



Background

This was an Entry Clearance case where the sponsor's three dependents had been refused clearance to enter the UK to live with the sponsor and were seeking to appeal the Home Office's decision from their country of origin. All three dependents reside in Nairobi.

Account

The solicitor made three separate grants of advice and assistance in respect of all three dependents.

Four separate meetings with the sponsor had been claimed for, but only three of these meetings were the subject of dispute.

The Auditor has taxed the meetings as follows:

16 Nov 2009 – The solicitor has claimed 20 minutes in each account, rounding the fee up to the next quarter hour, which equates to a time charge of 1 hr 30 minutes. However the actual time spent was one hour and our position is that the overall cost being £51.00 should be apportioned equally in each account resulting in a fee of £17.00 being chargeable to each case.

The Auditor having had regard to our regulations seems to recognise that it would not be appropriate to allow a fee the equivalent of 1 hr 30 minutes when the meeting only lasted a total of 1 hour. We have no difficulty with this. However, it is unclear why the Auditor chose to apportion the entries in the way he has. He has apportioned the account by increasing the time in the first account from 20 minutes to 30 minutes and by restricting the time claimed in the other accounts from 20 minutes to 15 minutes, respectively.

02 Dec 2009 – The solicitor has claimed 10 minutes in each account, rounding the fee up to the next quarter hour, which equates to a time charge the equivalent of 45 minutes. However, the actual time spent was 30 minutes. Again it is our position that the actual time spent was 30 minutes and the cost of the actual time should be apportioned equally in each account.

Here the Auditor has considered the accounts individually the solicitor having made separate grants of A&A to each of the dependents. The Auditor has had regard to the table of fees and notes which provides for a fee of £12.75 per quarter hour (or part thereof) on the basis that there is no regulation allowing for apportionment of these charges. He has therefore taxed the account on the basis that the minimum time charge in the table of fees is £12.75 for each quarter hour and has applied this to each account.

This seems to contradict the approach the Auditor has taken with the entry of 16 November 2009. Here he recognises that each matter was related and the total time spent with the sponsor was one hour. He notes that "it cannot be right that when split between three cases the charge becomes one hour & thirty minutes". If the Auditor restricted the entry of 16 November on this basis it's not clear why he has taken a different approach to the entry of the 2 December. The account indicates that the same issue arose with each of the dependents, i.e. there was still no word from the AIT. There is nothing to suggest that there was anything distinct that was discussed with the sponsor in relation to each dependent as an individual. The narrative suggests that the discussion was in general terms.

14 January 2010 – This is the same situation as the entry of 16 November and the Auditor has taken the same approach as outlined there.

The Auditor has taxed the perusals as follows:

27 July 2009 – The solicitor has charged 15 minutes to each account for considering the decision of the entry clearance officer, which extended to 17 pages. We did not have sight of this document and asked the Auditor to consider if the time claimed was reasonable.

The Auditor having considered the decision is satisfied that a fee of 15 minutes is reasonable in each account. We have no difficulty with the Auditor's decision to allow 15 minutes in each case as he considered the overall time of 45 minutes to be reasonable.

However, the Auditor goes on to say that he doubts if he could have restricted an individual charge to less than 15 minutes as each case has its own legal aid reference number and the table of fees provides for a fee of £12.75 per quarter hour (or part thereof). We see many examples where solicitors make more than one grant of A&A for a matter that could have been dealt with under the same grant. It may be that the Auditor does not realise that unlike a grant of legal aid the solicitor grants advice and assistance.

2 January 2010 – The solicitor has charged one hour in each account for considering the respondent's bundle, which extended to 33 pages. We did not have sight of the bundle and asked the Auditor to consider if the fee of one hour claimed in each account was reasonable having regard to any duplication.

The Auditor considered the bundle and was of the view that one hour was reasonable in each account and seems satisfied that a total of 3 hours was appropriate.

Summary

In summary it seems that the Auditor to some extent has contradicted himself. On one hand he is saying that the entries for the meetings on 16 November 2009 and 14 January 2010 should be restricted to the actual time spent, but on the other hand has allowed the entry of the 2 December 2009, as claimed in each account rounded up to the next quarter hour on the basis that there is no regulation that allows for apportionment. His basis for calculating the entries of 16 November and 14 January is also not clear as he has increased the time in one account and rounded down the time in the other accounts.

The Auditor also seems to be treating each account on an individual basis because there are separate reference numbers, despite the matter being related and all the meetings etc take place with the sponsor. It is not clear if the Auditor is aware that the grants are made by the solicitor and not us.


16 December 2010.

AUDITOR OF COURT
SHERIFF OF GLASGOW
AND STRATHKELVIN

JDH
EG
SC
JC

DX 551025
LP5 Glasgow 2

T McCafferty
AUDITOR OF COURT

1 CARLTON PLACE
GLASGOW G5 9DA
Tel/Fax 0141 418 5241

My Ref: TMcC/
Your Ref:

[REDACTED]

13th December 2010

Solicitor,
Scottish Legal Aid Board,
DXED555250
Edinburgh-30

HH & YH & ZA & DZ

Dear [REDACTED]

[REDACTED]

Ref.AA/9301034109
Ref.AA/9301013509
Ref.AA/9301019309
Ref.AA/9327503709

RECEIVED
15 DEC 2010

I refer to the diets of taxation on 9th November and now enclose copy of the first three taxed accounts and my Note thereon dealing with these. I have not proceeded with the taxation of the account for [REDACTED] and enclose copy of my letter to Messrs McAuley McCarthy & Co in this regard. In this case the two related accounts have not been lodged for taxation. My letter does however make my position clear on certain matters and I await hearing from you and Messrs McAuley McCarthy & Co as to whether I need to proceed further.

Yours faithfully

T. McCafferty
AUDITOR OF COURT

AUDITOR OF COURT
SHERIFFOM OF GLASGOW
AND STRATHKELVIN

DX 551025
LP5 Glasgow 2

T McCafferty
AUDITOR OF COURT

1 CARLTON PLACE
GLASGOW G5 9DA
Tel/Fax 0141 418 5241

My Ref: TMcC/
Your Ref: V/ML/G/H7

Messrs McAuley McCarthy & Co
Solicitors
LP-1
Govan

13th December 2010

Dear Sirs,

[REDACTED]

I return herewith your business files together with taxed accounts and my Note thereon dealing with the [REDACTED]. The accounts and Note have been copied to [REDACTED] at the Scottish Legal Aid Board. I have not yet taxed the account for [REDACTED] as the Board's objections refer to two related accounts that have not been lodged for taxation. Three of the Board's original objections in this case were conceded at the diet and at this stage I would comment on objections 3,4 & 5 as follows :-

Objection 3 and 4 relate to perusal of 3) the Notice of Pending Appeal and 4) the Notice of Hearing and Directions. Both are letters addressed to yourselves. Perusal of incoming mail is not a charge under this particular Table of Fees and although similar letters were received in the other three files there is no corresponding charge in any of those accounts. That only leaves Objection 5 for perusal file of papers lodged and intimated by the Home Office. Do these comments allow you to resolve this matter or do you wish me to tax the account and write a short note.

I confirm having copied this letter to [REDACTED] at the Board and having retained the file for [REDACTED] pending hearing from you

Yours faithfully

T.M.C.

Auditor of Court

Sheriffdom of Glasgow and Strathkelvin at Glasgow

**Note by the Auditor of Court
relative to Business Accounts incurred by The Scottish
Legal Aid Board to Messrs McAuley McCarthy & Co
Solicitors, Glasgow in Advice & Assistance cases**

[REDACTED] L.A ref. AA/9301034109 ✓

[REDACTED] L.A ref. AA/9301013509 ✓

[REDACTED] L.A ref. AA/9301019309 ✓

This taxation arose out of a dispute between the Scottish Legal Aid Board (The Board) and Messrs McAuley McCarthy & Co Solicitors, Glasgow in relation to Fees claimed by the Agents for work carried out in Immigration Appeals involving [REDACTED]

[REDACTED] from whom the Agents received their instructions. Individual Legal Advice and Assistance was granted and the Legal Aid references are AA/9301034109, AA/9301013509 and AA/9301019309 respectively.

The fees applicable are governed by the Advice and Assistance (Scotland) Regulations 1996 (S.1. 1996 No 244) Schedule 3 Part 1 "Table of Fees Allowable to Solicitors for Assistance by Way of Representation". Regulation 17 provides that Fees and Outlays shall only be for work actually, necessarily and reasonably done or incurred in connection with the matter upon which the advice and assistance was given, due regard being had to economy. ✓

At the taxation the The Board was represented by [REDACTED] and Messrs McAuley McCarthy & Co by Mr. H.V. McCusker. [REDACTED] provided me with a detailed note of The Board's objections to six entries in each account. The grounds of objection being similar in each. Having heard [REDACTED] and Mr. McCusker on each of the objections and perused the business files and papers of Messrs McAuley McCarthy & Co, relevant to these three cases I have dealt with the objections as follows:-

1. 22nd July 2009. I understand that whilst there was initial objection to this charge that is no longer the case and the charge of £25.50 has been accepted by the Board as allowable in each account. ✓
2. 27th July 2009. Perusing decision of entry clearance officer. 15 minutes charged in each account £12.75. The Board have asked that I consider each decision and determine if the total time claimed 45 minutes is reasonable. Having perused the decision I have no doubt that a charge of 15 minutes is appropriate in each account. However, I doubt if I could restrict an individual charge to less than 15 minutes as each case has its on Legal Aid reference and paragraph 1.2 (1) of the Table of Fees provides for a Fee of £12.75 for each quarter hour (or part thereof). In other words a minimum charge of one quarter hour applies for work carried out under this paragraph. I have therefore upheld the charge of £12.75 in each account. ✓
3. 16th November 2009. Attendance with client, 20 minutes in each account rounded up in each case to 30 minutes on the basis of paragraph 1.2 (1) (per quarter hour or part thereof). A total charge of 1 hour 30 minutes. The Board's objection is that the actual time spent with the client of 1 hour £51 (£12.75x 4) should be apportioned equally and £17 allocated to each account as opposed to the sum of £25.50 charged in each. This cannot be right as I have explained at 2 above the

*Don't reduce
to less than
15 minutes*

restricted to less

Fee of £12.75 is for each quarter hour or part thereof and I am not aware of any regulation allowing for apportionment of these charges. In each account the charge requires to be for a quarter hour or a multiple thereof. There is no provision to allow a charge of 10 minutes. However, as these three cases are related matters and the meeting did last one hour and the basis of taxation of Advice and Assistance being agent client, third party paying and Regulation 17 provides that Fees shall only be for work actually, necessarily and reasonably done..... due regard being had to economy, it cannot be right that when split between the three cases the charge becomes 1 hour 30 minutes. On the basis that the meeting lasted one hour and in my view that is what the Board require to pay I have apportioned the time charge and allowed 30 minutes in the account for Hassan Hassan and 15 minutes in each of the accounts for Yusuf Hassan and Zamzam Aden. ✓

Allowed apportion charges

4. 2nd December 2009. Attendance with client 10 minutes in each account rounded up in each case to 15 minutes on the basis of paragraph 1. 2 (1). Again the Board's objection is that the actual time spent with the client was 30 minutes the charge of £25.50 should be apportioned equally and £8.70 allocated to each account as opposed to the sum of £12.75, charged in each. As I have explained earlier I am not aware of any regulation allowing for apportionment of the charges under this Table and the minimum charge for work carried out under this paragraph is one quarter hour. I have therefore upheld the charge of 15 minutes, £12.75 in each account.

multiple cases

5. 5th January 2010. Perusing bundle of documents received from the Asylum & Immigration Tribunal. In each instance documents particular to each appeal, 33 pages. 1 hour charged in each account. The Board have asked that I consider each bundle of documents and determine if the time charge in each account is reasonable having regard to any duplication. Having perused and considered each bundle I am again in no doubt that a charge of 1 hour is appropriate in each account. ✓

(12) hour > 4 < min >

6. 14th January 2010. Attendance with Client 20 minutes in each account rounded up in each case to 30 minutes on the basis of paragraph 1.2 (1). The Board's objection is exactly the same as that at point 3 where the apportionment of a meeting which lasted 1 hour results in the Board being charged 1 hour 30 minutes. On the basis that the charges and the objections are exactly as in point 3 it follows that my decision should be as in point 3. I have accordingly allowed a charge of 30 minutes in the account for [REDACTED] and 15 minutes in each of the accounts for [REDACTED]. ✓

In conclusion I have taxed the account of Hassan Hassan at the sum of Three Hundred and Five Pounds and Thirty Three pence (£305.33p) and the accounts for [REDACTED] at the sum of Two Hundred and Eighty Two Pounds and Twenty Five pence (£282.25p). All three accounts are attached hereto.

T. McCallister

AUDITOR OF COURT
SHERIFFDOM OF GLASGOW AND STRATHKELVIN
13th December 2010

14/1/10

BUSINESS ACCOUNT

Incurred by

The Scottish Legal aid Board

to

MESSRS. McAULEY McCARTHY & CO.
Solicitors, 417 Paisley Road West, Glasgow, G51 1LS

Legal Aid Code: 10405

Nominated Solicitor Code: 310694

BRANCH CODE O

in causa

REF: AA/07/9301034109

2009

22 July ✓	Attendance with client's representative and mother, advising regarding refusal of entry clearance application. Explaining terms of refusal. 30 minutes.	£25.50 ✓
27 July ✓	Perusing decision of entry clearance officer. 17 pages. 15 minutes. ✓	£12.75 ✓
	Drawing grounds of appeal.	£2.90
	Writing Home Office advising of interest, enclosing appeal papers and copy decision.	£2.90
	Making two copies of appeal papers 2 x 31 x .08	£4.96
	Writing client enclosing copy appeal papers.	£2.90
31 July	Paid interpreting services for attendance on 22 July	£17.50
10 Aug.	Writing client's representative enclosing copy notice of acknowledgement.	£2.90
12 Nov.	Writing client advising regarding Home Office failure to lodge appropriate documents. Explaining date fixed for hearing of appeal.	£7.25
16 Nov. ✓	Attendance with client explaining further items which will be required for preparation for hearing. 20 minutes. 30.	£25.50 ✓
	Drawing statement by client's representative and mother. 3 pages. Apportion $\frac{1}{3}$, remaining $\frac{2}{3}$ apportioned to [redacted] 9301013509 and [redacted] 9301019309.	£7.50
18 Nov.	Writing client explaining nature of those documents still required. Advising regarding their submission. Apportion $\frac{1}{3}$, remaining $\frac{2}{3}$ apportioned as aforesaid.	£2.50
	c/f	£17.50
		£97.56

		b/f	£17.50	£97.56
27 Nov.	Paid interpreting services for interpretation at meeting on 16 November (account apportioned $\frac{1}{3}$, remaining $\frac{2}{3}$ apportioned as aforesaid.		£10.33	
2 Dec. ✓	Attendance with client explaining still no word from AIT. Noting client's concern. Client is aware of further documents which she has to provide. 10 15 minutes.			£12.75 ✓
18 Dec.	Paid interpreting services for attendance on 2 December $\frac{1}{3}$, remaining $\frac{2}{3}$ apportioned as aforesaid.		£10.33	
<u>2010</u> 5 Jan. ✓	Perusing bundle of documents received from AIT (for the avoidance of doubt they are particular to this appeal). 33 pages. 1 hour. ✓			£51.00 ✓
14 Jan. ✓	Attendance with client noting terms of correspondence she has received from Home Office. Noting she had been in touch with Home Office direct. Explaining these documents should be lodged through us. Noting client requires copy transcripts which we do not have. Advising regarding bundle received from the court. 20 minutes.			£25.50 ✓
18 Jan.	Writing AIT enquiring ³⁰ regarding date fixed for hearing.			£2.90
22 Jan.	Paid interpreting services for attendance on 14 January. $\frac{1}{3}$, remaining $\frac{2}{3}$ apportioned as aforesaid.		£10.33	
27 Jan.	Writing client regarding letter received from Home Office and termination of agency. $\frac{1}{3}$ charged apportioned here, remaining $\frac{2}{3}$ apportioned as aforesaid.			£2.50

	£2.50
£48.49	£192.21
	£48.49
	£240.70

AUDITOR'S FEE

	64.63
<u>£</u>	<u>305.33</u>

GLASSBORO 3 DEC 2010 TAXED, AUDITED
AND REPORTED AT THE SUM OF Three
hundred and five pounds and thirty three
pence (£305.33p)

T. McCallister

[Signature]
OF
AUDITORS

12/4/10

BUSINESS ACCOUNT

Incurred by

The Scottish Legal aid Board

to

MESSRS. McAULEY McCARTHY & CO.
Solicitors, 417 Paisley Road West, Glasgow, G51 1LS

Legal Aid Code: 10405
Nominated Solicitor Code: 310694
BRANCH CODE O

in causa

[REDACTED]

REF: AA/07/9301013509

2009

22 July ✓	Attendance with client's representative and mother, advising regarding refusal of entry clearance application. Explaining terms of refusal. 30 minutes.	£25.50 ✓
27 July ✓	Perusing decision of entry clearance officer. 17 pages. 15 minutes.	£12.75 ✓
	Drawing grounds of appeal.	£2.90
	Writing Home Office advising of interest, enclosing appeal papers and copy decision.	£2.90
	Making two copies of appeal papers 2 x 31 x .08	£4.96
	Writing client enclosing copy appeal papers.	£2.90
31 July	Paid interpreting services for attendance on 22 July.	£17.50
10 Aug.	Writing client enclosing copy notice of appeal.	£2.90
12 Nov.	Writing client enclosing copy notice issued by Home Office, advising regarding Home Office failure to lodge documents. Explaining date fixed for hearing of appeal.	£7.25
16 Nov. ✓	Attendance with client explaining further items which will be required for preparation for the hearing. Noting information for witness statement. Explaining regarding Home Office continuing failure. 20 minutes.	£25.50 —
	Drawing ¹⁵ statement by client's representative and mother. 3 pages. Apportion ¹ / ₃ here remaining ² / ₃ apportioned to [REDACTED] 07/9301034109 and [REDACTED] 07/9301019309.	£7.25
		c/f £17.50 £94.81

TAXES OFF

- 12.75

- 12.75

MAX 00 AF
- 12.75

		b/f	£17.50	£97.56
18 Nov.	Writing client explaining nature of the documents still required and advising regarding their submission. Apportion $\frac{1}{3}$ here remaining $\frac{2}{3}$ apportioned as aforesaid.			£2.42
27 Nov.	Paid interpreting services for interpretation at meeting on 16 November (account apportioned $\frac{1}{3}$, remaining $\frac{2}{3}$ apportioned as aforesaid.		£10.33	
2 Dec. ✓	Attendance with client explaining still no word from AIT. Noting client's concern. Client is aware of further documents which she has to provide. 10 1/2 minutes.			£12.75 ✓
18 Dec.	Paid interpreting services for attendance on 2 December $\frac{1}{3}$, remaining $\frac{2}{3}$ apportioned as aforesaid.		£10.33	
SIAN ✓	Perusing respondent's bundle. 35 pages. 1 hour. ✓			£51.00 ✓
<u>2010</u> 14 Jan. ✓	Attendance with client noting terms of correspondence she has received from Home Office. Noting she had been in touch with Home Office direct. Explaining these documents should be lodged through us. Noting client requires copy transcripts which we do not have. Advising regarding bundle received from the court. 20 minutes.			£25.50
18 Jan.	Writing AIT enquiring regarding date fixed for hearing.			£2.90
22 Jan.	Paid interpreting services for attendance on 14 January. $\frac{1}{3}$, remaining $\frac{2}{3}$ apportioned as aforesaid.		£10.33	
27 Jan.	Writing client regarding letter received from Home Office and termination of agency. $\frac{1}{3}$ charged apportioned here, remaining $\frac{2}{3}$ apportioned as aforesaid.			£2.50

- 12.75

- 25.50

	£2.50
£48.49	£194.63
	£48.49
	<u>£243.12</u>

AUDITOR'S fee

	64.63
/	<u>307.75</u>
	25.50
/	<u><u>282.25</u></u>

PAID BY 13 DEC 2010 TAXED AND PAID TAXED off
 AND IS SHED BY THE SUM OF Two
 hundred and Eighty Two pounds and
 Twenty five pence (£282.25p)

T.M. Callerty

AUDIT OF THE COURT
 OF COMMONS
 AND OF THE HOUSE OF LORDS

TAXED OFF
12.75

		b/f	£17.50	£97.56
18 Nov.	Writing client explaining nature of the documents still required and advising regarding their submission. Apportion 1/3 here remaining 2/3 apportioned as aforesaid.			£2.42
27 Nov.	Paid interpreting services for interpretation at meeting on 16 November (account apportioned 1/3, remaining 2/3 apportioned as aforesaid).		£10.33	
2 Dec.	✓ Attendance with client explaining still no word from AIT. Noting client's concern. Client is aware of further documents which she has to provide. 10 ¹⁵ minutes.			£12.75 ✓
18 Dec.	Paid interpreting services for attendance on 2 December 1/3, remaining 2/3 apportioned as aforesaid.		£10.33	
	SSAN ✓ Perusing respondent's bundle. 35 pages. 1 hour. ✓			£51.00 ✓
2010				
14 Jan.	✓ Attendance with client noting terms of correspondence she has received from Home Office. Noting she had been in touch with Home Office direct. Explaining these documents should be lodged through us. Noting client requires copy transcripts which we do not have. Advising regarding bundle received from the court. 20 ¹⁵ minutes.			£25.50 —
18 Jan.	Writing AIT enquiring regarding date fixed for hearing.			£2.90
22 Jan.	Paid interpreting services for attendance on 14 January. 1/3, remaining 2/3 apportioned as aforesaid.		£10.33	
27 Jan.	Writing client regarding letter received from Home Office and termination of agency. 1/3 charged apportioned here, remaining 2/3 apportioned as aforesaid.			£2.50

-12.75

-25.50

	£2.50
£48.49	£194.63
	£48.49
	<u>£243.12</u>

ANALYSIS FEE

	64.63
£	307.75
	25.50
£	<u>282.25</u>

TAXED OFF

13 DEC 2010 TAXED OFF
 Hundred and Eighty Two Pounds and
 Twenty five pence (£282.25p)

T. McCallery

ADMINISTRATIVE COURT
 2009 2010 2011 2012 2013 2014 2015 2016 2017