

Taxation Report

23rd March 2005

ES



Balfour & Manson

Solemn Time & Line

Perusal / Preparation

COURT OF SESSION, SCOTLAND

REPORT

by

AUDITOR OF THE COURT OF SESSION

in the cause

[REDACTED]

Appellant

against

PROCURATOR FISCAL

Respondent

EDINBURGH: 23rd March 2005

1. In attendance at the Diet of Taxation on the 28 February 2005, [REDACTED]
[REDACTED] Solicitor, represented the Scottish Legal Aid Board and [REDACTED]
[REDACTED] of Alex Quinn & Partners, Law Accountants,
attended on behalf of Messrs. Balfour & Manson, Solicitors.

2. The item in dispute is as follows:
 - documentation that had been prepared/perused by the correspondent and then perused by the Edinburgh solicitor

3. The Auditor having heard submissions from [REDACTED] is not persuaded that the items of work in dispute are properly chargeable in the Edinburgh solicitor's account and agrees with SLAB's interpretation of the regulations, which are referred to for their terms:

Regulation 4 (3) of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 states that:

"where a nominated solicitor requires another solicitor, whether an Edinburgh solicitor, in connection with an appeal or on a remit for sentence, or a solicitor at the place of the prison or the court, or a local solicitor for the purpose of local precognitions or inquiry, nevertheless only one account shall be submitted by the nominated solicitor (payment of the other solicitor being a matter for adjustment between the nominated solicitor and the other solicitor out of the fees payable here under), but in determining the sum to be allowed to the nominated solicitor account shall be taken also of the work carried out by that other solicitor".

The regulation makes it clear that only one account can be submitted by the nominated solicitor (payment of the other solicitor being a matter for adjustment between the nominated solicitor and the other solicitor...). The Auditor is satisfied that the meaning of the regulation is that there should be no duplication

and therefore the same work cannot be charged for twice. This is further supported by the published guidance in the Boards Criminal Taxation Guidelines, which makes the Board's position clear. In the Auditor's opinion there is duplication here and the items dated 22 and 29 September, 1 October and 12 December 2003 in the Edinburgh agents account should be abated.

A handwritten signature in black ink, appearing to read "Mr. Sullivan", with a horizontal line underneath the name.

AUDITOR OF THE COURT OF SESSION

IN THE COURT OF SESSION

R E P O R T

by

AUDITOR OF THE COURT OF
SESSION

in the causa



Appellant

against

HER MAJESTY'S ADVOCATE

Respondent



2005