

[REDACTED] *Taxation*

THE SCOTTISH LEGAL AID BOARD

[REDACTED] *Taxation*
DUMFRIES SOLICITORS

To: Ross Marriott
Team Leader
Room No. F15

From: Douglas Haggarty
Solicitor
Room No. T10a
Ext. No. 305

Ref.: JDH/YS

Date: 25 January 1996

A R

MRS [REDACTED]

TAXATION 19 JANUARY 1996, DUMFRIES

I return herewith the file and the accounts. Referring to the 8 broad points in your summary, the outcome was as follows:-

1. *Pre legal aid work.* This was abated. Even in the account as amended, it was still conceded that the work commenced on November 8. The account was lodged on December 9, outwith the 28 day statutory period. This disposed of all items prior to the effective date of the civil legal aid certificate.
2. *Five minute phone calls.* This was not so successful. The agent actually conceded, as he had done in correspondence that he did not keep an accurate note of the length of phone calls. What he did say, however, was that every five minute phone call was in excess of four minutes. Within this range he apparently has this very involved system where someone ^{AM} marked down and someone ^{ME} marked up. I did not really understand it. The Auditor accepted my point that in future the agent should take an accurate note of the exact duration of phone calls but was prepared to allow these on hearing the agents explanation.
3. [REDACTED] *action at page 28.* The Auditor accepted that most of this work did affect the divorce action and had to be addressed. There would have been no capital sum without the money which was the subject of the arrestment. However, he agreed that there seemed to be no basis for obtaining an opinion. It was unclear from the account whether an opinion had been obtained from a firm or Edinburgh agents or counsel, or both. The item referring to the agents was deleted. The agent said that there was no fee note for counsel. You might care to check this when coming to pay the account.
4. *Perusals.* This was clear cut. The Auditor accepted that all documents over 12 pages was a time charge and adjusted the account accordingly.
5. *Preparation.* The Auditor did not enquire as deeply as I would have liked to the exact nature of the preparation and the duration of it. He seemed content simply to half what the agent had asked for ie two hours became one hour; three hours became 1½ hours.

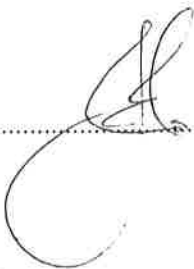


6. *Framing open records.* The Auditor, again, was not too keen on the semantics. He was more interested in a figure and gave the solicitor £80. The actual need to prepare the open record was justified. The court ordered the first one and in respect of an undefended proof, apparently such proofs proceed on an open record rather than a closed record.
7. *Faxes.* The Auditor on hearing the explanation that all posts and incidents had been subsumed into the time charge readily deleted all fax charges.
8. *Recorded Delivery.* The Auditor thought this was a slightly different point not having been something which was just sort of general post but a specific charge ie an outlay. However, he decided that all recorded deliveries should be deleted as well. It was clearly posts.

In addition, the Auditor agreed that there should be no charge for framing an account, certainly not at the exorbitant private rates at which the solicitor was seeking to charge. The solicitor stated, repeatedly, that the Board had met this charge before. We may well have but the point was made and the Auditor agreed. Please ensure in all accounts that no allowance is made for the framing of an account. The Board, as far as I am concerned, is entitled to a free accounting. Once the account is submitted, the work is done and not only is there no provision for payment of the solicitor, the work has already been done and therefore there is no work actually done in the preparation of the account which has already been submitted to the Board.

One point which I should draw to your attention. Counsel was not sanctioned until October 1994. This was only for the conduct of a section 34 motion. All entries in respect of counsel's opinion etc prior to that date were deleted. The agent was trying to make out he had sent the letter granting earlier sanction and that we had lost it. He picked up on the fact that I said that the original applications file would have been destroyed in trying to make out that information which had been sent to the Board in respect of the account had been destroyed! He was, in particular, trying to rely on the fact that various payments to account had been made on which the Board must have been satisfied. He tried to make out that some of these would have been in respect of counsel's fees. I pointed out that the payments to account were far less than the running total of outlays at the respective dates and there was nothing to suggest that they related in any way to counsel's fees. Can you get a breakdown of these outlays in case the solicitor picks up the point. It doesn't matter - the Auditor abated them anyway, but I said we would double check the position.

I NEED THE TWO ACCOUNTS AND THE FILE BACK ONCE YOU HAVE FINISHED WITH THEM. AEW THINKS THAT THIS CASE, THE ACCOUNTS AND THE CORRESPONDENCE SHOULD BE SHOWN TO THE LAW SOCIETY.



A handwritten signature in dark ink, appearing to be 'AEW', is written over a horizontal dotted line. The signature is stylized and cursive.