



# The Law Society of Jersey

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## PUBLIC REPRIMAND: MR PAUL SCALLY ("Mr Scally")

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1. Pursuant to the provisions of Article 23(1)(b) of The Law Society of Jersey Law 2005, the Law Society of Jersey Disciplinary Committee, comprising lay members Mr Maurice des Forges and Mrs Pamela Nisbet and Advocate Beverley Lacey, has determined it necessary and appropriate for a public reprimand in the terms below to be issued to Mr Scally.

### Background

2. Further to the receipt in June 2016 of an Advocate's complaint of professional misconduct against Mr Scally, a Jersey Solicitor, the President of the Law Society appointed the Disciplinary Committee to review the complaint.
3. The hearing of the disciplinary proceedings took place on 1 December 2016 (the "Hearing"), when Mr Scally admitted the breaches of the Society's Code of Conduct as put to him and when he re-confirmed his apology to the Advocate.

### Decision

4. At the conclusion of the Hearing, the Disciplinary Committee concluded that Mr Scally had acted in reckless disregard of the Society's Code of Conduct as follows:-
  - a. He had acted in breach of the undertakings contained in Rule 10 (a) – (c) of the Code of Conduct requiring the holding and punctual payment of consideration monies upon the passing of a contract of sale before the Royal Court; and
  - b. He had acted in breach of the duty contained in Rule 2 of the Code of Conduct to uphold the dignity and high ethical standards of the legal profession and to act towards the Advocate in question with frankness and good faith.

### Facts

5. In summary, the facts established at the Hearing and relied upon by the Disciplinary Committee in arriving at the above findings are that:-
  - a. Mr Scally, acting for a private individual purchaser in a property transaction, made the decision to pass contract before the Royal Court when he knew that his firm, Le Gallais & Luce (the "Law Firm") had not received the client's contribution (the "Client Monies") towards the consideration monies (£250,000), stamp duty and costs into the Law Firm's client account;
  - b. Mr Scally failed to inform the vendor's Advocate before contract was passed that the Client Monies had not been received. Had he done so, the Advocate would not have agreed to pass contract;
  - c. Once contract was passed up until the latest date and time for payment of the consideration monies to the vendor's lawyers (the "Due Payment Date"), Mr Scally then failed to contact the vendor's Advocate and make the Advocate aware that the Law Firm had still not received the Client Monies;
  - d. On the Due Payment Date, the Advocate's firm was obliged to pay, and paid, the agreed sums due to two banks amounting to c. £240,000;
  - e. On the Due Payment Date, after the Advocate's firm had paid the monies to the banks and the firm's finance team notified the Advocate that no consideration monies had been received from the Law Firm, the concerned Advocate tried urgently to contact Mr Scally by telephone to no avail and then emailed. Mr Scally responded that evening by email, confirming the contract of sale had been knowingly passed without the Client Monies being held in the Law Firm's client account, confirming that the consideration monies would be transferred the following day, apologising and offering to pay any lost interest monies;
  - f. Payment of the sum of £250,000 was paid by the Law Firm to the Advocate's firm the following day; and
  - g. At the Hearing, for the first time Mr Scally explained that, by the Due Payment Date, the Law Firm had received monies from the banks and he was awaiting the final sum of "about £10,000" from the client. After the Hearing, Mr Scally subsequently wrote to the Panel, explaining that he had, in fact, been awaiting from the client the balance of the consideration monies (£16,000) plus a further £5,578.03. This had not been explained prior to, or during, the Hearing, whereas it should have been.
6. Mr Scally has confirmed to the Disciplinary Committee that the procedures at the Law Firm have since been changed to ensure that no property contracts are passed by any member of the firm in breach of the implied undertakings as set out in Rule 10 of the Society's Code of Conduct, in particular that property contracts will only be passed once cleared funds are held in the Law Firm's client account in respect of all monies payable by the client(s) personally.

### Public Reprimand

7. The Law Society Disciplinary Committee considers Mr Scally's professional misconduct in question to be so serious as to require that a public reprimand be issued, not least given:-
  - a. the importance of the strict adherence to Rule 10 of the Society's Code of Conduct by all members of the profession to ensure the continued functioning of the conveyancing system in the Island; and
  - b. the important duties owed at all times by all Advocates and Solicitors as officers of the court and as members of the Law Society of Jersey to fellow practitioners.