

**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**

**WILLIAM PIRIE RENNIE,  
Solicitor, 4 Beaufield Gardens,  
Kilmaurs, Kilmarnock**

1. A Complaint dated 9 November 2005 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, William Pirie Rennie, Solicitor, 4 Beaufield Gardens, Kilmaurs, Kilmarnock (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 February 2006 and notice thereof was duly served on the Respondent.
4. The hearing took place on 14 February 2006. The Complainers were represented by their Fiscal Valerie Johnston, Solicitor, Dunfermline. The Respondent was not present or represented.

5. An email had been received from the Respondent the day before the Tribunal confirming that he did not intend to attend the hearing. The Respondent also indicated that he had little comment to make in connection with the Complaint as he could not remember individual cases. In the circumstances the Tribunal agreed to proceed in the Respondent's absence and allowed the Complainers to lead evidence by way of affidavit in terms of Rule 9 of the Tribunal Rules. The Complainers led affidavit evidence of four witnesses and referred to various productions.

6. The Tribunal found the following facts established

6.1 The Respondent is a Solicitor enrolled in the Register of Solicitors in Scotland. He was born on 30th November 1952. He was admitted as a Solicitor on 9th September 1976 and enrolled on 24th September 1976. He was a Partner in the firm of Irwin Rennie, Solicitors, from 1st October 1984 to 31st October 1996 and thereafter in the firm of Rennie & Company, Solicitors, until 31st October 2004. He was suspended from practice on 30th November 2004 following the appointment of a judicial factor to his firm. He was sequestrated and his Practising Certificate was suspended on 20th December 2004.

6.2 The Executries of Mr A and Mrs B

Mr A and Mrs B died within 6 weeks of each other at the end of the year 2001. Both died intestate. Mr A died on 22.10.01. Mrs C a daughter of the couple was appointed Executrix in the executry of the late Mrs B. Mr D and Mr E the two sons of the couple were, along with their sister, Mrs C, beneficiaries in the estates.

Mrs C instructed the Respondent to act as Law Agent in the Executries on 6<sup>th</sup> January 2002.

6.3 The Respondent wrote to Mrs C on 8th September 2003 enclosing sums due in respect of her late mother's estate. He also confirmed that in connection with her father's estate, he was "chasing the Sheriff Clerk's Office" regarding the Petition for the appointment of Executor and hoped to have her father's estate wound up "very soon". The Respondent had failed to take any steps to progress and wind up the estate of the late Mr A. In spite of attempts by Mr D, who phoned repeatedly and wrote on 26<sup>th</sup> January 2004 to clarify why 2 years had elapsed since his parents' death and the matter had not been concluded, the Respondent failed to provide any explanation and continued to fail in the administration of the estate. During that time the house occupied by the deceased couple lay empty and began to fall into disrepair.

6.4 As no apparent progress had been made by November 2004 and no explanation for the delay had been received, the family instructed alternative solicitors to act from 15<sup>th</sup> November 2004. The Estate of the late Mr A, which was not complex, was finally wound up and distributed by 12<sup>th</sup> July 2005.

6.5 The Law Society of Scotland

On behalf of his sister as Executrix and himself and his brother as beneficiaries, Mr D submitted a Help Form to the Complainers on 2nd April 2004. He raised a number of complaints regarding the service provided by the Respondent which included concerns regarding the failure to conclude the winding up of his father's estate.

- 6.6 The Complainers copied the Help Form to the Respondent on 16th April 2004 with a view to encouraging conciliation between the parties. A reply was received from the Firm dated 6th May 2004 advising that the Respondent was on holiday. Mr D then advised the Complainers that he did not wish to go forward with conciliation. This was intimated to the Respondent by letter dated 14th May 2004 and he was invited to provide any comments that he may have in relation to the matter.
- 6.7 As he did not reply, he was written to on 4th June 2004 and advised that it would be very helpful if he would write with the factual position within 14 days. He did not reply. On 5th July 2004, he was advised an investigation was proceeding. On 26th July 2004, a formal letter was written to him for his written response, any background information, his file and details of the fees charged or to be charged within a period of 21 days. He did not reply. On 20th August 2004, a formal notice was served on him by Recorded Delivery under Section 15(2)(ii) of the 1980 Act.
- 6.8 On 23rd August 2004, Mr D wrote pointing out that no response had been received of any nature from the Respondent in nearly 5 months since he issued his complaint. As it was fast approaching 3 years since his parents had died, he and his brother and sister could not move on with their lives and wished to see progress. Attempts to serve a formal Section 42C letter on the Respondent on 31st August 2004 failed and it was established that while continuing to operate his own business he had moved to work for the Firm of Douglas

Wright, Solicitors, in Kilmarnock. He was written to at that address on 1st September 2004 for his response within 7 days. He did not reply. On 28th September 2004, he was advised that a Report was being obtained and consideration would be given to his failure to reply. A further letter to that effect was sent to him on 27th October 2004.

6.9 On 14th December 2004, he was sent a formal letter identifying the issues of misconduct regarding his failure to complete the executry or respond to The Law Society's enquiries requiring his written response, any background information, his file and details of any fees charged or to be charged within 21 days. Messrs Douglas Wright, Solicitors, returned this document through the judicial factor and it was re-issued on 18th January 2005 to the Respondent through the agency of the judicial factor. The following correspondence was issued to him in the same manner. On 16th February 2005, he was copied the Report and Opinion and required to give his comments on the misconduct issues by 24th February 2005. He did not do so. The Respondent has at no time replied to any correspondence from The Law Society in connection with the matter.

7. Having considered the affidavit evidence, the productions and the submissions from the Complainers and also taking into account the email received from the Respondent, the Tribunal was satisfied beyond reasonable doubt that the Respondent was guilty of Professional Misconduct in respect that:

7.1 between 6<sup>th</sup> January 2002 and 15<sup>th</sup> November 2004 he delayed unconscionably and ultimately failed altogether in the administration of the estate of the late Mr A.

7.2 between 16<sup>th</sup> April 2004 and 9<sup>th</sup> November 2005, he delayed unreasonably and ultimately failed altogether to respond to the reasonable enquiries of the Law Society about the estate of the late Mr A and failed to comply with Notices served upon him.

8. Having taken into account the mitigation provided in the Respondent's email, the Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 14 February 2006. The Tribunal having considered the Complaint dated 9 November 2005 at the instance of the Council of the Law Society of Scotland against William Pirie Rennie, Solicitor, 4 Beaufield Gardens, Kilmaurs, Kilmarnock; Find the Respondent guilty of Professional Misconduct in respect of his unconscionable delay and ultimate failure in the administration of an estate and his unreasonable delay and ultimate failure to respond to the reasonable enquiries made of him and notices served on him by the Law Society; Censure the Respondent; Direct in terms of Section 53(5) of the Solicitors (Scotland) Act 1980 that any practising certificate held or to be issued to the Respondent shall be subject to such Restriction as will limit him to acting as a qualified assistant to, and to being supervised by, such employer or successive employers as may be approved by the Council of the Law Society of Scotland or the Practising Certificate Committee of the Law Society of Scotland and that for an aggregate period of three 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.

**(signed)**

**M McPherson**

**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**

Ms Johnston, the fiscal, advised the Tribunal that she had spoken to the Respondent the previous day and he had indicated that he was not to attend. He had however stated that he had intended to write and he sent an email later in the day which was now lodged with the Tribunal. The email indicated that he did not intend to attend. In the circumstances Ms Johnston asked the Tribunal to proceed in the Respondent's absence and to allow her to lead her evidence by affidavit in terms of Rule 9. This was agreed.

**EVIDENCE FOR THE COMPLAINERS**

Ms Johnston referred the Tribunal to the affidavit evidence from Mr D who confirmed in his affidavit that the Respondent was the solicitor dealing with his mother and father's estates. His sister was appointed executrix in his father's estate but apart from doing this the Respondent had taken no further action in connection with his father's estate during a period of two years. Mr D also confirmed in his affidavit that he had contacted the Respondent to find out what was going on and had not received a reply despite writing and phoning on a number of occasions. Mr D confirmed that a help form had been sent in to the Law Society in connection with the matter in late March 2004. Mr D explained in his affidavit that during the two year period where nothing was done with the estate his parent's house was left empty and began to fall into serious disrepair. In November 2004 Mr D confirmed that he and his brother and sister instructed an alternative firm of solicitors to take over the executry and it was wound up and distributed by 12 July 2005. Mr D also confirmed that the Respondent's handling of matters caused stress to himself and his family and also resulted in inconvenience and costs involved in trying to resolve the situation. Mr D also confirmed that the Respondent did not reply to the correspondence from the Law Society. He wrote to them on 23 August 2004 expressing his dissatisfaction with the lack of progress.

Ms Johnston then referred the Tribunal to the affidavit from Norma Grandison, a Judicial Factor with the Law Society who confirmed she was appointed as Judicial Factor to the Respondent's firm on 2 November 2004 and that the Respondent was



suspended from practice on 30 November 2004 and was subsequently sequestered and had his practising certificate suspended on 20 December 2004. Ms Grandison's affidavit referred to the production being the Respondent's record card from the Law Society of Scotland. Ms Grandison also confirmed in her affidavit that she forwarded correspondence to the Respondent when the Client Relations Department did not have a home address for him.

Ms Johnston then referred the Tribunal to the affidavit of Fiona Alexandra Robb, a Case Manager with the Client Relations Department of the Law Society of Scotland who confirmed that in April 2004 she was allocated Mr D's complaint in connection with the Respondent's handling of an executry. She wrote to the Respondent and the only reply she received from the Respondent's firm was a letter indicating that the Respondent was on holiday and would be dealing with matters on his return. Ms Robb confirms in her affidavit that various other correspondence was sent to the Respondent and no replies were received. On 26 July 2004 Ms Robb's colleague, Helen Rice, wrote to the Respondent on her behalf with a formal letter requiring a response and also delivery of the files. The Respondent did not reply. Ms Robb confirms that a notice under Section 15(2)(ii) of the Solicitors (Scotland) Act 1980 was served on the Respondent on 20 August and a notice was also served on him on 31 August 2004 calling on him to produce all the papers and other documents relating to the estate. No response was received. Ms Robb confirms that she then handed the file over for further enquiry to her colleague, Michael Greenfield.

Ms Johnston then referred the Tribunal to the affidavit from Michael Greenfield, a Case Manager with the Client Relations Department of the Law Society. Mr Greenfield confirms in his affidavit that he took over responsibility for the Complaint in September 2004. Mr Greenfield also confirms that the Respondent had not replied to any correspondence and that he wrote to him on 28 September 2004 indicating that he was going to proceed to pass the Complaint to a Reporter for a full investigation. Once the report from the Reporter was obtained on 14<sup>th</sup> December 2004 Mr Greenfield sent a copy to the Respondent at Douglas Wright & Co, Solicitors. The Respondent did not reply to the letter. Mr Greenfield states in his affidavit that this sort of failure seriously inconveniences the Law Society and badly affects the image of solicitors and the Law Society in the eyes of complainers. Mr Greenfield confirms

that Mr D was not impressed by the Respondent's failures to reply and the apparent lack of progress occasioned by his complaint to the professional body. Mr Greenfield confirms that the letter of 14 December was returned by Douglas Wright & Co, Solicitors to Norma Grandison, the Judicial Factor and from that point on correspondence was issued to the Respondent through Norma Grandison. The letter of 14 December 2004 was re-issued dated 18 January 2005 and was passed to Norma Grandison to pass it on to the Respondent. On 16 February 2005 a letter was sent to the Respondent detailing the Heads of Complaint and advising him that the conduct issues in the Complaint were going to be dealt with by the Client Relations Committee. He did not respond.

### **SUBMISSIONS FOR THE COMPLAINERS**

Ms Johnston stated that it was clear that the Respondent had lost control with regard to what was going on. The Law Society became involved on 16 April 2004 and the Respondent only responded on 6 May saying that he was on holiday and matters would be dealt with on his return. He failed to provide any further response. Ms Johnston asked the Tribunal to find the Respondent guilty of professional misconduct in respect of his failure in administering the estate and failure to respond to the Law Society. Ms Johnston pointed out that Mr D thought he would get speedy assistance from the Respondent who did not carry out the work and then ignored his enquiries. When the matter was taken to the professional body they could not get a response from the Respondent which created a bad impression. This was not acceptable. Ms Johnston advised that there had been a Determination and Direction made in respect of Inadequate Professional Service and the Respondent was Directed to refund any fees paid. This matter was being dealt with through the Law Society and the insurers.

### **SUBMISSIONS FOR THE RESPONDENT**

In his email the Respondent explained the circumstances pertaining to the time of his difficulties and he apologised for any upset caused.

**DECISION**

It was clear from the affidavit evidence from Mr D that the Respondent's actions caused him a great deal of distress and inconvenience. There is a duty on a solicitor to take reasonable steps to undertake the business of his client and to keep his client informed. In this case not only did the Respondent fail to expedite the business diligently and without delay but he also failed to respond to his client's enquiries. The Respondent further failed to respond to the Law Society when Mr D invoked their assistance. This hampered the Law Society in the performance of their statutory duty and brings the profession into disrepute. The Tribunal took account of the facts detailed in the email from the Respondent and noted that he had been under particular pressures at the time. The Respondent indicated that he could not remember individual cases and offered his apologies in connection with any upset or stress that he had caused to anyone else. The Tribunal accepted that the Respondent's actions and omissions were not deliberate but it was clear that the Respondent was not coping as a sole practitioner. The Tribunal accordingly considered that, in order to protect the public, it was necessary that a Restriction be placed on the Respondent's practising certificate. The Tribunal considered it imperative that the Respondent work under supervision for a period of three years prior to being able to work again as a principal in private practice. The Respondent indicated in his email that he had no intention of working as a principal but the Tribunal considered that it was necessary in the public interest to impose the Restriction. The Restriction will not start to run until the Respondent is working for, and being supervised by, an employer approved by the Law Society. The Respondent will require to gain the necessary experience and skills and be able to demonstrate that he is able to manage his work properly. The Tribunal took account of the Respondent's financial position and considered that there was no merit in imposing a fine. The Tribunal made the usual order with regard to expenses and publicity.

**Vice Chairman**