

F.M.McCONNELL S.S.C.
Joint Sheriff Court Auditor

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FM/SA/AUDIT

JM

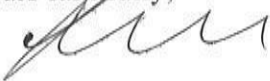
17th March 2005

Dear Mr. Haggarty,

Sheriff Court Audit
Fatal Accident Inquiry – Death of [REDACTED]

I acknowledge receipt of your cheques for £462.95 and £340.75. My receipted notes of fee are enclosed. I also enclose my report in relation to the issue of travel charges.

Yours faithfully,




F.M. McConnell
Joint Sheriff Court Auditor



VAT Reg. No. 724 2458 43
 Invoice No. 3554/05
 Date: 3 March 2005

To Scottish Legal Aid Board
 LP 2
 Edinburgh 7

To: Professional charges in relation to:			
Sheriff Court Audit Fatal Accident Inquiry – Death of [REDACTED]			
AUDIT FEE		364	00
LODGING DUES		30	00
		394	00
VAT at 17.5%		68	95
Outlays			
Total		462	95

EDINBURGH
 I hereby certify that the above is a true and correct statement of the charges incurred by me in the above mentioned audit.


 Sheriff Court Auditor.

SHERIFFDOM OF LOTHIAN AND BORDERS AT EDINBURGH

REPORT

by

F.M. McCONNELL SSC
Joint Auditor
12 Drumsheugh Gardens
Edinburgh EH3 7QG

on the Account of Expenses
incurred by The Scottish
Legal Aid Board

to

BALFOUR & MANSON
Solicitors
Edinburgh

In connection with
Fatal Accident Inquiry
On behalf of [REDACTED]

EDINBURGH

3rd MARCH 2005

The Auditor taxes the remuneration payable to the said Solicitors at SEVEN THOUSAND FOUR HUNDRED AND EIGHTY NINE POUNDS AND FORTY TWO PENCE (£7,489.42) to which sum falls to be added outlays of ONE THOUSAND SIX HUNDRED POUNDS (£1,600.00) and the audit fee, inclusive of VAT, of FOUR HUNDRED AND SIXTY TWO POUNDS AND NINETY FIVE PENCE (£462.95)



JOINT AUDITOR

NOTE:

At the taxation a Law Accountant appeared on behalf of the assisted party and [REDACTED] Solicitor, on behalf of SLAB. I was advised that the only contentious issue outstanding related to claims for travel. It was argued on behalf of the Board that on an Agent and Client, third party paying basis, travel charges of the kind present in this account could not be justified. It was



suggested that Auditors in other Sheriffdoms were not inclined to allow such charges. It was conceded by the Board that the Auditor in the Court of Session had taken a contrary view and I was referred to three of his decisions: [REDACTED] -v- Lawford Kidd, [REDACTED] and [REDACTED] -v- North Lanarkshire Council.

I was invited to look again at the issue taking into account

1. that such charges were not routinely allowed elsewhere in Scotland
2. that this issue had not before been argued before the Auditor at Edinburgh so far as SLAB accounts were concerned and
3. that the Auditor should take into account that it was SLAB who were paying – there was a public interest element here.

In response [REDACTED] for the assisted party made the following submissions.

1. the basis on which this account was to be taxed was Agent and Client, third party paying.
2. that on this basis the Auditor is usually more generous than in a party and party account certainly not less. In passing he referred to Lord Eassie's dicta in the Dingley case.
3. the question to be addressed was whether the travel charges constituted a reasonable outlay
4. this was an anxious and difficult FAI which required the exclusive attendance of the Solicitor concerned. It could not be said his travel charges were unreasonable. It was, of course, absolutely essential for the Solicitor to travel from his office in Edinburgh to the forum in question
5. travel has been an accepted charge on an Agent and Client basis as well as in Party and Party accounts. It is only SLAB who has mounted this kind of challenge

6. finally charges for travel was not expressly excluded by any of the relevant Regulations. Indeed there was specific provision in Ch.III on the Party and Party table for time necessarily spent on travel being allowed. If it is a good charge on a Party and Party account *a fortiori* it is good in an Agent and Client account.

I was provided with copies of the above decisions. In the [REDACTED] case there is a helpful commentary on the historic background on the issue raised and I need not repeat it here. Having read the three reports I myself in agreement with the approach adopted by the Auditor of the Court of Session, which I have to say, in any event reflects the position which I have adopted in Judicial Accounts generally over the past few years. In my opinion what is being sought by way of travel in the instant account is unexceptional and moderate. Accordingly I have allowed these travel charges.

The account on the morning of taxation was agreed at 1) Solicitors fees, excluding travel at £7,489.42 and 2) outlays of £600.00. I have given effect to this agreement in taxing the account to include the travel charges of £283.40.