

DC/07/05

**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

**IAN WILSON LEITCH, Solicitor,
Linden House, 3 Inveresk Village,
Musselburgh**

1. A Complaint dated 26 January 2007 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Ian Wilson Leitch, Solicitor, Linden House, 3 Inveresk Village, Musselburgh (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 21 March 2007 and notice thereof was duly served on the Respondent.

4. When the case called on 21 March 2007, the Complainers were represented by their Fiscal, Walter Muir, Solicitor, Ayr. The Respondent was not present or represented.
5. A Joint Minute was lodged admitting the facts, averments of duty and averments of professional misconduct in the Complaint.
6. The Tribunal found the following facts established

6.1 The Respondent is a Solicitor enrolled in the Register of Solicitors in Scotland. He was born on 18 August 1949. He was admitted as a Solicitor on 22 May 1975 and enrolled as a Solicitor on 5 June 1975. He was formerly the sole principal of the firm of Gibson Kerr WS which firm had a place of business at 46 India Street, Edinburgh. He ceased being a partner in the said firm on 8 May 2005 and he does not currently hold a Practising Certificate.

6.2 **The Law Society of Scotland**

By means of a Help Form issued by the Complainers to members of the public who invoke their aid, Messrs Garden Stirling Burnet, Solicitors, Haddington acting on behalf of their client, Company 1, raised a number of complaints against the Respondent. Said Help Form is dated 3 November 2005 and was received by the Complainers on 4 November 2005. The Complainers thereafter embarked upon a course of correspondence with the Respondent which predominantly went unanswered. They wrote to him firstly on 11 November 2005 enclosing a copy of the said Help Form. On 10 January 2006 they wrote to him again and on this occasion they intimated the complaint and invited, inter alia, his written response to the individual heads of complaint identified in an accompanying list within 21 days of that date. The Respondent did not provide any written response and, accordingly, by letters dated 9 February and 9 March both in 2006 the

Complainers gave notice to him in terms of Section 15(2)(i)(i) of the Solicitors (Scotland) Act 1980. The Respondent did not respond to either of these statutory notices. It was not until he wrote to the Complainers on 10 July 2006, after they had obtained a Report and Opinion from one of their Reporters and after intimating a copy of same to the Respondent, that he responded to them for the first time in relation to the matters complained of. In this letter the Respondent apologised for his failure to address these matters previously.

7. Having heard submissions from the Complainers and having noted the terms of a letter from the Respondent, the Tribunal found the Respondent guilty of Professional Misconduct in respect of his failure to respond to the reasonable requests of the Law Society for information in consequence of which the Law Society were unable to respond in any meaningful way to those who had invoked their aid.

8. Having considered a previous findings of misconduct and the Respondent's letter in mitigation, the Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 21 March 2007. The Tribunal having considered the Complaint dated 26 January 2007 at the instance of the Council of the Law Society of Scotland against Ian Wilson Leitch, Solicitor, Linden House, 3 Inveresk Village, Musselburgh; Find the Respondent guilty of Professional Misconduct in respect of his failure to respond to the reasonable requests of the Law Society for information; Censure the Respondent and Fine him in the sum of £500 to be forfeit to Her Majesty; 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 a solicitor and client indemnity basis in terms of Chapter Three of the 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)

Alistair Cockburn

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

Chairman

NOTE

A Joint Minute was lodged admitting the facts, averments of duty and averments of professional misconduct in the Complaint. It was accordingly not necessary for any evidence to be led.

SUBMISSIONS FOR THE COMPLAINERS

Mr Muir indicated that the Complaint spoke for itself and asked the Tribunal to make a finding of professional misconduct. Mr Muir stated that he appreciated the Respondent's co-operation in entering into a Joint Minute. In response to a question from the Tribunal, Mr Muir confirmed that the issues in the Complaint were the same issues for which an inadequate professional service determination had been made. Mr Muir indicated that he did not have any information with regard to the Respondent's personal circumstances. Mr Muir lodged a previous finding of misconduct against the Respondent.

SUBMISSIONS FOR THE RESPONDENT

The Tribunal took note of the contents of the Respondent's letter of 19 March 2007. The Tribunal noted that the Respondent had been suffering from stress and anxiety at the time and had recently been having some financial difficulties.

DECISION

The Tribunal noted that the Respondent's failure only related to a single complaint but given that he delayed for a period of seven months to reply to the Law Society, the Tribunal considered that this was sufficient to amount to professional misconduct. If solicitors do not reply to their professional body it hampers the Law Society in the performance of their statutory duty. The Tribunal has made it clear on a number of occasions that this amounts to professional misconduct. In this case a number of letters and statutory notices were sent over a period of seven months before the Respondent replied. The Tribunal also noted the previous findings against the

Respondent and in particular noted that the actions complained of in this complaint occurred at a time after the previous findings had been made. In the circumstances the Tribunal considered that as well as imposing a Censure the Respondent should also be fined £500. The Tribunal noted that the Respondent was already restricted for a period of ten years and accordingly the public are already protected. The Tribunal made the usual order with regard to expenses and publicity.

Chairman