

**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

**AUDREY PERELLA, Solicitor,
formerly of 9 Strathmore House,
Princes Square, East Kilbride,
Glasgow and now at 4 Ardencaple
Drive, Helensburgh**

1. A Complaint dated 30th December 2004 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Audrey Perella, Solicitor, formerly of 9 Strathmore House, Princes Square, East Kilbride, Glasgow and now at 4 Ardencaple Drive, Helensburgh (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 19th May 2005 and notice thereof was duly served on the Respondent.
4. At the hearing on 19th May 2005 the Complainers were represented by their Fiscal, Paul Reid, Solicitor, Glasgow. The Respondent was not present but was represented by her solicitor, Mr McCann, Solicitor, Clydebank. Mr McCann made a motion to adjourn due to the Respondent's ill health and it was agreed that the matter be adjourned to a preliminary hearing on 26th July 2005 and a substantive on 1st September 2005.
5. When the case called for a preliminary hearing on 26th July 2005 the Complainers were represented by their Fiscal, Paul Reid. The Respondent did not appear and was not represented. The case was continued to the substantive hearing on 1st September 2005.
6. When the case called for a substantive hearing on 1st September 2005 the Complainers were represented by their Fiscal, Paul Reid, Solicitor, Glasgow. The Respondent was not present and not represented. A letter was placed before the Tribunal from Mr McCann, Solicitor, Clydebank indicating that he had withdrawn from acting and that the Respondent was not to appear at the hearing. The Tribunal proceeded in the Respondent's absence.

7. After hearing evidence on behalf of the Complainers the Tribunal found the following facts established

7.1 The Respondent is a solicitor enrolled in the Register of Solicitors in Scotland. From 27th February 1995 until 13th February 2001 the Respondent operated as a sole practitioner trading as the firm Mesdames A. Perella & Company.

7.2 Appointment of Judicial Factor

Acting in pursuit of their statutory duties the Complainers carried out an inspection of the financial records and books kept by the Respondent. A number of breaches of the Accounts Rules were identified to such an extent that it was thought appropriate for a Judicial Factor to be appointed. Morna Grandison was appointed Judicial Factor ad interim in terms of Section 41 of the Solicitors (Scotland) Act 1980 on the Estate of the Respondent and over her firm by the Court of Session on 13th February 2001. The appointment was subsequently confirmed on 9th March 2001. The Judicial Factor attended at the office premises of the Respondent and recovered what files and documentation she could for her examination. The accounting records of the Respondent were not computerised. The books of account had not been written up for some time prior to the attendance of the Judicial Factor. The accounting records were poor and source documentation was missing. A reconstruction exercise had to be carried out by the Judicial Factor to establish a position with respect to bank reconciliations and the individual client ledger. As a result of the poor state of the accounting records it had not been possible to identify the nature and source of every accounting

transaction which took place on the client account operated by the Respondent. From the reconstructed accounting records on the date of the appointment of the Judicial Factor, namely 13th February 2001, there was a deficit on the client account operated by the Respondent amounting to £25,546.74. As at 13th February 2001 an examination of the personal and business assets of the Respondent shows quite clearly her liabilities were well in excess of her assets. An examination of financial records of the Respondent from January 1999 to February 2001 showed that on a repeated basis the Respondent utilised client funds to stay within her overdraft limit on her firm's account and issued cheques in respect of her firm's expenses such as wages.

8. Having considered the foregoing circumstances and having heard submissions from the Complainers the Tribunal found the Respondent guilty of Professional Misconduct in respect of:

- 8.1 Her breach of Rule 4 of the Solicitors (Scotland) Accounts Rules 1997.
- 8.2 Her embezzlement for personal gain of clients funds to which she was not entitled.

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

Edinburgh 1st September 2005. The Tribunal having considered the Complaint dated 30th December 2004 at the instance of the Council of the Law Society of Scotland against Audrey Perella, Solicitor, formerly of 9 Strathmore House, Princes Square, East Kilbride, Glasgow and now at 4 Ardencaple Drive, Helensburgh; Find the Respondent guilty of Professional Misconduct in respect of her embezzlement of client funds and her breach of Rule 4 of the Solicitors

(Scotland) Accounts Rules 1997; Order that the name of the Respondent, Audrey Perella, 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 a 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 but will be deferred until the conclusion of any criminal proceedings against 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

It was noted that the case had previously been adjourned due to the Respondent's ill health. It was further noted that the solicitor acting on behalf of the Respondent had written to the Tribunal on 8th August 2005 indicating that he was withdrawing from acting and that neither he nor the Respondent was to attend the Tribunal on 1st September. No motion for an adjournment was made and no fresh medical evidence was lodged with the Tribunal. The Tribunal determined to proceed in the Respondent's absence.

EVIDENCE FOR THE COMPLAINERS

The Complainers led the evidence of Norma Grandison, Judicial Factor who confirmed that she was appointed to the estate of the Respondent under Section 41 of the Solicitors (Scotland) Act 1980 on 13th February 2001 and that the appointment was subsequently confirmed on 9th March 2001. Ms Grandison stated that previous Law Society inspections had led to the conclusion that the books of the practice were so bad that the position of the firm could not be ascertained and it was accordingly necessary to petition for a judicial factory. Ms Grandison stated that when she attended at the Respondent's practice there were no staff present and the office had been abandoned. She and her staff packed up the office and took the files to Edinburgh and thereafter reconstructed the accounting records which had not been kept up to date. Ms Grandison stated that there were 18 months to 2 years of records which had not been written up. As a result of reconstructing the accounts it became apparent that there was a shortage on the client account of £25,546.74. It was clear that around the end of March 2000 the client A received a payment in a divorce settlement which was lodged by the Respondent on special deposit account. This client was legally aided and the Respondent had received monies from the Legal Aid Board and once the divorce settlement was paid the money should have been refunded to the Legal Aid Board but this was not done. The Respondent then uplifted the money and put it into a general client fund contrary to the Accounts Rules. Thereafter the Respondent wrote personal cheques from the client account and moved money from the client account to the firm account to meet her personal expenditure. Ms Grandison confirmed that from examination of the Respondent's assets and liabilities

it was clear that she was insolvent and was only surviving due to her embezzlement of client funds.

Mr Reid asked the Tribunal to make a finding of professional misconduct.

DECISION

The Tribunal found Ms Grandison to be a credible and reliable witness. It was clear from her evidence and the documents lodged that the Respondent had breached the Accounts Rules and had embezzled £25,546.74 of clients money. The Tribunal was satisfied beyond reasonable doubt that this occurred and that it amounted to professional misconduct.

The essential and absolute qualities of a solicitor are honesty, truthfulness and integrity. It is essential for the public to have confidence in the legal profession that solicitors act with integrity. The Respondent's conduct in embezzling money from clients is a complete breach of trust and is regrettably disgraceful and dishonourable and brings the legal profession into disrepute. The Tribunal had no hesitation in striking the Respondent's name from the Roll of Solicitors. The Tribunal indicated that it was intended to award expenses on the basis of the last published Law Society Table of Fees for general business with a unit rate of £11.85 and no alternative submissions with regard to expenses were made. The Tribunal made the usual order with regard to publicity but ordered that publicity be deferred until after the conclusion of any criminal proceedings against the Respondent so as to avoid prejudice to any such criminal proceedings.