

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

**F I N D I N G S**

**in Complaint**

**by**

**THE COUNCIL OF THE LAW  
SOCIETY of SCOTLAND, 26  
Drumsheugh Gardens, Edinburgh**

**against**

**WILLIAM MICHAEL LEWIS, of  
Gilmore Lewis, care of 1 Hope  
Park Terrace, Edinburgh**

1. A Complaint dated 8 April 2009 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that William Michael Lewis, of Gilmore Lewis, care of 1 Hope Park Terrace, 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. No answers were lodged by the Respondent.
3. In terms of the Tribunal's Rules, the Tribunal appointed the Complaint to be heard on 2 June 2009 and notice thereof was duly served on the Respondent.
4. When the case called on 2 June 2009, 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 all the averments in the Complaint.

6. The Tribunal found the following facts established

6.1 The Respondent was born on 7 November 1957. He was admitted as a solicitor on 31 March 1982. He was enrolled as a solicitor in the Register of Solicitors on 22 April 1982. After his admission he was employed in a variety of legal firms culminating in him becoming a partner in Warners on 1 September 1985. He ceased to be a partner in that firm on 30 June 1992 and set up as a sole practitioner under the name of Gilmore Lewis on 1 July 1992. He ceased to be a partner on 31 August 2007.

**Mr A**

6.2 Mr A lodged a complaint with the Complainers in relation to an alleged inadequate professional service provided by the Respondent and his firm in relation to the sale of property 1. In particular he complained that the Respondent failed to ensure that Mr A's mortgage was redeemed upon completion of the sale of that property.

6.3 On 10 June 2008 after consideration by the Complainers of Mr A's complaint they upheld the complaint of an inadequate professional service in respect of:-

- (1) Failure to ensure that Mr A's mortgage was redeemed upon completion of the sale of property 1 and also determined that in terms of Section 42A (2)(a)(ii) of the Solicitors (Scotland) Act 1980 that the fees to which the former firm of Gilmore Lewis were entitled to be reduced from £500 plus VAT to £375 plus VAT, and directed in terms of Section 42A (3)

thereof that the former firm of Gilmore Lewis should refund to Mr A the sum of £125 plus VAT.

- 6.4 In addition the Complainers determined in terms of Section 42A (2)(d) of the Solicitors (Scotland) Act 1980 that the Respondent should pay to Mr A the sum of £950.34 by way of compensation.
- 6.5 By letter of 24 June 2008 the decision referred to in the preceding paragraph was intimated to the Respondent requiring compliance of said decision. A further letter of 30 July 2008 was sent to the Respondent by the Complainers requesting compliance. On 6 August 2008 due to the lack of response to said letters the Complainers sent a Notice under Section 42B of the Solicitors (Scotland) Act 1980 by recorded delivery mail to the Respondent. No response has been received. Mr A has not received reimbursement of the fee nor payment of the compensation as outlined in the decision of the Complainers.

#### **Law Society of Scotland – Mr B**

- 6.6 Mr B lodged a complaint with the Complainers in relation to an alleged inadequate professional service provided by the Respondent and his firm in relation to the re-mortgaging of subjects at Property 2. On 5 June 2008 after consideration by the Complainers of Mr B's complaint they made a finding of an inadequate professional service in respect of:-
- (a) failure to pay the sums due to Abbey National to redeem their mortgage;

- (b) failure to deal with the concerns raised by Mr B regarding the quality of the service provided to him by the firm;
- (c) failure to take steps to arrange for funds held by the firm to enable them to pay Abbey National to be released from the arrestments served on 28 June and 4 September both 2007 and;
- (d) incorrectly advised Mr B towards the end of June 2007 that it was "totally unnecessary" for Mr B to extend his existing overdraft in case the loan funds were not transferred before the beginning of July 2007. The Committee then determined in terms of Section 42A (2)(a) of the Solicitors (Scotland) Act 1980 that the fees of the Respondent's firm of Gilmore Lewis should be abated by 100% and directed in terms of Section 42A (3) thereof that Gilmore Lewis should refund to Mr B the sum of £470 in order to comply with that determination. In addition the Complainers determined in terms of Section 42A (2)(d) of the Solicitors (Scotland) Act 1980 that the Respondent's firm of Gilmore Lewis should pay to the Complainer the sum of £4,787.31 by way of compensation.

6.7 By letter of 16 June 2008 the decision referred to in the preceding paragraph was intimated to the Respondent requiring reimbursement as set out in that determination. No response was received. A further letter of 22 July 2008 was sent to the Respondent enclosing a Section 42B Notice. No response has been received. Mr B has not received a refund or payment of the compensation as set out in the Complainer's determination of 5 June 2008.

7. Having considered the Complaint and having heard submissions on behalf of the Complainers, the Tribunal found that the Respondent had failed to comply with the Determinations and Directions given by the Council of the Law Society of Scotland in respect of Mr A and Mr B within the respective periods specified. The Tribunal accordingly resolved to make Orders under Section 53C of the Solicitors (Scotland) Act 1980.

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

Edinburgh 2 June 2009. The Tribunal having considered the Complaint dated 8 April 2009 at the instance of the Council of the Law Society of Scotland against William Michael Lewis, of Gilmore Lewis, care of 1 Hope Park Terrace, Edinburgh; Find that the Respondent failed to comply with the Determinations and Directions given by the Council of the Law Society of Scotland within the respective periods specified; Direct that Orders be issued under Section 53C of the Solicitors (Scotland) Act 1980; Find the Respondent liable in the expenses of the Complainers and of the Tribunal including expenses of the Clerk, chargeable on a time and line basis as the same may be taxed by the Auditor of the Court of Session on an agent and client, client paying 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)**

**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**

A Joint Minute was lodged on the day of the Tribunal admitting the averments in the Complaint. The fiscal advised that the Productions and the Affidavit had already been prepared and that was why they had been lodged with the Tribunal but she did not intend to refer to them given the terms of the Joint Minute. The Fiscal made certain minor amendments to the Complaint and confirmed that the Respondent was aware of these amendments and had no objection to them. The fiscal asked the Tribunal to grant the Orders sought

**DECISION**

The Tribunal found on the basis of the Complaint and the Joint Minute, that the Respondent had failed to comply with the determinations and directions of the Law Society and considered it appropriate to make Orders under Section 53C of the Solicitors (Scotland) Act 1980. The Tribunal made the usual order with regard to expenses and as this decision constitutes a decision, in terms of the said Act, publicity requires to be given to this decision.

**Chairman**