ANNEXE A: REPORT FROM THE SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER

REPORT ON COMPLAINT AGAINST CAMPBELL MARTIN, FORMER MSP

BACKGROUND

Key to people named in the report

_The complainers_
Mr and Mrs Banks: __________________________________________________________________________

_The MSP subject to the complaint_
Campbell Martin, former MSP: SNP, then Independent, list MSP for West of Scotland in the second session of the Parliament (1 May 2003 – 2 April 2007)

_Others_
Ms A: Mr Martin’s ex-wife: __________________________________________________________________

Narrative of events relevant to complaint

1. In June 2004, Mr and Mrs Banks made available £25,000 to assist in the purchase of a house __________, occupied since then by Mr Martin and his ex-wife and their children. The money was paid into Mr Martin’s bank account and, shortly after, £20,000 of it was used to supplement a mortgage in the purchase of the house.

2. Mr Martin has consistently maintained that the money was a gift from Mr and Mrs Banks to his ex-wife __________. Mr and Mrs Banks however say they viewed it as a loan to both Mr Martin and Ms A. Disagreement arose over repayment of the money, and in March 2006 Mr and Mrs Banks raised a civil legal action for its recovery. The dispute was settled out of court in July 2007; the money was repaid with interest, with neither side yielding their position on the original nature of the transaction.

THE COMPLAINT

3. The complaint was formally made to me in a letter of 21 August 2007 (see Appendix 1) from Mr and Mrs Banks. The complaint was that, given that Campbell Martin has maintained that the £25,000 was a gift, he failed to register it as required in the Register of Members’ Interests.

4. I was first made aware of issues relating to this complaint on 14 February 2007 in a phone call from Mrs Banks. Between then and the formal letter of complaint, I received a number of phone calls and letters from her which provided information which I will summarise below. Mr and Mrs Banks were clear that they did not wish to proceed with a formal complaint earlier in view of the civil legal action for
recovery of the money, which they raised in March 2006. They wished to wait until the outcome of that was known.

5. She said that she and her husband provided £25,000 to Campbell Martin and Ms A in June 2004 to assist them in the purchase of their current house, remortgaging their own house to do so. She said the money was a loan, given to both. It was to be paid back in total as soon as possible and in the meantime Campbell Martin and Ms A would pay interest on the remortgaging.

6. Mrs Banks said that, early in 2006, Campbell Martin declared that the £25,000 had been a gift, and it would not be paid back. The interest payments ceased to be paid to the Banks in March 2006 and at that point they raised the legal action for the recovery of the £25,000, with interest.

7. Mrs Banks provided me with copies of the initial writ, and answers to it by Campbell Martin and Ms A jointly as Defenders. The writ sets out matters as described above.

8. Mrs Banks informed me in July 2007 that there had been an out of court settlement of the matter, with Mr and Mrs Banks being repaid £26,200 (including interest). I was provided with a letter from the Banks’ lawyer, confirming the settlement and indicating that when the action settled it was the position that they were returning a gift. The Banks’ position had been that it was a loan. Neither party conceded that the other’s position was correct.

9. The answers to the writ by the Defenders, Campbell Martin and Ms A, accepted that the money was received from the Banks. It was said that “… in early 2004 the Defenders were in the process of purchasing a house” There was a gap of £20,000 between the purchase price and a loan offered by a lender. Mr and Mrs Banks stepped in to provide the funds “… to the Defenders” (the sum being subsequently raised to £25,000). The answers explained that the money was paid into Mr Martin’s bank account, but argued that it arose from the proceeds of sale of another property and not the remortgaging arrangement described by the Banks – this was to fund other expenditure.

STAGE 1 – ADMISSIBILITY

Initial investigation

10. I consulted the Register of Members’ Interests and noted that Mr Martin made no entry documenting a gift of £25,000 within the relevant 30 day period. I sought Mr Martin’s response to the complaint and he replied in a letter of 2 September
2007 (see Appendix 3). He said that the £25,000 was a gift from Mrs Banks to Ms A.  

11. In view of the terms of the Members’ Interests Order (MIO) regarding the receipt of a gift by the cohabitee of a Member, I sought further information from Campbell Martin and from Mr and Mrs Banks. Mr Martin, in a letter of 25 September 2007 (see Appendix 4), repeated that the money was a gift from Mr and Mrs Banks to Ms A. It was paid into his account for reasons related to Ms A’s financial situation. He said he had no legal relationship with Ms A or Mr and Mrs Banks since divorce from Ms A in 1996. 

12. Mrs Banks in a letter of 28 September 2007 (see Appendix 5), and a call on 26 September 2007, repeated that £25,000 was given as a loan to both Campbell Martin and Ms A to assist them in house purchase. It was paid into Mr Martin’s account and he paid £20,000 to his solicitor as part of the purchase.

Referral to Area Procurator Fiscal

13. At this point I suspended my investigation and made a report to the Area Procurator Fiscal for Lothians and Borders on 2 October 2007, under the terms of a Direction issued to me by the Standards Committee of the Parliament on 15 January 2003. Paragraph 14 of the Direction is as follows:

“If the Commissioner is satisfied in relation to any complaint that the member has committed the conduct complained about and that the conduct would, if proved, constitute a criminal offence, the Commissioner shall—

(a) suspend investigation and consideration of the complaint;

(b) submit a report to the Procurator Fiscal; and

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2 The definition of “Member” in the Scotland Act 1998 is not specified in the document.


4 Known from 28 September 2007 as the Standards, Procedures and Public Appointments Committee.
14. A Member commits an offence if he takes part in proceedings of Parliament without having complied with the rules on registration of interests. (see Paragraphs 26 and 27 below). However, it is up to the prosecuting authorities to decide whether to instruct a police investigation and to raise any proceedings or not. The reasons why I considered at that point that there was a likely breach of a relevant provision are explained below in Paragraphs 32 to 36. In terms of subsequently taking part in Parliamentary proceedings following the time period for registration of the possible gift, Mr Martin for example took part in a number of votes in the Chamber on the Holyrood Inquiry Report on 22 September 2004.

15. The Area Procurator Fiscal informed me on 2 November 2007 that no criminal investigation would be instructed. I therefore resumed my investigation and proceeded to decide on the admissibility of the complaint.

Assessment of admissibility

Relevant provisions

16. Mr Martin is no longer an MSP, but I am required to investigate complaints about former Members if the conduct complained of occurred when they were Members. Under Section 3(1) of the 2002 Act, I am obliged to investigate and report to Parliament when I receive a complaint about a “Member”. Section 20 of the Act defines “Member” to include a former Member.

17. Given that the transaction in question occurred in June 2004, the relevant provisions are contained in the MIO and in the Code of Conduct for Members in force at the time (Edition 2). The Code incorporates the MIO and offers explanation and interpretation of its provisions. Section 4 of the Code includes the provisions in the MIO for registration of interests. The detailed provisions of the MIO and Code of Conduct in force at the time are set out below.

18. It may be noted that the provisions for registration of interests have now changed as a result of the Interests of Members of the Scottish Parliament Act 2006, which replaced the MIO on 3 April 2007. A new Code of Conduct (Edition 3) followed in May 2007. The requirement to register gifts is now subject to a prejudice test, intended to exclude from registration gifts which bear no possible relation to the Member’s parliamentary activities. However it is clear that Members are bound by the rules in force at any particular time.

19. Section 4.4.1 of the Code says: “Members are reminded that responsibility for ensuring compliance with the rules on registration of interests lies with the individual member. If a member is uncertain about how the rules apply, he or she may ask the Standards Committee clerks for advice…” Similar advice is provided at various other sections of the Code (see 1.11, 2.12, 3.7, 4.2.1 and 9.2.10). Ignorance or uncertainty is therefore not an excuse for non-compliance.

5 Known from 28 September 2007 as the Standards, Procedures and Public Appointments Committee.
20. Section 4.1.1 of the Code explains that “… The main purpose of the Register is to provide information about certain financial interests of Members which might reasonably be thought by others to influence Members’ actions, speeches or votes in the Parliament, or other actions taken in their capacity as Members.” However the section does not exclude other purposes, the MIO has no prejudice test in relation to the registration of gifts and Section 4.3.34 of the Code states that “Members should be aware that all gifts of over £250 in value must be registered whether they are received in a Member’s capacity as an MSP or privately. Members who receive a private gift, say, from a close family member or friend, which requires to be registered, may wish to consult the Standards Committee clerks about the terms of registration to avoid unnecessary disclosure of any personal details.” I take it therefore that under these provisions, gifts are not to be exempted from registration because they are private or from a close family member.

21. Section 4.3 of the Code deals with the Schedule to the MIO, which sets out interests which must be registered (known as “registrable interests”), including gifts.

Gifts

22. Paragraph 6 of the Schedule to the MIO sets out what must be declared in relation to gifts. A member has a registrable interest:

“(1) Where a member or his spouse or cohabitee or a company in which the member has a controlling interest or a partnership of which the member is a partner, receives –
(a) a gift of heritable or moveable property; or
(b) a gift of a benefit in kind, the value of which, at the date it was received by the member or his spouse or cohabitee or the company or partnership, as the case may be, exceeds £250.”

23. “Cohabitee” is defined in Section 2 of the MIO as “… a person, whether of the opposite sex or not, who is living with that Member in a relationship similar to that of husband and wife.”

24. The Code goes on to explain:

4.3.29 “This rule [Paragraph 6 of the MIO] means that any gift over the value of £250 should be registered. The category applies to a gift of any tangible items such as money, glassware or jewellery, a gift of residential property and to other benefits such as hospitality, or tickets to sporting and cultural events. The category also covers benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.

4.3.30 Any gift in this category that is received by the member’s spouse or cohabitee or by any company in which a member has a controlling interest, or by a partnership of which a member is a partner, must also be registered.
Registration of a new interest

25. The MIO provides in Paragraph 4(6) that:

“If, after lodging a statement under:
(a) paragraph (2)(a), a member acquires an additional registrable interest; or
(b) paragraph (2)(b), a member acquires a registrable interest, the member shall, not later than 30 days after the date on which he or she acquired that interest, lodge a statement under paragraph (2)(a) in respect of that interest and shall also give notice of that date.”

Offences

26. Paragraph 8 of the MIO provides as follows:

“(1) Any Member who takes part in any proceedings of the Parliament without having complied with, or in contravention of, Paragraph 4(2)(a), 4(6), 5 or 6 is guilty of an offence.

(2) A member guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

27. Section 10.3.8 of the Code explains:

“This means that a member may be guilty of an offence if he or she fails to comply with, or contravenes, the requirements of the Order in relation to
- lodging an initial statement for the Register of Interests,
- registering a new interest,
- oral declaration of a Declarable Interest,
- paid advocacy
and then takes part in any proceedings of the Parliament.”

28. Further guidance and explanation of these matters is given in Section 4 of the relevant Code of Conduct for MSPs.

Tests of admissibility

29. Stage 1 of the process for the investigation of complaints requires me, before proceeding to a detailed investigation, to investigate and determine whether a complaint is admissible. The test of admissibility involves establishing whether:
- the complaint is relevant in terms of section 6(4) of the Scottish Parliamentary Standards Commissioner Act 2002 (“the Act”);
- the complaint meets all the specified requirements set out in section 6(5) of the Act in terms of the format and factual content of the complaint (or alternatively that the Parliament has directed the Commissioner to treat the complaint as if it had met all those requirements); and
- the complaint warrants further investigation in terms of section 6(6) of the Act.
30. In terms of the test of relevancy, the Act states that a complaint is relevant if:
   • it is about the conduct of a member of the Parliament;
   • it is not an excluded complaint (or if it is, that the Parliament has directed the Commissioner to investigate it under section 12 of the 2002 Act); and
   • it appears at first sight that, if all or part of the conduct complained about is established to have been committed by that member, it might amount to a breach of a relevant provision or provisions identified by the Commissioner.

31. In terms of the complaint warranting further investigation, the test to be applied is whether, after an initial investigation, the evidence is sufficient to suggest that the conduct complained about may have taken place.

32. In relation to the first test, of relevance, this complaint was about the conduct of a Member (noting that “Member” in the Act includes former Member). The complaint was not an excluded complaint. I also concluded that, at this point of investigation, if all or part of the conduct complained of was established to have been committed by the member it might amount to a breach of a relevant provision. That provision was section 4(6) of the MIO together with paragraph 6 of the Schedule. The analysis which led me to this conclusion is summarised below.

33. There were discrepancies in the evidence as to whether the £25,000 was given as a loan or as a gift. Mr Martin consistently said, including to me, that it was a gift so I thought it reasonable to conclude that, if he considered it as such, he should have considered registration. Even if it was a loan however, as argued throughout by the complainers, no interest was allegedly paid from March 2006 until the end of the second session of Parliament and a loan at a preferential rate would constitute a gift in relation to Paragraph 6 of the MIO read with Section 4.3.29 of the Code of Conduct (a year’s interest would have been well over the threshold). Indeed in the answers to the writ it is argued by Campbell Martin and Ms A that there was never any net interest paid so the whole period would have been interest free from June 2004 to April 2007.

34. There was also uncertainty as to whom the money was provided. Mr and Mrs Banks said it was provided to both Campbell Martin and Ms A. Mr Martin said it was provided to Ms A, though the answers to the writ appear to accept it was for the purpose of purchasing the current house which Mr Martin said is in his name only. There had been no dispute that it was paid into Mr Martin’s bank account. However a gift should have been registered if over £250 in value irrespective of whether it was paid to Mr Martin, Ms A (if his spouse or cohabitee), or both.

35. If his account was accepted that the house is in his name only, and the £25,000 was gifted to Ms A, and the money or the bulk of it was used to help buy the house, then it might appear that she had made a gift of the money to him and that gift would then require to have been registered by him.
36. It therefore appeared that, irrespective of whether the £25,000 was a gift or a loan, whether it was provided to Campbell Martin or Ms A or both, and whether Ms A was at the relevant time spouse or cohabitee or neither in relation to Mr Martin, there was a potential breach of a relevant provision. All parts of the test of relevancy were therefore met.

37. In terms of the third test, of substance, there was no dispute that £25,000 was provided by Mr and Mrs Banks in June 2004 to either Mr Martin or Ms A or both and that it was actually paid into the bank account of Mr Martin. It is also the case that Mr Martin made no entry in the Register of Members’ Interests regarding this sum. The evidence was sufficient to suggest that the conduct complained about may have taken place so the third test was passed.

38. All of the specified requirements in the second test were met apart from that in section 6(5)(e) of the Act which requires that a complaint is made within one year from the date when the complainer could reasonably have become aware of the conduct complained about. In this case it was difficult to say with any certainty whether that requirement was met or not. The test was one of deciding at what point Mr and Mrs Banks could reasonably have known that Mr Martin believed he had received a gift and known that he was under a requirement to register it in the Register of Members’ Interests; this point in time was difficult to pin down.

39. Given that the first and third tests had been passed, I reported to the Standards, Procedures and Public Appointments Committee under section 7(4) of the Act and sought a direction under section 7(7). The Committee considered the matter at its meeting on 11 December 2007 and directed me to treat the complaint as if it had met all the specified requirements.

**Conclusion regarding admissibility**

40. I was therefore able to conclude that the complaint was admissible and to proceed to investigation at Stage 2. The provision potentially breached was section 4(6) of the MIO together with paragraph 6 of the Schedule.

**STAGE 2 INVESTIGATION**

41. I conducted a tape-recorded interview with Mr Martin and a summary of the transcript is provided at Appendix 6. Mr Martin was invited to check this summary and changes he suggested have been incorporated where they relate to what was said at interview.

**Evidence obtained**

42. Mr Martin repeated what he had said in writing about the £25,000. He said that it was a gift to Ms A, though paid into his bank account for specified reasons. The interest paying arrangement described in the answers to the writ was not because it was a loan.
43. He agreed that, since he considered the money as a gift, it was reasonable to consider whether he should have registered it as a gift. He accepted that, given that the money was given to Ms A, and also that he purchased the house using the money and the house is in his name only, it followed that Ms A gifted the money to him. He said that after the out of court settlement, he gave the money back to Ms A so she could give it to Mrs Banks. He accepted that he probably should have registered the gift as he benefited from it; he didn’t give it a second thought at the time as it didn’t seem the sort of thing you would have to register. He argued that if the money should have been registered then so too should the mortgage and other MSP mortgages.

Evaluation

44. In considering this complaint, I am concerned only with the evidence as to whether the conduct complained of occurred and, if it did, whether it constituted a breach of a relevant provision. I am also employing the rules of MSP conduct that pertained at the time, not those which pertain now.

45. There could be no doubt that Mr Martin made no registration in relation to the £25,000 provided in 2004. The issue was whether there was a registrable interest.

46. There were still conflicts in the evidence as to whether the £25,000 was given as a loan or as a gift, to whom it was given - Campbell Martin or Ms A - and the nature of the relationship between Ms A and Campbell Martin when the money was provided.

47. I did not consider that I required to resolve whether the money was intended as a gift or as a loan. From at least early 2006 Mr Martin has consistently stated that it was a gift (to Ms A). If Mr Martin considered it to be a gift then it is reasonable to assess his conduct in the light of that view. (Had it been a loan at preferential rates from which Mr Martin benefited, that in any case would have constituted a gift in relation to the MIO.)

48. The gift, which was far above the threshold of £250, would have been registrable had it been made (a) to Campbell Martin, (b) to him and Ms A jointly, (c) to Ms A alone if she were his spouse or cohabitee or (d) if it was made to her, not being his spouse or cohabitee, and she subsequently made a gift of it to him.

49. Where there is conflicting evidence, I am inclined to give the benefit of the doubt to Mr Martin’s account which was clearly given to me at

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6 A building society mortgage is of course a loan at a commercial rate and so would not constitute a gift under the provisions of the Interests of Members of the Scottish Parliament Act 2006.
interview, consistently with what he had written to me and with the answers he had provided earlier in relation to the writ from Mr and Mrs Banks, in the acceptance by him that it led to the conclusion that Ms A, who had no legal relationship to him, having received the gift of £25,000, must have then gifted it to him to permit the purchase of his house. I am therefore satisfied on the balance of probabilities that the money was provided to Ms A, Mr Martin did not seek to deny that he benefited from the gift. He said he did not realise at the time that it would require registration.

Summary of Findings of Fact

The house is owned by Mr Martin.

51. In June 2004, Mr and Mrs Banks made available £25,000 to assist with purchase of this house. Mr Martin was an MSP at this time. Mr Martin has maintained throughout that this money was a gift from Mr and Mrs Banks to his ex-wife. It was paid into his bank account and he used £20,000 to buy the house, along with a mortgage in his name. The £25,000 was repaid to Mr and Mrs Banks with interest in 2007 following an out of court settlement.

52. Ms A gifted to Mr Martin the money used for house purchase which had come from Mr and Mrs Banks. Mr Martin did not register this gift in the Register of Members’ Interests within 30 days of its receipt.

CONCLUSIONS REGARDING BREACHES OF THE CODE

53. I conclude that there has been a breach of section 4(6) of the MIO together with paragraph 6 of the Schedule.

Dr J A T Dyer
Scottish Parliamentary Standards Commissioner
28 March 2008

Interests statement
I have no personal or business relationship with anyone involved in this enquiry. My interests are documented in my voluntary Code of Conduct on my website, which can be found at www.spsc.co.uk.
ANNEXE 1

COMMENTS OF MEMBER ON DRAFT REPORT

Mr Martin was given sight of this report in draft form before its submission to the Committee.

He did not seek to challenge the content of the report, but he raised issues regarding protection of privacy. He made suggestions about a statement he would be willing to make to achieve this.

I was sympathetic to the wish for privacy regarding those not directly involved in the complaint. However I did not consider that it was possible for me to abridge the report to the extent that it omitted mention of Mr Martin’s ex-wife and still fulfil my legal obligation to report my investigation to the Committee. I also noted that Mr Martin is no longer an MSP and that the case to my mind did not raise issues of significant public interest. I explained to him that I was obliged to report my investigation to the Committee, but that this would be done in confidence and I would recommend to the Committee that my report should not be published. Publication or not would be a matter for the Committee, not me.

I have made the relevant correspondence between Mr Martin and me available to the Committee.
LIST OF APPENDICES

Appendix 1. Letter from Mr and Mrs Banks to Standards Commissioner, 21 August 2007 (wrongly dated 2008).


Appendix 5. Letter from Mrs Banks to Standards Commissioner, 28 September 2007.

APPENDIX 1

Dear Sir,

Campbell S. Martin (Ex MSP) and Ms A

We wish to make an official complaint regarding the above.

On 14th June 2004, the above received the sum of £25k from ourselves, which they have publicly stated was given as a gift; an inheritance advance to Ms A.

As we understand, a gift of this amount must be declared by an Member of the Scottish Parliament; as far as we know they have failed to do so.

We trust this information will be sufficient to instigate an inquiry by you.

If you require further information, please do not hesitate to contact us, either at the above address or telephone number.

Yours faithfully

Peter Banks & Agnes Banks.
Dear Dr Dyer,

**Complaint by Peter and Agnes Banks, [Redacted]**

Thank you for your letter of August 27 in relation to the complaint lodged against me by Mr and Mrs Banks.

I note the contents of your letter and would advise you as follows:

In relation to the allegation that, while a serving MSP, I received money as a gift and did not register it the facts are:

In 2004 Mrs Banks, of her own volition, made a gift of £25,000 to Ms A [Redacted]. At the time, Mrs Banks made the comment, [Redacted]. The money was paid from funds held by Mr and Mrs Banks following the sale of their former home [Redacted]. I was not present when this arrangement was agreed between Mr and Mrs Banks and Ms A.

Therefore, that fact is that, if I should have declared a gift from Mrs Banks to Ms A [Redacted], then I am guilty of the charge made in the complaint lodged by Mr and Mrs Banks.

I regret very much that I have had to divulge information that should be private in order to address the allegation made by Mr and Mrs Banks. [Redacted].
I hope this information is helpful. Should you require anything further, please do not hesitate to get in touch.

Yours sincerely,
Campbell Martin.
Campbell Martin to Jim Dyer – 25 September 2007

Dear Dr Dyer,

Complaint by Peter and Agnes Banks, [blank]

I refer to your further letter of September 21 in relation to the matter raised with you by Mr and Mrs Banks.

Once again, I note the contents of your letter and would advise as follows:

I repeat that the complaint made by Mr and Mrs Banks is vexatious. I consider that any reasonable person would question the legitimacy of the complaint made by Mr and Mrs Banks, which rests entirely on their allegation that money was given to me and was a gift, when their previous legal action was based on their allegation that the money had been given as a loan. I would respectfully suggest that Mr and Mrs Banks can’t possibly have it both ways.

You should be aware that the Press Complaints Commission found that the article carried by the News of the World, in which Mrs Banks was the source of allegations against me, was inaccurate and unbalanced. In addition, the Commission also found that quotes attributed to me were also inaccurate and did not reflect what I had said, or indeed what the report, in his notes, had recorded me saying.

Mrs Banks’ actions in the legal matter, the newspaper article, and now the complaint to you, are vindictive and are based on her arrogance being deflated when, following an argument between us, I asked her to leave my home.

While I fully accept your role in investigating complaints made to you, I also believe that MSPs, and former MSPs, should be afforded a degree of protection from malicious complaints, such as that made by Mr and Mrs Banks.

The facts are: the money referred to by Mr and Mrs Banks was given by them to Ms A [blank]. The money was given by their own volition (this is another matter accepted by the Press Complaints Commission and, now, by the News of the World). I was not present when the agreement was made between Mr and Mrs Banks and Ms A [blank]. For the avoidance of any doubt, at the time the money was given [blank] by Mr and Mrs Banks, none of those people had any legal relationship with me. I did not ask for, nor did I receive, any money from Mr and Mrs Banks. In addition, I have had no legal relationship with Mr and Mrs Banks or Ms A [blank], since Ms A and I were divorced. I haven’t a clue when we were divorced; it wasn’t a date I marked in my diary, but I believe it was sometime in 1996.
The mortgage held over the property is solely my responsibility, and only my name appears on the title deeds.

Again, for the avoidance of doubt, I did not receive any money from Mr and Mrs Banks towards the purchase of my home.

In responses to legal action initiated by Mr and Mrs Banks – which asserted that the money was a loan, not a gift – I made clear that the money had, in fact, been a gift, but not to me. The money was a gift from Mr and Mrs Banks to Ms A and, as I have stated previously, none of these people were at the time, or are now, legally related to me.

At the time the money was paid by Mr and Mrs Banks, Ms requested that it be paid into my bank account. This request was made for valid reasons.

Further, my understanding is that the money given by Mr and Mrs Banks came from profits made by them on the sale of their former home. It is untrue of Mr and Mrs Banks to state that they had to re-mortgage their own home to provide money.

Should you require clarification of anything further, please do not hesitate to get in touch.

Yours sincerely
Campbell Martin.
Dear Dr Dyer

Campbell Martin – Former MSP

In response to your letter of 21st inst., my comments are as follows:-

1. The £25,000 loaned to Campbell Martin and Ms A on 7th June 2004 was for both of them to assist in the purchase of their current home.

   The sum was transferred from our account to Campbell Martin’s account; he in turn paid around £20,000 to his solicitor for the house purchase: the balance of around £5,000 (we were told) was for incidentals.

2. Campbell Martin and Ms A were married in 1992/93.

   We were told they were divorced by Ms A around 1998/99 but saw no proof of this.

As I informed you during our recent telephone conversation, if you require assistance from our solicitor do not hesitate to let me know.

Yours sincerely

Agnes M.G. Banks (Mrs)
APPENDIX 6

SUMMARY OF INTERVIEW WITH CAMPBELL MARTIN

16 January 2008

1. I am Campbell Martin, former list MSP for the West of Scotland in the second session of the Parliament, which ended in April 2007. I understand that the complaint against me from Mr and Mrs Banks is that I failed to register the payment of the sum of £25,000, which I maintained was a gift, as required in the Register of Members’ Interests.

2. Mr and Mrs Banks did provide £25,000 in June 2004 to Ms A, who is my ex-wife. The money was only paid into my bank account because it was not possible for Ms A to receive it at the time. The money was offered by Mr and Mrs Banks to Ms A when they knew I was buying a house. For most of the week I was in Edinburgh; I was only home at the weekends.

3. I stand by what is said in the answers to the writ issued by Mr and Mrs Banks, apart from where it is said that the funds were to be provided “to the defenders”. The money was a gift to Ms A. It was not a loan, as had been maintained by Mr and Mrs Banks. They originally made clear it was a gift and Mrs Banks only said it was a loan after I asked her to leave my house following an argument around the start of 2006.

4. The situation described in the Answers was not an interest-paying arrangement. In fact, it had no relation to the £25,000 given to Ms A by Mr and Mrs Banks. The money given to Ms A came from profits made by Mr and Mrs Banks when they sold their former home. Subsequent to that money being given to Ms A, Mr and Mrs Banks decided to enter into an equity release scheme on the property they had purchased.

5. I agree that, since I considered the money a gift, it is reasonable to consider whether or not I should have registered it as a gift.
7. I accept that, although no money was given directly to me by Mr and Mrs Banks, the money was, ultimately, made available to me by Ms A and that this constituted a gift, albeit one that was subsequently repaid. After the out of court settlement I gave the money back around July 2007. The purpose of money being made available to me by Ms A was exactly the same as money made available to me by the Bank i.e. to allow purchase of a residential property. That fact seems to suggest that if the money from Ms A should have been registered, then so, too, should the money from the Banks. Of course if that were the case, then every MSP who has a mortgage, and who has not registered it, may be in breach of parliamentary regulations.

8. I accept that I probably should have registered the money as a gift, given that, ultimately, I benefited from it being made available to me. However, at the time, I never gave it a second thought. I never for a minute thought that a personal arrangement between individuals, and which related to a personal situation and circumstances was the type of thing that was of public interest or which would allow others to exert undue influence over my work as an MSP.