

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

**ZOSIA MARION ELIZABETH
FRASER, Solicitor, Flat 1x3, 83
Magdalen Yard Road, Dundee**

1. A Complaint dated 25 September 2007 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that Zosia Marion Elizabeth Fraser, Solicitor, 1x3, 83 Magdalen Yard Road, Dundee (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 7 February 2008 and notice thereof was duly served on the Respondent.
4. When the Complaint called on 7 February 2008, the Complainers were represented by their Fiscal, Jim Reid, Solicitor, Glasgow. The Respondent was present and represented by David McKie, Solicitor, Glasgow.

5. A Joint Minute was lodged admitting the averments in the Complaint. The Tribunal found the following facts established.

5.1 The Respondent was born on 18 July 1977. She was admitted as a Solicitor on 27 September 2001. She was enrolled as a Solicitor in the Register of Solicitors in Scotland on 1 October 2001.

From 22.11.01 to 30.04.02 she was employed by Messrs Macdonald Garvie, Solicitors, Dundee. From 1.5.02 to 03.05.02 she was employed by RSB Macdonald, Solicitors, Dundee. From 06.05.02 to 31.10.02 and thereafter from 14.05.03 until 04.10.04 she was employed by Messrs Muir Myles Laverty, Solicitors, Dundee. From 11.10.04 to 08.09.06 she was employed by Messrs Myles & Co, Solicitors, Dundee.

5.2 The Respondent was employed as a Solicitor by Messrs Muir Myles Laverty, Solicitors, Meadow Place Buildings, 88 Bell Street, Dundee. She was employed by the said firm inter alia between 22 April 2003 and 7 June 2004.

5.3 The Respondent carried out work for clients of Messrs Muir Myles Laverty. She carried out various types of legal work for clients, including representing clients in matrimonial matters.

5.4 In the course of acting for said clients the Respondent requested and received from clients, cash payments in respect of fees and VAT. The Respondent failed to make payment to the firm in respect of cash received from clients to account of fees and VAT.

5.5 An examination of the firm's accounting records, including the client files, disclosed that the Respondent had embezzled £1,315 of money paid by clients.

5.6 On 11 May 2007 the Respondent pled Guilty at Dundee Sheriff Court to an offence of embezzlement in that she embezzled £1,315 of money while an employee of Messrs Muir Myles Laverty, Solicitors. She was duly convicted on said date.

Sentence was deferred to 8 June 2007 on which date the Court imposed a Community Service Order of 160 hours.

6. Having considered the foregoing circumstances and the submissions by both parties, the Tribunal found that Section 53 (1)(b) of the Solicitors (Scotland) Act 1980 applied to the circumstances of this case and pronounced an Interlocutor in the following terms:-

Edinburgh 7 February 2008. The Tribunal having considered the Complaint dated 25 September 2007 at the instance of the Council of the Law Society of Scotland against Zosia Marion Elizabeth Fraser, Solicitor, Flat 1x3, 83 Magdalen Yard Road, Dundee, in respect of the conviction of the Respondent of an act involving dishonesty; Order that the name of the Respondent, Zosia Marion Elizabeth Fraser, be struck from 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 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

11. 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

The Complaint was made to the Scottish Solicitors Discipline Tribunal under the provisions of Section 53(1)(b) of the Solicitors (Scotland) Act 1980 which provides for the Tribunal exercising certain statutory powers where a solicitor has been convicted of an act involving dishonesty. The Respondent pled guilty to the terms of the Complaint. The Respondent lodged various reports with the Tribunal.

SUBMISSIONS FOR THE COMPLAINERS

Mr Reid clarified that the Respondent pled guilty and was convicted of embezzlement of £1315.

SUBMISSIONS FOR THE RESPONDENT

Mr McKie referred the Tribunal to the psychiatrist's report and social enquiry report and also to the reference lodged. Mr McKie also referred the Tribunal to the letter sent by the Respondent to the Law Society in August 2006 indicating that she did not intend to re-apply for a practising certificate. Mr McKie explained that the Respondent had an underlying condition of which she was not aware. The Respondent had studied to become a lawyer but had built up a number of debts including student loans and council tax liabilities which had a snowball effect on her. She was working as a trainee and also working all weekend in a pub which reduced her morale and her ability to work. It was these pressures plus her underlying condition that led to what had happened. Mr McKie stated that the Respondent was very contrite and apologetic and had difficulty identifying herself with the person who committed these offences four years ago. Mr McKie clarified that most of the money had been repaid at the time and all of the money had been repaid by the time of the court appearance. At the time that the matters became public the Respondent was working well at Myles & Company. Mr McKie outlined the Respondent's personal, employment and financial position and emphasised that the Respondent had worked hard to become a solicitor and would like to return to the solicitors profession at some point in the future. He stated that the Respondent realised that she had acted recklessly and dishonestly and emphasised that the Respondent was a

different person now.

In response to a question from the Tribunal, the Respondent clarified that she left Muir Myles Laverty in September 2004 and started work with Myles & Company in October 2004. A partner in the firm of Muir Myles Laverty raised with her the question of a discrepancy on a file in October 2004 and she then admitted that there were a number of files involved. At this time her current employer was made aware of what was happening but she continued to work with him for a 2 year period and Mr McKie referred the Tribunal to the reference lodged.

DECISION

The essential qualities of a solicitor are honesty, truthfulness and integrity. The Respondent's conduct in this case is regrettably disgraceful and dishonourable and totally contrary to the ethical standards expected of the legal profession. The Tribunal noted the financial pressures that the Respondent was under but many solicitors starting out in practice will have student debts and financial problems. This cannot be used as an excuse to commit embezzlement. The Tribunal had some sympathy for the Respondent's individual position but did not consider that her medical condition was such that she had lost a sense of social responsibility. The Tribunal took account of the fact that the Respondent had worked acceptably with another firm for a 2 year period after the incident, however the Tribunal also noted that the offences took place while she was an employee and there were a number of incidents, making it a course of conduct rather than a one off situation. In the circumstances, despite the diligent work done by the Respondent after the incident, the Tribunal considers that the Respondent's conduct brings the profession into such disrepute that she cannot continue as a lawyer and she is not a fit and proper person to be on the Roll of Solicitors. The Tribunal made the usual order for publicity and expenses.

Vice Chairman