

**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**

against

**GHAZALA AHMED of Ahmed
Robertson & Ross, 207 Albert
Drive, Glasgow**

1. A Complaint dated 25th July 2005 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Ghazala Ahmed of Ahmed Robertson & Ross, 207 Albert Drive, 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 23rd November 2005 and notice thereof was duly served on the Respondent.

4. The hearing took place on 23rd November 2005. The Complainers were represented by their Fiscal, Paul Reid, Solicitor, Glasgow. The Respondent was present and represented by her solicitor, Ann Bennie, Solicitor, Glasgow.

5. A Joint Minute was lodged admitting the facts, averments of duty and averments of professional misconduct in the Complaint. No evidence was led.

6. The Tribunal found the following facts established
 - 6.1 The Respondent was born 29th May 1961. She was admitted as a solicitor on 8th June 1993. She was enrolled as a solicitor in the Register of Solicitors practising in Scotland on 9th June 1993. From 22nd June 1993 until 10th September 1993 she was employed with the firm McAuley, McCarthy & Company of 417 Paisley Road West, Glasgow. Thereafter from 22nd March 1996 until 3rd September 1996 she was employed with the firm of Deb, Solicitors of 1 Cumbernauld Road, Glasgow. Thereafter from 4th September 1996 until 2nd April 1998 she was employed with the firm Ross Harper & Murphy, Solicitors, 58 West Regent Street, Glasgow. From 20th July 1998 until 31st May 1999 she was a Partner in the firm known as the Ross Partnership of 5 Mill Street, Paisley. That firm was dissolved on 12th July 1999. After the date of dissolution the Respondent was a Partner in the firm Ahmed

Robertson & Ross of 207 Albert Drive, Glasgow. She continued as Partner in that firm until 20th May 2002. Thereafter from 21st May 2002, the Respondent has practiced as a Sole Practitioner, trading as the firm Ahmed Robertson & Ross from office premises situated at 207 Albert Drive, Glasgow.

6.2 Inspection of 28th April 2003

On 28th April 2003 the Complainers then acting in pursuit of their statutory duties inspected the financial records, books and documentation kept by the Respondent. A number of breaches of the Solicitors (Scotland) Accounts Etc Rules 2001 were revealed.

6.3 In relation to the affairs of the client, Mr A, the inspection revealed from the client ledger operated by the Respondent that the sum of £389 in cash was received from the client on 11th March 2002 but not banked in the client bank account until 17th March 2003. The inspection at this time revealed the Respondent operated with sufficient surplus in her client account to cover this sum, however the client ledger had not been updated to show the receipt of money and therefore the records were incorrect for a period in excess of one year.

6.4 The Respondent on 1st November 2002 changed from a computer system of accounting to a manual system. The inspection revealed that the client debit and credit balances were not all transferred onto the manual ledgers. In particular the inspection revealed that a credit balance of £123.04 in relation to account identification BOUS0001/2 – Mr B had not been transferred.

- 6.5 The inspection revealed that the client cash book operated by the Respondent did not contain sufficient information to associate receipts and payments to particular client ledgers. In particular:-
- (a) 6th February 2003 - £81 received re. Mr C, the cashbook operated by the Respondent contained no reference to this client. The entry states “Scottish Court Service” for the credit and debit of the funds.
 - (b) 13th December 2002 - £120 cash received from Mr D. The cashbook operated by the Respondent contained no reference to the client. The entry states “Accounting Officer” for the credit of the funds.
- 6.6 Further the accounts summary prepared by the Respondent in respect of the month of March 2003 was noted to be completed in lead pencil. To ensure a permanent record, all entries by the Respondent should have been completed in ink.
- 6.7 The inspection revealed that firm trial balances had not been prepared by the Respondent since 31st October 2002. Further the outstanding balance in respect of a loan from the Bank of Scotland where payments of £237 were made on a monthly basis was not produced.
- 6.8 Client lists of balances had not been prepared since 31st October 2002 nor had statements of surplus been prepared since 31st October 2002. Further the firm

trial balance prepared by the Respondent to 31st October 2002 appeared to contain information from a period prior to the commencement of the business.

6.9 Inspection of 11th September 2003

On 11th September 2003 the Complainers then acting in pursuit of their statutory duties inspected the financial records, books and documentation kept by the Respondent. The inspection arose as a result of concern expressed by the Complainers regarding the method of book keeping kept by the Respondent. In particular during the course of a previous inspection on 28th April 2003 a number of concerns were identified to the Complainers. As a result a further inspection was considered necessary on 11th September 2003. This inspection revealed to the Complainers a further number of breaches of the Solicitors (Scotland) Accounts Etc Rules 2001.

6.10 At the time of the inspection a number of important financial records relating to the firm were not available including the monthly firm trial balances from commencement of the practice operated by the Respondent, the firm's cash book for the same period, the firm's ledgers covering the same period and monthly bank reconciliations of the firm's accounts.

6.11 The inspection also revealed that a number of payments for outlays were received from the Scottish Legal Aid Board by the Respondent and credited directly to the firm account. Thereafter the Respondent some days later would make payment of the outlays. The Respondent should have credited the monies from the Legal Aid Board directly to the client

bank account and to client ledgers pending disbursement. The level of surplus held by the Respondent on her client account at the relevant dates prevented a deficit occurring. In particular the following were identified:-

(a) Mr E £140 received 29th August 2003

(b) Mr F £217.19 received 29th August 2003

- 6.12 The inspection revealed a fee of £495 excluding VAT having been debited to the ledger of a client, Mr C on 28th May 2003. Examination of the file revealed that this fee had never been rendered to the client.
- 6.13 The inspection revealed that the bank employed by the Respondent had failed to return cheques drawn on the client account.
- 6.14 The inspection revealed that the balance in the client cash book on 29th August 2003 did not agree with the balance used in the bank reconciliation. There was a discrepancy of £1.50 which related to a charge which had been omitted from the balance.
- 6.15 Having had a number of concerns regarding the manner in which the respondent maintained her books, financial records and documentation, the complainers endeavoured to carry out an inspection of the financial records, books and documentation maintained by the respondent on 23rd August 2004 and 29th September 2004. On both occasions, despite their best efforts, the financial documentation was not available. An excuse was offered by the respondent as to why the documentation was not available.

Thereafter, on 22nd October 2004, the complainers then acting in pursuit of their statutory duties inspected the financial records, books and documentation maintained by the respondent. This inspection arose as the result of the grave concern on the part of the complainers regarding the methods of bookkeeping maintained by the respondent. In particular, during the prior inspections of 28th April and 11th September, both 2003, the complainers identified repeated breaches of the Accounts Rules on the part of the respondent. This further inspection on 22nd October 2004 revealed to the complainers a number of further breaches of the Solicitors (Scotland) Accounts, etc, 2001 Rules, in particular as follows:-

- (a) It could not be ascertained from the records maintained by the Respondent when payments received from the Scottish Legal Aid Board had been made from the firm bank account operated by the Respondent. In particular in relation to the affairs of the following clients this information could not be ascertained.

CLIENT	AMOUNT	DATE RECEIVED FROM SLAB
Mr G	£256.02	8.9.04
Mr H	£161.50	11.8.04
Mr I	£447.50	4.8.04
Mr J	£351.00	4.8.04
Mr K	£305.00	4.8.04
Mr L	£641.15	8.7.04
Mr M	£157.90	2.7.04

- 6.16 The inspection revealed that the Respondent had not produced a statement confirming the surplus position of the client bank account.
- 6.17 The inspection revealed the existence of 16 old outstanding cheques which were noted on the firm bank reconciliation produced by the Respondent. All of these cheques were dated 2003. Two of the cheques were for large amounts. The Respondent was unable to provide confirmation as to what the cheques related to. These cheques were:-
- (a) 31st March 2003 Cheque number 311 to Glasgow Council for £3,632.80
 - (b) 5th April 2003 Cheque number 295 to Scottish Power for £1,933.01
- 6.18 The Respondent produced a trial balance which displayed figures which were cumulative figures. The figures should have related only to the current year. Further the trial balance required to be fully reviewed as at the date of the inspection the balances on nominal ledgers were recorded as “unallocated location” and the “client ledger account” could not be verified. The inspection also revealed a figure of £12,908.62 as being recorded within the firm’s trial balance as being petty cash. This figure was incorrect and required to be fully reconciled to disclose the actual amount of petty cash held in the office. The inspection further revealed payments of £833.33 being made from the petty cash account which would appear to relate to monthly loan repayments. These repayments should be identified and set against a loan

account. The inspection revealed no statements or reconciliations for the loan account being available for inspection. The inspection further revealed that salaries were paid from the petty cash in May 2004. Nor did the inspection reveal that the firm's loan account had been disclosed on the sums due by the firm section of the accountant's certificate.

6.19 The Complainers carried out an inspection of the financial records, books and documentation of the Respondent on three separate occasions over a period of thirteen months. On each of those occasions the inspection revealed repeated breaches of the Accounts Rules on the part of the Respondent. Following the inspection a detailed letter was intimated to the Respondent explaining the concerns of the Complainers and inviting the Respondent to rectify her bookkeeping practices to comply with her obligations in terms of the Accounts Rules. This encouragement was ignored by the Respondent as evidenced by her further failures to abide by the Accounts Rules as revealed in subsequent inspections. The Respondent displayed a repeated ignorance and lack of understanding of her obligations in terms of the Accounts Rules throughout each of the inspections to which she was subject.

7. Having considered the foregoing circumstances and the submissions on behalf of the parties, the Tribunal found the Respondent guilty of Professional Misconduct in cumulo in respect of her breach of Rules 4, 6, 8, 9 and 19 of the Solicitors (Scotland) Accounts Rules etc 2001

despite her shortcomings in this respect being brought to her attention by the Law Society.

8. Having heard the solicitor for the Respondent in mitigation the Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 23rd November 2005. The Tribunal having considered the Complaint dated 25th July 2005 at the instance of the Council of the Law Society of Scotland against Ghazala Ahmed of Ahmed Robertson & Ross, 207 Albert Drive, Glasgow; Find the Respondent guilty of Professional Misconduct in cumulo in respect of her breach of Rules 4, 6, 8, 9 and 19 of the Solicitors (Scotland) Accounts Rules etc 2001 despite her failures being brought to her attention; 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 a solicitor 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)

Kenneth R Robb
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

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 Reid advised the Tribunal that the Respondent's problems arose when she commenced practising as a sole practitioner in May 2002. At the inspection in April 2003 a number of breaches of the Accounts Rules were identified. These matters were drawn to the Respondent's attention and the Law Society went back for another inspection in September 2003. This inspection revealed further breaches of the Accounts Rules. Another inspection in October 2004 highlighted concerns in connection with payments received from the Legal Aid Board. The Law Society were concerned that despite matters being drawn to the Respondent's attention over a period of 13 months various matters had not been attended to. Mr Reid accepted that the individual breaches of the Accounts Rules were not particularly serious in themselves but due to the number of breaches and number of inspections carried out and the Respondent's failure to remedy the situation, Mr Reid submitted that this amounted to professional misconduct.

SUBMISSIONS FOR THE RESPONDENT

Ms Bennie, on behalf of the Respondent, accepted that *in cumulo* the Respondent's actings amounted to professional misconduct. Ms Bennie stated that the Respondent deeply regretted that she was before the Tribunal and was ashamed. Ms Bennie explained that the Respondent's practice was a Legal Aid practice. The Respondent had been in partnership with Robertson & Ross between 1999 and 2002 when she became a sole practitioner. The partnership of Robertson & Ross had the benefit of a good accountant but when the Respondent became a sole practitioner the accountant stayed with the other partners of the previous firm. This meant that the Respondent

had to obtain new accountants from October 2002 when the previous accountant stopped working for her. The first accountants that she used were ineffective and did not service her needs but this did not come to light until the inspection by the Law Society in April 2003. Ms Bennie stated that following this inspection the Respondent did take action by obtaining alternative accounting services. She instructed Javid & Co, Chartered Accountants hoping that they would be better than the previous certified accountants that she had used. Unfortunately the Respondent did not get the assistance required and her instructions were not carried out by the accountants who did not respond to the points raised by the Law Society. Ms Bennie referred the Tribunal to production 2 being a letter from Moughal Accountants February 2005 which set out the Respondent's history of difficulties with different accountants. Ms Bennie stated that after the second inspection the Respondent knew that Javid & Co were not carrying out their job properly but it took some time to get all her papers from them. Ms Bennie also referred the Tribunal to the letter from Accounting Services for Scottish Solicitors which confirmed the Respondent's difficulties. Ms Bennie emphasised that she was providing this information by way of explanation rather than excuse. In 2002/2003 the Respondent had set up on her own and depended on those who gave her accountancy advice. At this time the Respondent was also undergoing domestic difficulties. Ms Bennie explained that the Respondent had now sorted all matters out to the satisfaction of the Law Society and referred the Tribunal to a letter from the Law Society indicating that the outstanding matters had been attended to and it was appropriate to return her firm to the routine cycle of inspections. Ms Bennie explained that the Respondent had worked hard with Moughal Accountants and dealt with all the previous failings. She now had systems in place in connection with Legal Aid receipts, reconciliations, VAT, monthly accounts and the preparation of the accounts certificates. Ms Bennie invited the Tribunal to consider dealing with the matter by way of a Censure or a Censure and a fine. She asked that the Tribunal not Restrict the Respondent's practising certificate explaining that she was exclusively engaged in immigration work and servicing a specialised need.

DECISION

The Tribunal noted that a lot of the breaches of the Accounts Rules were technical in nature but was satisfied that *in cumulo* the number of breaches of the Accounts Rules amounted to professional misconduct. The Accounts Rules are in place in order to protect clients' money and ensure that business is operated in a proper manner. The Tribunal was however impressed that the Respondent had sorted all matters out with her new accountants. The Tribunal also noted that at no time had clients' money been at risk. The Tribunal further took into account the fact that the Respondent was carrying out specialist immigration work which was meeting a legal need for this type of service. Although the Respondent had to take ultimate responsibility, the Tribunal noted that she had had an unfortunate experience with two accountants. She now had a good system in place and the Tribunal was satisfied that the problems were unlikely to reoccur. The Tribunal accordingly considered that a Censure would be sufficient penalty. The Tribunal made the usual order with regard to expenses and publicity.

Vice Chairman