

file

SCOTTISH LEGAL AID BOARD

ACCOUNTS COMMITTEE

Report by Director of Finance & Administration

OCEAN ODYSSEY TAXATION

Attached is a copy of the Auditor's Report and fee note, together with copies of the claims made by Mr C.P.C. Boag-Thomson, Q.C. and Mr D. R. McLeod, Advocate.

Also attached is a copy of a fax received from Junior Counsel in the above case, Mr D. R. McLeod, Advocate.

MIK
8 July, 1991

MEMORANDUM

No. 19/90

To

From

The Director of Finance,
Legal Aid Board,
44 Drumsheugh Gardens,
EDINBURGH.

AUDITOR OF COURT

14 GOLDEN SQUARE
RUTLAND EXCHANGE BOX AB 38

ABERDEEN. 4th July. 1991...

AUDIT Ocean Odyssey Inquiry - Counsel Fees

fixed

I now return the Accounts, &c., having ~~taxed the Business Account and fixed commission~~ Fees
per draft-docquet enclosed, which ~~please return when you send the engrossment of the account to-~~
be docquetted. The audit fees, of which note is annexed, may be sent at convenience.

£ 2,200 : 00 Audit fees

385 : 00 V.A.T.

£ 2,585 : 00

Ends.

V.A.T. Reg. No. 265 8379 15

Auditor of Court,

Aberdeen, 4th July, 1991.

In compliance with the Joint Remit by the Legal Aid Board and Counsels C.P.C. Boag-Thomson, Q.C. and Donald R. MacLeod, Advocate I have fixed the fees which I consider fair and reasonable payable to the respective Counsel as follows:-

Senior Counsel C.P.C. Boag-Thomson, Q.C.

1990				
May		Preparation Fee	£1,750.00	
	21	Consultation	200.00	
Nov.	9	Consultation with Expert Witness	200.00	
	27	Revisal Application for Productions	50.00	
1991				
to Feb.		125 days of Inquiry at £446 per day	55,750.00	
Mar		Drafting Submissives, 4 days @ £200 per day	800.00	
			58,750.00	
		Augmentation of 100%	58,750.00	
			117,500.00	
		Value Added Tax @ 15%	17,625.00	£135,125.00
1991				
April		Consideration of the submission & formulating Responses	£250.00	
		Revising Responses	50.00	
May	7	Inquiry Submission day	486.00	
			786.00	
		Augmentation 100%	786.00	
			1,572.00	
		Value Added Tax @ 17.5%	275.10	1,847.10
June		Attendance at Taxation inc. V.A.T.		176.25
				<hr/>
				£137,148.35
				=====

Junior Counsel D.R. MacLeod, Advocate

1990				
May		Preparation Fees	£1,167.00	
Nov.	9	Consultation with Expert Witness	134.00	
	27	Application for Productions	30.00	
to				
Feb. 91		122 days of Inquiry @ £254 per day	30,988.00	
		Drafting Submission 2 days @ £133 per day	266.00	
			32,585.00	
		Augmentation 100%	32,585.00	
			65,170.00	
		Value Added Tax @ 15%	9,775.50	74,945.50
1991				
April		Consideration of other Submission 2 days @ £167 per day	£334.00	
		Drafting Response 1 day @ £167 per day	167.00	
May	8	Inquiry Submission 2 days @ £324 per day	648.00	
			1,149.00	
		Augmentation 100%	1,149.00	
			2,298.00	
		Value Added Tax @ 17.5%	402.15	2,700.15
		Attendance at Taxation inc. V.A.T.		117.50
				<hr/>
				£77,763.15
				=====

Gordon MacLeod



£77,763.15
=====

Auditor of Court,

Aberdeen, 4th July, 1991.

Note

At the Diet of Taxation the Legal Aid Board were represented by Mrs. Gail Patrick, Advocate and Senior Counsel C.P.C. Boag-Thomson, Esq., Q.C. and Junior Counsel D.R. MacLeod, Esq., Advocate appeared personally.

Having heard parties I am of the opinion that the fees to Counsel are governed by the appropriate Statutory Instruments relating to Legal Aid and Advice Scotland and I have adopted the fees as shown by the Statutory Instruments as a base for my findings. I must confess that I found it difficult to understand that there was no agreement between Counsel and the Legal Aid Board on the subject of remuneration at least no evidence was submitted at the diet of taxation. It would appear that if any arrangement had been made it was verbal.

Mrs. Gail Patrick, for the Board, submitted that the fees were strictly on the basis of the Statutory Instruments obtaining at the time when the services were rendered but conceded that any augmentation should be restricted to 50% as laid down in the Act of Sederunt dealing with fees of Solicitors in the Sheriff Court. Counsel argued that they were not bound by this restrictive increase and this I am prepared to accept. Mrs. Patrick was also of the opinion that as the Inquiry was a prolonged one, Counsel became more familiar with the case and probably the familiarity with the events made the conduct of the Inquiry less arduous. Both Counsel strongly opposed this line of argument and I will deal with this aspect of the submission later in my Notes.

Mr. MacLeod submitted that at the outset of the Inquiry there were 80 documents to be considered although only 40 were given to Counsel but by the time the Inquiry was concluded the number of documents had risen to nearly 275 and proved that the passage of time did nothing to reduce the complexity but indeed exacerbated the position. These documents in the whole were complicated and highly technical and as Counsel had no technical advisor they had to master the intricacies of the subject matter and to seek advice when and where they could. The productions were produced at the diet and filled 11 boxes etc. measuring approximately 18" x 12". I mention this simply to illustrate the complexity of the Inquiry. Whilst much of the work was at a daily rate the research at the close of each day brought the time element more into the region of a day and a half. Whilst I did not examine the productions in detail I was satisfied and impressed by their volume and intricacy.

The law along with scientific material matter covered spheres far beyond the normal expertise expected of Counsel but had to be absorbed to follow the daily routine of the Inquiry.

A good deal was made by both Senior and Junior Counsel as to comparative fees paid by Government Departments, all coming out of the taxpayers purse, and whilst the line or argument was understandable I could not consider it wholly acceptable as I again return to my opinion that the fees in this particular case are governed by the Statutory Instruments dealing with fees to Senior and Junior Counsel. Mr. MacLeod estimated that it took between six or seven days and evenings to do the preparation work and that it was difficult and time consuming. Mr. Boag-Thomson estimated that it took him some two and a half weeks with a ten hour day involvement for preparation and this accounted for the fee charged. Whilst it is accepted that where daily rates are laid down they do take into account the location of the work and graded accordingly and an Inquiry in Aberdeen lasting for as long as the Ocean Odyssey Inquiry, must put a considerable amount of out of pocket expenses for accommodation and travel as opposed to a one day stand where Counsel could visit Aberdeen and return to Edinburgh that evening. An argument was submitted by Junior Counsel that his practice could be affected severely by being out of the Parliament House area for such a prolonged period. I have not taken this into consideration in assessing fees.

Having given careful thought to the representations by each of the three Counsel, I am of the opinion that an Augmentation of 100% to the normal fees is fair and reasonable.

Paul

*graced
by
S.A. Thomson
OF*

ULTY SERVICES LIMITED

PARLIAMENT HOUSE

EDINBURGH

EH1 1RF

RUTLAND EXCHANGE No: 30

031-226 5071

Telex: 727856

AND EXCHANGE BOX NO.

F.S. REF L151/WI909125/11 Fax: 031-225 3642

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DATE OF ISSUE 21-MAY-91

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CIVIL - LEGAL AID.

L.A. CERT No. REGULATION 18

TE C.P.C. BOAG THOMSON, Q.C.,

B08

VAT REG. No. 268 4851 19

Date	Details	Item Amount
MAY-90	PREPARATION FEE	3500.00
MAY-90	CONSULTATION - ABERDEEN	400.00
NOV-90	CONSULTATION - ABERDEEN (WITH EXPERT WITNESS)	400.00
NOV-90	REVISAL APPLICATION FOR PRODUCTIONS UNDER RULE 5	100.00
MAY-90	TO FEB 91':- INQUIRY (125 DAYS @ 1000.00 PER DAY)	125000.00
FEB-91	& MAR 91':- DRAFTING SUBMISSIONS (4 DAYS @ 400.00 PER DAY) CONTD/	1600.00
*** LEGAL AID ***		
TOTAL		131000.00
TOTAL VAT AT 17.50		22925.00
The tax date for this supply is the date of payment - not the date of issue. Both copies of this note must be returned with any payment or challenge.		£ 153925.00

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L.A. CERT No. REGULATION 18

SPONSOR

DATE C.P.C. BOAG THOMSON, Q.C.,

B08

VAT REG. No. 268 4851 19

Item Date	Details	Item Amount
-APR-91	CONSIDERATION OF OTHER SUBMISSIONS AND FORMULATING RESPONSES THERETO	500.00
	REVISING RESPONSES	100.00
-MAY-91	INQUIRY (SUBMISSION DAY)	1000.00
	*** LEGAL AID ***	
	TOTAL	1600.00
	TOTAL VAT AT 17.50	280.00
	The tax date for this supply is the date of payment - not the date of issue. Both copies of this note must be returned with any payment or challenge.	£ 1880.00

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Telex: 727856

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L151/WI909125/13 Fax: 031-225 3642

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RESPONDENT

L.A. CERT No. REGULATION 18

DATE D.R. MACLEOD, ESQ.,

MC18

VAT REG. No. 345 4140 76

Item Date	Details	Item Amount
0-MAY-90	PREPARATION FEE	2500.00
9-NOV-90	CONSULTATION - ABERDEEN (WITH EXPERT WITNESS)	270.00
7-NOV-90	APPLICATION FOR PRODUCTIONS UNDER RULE 5	65.00
0-MAY-90	TO FEB 91:- (122 DAYS @ 666.66 PER DAY)	81333.00
0-FEB-91	& FEB 91:- DRAFTING SUBMISSIONS (2 DAYS @ 270.00 PER DAY)	540.00
0-APR-91	CONSIDERATION OF OTHER SUBMISSIONS (2 DAYS @ 270.00 PER DAY)	540.00
	DRAFTING RESPONSES (1 DAY) CONTD/	270.00
	*** LEGAL AID ***	
	TOTAL	85518.00
	TOTAL VAT AT 17.50	14965.60
		£ 100483.60

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Fax: 031-225 3642

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GLASGOW
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DATE OF ISSUE

21-MAY-91

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T

L.A. CERT No.

REGULATION 18

RESPONDENT

DATE

D.R. MACLEOD, ESQ.,

MC18

VAT REG. No.

345 4140 76

Item Date	Details	Item Amount
8-MAY-91	<p>& 08/05/91:- INQUIRY (2 SUBMISSION DAYS) (2 @ 666.66)</p> <p>*** LEGAL AID ***</p>	1333.00
TOTAL		1333.00
TOTAL VAT AT 17.50		233.21
The tax date for this supply is the date of payment - not the date of issue. Both copies of this note must be returned with any payment or challenge.		£ 1566.21