GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
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CITY OF MILWAUKEE
Office of the City Attorney

THOMAS O. GARTNER
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THOMAS D. MILLER
HEIDI E. GALVÁN
JARELY M. RUIZ
ROBIN A. PEDERSON
DANIELLE M. BERGNER
Assistant City Attorneys

November 16, 2009

To the Honorable Common Council
of the City of Milwaukee
Room 205 - City Hall

Re: Communication from Attorney Jon Cermele, Cermele & Associates, S.C. for legal fees for Police Officer Shawn Humitz
EC 2655

Dear Council Members:

Returned herewith is a document filed by Attorney Jon Cermele for attorney's fees for representing Police Officer Shawn Humitz. The claim is in the amount of $3,346.60, including $24.60 in disbursements for 30.20 hours of service billed at the rate of $110.00 per hour. We ask that this matter be introduced and referred to the Committee on Judiciary & Legislation.

We have reviewed this claim and advise that in our opinion, the time spent was reasonable. Legal representation was occasioned by the filing of a citizen's complaint against the officer and sergeant with the Fire and Police Commission. The complaint was dismissed by the Commission.

As we have advised you under similar circumstances in the past, the Common Council has discretion to reject this claim or to pay it in whole or in part. Sec. 895.35, Stats., *Bablitch and Bablitch v. Lincoln County*, 82 Wis. 2d 574 (1978).

Very truly yours,

GRANT F. LANGLEY
City Attorney

JAN A. SMOKOWICZ
Assistant City Attorney

JAS
Enc.
1032-2008-3489.002:151971

Smokowicz, Jan

From: Jonathan Cermele [jon@cermelelaw.com]
Sent: Tuesday, May 19, 2009 1:38 PM
To: Smokowicz, Jan
Subject: RE: EC 2655

CERTAINLY

From: Smokowicz, Jan [mailto:jsmoko@milwaukee.gov]
Sent: Tuesday, May 19, 2009 1:30 PM
To: Jonathan Cermele
Subject: RE: EC 2655

Jon,

So, does that mean we can strike the hours from our copy?

Jan Smokowicz

From: Jonathan Cermele [mailto:jon@cermelelaw.com]
Sent: Tuesday, May 19, 2009 12:11 PM
To: Smokowicz, Jan
Subject: RE: EC 2655

OK.

I UNDERSTAND THAT A HEARING DID OCCUR ON 9/12, BUT WAS TRUNCATED BECAUSE OF THE AGREEMENT.

THE ENTRY ON 9/13, WAS MISDATED. IT WAS SUPPOSED TO BE FOR 9/12, AND SIGNIFIES ATTY. SCOTT JESS ATTENDING THE SAME HEARING. SORRY FOR THE CONFUSION.

HOWEVER, MY RECORDS SHOW YOU WERE NOT CHARGED FOR MR. JESS' ATTENDANCE AT THE 09/12 HRG. YOU WERE ONLY CHARGED FOR 1 LAWYER, THAT BEING MR. GRANITZ. IF YOU ADD UP THE HOURS, IT SHOULD MAKE SENSE. THE BILL SHOWS 35.20 HOURS, BUT THE TOTAL AMOUNTS TO ONLY $3,322. AT $110/HR. THAT EQUATES TO 30.2 HOURS CHARGED. FOUR OF THOSE "FREE" HOURS WERE ASSOCIATED WITH THE 9/13 ENTRY, AND ONE WAS ASSOCIATED WITH THE 08/29 ENTRY.

HOPE THIS SATISFIES YOUR CONCERNS.

LET ME KNOW IF THERE ARE ANY OTHER QUESTIONS.

From: Smokowicz, Jan [mailto:jsmoko@milwaukee.gov]
Sent: Thursday, May 14, 2009 12:49 PM
To: Jonathan Cermele
Subject: EC 2655

Jon,

This claim relates to the representation of P.O. Shawn Humitz responding to a complaint by Kimberly Eubanks. Tobin's dismissal order of September 15, 2008 indicates that the matter was dismissed because the parties met and agreed to Eubanks' withdrawl of the complaint on September 12. Your bill indicates 4.5 hours of work for that date for "Travel to City Hall; attend citizen complaint hearing; return travel." While I might understand that amount of time, even without the hearing going forward, I do not understand the next entry: "9/13/2008 Travel; attend citizen complaint hearing; return travel 4.00." It appears the second entry is clearly in error.

Please advise.

Thanks,

Jan Smokowicz

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This message is a public record that may be subject to disclosure, unless priv

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CL-C-2008-0107

CERMELE & ASSOCIATES, S.C.

- ATTORNEYS AT LAW -
WWW.CERMELELAW.COM

JONATHAN CERMELE
MATTHEW L. GRANITZ
CHELSIE ALLAN
SCOTT J. JESS

6310 WEST BLUEMOUND ROAD
SUITE 200
MILWAUKEE, WISCONSIN 53213
(414) 276-8750
FAX (414) 276-8906

October 8, 2008

Mr. Ronald D. Leonhardt
Milwaukee City Clerk
800 City Hall
200 East Wells Street
Milwaukee, WI 53202

RE: Citizen Complaint of Ms. Kimberly Eubanks
Against PO Shawn Humitz
Complaint No.: 06-26
Date of Incident: May 24, 2006

Dear Mr. Leonhardt:

Pursuant to Article 58 of the 2007-2009 Collective Bargaining Agreement between the City and the Milwaukee Police Association, the City should request that this claim be placed on the Common Council Committee agenda within 180 days of its receipt.

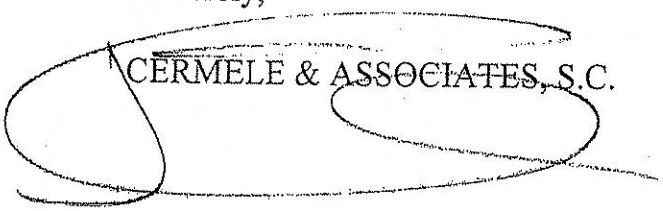
The above-named police officer has retained us to represent him in connection with the above-referenced matter.

Consistent with its policy, the City Attorney's Office has refused to represent him and, as he was performing the duties of his office at the time of the events giving rise to the incident, this claim is hereby made on his behalf for the indicated legal fees. This incident involved a traffic stop.

The Fire and Police Commission dismissed the complaint. Attached is a copy of the dismissal notice and an itemization of the time and services rendered.

Thank you.

Sincerely,



Jon Cermele

/kjs
Attachments
HUMITZ

CERMELE & ASSOCIATES, S.C.

- ATTORNEYS AT LAW -

WWW.CERMELELAW.COM

JONATHAN CERMELE
MATTHEW L. GRANITZ
CHELSIE ALLAN
SCOTT J. JESS

6310 WEST BLUEMOUND ROAD
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MILWAUKEE, WISCONSIN 53213
(414) 276-8750
FAX (414) 276-8906

October 08, 2008

Mr. Ronald Leonhardt
Milwaukee City Clerk
City Hall, Room 205
200 East Wells Street
Milwaukee WI 53202

RE: Citizen Complaint of Ms. Kimberly Eubanks
Against PO Shawn Humitz
FPC No: 06-26
Date of Incident: May 24, 2006
Professional services

		Hours
11/1/2006	Office conference with PO Humitz; open file; memo to file; correspondence to MPD Open Records; correspondence to FPC; CCAP and Muni court record search.	1.40
11/14/2006	Receive and review correspondence from FPC.	0.10
11/30/2006	Receive and review documents from MPD Open Records; memo to file.	0.70
12/7/2006	Telephone call to FPC; review file.	0.30
12/8/2006	Telephone call to and from FPC.	0.20
12/11/2006	Review Notice from FPC; correspondence to client; memo to file.	0.20
1/8/2007	Telephone call to and from FPC; telephone call to client; Fax to FPC regarding adjournment; memo to file;	0.50
1/12/2007	Receive and review correspondence from FPC.	0.10

		Hours
1/22/2007	Telephone call from and to FPC; review file; telephone call to client.	0.30
1/23/2007	Telephone call from client; telephone call to FPC; memo to file.	0.10
1/26/2007	Review Fax from FPC; memo to file.	0.20
1/31/2007	Preparation for conciliation; travel; telephone call to client; appear at conciliation; conference with client; return travel; memo to file.	3.20
2/13/2007	Review file; telephone call to FPC.	0.20
2/22/2007	Review file; telephone call to FPC; memo to file.	0.20
2/27/2007	Telephone call from FPC; memo to file; review file.	0.30
3/12/2007	Review file.	0.10
3/27/2007	Receive and review correspondence from FPC.	0.10
6/12/2007	Review file; CCAP update regarding availability for hearing and complainant's citation; memo to file.	0.30
6/21/2007	Receive and review file from Eggert; intra-office conference with Eggert; memo to file.	0.30
	Intra-office conference with Pings; transfer file to Pings.	0.10
10/1/2007	Receive and review Notice of FPC decision to set hearing and Scheduling Order; calendar deadline for exchange of Witness and Exhibit Lists; review file; telephone call from and to client; review CCAP; telephone call and e-mail to Fronk regarding complainant's attorney.	0.60
10/2/2007	Receive and review e-mail from FPC.	0.10

		Hours
10/4/2007	Telephone call from and to client.	0.10
10/15/2007	Receive and review correspondence from FPC amending scheduling order; calendar same.	0.10
10/18/2007	Receive and review correspondence from FPC extending scheduling order.	0.10
11/21/2007	Review file; prepare and send Witness and Exhibit List.	1.00
11/26/2007	Receive and review correspondence from complainant's attorney withdrawing as counsel; telephone call to and from FPC regarding same.	0.20
1/22/2008	Memo to file.	0.10
5/29/2008	Intra-office conference with Pings; memo to file.	0.10
5/30/2008	Intra-office conference with Pings; take over file from Pings; correspondence to complainant; correspondence to client.	0.50
6/3/2008	Receive and review correspondence from FPC.	0.10
6/5/2008	Telephone call to and from FPC.	0.20
6/6/2008	Receive and review correspondence from FPC; correspondence to client.	0.30
6/12/2008	Receive and review correspondence from FPC; calendar Witness and Exhibit List deadline; review file.	0.50
6/30/2008	Receive and review correspondence from FPC regarding complainant's Witness and Exhibit List.	0.10
7/2/2008	Receive and review correspondence from FPC.	0.10

		Hours
7/14/2008	Review e-mail from FPC.	0.10
7/18/2008	Receive and review complainant's Witness and Exhibit List.	0.20
7/21/2008	Review file; intra-office conference with Cermele.	0.70
8/21/2008	Intra-office conference with Jess regarding case status and subpoenas.	0.20
8/25/2008	Intra-office conference with Jess.	0.20
8/29/2008	Review file; correspondence to witnesses; travel; serve subpoenas; return travel.	1.00
	Intra-office conference with Jess regarding service of subpoenas; telephone call to District #3; correspondence to PO witness.	2.50
	Travel to Academy; deliver subpoenas; return travel.	1.00
9/3/2008	Telephone call from witness; receive and review correspondence from FPC; intra-office conference with Jess regarding witness status; telephone call to client.	0.50
9/8/2008	Receive and review correspondence from FPC; telephone call to client; memo to file; e-mail to Jess regarding witness availability.	0.30
	Telephone call to witness.	0.10
9/9/2008	Telephone call to witness; memo to file; several telephone calls to client.	0.50
9/10/2008	Continue hearing preparation; telephone call from client; telephone call to Dist. #3; telephone call from client; intra-office conference with Jess regarding citizen witness; office conference with client; memo to file.	2.50

		Hours
9/11/2008	Intra-office conference with Granitz regarding hearing preparation.	0.80
	Continue hearing preparation; intra-office conference with Jess.	2.50
9/12/2008	Travel to City Hall; attend citizen complaint hearing; return travel.	4.50
9/13/2008	Travel; attend citizen complaint hearing; return travel.	4.00
9/18/2008	Receive and review dismissal from FPC; correspondence to client regarding same; close file.	0.50

			Amount
	For professional services rendered	35.20	$3,322.00
	Additional charges:		
12/5/2006	MPD Open Records request	S/B 30.20	12.60
1/31/2007	Parking	see Cermak e-mail 1	8.00
9/12/2008	Parking		4.00
	Total costs	5/19/09	$24.60
	Total amount of this bill		$3,346.60
	Balance due		$3,346.60

(Rate: $110.00 per hour)

RECEIVED
SEP 17 2008

BOARD OF FIRE AND
POLICE COMMISSIONERS : CITY OF MILWAUKEE : COUNTY OF MILWAUKEE

The Charges of KIMBERLY A. EUBANKS
Against POLICE OFFICER SHAWN M. HUMITZ

Complaint No. 2006-26

ORDER OF DISMISSAL

WHEREAS, this matter proceeded to final hearing before Hearing Examiner Steven Fronk on September 12, 2008;

WHEREAS, prior to going on the record, the parties indicated a desire to speak with each other, off the record, in an attempt to resolve the matter; and

WHEREAS, as a result of that conversation, Kimberly A. Eubanks indicated, on the record, that she was satisfied with the result and requested to withdraw her complaint.

THEREFORE, it is ordered that the complaint against Police Officer Shawn M. Humitz be and is hereby dismissed.

DATED, at Milwaukee, Wisconsin, this 15th day of September, 2008.

MILWAUKEE BOARD OF FIRE
AND POLICE COMMISSIONERS

LEONARD J. SOBCZAK, CHAIRMAN

BY:

MICHAEL G. TOBIN
EXECUTIVE DIRECTOR

c: Kimberly A. Eubanks
Shawn M. Humitz
Chief Edward A. Flynn
MPD Professional Performance Division
Matthew L. Granitz, Esq.