

**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**

**MARTIN RAMSAY LONGMUIR,  
formerly trading as Longmuir &  
Co, 93 Hope Street, Glasgow and  
now care of Ace Accounting  
Services, 272 High Street, Glasgow**

1. A Complaint dated 8 October 2007 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Martin Ramsay Longmuir, formerly trading as Longmuir & Co, 93 Hope Street, Glasgow and now care of Ace Accounting Services, 272 High Street, 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 7 February 2008 and notice thereof was duly served on the Respondent.
4. The hearing took place on 7 February 2008. The Complainers were represented by their Fiscal, Elaine Motion, Solicitor-Advocate,

Edinburgh. The Respondent was not present but was represented by his solicitor, David McKie, Glasgow.

5. A Joint Minute was lodged admitting the averments of fact, averments of duty and averments of professional misconduct in the Complaint as amended.
6. The Tribunal found the following facts established

6.1 The Respondent is a solicitor enrolled in Scotland. He was born on 31 March 1947. He was admitted as a solicitor on 9/11/79. He was thereafter employed in a number of different firms until 31 October 2004 at which time he became a sole practitioner, trading under the firm of Longmuir & Co, 93 Hope Street, Glasgow, (“the firm”). The Respondent ceased practice at the firm on 28 September 2006 as narrated below.

6.2 On 28 September 2006, Morna Grandison was appointed Judicial Factor ad interim in terms of Section 41 of the Solicitors’ (Scotland) Act 1980 on the estates of the Respondent and over the firm by the Court of Session.

6.3 On 26 October 2006, Morna Grandison was appointed permanent judicial factor.

6.4 Law Society Inspections – February, June and August 2006 – Ms A – Rule 4(1)(c) Accounts Rules Breaches

In February 2006, prior to a routine inspection of his books by the Complainers, the Respondent contacted the Complainers to advise that his records had been stolen. The stolen records covered the period from 1 June 2003 onwards. The Complainers attended the Respondents premises on 6 February 2006 (“the February inspection”). A limited inspection took

place and it was agreed that a further inspection would take place in June 2006 by which time the reconstructed records were expected to be available. Prior to the inspection scheduled for 7 and 8 June 2006 (“the June inspection”), the Respondent attended on the Complainers to advise that there was a deficit in the sum of £33,800 on his client account. The Respondent’s position was that he had been unaware of the deficit. In light of the serious issues raised, a re-inspection was recommended in mid August 2006 to ensure all matters had been dealt with and were in order. The deficit arose as follows.

- 6.5 In or about March 2003, the Respondent was instructed by Ms A to act on her behalf in the sale of Property 1 ( “the property”). The sale price was £76,000. The transaction settled on 9 July 2003 and after redemption of the mortgage over the property and payment of expenses the net free proceeds of sale due to Ms A totalled £33,847.64.
- 6.6 By letter of 15 July 2003, the Respondent confirmed to Ms A that the balance due to her was £33,847.64.
- 6.7 By irrevocable mandate dated 23 June 2003, Ms A instructed the Respondent to pay the free proceeds from the sale of the property direct to a Mr B.
- 6.8 On or about 14 July 2003, the sum of £33,847.64 was paid out by the Respondent to Mr B.
- 6.9 On 17 July 2003, the sum of £33,847.64 was also paid out by the Respondent to Ms A.
- 6.10 The client ledger indicated that towards the end of July 2003, two sums were posted to Ms A’s client ledger of £25,000 and £8,847 respectively. These entries were incorrectly posted to

the client's ledger. The cheque for £8,847 was returned marked "unpaid" and should not have remained on the client ledger. The sum of £25,000 belonged to another ledger.

- 6.11 Since July 2003 the Respondent's client account was therefore in deficit by at least £33,800.
- 6.12 Prior to and at the June Inspection the Respondent indicated he would obtain funds to clear the deficit detailed above. The Respondent chose to approach a third party Mr C, the financial adviser of Ms A. The Respondent received three cheques in the total sum of £33,600 from Mr C to clear the deficit. However all were returned unpaid by the bank. During this period funds were available from the Respondent's insurer. Accordingly the client account remained in deficit until the appointment of the judicial factor ad interim.
- 6.13 At the February inspection the Complainers found that several large client ledger balances had been held un-invested for considerable periods; that there was no system in place regarding money laundering and that the firm records had only been balanced up to 30 November 2005 with the consequence that the trial balances did not show the true financial position of the firm as at the date of inspection.
- 6.14 At that time, as indicated above, the Complainer requested that the Respondent reconstruct the records and a re-inspection at the solicitor's expense was arranged to take place about three months later to monitor progress.
- 6.15 By letter of 14 February 2006, the Respondent was advised of the issues arising from the February inspection.

- 6.16 The Complainers then carried out the June inspection. At that time concerns were raised in the relation to the serious arrears and reconstruction of the client records by the Respondent.
- 6.17 By letter of 16 June 2006, the Respondent was advised of the issues resulting from the June inspection.
- 6.18 On 21, 22 and 25 August 2006 (“the August inspection”) was carried out.
- 6.19 By letter of 29 August 2006, the Respondent was advised of the issues arising from the August inspection.
- 6.20 Law Society Inspections – February, June and August 2006 – Further Accounts Rules Breaches

The February, June and August inspections identified further breaches of the relevant account rules in particular:-

6.21 Rule 4 (1) (c)

The August inspection disclosed a continuing deficit on the client account as at 31 July 2006 of £35,548.14.

6.22 Rule 8- Properly kept records

- i. At the August inspection, the firm’s trial balance contained entries that either required to be removed or could not be verified and accordingly the trial balance did not reflect the true financial position of the firm at that time in particular:-

(a) Balances noted below could not be verified:-

- i. Business D - £2,583.15
- ii. Business E - £6,000.00
- iii. Business F - £703.16
- iv. Business G - £24,788.74
- v. Business H - £5,975.00
- vi. Business I - £2,472.84
- vii. Business J - £2,197.42
- viii. Business K - £1,425.00
- ix. Business L - £3,879.92

(b) Two balances in respect of loans were contained within the trial balance which appeared to have been repaid and required to be removed:-

- i. Business M - £1,310.71
- ii. Business N - £1,023.18

(c) The sum of £27,424.20 was noted within the loan section on the trial balance and its description made it unclear as to what that balance represented.

#### 6.23 Rule 11 – sums to be invested – February inspection

At the February 2006 inspection the following client credit balances in excess of £500 were noted which may have required to be invested:-

- A - Ms P - £531.45 since 7 January 2004
- B - Mrs Q Executry - £56,740.63 since 25 August 2005
- C - Mr R - £7,000 since 6 December 2005
- D - Mr and Mrs S - £543.18 since 14 October 2005

#### 6.24 Rule 11 sums to be invested – August inspection

At the August 2006 inspection the following client ledger cards were noted to have credit balances of £500 or more which may require to have been invested:-

A - Ms P - £531.45 since 7 January 2004

B - Mr T - £3,139.07 since 14 June 2006

C - Mr and Mrs V - £47,942 since 27 July 2006

D - Mrs Q - £57,316 held without interest being paid from 6 April 2006 to 18 August 2006

6.25 Rule 24 – money laundering – August inspection

No full identification or reasons why identification was not obtained, was seen for the clients or related third parties noted below:-

1. Mr and Mrs W
2. Mr X
3. Mr and Mrs Y
4. Miss Z
5. Mrs Q
6. Mr and Mrs AA
7. Mr BB

6.26 Law Society inspections - February, June and August 2006 – Terms of Business letters

No terms of business letters were seen to be issued in the following files:-

1. Mr X
2. Mr and Mrs S
3. Mrs CC
4. Miss DD

5. Miss Z
6. Mrs EE
7. Mr and Mrs AA
8. Mr FF
9. Mr GG

7. Having heard submissions from both parties, the Tribunal found the Respondent guilty of professional misconduct in respect of:

7.1 his having a shortage on his client account from July 2003 until September 2006 of at least £33,800 in breach of rule 4 of the Solicitors (Scotland) Accounts etc Rules 2001.

7.2 his failure between February 2006 and August 2006 to hold properly kept records to show a trial balance which accurately reflected the true financial position of his firm in breach of rule 8 of the said Accounts Rules.

7.3 his having between 7 January 2004 and 18 August 2006, client ledgers showing more than £500 in credit which had not been invested in breach of rule 11 of the said Accounts Rules.

7.4 his failure to have adequate systems in place and when in place failure to implement those systems to ensure that the Money Laundering Regulations were complied with in relation to his clients in breach of rule 24 of the said Accounts Rules.

7.5 his failure to submit terms of business letters in terms of Section 3 of the Solicitors (Scotland) (Client Communications) Practice Rules 2005 in respect of clients between August 2004 and 2 May 2006.

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

Edinburgh 7 February 2008. The Tribunal having considered the Complaint dated 8 October 2007 at the instance of the Council of the Law Society of Scotland against Martin Ramsay Longmuir, formerly trading as Longmuir & Co, 93 Hope Street, Glasgow and now care of Ace Accounting Services, 272 High Street, Glasgow; Find the Respondent guilty of professional misconduct in respect of his having a shortage on his client account of at least £33,800 from July 2003 until September 2006 in breach of rule 4 of the Solicitors (Scotland) Accounts etc Rules 2001, his breach of rules 8, 11 and 24 of the said Accounts Rules and his failure to submit terms of business letters in terms of Section 3 of the Solicitors (Scotland) (Client Communications) Practice Rules 2005; Suspend the Respondent from practice for a period of seven 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 £11.85; and Direct that publicity will be given to this decision and that this publicity should include the name of the Respondent but this publicity shall be deferred until the conclusion of any criminal proceedings against the Respondent.

**(signed)**

**Kenneth 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**

**Chairman**

**NOTE**

A Joint Minute was lodged admitting the facts, averments of duty and averments of professional misconduct in the Complaint as amended by the deletion of Article 5.1 and 7.4.

**SUBMISSIONS FOR THE COMPLAINERS**

Ms Motion stated that the most significant aspect of the Complaint was the deficit on the client account from Summer 2003 which had not come to light until the inspection of February 2006. Ms Motion referred the Tribunal to the Productions lodged the terms of which had been agreed. Production 1 was the report on the inspection of 6 February 2006. This referred to the Respondent's records as having been stolen. There was then a second inspection in June 2006. The Respondent advised the Law Society just prior to this inspection that he had become aware of the deficit. The deficit arose due to an error in the payment of £33,800 being paid in duplicate in 2003. Ms Motion stated that the Law Society had concerns with regard to the Respondent's general systems and the financial position of the firm. The third inspection took place in August 2006 and it became apparent that there were two sums transferred into Ms A's ledger account just after the double transfer out but neither of these sums should have been put on that ledger and there was accordingly a true deficit. Ms Motion stated that there had been a true deficit from 2003 until August 2006. There were also issues with regard to a breach of the Money Laundering Regulations, uninvested funds and records not being up to date. Ms Motion stated that there is still a deficit of just under £30,000 as at today's date. There were also concerns with regard to records not being properly kept and an inability to verify a number of funds and details. There were also sums uninvested from clients which went back some time. There were also issues in connection with money laundering and a lack of terms of business letters. Ms Motion stated that the insurers had refused to pay out in respect of the deficit. Discussions were ongoing with the Judicial Factor who remained in place and the Judicial Factor hoped not to have to make a claim on the Guarantee Fund but this was not yet certain.

## **SUBMISSIONS FOR THE RESPONDENT**

Mr McKie explained that the Respondent had not attended the Tribunal due to his ill-health. Mr McKie confirmed that the Respondent and the Judicial Factor were hopeful that there would not be a claim on the Guarantee Fund but the discussions were ongoing. Mr McKie confirmed that the Respondent was married with one son and that the Respondent and his wife had health problems. The ongoing prosecution had had an impact on the Respondent's health. Mr McKie explained that the Respondent had run a successful business from 1984 until 2006 as a sole practitioner. After 2000, the business of the Respondent decreased and he only had twenty three active files by 2006 and had not taken any drawings out of the firm for the previous four to five months. Mr McKie explained that another firm had taken over the Respondent's files and so clients had not been prejudiced. In connection with the insurance difficulty, Mr McKie explained that the Respondent had anticipated that the funds would be cleared but the cheque from the third party did not clear. The Respondent had not practised since September 2006 and was presently working with a financial services company. Mr McKie confirmed that until 2003, the Respondent had a good record of practice and was well regarded. The Respondent accepted that he should have dealt with things differently.

In response to a question from the Tribunal, Mr McKie stated that he thought that the Respondent's health had deteriorated as a result of what had happened but he was not aware of the Respondent's ill-health being a factor in what had happened. Mr McKie stated that he was unable to say exactly why things went wrong. In response to a further question, Ms Motion clarified that her understanding was that the Respondent initially did not want to approach the insurers as he hoped to be able to make good the position but after the Judicial Factor became involved the insurers thought the position was confused due to different explanations having been given and accordingly they did not pay out. Ms Motion stated that in connection with the Guarantee Fund, the Respondent was making every attempt to pay off his creditors and it was hoped that there would not require to be a claim on the Guarantee Fund.

**DECISION**

The Tribunal was very concerned that there was a deficit on the Respondent's client account for a three year period. The Tribunal considered it inexplicable that the Respondent did not discover this deficit for such a long period especially given the fact that he appeared not to have had a large client base at this time. The Tribunal considered it extremely unfortunate that the Respondent had not provided a full explanation with regard to the shortage. The Respondent had not provided his representative with an explanation as to why things went wrong. The Tribunal noted that there was still no full explanation some eighteen months later. The Tribunal also noted that although the Respondent by this time only had a small client base, there were a lot of incidences of failure to issue terms of business letters, failure to invest client funds and failure to comply with the Money Laundering Regulations. The Tribunal considered that it was a prolonged and gross dereliction of responsibility for the Respondent to continue in practice with a large deficit for three years. Solicitors have an obligation to confirm the propriety of their accounts to the Law Society on a regular basis. In this case the Respondent seemed to have a complete disregard for the Accounts Rules. No explanation with regard to this has been provided. The Tribunal also noted that the shortage had still not been resolved. The Tribunal found that the Respondent's method of operating was completely unacceptable and concluded that the Respondent was not fit to continue in practice as a solicitor. The Tribunal accordingly imposed a seven year Suspension. The Tribunal made the usual order with regard to expenses and publicity but agreed to defer publicity of the decision as it is understood that a police investigation is ongoing. Publicity will accordingly be deferred to avoid any prejudice to possible criminal proceedings, until such time as any prosecution raised is completed or it is clarified that no such prosecution is to be raised.

**Vice Chairman**