

**THE SOLICITORS (SCOTLAND) ACT 1980  
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL  
(PROCEDURE RULES 2008)**

**FINDINGS**

**in Complaint**

**by**

**THE COUNCIL OF THE LAW SOCIETY of  
SCOTLAND, Atria One, 144 Morrison Street,  
Edinburgh**

**Complainers**

**against**

**ALISON HAZEL MARGARET GREER, 5  
Brady Crescent, Moodiesburn, Glasgow**

**Respondent**

1. A Complaint dated 20 February 2017 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") averring that, Alison Hazel Margaret Greer, 5 Brady Crescent, Moodiesburn, Glasgow (hereinafter referred to as "the Respondent") was a practitioner who may have been guilty of professional misconduct.
2. There was no Secondary Complainer.
3. The Tribunal caused a copy of the Complaint as lodged to be served upon the Respondent. No Answers were lodged for the Respondent.
4. In terms of its Rules, the Tribunal appointed the Complaint to be heard on 11 May 2017 and notice thereof was duly served on the Respondent.
5. At the hearing on 11 May 2017, the Complainers were represented by their Fiscal, Sean Lynch, Solicitor, Kilmarnock. The Respondent was neither present nor represented but had executed a Minute of Admissions and had forwarded a letter in mitigation to the Tribunal Office. The Fiscal for the Complainers lodged the principal Minute of Admissions with the Tribunal and asked the Tribunal to hear the Complaint in the Respondent's absence. The Tribunal having heard that the Respondent had instructed a

solicitor who had accepted service of the Complaint and the Notice of Hearing and had confirmed that the Respondent wished the case to be heard in her absence, determined that it was just and fair to do so.

6. The Minute of Admissions admitted the whole averments of fact, duty and professional misconduct contained within the Complaint. The Fiscal moved to amend paragraph 7 of the Complaint to delete the words “caused or” and “or acquiesced in”. On the basis that this amendment reflected the content of the letter from the Respondent and amounted to a lesser allegation of misconduct, the Tribunal granted the Fiscal’s motion.

7. The Tribunal found the following facts established:

7.1 The Respondent’s date of birth is 31<sup>st</sup> May 1966. She was enrolled as a solicitor on 12<sup>th</sup> November 1990. Between that date and 30<sup>th</sup> September 1998 she was an employee (latterly an associate) of David G Hogg & Co, Solicitors, Kirkintilloch. From 1<sup>st</sup> October 1998 until 28<sup>th</sup> September 2012 when the firm ceased upon the appointment of a Judicial Factor the Respondent was a partner in the firm of Alder Hogg, Solicitors, 45 Townhead, Kirkintilloch, Glasgow.

7.2 Between 12<sup>th</sup> July 2007 and 28<sup>th</sup> September 2012 the Respondent was along with her twin brother Philip Simon Hogg, a partner in the firm of Alder Hogg, Solicitors, Kirkintilloch. The Respondent’s husband, Kenneth Greer, was the firm’s office manager and cashier. At all material times the Respondent was the firm’s cash room partner. In or about 2007 the Respondent was made the subject of a complaint before the Scottish Solicitors’ Discipline Tribunal. The proceedings against her were abandoned at a late stage when it became apparent that the correspondence to which it was alleged she had not responded had been concealed from her by her husband the said Kenneth Greer. Mr Greer is not a solicitor.

7.3 Against that background the Respondent’s firm continued to employ Mr Greer as office manager and cashier until the date of the appointment of a Judicial Factor to the firm on 28<sup>th</sup> September 2012. In those circumstances a high degree of supervision of Mr Greer was required.

7.4 The Respondent during her tenure as a partner in the former firm of Alder Hogg (hereinafter “the firm”) permitted to be instituted or operated, and in any event, in the exercise of reasonable diligence ought to have known of, a system whereby excessive fees were charged in the after mentioned cases in breach of the Solicitors (Scotland) Accounts Rules 2001, Rules 6(1)(d) and Rule 4 or equivalent Law Society of Scotland Practice Rules 2011, Rules 6.5.1(d), 6.3 and 6.4. The respondent was responsible for the administration of the aftermentioned cases. The fee notes were prepared by the said Kenneth Greer.

7.5 Between 13 March 2002 and 30 September 2011 the firm took fees including VAT totalling £219,879.14 from ledgers for the AB executry and the BB executry. The fees were taken as follows:-

31.12.2001	Fee Note 1469	£	146.88
13.03.2002	Fee Note 1569	£	3,525.00
26.03.2002	Fee Note 1583	£	1,733.13
03.01.2006	Fee Note 5083	£	3,231.25
21.02.2006	Fee Note 5143	£	3,701.25
21.02.2006	Fee Note 5144	£	3,231.25
02.05.2006	Fee Note 5248	£	41,125.00
30.06.2006	Fee Note 5355	£	2,350.00
07.07.2006	Fee Note 5379	£	5,875.00
07.08.2006	Fee Note 5422	£	3,525.00
05.03.2008	Fee Note 6358	£	6,339.13
31.03.2008	Fee Note 6394	£	2,643.75
24.09.2008	Fee Note 6655	£	9,987.50
10.02.2009	Fee Note 6803	£	1,380.00
20.03.2009	Fee Note 6856	£	1,762.50
20.03.2009	Fee Note 6856A	£	862.50
26.06.2009	Fee Note 6999	£	5,750.00
30.09.2009	Fee Note 7112	£	3,910.00
01.08.2011	Fee Note 8004	£	6,000.00
02.08.2011	Fee Note 8007	£	2,400.00
05.08.2011	Fee Note 8013	£	26,400.00

19.08.2011	Fee Note 8020	£	6,000.00
23.08.2011	Fee Note 8023	£	12,000.00
05.09.2011	Fee Note 8043	£	36,000.00
21.09.2011	Fee Note 8054	£	7,200.00
30.09.2011	Fee Note 8065	£	22,800.00
		<b>£</b>	<b>219,879.14</b>

The relative files have been assessed by the Auditor of the Court of Session and the fee including VAT found to be due amounted to £129,750.63. The allocation of fees for VAT purposes was as follows:-

From 24.07.01 to 30.11.08: £106,296.38 (inc VAT at 17.5%, £15,831.38)

From 01.12.08 to 31.12.09: £4,939.25 (inc VAT at 15%, £644.25)

From 01.01.10 to 03.01.11: £3,431.00 (inc VAT at 17.5%, £511.00)

From 04.01.11 to 30.09.11: £15,084.00 (inv VAT at 20%, £2,514.00)

The firm overcharged its client by £90,128.51. Since the Auditor's Report was issued on 5 September 2012 the firm has been unable to return to the Client Account the sum of £90,128.51 and the Client Account remained in deficit.

As at 30<sup>th</sup> November 2008, the fees to which the firm was entitled amounted, inclusive of VAT to £106,296.38 and the amount actually charged to the executries as at that date was £87,414.14. Accordingly all of the overcharging took place after that date.

7.6 The firm took the following fees amounting to £20,386.25 from ledgers in the name of CD executry:-

11 August 2005	£4,112.50
3 August 2006	£6,462.50
28 June 2009	£6,286.25
28 February 2011	£3,525.00

- 7.7 There had not been an Executor appointed and it was therefore not possible to render a fee note against the estate. Fees totalling £16,861.25 were re-credited to the ledger on 30 September 2011.
- 7.8 In relation to the executry of EF the files were assessed by the auditor of the Royal Faculty of Procurators in Glasgow who calculated the total fee at £8,959.37. The fee charged by the firm was excessive: it totalled £13,501.38, being an overcharge of £4,542.01. The period of the overcharge was from June 2009 to August 2011.
- 7.9 On 21 October 2009 £2,300.00 was taken as fees from the Miscellaneous ledger for GH. The firm was not entitled to these fees which were subsequently re-credited on 18 January 2010.
- 7.10 In relation to the executry of IJ the files were assessed by the auditor of the Royal Faculty of Procurators in Glasgow who calculated the total fee at £1,770 including VAT. The fee charged by the firm was excessive: it totalled £7,717.50, being an overcharge of £5947.50. The period of overcharge was between November 2009 and September 2011.
- 7.11 On 20 January 2010 £2,232.50 was taken as fees from the Miscellaneous ledger for GH. The firm was not entitled to these fees which were subsequently re-credited on 27 August 2010.
- 7.12 The firm took the following fees amounting to £7,101.41 inclusive of VAT from ledgers in the name of the KL executry and KL Miscellaneous:-

KL EXECUTRY

03 August 2010	£822.50
27 August 2010	£367.19
21 September 2010	£1,468.75
30 November 2010	£881.25
08 July 2011	£330.47

## KL MISC.

26 February 2010	£1,762.50
1 May 2010	£1,468.75

No fee notes in respect of the fees taken on 26 February and 11 May 2010 and 3 August 2010 were ever rendered to the client and fees totalling £3,231.25 (equal to the sum of the fees taken on the Miscellaneous Ledger) were re-credited to the Client on 8 July 2011. There was no justification for the taking of these fees.

- 7.13 In relation to the executry of MN the files were assessed by the auditor of the Royal Faculty of Procurators in Glasgow who calculated the total fee at £10,780.62. The fee charged by the firm was excessive; it totalled £18,790.18, being an overcharge of £8,009.56. The period of the overcharge was from July 2010 until the date of the appointment of the judicial factor.
- 7.14 Between 3 August 2010 and 20 July 2011 the firm took fees totalling £37,570.25 from ledger in the name of the OP executry. On 5 September 2011 £27,148.00 was re-credited to the Client Account and further fees totalling £8,367.93 taken. Consequently fees totalling £18,790.18 were taken by the firm. The Auditor fixed the fees due to the firm in this case at £10,780.62 inclusive of VAT, resulting in an overcharge of £8,009.56
- 7.15 In relation to the executry of QR the files were assessed by the auditor of the Royal Faculty of Procurators in Glasgow who calculated the total fee at £6,810. The fee charged by the firm was excessive: it totalled £16,999.50, being an overcharge of £10,189.50. The period of the overcharge was between September 2010 and April 2011.
- 7.16 On 30 June 2011 the firm took fees and VAT amounting to £4,800.00 from a Ledger in the name of ST. This ledger was not for a specific matter and was headed "Miscellaneous". The sum of £4,800.00 was transferred from the ledger for the TT executry to the Miscellaneous Ledger. This sum was not required to account for payment of the firm's professional account against the executry or ST and no fee note had been rendered. The firm was not entitled to the £4,800 and

this sum was subsequently re-credited on 5 August 2011 and returned to the ledger for the TT executry.

- 7.17 On 21 June 2011 the firm took fees amounting to £720.00 from Client Ledger in the name of the VV executry that were not required to account for payment of the firm's professional account against the executry and where no fee note had been rendered. This fee was subsequently returned to the client ledger on 5 September 2011.
- 7.18 On 1 July 2011 £8,400.00 was taken from the ledger in the name of WX. The firm was not entitled to this sum and it was re-credited to the same ledger on 5 September 2011.
- 7.19 In consequence of the taking of the fees condescended upon the firm's client account was continually in deficit from 1<sup>st</sup> October 2008 until the appointment of the judicial factor. The overcharge funded the partners' drawings.
8. Having heard submissions from the Complainers and having carefully considered the content of the correspondence from the Respondent, the Tribunal found the Respondent guilty of Professional Misconduct in relation to:
- 8.1 Her failure in her obligation to see that the firm, in which she was a partner with the added duties incumbent on her as Designated Cashroom Partner, complied with the Accounts Rules, in her duty to supervise the firm's office manager and cashier, in her duty to take steps to satisfy herself that fees being charged to executries were properly so charged and fee notes were properly rendered and to see that at all times the sums at credit of the client account exceeded the sums due to clients; and
- 8.2 Her continued drawing of funds from the firm while it was being financed by the overcharges to clients.
9. Having regard to the submissions of the Complainers and the detailed information provided by the Respondent, the Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 11 May 2017. The Tribunal having considered the Complaint dated 20 February 2017 at the instance of the Council of the Law Society of Scotland against Alison Hazel Margaret Greer, 5 Brady Crescent, Moodiesburn, Glasgow; Find the Respondent guilty of professional misconduct in respect of (a) her failure in her obligation to see that the firm, in which she was a partner with the added duties incumbent on her as Designated Cashroom Partner, complied with the Accounts Rules, in her duty to supervise the firm's office manager and cashier, in her duty to take steps to satisfy herself that fees being charged to executries were properly so charged and that fee notes were properly rendered and to see that at all times the sums at credit of the client account exceeded the sums due to clients and (b) her continued drawing of funds from the firm while it was being financed by the overcharges to clients; Order that the name of the Respondent be Struck Off the Roll of Solicitors in Scotland; 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 but that this publicity shall not include the names of clients of the firm.

**(signed)**

**Alan McDonald**

**Vice Chairman**



10. 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 **30 MAY 2017** .

**IN THE NAME OF THE TRIBUNAL**



**Alan McDonald**  
**Vice Chairman**

**NOTE**

The Respondent was not present at the hearing on 11 May 2017. The Fiscal explained to the Tribunal that he had been in communication with a solicitor instructed by the Respondent and that that solicitor had forwarded to him a Minute of Admissions executed by the Respondent. The Fiscal lodged this Minute of Admissions with the Tribunal and asked the Tribunal to deal with the matter in the Respondent's absence. Prior to the hearing, the Tribunal had received an email from the Respondent setting out her position in mitigation and confirming that she would not be in attendance. The Tribunal had also received an email from the Respondent's solicitor confirming that neither the Respondent nor he would be present at the hearing and that the Respondent would submit her mitigation in writing. The Tribunal, being satisfied that the solicitor had accepted service of the Complaint and Notice of Hearing for the Respondent and that the Respondent was aware of the date for the hearing and wished it to be dealt with in her absence, determined that it was just and fair so to do and granted the Fiscal's motion.

Mr Lynch confirmed to the Tribunal that the plea offered by the Respondent was done so on a specific basis accepted by him. This was that the Respondent was not actively involved in the charging or rendering of fees in these incidences but was responsible in her role as cashroom partner. It was also the Respondent's position that she gained nothing other than her salary. The Fiscal confirmed that he accepted the Respondent's explanation and accepted that the Respondent was working limited hours in the office because of her personal circumstances and that she was not actively involved in the management of the files referred to. His own examination of the files concerned seemed to confirm that. In order to reflect the basis of the plea, the Fiscal asked the Tribunal to amend Article 7 of the Complaint by deleting the words "caused or" and "or acquiesced in" where they appeared here. On the basis that this amendment reflected the terms of the Respondent's letter and amounted to a lesser allegation of misconduct, the Tribunal considered it appropriate to grant that motion.

**SUBMISSIONS FOR THE COMPLAINERS**

The Fiscal indicated that he wanted to briefly address each of the particular executries. In Article 8, the overcharge of fees was £90,000 which was a 69% overcharge. In Article 9, no fee notes should have been rendered as no executor had been appointed. The fees were credited back to the account. He submitted that this case was one of a number which formed a pattern of teaming and lading. In Article 11, the overcharge was £4,542 and amounted to a 50% overcharge. In Article 12, no fee should have been taken. The figure taken was re-credited. Article 13 involved an overcharge of £5,947.50 which

equated to an overcharge of 336%. Article 14 was a fee that should not have been taken at all and was subsequently re-credited. Article 15 was in a similar position. Article 16 was an overcharge of 74%. Article 17 was an overcharge of 74%. Article 18 was an overcharge of 150%. Article 19 was a fee that should not have been taken at all and was re-credited as were Articles 20 and 21.

The total amount of fees wrongly taken and not refunded was £126,826.64. Mr Lynch stated he could confirm that the Guarantee Fund in fact paid a sum in excess of that amount in relation to all of the firm's affairs.

He confirmed to the Tribunal that the Respondent's twin brother had appeared before the Tribunal on 25 August 2016 on the same set of facts. He had been found guilty of professional misconduct, and suspended from practice for five years. The brother's plea was based on a failure to supervise. The brother had maintained that he had no knowledge of what was taking place in circumstances where his sister, the Respondent, was the cashroom partner and her husband was the cashroom manager. In the present case, the Respondent was at all material times the cashroom partner for the firm. He submitted that it was appropriate for the Tribunal to also have in mind the Respondent's knowledge of the previous dishonesty of her husband in hiding correspondence from her. This should have put her on notice that if she continued to employ her husband he would require proper supervision. Mr Lynch stated that whilst he accepted that the Respondent had significant difficulties in her personal life, these did not detract from her professional responsibilities.

In answer to a question from the Chairman, Mr Lynch confirmed that from his examination of the files it appeared that the Respondent's husband was managing the files and fixing the fees. A member of the Tribunal asked the Fiscal to confirm whether the firm employed other solicitors. The Fiscal confirmed that the firm had previously employed a solicitor who was a close relative of the Respondent. The firm had got into difficulties previously and that older brother had been sequestered. When the firm was later constituted by her and Philip Hogg, the older brother had continued as a solicitor but had declined to be a principal of the firm. He submitted there was no suggestion that the older brother was involved.

Mr Lynch clarified to the Tribunal that it appeared that the Respondent's husband was involved in the day to day running of the executry files. All of the outgoing correspondence indicated that replies were to be addressed to him. Mr Lynch confirmed that the Respondent's husband was not legally qualified.

Mr Lynch confirmed that the Respondent had no other matters on her record.

## DECISION

Although the Respondent had in her Minute of Admissions admitted professional misconduct, it remained a question for the Tribunal to be satisfied that the conduct admitted met the appropriate test. The test for professional misconduct is set out within the case of Sharp-v-The Council of the Law Society of Scotland [1984] SLT313. In this case the Respondent had been the cashroom partner throughout the time period with which the Tribunal were concerned. The role of the cashroom partner is one of the most important roles within a firm. It is essential that the public be able to have confidence in the profession and the role of the cashroom partner has been designed to ensure that a firm complies with the Solicitors Accounts Rules which are designed to protect the interests of the public. The Tribunal had before it a course of conduct that had continued over a period of three years. Not only had the Respondent failed to supervise an employee in relation to the individual executry matters, which appears to have been her area of responsibility within the firm, she also failed in her duties as cashroom partner to ensure that the firm complied with the Accounts Rules. The Tribunal gave detailed consideration to the personal circumstances and difficulties described by the Respondent within her letter and the psychiatric report produced. However, the Respondent had continued in her role as cashroom partner, and had failed to supervise her husband over a period of years where she had had previous notice of her husband's dishonesty in hiding correspondence from her and where she was aware that the firm had had financial difficulties. Her complete dereliction of duty as cashroom partner had allowed a course of conduct to persist for three years and had led to a deficit of £126,828.64.

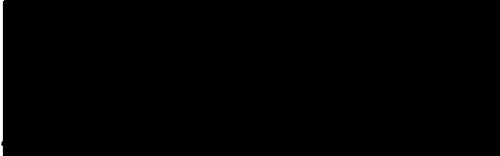
The Tribunal had no hesitation in unanimously holding that the conduct of the Respondent fell well below the standard to be expected of a competent and reputable solicitor which could only be categorised as serious and reprehensible. Accordingly, the Tribunal found the Respondent guilty of professional misconduct.

The Tribunal determined that the appropriate sanction had to reflect the seriousness of the conduct. The Solicitors Accounts Rules are an essential protection of the public interest and the role of cashroom partner is a pivotal part of the protection provided. Client funds had been used by this firm for a number of years to finance the partner's drawings. Whilst the Tribunal accepted that the Respondent had experienced significant personal issues, she also had significant professional responsibilities within the firm in which she had failed for a significant period of time. Her culpability in connection with this conduct was significantly greater than her twin brother. She had been cashroom partner during the whole time period. Additionally, she had greater knowledge of the previous difficulties in relation to her husband. The files where overcharging had taken place were all

executives, which was her area of work. Her twin brother's area of work was conveyancing. In all of these circumstances, the Tribunal concluded that the only disposal available to it that would reflect the serious nature of the Respondent's conduct and that would address the issue of protection of the public was to strike the Respondent's name from the Roll of Solicitors in Scotland.

The Fiscal moved for expenses and the Tribunal made an award in favour of the Complainers.

With regard to the issue of publicity, the Respondent in her letter had asked the Tribunal to restrict the nature of publicity given her personal circumstances. Schedule 4 paragraph 14 of the Solicitors (Scotland) Act 1980 requires the Tribunal to publish its decision in full. Paragraph 14A of the same Schedule allows the Tribunal to refrain from publishing names if in the Tribunal's opinion the publication of that information would damage or be likely to damage the interests of the person other than (a) the solicitor against whom the complaint is made, or (b) his partners or (c) his or their families. In these circumstances, the Tribunal concluded that there was no basis upon which to refrain from publishing the name of the Respondent or her husband. The Tribunal considered that it was not necessary for the decision to include the names of the individual clients involved as their identity was irrelevant to the decision itself. The Tribunal determined that the usual order for publicity should be made with the restriction that it would not include the names of the clients of the firm.



**Alan McDonald**

**Vice Chairman**