

**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**

**MICHAEL LOUIS KARUS, care of  
Michael Foster, Hughes Dowdall,  
Solicitors and Notaries, Suite 1, 2<sup>nd</sup> Floor,  
Standard Buildings, 102 Hope Street,  
Glasgow**

1. A Complaint dated 18 June 2015 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Michael Louis Karus, care of Michael Foster, Hughes Dowdall, Solicitors and Notaries, Suite 1, 2<sup>nd</sup> Floor, Standard Buildings, 102 Hope Street, Glasgow (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 August 2015 and notice thereof was duly served on the Respondent.
4. The hearing took place on 21 August 2015. The Complainers were represented by their Fiscal, Paul Reid Solicitor Advocate, Glasgow. The Respondent was not present or represented.

5. A letter dated 20 August 2015 had been received by the Tribunal's Clerk from Mr Foster, Solicitor, Glasgow on behalf of the Respondent containing an admission that the offence referred to in the Complaint was committed by the Respondent. The letter advised that Mr Foster would not attend the hearing and contained a plea in mitigation. No evidence required to be led.

6. The Tribunal found the following facts established

6.1 The Respondent was born 4 May 1961. He was enrolled as a solicitor on 25 November 1986. From on or about 6 April 1987 through to 14 December 2001, the Respondent was a partner of and traded as the firm Karus & Company, Solicitors of 14 Gloucester Place, Edinburgh. On or about 14 December 2001, the Respondent appeared before the Scottish Solicitors Discipline Tribunal. A disposal was imposed that for a period of 5 years his practising certificate was restricted and thereafter until such time as the Discipline Tribunal agreed that he could hold a full unqualified practicing certificate. On or about 27 May 2003 as a consequence of the appointment of a Judicial Factor to the practice Karus & Company, the Respondent was suspended automatically. This suspension was recalled coinciding with the discharge of the Judicial Factor on 4 July 2003. On 27 June 2005, the Respondent appeared again before the Scottish Solicitors Discipline Tribunal where he was suspended for a period of 10 years. The Complainers believe that at present the Respondent does not engage in professional practice.

Ms A (deceased)

6.2 On 18 May 2011 the Crown Office and Procurator Fiscal Service advised the Complainers that in August 2009 the Respondent pled guilty to embezzling the sum of £413,052.81 from the estate of the late Ms A who died on 5 March 2003. The Respondent had been appointed executor to the estate. Having pled guilty sentence was deferred. Eventually on 5 October 2009 the Respondent was sentenced to a term

of imprisonment of 3 and a half years. The Respondent pled guilty to a charge on indictment on the following terms.

“Between 5 March 2003 and 7 May 2003 both dates inclusive at Property 1 and elsewhere in Edinburgh, you Michael Louis Karus, did while acting as executor of the estate of the late Ms A deceased, who died on 5 March 2003, formally of Property 2 Embezzle £413,052.81”

6.3 The minutes of procedure produced to the Complainers confirmed that the Respondent pled guilty as to the charge hereinbefore narrated when he appeared at Edinburgh Sheriff Court on 25 August 2009. The solicitor attended Edinburgh Sheriff Court on 5 October 2009 when he was sentenced to a period of 3 and a half years imprisonment to commence from that date. It should be noted that this was a discounted sentence in terms of section 196 of the Criminal Procedure Scotland Act 1995. The Sheriff in sentencing advised that if he had not pled guilty at that stage he would have been sentenced to a period of 5 years imprisonment. The Respondent has not held a practising certificate since 31 October 2002. The Respondent has remained on the Roll of Solicitors. At the material time of the embezzlement he was on the Roll of Solicitors.

7. Having considered the foregoing circumstances, the submission on behalf of the Complainers and the letter on behalf of the Respondent the Tribunal found that Section 53(1)(b) of the Solicitors (Scotland) Act 1980 applied to the circumstances of this case in respect of the Respondent’s conviction.

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

Edinburgh 21 August 2015. The Tribunal having considered the amended Complaint dated 18 June 2015 at the instance of the Council of the Law Society of Scotland against Michael Louis Karus, care of Michael Foster, Hughes Dowdall, Solicitors and Notaries, Suite 1, 2<sup>nd</sup> Floor, Standard

Buildings, 102 Hope Street, Glasgow; Find the Respondent has been convicted of an offence and sentenced to a period of imprisonment of three and a half years and that accordingly Section 53(1)(b) of the Solicitors (Scotland) Act 1980 applies to the circumstances of this case; Strike the name of the Respondent, Michael Louis Karus, from 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 and may but has no need to include the names of anyone other than the Respondent.

**(signed)**

**Nicholas Whyte**

**Vice Chairman**

9. A copy of the foregoing together with a copy of the Findings certified by the Clerk to the Tribunal as correct were duly sent to the Respondent by recorded delivery service on

**IN THE NAME OF THE TRIBUNAL**

**Nicholas Whyte  
Vice Chairman**

## **NOTE**

An extract conviction dated 30 July 2015 relating to the Respondent detailing a conviction on 25 August 2009 and sentence on 5 October 2009 was lodged on behalf of the Complainers.

Mr Reid asked the leave of the Tribunal to make the following amendments to the preamble of the Complaint –

- (1) In line five of the preamble the words “of professional misconduct” were to be deleted.
- (2) In line six of the preamble the word “application” was to be replaced with “Complaint”.
- (3) In line seven of the preamble the number “52” was to be replaced with “53”.

The Tribunal agreed to the amendments being made.

The Complaint in this case, as amended, was made solely in terms of Section 53(1)(b) of the 1980 Act which provides for the Tribunal exercising its powers in terms of Section 53(2) of the said Act inter alia, where solicitors have been sentenced to a period of imprisonment for a term of 12 months or more.

## **SUBMISSIONS FOR THE COMPLAINERS**

Mr Reid referred the Tribunal to a letter dated 20 August 2015 from Mr Foster which had been also been sent to the Tribunal. The letter explains that Mr Foster will not be in attendance at the hearing and wished the letter to be made available to the Tribunal. The letter also makes it clear that the Respondent accepts that he committed the crime of embezzlement of funds from an estate and that he was convicted of that crime following his tendering a plea of guilty. Mr Reid explained that the letter also contained a written plea in mitigation. Mr Reid stated that in the circumstances no evidence required to be led.

Mr Reid indicated that the Respondent had been willing to accept that he had been convicted of the offence from a very early stage and had even instructed his solicitor to draft the Complaint in an attempt to mitigate the expenses of the hearing.

Mr Reid advised that the Respondent had been enrolled as a solicitor in 1987 and from on or about April 1987 was a partner of and traded as the firm of Karus & Company in Edinburgh. He appeared before the Tribunal in December 2001 and the outcome of those proceedings was that his practising certificate was restricted for a period of five years and thereafter until such time as the Tribunal agreed he could hold a full unqualified practising certificate.

Mr Reid stated that on or about May 2003 the Respondent's practising certificate was suspended by the Complainers as a consequence of the appointment of a Judicial Factor to the firm of Karus & Company. That suspension was recalled on 4 July 2003 when the Judicial Factor was discharged. The Respondent appeared before the Tribunal again on 27 June 2005 when he was suspended from practice for a period of ten years. Mr Reid advised that the Complainers believe that the Respondent does not engage in professional practice at present. Mr Reid referred the Tribunal to the terms of the two previous findings of professional misconduct relating to the Respondent.

Mr Reid advised that the Respondent had pled guilty to a charge of embezzling the sum of £413,052.81 from the estate of a deceased person. Mr Reid stated that this offence was committed whilst the Respondent was acting as the deceased's executor. Mr Reid advised that the Respondent was subsequently sentenced to three and a half years imprisonment which was discounted from a five year sentence to take account of the stage at which the guilty plea had been tendered.

Mr Reid explained the reasons why this Complaint was only now being considered by the Tribunal. He advised that following the Respondent's conviction in 2009 there had been an initial delay in the Crown Office reporting the offence to the Complainers. There then required to be enquiries made with the Police and the Crown Office regarding the discounted plea. Then the Respondent raised an action of Judicial Review in 2014.

Mr Reid referred the Tribunal to the extract conviction which had been lodged as a production and invited the Tribunal to use its powers under Section 53 of the Solicitors (Scotland) Act 1980.

Mr Reid referred to Mr Foster's comments regarding the possibility of the Tribunal refraining from making the usual order for publicity. Mr Reid submitted that given the terms of the

statute the reasons given by Mr Foster would not permit the Tribunal to take that course of action. Mr Reid requested the Tribunal to make the usual orders for publicity and expenses.

## **DECISION**

The Tribunal considered the terms of the Complaint, the oral and written submissions and the production lodged. The Tribunal noted that it was accepted on behalf of the Respondent that the offence of embezzlement referred to in the Complaint had been committed by him and that a sentence of three and a half year's imprisonment had been imposed by the court in relation to that offence. In these circumstances, the Tribunal held that Section 53(1)(b) of the 1980 Act applied in this case.

The Tribunal considered that the charge of embezzlement in the indictment was a very serious offence committed whilst the Respondent was in a position of trust. The Tribunal considered that such an offence committed by a member of the profession undoubtedly had a significant negative effect on the reputation of the profession which has not been negated by the money being subsequently repaid. Members of the public must be able to have confidence that any solicitor whom they instruct will be a person of unquestionable integrity, propriety and trustworthiness.

The Tribunal noted the terms of the two previous findings of professional misconduct in relation to the Respondent.

The Tribunal took account of the fact that the Respondent had co-operated with the Law Society regarding this Complaint, noted the Respondent's current circumstances as outlined by Mr Foster and that the Respondent had moved on with his life in the years since the offence was committed. However, the Tribunal considered that the offence committed by the Respondent clearly demonstrates that he is not a fit person to be a solicitor. Accordingly, the Tribunal had no hesitation in concluding that the only appropriate sanction in this case was to strike the Respondent's name from the Roll of Solicitors.

The Fiscal requested that the Tribunal make the usual award of expenses against the Respondent. The Tribunal noted Mr Forster's comments regarding expenses but considered that no good reason had been advanced as to why the Respondent should not be liable for the



expenses of this Complaint. The Tribunal also considered Mr Foster's written submission regarding publicity but noted that the terms of the legislation do not permit the Tribunal to refrain from ordering publicity for the reasons suggested. The Tribunal accordingly found the Respondent liable for the expenses of this case and made the usual order for publicity.

**Nicholas Whyte**  
**Vice Chairman**