

<b>DATE</b>	27-Jul-84
<b>AUDITOR</b>	W Bryden
<b>COURT</b>	Edinburgh S.C.
<b>SOLICITOR</b>	Ross Harper & Murphy
<b>CASE</b>	██████████ IH
<b>ACCOUNT TYPE</b>	A&A
<b>TAXATION HEAD</b>	Precognition / Letter
<b>TAXATION ISSUES</b>	<ol style="list-style-type: none"> <li>1. Whether or not a precognition should be allowed when the client pleads guilty.</li> <li>2. Confirmatory letter.</li> </ol>
<b>DECISION</b>	<ol style="list-style-type: none"> <li>1. The Legal Aid Central Committee objected to the fee for the precognition in that the client was intending to plead guilty to any eventual charge and the complaint had not yet been issued. The Auditor disagreed and allowed the precognition to record the details while fresh in the client's mind and to provide an accurate source of information when the complaint was actually served. The delay before the complaint may have been issued could be as long as 6 months.</li> <li>2. The Auditor disallowed the letter sent to the client confirming that he was acting for her as it added nothing to what should have been said at the interview. A letter sent 10 weeks later was abated to the formal rate.</li> </ol>

TAXATION OF LEGAL ADVICE & ASSISTANCE ACCOUNT

Messrs. Ross Harper & Murphy - The Law Society  
of Scotland -

was granted Legal Advice & Assistance in connection with anticipated charges under the Road Traffic Act 1972. She had an interview with a Solicitor shortly after the offences were allegedly committed, gave him full details and received advice. A Precognition was taken and extended. Thereafter the Solicitor wrote twice, on the second occasion indicating that he proposed to close his file if he did not hear further. The Account in which these entries appeared was not agreed between the Legal Aid Central Committee and the Solicitor and was remitted to me for taxation. Mr. and a member of his staff represented the Legal Aid Central Committee and the Solicitor was represented by a member of his staff.

objected to the charge for framing and copying the statement/Precognition and for the first letter. The Precognition was produced. It narrated the history of the alleged offences. There was nothing in it to support a plea in mitigation and it therefore did not serve any purpose as, in fact, nothing happened thereafter. It was simply a catalogue of the crimes. He objected to the charges for the Precognition and the first letter being neither necessary nor reasonable and in any event unreasonable if measured against what would be done for a private client. The Solicitor submitted that it seemed fairly likely that proceedings would be taken, it was prudent to precognosce the client when the circumstances were fresh in the client's mind and it was reasonable therefore to take the Precognition. He maintained there was nothing to exclude such a charge and that the assumption should be made that the client would wish to plead not guilty.

I allowed the charges for framing and extending the Precognition but not the copy, disallowed the first letter and allowed the second letter at half rate. Where a client has not yet been served with a Complaint but expects to be charged, it seems to me both correct professional practice and reasonable that the Solicitor should take a Precognition while the circumstances are fresh in the client's mind and to provide an accurate source of information when the Complaint is actually served. It will be borne in mind that the Procurator Fiscal would normally have six months in which to serve a Complaint and current experience is that this is often fully utilised. I disallowed the first letter, which added nothing to what should have been said at the/

2.

/the interview. I allowed the second letter as it is correct professional practice in my view for the Solicitor to intimate to the client that he is not taking any further steps and is in so many words terminating the client's legal advice facilities in the absence of further instructions.

1983-1984

ACCOUNT OF EXPENSES

Incurred by

THE LAW SOCIETY OF SCOTLAND

to

Messrs. Ross Harper & Murphy,  
Solicitors, Edinburgh.

In Causa



Legal Advice & Assistance  
Scheme Ref. No.  
53/06/214991/82

Authorised Expenditure £40

1983  
Mar. 18

add £6

Attendance with you discussing fully  
re your motoring offence, noting you  
have not yet been charged but that  
you are due to produce your supposed  
licence and documents at the Police  
Station, taking your statement and  
instructions. Minimum charge.

6 00

Framing your statement. 2 pgs.

6 40

Extending and copy. 2 pgs. ea.

2 00

.60

Writing you referring to your meeting,  
confirming we shall assist you in  
connection with your matters we discussed,  
advising thereon.

3 80

£3.80

June 2

Writing you referring to your meeting,  
requesting you advise us if you have  
been charged with the offence in connection  
with your motor car, or whether we can  
simply close our file.

3 80

£1.90  
£0.30

£

22 00

1983  
Dec. 12

3.50

.70

.30

Framing Account of Expenses. 2 shs. *24 3 months 156*

Extending Account. 2 shs.

Copy to intimate. 2 shs.

Attendance lodging Account.

Intimating Diet of Taxation.

Attendance at Taxation.  
Engaged  $\frac{1}{2}$  hr.

Uplifting Account.

Agency settling Auditor's fee  
(by letter).

Writing Law Society with taxed  
Account.

Posts and Incidents at 5%. (£27.40)

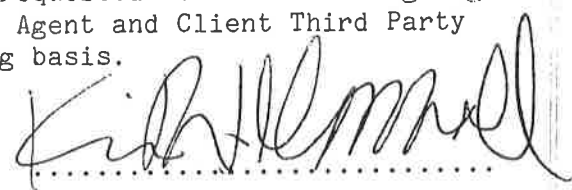
4.80  
- 24  
5.04

.76  
5.80

	7	00
	1	40
	0	60
	1	50
	0	70
	11	00
	1	50
	3	00
	0	70
	1	3
£	-	-
		<u>28 7</u>
		51 87
	£	7 7
	£	4 6
	£	64 2
	£	5 8
	£	58 4

Add Outlays  
Add V.A.T. on  
Fees & Posts (£51.87)  
Add Auditor Fee  
Add ~~page 2 as taxed~~ *off*

The Auditor of Edinburgh Sheriff Court is respectfully requested to Tax the foregoing account on an Agent and Client Third Party or Fund Paying basis.



for Legal Aid Central Committee.

£0.30

- 2 -

1983

June 2

Posts and Incidents at 5%. (£22.00)

30

Add outlays

£

22 00

£

- -

1 10

23 10

£

- -

23 10

0

8

STATEMENT OF

[REDACTED]

My full name is [REDACTED] and I live at [REDACTED]  
[REDACTED]. My date of birth is [REDACTED]. I will be  
moving to [REDACTED] on 21st March 1983.

I am seeking advise as to my position regarding a possible motoring  
offence charges.

I bought a Mini Clubman registration number [REDACTED] at the Kinross  
Motor Auctions in or about October 1982. It was MOT'd for six months  
however sometime after purchase I noticed that the MOT Certificate had  
been changed by someone to read 1983 instead of 1982.

I do not have a driving license. I have not notified Swansea of the  
change of ownership of the car (it will still be registered under the  
name of someone in Kelty - I will try to find the MOT Certificate).

I do not even have a provisional driving license.

On Monday 14th March 1983 I drove my car to the High Street (The Bridges)  
and parked outside my friends house at number [REDACTED]. It was  
about 7 p.m. and we went to the pub. I had been at a funeral in the  
afternoon. It was the funeral of this friend's father. My friend phoned  
me at my house in the evening and asked me to come up. I just jumped  
into the car without thinking and drove up to see him. He was my husband's  
friend to but my husband was on night duty and could not take me.

I/..

I was displaying on the car windscreen a tax disc that I found at Abbeyhill filling Station. I found it lying in the street outside and just took it. This disc was due to expire in December 1983.

When I came out of the pub I noticed that the tax disc was no longer on the windscreen of the car. Suddenly two policemen arrived on the scene. I took fright as I knew that I was in the wrong for displaying this tax disc which did not belong to me and I made off down the street. The Police made pursuit and when they caught up with me they asked me to accompany them to the Police Box. They asked me if I was the owner of the car and I said yes. I told them I found the tax disc outside the filling station at Abbeyhill. They asked me if I had a driving license and said yes (in a panic) it was of course untrue. I had no means of identification and the Police filled up a form requesting me to provide my documentation and let me go. I have until Monday, 21st March to produce these items.

I do not have insurance cover. I got an insurance cover note from my insurance company but I have not filled it in or paid it.

I am simply seeking Advice as to what to do next and what I can expect to happen. I am seeking Legal Advice and Assistance. I am unemployed but my husband is employed and earns an average wage of £80 per week. I have one child, a son aged 17 who stays in the house with me and he is also unemployed.

18.3.83

~~Handwritten signature~~  
Section 1.

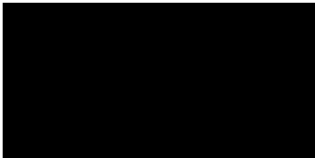


(357)

PHL/VLD

Miss Loudon

18th March 1983



Dear Madam,

We refer to your visit to our office on Friday, 18th March 1983. We confirm that we are happy to assist you in connection with the matters we discussed. We are acting under the Legal Advice and Assistance Scheme and under this Scheme you are due to pay a contribution of Nil.

Yours faithfully