

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: JDH

[REDACTED]  
Scottish Legal Aid Board  
LP-2  
Edinburgh-7

14<sup>th</sup> May 2012

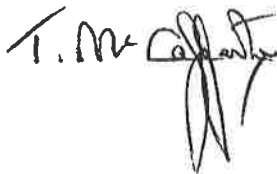
RG

Dear Sirs,

**Hamilton Burns**  
[REDACTED]  
**Legal Aid Ref. 1252531910**

Having now concluded the above taxation I enclose a copy of the taxed account with my note attached thereto which has also to-day been forwarded to Hamilton Burns with their business file which had been lodged with me for the purposes of the taxation. Once again I apologise for the delay in concluding this matter caused in part by my move to the Royal Faculty of Procurators

Yours faithfully

T. McCafferty  


## Sheriffdom of Glasgow and Strathkelvin at Glasgow

Note by Auditor of Court Sheriffdom  
of Glasgow and Strathkelvin in Remit by  
Messrs. Hamilton Burns W.S, Solicitors,  
Glasgow in connection with the provision of  
Legal Advice & Assistance under the Legal  
Aid (Scotland) Act 1986

To

██████████ 1252531910

This taxation arose out of a dispute between the Scottish Legal Aid Board (the Board) and Messrs. Hamilton Burns WS, Solicitors, Glasgow in relation to fees claims by the Solicitors for providing Legal Advice & Assistance under the Legal Aid (Scotland) Act 1986 to the above client.

At the diet of taxation which took place on 14<sup>th</sup> February 2012, continued until 27<sup>th</sup> February Messrs. Hamilton Burns WS were represented by Fraser Latta. The Board were represented by ██████████

Regulation 18 (4) of the Act provides that:-

If the solicitor is dissatisfied with any assessment of fees and outlays by the Board under paragraph (3) above, he may require taxation of his account by the auditor; the auditor shall tax the fees and outlays allowable to the solicitor for the advice or assistance in accordance with regulation 17, and such taxation shall be conclusive of the fees and outlays so allowable.

Regulation 17 (1) (a) of the Act provides that fees for work actually, necessarily and reasonably done in connection with the matter upon which advice and assistance was given, due regard being had to economy, calculated, in the case of assistance by way of representation, in accordance with the table of fees in Part 1 of Schedule 3, and in any other case, in accordance with the table of fees in Part II of Schedule 3.

██████████ provided me with a copy of the Report by the Joint Auditor of Court at Edinburgh dated 31<sup>st</sup> May 2000 in a Remit by Messrs. Mowat Dean & Co and the Board. The only items in dispute in the Account before me is the letter to Rose Gilead dated 13<sup>th</sup> August 2010 following the initial meeting with her on 10<sup>th</sup> August 2010 and the letter to the Home Office, UK Border Agency dated 1<sup>st</sup> October 2010 being the submission of further documentary evidence in accordance with paragraph 353 of the Immigration Rules.

Dealing firstly with the letter to Rose Gilead dated 13<sup>th</sup> August 2010. This letter is charged in the Account at three pages at standard letter rate. The Board's position is that this is a confirmatory letter following the initial meeting and as such is chargeable at one page. Paragraph 6.7 of the Board's guidelines details the Board's practice in such matters, in particular to allow a charge for a letter after the first meeting confirming the clients instructions and the advice given. [REDACTED] pointed out that at least one page of the letter is a list of documents handed to the Agent at the initial meeting and further advising what documents still required.

Whilst Mr. Latta submitted that the matter was clearly complex involving issues of UK nationality and immigration law and detailed documentation from the Home Office re. status in the United Kingdom. Notwithstanding these points, even allowing for deletion of the parts of the letter as challenged by [REDACTED] he was looking for the letter to be allowed at two pages, if not three as in the account.

Having considered the submissions, perused the letter of 13<sup>th</sup> August 2010 and having regard to the Board's guidelines and the fact that the only fees payable under Regulation 17 (1) (A) of the Act are "in connection with the matter upon which advice and assistance was given" I am of the opinion that in this case I could not approve of more than a one page letter. I have accordingly allowed £7.25 and taxed off £14.50

The other disputed entry is the letter to the Home Office, UK Border Agency dated 1<sup>st</sup> October 2010 which is charged in the Account at nineteen pages at standard letter rate. What is not in dispute is that the letter comprises 2,333 words (19 pages at "standard letter" rate or 10 sheets at "other necessary papers" rate). The dispute is whether the letter should be charged under paragraph 1, 3, (v) of the Table of Fees which allows letters at £7.25 per page of 125 words or under paragraph 1 3 (II) of the Table of Fees which allows "other necessary papers" at £7.25 per sheet of 250 words.

The Board's position is that whilst this is undoubtedly a letter to the Home Office it is in effect a submission on behalf of [REDACTED] and need not have been in the form of a letter. As such it should be charged under paragraph 1, 3 (II). I was referred to paragraph 353 of the Immigration Rules which sets out what is required for making an application for fresh representation, in particular the reference to submissions relating to any appeal. [REDACTED] further submitted on behalf of the Board that large parts of the letter were not unique to the case as they referred to Immigration Rules and as such were items of a "Cut and Paste" nature. If I were to allow this item at letter rate then 1,041 words should be disallowed under this submission.

Mr. Latta submitted that whilst the Board's guidelines explain in detail how charges are applied for letters at paragraphs 6.12 to 6.22 there is no explanation of charges for non-formal documents or "other necessary papers". He further submitted that the majority of the letter is individual to [REDACTED] providing fresh evidence and requesting consideration of same by the Home Office. It is therefore appropriate that the charge be allowed at standard letter rate.

Having considered the submissions, perused the letter of 1<sup>st</sup> October 2010 and having regard to the Board's guidelines it is clear from paragraphs 6.18 of the latter that a letter will be assessed "on its content and not solely on its length". Paragraph 6.22 states "We will only allow the charge to the extent to which the information is relevant to the advice being given" In my opinion the entire content of the letter of 1<sup>st</sup> October 2010 does not comply with this guideline as certain parts refer to "Immigration Rules", "UNHCR Eligibility Guidelines" and other Human Rights legislation. Whilst it is for the Solicitor to determine how to present an appeal on behalf of a client to the Home Office it does not follow that as this has been submitted by letter that letter rate applies to the charge made to the Board. I again refer to a term used in Regulation 17 (1) (a) of the Legal Aid (Scotland) Act 1986 "due regard being had to economy" The letter is clearly submission on behalf of [REDACTED] and as such it would be inappropriate to allow this at standard letter rate. It is my opinion that the proper basis of charge should be under paragraph 1, 3 (II) of the Table of Fees at £7.25 per sheet of 250 words. I have accordingly allowed a charge £72.50 being 10 sheets at £7.25 and taxed off £65.25.

Finally as I have found in favour of the Board in both items in dispute the liability for payment of the audit fee is that of the Agent. Accordingly, no part of the audit fee is added to the account. I have accordingly taxed the account at £283.91.

T. McCafferty

AUDITOR OF COURT  
SHERIFFDOM OF GLASGOW & STRATHKELVIN  
14<sup>TH</sup> MAY 2012

Legal Aid Reference Number (LARN) - 1252531910

Account Details

Type	Final Account
Invoice Id	4367680
Registration Number	REG0004242627
Date	09/12/2010
Status	PAID

Work Items

Date of Work	Work Item	Description	Lodged/Process Date	Lodged	Offered	Decision Reason
10/08/2010	Fee (Other)	Applying for LAA increase	09/12/2010	£7.25	£2.80	Formal charge for template increase.

Negotiations					
Negotiation Date	Lodged	Offered	Offer Reason	Review Reason	Negotiated By
	£7.25	£2.80	Formal charge for template increase.		

10/08/2010	Meeting (Qualified)	<p>Qualified attendance with client and friend in office. Friend assisting to interpreter. Noting client wishes to insist on Article 8 application. Advising briefly and obtaining certain documents from her. Advised of potential further documents. Client requires Swahili interpreter for future meetings. She instructs us to assist re this application. Having client complete written authorisation</p>	09/12/2010	£38.25	
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to discuss case with



20/12/2010

Accepted by SLAB

10/08/2010 Framing Documents (Formal) Framing clients mandate 09/12/2010 £2.90

20/12/2010

Accepted by SLAB

Detailed letter to client advising of the document which have been provided. Also advising of the documents which are still required. Advised to make further appointment when in receipt of same. - 364 words See Attachments

TAXED OFF

- 14.50

13/08/2010

Letter (Non-Formal)

09/12/2010

£21.75 ✗

£7.25 ✓

Allow 1 page as confirmatory from meeting.

Negotiations					
Negotiation Date	Lodged	Offered	Offer Reason	Review Reason	Negotiated By
	£21.75	£7.25	Allow 1 page as confirmatory from meeting.		

26/08/2010

Meeting (Qualified)

Qualified attendance with client no appt but requesting to see me urgently. Client advising that she was reporting at the HO and they have put a red sticker on her IS96 - advising client that we did not know the significance of this. Client advising that she handed

09/12/2010

£12.75

- 14.50

Tax 2 ff

- 14.50

in all her evidence and is reporting again on the 17/09/2010. Advising we would speak to BP re this and ask if her evidence could be ready for this time - advised client we will contact her when evidence is ready to collect.

20/12/2010

Accepted by SLAB

09/09/2010

Precognition (Non-ABWOR)

Precognition of client - 813 words 14.00 - 15.00 Unqualified attendance with client going over evidence and taking precognition regarding clients Article 8 claim. See attachments

09/12/2010

£89.25

20/12/2010

Accepted by SLAB

09/09/2010

Outlay (not otherwise specified)

Interpreter Global Languages Services Ltd - Invoice no 83884 See Attachments

09/12/2010

£53.76

20/12/2010

Accepted by SLAB

01/10/2010

Letter (Non-Formal)

Detailed letter to SEU advising on fresh evidence and providing evidence and requesting consideration of same. AG 8870 8874 2 GB. - 2333 words See Attachments Matter closed waiting on

09/12/2010

£137.75

£72.50

Framing charge of £7.25 per 250 words applies.

- bsas

- 79.75

TAXED OFF

-79.75

decision from HO.

Negotiations

Negotiation Date	Lodged	Offered	Offer Reason	Review Reason	Negotiated By
	£137.75	£72.50	Framing charge of £7.25 per 250 words applies.		

Running Totals

-79.75	Total Lodged Amount	£363.66 ✓
	<del>Total Offered Amount</del>	<del>£279.40</del>
	<del>Amount Paid (inc VAT)</del>	<del>£318.90</del>
		79.75
		<u>283.91</u>

TAXED OFF



ON ABOVE 14 MAY 2012 TAXED, AMOUNTED  
 TO THE SUM OF TWO  
 hundred and Eighty Three Pounds  
 and Ninety One pence (£283.91p)  
 T. Mc Cafferty