

Memorandum.

To: [REDACTED], Director of Finance/Administration.

From: [REDACTED], Manager Special Projects.

C.C. S. O'Connor, Manager-Accounts Payable.

[REDACTED], Assistant Manager-Advice & Assistance.

I attended a taxation on Friday 2nd. November 1990 at Dumfries Sheriff Court in the case [REDACTED] - LEGAL AID REFERENCE AA/01/9075871/89. AH

The point at issue related to an abatement to the solicitors account where it appeared that the solicitor had failed to notify the Board timeously of his intention to extend the initial limit of £60 to cover an application for civil legal aid.

After submissions, the outcome was that the Auditor concurred with the viewpoint expressed by Messrs. Whitelaw Edgar & Baldwin that as they were restricting their charges to the initial limit of £60:00 (although they had incurred some £140 of advice at that point in the account when they advised the Board of their intention to give further advice prior to submitting a civil legal aid application) they could not be in breach of Section 2(2) of The Advice and Assistance (Scotland) (Prospective Cost) (No. 2) Regulations 1988. As they were only claiming £60 it could not be assumed that they exceeded the 14 day period for notifying the Board.

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The solicitor has of course been penalised to the extent of some £80, being the difference between the charges incurred at the time of notification and the initial limit of expenditure.

I do not think there would be any advantage in seeking to overturn the decision by way of Judicial Review - it is certainly doubtful whether we could win in any event - and I would suggest that we amend the current taxation procedure where a similar situation arises.

After the taxation I discussed the need for the taxation at all and tendered the view that had Mr Baldwin presented the same argument to the Board following receipt of our original offer we might well have reached agreement earlier and prevented the costs of taxation. In response Mr. Baldwin made the following points:

1) He was of the opinion that, because of the current disagreements between his firm and the Board we were returning more abated accounts. Although I advised him that this was not the case I got the impression that he was monitoring all accounts returned by the Board.

In light of that approach I would **recommend** that all proposed offers should be referred to the Assistant Managers in the first instance. It might be appropriate when dealing with advice and assistance matters to make an offer without sending back the papers?

2) He also indicated that he did not receive payment from the Board for letters or telephone calls responding to abatements or offers whereas he would be paid for framing the account etc. and received payment quicker if he lodged the account for taxation.

I requested that Mr. Baldwin contact the Manager-Accounts Payable ( or myself ) prior to any decision to lodge for taxation.

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I bring this matter to your attention simply because I would not wish to see the present situation flow over to <sup>ANY FURTHER</sup> civil and criminal accounts. (PARTICULARLY IN RELATION TO COMPLEX ACCOUNTS.)

THE SOLICITORS ACT 1974  
OUR REFERENCE NO. 1080

ACCOUNT OF EXPENSES

done by  
THE SOLICITORS LEGAL AID BOARD

to  
WHITELAW, EDGAR & BALDWIN  
Solicitors  
19 Bank Street  
DUMFRIES  
DG1 2NZ

In causa

[Redacted]

1080	Aug	1		
		Meeting [Redacted]. Taking full details for a statement from him. Noting his position fully. Engaged 1 hour (Case for not effective until 1/6/90)		£ 37.00
		Framing Statement (Qualified) Extending Same (1 sheet)		5.25
		2 Writing [Redacted] advising her that Mr Hastings would call at her house on Thursday 3rd August 1989 to collect his personal belongings. Advising her that [Redacted] is not wanting any of the furniture or the T.V.		5.25
		Writing S.L.A.B. enclosing Form AA/1(Rev.).		2.10
		11 Meeting [Redacted] Noting that he is now staying with Joyce Kelly and that they have commenced a relationship. Noting that his wife is threatening to burn all his belongings. Advising him it would be better to go to the house and collect his things when his wife was not in. Noting that his wife was going to contact a solicitor and advising him that once we had heard from her solicitor we would get in contact with him. Engaged 30 minutes		18.50
		18 Meeting [Redacted]. Noting that he is now staying with Joyce Kelly and that his wife had told him sister that she had burnt his clothes and her daughters clothes. Advising him to put the matter in the hands of the police. Engaged 30 minutes		18.50
	Sept	7 Writing [Redacted] advising him that we needed a corroborating statement as soon as possible because without one we couldn't submit his legalaid application.		5.25
		12 Meeting [Redacted] Noting that his wife was going out with a [Redacted] and that he had been to try and retrieve his clothes but he could not get the key. Advising him that we still needed a corroborating statement. Engaged 30 minutes		

Sept.	19	Writing [redacted] requesting that she make arrangements with ourselves for [redacted] clothes to be collected within 7 days and if not we would raise a court action.	5. 25
Oct	5	Writing Pollock & Co advising them that Mr [redacted] will collect his belongings on Saturday 14th October 1989 and requesting they advise their client of this.	5. 25
		Meeting [redacted] advising him of the terms of letter received from Pollock & Co. He advised us of when he wanted to collect his belongings and also a man called Bob McVie was now staying with his wife.	5. 25
Oct.	20	Meeting [redacted] and he advised us that all the doors were locked when he went to collect his belongings. Advising him we would write to Pollock & Co. Engaged 15 minutes	5. 25
		Writing Pollock & Co advising them that [redacted] went to collect his belongings on Sat. 14th Oct. 1989 to find that there was no one at home and all the doors were locked. Requesting that they take their client's instructions.	9. 25
		Restricted to	5. 25
Nov	16	Writing [redacted] enclosing copy letter from Pollock & Co stating that he could collect the items on Sat. 18th Nov. 1989. Asking him to confirm this by telephone.	140. 60
			60. 00
	20	Meeting [redacted] noting that Private Investigators had been rould and that his wife was divorcing him on the basis of adultery.  Taking details from him fully regarding this. Noting that he was not bothered about his clothes but he wanted his birth certificate. Engaged 30 minutes	5. 25
		Writing Pollock & Co advising them of the meeting with [redacted] Requesting they obtain the Birth Certificates and forward this to ourselves.	18. 50
	27	Writing [redacted] advising that if he wished to reduce the amount of fines he was paying to the court he would have to come in to our office as soon as possible. Advising him to make an appointment.	5. 25
	29	Meeting [redacted] and advising him that we would write to the court on his behalf regarding his fines. Engaged 20 minutes	5. 25
		Carried Forward .....	18. 50
			112. 75

Nov	29	Writing Nithsdale District Council and advising them of [redacted] circumstances. Advising them of the amount of money received every week and the outgoings. Requesting they agree to him paying the sum of £2.50 per week.	5. 25
Dec	6	Writing [redacted] enclosing copy letter from Nithsdale District Council. Advising him that failure to make regular payments would involve a Means Enquiry Court.	5. 25
	27	Writing Pollock & Co referring to our letter of 20th November 1989 asking them to confirm whether or not the proposals are acceptable.	5. 25
		Meeting [redacted] Giving him back his receipts in respect of fine. He wanted to know if there was any response from Pollock & Co, checking file and noting that there wasn't. Advising him that we would write to Pollock & Co. Engaged 15 minutes.	9. 25
<u>1990</u>			
March	30	Writing [redacted] advising him that his divorce will not be through for some time because of his wife's legal aid application. Advising him that once the divorce had been served on him he should contact our office for an appointment.	5. 25
May	14	Meeting [redacted]. Noting that he wanted us to write to John Henderson & Sons confirming that he will not defend the divorce providing Crave 3 for expenses was deleted. Engaged 15 minutes.	9. 25
		Writing John Henderson & Sons advising them of above.	5. 25
	29	Meeting [redacted]. Noting that the DSS are saying he has to pay his wife money. Advising him we would write to the DSS and to John Henderson & Sons as they hadn't replied to our letter. Engaged 10 minutes.	9. 25
		Writing John Henderson & Sons referring to our letter of 14th May and requesting that they confirm the position.	2. 10
		Writing DSS advising them of Mr Hastings position fully. Asking them to confirm the position.	5. 25
June	5	<i>New fees 1/6/90</i> Writing John Henderson & Sons advising them we had written to our client and would get back to them within 7 days.	2. 10
	6	Writing [redacted] requesting he make an appointment as soon as possible.	2. 10
	11	Writing [redacted] advising him that the DSS are not going to pursue the question of maintenance while he was off sick.	5. 25
Carried Forward .....			183. 55

- 12 Meeting [redacted] Noting that he is now unemployed. He is definitely not going to contest the divorce action. Advising him we got a letter from S.L.A.B. regarding the expenses and advising him to write back stating that he was unemployed.  
Engaged 15 minutes
- 13 Writing John Henderson & Sons referring to our letter dated 5th June and advising them that [redacted] had decided not to defend the divorce.
- Aug 7 Writing [redacted] advising him that Decree of Divorce had been granted and that we would now close our file.

EXHIBITS

LEGAL AND DEBTS

9. 25

LEGAL AND DEBTS

5. 25

LEGAL AND DEBTS

5. 25

203. 00

150. 00

Restricted to

- Framing account (5 sheets)
- Extending same and 2 copies (5 sheets each)
- Lodging account in court for Taxation

(10) 27. 00

- Intimating Diet of Taxation to S.L.A.B. advising of time and place.
- Recorded delivery dues

0. 48 X

- Attendance at Taxation
- Engaged 1 hour

- Perusing Auditor's Report
- Engaged ¼ hour

Add posts and incidents @ 12% N/A

£ 0. 48 X

£ 197. 40  
X 11. 69

Add previous restricted balance (as above)

£ 109. 09  
150. 00

V.A.T. thereon @ 15%

£ 259. 09  
138. 86

Add outlays:

£ 297. 95  
10. 48

£ 298. 43