



FACULTY OF ADVOCATES

Disciplinary Tribunal

Constituted in terms of the Faculty of Advocates Disciplinary Rules 2005

COMPLAINT

(11 June 2007)

By

(1) Mr Tom Minogue residing at 94 Victoria Terrace, Dunfermline, Fife KY12 0LU;
and

(2) Mr Hugh J Lynch residing at 69 Burnhead Road, Larbert, Stirlingshire, FK5 4
BD

To

The Dean of the Faculty of Advocates

Against

Mr Donald R Findlay, QC, Advocates Library, Parliament House, Edinburgh EH1
1RF

Remitted by the Complaints Committee to the Disciplinary Tribunal for
determination and disposal, all in terms of Rule 5(1)(g) of the Rules

Donald R Findlay QC,

24th August 2006,

Complaints of professional misconduct are directed against you at the instance of

(1) Mr Hugh Lynch dated 20th June 2005; and

(2) Mr Tom Minogue dated 9 June 2005 and 5th September 2005

to the Dean of the Faculty of Advocates. These Complaints have been remitted by
the Complaints Committee of the Faculty to the Faculty Disciplinary Tribunal.

The complaints are in respect of the following facts:

1. (a) You being a member of Faculty and holding the rank and dignity of one of Her Majesty's Counsel in Scotland did accept a professional speaking engagement in the full knowledge that your position and standing as a member of Faculty and as a Queen's Counsel was common knowledge and did on or about 27 May 2005 at a Rangers Supporters Club in Larne, Northern Ireland tell jokes including specifically a joke about the Pope and a joke about a nun. With reference to the substituted Answers lodged on behalf of Mr Findlay on 14th March 2007 reference is made to the Answers lodged by him on 9th November 2006 in which he confirms telling jokes specifically about the Pope and a nun as reported in the Sunday Mirror on 29th May 2005. The terms of the jokes are admitted by him "to have been used for many years". Further Mr Findlay therein admits that "people may be offended by particular jokes". Said meeting was a public meeting to which members of the public were able to attend on purchase of a ticket in advance or at the door. A member of the press was present and wrote an article disclosing the substance of said "jokes". The meeting was advertised on a Rangers Web Site with three guest speakers including Mr Findlay designed as "Former Vice Chairman, Donald Findlay QC".

(b) These jokes were offensive to a significant section of the community, emanating as they did from a member of Faculty and a Queen's Counsel and did thereby bring the Faculty into disrepute. With reference to the substituted Answers it is explained and averred that Mr Findlay is a well known distinguished QC and member of Faculty. He appeared following advance billing as a "QC". In any event he is well known as a QC. He has accepted said jokes are liable to cause offence. Said jokes and the circumstances in which they were told displayed conduct incompatible with membership of the Faculty and the rank and dignity of a QC. It is incompatible with the office of Advocate and QC to tell jokes offensive to a significant section of the community at a public function.

(c) Your conduct infringed the Faculty's Guide to the Professional Conduct of Advocates because it undermined the trust in which members of Faculty are held (paragraphs 2 and 14) With reference to the substituted Answers it is explained and averred that said conduct was liable to be perceived by members of the public offensive to the Roman Catholic Church and its members. Mr Findlay well knew such activities are contrary to the Guide to Conduct. On 7 June 1999 he was the subject of disciplinary proceedings as a result of conduct at a Rangers Football Club function at which he sang sectarian songs and made anti Catholic comments. Following upon the institution of disciplinary proceedings Mr Findlay admitted said conduct and that said conduct offended against the Faculty's Guide to Conduct. Mr Findlay is well aware of the publicity surrounding said incident and the public perception of his conduct. He accepted his guilt and was formally

censured and fined £3,500 in November 1999 and resigned as Vice Chairman of Rangers.

(d) Your conduct breached your duty of loyalty to the Faculty, to fellow members and in particular to the Dean (paragraph 6). Reference is made to the decision of the Complaints Committee dated 8th February 2006. With reference to the substituted Answers it is denied that the complaint brought under the Faculty's Guide to Conduct is in breach of Article 10 or the Human Rights Act 1998. Copies of the Complaints by the Complainers are produced referred to for their terms and here held as repeated brevitatis causa.

Pleas in Law

1. The Answers being irrelevant and lacking in specification a finding of professional misconduct on each charge should be pronounced as craved
2. The Respondents Answers being unfounded in fact a finding of professional misconduct should be made as craved.

IN RESPECT WHEREOF

Advocates Library
Parliament House
Edinburgh

Faculty Solicitor

PRODUCTIONS

1. Copy Email from Tom Minogue dated 5th September 2002.
2. Letter from Donald Findlay QC to Scott Brownridge dated 5th September 2005 and date stamped 10th October 2005.
3. Excerpt from Sunday Herald dated 13th March 2005
4. "How Soccer Explains the World: An Unlikely Theory of Globalisation" by Franklin Foer
5. Copy letter from H J Lynch to Faculty of Advocates dated 20th June 2005.
6. Copy Letter from Hugh J Lynch to The Herald dated 30th May 2005.
7. Letter from Donald Findlay QC to Scott Brownridge dated 15th July 2005.
8. Letter from Hugh J Lynch to Scott Brownridge dated 25th July 2005.
9. Press Cuttings in relation to Mr Findlay QC.
10. Complaint against Donald R Findlay QC dated 7 June 1999
11. Letter from the Dean of Faculty to Donald R Findlay QC dated 7 June 1999
12. Letter from the Dean of Faculty to Hamilton Burns and Moore dated 24 September 1999.
13. Letter from Donald R Findlay QC to the Dean of Faculty dated 18 October 1999.
14. Letter from Hamilton Burns and Moore to the Dean of Faculty dated 28 October 1999
15. Determination of the Complaint against Donald Russell Findlay QC dated 3 November 1999
16. Answers to the Complaint by Donald R Findlay QC dated 7 November 2006
17. Letter from Simpson and Marwick to the Faculty Solicitor dated 5 June 2007
18. Letter from the Faculty Solicitor to Simpson and Marwick dated 5 June 2007

WITNESSES

1. Hugh J Lynch
2. Tom Minogue
3. Scott Brownridge
4. Franklin Foer
5. Mr *, Journalist, Sunday Mirror