion, the three Dispositions were incomplete, riddled with errors

and the plans attached were so inadequate that the firm did not consider they could properly serve as a satisfactory basis for any future conveyancing transactions. Rather than proceed with rectification of the three Dispositions, it was the opinion of Messrs Laird & Macintyre that the best course was to prepare three corrective Dispositions which would have reversed the effect of the three earlier Dispositions prepared by the Respondent.

6.5 In accordance with this course, Messrs Laird & Macintyre proceeded to prepare three corrective Dispositions. They were executed by Miss A and Mrs B. Thereafter they were presented for registration to the General Register of Sasines on 7th March 2002. Of necessity, within the terms of the corrective Disposition, there was reference to the three earlier Dispositions prepared by the Respondent. Having presented the corrective Dispositions for registration, on 11th March 2002 an employee of the Keeper's office telephoned Laird & Macintyre to advise that no Dispositions had been presented or recorded by the Respondent. The Disposition prepared by the Respondent had been apparently marked with the official stamp of the Register of Scotland for the General Register of Sasines in the County of Stirling and marked as being presented in book number 3056 and folio number 1457. They were marked as having been presented and recorded on 14th January 1997. The employee of the Keeper's office advised Laird & Macintyre that no such deeds had been presented or recorded on 14th January 1997. The employee went on to advise that some years previously the practice of issuing book and folio numbers had been discontinued and been replaced by microfiche and frame numbers. Having had this brought to their attention, the solicitor in Laird & Macintyre responsible for the transactions proceeded thereafter to examine the three Dispositions prepared by the

Respondent. This examination revealed that the Dispositions did not contain the seal of the Keeper on each page and upon closer scrutiny the apparent stamp of the General Register of Sasines on the deed presents as if it had been photocopied upon the deed paper. Having had this brought to their attention, Laird & Macintyre on 12th March 2002 sent to the Registers of Scotland the three Dispositions prepared by the Respondent for their perusal. Having the opportunity to consider the three Dispositions, an employee in the Keeper's office reported to Laird & Macintyre that the recording stamped thereon had definitely been forged and that the Dispositions had never been presented for registration nor recorded.

- 6.6 The Respondent accepted instructions from Miss A and Mrs B to proceed with three conveyancing transactions in mid-1996. The Respondent was responsible for the preparation of the Dispositions in relation to each of the three conveyancing transactions. He delivered to Miss A and Mrs B, three Dispositions which they signed on 3rd December 1996 and returned to the Respondent. Thereafter instead of presenting the deeds to the General Register of Sasines for recording, the Respondent fraudulently marked on each of the Dispositions a false stamp purportedly giving the impression that the deeds had been presented to the General Register of Sasines for recording. Each of the Dispositions bears the reference of the Respondent. On each of the Dispositions the warrant for registration was executed by the Respondent. Upon enquiry from his clients, the Respondent replied that each of the Dispositions had been presented for recording and that that process was ongoing. When the clients sought to instruct an alternative firm of solicitors they attended at the office of the Respondent and the three Dispositions with the fraudulent stamp marked thereon were delivered to the clients by the

Respondent. When the forgery came to light the clients intimated a claim for damages to the firm of Wright Johnston & Mackenzie seeking compensation for the additional costs incurred to rectify the conveyancing as a consequence of the misrepresentation perpetrated by the Respondent. An agreement was reached that the clients would receive compensation of £2,000. This sum of £2,000 was paid for personally by the Respondent.

7. Having considered the foregoing circumstances, the Tribunal found the Respondent guilty of Professional Misconduct in respect of

7.1 his altering three dispositions by fraudulently photocopying thereon an official stamp of a government department giving the impression that the documents had been presented to the General Register of Sasines for recording when in actual fact they had not been so presented

7.2 his deceiving his clients by holding out the purportedly recorded documents as authentic when they were not, all contrary to Article 7 of the Code of Conduct for Solicitors Holding Practising Certificates issued by the Law Society of Scotland in 1989.

8. The Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 4 May 2006. The Tribunal having considered the Complaint dated 10 February 2006 at the instance of the Council of the Law Society of Scotland against Alan Monro Simpson, 48 Thomson Drive, Bearsden, Glasgow; Find the Respondent guilty of Professional Misconduct in respect of his fraudulently altering conveyancing documentation by inserting thereon a photocopied stamp to suggest that the documents had been presented to the Register of Sasines for recording when in actual fact they had not and his deceiving his clients

by holding out the purportedly recorded documents as authentic when they were not; Order that the name of the Respondent, Alan Monro Simpson, be struck off the Roll of Solicitors in Scotland; Find the Respondent liable in the expenses of the Complainers and in the expenses of the Tribunal as the same may be taxed by the auditor of the Court of Session on an agent and client indemnity basis in terms of Chapter Three of the last published Law Society's Table of Fees for general business with a unit rate of £11.85; and Direct that publicity will be given to this decision and that this publicity should include the name of the Respondent.

(signed)

Malcolm McPherson

Vice Chairman

9. A copy of the foregoing together with a copy of the Findings certified by the Clerk to the Tribunal as correct were duly sent to the Respondent by recorded delivery service on

IN THE NAME OF THE TRIBUNAL

Vice Chairman

NOTE

The Tribunal noted that there were letters from Mr McCann, the Respondent's solicitor indicating that the Respondent did not intend to lodge answers to the Complaint. The Tribunal heard evidence from the Clerk that the Notice of Hearing had been served Recorded Delivery on the Respondent at the address in the Complaint and had not been returned. The Tribunal accordingly was satisfied that the Respondent was aware of the Complaint and the date of the hearing. As the Respondent had not seen fit to lodge answers, the Tribunal agreed to allow evidence to be led by way of affidavit evidence.

EVIDENCE FOR THE COMPLAINERS

The Complainers first led the evidence of Ian Ritchie, Law Society Case Manager. Mr Ritchie confirmed that he was responsible for dealing with the Complaint by Miss A and Mrs B about the Respondent. Mr Ritchie stated that he took precognitions from a number of witnesses in connection with the Complaint. Mr Ritchie referred to the affidavit from Mrs B, in this affidavit Mrs B detailed the complaint that she made against the Respondent. The Respondent was instructed by her to divide the building into flats and the Respondent indicated that he would do the paperwork. Eventually he prepared three dispositions which were signed by Mrs B and her sister. These three dispositions were attached to the affidavit of Mrs B and Mr Ritchie confirmed that these were the three dispositions that he had seen. These dispositions were prepared by the Respondent's firm and were stamped with the Registers of Scotland stamp indicating that they were recorded. The warrant for registration was signed by the Respondent on behalf of the firm. Mrs B was unhappy with the quality of the work carried out by the Respondent and wrote to the Respondent about matters. Mr Ritchie referred to the various letters attached to the affidavit of Mrs B which were from the Respondent advising Mrs B as to progress with regard to the registration process. The notes on the letters were made by Mrs B and recorded her contact with the Respondent, chasing matters up. In a letter of 13 June 1997 the Respondent indicates that the title deeds were submitted to the Registrar on 12 December 1996. In Mrs B's affidavit she refers to being horrified that the Respondent had not dealt with registration of the deeds.

Mr Ritchie then referred the Tribunal to the affidavit of Miss A, Mrs B's sister, who confirms that she instructed the Respondent with regard to the three dispositions. She again refers to the three dispositions attached to her affidavit and to being misled by the Respondent and indicates that she was astonished that a solicitor would behave in this fashion. Mr Ritchie then referred the Tribunal to the affidavit from Mr C who confirms that he was consulted by Mrs B and Miss A and he had concerns with regard to the quality of the three dispositions prepared by the Respondent and considered that fresh deeds were needed to rectify the position. Mr C confirms in his affidavit that the keeper had problems tracing the deeds and that it became apparent that in 1989 the Registers had changed from book and folio to using microfiche. Mr C's affidavit has various letters attached to it being correspondence from Mr C's firm to the keeper. It was clear from the correspondence that the recording stamps had been fraudulently put on the three dispositions. Mr Ritchie then referred to the affidavit from Mr D and confirmed that the Respondent acted on behalf of Mrs B and Miss A. Mr D's affidavit refers to a list of specimen signatures and Mr Ritchie indicated that the signature of the Respondent on this list and the signature on the warrant for registration appeared to him to be identical. Mr Ritchie then referred to the affidavit from Ms E who was the Respondent's secretary at the relevant time. Ms E states in her affidavit that she typed up the draft dispositions but cannot remember engrossing them and that she did not put in the testing clause.

Mr Ritchie stated that the Respondent committed a fraudulent act by photocopying the keeper's stamp onto the deeds. Mr Ritchie indicated that it was clear that it was the Respondent who dealt with matters as he was the solicitor acting for Mrs B and Miss A and he wrote them letters with regard to the registration process and it was his signature that was on the warrant for registration. Mr Ritchie confirmed that the service complaint had been resolved and that the Respondent had paid his clients £2000.

SUBMISSIONS FOR THE COMPLAINERS

Mr Reid invited the Tribunal to make a finding of professional misconduct. The Respondent had acted contrary to the principles of honesty and integrity. The

Respondent had committed an act of deception by presenting three dispositions to his clients as having been recorded in the Register of Sasines when they had not. Mr Reid submitted that it was clear from the evidence of Mr C that the stamp on the dispositions was out of date and not used by the Registers at that time and there was no embossed stamp on the deeds. The Respondent corresponded with his clients indicating that the deeds had been sent for recording. His deception was aggravated by the letters to the clients explaining the delays in the registration process.

DECISION

The Tribunal found Mr Ritchie to be a credible and reliable witness and accepted his account. On the basis of his evidence and the affidavit evidence from the other witnesses, the Tribunal was satisfied beyond reasonable doubt that the Respondent's conduct amounted to professional misconduct. It was clear that the Respondent was the solicitor acting on behalf of Mrs B and Miss A and that he prepared the dispositions on their behalf. He then had the deeds signed by his clients. It is clear from the correspondence between the Respondent and his clients that he indicated to his clients that he had sent the deeds for recording. The Tribunal was satisfied on the basis of the evidence from Mr D with regard to the specimen signatures that it was the Respondent's signature that was on the warrant of registration. The Tribunal was also satisfied on the basis of the evidence from Mr C that the stamps on the dispositions were not genuine. The Tribunal was also satisfied that the Respondent had fraudulently stamped these dispositions and thereafter pretended that they had been registered when they had not. The Tribunal found the Respondent's actions in this regard to be bizarre. It was clearly a contrived fraud which had been pre-planned and he carried out a series of actions which were designed to mislead his client. His dishonesty was reinforced by his letters to his clients and was maintained over a period of time. The consequences of the fraud for his clients could have been serious. The Respondent's actions completely undermine the solicitors role of protecting clients interests in conveyancing transactions. This is extremely damaging to the reputation of the legal profession. The Tribunal noted the comments contained in the letter from the Respondent's solicitor but there was no medical evidence in relation to any health problems. The Tribunal considered the Respondent's actions to be manifest blatant fraud and consider that there is no place in the profession for someone who

acts in this manner. The essential qualities of a solicitor are honesty, truthfulness and integrity. The Respondent's conduct was totally contrary to this principle and for the public to have faith in the legal profession they must be able to trust their solicitor to act honestly. The Tribunal considered that the only option open to it was to strike the Respondent's name from the Roll of Solicitors in Scotland. The Tribunal made the usual order with regard to expenses and publicity.

Vice Chairman