

**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

ALEXANDER JACK MORRISON,  
Solicitor, 14 Montgomery Street,  
Larkhall

1. A Complaint dated 22<sup>nd</sup> October 2005 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that Alexander Jack Morrison, Solicitor, 14 Montgomery Street, Larkhall (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 by the Respondent.
3. In terms of its Rules the Tribunal appointed the Complaint to be heard on 1<sup>st</sup> March 2006 and notice thereof was duly served on the Respondent.

4. When the Complaint called on 1<sup>st</sup> March 2006 the Complainers were represented by their Fiscal, Walter Muir, Solicitor, Ayr. The Respondent was present and represented by Mr Macreath, Solicitor, Glasgow.
5. A Joint Minute was lodged in which the facts, averments of duty and averments of professional misconduct in the Complaint were admitted.
6. In respect of these admissions no evidence was led and 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 26<sup>th</sup> June 1963. He was admitted as a solicitor on 30<sup>th</sup> June 1987 and enrolled on 10<sup>th</sup> July 1987. From 1<sup>st</sup> January 1996 until 18<sup>th</sup> October 2002 he was a partner in the firm of Adair & Bryden, Solicitors, Larkhall. From 21<sup>st</sup> October 2002 until 31<sup>st</sup> October 2004 he was the sole principal of Morrison & Co, Solicitors, Larkhall. He is at present a partner in the firm of Cartys who have a place of business at 14 Montgomery Street, Larkhall.

6.2 Eileen Munro

By letter dated 19<sup>th</sup> September 2004 Eileen Munro wrote to the Complainers intimating a complaint against the Respondent. The essence of her complaint as intimated therein was that he had failed to progress an action for divorce which she had instructed him to do and that he had assured her that he was progressing it when in fact this was not so. It was sometime in or about September 2002 that Eileen Munro instructed the Respondent to proceed with this action on her behalf. From then until November 2003 the Respondent failed to comply with this instruction. Nothing of any substance was done by him in connection with the action during this period. By way of example, the Respondent had not even prepared and lodged an Initial Writ in court by November 2003 when Eileen Munro

instructed another agent to act on her behalf in connection with this action. During this period Eileen Munro asked the Respondent on several occasions to update her in relation to progress and on every such occasion he assured her that he was making progress. Ultimately and with the passage of time, Eileen Munro was disinclined to accept assurances from him in relation to progress and she mandated him to send the papers held by him in connection with her divorce to another agent. It was when her new agent received the papers from the Respondent towards the end of 2003 that she discovered that he had done very little in connection with the action.

7. Having considered the foregoing circumstances and having heard submissions from the parties, the Tribunal found the Respondent guilty of professional misconduct in respect of:

7.1 His failure to progress an action of divorce on behalf of his client, Eileen Munro, in an expeditious manner.

7.2 His misleading his client, Eileen Munro, by assuring her that he was progressing an action of divorce on her behalf when, in fact, this was completely untrue.

8. Having heard mitigation on behalf of the Respondent, the Tribunal pronounced an Interlocutor in the following terms :-

Edinburgh 1<sup>st</sup> March 2006. The Tribunal having considered the Complaint dated 22<sup>nd</sup> October 2005 at the instance of the Law Society of Scotland against Alexander Jack Morrison, Solicitor, 14 Montgomery Street, Larkhall; Find the Respondent guilty of Professional Misconduct in respect of his failure to progress an action of divorce on behalf of his client and his misleading his client by assuring her that he was progressing an action of divorce

on her behalf when in fact he was not; Censure the Respondent; 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 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 accepting the facts, averments of duty and averments of professional misconduct in the Complaint. There was accordingly no requirement for evidence.

**SUBMISSIONS FOR THE COMPLAINERS**

Mr Muir referred the Tribunal to the facts and averments set out in the Complaint and indicated that he had nothing to add. He expressed his appreciation to the Respondent and his solicitor for their co-operation in entering into a Joint Minute at an early stage.

**SUBMISSIONS FOR THE RESPONDENT**

Mr Macreath stated that the history with regard to the Complaint was relevant. He indicated that the Complaint was first intimated to the Respondent in September 2004 but it was only in January 2005 that there was a formal intimation requiring a response. In March 2005 a Reporter was instructed and prepared his report in May 2005 which recommended a finding of inadequate professional service and prosecution for professional misconduct. By this stage the Respondent was a partner with Cartys. Mr Macreath stated that Mr Bonnington from Cartys was present at the Tribunal to show his support for the Respondent. A cheque was sent by Cartys in settlement of the IPS finding immediately despite the fact that the finding was against the Respondent rather than the firm of Cartys. It was in September 2005 that the Professional Conduct Committee decided to refer the matter for prosecution. Mr Macreath stated that fees had not been charged in connection with the matter although some work had been done. Mr Macreath indicated that the Respondent regretted any distress caused to his client, Eileen Munro, who thought that the divorce action was progressing and was reassured by the Respondent that it was when it wasn't. Mr Macreath referred to the letter from Linda George which showed that matters had now been resolved. Mr Macreath also referred the Tribunal to the various references lodged. Mr Macreath pointed out that the

Respondent had been in the profession for 19 years but when he became a sole practitioner, this had been a step too far. The Respondent had been involved in a big fraud case in Perth in 2003 which he was trying to conduct as well as run his practice. Mr Macreath indicated that although it was accepted that the Respondent's conduct in failing to progress the work together with misleading his client, amounted to professional misconduct, it was not the most serious case. Mr Macreath also asked the Tribunal to take into account how quickly the Respondent had dealt with matters.

## **DECISION**

The Tribunal considered that the Respondent's failure to progress his client's divorce action coupled with his misleading of his client with regard to progress made did amount to professional misconduct. The Tribunal however felt that this fell at the lower end of the scale of professional misconduct. The Tribunal did take into account the fact that the Respondent's actions had clearly caused his client a great deal of distress. The Respondent was however obviously remorseful with regard to this. The Tribunal took account of the fact that he was a solicitor of almost 20 years standing and this appeared to be an isolated incident. The Respondent had co-operated with the fiscal from an early stage and had produced very good references and the Tribunal considered that a Censure would be sufficient penalty. The Respondent would also have to pay the expenses of the proceedings. The Tribunal made the usual order with regard to publicity and noted that Eileen Munro, who was present at the Tribunal, was happy to have her name included in the published findings.

**Chairman**