

AUDITOR'S NOTE IN THE TAXATION OF THE ACCOUNT DUE BY SCOTTISH LEGAL AID  
BOARD TO WHITE LAW EDGAR & BALDWIN in causa [REDACTED] JF

This account became the subject of taxation as the Board refused to pay the account as submitted. The solicitor proceeded beyond the limit of £60 as in his view it was justified and necessary to provide a proper service.

The solicitor was consulted by the client in relation to a loss of £60.

The Board's view is that in view of the size of the possible claim then any court action could have been raised under the small claims procedure for which legal aid is not available. Mr Baldwin's view is that it was not simply a loss of £60 but a matter which could only competently have been raised as a summary cause (Payment/Implement). In any event, Mr Baldwin had to incur expenses beyond the limit of £60 to fully establish the circumstances of the dispute and consider appropriate action.

The Board is sympathetic to the difficult position that solicitors can find themselves in - nevertheless a line has been drawn and in this particular case the limit of £60 should not have been exceeded without the permission of the Board.

On this occasion I agree with this view taking into account

(a) the size of the claim

(b) the claim was not insisted upon

and

(c) the necessity to restrict the expenditure of public funds.

In all the circumstances I tax the account at £60 and find neither party liable in the expenses of the taxation.

17 January 1992

*P J McGonigle*  
P J MCGONIGLE  
Sheriff Clerk

RECEIVED  
22 JAN 1992

Civil Acc  
21/1/92  
BS

ACCOUNTS COMMITTEE

Report by Assistant Manager Accounts Payable - Advice & Assistance

[REDACTED] - AA/05/0201858/90

Account for review.

TF

On 8th April 1991 the Accounts Committee considered in the report on the taxation of [REDACTED] the matter of erroneous self-certification to £150 by Whitelaw, Edgar & Baldwin. The Auditor had not supported our contention that the subject matter was not one which could fall within the conditions laid down in 1-4 of the AA/1A/150. Senior Counsel's Opinion was obtained but was not particularly favourable and it was agreed that notwithstanding the Auditor's decision, the account would be restricted to £60. Whitelaw, Edgar & Baldwin have subsequently raised an action against the Board and this matter is still pending.

A similar case has been received from the same solicitor where it is considered that the solicitor does not appear to have satisfied the terms of the self-certification.

The applicant sought advice regarding a sum of £60 which was apparently due in respect of a lie week. Correspondence from the employer indicated that the client had been paid for 16 weeks and 2 days employment minus absenteeism and the solicitor had advised the client that they were not entitled to deduct wages in respect of the absenteeism but that would really depend on the contract of employment. The solicitor sent his AA/1A/150 on the 31st January 1991, the same day that he wrote to the employer requesting a copy of the Contract of Employment. (The employer subsequently confirmed that the employee was paid on an hourly rate and accordingly would only be paid for the hours worked.) Following perusal of the wage slips, the solicitor confirmed that the client had in fact been paid for all weeks including the lie week. However, there was some suggestion by the solicitor that there was a difference of £18 due to a discrepancy in the client's absence record. However, this appeared to be in the client's favour and the client instructed him to take the matter no further.

The solicitor was asked on what basis he self-certified and he advised that an action of implement together with a crave for payment in respect of arrears of backpay due would have required to be raised. He was then asked to specify under what clause of the contract he intended to enforce and how he satisfied all conditions laid out in 1-4 of the AA/1A/150 given that he had not seen the contract at that time and that it had not been established that any money was due to the client. He stated that he did not require to see the contract in order to self-certify and that he was entitled to accept what was advised by the client.

A copy of the account is attached for the committee's consideration.

The guidance of the committee is sought on whether the account should be assessed subject to the initial limit of authorised expenditure of £60 or subject to the "self-certified" limit of £150.

SCOTTISH LEGAL AID BOARD

to

WHITELAW, EDGAR & BALDWIN

IN CAUSE



LEGAL AID CODE NO: 09857  
 LEGAL A. & A. REF. NO: AA/05/0201858/90  
 OUR REF. GB/FSA.14  
 SOLICITOR CODE: 31334  
 DATE: 11 February 1991

<p>1991 Jan.</p> <p>37-00</p> <p>5-25</p>	<p>21</p> <p>23</p>	<p>Meeting applicant, taking details re: claim, putting on legal advice and assistance and assessing contribution. Engaged 1 hour</p> <p>Writing applicant for details of his wife's Grant.</p>	<p>X Sol not satisfied that applicant eligible for A&amp;A until 25/1/91</p>
<p>3-15</p>	<p>25</p> <p>29</p> <p>31</p>	<p>Meeting applicant, perusing details of wife's Grant income. Engaged 1/4 hour</p> <p>Writing Initial Cleaning Services intimating claim.</p> <p>Writing applicant advising him re: Initial Cleaning Services. <i>Formal letter</i></p> <p><i>SG to £150 - N/A</i></p> <p>Meeting applicant, going over letter with him received from Initial Contract Services. Noting their deduction from wages and advising him re: Contract of Employment. Engaged 1/2 hour</p> <p>Writing Initial Contract Services for a copy of applicant's Contract of Employment re: wage deduction.</p>	<p>X</p>
<p>Feb.</p> <p>18-50</p> <p>2-10</p>	<p>6</p> <p>11</p>	<p>Perusing wage slips, employees' handbook and documentation supplied. ✓ 7 shs + part of handbook Engaged 1 hour <i>1/2 hr would appear to be sufficient</i></p> <p><i>file note indicates 3/4 hr!</i></p> <p>Writing applicant requesting he call <i>Bad charge</i></p> <p>Meeting applicant, going over matters and noting he did not wish to proceed further. Engaged 1/2 hour <i>(Confirming that he had been paid all sums due as confirmed by employers on the 28/1/91.)</i></p> <p><i>[3/4 hr per file note]</i></p> <p><i>Offer £60</i></p>	<p>X</p>

£ 14  
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