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Arbroath Sheriff Court



[Redacted]

The Scottish Legal Aid Board
44 Drumsheugh Gardens
Edinburgh
EH3 7SW

DD

88 – 92 High Street
Arbroath
DD11 1HL

DX 530442 or LP 3

12 March 2013

Our Ref: SM/MT

Your Ref:

Dear [Redacted]

TAXATION OF BRUCE & CO ACCOUNT ON BEHALF OF [Redacted]

As discussed I enclose my decision in respect of the above.

Yours sincerely

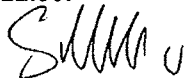
Stuart Munro
Accountant of Court
Contact number – 01241 876600
Email – smunro@scotcourts.gov.uk

RECEIVED
14 MAR 2013

ation of Messrs. Bruce & Co., Solicitors, Arbroath account in respect of [REDACTED]

Arbroath, 12th March 2013.

Having considered the matter in contention which was before me for taxation it is my decision to allow Messrs. Bruce & Co. ten hours perusal time for perusing the Dossier which would amount to £422.00.



Auditor of Court

Note by Auditor in the Taxation of the account of Messrs. Bruce & Co., Solicitors, Arbroath acting on behalf of Client [REDACTED]

The taxation proceeded on 8th March 2013, Mr Grant Bruce appeared on behalf of Messrs. Bruce & Co. and [REDACTED] appeared on behalf of the Scottish Legal Aid Board. [REDACTED] explained the legal background to the taxation which arose as Mr Bruce was dissatisfied with the assessment of fees by the Board. Section 18(4) of the Advice and Assistance (Scotland) (Consolidation and Amendment) Regulations 1996 provides that in such circumstances a taxation before the Auditor will be conclusive.

The only matter in contention related to the time allowed by the Board to Mr Bruce in perusing Mr [REDACTED] Dossier. There were 4 charge entries on file for perusing the dossier on 22nd March 2012 and these were for 180minutes, 180 minutes, 180 minutes and 68 minutes.

Mr Bruce informed me that he was instructed on 19 March 2012 by [REDACTED] to act for him at his Parole Tribunal Hearing which was on 26 March 2012. He travelled to Shotts prison on 20 March 2012 to see [REDACTED] take instructions and collect his Parole Dossier.

He put a request application to the Board on 22 March 2012 for an increase in authorised expenditure and noted within this request that this would include perusals and that he would require approximately £1000 to cover fees and outlays.

Mr Bruce advised me that he spent over 10 hours on the Sunday perusing the Dossier and making notes for the hearing. He said he had not personally represented [REDACTED] before and in order to represent him properly he required to have a full perusal of the documents.

Mr Bruce further advised that Ms Rhodes of Bruce & Co. had represented [REDACTED] at two previous Parole Hearings but she was not available at the time to deal with this hearing. Mr Bruce appeared to recollect that she was ill at the time.

Since the previous hearing in 2010 there were an additional 74 pages added to the dossier. Mr Bruce submitted that although there were crib notes on file from the previous hearings he could not conduct the case in a proper manner without reading fully all documents. Mr Bruce said that it was

ation of Messrs. Bruce & Co., Solicitors, Arbroath account in respect of [REDACTED]

impossible for him to represent the client without full perusals and said that if he thought he was not to be paid for this he would not be in a position to represent the client.

I asked [REDACTED] if he had been placed in Mr Bruce's position would he have read the full dossier and he conceded that he would have. He further conceded that it would have taken 10 hours to read all documents.

[REDACTED] submitted that the test was that all fees and outlays had to be for work - actually, necessarily and reasonably done in connection with the matter upon which advice and assistance was given, having due regard to economy.

[REDACTED] used the analogy of the Board being the client, 3rd Party payer and submitted that it was not reasonable that the party paying should pay the same Firm of solicitors who had represented the payer on two previous occasions and who had charged for perusing the files twice already to have to pay for full perusals a third time.

[REDACTED] advised that he was not aware that Ms Rhodes was not available to represent [REDACTED] prior to today's hearing and he therefore offered to increase the Board's offer to 4 hours for perusals. Whilst he had sympathy for the position that Mr Bruce found himself in he said it was unreasonable for the Board to have to pay full fees for a third time and that a reduced fee was more appropriate under the circumstances. He further said that the Firm of Bruce & Co. could have restricted their fees as they may do with other clients in similar circumstances.

I have taken the view that on this occasion I will allow Mr Bruce 10 hours for perusals. If Ms Rhodes had been able to deal with the matter then we would have an entirely different scenario and my views on what work was necessarily and reasonably done in connection with the matter may be entirely different. On this occasion however, Mr Bruce saw the client as quickly as he could, lodged a request application for increased fees with the Board giving notice of why he was seeking additional fees as soon as he could and dealt with the matter in the manner expected of him.

I noted also that [REDACTED] raised his offer to 4 hours when he became aware of Ms Rhodes position. I've taken the view that this is an all or nothing situation and on this occasion and in respect of [REDACTED] concession previously referred to, have allowed 10 hours.

Cjs

