

**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**

**WILLIAM LAWSON CRIGGIE, formerly at  
Carlton Building, 63 Carlton Place, Glasgow  
and now at 137 (2<sup>nd</sup> Floor) Sauchiehall Street,  
Glasgow**

**Respondent**

1. A Complaint was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") averring that William Lawson Criggie, formerly at Carlton Building, 63 Carlton Place, Glasgow and now at 137 (2<sup>nd</sup> Floor) Sauchiehall Street, Glasgow (hereinafter referred to as "the Respondent") was a practitioner who may have been guilty of professional misconduct.
2. There was a Secondary Complainer, FG.
3. The Tribunal caused a copy of the Complaint as lodged to be served upon the Respondent. Answers were lodged for the Respondent.
4. In terms of its Rules, the Tribunal appointed the Complaint to be set down for a hearing on 11 May 2020 and notice thereof was duly served on the Respondent.
5. On 26 March 2020, the Tribunal, in view of government advice regarding COVID-19 (coronavirus), under Rule 44 of the Scottish Solicitors Discipline Tribunal Procedure Rules 2008 on its own initiative discharged the hearing for 11 May 2020 and sisted the case. That sist was recalled by Interlocutor of 22 May 2020.

6. In terms of its Rules, the Tribunal set a procedural hearing to take place by video conference on 8 July 2020 and notice thereof was duly served on the Respondent.
7. At the virtual procedural hearing on 8 July 2020, the Complainers were represented by their Fiscal, Grant Knight, Solicitor, Edinburgh. The Respondent was present and represented himself. A virtual hearing was set for 5 August 2020. Parties indicated they would lodge a Joint Minute in advance of the virtual hearing.
8. At the virtual hearing on 5 August 2020, the Complainers were represented by their Fiscal, Grant Knight, Solicitor, Edinburgh. The Respondent was present and represented himself. A signed Joint Minute admitting the averments of fact and professional misconduct was before the Tribunal. No evidence was led. Parties made submissions.
9. The Tribunal found the following facts established:-
  - 9.1 The Respondent is a solicitor enrolled in the Registers of Scotland. He was enrolled as a solicitor on 25 September 2008. His date of birth is 19 June 1980. He was formerly a Partner the Director of Hamilton Burns Solicitors, and Hamilton Burns WS Limited, Carlton Buildings, 63 Carlton Place, Glasgow (hereafter "the firm") and that between 4 November 2013 and 23 May 2017. In that period he was the Anti-Money Laundering Partner between 4 November 2013 and 6 October 2016 and the Designated Cashroom Manager between 2 July 2015 and 23 May 2017. On 23 May 2017, the said firm entered administration. An estimated Statement of Affairs prepared by the Administrators dated 1 June 2017 showed a deficiency of £511,084. From 24 May 2017 to the present date he has been employed by Latta Law Limited, 137 (2<sup>nd</sup> Floor) Sauchiehall Street, Glasgow and that in a position of a solicitor.
  - 9.2 The Financial Compliance Department of the Complainers conducted an inspection of the financial records, books, accounts and documentation of the said practice unit of said firm on 13 and 14 October 2015. This inspection identified a number of concerns including inaccurate recording of the said firm's financial position; inaccurate, inadequate and inappropriate recording of borrowings from clients; inaccurate recording and review of client balances; and breaches of the

Money Laundering Regulations. Following said inspection, the said Financial Compliance Department produced an Executive Summary. Said Executive Summary will be produced. The said firm was then invited to respond to the said matters raised in the said Executive Summary and duly responded. At a meeting of the Complainers Client Protection Sub-Committee on 18 February 2016, the Respondent had been invited to attend and did so. Said meeting was continued. The Complainers, and in particular the Financial Compliance Department and the Client Protection Sub-Committee, despite limited responses from Respondent, continued to have concerns and in particular in regard to the administration of a Trust. As a result of said concerns not being addressed, the Complainers raised a Complaint with the Scottish Legal Complaints Commission. Said concerns remained until the said firm entered administration on 23 May 2017.

- 9.3 Between 1 June 2002 and 29 December 2015, Alan Niall Macpherson Mickel (hereafter "NM") was a partner then Director of the said firm. Between 30 December 2015 and 23 May 2017 he was a Consultant with said firm. Between 1 June 2006 and 8 May 2015, Tasmina Ahmed-Sheikh (hereafter "TAS") was a partner then Director of the said firm. Between 1 October 2009 and 8 May 2015 she was the said firm's Cashroom Manager. The Respondent succeeded her in that position.
- 9.4 The said inspection on 13 and 14 October 2015 noted in particular concerns regarding a client ledger held in the name of the Jill Mickel Trust. In or around early 2012, the said NM instructed agents to prepare a Deed of Trust. The Beneficiary of said Trust was to be his sister, Jill Alison Macpherson Mickel (hereafter "JM"). The Trustees appointed were the said NM and TAS. Said Deed of Trust was executed on 24 February 2012 and registered in the Books of Council and Session on 28 February 2012.
- 9.5 Clause 13.11.1 of the said Deed of Trust states that "the Trustees may borrow or lend with or without security."

Clause 13.19 of the said Deed of Trust states that “the Trustees may enter into any transaction or do any act otherwise authorised by law or by this Deed notwithstanding that any Trustee or might be acting with a conflict of interest between such Trustee and that Trustee as an individual or as Trustee or any other Trust or any partnership of which a Trustee is a partner or any company of which a Trustee is a Shareholder or Director or in relation to any combination of these capacities provided that the Trustee or Trustees with whom there is or may be any such conflict is or are not the sole Trustee or Trustees.”

The said Deed of Trust accordingly permits the Trustees to enter into a transaction where a conflict of interest may be construed but only on the basis that there are other Trustees who are not similarly conflicted. The only Trustees were the said NM and TAS.

- 9.6 On or around 28 May 2012 a client ledger was opened by the said firm. With effect from 28 May 2012, therefore the said Trust became a client of the said firm.
- 9.7 The following entries appeared on the said ledger card during the period from 28 May 2012 to 30 September 2015:-

Date	Narrative	Debit	Credit
28/05/12	From Andrew Mickel payment by CHAPS transfer.		£46,500.00
07/06/12	To paid O'Hara's re balance of NM Tax liability.	£ 1,500.00	
21/12/12	From Andrew Mickel payment by CHAPS transfer.		£50,000.00
28/12/12	Paid Niall Mickel payment due from Andrew Mickel which was included in funds received 21/12/12 as per NM email dated 28/12/12.	£ 3,000.00	
27/02/13	Transfer from Jill Mickel Trust 14363/1 to GEN EXPS to cover costs of various DD's due off RBS firm as per NM instructions.	£ 5,000.00	
01/03/13	Funds received back from 345 GEN EXPS which was given as loan until credit card funds received dated 27/02/13.		£ 5,000.00

26/03/13	From Royal Bank of Scotland uplift part investment account as per NM and TAS Trustees instructions to give Hamilton Burns loan (emails attached).		£50,000.00
27/03/13	To transfer from 14363/1 loan to Hamilton Burns as per NM/TAS as Trustees' email dated 26/03/13.	£26,000.00	
27/03/13	To transfer from 14363/1 loan to Hamilton Burns as per NM/TAS as Trustees' email dated 26/03/13.	£24,000.00	
27/03/13	To cancel previous entry posted incorrectly.		£26,000.00
27/03/13	To cancel previous entry posted Incorrectly		£24,000.00
27/03/13	From the Jill Mickel Trust on loan to Hamilton Burns as per NM/TAS as Trustees per email dated 26/03/13.	£50,000.00	
27/03/13	To cancel previous entry posted incorrectly.		£50,000.00
27/03/13	Paid Hamilton Burns – loan as per NM/TAS as Trustees email dated 26/03/13.	£50,000.00	
17/04/13	To paid Alan Mickel (NM father).	£ 4,500.00	
13/06/13	Funds received from Alan Mickel and Mrs D B Mickel.		£20,000.00
31/10/13	To paid Hacking & Paterson Factor's account.	£ 443.22	
14/01/14	To paid Hacking & Paterson common charges.	£ 282.14	
23/01/14	Transfer from 14363/1 to 15633/2 re removal costs as per NM instructions.	£ 3,600.00	
27/01/14	Transfer funds from 14363/1 to 303 wages account as per NM instructions.	£ 7,500.00	
27/01/14	Transfer from 15633/2 to 14363/1 to reimburse re removal costs.		£ 3,600.00
29/01/14	From Hamilton Burns funds borrowed on 27/01/14 returned.		£ 7,500.00
31/01/14	Transfer from 14363/1 to 808 NM drawings as per NM instructions.	£ 9,200.00	
03/02/14	Transfer from 14363/1 to 808 NM drawings re funds due for raising action against HB.	£ 588.87	
27/02/14	Paid Hamilton Burns as per NM instructions.	£17,000.00	
07/03/14	To paid Paul Murphy (cash) for payment for boiler service, window cleaners and general end of tenant.	£ 500.00	
11/03/14	Transfer funds back from 27/02/14 as per NM instructions from firm 303 to 14363/1.		£13,000.00
20/03/14	Transfer funds back from 303 wages to 14363/1 dated 27/02/14 as per NM instructions.		£ 4,000.00

31/03/14	To paid Hacking & Paterson re 13 Partickhill Road, Glasgow as per NM instructions.	£ 163.86	
01/04/14	From Royal Bank of Scotland uplifted from investment account as per NM instructions.		£12,000.00
01/04/14	Paid Hamilton Burns temporary loan by CHAPS	£12,000.00	
03/04/14	To paid Niall Mickel re house repairs.	£ 1,000.00	
16/04/14	From 303 to return temp transfer on 01/04/14.		£12,000.00
28/04/14	To paid Niall Mickel (cash) re house repairs.	£ 250.00	
01/05/14	Paid Hamilton Burns temp transfer as per NM instructions.	£11,300.00	
27/05/14	From Royal Bank of Scotland uplifted from investment account.		£24,000.00
27/05/14	Paid Hamilton Burns temp loan as per NM instructions.	£24,000.00	
30/05/14	To paid Hacking & Paterson common charges (yellow slip auth by NM).	£ 180.06	
12/06/14	Part funds received back from Mickel Trust Loan account 707 re funds used on 01/05/14 (£11300).		£ 7,300.00
12/06/14	Funds paid back from Mickel Trust loan account from 27/05/14.		£24,000.00
23/06/14	Transfer back balance of funds transferred 01/05/14 from 14363/1 to 707.		£ 4,000.00
07/07/14	Paid Hamilton Burns temp transfer as per NM instructions.	£ 5,000.00	
09/07/14	From Hamilton Burns return of temp transfer used on 07/07/14.		£ 5,000.00
16/07/14	To paid NM international payment as per NM instructions.	£ 2,000.00	
18/07/14	To paid Lesley Mickel as per NM instructions on the 18/07/2014.	£ 250.00	
18/07/14	To paid NM as per NM instructions on 18/07/2014.	£ 250.00	
24/07/14	To paid BOS credit card D/D as NM email on 24/07/2014.	£ 3,737.00	
28/07/14	Paid Niall Mickel via BNP Paribas account 2500 euros.	£ 2,032.36	
15/09/14	Paid Niall Mickel via BNP Paribas account in France as per his email dated 15/09/14.	£ 2,005.00	
16/10/14	Paid Spey Building & Joinery for work done as per NM instructions.	£ 569.75	
29/10/14	Paid Lyonnaise des aux re outstanding fee as per NM instructions and letter attached.	£ 106.72	

29/10/14	To paid Southside Factoring re outstanding fees for common charges re Partickhill Road as per NM instructions.	£ 117.07	
11/11/14	Paid Hamilton Burns loan re NM new car as NM instructions.	£10,000.00	
27/11/14	To paid Hamilton Burns loan as per NM instructions.	£ 7,041.44	
28/11/14	Funds received from Hamilton Burns firm re funds due to Trust as per posting on 27/11/2014 as per NM instructions.		£ 7,041.44
28/11/14	Paid Hamilton Burns loan as per NM instructions – loan transferred twice in error once on 27 <sup>th</sup> by HI and then again by SR on 28 <sup>th</sup> .	£ 7,041.44	
12/12/14	Funds paid to Lesley Mickel as NM instructions.	£ 1,000.00	
13/01/15	To paid Hardy Macphail paid for 13 Partickhill Road ref number 4162 22 1 as per NM instructions.	£ 250.64	
15/01/15	To paid Scott & Co, council tax re cheque written on 14/01/15.	£ 1,094.57	
15/01/15	To paid Mr Billy Rothnie re painter for Herriet Street, Pollokshields.	£ 600.00	
27/01/15	To paid Hamilton Burns cash for painter for Herriet Street as per NM instructions.	£ 500.00	
27/01/15	To paid Scottish Gas for Partickhill Road as per NM instructions.	£ 135.11	
29/01/15	To paid Hamilton Burns re loan for RBS Bank as per NM instructions.	£ 5,000.00	
30/01/15	To paid SP Autobahn to pay NM car repairs.	£ 603.60	
27/04/15	To paid MBFIN as per NM instructions.	£ 1,594.95	
27/05/15	To transfer funds from 14363/1 to account 303 wages and salaries as per NM instructions.	£ 6,000.00	
01/06/15	Funds received from Hamilton Burns re loan taken on 27/05/2015 return of funds.		£ 6,000.00
24/06/15	To uplift funds from RBS client monies repayment to HB Credit Card NM mortgage payments (as per NM instructions 23/06/2015)		£ 5,748.60
24/06/15	To paid funds to credit card as payments re NM training centre paid by Hamilton Burns as per NM instructions on 23/06/2015 funds were to be uplifted 24/06/2015.	£ 5,748.60	
29/07/15	To paid Hacking & Paterson – outstanding common charges per NM instructions.	£ 387.92	

By 30 September 2015, the funds remaining at credit for the said Trust per the ledger were £159.19.

9.8 During the said period from 28 May 2012 to 30 September 2015, the said ledger card discloses (a) sums totalling £56,591.44 as being remitted to the NM; (b) sums totalling £151,441.44 being remitted to the said firm and (c) sums totalling £98,941.44 being repaid by the said firm to the said Trust. All said transactions were authorised and instructed by either, or both, of the said NM or TAS. The entries on said ledger card from 14 January 2014 to 30 September 2015 cover a period when the Respondent was a Manager with the said firm, and from 9 May 2015 to 30 September 2015 when he was also the said firm's Cashroom Manager.

9.9 In terms of Rule B1.7.1 of the Law Society of Scotland Practice Rules 2011 (hereafter "2011 rules") a solicitor must not act for two or more clients in matters where there is a conflict of interest between the clients or for any client where there is a conflict between the interests of the client and the solicitor's interest or that of the solicitor's practice unit.

In terms of Rule B6.1.1, clients' money is defined as money (not belonging to the solicitor) received by a regulated person whether as a regulated person or as a Trustee in the course of their practice.

Rule B6.7.1 narrates that "a practice unit shall at all times keep properly written up such accounting records as are necessary:-

- (a) to show all its dealings with – (i) client's money; (ii) any other money dealt with by it through it a client account; ...



- (b) (i) to show separately in respect of each client all money of the categories specified in sub-paragraph (a) which is received, held or paid by it on account of that client; and (ii) to distinguish all money of the said categories received, held or paid by it from any other money received, held or paid by it.

In terms of Rule B6.7.3 “every practice unit shall (a) at all times keep properly written up such accounting records as are necessary to show the true financial position of the practice unit; and (b) balance its books monthly and on the last day of each accounting period.”

In terms of Rule B6.20.1 “a regulated person shall not borrow money from his client unless his client is in the business of lending money or his client has been independently advised in regards to the making of the loan. Such advice must be given in advance of the transaction and must not be given by another regulated person in the same practice unit”.

In terms of Rule B6.20.2 “in Rule 6.20.1, “client” shall mean a person for whom a regulated person or another regulated person in the same practice unit is currently acting or for whom either of such persons have acted on at least one previous occasion.”

In terms of Schedule 1 of the said 2011 Rules :-

- (i) a “Manager” is defined as a “sole practitioner, a partner in a firm of solicitors, a member or Director of an incorporated practice which is a company...”
- (ii) A “practice unit” is defined as “a sole practitioner, firm of regulated persons, incorporated practice, multinational practice or licence provider”; and
- (iii) A “regulated person” is defined as “a Solicitor, a registered European

Lawyer, a registered foreign Lawyer or a practice unit”.

- 9.10 The said client ledger card for the said The Jill Mickel Trust contained numerous entries of both credits and debits. The said details narrating the said payments whether a credit or debit were inadequate. Entries referred to instructions being given by either or both of the said NM or TAS. Despite requests from the Complainers, the Respondents or the said firm failed to provide supporting instructions or documentation in relation to the entries narrated within the said ledger card to sufficiently satisfy the Complainers concerns. Further, said entries failed to disclose if any relevant instruction was made by a quorum of the Trustees, in this instance the said NM and TAS. Said client ledger card accordingly does not provide properly written up accounting records to show the dealings of the said NM and TAS and the said firm with the said Trust monies.
- 9.11 Sums totalling £151,441.44 had been loaned by the said Trust to the said firm. Aside from the entries contained within the said client ledger card, no other satisfactory or adequate documentation, or loan agreements documenting the said loan transactions, had been prepared nor were any produced by the said NM and TAS or said firm to the Complainers during said inspection. Said loans to the said firm were for the benefit of the said firm and the Respondent as a partner and Director.
- 9.12 Throughout the course of the administration of the said Trust the said firm, the said NM and TAS were the only and sole Trustees of the said Trust. Sums totalling £151,441.44 were remitted to the said firm and that for the financial benefit of the said firm of which the said NM and TAS and the Respondent were partners and Directors. The said NM, TAS and Respondent owed fiduciary duties to the said Trust. As partners and Directors of the said firm they also owed fiduciary duties to the said firm. The actions of the said NM, TAS and Respondent in relation to the transactions with the said Trust funds, and where a conflict of interest arose, displayed a disregard for the interests of the said Trust by favouring the interests of themselves as individuals and the financial interests of the said firm.

- 9.13 The said inspection dated 13 and 14 October 2015, in addition, identified the concerns and the corresponding breaches of the said 2011 Rules.
- 9.14 The said Financial Compliance Department found a number of historic client balances held by the said firm, some of which had been held since September 2012. In or around June 2015, the said Financial Compliance Department sent an alert to all Cashroom Managers of firms in Scotland reminding that client balances not requiring to be held for any ongoing transaction had to be disbursed by 31 October 2015. The said firm had failed to review and disburse these balances. Following upon said inspection, the said firm and the Respondent as Cashroom Manager, were required to address these concerns. By April 2016, they had failed to do so.
- 9.15 The said Financial Compliance Department carried out a review of the said firm's money laundering procedures and found that there were no random sample clients, no regular reviews of its procedures and an absence of staff training records, by the said firm and its Money Laundering Reporting Officer, the Respondent. In addition, on 6 sample files, no evidence of any risk assessments were seen to have been carried out.
- 9.16 Following upon inspection dated 13 and 14 October 2015, the said firm and the Respondent as its Money Laundering Reporting Officer and Cashroom Manager, were requested to provide further information and documentation to the said Financial Compliance Department to address the concerns highlighted. In particular, information and documentation was to be supplied in relation to the concerns regarding the said Deed of Trust and the said firm's said money laundering procedures. The Respondent failed to provide the information requested.
- 9.17 Rule B6.11.1 of the said 2011 Rules provides that:-

“subject to the provisions of B6.11.1 a practice unit shall (a) return money held for or on account of a client promptly as soon as there is no longer any reason to retain that money; and (b) promptly pay to a client any money received for or on account of that client after a practice unit has already accounted to that client.”

Rule B6.23.1 of the said 2011 Rules provides that:-

“every independent legal professional who is regulated by the Society shall comply with the provisions of the Money Laundering Regulations.”

Rule B6.23.2 of the said 2011 Rules provides that:-

“a regulated person shall demonstrate to the Society on request that the information held by or by his practice unit is sufficient to evidence compliance with the provisions of part 7 of the Proceeds of Crime Act 2002 and part 3 of the Terrorism Act 2000.”

Rule B6.18.3 of the said 2011 Rules provides that:-

“for the purposes of enabling: (a) the Council to ascertain whether or not Rule 6 has been complied with; (b) the Society to discharge its duties as supervisory authority under the Money Laundering Regulations; (c) the Council to protect the guarantee fund; (d) the Council to promote high standards of financial compliance by the profession; and (e) the Society to assist the profession, the Council may, by giving notice, require any regulated person to produce practice information for the inspection of a person authorized by the Council and at a date, time and place to be fixed by the Council. If the place by the Council for the inspection requires the transfer to that place of practice information and physical form, the Council shall, on such conditions, as to the cost and distance of such transfer as it may from time to time prescribe, pay the reasonable expenses incurred by the regulated in respect of such transfer.”

- 9.18 The Respondent as manager, Cashroom Manager and Money Laundering Reporting Officer and said firm, breached all of the foregoing rules.
- 9.19 The said Financial Compliance conducted a further inspection of the financial records, books, accounts and documentation of the said firm on 1-3 November 2016. Said inspection had been authorised by the Complainers Client Protection Sub-Committee on 7 July 2016, in order to establish the said firms compliance

with the said 2011 Rules and to fully establish the true financial position of the said firm. The said inspection again highlighted continuing concerns in relation to the true financial position of the said firm and in particular VAT/PAYE arrears, inaccurate recording of loan funds, overdraft facility and hire purchase agreements, historic client balances being reviewed and the rendering of fees to a particular Executry client.

9.20 The said firm and the Respondent as Cashroom Manager were requested to provide further information and documentation to address the said concerns. By 30 March 2017 the position regarding the said firm's full liability to HM Revenue & Customs continued to remain unknown. By 9 January 2017 the said firm and the Respondent as Cashroom Manager had adequately addressed the issue of historic client balances. Despite reminders the said firm and the Respondent as Cashroom Manager failed to provide amended loan nominal ledgers and these were only supplied to the said Financial Compliance Department at a follow-up visit to the said firm on 20 April 2017.

9.21 The said Financial Compliance Department reviewed the files and ledgers in respect of the administration of an Executry estate for LB or C deceased. The Executors were the said NM and a Richard Beattie, the said firm's Accountant. The deceased had died on 27 April 2013, but no complete account of charge and discharge was seen. A considerable number of fees had been debited from the said ledgers including a fee paid to the said NM for an Opinion. The said Financial Compliance Department accordingly requested a full explanation regarding the Executry administration including the provision of details of all work undertaken in respect of each fee taken. Despite requests for documentation and explanations, no satisfactory response was provided by the said firm or the Respondent as Cashroom Manager. Further, the Respondent as Cashroom Manager failed to render three fee notes dated 6 July 2015 for £2,000, 23 August 2015 for £3,000, and 30 November 2015 for £33.33 (which fee note cleared the ledger balance to zero) and failed to provide an explanation for the failure to render these fee notes.

9.22 Rule B6.5.1 (d) of the said 2011 Rules provides that:-

“so long as money belonging to one client is not withdrawn without his written authority for the purpose of meeting a payment to or on behalf of another client there may be drawn from a client account...money properly required for or to account of payment of the practice units professional account against a client which has been debited to the ledger account of the client in the practice unit books and where a copy of said account has been rendered.”

Rule B6.7.3 of the said 2011 Rules provides that:-

“every practice unit shall: (a) at all times keep properly written such accounting records as are necessary to show the true financial position of the practice unit; and (b) balances books monthly and on the last day of each accounting period.”

Rule B6.18.7 of the said 2011 Rules provides that:-

“a regulated person shall provide a person authorized by the Council under Rule 6.18.3 or 6.18.4 reasonable co-operation in the conduct of that person’s inspection or investigation (as the case may be) including, without prejudice to the foregoing generality, the production of practice information as such person may reasonably require and, in the case of an investigation, the granting of authorization (including by way of mandate) to contact clients or third parties for the production by such clients or third parties of documents, records and other information as such person may reasonably require.”

- 9.23 On or around 25 March 2014 the said firm were instructed by a client, hereafter “FG”, in respect of Sheriff Court proceedings in which he was the Defender. Two interim interdicts had been granted against the said FG in that process on 22 April 2013. The said FG gave the said firm instructions to settle said proceedings on the basis that the interdict in terms of the first crave of the Writ would be dismissed and the interdict in terms of the second crave of the Writ would be granted, and further that there would be no award of expenses due to or by either party. A Joint Minute was drafted by the Pursuer’s solicitor. The said Joint Minute was then revised by a solicitor in the employ of the said firm and specifically was amended to allow the Joint Minute to be signed personally

by the said FG. The said FG signed said Joint Minute and by an interlocutor dated 28 July 2014, the Court interponed authority to the said Joint Minute.

- 9.24 On or around 3 September 2014 the said FG contacted the said firm as it had been brought to his attention that the Court's interlocutor dated 28 July 2014 was erroneous in that the incorrect interdict had been granted. The said interlocutor narrated that the first craved interdict was granted and the second craved interdict refused when the settlement terms were in direct opposite to those terms. The error with the said Joint Minute had not been noted by the said firm, nor the Pursuer's agent, nor the said FG prior to the said Joint Minute being finalised, signed and lodged in process. As a result, the said FG lodged a complaint against the said firm with the Scottish Legal Complaints Commission.
- 9.25 A mediation meeting took place on 22 April 2015 as a result of the foregoing complaint and in attendance were the said FG and the Respondent as the said firm's Client Relations Manager and Complaints Partner. At said meeting it was agreed that the said firm would meet with the said FG during the following week to discuss raising an action to have the Decree dated 28 July 2014 recalled on the basis that said Decree had been granted in error. A meeting took place at the said firm's offices on 29 April and in attendance were the said FG, the Respondent and the firm's Managing Partner Niall Mickel. At that meeting it was agreed that the said firm would take steps to reduce the interdict which had been previously and erroneously granted. Following said meeting, the said firm, and in particular the Respondent as Client Relations Manager and Complaints Partner, failed to raise the proceedings they had undertaken to raise to correct the error with the said Decree dated 28 July 2014.
- 9.26 During the period from 13 May 2015 to 9 March 2016, the said FG was in email correspondence with the said firm and the Respondent to make enquiry as to the progress of the action to be raised on his behalf. The said firm and, in particular the Respondent, failed to adequately respond to the said FG and by 13 March 2017, no substantive action had been taken by the said firm and the Respondent to resolve matters on behalf of the said FG. The interdict remained in force as at said date and the said FG then submitted a further complaint to the Scottish Legal Complaints Commission.

9.27 Rule B1.9.1 of the said 2011 Rules provides that:-

“a solicitor must communicate effectively with their clients and others. This includes providing clients with any relevant information which a solicitor has and which is necessary to allow informed decisions to be made by clients”.

Rule B1.9.2 of the said 2011 Rules provides that:-

“a solicitor must advise their client of any significant development in relation to their case or transaction and explain matters to the extent reasonably necessary to permit informed decisions by clients regarding the instructions which require to be given by them.”

10. Having considered the foregoing circumstances, the Tribunal found the Respondent guilty of Professional Misconduct individually and *in cumulo* in respect that:

- (a) The Respondent in his capacity as a regulated person and as a manager of the practice unit of Messrs Hamilton Burns & Company, and manager of the subsequent incorporated practice unit, Hamilton Burns WS Limited, failed to keep at all times properly written up such accounting records as were necessary to show all the dealings of those practice units with the funds held on behalf of the client shown as The Jill Mickel Trust thereby in breach of Rules B6.7.1(a), B6.7.1(b) and B6.7.2 of the Law Society of Scotland Practice Rules 2011;
- (b) The practice unit of Messrs Hamilton Burns & Company and the subsequent incorporated practice, Hamilton Burns WS Limited, of which the Respondent was a Manager, borrowed sums of money from the client ledger denoted as The Jill Mickel Trust in circumstances where the said Trust, being a client of the said practice unit, was not in the business of lending money, nor had not been advised independently in regard to the making of loans, all thereby in breach of Rule B6.20.1 of the Law Society of Scotland Practice Rules 2011;
- (c) The practice unit of Messrs Hamilton Burns & Company and the subsequent



incorporated practice, Hamilton Burns WS Limited, of which the Respondent was a Manager, borrowed money from the client denoted as The Jill Mickel Trust, or otherwise intromitted with the said Trust's funds in circumstances where a conflict of interest existed as between the said Trust and the said practice units of which the said Trust was a client, thereby in breach of Rule B1.7.1 of the Law Society of Scotland Practice Rules 2011;

- (d) The Respondent in his capacity as a regulated person and as Cashroom Manager and Money Laundering Reporting Officer ("MLRO") of the practice of Messrs Hamilton Burns & Company and the subsequent incorporated practice unit Messrs Hamilton Burns WS Limited, failed generally to record the evidence of "random sample" file checks; evidence of regular reviews of anti-money laundering procedures; or records of staff training in respect of anti-money laundering procedures, thereby acting in breach of Rules B6.23.1 and B6.23.2 of the Law Society of Scotland Practice Rules 2011.
- (e) The Respondent in his capacity as a regulated person and as Cashroom Manager of the practice unit Messrs Hamilton Burns & Company and the subsequent incorporated practice unit Messrs Hamilton Burns WS Limited has failed or at least delayed unduly in disbursing historic client balances held by the practice unit Messrs Hamilton Burns & Company and the subsequent incorporated practice unit Messrs Hamilton Burns WS Limited despite there being no longer any reason to retain those balances, thereby in breach of Rule B6.11 of the Law Society of Scotland Practice Rules 2011.
- (f) The Respondent in his capacity as a person and as Cashroom Manager of the practice unit Messrs Hamilton Burns & Company and the subsequently incorporated practice unit Messrs Hamilton Burns WS Limited failed to provide reasonable co-operation to persons authorized by the Council of the Law Society of Scotland under Rule B6.18.3 of the practice rules to conduct an inspection of the practice unit Messrs Hamilton Burns & Company and of the subsequent incorporated practice unit Messrs Hamilton Burns WS Limited in the conduct of those persons' inspection, thereby in breach of Rule B6.18.17 of the Law Society of Scotland Practice Rules 2011.

(g) The Respondent in his capacity as a regulated person and as Cashroom Manager of the Messrs Hamilton Burns & Company and the subsequently incorporated practice unit Messrs Hamilton Burns WS Limited failed to keep at all times properly written up such accounting records as were necessary to show the true financial position of the practice unit in respect particularly of:-

- (i) the liability of the practice unit, or the payment thereof of HMRC, of VAT and PAYE accruals;
- (ii) loan funds outstanding under Bank of Scotland loan account 0708318;
- (iii) the practice unit's overdraft liability under Royal Bank of Scotland account 007004582;
- (iv) hire purchase of cars by practice unit;
- (v) loan ledgers recorded by practice unit

and failed to balance the books of the practice unit monthly and on the last day of each accounting period in the period prior to the Financial Compliance inspection commencing 1 November 2016 or thereafter, all in breach of his duty to do so in terms of Rule B6.7.3 of the Law Society of Scotland Practice Rules 2011.

(h) The Respondent in his capacity as a regulated person and as Cashroom Manager of the practice unit Messrs Hamilton Burns & Company and the subsequently incorporated practice unit Messrs Hamilton Burns WS Limited failed to render fee notes to the Executors or residuary beneficiary, or otherwise account to those parties for fees, outlays or VAT deducted from the estate of the late LB or C deceased on 6 July 2015, 23 August 2015 and 30 November 2015 in breach of his duty to do so in terms of Rule B6.5.1(d) of the Law Society of Scotland Practice Rules 2011.

(i) The Respondent in his capacity as a regulated person and as Cashroom Manager of the practice unit Messrs Hamilton Burns & Company and the subsequently

incorporated practice unit Messrs Hamilton Burns WS Limited failed to provide reasonable co-operation to the Financial Compliance inspectors authorized to conduct the inspection and subsequent investigation of the practice unit's books and accounts in November 2016 and thereafter, in breach of his duty to do so in terms of Rule B6.18.7 of the Law Society of Scotland Practice Rules 2011.

- (j) The Respondent in his capacity as Client Relations Manager and Complaints Partner failed (i) to act in the best interests of his client, the said FG in that having undertaken at a mediation meeting on 22 April 2015, a further meeting on 29 April 2015, and in subsequent email correspondence, to raise an action in the Court of Session to seek reduction of an interdict that had been erroneously granted, failed or delayed unduly in doing so; (ii) failed to act on the instructions of the said FG; and (iii) failed to keep the said FG updated as to the progress with the action of reduction of the said interdict in the Court of Session, and that in breach of his duties in terms of Rules B1.9.1 and B1.9.2 of the Law Society of Scotland Practice Rules 2011.

11. Having heard the Respondent in mitigation, the Tribunal pronounced an Interlocutor in the following terms:-

By Video Conference, 5 August 2020. The Tribunal having considered the Complaint at the instance of the Council of the Law Society of Scotland against William Lawson Criggie, formerly at Carlton Building, 63 Carlton Place, Glasgow and now at 137 (2<sup>nd</sup> Floor) Sauchiehall Street, Glasgow; Find the Respondent guilty of professional misconduct individually and *in cumulo* in respect of his breaches of (a) Rules B6.7.1 and B6.7.2, (b) Rule B6.20.1, (c) Rule B1.7.1 (d) Rules B6.23.1 and B6.23.2, (e) Rule B6.11, (f) Rule B6.18.7, (g) B6.7.3, (h) Rule B6.5.1, (i) Rule B6.18.7 and (j) Rules B1.9.1 and B1.9.2, all of the Law Society of Scotland Practice Rules 2011; Censure the Respondent; Direct in terms of Section 53(5) of the Solicitors (Scotland) Act 1980 that for an aggregate period of two years any practising certificate held or issued to the Respondent shall be subject to such restriction as will limit him to acting as a qualified assistant to and being supervised by such employer or successive employers as may be approved by the Council of the Law Society of Scotland or the Practising Certificate Sub Committee of the Council of the Law Society of 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; Direct that publicity will be given to this decision and that this publicity should include the name of the Respondent but need not identify any other person; and Allow the Secondary Complainer, FG, 28 days from the date of intimation of these findings to lodge a written claim for compensation.

**(signed)**

**Beverley Atkinson**

**Vice Chair**

12. 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 10 SEPTEMBER 2020.

**IN THE NAME OF THE TRIBUNAL**



**Beverley Atkinson**  
**Vice Chair**

**NOTE**

At the Hearing on 5 August 2020, the Tribunal had before it the Complaint, an Inventory of Productions for the Complainers and a Joint Minute of Admissions. Said Joint Minute agreed the averments of fact and misconduct contained within the Complaint. The Respondent withdrew his Answers.

**SUBMISSIONS FOR THE COMPLAINERS**

The Fiscal noted the Respondent's cooperation and that the Complaint and Productions had been agreed by Joint Minute. Although the Complaint was self-explanatory, he wished to highlight the main issues for the Tribunal.

The first issue related to the firm's administration of a trust. The actings of the trustees was a separate matter. The Tribunal had already dealt with the trustees. He noted that of the ledger card transactions reproduced at paragraph 2.7 of the Complaint (see paragraph 9.7 above), only the last one occurred when the Respondent was cashroom manager although he had been a partner when a number of the other transactions had taken place. The firm's finances, and therefore the Respondent, had benefitted from loans allowing the firm to trade. However, the Complainers were satisfied that the trust did not lose out as a result of the loan arrangements. The main problem for the Respondent related to his failure to provide documents and information to the Complainers so they could clarify what was going on.

The second matter related to a number of Accounts Rules breaches which were identified during the 2015 inspection. These related to historic balances, anti-money laundering procedures and cashroom manager duties. There was another inspection in 2016. Some issues were addressed belatedly but concerns remained regarding the firm's finances and it entered administration in May 2016.

The third issue related to the administration of a client's executry. The only issue for which the Respondent was responsible was the three fees debited without fee notes being rendered while he was cashroom manager. He still has not provided an explanation for this.

The last matter related to the FG case. The Respondent's involvement was as complaints partner and client relations partner. The Respondent said the firm would rectify an error made in a joint minute

which had led to an interlocutor being issued which did not reflect the agreed position of the parties. By 13 March 2017 no action had been taken to rectify the problem.

The Fiscal noted that partners and directors have particular responsibilities and the role of cashroom manager confers even more substantive responsibilities regarding the cashroom and the accounting records. The Accounts Rules exist so that the public can have confidence in solicitors dealing with their money. The Fiscal sought formal findings of professional misconduct *in cumulo* in relation to the averments of professional misconduct.

### **SUBMISSIONS FOR THE RESPONDENT**

The Respondent noted there were a number of issues before the Tribunal arising from the period between May 2015 and May 2016 when Hamilton Burns went into administration. The issues were linked through the Respondent's role as cashroom manager. He noted that the Tribunal has already dealt with the other directors of Hamilton Burns in relation to the issues arising from the trust.

The Respondent asked the Tribunal to recognise the difficult financial background to the case. The firm ultimately went into administration. However, the Respondent was cashroom manager and appreciated that the "buck stopped" with him. He did not deal with the L, B or C executry but could not deny he was cashroom manager when those fees were taken.

In relation to the admitted averments of failing to cooperate with the Complainers, the Respondent invited the Tribunal to consider the Complainers' Productions. There was extensive correspondence between the Respondent and the Financial Compliance Department trying to make sense of the issues raised. He said he did his best during the inspections but at times the situation was so confused he could not make sense of it.

The Respondent said that in May 2015 he became managing director, complaints partner, money laundering officer and cashroom manager. He also dealt with complaints. He thought he had negotiated a solution acceptable to FG. With SLCC input, the Respondent agreed that the firm would rectify the situation. Proceedings required to be raised in the Court of Session. This was to be carried out by Mr Mickel as he was a solicitor advocate. This was not done. However, the Respondent noted from a practical point of view, FG was not affected because the Respondent had obtained an undertaking from the party on the other side that they would not enforce the restrictive covenant contained in the interlocutor which was supposed to be reduced. The Respondent has already

personally paid compensation to FG via the SLCC in relation to this situation. This case is a secondary issue arising from that.

In answer to a question from a Tribunal member, the Respondent confirmed he had admitted all averments of professional misconduct contained within the Complaint. In answer to another question, the Respondent said his recollection was that he was cashroom manager from May 2015. It had been a surprise when Ms Ahmed-Sheikh was elected as an MSP. She therefore ceased to act as cashroom manager suddenly. It was the Respondent's recollection that a combination of partners did the job between May and July 2015.

### **DECISION ON PROFESSIONAL MISCONDUCT**

On the basis of the Joint Minute, the Tribunal was satisfied beyond reasonable doubt that the Respondent had conducted himself in the manner set out in the Complaint. The averments of misconduct were supported by the averments of fact and the Respondent admitted all the allegations. During the period libelled, he had been a partner/director of the firm/company and had also acted as money laundering reporting officer, cashroom manager, complaints partner and client relations partner. The Respondent failed to keep properly written up accounting records in relation to a trust. His firm borrowed money from the trust in circumstances which contravened the Law Society rules and in a conflict of interest situation. He failed to comply with anti-money rules. He failed or delayed unduly in disbursing historic client balances. He failed to cooperate with Law Society inspections. He failed to keep properly written up accounting records to show the true financial position of the practice unit. He failed to render three fee notes. He failed or delayed raising an action and failed to communicate with a client.

The Respondent admitted he had broken the rules regarding these matters. Although he also admitted professional misconduct, it remained for the Tribunal to consider whether the admitted conduct met the test as set out within Sharp v The Law Society of Scotland 1984 SLT 313. There are certain standards of conduct to be expected of competent and reputable solicitors and a departure from these standards which would be regarded by competent and reputable solicitors as serious and reprehensible may properly be categorised as professional misconduct.

The Tribunal noted the significant challenges facing the Respondent when he became managing director in May 2015, both in terms of the financial health of the company which had been in difficulty for some time, and in terms of the number of complex roles the Respondent accepted. The Tribunal



accepted the Respondent was to a certain extent a victim of circumstance and it had a measure of sympathy for his predicament. However, he had professional responsibilities which he did not fulfil. Part of being a professional is recognising problems and dealing with them effectively. Solicitors must be able to identify conflicts and act to avoid them. They have a special privilege in being allowed to handle clients' money. If solicitors are to enjoy public trust with regard to their financial affairs, they must have careful regard to the Accounts Rules and keep proper records so that these can be monitored by their regulatory body. Solicitors must cooperate with their regulatory body and ensure compliance with the rules, particularly if they have specialist responsibilities for the cashroom or anti-money laundering compliance or complaints or client relations. Failure to do so diminishes the reputation of the profession. If a complaint is made and the complaints partner negotiates a settlement, he ought to follow through and ensure the required action is taken.

The Tribunal was satisfied that the Respondent's repeated failures over a significant period of time represented a serious and reprehensible departure from the standards of competent and reputable solicitors. Accordingly, he was guilty of professional misconduct. In the Complaint, the Complainers' position was that the conduct was sufficient singly and *in cumulo* to amount to professional misconduct. In his submissions, the Fiscal sought a finding *in cumulo*. After careful consideration, the Tribunal decided that although the averments of misconduct varied in seriousness, all constituted professional misconduct individually and *in cumulo*.

### **SUBMISSIONS IN MITIGATION**

The Fiscal indicated that the Tribunal had previously made a finding of professional misconduct against the Respondent in 2018. This had also arisen from the Complainers' investigation into the Respondent's firm. However, it was not directly analogous as it related to a failure to respond to Law Society correspondence. The Fiscal said that the Complainers did not consider the Respondent was likely to repeat his conduct which had occurred due to the unfortunate circumstances he had found himself in. There have been no further issues since he started work at his present firm and the Complainers would not wish to impact on that.

In mitigation, the Respondent referred to the confused financial situation he inherited in May 2015. He was managing director, money laundering reporting officer, cashroom manager, complaints partner and client relations partner. The Respondent had started as a trainee with Hamilton Burns in 2007. He stayed with the firm as a newly qualified solicitor, as associate and salaried partner. Following the

2015 inspection, it became apparent to him that a huge number of issues needed to be dealt with to keep the firm afloat. Hamilton Burns was a long-established firm although the partners had changed over time. There were a huge number of legacy financial issues. More problems were revealed when the firm changed accountants in 2016 and then following the 2016 inspection. The Respondent felt he had been badly advised by the firm's previous accountants. The new accountants made it crystal clear the firm was in significant difficulty. The Respondent and his three partners took out personal loans to keep the firm afloat and protect jobs. However, even after this, the company was not viable and he instructed the accountants to liaise with HMRC and the Law Society regarding administration. The Respondent described this as "a real low point". He still has difficulty talking about it. It was very stressful. Two partners set up their own firm taking the civil business. The Respondent moved to his current firm. He did what he could to ensure continuity for the clients and to keep job losses minimised. Things were extremely difficult for a long period of time.

The Respondent said he admitted his failings in his specialist roles within the firm. He did not fulfil them to his own satisfaction. He had far too much on his plate. He ought to have sought accounting assistance sooner. He said his conduct was a matter of great personal regret and responsibility.

With reference to the professional misconduct related to the trust, the Respondent noted that the Tribunal had already dealt with the trustees. When he became cashroom manager, the process of borrowing from the trust had been ongoing since 2012. He took at face value that the transfers were proper. His area of expertise was not trusts. He realised now that he ought to have made further enquiries. However, he noted that the Law Society had sought expert opinions on the relationship between the trust and the firm before deciding that it was a client. The Respondent accepted now that the trust was a client but at the time he did not think that was the case. The situation was unique and he hoped the Tribunal understood why he had acted in this way.

With reference to the Accounts Rules breaches, the Respondent referred the Financial Compliance Department executive summaries. He said that on reading these he could see his own confusion. It looks at times like a lack of cooperation but it arose due to his inability to ascertain what was going on. He was not deliberately obstructing or obfuscating.

With regard to the executry fees, he noted the Complaint referred only to the failure to render fee notes. This was in his capacity as cashroom manager, the executry having been dealt with by another solicitor. The failure arose as a symptom of the two years spent "fire fighting" and barely keeping the firm going.

The Respondent said he had made efforts to resolve the FG case but keeping on top of this became of lesser importance when the firm entered administration. He accepted he did not follow it up.

The Respondent is currently working as an associate at his firm. There have been no other difficulties or complaints while he has been working. The matters before the Tribunal arose out of the specific circumstances at Hamilton Burns. He was left "holding the baby" at the firm's demise. He said he would not allow himself to be put in that position again. He regretted the situation. He appreciated there were things he could have done a lot better. The experience has profoundly affected him. He has no desire to be a partner or hold any specialist roles again. It has been an extremely chastening experience which is still ongoing. It has had a profound effect on his finances and his future as a professional. He has personal debts. He is earning less than he would expect at this stage of his career. There was no financial gain to him as a consequence of the professional misconduct. He intends to continue practising in his current area of law at his current firm. He could "all but guarantee" he would not find himself in a similar position again.

In answer to questions from the panel, the Respondent said he did not take part in any training to be money laundering reporting officer or cashroom manager. He did the practice management course in 2016. He had hoped to lean on the previous cashroom managers and cashroom staff but this did not happen. There was no cashier and a high turnover of cashroom staff. He had hoped to get advice from Mr Mickel and Ms Ahmed-Sheikh but this did not transpire. There was no one else willing to take on the role of cashroom manager. With the benefit of hindsight, he wished he had not done it. He knew cashroom manager was an important role and aware of its perception within the profession. However, he had so much on his plate it was overwhelming. The FG case got lost in the plethora of other problems and was not given appropriate priority.

## **DECISION ON SANCTION, PUBLICITY AND EXPENSES**

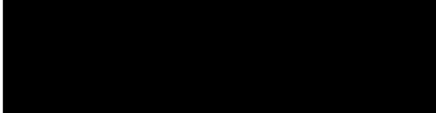
The Tribunal considered that the professional misconduct was at the middle of the scale. It had lasted for a significant period and was not merely a one-off incident. The behaviour covered a number of areas of key professional responsibilities including conflicts, Accounts Rules, client relations, cooperation with the regulator and complaints handling. The Tribunal had previously made a finding of misconduct against the Respondent. The conduct in this Complaint was likely to endanger the public and damage the reputation of the profession.

No dishonesty or lack of integrity was alleged and the Tribunal had sympathy for the Respondent and the predicament in which he found himself. However, having found himself in that situation, he did not take sufficient positive action to resolve matters as quickly as he should. The Respondent had good insight into his conduct, how the situation had arisen, and what he would do differently in future. He cooperated with the Fiscal and with the Tribunal. He showed clear remorse.

The Tribunal noted that the Respondent has worked at his present firm without further conduct issues arising since May 2017. This was to his credit. The Tribunal noted that the Respondent said he did not intend to become a manager of a practice unit again. However, that opportunity may arise again, and the Tribunal was of the view that the Respondent may be a danger to the public in those circumstances given the conduct in the present case. It considered that the Respondent ought to be supervised for a further period of two years before he could consider being a principal again. This sanction would protect the public and uphold the reputation of the profession. The Tribunal considered a Censure and Fine but was not satisfied that this would meet those goals. Given the financial difficulties the Respondent has already endured as a result of the demise of Hamilton Burns, the Tribunal did not consider that a fine was also necessary in addition to a restriction. This case should act as a lesson to anyone considering becoming a principal in a solicitor's firm. If solicitors wish to take on roles such as cashroom manager, they should ensure they have the required skills and experience first.

The Fiscal moved for the usual orders with regard publicity and expenses. The Respondent's motion was for the Tribunal to order no expenses due to or by on the basis of his financial position, personal debts and expenses. He had no motion to make regarding publicity.

The Tribunal decided that the appropriate award of expenses was one in favour of the Complainers. The Respondent's financial position was not sufficient reason for the Tribunal to deviate from its usual practice of awarding expenses according to success. The Tribunal ordered that publicity should be given to the decision and that publicity should include the name of the Respondent and his partners in accordance with Paragraphs 14 and 14A of Schedule 4 of the Solicitors (Scotland) Act 1980. However, there was no requirement to identify any other person as publication of their personal data may damage or be likely to damage their interests. The Secondary Complainer will have 28 days from intimation of these findings to lodge a claim for compensation.



**Beverley Atkinson**  
**Vice Chair**