

**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

**STEVEN ANGUS ANDERSON,
Solicitor, Messrs Andersons,
Solicitors & Notaries, 2 Hillkirk
Street Lane, Springburn, Glasgow**

1. A Complaint dated 3 June 2008 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Steven Angus Anderson, Solicitor, Messrs Andersons, Solicitors & Notaries, 2 Hillkirk Street Lane, Springburn, 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 3 September 2008 and notice thereof was duly served on the Respondent.

4. When the Complaint called on 3 September 2008 the Respondent was present and represented himself. The Complainers were represented by their Fiscal Sean Lynch, Solicitor, Kilmarnock.

5. A Joint Minute was lodged admitting the averments of facts the averments of duty and the averments of professional misconduct in the Complaint. No evidence was led.

6. The Tribunal found the following facts established

6.1 The Respondent is a Solicitor enrolled in Scotland. The Respondent was born on 1st March 1958. He was admitted as a solicitor on 19th February and enrolled as such on 5th March both months of 1985. The Respondent is the principal of Messrs Andersons Solicitors and Notaries, 2 Hillkirk Street Lane, Springburn, Glasgow.

6.2 **Mr A**

The Respondent acted on behalf of Mr A in respect of criminal proceedings. Mr. A became dissatisfied with the services provided by the Respondent and in July 2007, invoked the assistance of the Complainers. On 17th July 2007 the Complainers advised the Respondent of Mr. A's complaint, and on 27th August 2007, the Respondent acknowledged that.

6.3 **Complaint by The Law Society of Scotland ex proprio motu**

On 6th September 2007 the Complainers gave formal intimation to the Respondent of the complaint by Mr. A. They requested that the Respondent provide a response within twenty one days of 6th September 2007. The Respondent did not reply.

- 6.4 On 23rd October 2007 the Complainers sent to the Respondent the first part of a notice in terms of Section 15(2)(i)(i) of the Solicitors (Scotland) Act 1980 advising that, the Respondent having failed to reply to the letter of 6th September 2007, the provisions of Section 15 so far as relating to practising certificates might be invoked against him. The Respondent did not reply.
- 6.5 On 23rd October 2007 the Complainers served upon the Respondent a notice in terms of Section 42C of the Solicitors (Scotland) Act 1980 requiring production of the Respondent's file in relation to Mr. A. The Respondent did not reply nor did he produce the file.
- 6.6 On 27th November 2007 the Complainers wrote to the Respondent intimating a claim of failure to respond to correspondence and statutory notices and requesting a response within seven days. No response was received from the Respondent. Also on 27th November 2007 the Complainers served upon the Respondent the second part of a notice in terms of Section 15 above condescended upon, advising the Respondent that he was now required to give six weeks notice of his intention to apply for a practising certificate.
7. Having considered the foregoing circumstances the Tribunal found the Respondent guilty of Professional Misconduct in respect of:
- 7.1 His failure to respond to correspondence from the Law Society and failure to obtemper statutory notices sent to him by the Law Society.
8. Having heard the Respondent in mitigation the Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 3 September 2008. The Tribunal having considered the Complaint dated 3 June 2008 at the instance of the Council of the Law Society of Scotland against Steven Angus Anderson, Solicitor, Messrs Andersons, Solicitors & Notaries, 2 Hillkirk Street Lane, Springburn, Glasgow; Find the Respondent guilty of Professional Misconduct in respect of his failure to respond to correspondence and statutory notices from the Law Society; 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)

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

A Joint Minute was lodged in which the facts, averments of duty and averments of professional misconduct in the Complaint were admitted. No evidence was led.

SUBMISSIONS FOR THE COMPLAINERS

Mr Lynch advised the Tribunal that there had originally been three complaints by Mr A, one in connection with Company 1, one in connection with Company 2 and one in connection with a criminal matter. Prior to the intimation of the Complaint of professional misconduct the Respondent had appealed a finding of inadequate professional service, which appeal had then been abandoned by him. In connection with Article 3.1 Mr Lynch explained that there had been a formal intimation of the complaint on 6th September 2007 and the Respondent had been asked to provide a response within 21 days. He had not done so. Statutory Notices were served asking for the files, but there was no reply. A reminder was sent on 27th November 2007 but there was still no response. Mr Lynch stated that he understood that in February 2008 the Respondent had correspondence with the Law Society with regard to this matter but his concern was with regard to the Respondent's failure in September, October and November 2007.

SUBMISSIONS FOR THE RESPONDENT

The Respondent advised the Tribunal that when he received the complaint he was not aware of the way in which the Law Society operated. He indicated that he was told that he would have a chance to respond when the Reporter did his report and he thought that he could make his response then. He stated that he now realised that he was wrong and naïve. The Respondent explained that when the inadequate professional service finding was made he appealed this and he thought that there was merit in his appeal but the fiscal pointed out to him that the Law Society had to make their decision in the absence of any comments by him at that time. The Respondent explained that he had lost a great deal of money by having been stupid and naïve. He

indicated that he was going to give the Law Society all his files but there were a lot of hand written notes in the files and the Law Society would only let him keep copies. The Respondent accepted that he had caused inconvenience to both himself and the Law Society by his failure to respond. He emphasised that this had been caused by the fact that he did not understand how things worked and had left matters too late for anything to be done about it.

DECISION

The Respondent had failed to respond to a number of letters and notices sent by the Law Society. The Tribunal accordingly found that his conduct was serious and reprehensible enough to amount to professional misconduct. If solicitors do not reply to the Law Society it hampers the Law Society in the performance of their statutory duty and brings the profession into disrepute. The Tribunal noted however that in this case the failure to reply related only to one client and occurred over a relatively short period of time. The Tribunal also took account of the fact that the Respondent had entered into a Joint Minute and had apologised for his failure to respond. It was also clear to the Tribunal that the Respondent now realised how important it was to reply to enquiries from the Law Society. In the circumstances, the Tribunal considered that the Respondent's conduct fell at the lower end of the scale of professional misconduct and that a Censure would be sufficient penalty. The Tribunal made the usual order with regard to publicity and expenses.

Vice Chairman