

**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 LESLIE GRASSICK,
residing at 26 Colquhoun Drive,
Bearsden**

1. A Complaint dated 10 November 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 Leslie Grassick, residing at 26 Colquhoun Drive, Bearsden (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 20 February 2007 and notice thereof was duly served on the Respondent.
4. The Complaint was heard on 20 February 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 majority of the facts, the averments of duty and the averments of professional misconduct in the Complaint.
6. In respect of these admissions no evidence was led and the Tribunal found the following facts established

6.1 The Respondent was formerly enrolled in the Register of Solicitors in Scotland. He was born on 21 November 1945. He was admitted as a solicitor on 19 November 1969 and enrolled on 10 December 1969. He was a partner in the firm of Company 2 from 1 April 1994 and he remained a partner of that firm until 31 March 2000. From 1 April 2000 until 31 August 2005 he was employed by that firm and by its successor, Company 1, as a consultant. At his request his name was removed from the Roll of Solicitors in Scotland on 31 March 2006.

6.2 **Misappropriation of funds belonging to clients of - Company 1**

Sometime in October 2005 the suspicions of the partners of Company 1, were aroused. They then noticed that the Respondent had taken sums from clients purporting to be in payment of travel expenses incurred by him where it was clear to them that no travel could possibly have arisen, that he would take small balances from clients' ledgers and ascribe these to travel expenses and that he would charge clients excessive registration dues in conveyancing transactions and would take the excess over what was properly due to travel expenses. They then also noticed that payments had been taken by him from clients' ledgers, that these payments were described therein as being in payment of a factor's account and where there was in fact no factor who fell to be paid. By this time the partners had concluded that the extent of the Respondent's misappropriation of funds had gone beyond a sum he had

previously admitted to and that it included funds belonging to clients of the firm. They accordingly instructed their accountants, Hardie Caldwell, to investigate and to report on 167 ledger accounts and 20 Trust accounts where, on the face of it, transactions carried out by the Respondent gave them cause for concern. Hardie Caldwell examined client ledger account computer records from 1 April 1994 (the date when 3 firms amalgamated to form the firm of C) as well as files relative to the ledger accounts which had been selected for review. The investigation carried out by Hardie Caldwell revealed that fictitious client accounts had been created by the Respondent and that he had also created a significant number of transfers to and from client accounts which were misleading as to their nature. They identified that the Respondent had been engaged in misappropriating funds principally belonging to clients of the firm by investing them in his name or in the name of his wife, that he had withdrawn funds belonging to clients of the firm to satisfy expenditure incurred by him and his immediate family and that he had indeed made fictitious expenses claims and had withdrawn funds from clients of the firm purportedly in payment of same. They calculated that the loss to clients of the firm as a result of misappropriation by the Respondent, together with interest thereon and including the loss to the firm was in total £374,305.26.

6.3 Faced with these reported losses and the extent of the misappropriation identified by their accountants, the firm decided to refer the matter to the Master Policy insurers. Negotiations subsequently took place between solicitors acting for the Respondent and for the insurers. Eventually the Respondent and the insurers agreed to compromise the claims in the sum of £341,122.89. This sum includes interest on sums due to clients of £65,026.96 and £19,520.94 due to the firm. At the date the Complaint was raised the Respondent had settled in full the sum of £341,122.89. He has admitted to

misappropriating the sum of £214,098.77 from clients of the firm.

7. Having considered the foregoing circumstances and the letter dated 17 January 2007 from the Respondent's solicitors, the Tribunal found the Respondent guilty of Professional Misconduct in respect of his misappropriation either for personal gain or for the benefit of others the sum of at least £214,098.77 of funds belonging to clients of the firm of Company 1 and its predecessor, Company 2.
8. The Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 20 February 2007. The Tribunal having considered the Complaint dated 10 November 2006 at the instance of the Council of the Law Society of Scotland against Alan Leslie Grassick, residing at 26 Colquhoun Drive, Bearsden; Find the Respondent guilty of Professional Misconduct in respect of his misappropriation either for personal gain or for the benefit of others the sum of at least £214,098.77 of funds belonging to clients; Order that the name of the Respondent, Alan Leslie Grassick, 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 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, such publicity to be deferred until the conclusion of any criminal proceedings against the Respondent.

(signed)

Alistair M 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

The Fiscal lodged a Joint Minute admitting most of the facts, averments of duty and the averments of professional misconduct in the Complaint. The Joint Minute did not include the averments of facts contained in Article 1.2 and this was not insisted on by the Fiscal.

SUBMISSIONS FOR THE COMPLAINERS

Mr Muir advised the Tribunal that the Respondent had co-operated and entered into a Joint Minute and this was appreciated by the Law Society. Mr Muir explained that the background to the case was as narrated in Article 2.1. He stated that there had been a continuing course of dishonesty by the Respondent which went back over a long period of time and came to light when he was on holiday. Initially the concern related to misappropriation of funds belonging to the firm but by October 2005 it was clear that matters were more sinister. Mr Muir explained that Company 1 was an amalgamation of three Glasgow firms that came together in April 1994. It was agreed between the partners of Company 1 and the Chief Accountant of the Law Society that the enquiries would not go back earlier than 1 April 1994. Mr Muir explained that in connection with Article 2.3 the sum of £374,305.56 was the sum of money identified by the accountants as having been misappropriated by the Respondent. When this was put to the Respondent he engaged Russells Gibson McCaffrey to act on his behalf and a figure of £341,122.89 was agreed with the insurers. This sum was paid in full by the Respondent. Mr Muir clarified that although the Respondent had repaid this whole sum, he had admitted to misappropriating the sum of £214,098.77. Mr Muir stated that as the Respondent had made good all the losses agreed with the insurers there was no exposure to either the profession or Company 1.

Mr Muir asked that any publicity in the case be deferred as there may be criminal proceedings taken against the Respondent.

DECISION

The Tribunal noted that the Respondent had entered into a Joint Minute and co-operated with the Law Society. The Tribunal was also pleased to note that the Respondent had repaid all the sums identified by the insurers. The fact remains however that the Respondent misappropriated at least £214,098.77 from clients of Company 1. This conduct is unfortunately serious and reprehensible and totally contrary to the duty on solicitors to be people of honesty, truthfulness and integrity. The Respondent did not put forward any mitigation on his behalf apart from indicating in the letter from his solicitor that he regretted his actions and emphasising that he had repaid the sums in full. The Tribunal felt that there was no alternative but to strike the Respondent's name from the Roll of Solicitors in Scotland. The Tribunal made a finding of expenses against the Respondent as he had been found guilty of professional misconduct. In connection with publicity the Tribunal made the usual order that there would be publicity to include the name of the Respondent but deferred this publicity until after the conclusion of any criminal proceedings to avoid any possible prejudice to such criminal proceedings.

Chairman