

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

FINDINGS

in Complaint

by

**THE COUNCIL OF THE LAW
SOCIETY of SCOTLAND**

against

**DOUGLAS ALEXANDER CRIGGIE,
Solicitor, Messrs Criggie & Co., 70
Cumbernauld Street, Edinburgh**

1. A Complaint dated 11 December 2003 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Douglas Alexander Criggie, Solicitor, Messrs Criggie & Co., 70 Cumberland Street, Edinburgh (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. Answers were lodged by the Respondent.
3. In terms of its Rules the Tribunal appointed the Complaint to be heard on 22 April 2004 and notice thereof was duly served on the Respondent.

4. The hearing took place on 22 April 2004. The Complainers were represented by their Fiscal Mr Sean Lynch, Solicitor, Kilmarnock. The Respondent was present and represented by Christine O'Neill, Solicitor, Edinburgh.

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

6. The Tribunal found the following facts established:-
 1. The Respondent was born on 24th October 1957. He was admitted as a solicitor on 6th October and enrolled on 2nd November both months of 1981. The Respondent was the sole principal of Messrs. Criggie & Co., Solicitors, 70 Cumberland Street, Edinburgh.

 2. **Background: Inspection of 13th November 2000**

On 13th November 2000 the Complainers carried out a routine inspection of the books of the Respondent's practice. Various breaches of the Solicitors (Scotland) Accounts Rules 1997 were discovered. After sundry correspondence with the Respondent, the Guarantee Fund Committee of the Complainers resolved on 11th January 2001 that the books of the Respondent's practice be re-inspected in twelve months time at the Respondent's expense. The complainers wrote to the Respondent on 23rd January 2001 suggesting this course. By letter dated 5th February 2001 the Respondent intimated his agreement to this course.

References to Rules in paragraph 3 are references to the Solicitors (Scotland) Account Rules 1997.

3. **Inspection of 14th January 2002**

In accordance with the arrangements hereinbefore condescended upon the Complainers Guarantee Fund Inspectors carried out a further inspection of the books and records of the Respondent's practice on 14th January 2002. Arising therefrom, the Complainers discovered, and brought to the attention of the Respondent in a letter dated 18th January 2002 that:-

- a) The client bank reconciliation contained some old outstanding cheques, some of which were thought to be in respect of recording dues; these required to be re-credited to the client ledgers and re-issued if appropriate; several adjustments were noted as being carried forward on the bank reconciliation statement as at 31st December 2001; the client's bank account statements for the Clydesdale Bank were not being received on a monthly basis; the firm was using a suspense account to clear old balances, both debit and credit; interest earned on invested funds accounts was not being posted to the client ledger, and in one instance interest had not been credited to the client ledger since November 2000; and one statement did not bear the client's name. (Rules 12 &13).

- b) The firm's trial balance did not show the true financial position of the firm. The trial balance showed that funds were being held at credit for the

Clydesdale Bank amounting to £11,882.58 when the true position was that the account was overdrawn to the extent of approximately £4,000. As no reconciliation of the firm's accounts were being prepared it was difficult to ascertain the true position of the firm. The figures which were submitted on the Accounts Certificate dated October 2001 were incorrect and no reconciliations were available for that period. (Rule 12(4)).

- c) Funds belonging to Company A to the extent of £688.75 were held from 25th October 2001 onwards, funds for B amounting to £583.15 were held from 5th September onwards, and funds belonging to Mr C amounting to £1,242.21 were held from 19th October 2001 onwards, all within the main client bank account without being invested to gain interest for the clients. (Rule 15).

The letter from the Complainers requested further information and vouching, within fourteen days of 18th January 2002. On 23rd January 2002 the Respondent wrote to the Complainers advising that action had been taken by him in relation to all matters raised in the letter dated 18th January 2002, and that procedures would be reviewed as requested. In that letter the Respondent acknowledged that he had not been aware that a full reconciliation of the firm's bank account should be retained by him. On 12th February 2002 the Complainers wrote to the Respondent suggesting that it would be appropriate to carry out a further re-inspection of the books and records of the

Respondent's practice within six months, on this occasion at the expense of the Complainers. On 26th February 2002 the Respondent wrote to the Complainers suggesting a longer period. It was agreed in correspondence between the Complainers and Respondent that a further inspection should take place in or about October 2002.

References to Rules in paragraphs 4 - 12 inclusive are references to the Solicitors (Scotland) Accounts Certificate, Professional Practice and Guarantee Fund Rules 2001.

4. **Accounts Certificate to 30th April 2002**

The Respondent was required no later than 30th May 2002 to submit to the Complainers an Accounts Certificate for the period to 30th April 2002. He failed to do so timeously. On 13th June 2002 the Complainers wrote to the Respondent requesting the certificate. By letter dated 21st June 2002 the Respondent submitted a certificate. On 24th June 2002 the Complainers required to return the certificate to the Respondent because the certificate did not contain the balances as at 31st January 2002 and 30th April 2002 as required by the rules. In view of the continuing failure of the Respondent to lodge a certificate in proper form the Guarantee Fund Committee of the Complainers at its meeting on 4th July 2002 resolved to invite the Respondent for interview on Thursday 18th July 2002. The Respondent was put on notice that the Complainers were considering the suspension of the Respondent's practising certificate in terms of Section 40 of the Solicitors (Scotland) Act 1980. On 10th July 2002 the Respondent submitted an Accounts

Certificate in proper form. The interview accordingly did not take place. (Rule 14).

5. **Inspection of 17th October 2002**

On 17th and 21st October 2002 Guarantee Fund inspectors of the Complainers carried out a further inspection of the books and records of the Respondent's practice. It was immediately noted that there were many adjustments to the client bank account reconciliation statement which demonstrated that there would be a deficit. On several days the balance of the client bank account was in debit. On 14th March 2002 the client credits as shown in the day book amounted to £14,593.05 whereas the bank statement showed the account overdrawn to the extent of £312.90; between 18th March and 21st March 2002 the client's credits as shown in the day book amounted to £13,945.28 whereas the bank statement showed a debit balance of £996.11, and on 18th July 2002 the client credits as shown in the day book amounted to £196,256.78 while the bank statements showed an overdrawn balance of £17,117.85. (Rules 4 and 8).

6. A file for Mrs D's executry was compared to the postings in the ledger. A cheque for a refund of council tax for £2,120.84 had been posted as £1,120.84. The balance of £1,000 was posted to the ledger of a client, Company E. It was recorded that £16,000 was paid into the executry by Mrs D's son towards the inheritance tax liability. During discussion on 17th October 2002 it was accepted by the Respondent that this did not represent the full sum which had been received. The client bank reconciliation statement prepared as at 20th October 2002 contained many adjustments with cheques not posted as far back as January

2002. A general check revealed at least £29,618.58 had been drawn from the client bank account but not yet posted. Corrective entries carried out during the period of the inspection showed a deficit on the day book of £44,727.61. £76,469.99 was credited to the ledger of Mr. C on 22nd January 2002 when it appeared that the funds had been received from Mr F. £27,854 was credited to Mr F's ledger on that same date which appeared to belong to Mr. C. One of Mr. C's files was not available for the inspection. Sums of £20,000 and £8,000 were paid to Mr. C on 28th November 2001 and 3rd January 2002 but no instructions or receipts were available. A bridging loan had been drawn down in relation to Mrs D's executry. Neither the mandate nor statements were available and it was apparent that the Respondent had borrowed more than his co-executor was aware of. (Rules 4 and 8).

7. Inter-client transfers were shown on ledgers for which there was no apparent authority. (Rule 6(1)).

8. The Complainers' Chief Accountant attended at the Respondent's office during the afternoon of 17th October 2002. The Respondent at that stage was accompanied by his solicitor. The Respondent stated that he understood that there was a deficit of approximately £35,000. He agreed to correct the books of his practice by 21st October 2002 and to make arrangements to correct the deficit. On 21st October 2002 the Respondent stated that he now estimated the deficit to be between £50,000 and £60,000 but that he would have access to £60,000 from family sources which he would not require to repay. He had not at that stage completed the correction of the books of his practice. The Complainers' inspectors calculated that by close of business on 21st October 2002 there was an overall deficit in the

client bank account of £74,346.19. (Rule 4). On 23rd October 2002 the Complainers wrote to the Respondent, advised him of this figure and required him to provide documentary evidence that the deficit had been made good. On 25th October 2002 the Complainer's council resolved to apply to the court for the appointment of a judicial factor to the Respondent's practice. On 29th October 2002 the Respondent was able to demonstrate that he had obtained loan funds amounting in total to £71,494.12 and that he had cleared the shortage on the client account. In those circumstances the application for appointment of a judicial factor was not proceeded with. On 7th November 2002 the Guarantee Fund Committee of the Respondent resolved that the books and records of the Respondent's practice be re-inspected at the beginning of December 2002.

9. **Borrowings from Clients**

The Respondent made arrangements to borrow from his mother, Mrs G. Mrs. G senior was to borrow on the security of her home, and her son, the Respondent's brother, Mr H, was to guarantee the loan. In the short term Mr H advanced £7,000 to the Respondent, to be repaid to him out of the proceeds of the mortgage. The Respondent borrowed £5,100 from Mr I. The funds were said to be advanced on a short term basis although the terms was not specified. The Respondent obtained a further loan from Mr J. This loan was originally to be in the sum of £59,200 although the sum actually advanced was £59,394.12. These funds were paid over to the Respondent on the basis that they would be repaid within a period of two weeks from the mortgage transaction hereinbefore condescended upon. All three advances condescended upon were made to the Respondent on or about 29th October 2002. £39,217.87

was repaid by the Respondent to Mr J on 29th January 2003. The Respondent entered into an arrangement with Mr J to repay the balance by instalments of £1,000 per month. In August 2003 the respondent advised the Complainers in a letter that the balance outstanding had been reduced to £16,000.00. The Respondent has failed, despite requests from the Complainers, to provide evidence that he has adhered to the repayment schedule. The Complainers understand that Mr I has been repaid. So far as the Complainers are aware no repayment has been made to Mrs G or Mr H. Mr H, Mr I and Mr J declined to take independent legal advice. They all acknowledged that they could not make any claim against the Complainers' guarantee fund in relation to the sums advanced by them to the Respondent. (Rule 21).

10. Inspection of 4th December 2002

On 4th December 2002 Guarantee Fund inspectors of the Complainers carried out a further inspection of the books and records of the Respondent's practice. It was noted that incorrect entries previously noted in the ledgers had not all been corrected, and the other incorrect postings had been made. In particular, the following was noted:-

- a) A receipt of £257,652 relative to Mr & Mrs K on 25th March 2002 was entered in the ledger as £237,562. A correction was made on the ledger on 5th August 2002 but the sum of £20,000 was then debited from the ledger in an entry dated 3rd October 2002. (Rule 8).
- b) A receipt of £76,469.99 from the client Mr F on 22nd January 2002 was entered on the ledger as

£27,854. Further receipts of £10,000 on 23rd January 2002 and £9,000 on 1st February 2002 were shown on this ledger but there was no narrative which demonstrated who actually paid these funds into the firm nor to whose ledger the funds should have been credited. A payment on this ledger was made in the sum of £1,210.17 on 13th March 2002 to City Contracts which appeared to be a firm outlay unrelated to this or any other client. A receipt on Mr F's ledger in the sum of £20,000 dated 25th March 2002 appeared in fact to be funds due to the clients Mr & Mrs K. (Rule 8).

- c) £1,762.50 debited on 25th July 2002 to the ledger of Company L. regarding fees and a further fee of £1,762.50 debited on 6th September 2002 for fees were incorrect entries. (Rule 8).
- d) A receipt for clients Mr. and Mrs. C of £27,854 from Northern Rock plc on 15th January 2002 was entered in the ledger as £76,469.99. Payments of £20,000 on 28th November 2001 and £8,000 on 3rd January 2002 were debited to these clients. On 4th December 2002 the Respondent carried out corrective postings. £28,000 was credited from the Respondent's capital account to the ledger of Mr. and Mrs. C but no funds were lodged in the client bank as there was a debit balance. (Rules 4 and 8).
- e) The client bank account was not completely reconciled during the inspection. Firm's outlays had been paid but not posted through the firm's records. (Rules 8 and 9).

- f) In the Mr M executry, £6,108.61 received on 18th September 2001 from Mr T as a refund of rent due by him was not included in the cash account. (Rule 8)
- g) In the Mrs D executry there had been several incorrect entries noted during previous inspections. Most of these had been rectified but it was noted that a refund for nursing home fees was entered on the ledger as £1,387.23 while the Confirmation showed a sum of £1,887.23 due to the estate. On 7th May 2002 a sum of £1,887.23 was lodged in the client bank account. £1,387.23 as credited to the ledger of Mrs D's executry and £500 was credited to the ledger of Mr N. (Rule 8).
- h) There was an executry ledger in relation to Mr O, deceased. The executry started in April 1998 and had still not been completed. On 3rd April 2000 £1,000 was noted on the ledger as having been received from Mrs P (one of the executors). This sum was transferred to the ledger of Mr Q and Mrs. Q on 5th September 2000 with no explanation. As at the date of the inspection condescended upon the ledger of Mr. and Mrs. Q had a nil balance. In the executries of Mr & Mrs S a fee of £587 was taken on 23rd August 2002 but no invoice was raised. (Rules 6 and 8).

11. **Mr M, Deceased**

Mr M's executors were Mr T, and Mr U. They instructed the Respondent in relation to the administration of the Estate of the deceased. Confirmation was obtained from Edinburgh Sheriff Court on 19th May 1999. The total estate

for Confirmation was £162,579.73. The Respondent debited fees against this executry on 24th February, 17th May, 19 July, 31st August, 15th and 23rd September, all 1999, 6th January, 13th January (twice), 7th March, 2nd November, 22nd November, 1st December and 11th December, all 2000, 15th January, 1st February, 2nd and 20th April, 21st and 25th May and 20th June all 2001 in the total sum of £33,489.50 inclusive of value added tax. The fee properly due to the Respondent was subsequently assessed at £10,341.97 inclusive of value added tax. The difference between the sums taken and the amount assessed was £23,147.53 and amounted to a gross overcharge. In view of the concerns which the Complainers had they resolved to re-inspect the books and records of the Respondent's practice on 27th and 28th January 2003.

12. **Inspection of 27th /28th January 2003**

On 27th and 28th January 2003 Guarantee Fund inspectors of the Complainers carried out a further inspection of the books and records of the Respondent's practice. Having regard to the need to credit back to the Mr M executry the sum of £23,147.53, and because of adjustments arising from the reconciliation of the client bank account, it was found that there was a shortage in the client account as at 24th January 2003 of £25,452.67. (Rule 4). On 28th January 2003 a cheque received from the Respondent's mother in the sum of £62,000 was paid into the Respondent's client's bank account. That left a surplus of £36,547.33. This sum was however insufficient to repay Mr. and Mrs. J, clients of the Respondent from whom he had already borrowed on a

short term basis to keep his business afloat. In addition, the following matters were noted:-

- a) The trial balance did not disclose the true position of the firm. Approximately £3,000 was due to Customs & Excise with penalty interest on value added tax. This was not shown. Outstanding balances of loans due by the firm were not correctly shown on the firm trial balance, in particular, approximately £8,000 due to Company W, £4,000 due to Company X, and £2,000 due to Clydesdale Bank. The trial balance showed the firm bank account as being overdrawn by £44,862.44 whereas the bank statement showed the balance as being overdrawn by £35,214.80. Many adjustments shown on the reconciliation of the bank account were out-of-date cheques which should have been re-credited to the appropriate ledgers and investigated with a view to re-issue where necessary. Other adjusting entries were errors on postings for cheques which were not drawn on the firm bank account. (Rule 8).
- b) The suspense account 2001 ledger showed a debit balance of £29,661.65 as at 24th January 2003. No explanation was available for this.
- c) £1,000 was received from Northern Rock plc in relation to a client but it was not apparent to which client ledger the sum should be credited. The sum was banked in the client bank account and a new firm ledger was opened with the designation "Suspense Account 2003". This ledger was given a code which brought the balance into the surplus calculation of the client bank. The entries for the

£1,000 were to debit the client bank ledger and credit suspense account 2003. The client balances did not have the balance included, and the client bank position was not correctly stated in the daily surplus statement. (Rule 8).

- d) In the client bank account reconciliation statement many entries were required to correct adjustments and old outstanding cheques were not being re-credited to the appropriate client ledgers, investigated and re-issued where necessary. It was noted that firm payments and drawings were being made using client account cheques, which cheques were not posted for several months. It appeared that this was a system used to disguise a deficit on the client bank account. On 2nd December 2002 a cheque for £3,286.34 was drawn against the client account and made payable to Customs & Excise in payment of value added tax. The relevant entry showed that a firm cheque had been drawn and this had still not been corrected as at 28th January 2003. At the material time the firm bank account was overdrawn in excess of the limit set by the bank, and no cheques had been cleared through that account since October 2002. There was a deficit on the client bank account throughout the period from 2nd December 2002 to 28th January 2003. Other adjustments on the reconciliation had not been corrected despite having been brought repeatedly to the attention of the Respondent since October 2002. (Rule 4, 8 and 9).
- e) On 16th December 2002 a fee of £446.50 was debited to Ms Y but the statement and fee note

showed the fee to be £452.37. On 30th December 2002 a fee of £176.25 was debited by the fee note which was sent to the client showed the fee to be £111.62. (Rules 6(1)(d) and 8).

- f) A fee of £193.75 was debited to Mrs D's executry on 23rd December 2002. A fee note dated 18th December 2002 was seen in the sum of £176.25. No explanation was available for the difference. (Rules 6(1)(d) and 8).
- g) A cheque was drawn in favour of Registers of Scotland relative to recording dues payable on behalf of and Mr. and Mrs. Z. No debit entry was made in the client ledger. (Rules 6(1)(a) and 8).

7. Having considered submissions from parties the Tribunal found the Respondent guilty of Professional Misconduct in respect of:

- a. His failure to keep his books properly written up so as to comply with the Solicitors (Scotland) Accounts Rules 1997 (“the 1997 Rules”) Rule 12 and the Solicitors (Scotland) Accounts, Accounts Certificate, Professional Practice and Guarantee Fund Rules 2001 (“the 2001 Rules”) Rule 8.
- b. His failure to keep his books and accounts properly written up so as to show the true financial position of his practice, and balance his books monthly, in breach of 1997 Rule 12(4) and 2001 Rule 8(4).
- c. His failure to maintain accurate reconciliation of his client account on a monthly basis as required by 1997 Rule 13 and 2001 Rule 9.

- d. His failure to keep funds invested to gain interest for clients in breach of 1997 Rule 15.
 - e. His failure to submit an accounts certificate timeously or correctly completed, in breach of 2001 Rule 14.
 - f. His failure to ensure that at all times the sum at credit of the client account was not less than the total of the client's money held by him in breach of 1997 and 2001 Rules 4.
 - g. His effecting into client's transfers for which there was no apparent authority, in breach of 1997 and 2001 Rules 6 (1)
 - h. His borrowing money from clients who were neither in the business of lending money nor in receipt of Independent advice in relation to the making of the loan 2001 Rule 21.
 - i. His debiting a fee without rendering an account, in contravention of 1997 and 2001 Rules 6(1)(d).
 - j. His debiting grossly excessive fees, in breach of 1997 and 2001 Rules 6.1(d).
8. Having heard the Solicitor for the Respondent in mitigation the Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 22 April 2004. The Tribunal having considered the Complaint dated 11 December 2003 at the instance of the Council of the Law Society of Scotland against Douglas Alexander Criggie, Solicitor, Messrs Criggie & Co., 70 Cumberland Street, Edinburgh; Find the Respondent guilty of Professional Misconduct in respect of his breaches of Rules 4, 6, 12, 13 and 15 of the Solicitors (Scotland) Accounts Rules 1997 and his breach of Rules 4, 6, 8, 9, 14 and 21 of the Solicitors (Scotland) Accounts, Accounts

Certificate, Professional Practice and Guarantee Fund Rules 2001; Order that the name of the Respondent, Douglas Alexander Criggie, be struck off the Roll of Solicitors in Scotland; Direct in terms of Section 53(6) of the Solicitors (Scotland) Act 1980 that this order shall take effect on the date on which the written findings are intimated to 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 Law Society's Table of Fees for general business; and Direct that publicity will be given to this decision and that this publicity should include the name of the Respondent but that this publicity be deferred until a future date to be agreed by the Tribunal

(signed) Peter W Rockwell

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 and averments of duty and averments of professional misconduct in the Complaint were admitted. No evidence was led.

SUBMISSIONS FOR THE COMPLAINERS

Mr Lynch explained that at the first inspection a number of irregularities were noted and it was determined that the Respondent's books should be re-inspected. At the re-inspection in January 2002 a number of breaches of the Accounts Rules were discovered. Further information was requested from the Respondent and a further inspection was arranged for February 2002. In addition to this the Respondent failed to produce an accounts certificate in the proper form until 10 July 2002. At the October 2002 inspection it became apparent that there was going to be a deficit on the client account. No bank reconciliation had been carried out, cheques had not been posted. Funds from one client had been credited to other clients; in relation to one executry the Respondent had borrowed more than his co-executor was aware of and there was no mandate in respect of a bridging loan. The chief accountant visited the Respondent's offices and it was discovered that there was an overall deficit of £74,346.19. The Respondent stated that he was able to make good this deficit which would have warranted a judicial factor having to be appointed. It then became apparent that the Respondent had borrowed money from his mother and his brother and also from a Mr J and a Mr I, which was in breach of Rule 21 of the Accounts Rules as no independent legal advice had been given. At the inspection in December 2002 more incorrect postings were discovered and there were further problems. Fees had been taken in an executry without a fee note being raised. In connection with Mr M's executry fees of £33,489 had been debited when the fees properly taken should only have been £10,341 resulting in a gross overcharging of fees. In the inspection in January 2003 the Respondent required to credit more than £23,000 to Mr M's executry which again led to a shortage on the client account. A cheque was received from the Respondent's mother which covered this and left a surplus but there was still insufficient to repay Mr & Mrs J. In addition further problems were noted. Mr Lynch pointed out that there was a deficit on the client account from 2 December 2002 until

28 January 2003. Mr Lynch reported that the Respondent's business had now been taken over by an Edinburgh solicitor and the credit balances had been transferred. Mr Lynch indicated that the Law Society had no difficulty with this. If this had not been done it may have been necessary to appoint a judicial factor. Mr Lynch advised that there were still issues outstanding in connection with claims by other clients against the Respondent which may have to go to the guarantee fund. Mr Lynch further advised that the procurator fiscal was presently considering whether or not to bring criminal charges against the Respondent.

SUBMISSIONS FOR THE RESPONDENT

Ms O'Neill advised that the Respondent accepted full responsibility for his actions and acknowledged the gravity of the situation. Ms O'Neill asked the Tribunal to take account of the fact that none of the Respondent's clients had suffered any financial loss. Ms O'Neill also emphasised that there had been no claim on the guarantee fund in respect of any of the matters contained in the complaint. Ms O'Neill also confirmed that the Respondent had repaid all the borrowings with the exception of Mr & Mrs J and arrangements were in place with regard to repaying this outstanding amount. Ms O'Neill stated that the Respondent had transferred his business as he had felt that this was a responsible and appropriate course of action. The Respondent is not practising at present and did not intend to practice as a solicitor in the short term. Ms O'Neill suggested that an appropriate penalty to safeguard the safety of clients would be a restriction on the Respondent's practising certificate. Ms O'Neill also asked that any publicity in the matter be deferred until after the conclusion of any criminal proceedings against the Respondent. Ms O'Neill also explained that the Respondent had lost a long term employee who had dealt with cash room matters and the Respondent was not good with numbers. Although this was not an excuse the Respondent had not been able to devote enough time to these matters due to the pressure of business.

DECISION

It is imperative for the public to have confidence in the profession that solicitors adhere to the terms of the Accounts Rules. In this case the Respondent committed numerous and major breaches of the Accounts Rules over a number of years in apparent disregard of all the warnings given at the sundry Law Society inspections of his books. The Respondent had a substantial deficit on the client account in October 2002 which was rectified only with help of client loans obtained in breach of Rule 21 but shortly thereafter the client account was in deficit again. The Respondent showed a wilful disregard for the provisions of the Accounts Rules despite warnings from the Law Society. The Tribunal noted that there had been no actual loss to the Respondent's clients but if it had not been for the Law Society's inspections and money provided by the Respondent's family it may well have been that there would have been losses. The Respondent's use of client accounts to make firm payments is totally unacceptable. The Respondent's overcharging of fees in the Mr M executry amounted to an over 300% overcharge which is disgraceful conduct for a solicitor. Further the Tribunal noted with concern the large sums borrowed from clients in breach of Rule 21.

The Tribunal noted that the Respondent had co-operated and had entered into a Joint Minute but taking all the circumstances into account, in order to protect the public and maintain the standards of the legal profession, the Tribunal considered the only suitable option was to strike the name of the Respondent from the Roll of Solicitors in Scotland. The Tribunal further ordered that this should take effect on intimation of the findings. The Tribunal made the usual order with regard to expenses. In respect of publicity, given that there may be criminal proceedings against the Respondent, the Tribunal ordered that publicity be deferred to a future date to be agreed by the Tribunal once any criminal proceedings had been concluded or there had been a decision not to take criminal proceedings against the Respondent.