

**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

**SHAHID SATTAR PERVEZ, of
the former firm of Belton Pervez,
430 Victoria Road, Glasgow, now
residing at 8 Langhaul Place,
Crookston, Glasgow**

1. A Complaint dated 30 June 2008 (reference DC/08/47) was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Shahid Sattar Pervez, of the former firm of Belton Pervez, 430 Victoria Road, Glasgow, then of HM Prison Castle Huntly Open Estate, Longforgan, Dundee and now in terms of a home release curfew residing at 8 Langhaul Place, Crookston, 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 15 October 2008 and notice thereof was duly served on the Respondent.

4. The hearing took place on 15 October 2008. The Complainers were represented by their Fiscal, Elaine Motion, Solicitor-Advocate, Edinburgh. The Respondent was not present or represented.
5. A Joint Minute was lodged admitting the facts, averments of duty and averment of professional misconduct in the Complaint. In addition, a Joint Minute of Admissions was lodged agreeing the evidence. No additional evidence was led.
6. The Tribunal found the following facts established
 - 6.1 The Respondent was born on 3 June 1968. He was admitted as a solicitor on 12 December 1997. He was enrolled as a solicitor in the Register of Solicitors of Scotland on 15 December 1997. After his admission he was employed by Thomas Caplan solicitors, Glasgow until 16 March 2001 and on 9 April 2001 became a partner in the firm of Belton Pervez, 430 Victoria Road, Glasgow. He ceased to be a partner in Belton Pervez on 31 October 2005. He was residing care of HM Prison Castle Huntly Open Estate, Longforan, Dundee and now in terms of a home release curfew is residing at 8 Langhaul Place, Crookston, Glasgow. On 2 September 2006 the Respondent's name was removed from the Roll due to non payment of his practising certificate fees.

Company 1

- 6.2 Company 1 lodged a complaint with the Complainers in relation to an alleged inadequate professional service provided by the Respondent and his firm in relation to instructions issued by them to the Respondent.
- 6.3 On 29 January 2008, after consideration by the Complainers on two previous occasions on 23 October and 27 November 2007,

the Complainers upheld the complaint of an inadequate professional service in respect of:-

1) Property 1, Property 2 and Property 3, that there was a failure to respond to correspondence from Company 1 or their representatives requesting the conveyancing files and;

2) Property 4 that there was a failure to:-

(a) respond to correspondence from Company 1 or their representatives requesting the Title Deeds and conveyancing files and

(b) to register the Disposition or Standard Security therefore a failure to secure a first ranking charge in accordance with the letter of instruction;

3) In relation to Property 5 there was a failure to:-

(a) respond to correspondence from Company 1 or their representatives requesting the Title Deeds and conveyancing files and

(b) register the Disposition or Standard Security therefore a failure to secure a first ranking charge in accordance with the letter of instruction;

4) Property 6 in respect of a failure to:-

(a) respond to correspondence from Company 1 or their representatives requesting the Title Deeds and conveyancing files and

(b) register the Disposition or Standard Security therefore a failure to secure a first ranking charge in accordance with the letter of instruction.

- 6.4 Having upheld the findings of inadequate professional services set out in the preceding paragraph the Complainers determined that the Respondent should pay to Company 1 the sum of £285.57 by way of compensation.
- 6.5 By letter of 13 February 2008 the decision was intimated to the Respondent requiring payment of the compensation. No response was received. A further letter of 6 March was sent to the Respondent enclosing a Notice in terms of Section 42B of the Solicitors (Scotland) act 1980. No response was received. Company 1 received payment of the compensation awarded from the Complainers as a result of a claim on the Master Policy.

Law Society of Scotland – Company 1

- 6.6 The Complainers received a complaint on behalf of Company 1 in relation to alleged failures by the Respondent and his firm to respond to correspondence to deliver Title Deeds and conveyancing files over various properties and failures to register Dispositions and/or Standard Securities over certain properties as set out above.
- 6.7 By letter of 30 April 2007 a complaint was intimated to the Respondent requesting inter alia the business file or files. No response was received.
- 6.8 By letter of 22 May 2007 the Complainers intimated Notices under Sections 15 and 42C of the said Act. No response was received.

6.9 On 6 June 2007 the Complainers served a further Notice in terms of Section 15(2)(i)(ii) of the said Act. In said letter an additional complaint in relation to the failure to respond to the Law Society was intimated. As at 15 October 2008 no response had been received.

6.10 The complaint of inadequate professional service set out above was determined on 29 January 2008 in the absence of the Respondent's files.

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

7.1 his unreasonable delay in responding to the reasonable enquiries of the Complainers in relation to a complaint made against him.

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

Edinburgh 15 October 2008. The Tribunal having considered the Complaint dated 30 June 2008 (Reference DC/08/47) at the instance of the Council of the Law Society of Scotland against Shahid Sattar Pervez, of the former firm of Belton Pervez, 430 Victoria Road, Glasgow, then of HM Prison Castle Huntly Open Estate, Longforgan, Dundee and now in terms of a home release curfew residing at 8 Langhaul Place, Crookston, Glasgow: Find the Respondent guilty of Professional Misconduct in respect of his unreasonable delay in responding to the reasonable enquiries of the Law Society in relation to a complaint made against him; Find that the Respondent failed to comply with the Determination and Direction given by the Law Society of Scotland on 29 January 2008 under Section 42A of the Solicitors (Scotland) Act 1980 within the period specified; 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 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 £14.00; and Direct that publicity will be given to this decision and that this publicity should include the name of the Respondent.

(signed)

David Coull
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

The Respondent was not present or represented at the hearing. He did not lodge Answers to the Complaint. A Joint Minute of Admissions agreeing the Complainer's Productions was lodged together with a Joint Minute agreeing the facts, averments of duty and the averment of professional misconduct contained in the Complaint. The Tribunal was satisfied from the terms of the Joint Minute that the Respondent was aware of the date of the hearing.

SUBMISSIONS FOR THE COMPLAINERS

Mrs Motion advised that she was grateful to the Respondent for entering into the Joint Minute which meant that evidence did not have to be led. She stated that she had only received the signed Joint Minute that morning and therefore had prepared Affidavits and had lodged two Inventories of Productions with the Tribunal's Clerk. Mrs Motion lodged the Affidavits to assist the Tribunal.

Mrs Motion stated that the Respondent has been released early from Prison and is currently on a home release curfew.

Mrs Motion referred to the Affidavit from Lorna Johnston which confirms that the compensation has been paid to the Company 1 as a result of a claim on the Master Policy. Mrs Motion advised that in the circumstances she would not be seeking the Section 53C Order as specified in the Complaint.

Mrs Motion advised that the files mentioned in the Complaint did become available at a later date but only through other solicitors obtaining these files or the Law Society's Investigation Department obtaining the files. She advised that there was no co-operation from the Respondent and that he did not send any of the files to the Law Society at any stage.

In response to a question from the Tribunal, Mrs Motion advised that she thought that the Respondent had been sent to prison around a year ago.

DECISION

The Tribunal was satisfied that the Respondent was aware of the Complaint and the hearing. The Tribunal noted that the Respondent had not seen fit to lodge Answers or attend the Tribunal hearing. However, the Tribunal noted that the Respondent had entered into a Joint Minute of Admissions to agree the Complainer's productions in this case and a Joint Minute agreeing the facts, averments of duty and the averment of professional misconduct as specified in the Complaint.

The Tribunal considered that the Respondent was well aware that the Law Society has a duty to investigate any Complaint regarding the conduct of a solicitor and that solicitors have a duty to respond to enquiries made by the Law Society in this regard. Failure to respond to the Law Society prevents the Society from properly investigating complaints and can bring the whole profession into disrepute. For these reasons, the Tribunal views the Respondent's failure to respond to the Law Society in these circumstances as serious and reprehensible and considers that his failures amount to professional misconduct. The Tribunal noted that the Respondent is no longer on the Roll of Solicitors, his name having been removed in September 2006 due to non-payment of his practising certificate fees. In view of this, the Tribunal's powers are restricted. The Tribunal imposed a Censure. The Tribunal made the usual order with regard to expenses and publicity.

Vice Chairman