

DC/07/06

**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

**IAN WILSON LEITCH, Solicitor,
Linden House, 3 Inveresk Village,
Musselburgh**

1. A Complaint dated 26 January 2007 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Ian Wilson Leitch, Solicitor, Linden House, 3 Inveresk Village, Musselburgh (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 21 March 2007 and notice thereof was duly served on the Respondent.
4. When the case called on 21 March 2007, the Complainers were represented by their Fiscal, Walter Muir, Solicitor, Ayr. The Respondent was not present or represented.

5. A Joint Minute was lodged admitting the facts in the Complaint. No evidence was led.

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 18 August 1949. He was admitted as a Solicitor on 22 May 1975 and enrolled as a Solicitor on 5 June 1975. He was formerly the sole principal of the firm of Gibson Kerr WS which firm had a place of business at 46 India Street, Edinburgh. He ceased being a partner in the said firm on 8 May 2005 and he does not currently hold a Practising Certificate.

6.2 **Company 1**

On 25 July 2006 the Complainers made a determination in terms of Section 42A(1) of the Solicitors (Scotland) Act 1980 that the firm of Gibson Kerr WS had provided an inadequate professional service to its client, Company 1. The Complainers then further determined in terms of Section 42A(2)(b) of the said Act that the Respondent, at his own expense meet the reasonable conveyancing costs associated with completing the title in relation to the purchase of land at subjects known as, Company 2 and also the cost of obtaining copy writs in relation to subjects in which the said firm's client had an interest. The Complainers then further determined and directed in terms of Section 42A(2)(d) of the said Act that the said firm pay to Company 1 the sum of £1000 by way of compensation. The Respondent was the sole principal of the said firm when this inadequate professional service was provided to Company 1. By letter dated 4 August 2006 the Complainers intimated these determinations to the Respondent. He did not appeal them. By 15 September 2006 he had not implemented them and on that date the Complainers gave notice to him in terms of Section 42B of the said Act calling upon him to provide confirmation to them of the steps he had taken to implement these

determinations within a period of 21 days from that date. The Respondent failed to provide this confirmation and he has still not implemented the said determinations.

7. Having considered the foregoing and having noted the terms of the Respondent's letter, the Tribunal find that the Respondent has failed to comply with the Determinations and Directions given by the Law Society of Scotland under Section 42A of the Solicitors (Scotland) Act 1980 in respect of Company 1 within the period specified. The Tribunal resolved to make an Order in terms of Section 53C(2) of the Solicitors (Scotland) Act 1980 and issued an Interlocutor in the following terms:-

Edinburgh 21 March 2007. The Tribunal having considered the Complaint dated 26 January 2007 at the instance of the Council of the Law Society of Scotland against Ian Wilson Leitch, Solicitor, Linden House, 3 Inveresk Village, Musselburgh; Find that the Respondent has failed to comply with the Determinations and Directions given by the Council of the Law Society of Scotland under Section 42A of the Solicitors (Scotland) Act 1980 within the period specified; Direct that an Order be issued under Section 53C of said Act; 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 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)

Alistair Cockburn
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

The Council of the Law Society of Scotland had made Determinations under Section 42A of the Solicitor (Scotland) Act 1980 which were not appealed by the Respondent. A Complaint was then made to the Tribunal under the provisions of 53C of the said Act which states that

- (1) Where a solicitor fails to comply with a direction given by the Council under Section 42A (including, as the case may be, such direction as confirmed or varied on appeal by the Tribunal or the Court) within the period specified in the notice relating to that direction given to the solicitor under Section 42B(1) or such longer period as the Council may allow, the Council shall make a Complaint to the Tribunal and may appoint a solicitor to represent them in connection with the Complaint.
- (2) If after inquiry into a Complaint made under subsection (1) the Tribunal is satisfied that the solicitor has failed to comply with the direction the Tribunal may order that the direction, or such part of it as the Tribunal thinks fit, shall be enforceable in like manner as an extract registered decree arbitral in favour of the Council bearing a warrant for execution issued by the Sheriff Court of any Sheriffdom in Scotland.

The Respondent accepted, in his letter, that the Determinations had been made by the Law Society and not implemented by him. The Tribunal was accordingly satisfied that the Respondent had failed to comply with the Determinations and Directions of the Law Society. The Tribunal noted the Respondent's financial circumstances but nevertheless was of the opinion that an Order should be made. The Tribunal restricted the wording of the Order because the Respondent would not be able to take any remedial action himself as he did not currently hold a practising certificate. The Tribunal also found the Respondent liable in the expenses of the proceedings. As the disposal of this Complaint constitutes a decision for the purposes of the fourth schedule to the Solicitors (Scotland) Act 1980, the Tribunal is required in terms of paragraph 14 of the schedule to give publicity to this decision.

Chairman