

REPORT ON TAXATION

ASSISTED PERSON: [REDACTED] JK

REFERENCE NUMBER: 38/96/500007/85

SOLICITORS: John G. Gray and Company, Edinburgh
Levy and McRae, Glasgow
Howard Kennedy, London

COUNSEL: R.N.M. McLean, Q.C.
I. Bonomy, Advocate

AUDITOR: E. Weir, Court of Session

DATE OF TAXATION: 8th July, 1988

HISTORY

Following a decision of the Court of Session Inner House a Legal Aid Certificate was granted to Mr. Kay to enable him to appeal to the House of Lords. The Appeal was refused on 14th May, 1988.

The solicitors accounts were lodged with the Board in March, 1988 and when negotiations failed the accounts were lodged for taxation on 3rd June, 1988.

TAXATION

Apart from minor matters the principal areas of disagreement were as follows:-

(A) John G. Gray and Company

- (1) The charges listed on pages 12 and 13 relating to revising, perusing and checking Appendices together with necessary pagination.

The total sum claimed by the solicitor was calculated on the basis of 30 pages per hour and amounted to £2,245.40 being the equivalent of 14 days work.

Decision The Auditor upheld our argument that, as far as revising the Appendices were concerned, the charge should be calculated on the basis of Chapter 1(3) of the Court of Session Table of Fees.

As far as pagination was concerned the Auditor allowed the solicitor a time factor of 20 hours and in exercising his discretion awarded a 50% increase on the hourly rate applicable to that area of work.

(2) The claim on page 27 for an "Additional Fee".

Decision The Auditor confirmed our understanding that, in the absence of a Court Finding, he had no power to grant the "Additional Fee" claimed.

(3) The level of fees claimed by Counsel in connection with the Appeal.

Decision The solicitors produced evidence of fees awarded to Senior Counsel in recent appearances before the House of Lords in private litigation and the Auditor was of the opinion that the complexity of this action would merit the overall level of fees claimed.

(B) Levy and McRae

(1) The charges listed on pages 6 and 7 relating to revising, perusing and checking Appendices. The total sum claimed by the solicitor was calculated on the basis of 30 pages per hour and amounted to £1,733.10 being the equivalent of 11 days work.

Decision The Auditor expressed the opinion that one of the fundamental principles of taxation is that no client can be liable for two solicitors, in sequence, performing the same work. The Edinburgh Agents had been paid for work undertaken in connection with revision of the Appendix and consequently the claims by Levy and McRae were struck from the account.

(2) The charges listed on pages 8 and 9 in connection with the attendance of the Glasgow agent at the House of Lords Appeal in London.

Decision The Auditor expressed the opinion that Fees and Outlays which are not recoverable on a Party/Party Scale should only be incurred subject to authority/approval of the client ie. in this case the Legal Aid Board.

Whilst there was no approval requested or granted for the attendance of a second solicitor at the hearing the Auditor was of the opinion that in the particular circumstances of this case there is sufficient justification for allowing the claim as stated.

SUMMARY

<u>SOLICITOR</u>	<u>LODGED</u>	<u>TAXED</u>
<u>JOHN G. GRAY & CO.</u>		
FEES & POSTS	£ 5,556.32	£ 4,460.51
OUTLAYS	£10,152.89	£10,060.49
COUNSEL - SENIOR	£ 7,650.00	£ 7,650.00
COUNSEL - JUNIOR	£ 5,905.00	£ 5,905.00
<u>LEVY & MCRAE</u>		
FEES & POSTS	£ 3,587.67	£ 1,404.51
OUTLAYS	£ 440.48	£ 433.12
<u>HOWARD KENNEDY</u>		
FEES & POSTS	£ 2,420.52	£ 2,277.02
OUTLAYS	£ 233.20	£ 233.20
TOTAL	£35,946.08	£32,423.85

NOTE: The above figures are exclusive of V.A.T.

DUES OF TAXATION: The fee payable to the Auditor in connection with this taxation is £862.50, inclusive of V.A.T.


17/08/88