

**THE SOLICITORS (SCOTLAND) ACT 1980
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL**

FINDINGS

in Complaint

by

**THE COUNCIL OF THE LAW
SOCIETY of SCOTLAND, 26
Drumsheugh Gardens, Edinburgh**

against

**LYNNE HELEN CRAIG or SIM,
Solicitor, 6 Millbrae Court,
Langside, Glasgow**

1. A Complaint dated 29 April 2008 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that Lynne Helen Craig or Sim, Solicitor, 6 Millbrae Court, Langside, 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 14 August 2008 and notice thereof was duly served on the Respondent.
4. On 14 August 2008, the Complainers were represented by their Fiscal, Valerie Johnston, Solicitor, Edinburgh. The Respondent was not present or represented. The Tribunal adjourned the hearing to 1 October 2008 on the motion of the Fiscal.

5. The hearing took place on 1 October 2008. The Complainers were represented by their Fiscal, Valerie Johnston, Solicitor, Edinburgh. The Respondent was not present or represented.

6. The Tribunal heard evidence from the Depute Clerk with regard to service of the Complaint. In addition, the Tribunal heard evidence from the Depute Clerk that a letter had been delivered to the Respondent by Sheriff Officers advising her that the hearing had been adjourned to 1 October 2008 and that she should seek legal advice prior to that hearing. That letter also advised the Respondent that the Complaint could be disposed of in her absence if she did not attend on that date. The Tribunal resolved to proceed in the Respondent's absence. The Tribunal noted that no Answers had been lodged by the Respondent. The Tribunal allowed the Fiscal's motion to lead evidence by way of Affidavit in terms of Rule 9 of the Tribunal's Rules. Affidavit evidence from Nicola Simone Cannon, Margaret Bannon Stewart and from Kirsten Mavor, the Law Society's Case Manager was lodged.

7. The Tribunal found the following facts established
 - 7.1 The Respondent was born on 7 July 1977. She was admitted as a Solicitor on 6 November 2001 and enrolled in the Register of Solicitors in Scotland on 8 November 2001. She was initially employed by Logan & Co Solicitors and then by Cannons Law Partnership, 30 George Square, Glasgow in November 2002. She was a Partner in Cannons Law Partnership, from 1 November 2004 to 31 October 2006. She is not currently practising as a solicitor.

CANNONS LAW PARTNERSHIP
 - 7.2 By letter dated 27 February 2007 Nicola S Cannon, a partner in the firm of Cannons Law Partnership (hereinafter referred to as "the firm") notified the Complainers of a number of false

accounting transactions carried out by the Respondent which had come to light when she was on maternity leave. She submitted a six monthly Accounts Certificate for the period 1 August 2006 to 31 January 2007 which was qualified as the Respondent had paid sums of money from two executry accounts to or on behalf of four other clients. In each case the false accounting was done by the Respondent herself in the absence of the cashier and covered by misleading entries. On discovery the Respondent paid the shortfall on any of the accounts and the firm made up the interest. The total sum involved was £16,956.84.

- 7.3 The client MB and his firm MBD were involved in civil litigation. Messrs McCluskey Browne Solicitors acted for the pursuer LF. At conclusion of the case the defenders had to pay a sum of £7,523 plus £3,991.49 in expenses to the pursuer. The Respondent issued a cheque for the principal sum drawn in favour of McCluskey Browne Solicitors on 28 December 2005 drawn on the executry of Mr W. She falsified an entry in the accounts to show it was a payment due to them by the deceased. She paid the expenses by telegraphic transfer from the executry of Mr C on 30 March 2006. She falsified an entry in the accounts to show it as an interim payment to a beneficiary.
- 7.4 The firm acted for the client JB and his firm TTC in a litigation matter. He was advised by the Respondent that he had been successful in the claim. On 16 February 2006 she paid him £2,642 by telegraphic transfer and on 7 March 2006 a further £475.75 both from the executry account of Mr C. She falsified an entry in the accounts for each transaction to show they were payments to the Abbey National for credit card debts of the deceased.
- 7.5 The firm acted for DMcN in a claim against Scottish Power. The Respondent advised him that she had been successful in March

2006 when no settlement had been made. On 14 March 2006 she paid him the sum of £2,705.99 by telegraphic transfer from the executory account of Mr C. She falsified an entry in the accounts to show the payment was to MC for re-imbusement of funeral account. She then was successful in recovering that sum in the claim and paid it into the executory account with a false entry of 6 June 2006 stating it was a refund of funeral expenses covered by a policy.

7.6 The firm acted for the client Mr SS-E in a claim by him against Reality Transport. The Respondent told the client he had been successful when he had not and on 24 May 2006 paid him £2,324.60 from the executory of Mr C. She falsified an entry in the accounts to show that the payment was an interim payment due to SS. No such interim payment was due.

8. Having considered the foregoing circumstances, the Tribunal found the Respondent guilty of Professional Misconduct in respect of:

8.1 her misappropriation of clients' funds amounting to £16,956.84, the payment of that sum to other clients and the falsification of accounting entries to disguise her dishonesty;

8.2 her misleading of clients and her breach of Rule 6(1) of the Solicitors (Scotland) Accounts, etc, Fund Rules 2001 in that she took funds from clients' estates and paid them to or on behalf of other clients.

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

Edinburgh 1 October 2008. The Tribunal having considered the Complaint dated 29 April 2008 at the instance of the Council of the Law Society of Scotland against Lynne Helen Craig or Sim, Solicitor, 6 Millbrae Court, Langside, Glasgow; Find the Respondent guilty of

Professional Misconduct in respect of her misappropriation of clients' funds totalling £16,956.84, her payment of these funds to other client accounts, her falsification of accounting entries to disguise her dishonesty, her misleading of clients and her breach of Rule 6(1) of the Solicitors (Scotland) Accounts, etc, Fund Rules 2001; Suspend the Respondent from practice as a solicitor for a period of ten years; 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 £14 with the exception of the expenses in relation to the hearing on 14 August 2008; and Direct that publicity will be given to this decision but shall be withheld until a date to be determined by the Tribunal and that this publicity should include the name of the Respondent.

(signed)

David Coull

Vice Chairman

10. 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 Respondent was not present or represented at the hearing. She did not lodge Answers to the Complaint. The Tribunal heard evidence from the Depute Clerk that the Complaint was sent to the Respondent by recorded delivery mail on 16 May 2008 and had not been returned. The Depute Clerk confirmed that a letter had been delivered to the Respondent by Sheriff Officers on 5 September 2008 advising that the Hearing had been adjourned to 1 October 2008 and that the Respondent should seek legal advice prior to that hearing as the Complaint could be dealt with in her absence if she did not appear on that date. The Tribunal agreed to proceed in the Respondent's absence. Ms Johnston made a motion to amend the figure at the end of Article 2.1 from £16,965.84 to £16,956.84. The Tribunal agreed to grant that motion. Ms Johnston made a motion to allow her to lead evidence by way of affidavit and the Tribunal agreed to that motion.

EVIDENCE FOR THE COMPLAINERS

Ms Johnston referred the Tribunal to the affidavit evidence of Nicola Simone Cannon and Margaret Bannon Stewart of Cannons Law Partnership and Kirsten Mavor, Case Manager with the Law Society's Client Relations Department.

Ms Cannon's affidavit advised that she is a solicitor and has been a partner in the firm of Cannons Law Partnership, Glasgow for a period of four years. It further advised that the Respondent was a salaried partner with the firm of Cannons Law Partnership from 1 August 2004 until 31 October 2006. The Respondent was dismissed in October 2006 as it was discovered that she had carried out several false accounting transactions relating to clients' money. She had been employed to do litigation and executry work. The affidavit stated that Ms Cannon advised the Complainers by letter dated 27 February 2007 of a number of false accounting transactions carried out by the Respondent which had come to light when the Respondent was on maternity leave. At the same time, Ms Cannon submitted the firm's six monthly Accounts Certificate for the period 1 August 2006 to 31 January 2007 which was qualified as it was discovered that the Respondent had paid sums of money from two executry accounts to or on behalf of four other clients. In each case, the false accounting was

done by the Respondent herself in the absence of the cashier and covered by misleading entries. When what had happened was discovered, Ms Cannon immediately made up the shortfall and interest. When confronted, the Respondent and her husband refunded the shortfall which amounted to £16,956.84 plus interest of £477.49. The total amount was £17,434.33.

Ms Cannon's affidavit advised that her firm's client MB and his firm MBD were involved in civil litigation. Messrs McCluskey Browne Solicitors acted for the Pursuer LF. At the conclusion of the case, the Defenders had to pay a sum of £7,523 plus £3,991.49 in expenses to the Pursuer. The Respondent issued a cheque for the principal sum drawn in favour of McCluskey Browne Solicitors on 28 December 2005, drawn on the executry of Mr W. The Respondent falsified an entry in the accounts to show it was a payment to them by the deceased. The Respondent paid the expenses by telegraphic transfer from the executry of Mr C on 30 March 2006. The Respondent falsified an entry in the accounts to show it was an interim payment to a beneficiary.

Ms Cannon's affidavit advised that her firm acted for a client TTC along with one of their customers JB in a litigation matter. JB was advised by the Respondent that he had been successful in the claim. On 16 February 2006 she paid him £2,642 by telegraphic transfer and on 7 March 2006 a further £475.75, both from the executry account of Mr C. The Respondent falsified an entry in the accounts for each transaction to show they were payments to the Abbey National for credit card debts of the deceased.

Ms Cannon's affidavit advised that her firm acted for DMcN in a claim against Scottish Power. The Respondent advised him that she had been successful in March 2006 when no settlement had been made. On 14 March 2006 she paid him the sum of £2,705.99 by telegraphic transfer from the executry account of Mr C; she falsified an entry in the accounts to show the payment was to MC for reimbursement of a funeral account. She was then successful in recovering that sum in the claim and paid it into the executry account with a false entry of 6 June 2006 stating that it was a refund of funeral expenses covered by a policy.

Ms Cannon's affidavit advised that her firm acted for client Mr SS-E in a claim by him against RT. The Respondent told the client that he had been successful when he had not and on 24 May 2006 paid him £2,324.60 from the executry of Mr C. She falsified an entry in the accounts to show that the payment was an interim payment due to SS. No such interim payment was due. Copies of correspondence with the Complainers relating to the dishonest actions of the Respondent were annexed to the affidavit and docquets were signed by Ms Cannon on each of the productions confirming that they related to the affidavit.

Ms Johnston then referred the Tribunal to the affidavit evidence of Margaret Bannon Stewart, Cashier in the firm of Cannons Law Partnership. Ms Stewart's affidavit advised that she is a SOLAS Qualified Cashier in the Cannons Law Partnership, Glasgow. She is also the firm's office manager and has worked at the firm for a period of six and a half years. Ms Stewart's affidavit stated that the Respondent was a salaried partner with the firm. The Respondent's position ended in October 2006 as it was discovered that she had carried out several false accounting transactions relating to clients' money. She was involved in litigation and executry work and was on maternity leave when the problems came to light. Most of these transactions were carried out around the time when Ms Stewart was off sick and in hospital for two weeks.

Ms Stewart's affidavit stated that the first thing that highlighted the possible problem was when she informed Ms Cannon that a client she was trying to settle a claim for had advised Ms Stewart that he had already received a settlement cheque from the firm. The client was a Mr SS-E and he had been a former client of the Respondent. He informed the firm that his claim had been settled and that he had received a payment of £2,324.60 from the firm on 24 May 2006. The affidavit stated that Ms Stewart could not understand how this was possible as there was nothing in the file to suggest that the claim had been settled. On checking the entries Ms Stewart discovered that funds had been drawn from the executry of Mr C. The Respondent had falsified the entry in the accounts to show that the payment was an interim payment due to SS. No such interim payment was due.

Ms Stewart's affidavit advised that Mr Cannon, Ms Cannon and herself worked well into the night to check the position and see what they could uncover. They discovered other false entries. The Respondent had paid other sums of money from two executry accounts to or on behalf of four other clients. In each case the false accounting was done by the Respondent herself in the absence of Ms Stewart and covered by misleading entries. There were only two people at that time who could post entries onto the firm's cash system. These persons were Ms Stewart and Mr Cannon. On checking the ledgers, Ms Stewart discovered that in each case where funds had been falsely transferred from the executry accounts, there was a lack of narrative as the entry just said "transferred", also there were no supporting posting slips or audit trail. Ms Stewart's affidavit advised that she knew that she had not posted these entries and when she consulted Mr Cannon, he confirmed that he had not posted any of these entries. When what had happened was discovered, Ms Cannon immediately covered the shortfall on the accounts and the interest. The total sum involved was £17,434.33.

Ms Stewart's affidavit advised that in relation to client MB and his firm MBD, the Respondent issued a cheque for the principal sum of £7,523 drawn in favour of McCluskey Browne Solicitors on 28 December 2005 drawn on the executry of Mr W. The Respondent falsified an entry in the accounts to show it was a payment due to "MB" as a beneficiary of the deceased. The Respondent paid the expenses of £3,991.49 by telegraphic transfer from the executry of Mr C on 30 March 2006. She falsified an entry in the accounts an interim payment to a beneficiary.

Ms Stewart's affidavit stated that in relation to a client TTC on 16 February 2006, the Respondent paid JB £2,642 by telegraphic transfer and on 7 March 2006 a further £474.75 both from the executry account of Mr C. She falsified an entry in the accounts for each transaction to show they were payments to the Abbey National for credit card debts of the deceased.

Ms Stewart's affidavit advised that in relation to the client DMcN on 14 March 2006, the Respondent paid him the sum of £2,705.99 by telegraphic transfer from the executry account of Mr C. The Respondent falsified an entry in the accounts to show the payment was to MC for reimbursement of a funeral account. The Respondent was then successful in recovering that sum in the client's claim and paid it into the

executory account with a false entry of 6 June 2006 stating it was a refund of funeral expenses covered by a policy.

The money taken was repaid to the firm by the Respondent's husband and through various credit cards. Ms Cannon wrote to the Respondent terminating the Respondent's employment right away. Ms Stewart's affidavit advised that the Respondent took on too much work and dug herself into a hole which she made worse for herself. Ms Stewart's affidavit advised that she extracted the ledger cards for Ms Cannon to forward on to the Law Society once the matter had been reported.

Ms Johnston then referred the Tribunal to the affidavit evidence of Kirsteen Mavor from the Law Society's Client Relations Department. The affidavit advised that Ms Mavor has been employed by the Complainers for two years. Ms Mavor's affidavit advised that she was the Case Manager in relation to this Complaint. The affidavit confirmed that the Respondent is a solicitor enrolled in Scotland. She was born on 7 July 2007 and admitted as a solicitor on 6 November 2001 and enrolled in the Register of Solicitors on 8 November 2001.

Ms Mavor's affidavit stated that the Respondent was initially employed by Logan & Co Solicitors then by Cannons Law Partnership, 30 George Square, Glasgow in November 2002. The Respondent was then a partner in Cannons Law Partnership from 1 November 2004 to 31 October 2006. She is not currently practising as a solicitor. The affidavit advised that the Respondent has not responded personally to the issues which are the subject of this Complaint.

DECISION

The Tribunal was satisfied that the Respondent was aware of the Complaint and the hearing. The Tribunal noted that the Respondent had not lodged Answers or attended the Tribunal hearing. The Tribunal was satisfied beyond reasonable doubt on the basis of the Productions and the affidavit evidence lodged that the Respondent had misappropriated clients' funds, paid clients' funds to other clients' accounts, had

falsified accounting entries to disguise her dishonesty and had breached Rule 6(1) of the Solicitors (Scotland) Accounts, etc Fund Rules 2001.

The Tribunal noted that this was a case involving fraud and considered that such dishonest behaviour strikes at the very heart of the duty of every solicitor to be honest, open and accountable when holding money on behalf of clients. However, the Tribunal noted that there had been no personal gain in this case and that the fraud had been perpetrated in an opportunist manner during a relatively short period of time when the Respondent was under a great deal of work pressure. In addition, the Tribunal took into account the Respondent's previous unblemished record and the fact that the money had been paid back immediately with no loss to clients or the firm.

For the above reasons the Tribunal considered that it was not necessary to strike the Respondent off the Roll of Solicitors. The Tribunal took the view that the public interest would be adequately protected by suspending the Respondent from practising as a solicitor for a lengthy period. The Tribunal imposed a suspension of ten years. The Tribunal ordered the Respondent to meet the expenses of the Tribunal and the Complainers with the exception of the hearing on 14 August 2008. The Tribunal directed that publicity will be given to this decision. However, in view of the possibility of criminal proceedings being raised in relation to this matter the Tribunal directed that such publicity shall be withheld until a date to be later determined by the Tribunal.

Vice Chairman