

Auditor of the Court of Session

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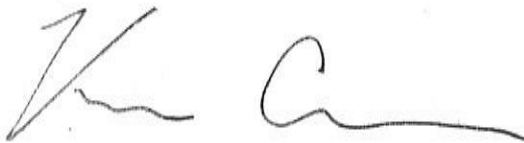
HMA v [REDACTED]

Donald Findlay QC

Legal Aid Reference SL/8355407108

EDINBURGH 7 December 2009

At a diet of taxation on 16 November 2009, the Auditor heard representations on behalf of Donald Findlay QC and the Scottish Legal Aid Board in respect of fees totalling £5,900.00 claimed by Mr Findlay as part of his fee note dated 27 January 2009 (comprising £1,350.00 for a preliminary hearing, £1,250.00 for a section 76 hearing, and £3,300.00 for preparation). Having considered the information provided and the submissions made, the Auditor now taxes the said total fees at ONE THOUSAND TWO HUNDRED AND FIFTY POUNDS (£1,250.00). To the said sum there falls to be added VAT at 15%, £187.50, and the Auditor's fee, inclusive of VAT, £57.50.



AUDITOR OF THE COURT OF SESSION

NOTE/

The Auditor
Kenneth M. Cumming, W.S.

Principal Clerk
Ms Frances Delaney

NOTE

1. The Auditor has concluded that, on a strict reading of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989, the analysis of them presented to him on behalf of the Legal Aid Board is correct.
2. In particular, the effect of paragraph 19 of the Notes on the operation of Schedule 2 is clear. Since Mr Findlay has claimed a fee for the section 76 hearing (in terms of paragraph 2 of Chapter 2 of Part I of the Table of Fees), no fee is payable in respect of the preliminary hearing (in terms of paragraph 1B of Chapter 2).
3. Further, the effect of paragraphs 14(a) and 15(d) of the Notes is that, in a case which is disposed of at a section 76 hearing, a fee for separate preparation can only be allowed if the documentation exceeds 7,500 sheets.
4. For these reasons, the Auditor has abated the fees of £1,350.00 for the preliminary hearing and £3,300.00 for preparation.