

DECISION OF AUDITOR – COUNSELS' FEES – CRIMINAL

<b>DATE OF DECISION</b>	11.12.95 M
<b>NAME OF CASE</b>	HMA -V- [REDACTED]
<b>CASE TYPE</b>	Embezzlement, Glasgow High Court
<b>AUDITOR</b>	J Haldane Tait, Court of Session
<b>COUNSEL/SOLICITOR ADVOCATE</b>	SC
<b>AMOUNT(S) AWARDED</b>	<p>£750 per day – conduct of full trial days (subsuming preparation) £400 per day – for trial days that lasted less than a full day £369 per day – for trial days that lasted less than a full day £60 per hr – preparation fee re 1<sup>st</sup> indictment only which did not proceed to trial £300 consultation on 06.10.94 £350 consultation on 07.10.94 £450 consultation on 10.10.94 £375 consultation on 12.10.94 £250 consultations on 12.01.95, 13.01.95 and 19.01.95</p>
<b>FEATURES</b>	<p>Trial called on 17.10.94 but was adjourned. Indictment fell. Case was re-indicted on 30.01.95.</p> <p>12 Trial days in total. Trial concluded February 1995.</p> <p>Case involved alleged embezzlement of more than £165,000.00, over approximately 20 years, whilst the accused was in a position of trust with the bank.</p> <p>Necessary for counsel to prepare afresh for 2<sup>nd</sup> indictment trial.</p> <p>Auditor described case as “unique”.</p> <p>Auditor accepted that a number of consultations were justified and allowed a separate fee for pre-trial preparation in relation to the 1<sup>st</sup> indictment which did not proceed to trial so Auditor could not subsume preparation within a daily rate.</p>

## FEATURES

2<sup>nd</sup> indictment did proceed and Auditor disallowed separate preparation fee for 27 hours but took such preparation into consideration in fixing an enhanced trial fee (counsel claimed £700 per day).

Accused had suffered a mental breakdown in the past so individual consultation times had to be reduced and greater time spent with the instructing solicitors and their precognition agent.

The accused had been very ill after his initial arrest therefore matters were only gradually recalled by him and could not therefore be investigated fully at the outset.

Crown productions were only obtained shortly before the trial was due to begin.

Expert Accountants required to analyse productions.

Expert Psychiatric/Medical evidence was required regarding the mental state of the accused.

Counsel required to obtain, analyse and lodge extensive documentation, which had been overlooked by the Crown, from the accused's bank which was only available shortly before trial.

A comprehensive Minute of Agreement was lodged, appreciably shortening the trial.

Accused gave evidence for 2 ½ days.

Accused's wife also gave evidence.