

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
PATRICK B. McDONNELL
LINDA ULISS BURKE
Deputy City Attorneys



OFFICE OF CITY ATTORNEY
800 CITY HALL
200 EAST WELLS STREET
MILWAUKEE, WISCONSIN 53202-3551
TELEPHONE (414) 286-2601
TDD (414) 286-2025
FAX (414) 286-8550

February 10, 2005

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

Re: Communication from Attorney Laurie A. Eggert, Eggert & Cermele, S.C.
for legal fees for Police Officer John Witkowski
C.I. File No. 03-S-216; EC 1899

Dear Council Members:


Returned herewith is a document filed by Attorney Laurie Eggert for attorney's fees for representing Police Officer John Witkowski. The claim is in the amount of \$615.25 including \$10.25 in disbursements for 5.50 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 a criminal investigation. No criminal charges were brought against the police officer on whose behalf this claim was filed.

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. Wis. Stat. § 895.35, *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:enm
Enc.

90138/ 1032-2003-1637

THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
HAZEL MOSLEY
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
MICHAEL G. TOBIN
DAVID J. STANOSZ
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRlich
LEONARD A. TOKUS
VINCENT J. BOBOT
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
DAWN M. BOLAND
KATHRYN M. ZALEWSKI

Assistant City Attorneys

EGGERT & CERMELE, S.C.

Attorneys at Law

Laurie A. Eggert
Jonathan Cermele

CITY OF MILWAUKEE 1840 North Farwell Avenue
Suite 303
Milwaukee, Wisconsin 53202
(414) 276-8750
FAX (414) 276-8906

2003 MAY 14 PM 2:25
RONALD D. LEONHARDT
MAY 9, 2003 CITY CLERK

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

**RE: MPD Criminal Investigation of PO John Witkowski
Allegations Regarding Mr. Robert Battle
Date of Incident: May 27, 2002
Location of Incident: 3328 North Richards Street
EC No.: 1899**

Dear Mr. Leonhardt:

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, the claim is hereby made on his behalf for the indicated legal fees. This incident involved an arrest for possession of a controlled substance and state disorderly conduct.

The MPD concluded that there was no evidence of wrong doing by any officer and did not bring charges against them. Attached is a copy of the clearance report and an itemization of the time and services rendered.

Sincerely,

EGGERT & CERMELE, S.C.

Laurie A. Eggert
Laurie A. Eggert
Attorney at Law

1/30/05
O.K.
JAS

JC/ldl
WITKOWSKI

Letter 2276

CITY OF MILWAUKEE
RECEIVED
OFFICE OF
CITY ATTORNEY
03 MAY 14 PM 3:42

EGGERT & CERMELE, S.C.

Attorneys at Law

Laurie A. Eggert
Jonathan Cermele

1840 North Farwell Avenue
Suite 303
Milwaukee, Wisconsin 53202
(414) 276-8750
FAX (414) 276-8906

May 9, 2003

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

RE: MPD Criminal Investigation re: Mr. Robert Battle
Regarding: POs John Witkowski
Date of Incident: May 27, 2002
Location of Incident: 3328 North Richards Street
Professional services

Hours

6/17/02	Telephone call regarding new criminal investigation; telephone call from PO Witkowski; open file; memo to file.	0.80
6/19/02	Telephone call to and from client; review taped PI-21 statement; telephone call to and from IAD.	0.70
7/23/02	Telephone call to and from IAD; telephone call to and from client; review of file; meeting with client at IAD; attend client's statement to detectives; travel.	1.90
1/9/03	Fax to DDA Reddin.	0.10
1/20/03	Telephone call from client.	0.20
2/6/03	Telephone calls to from MPD Open Records; telephone call to and from IAD.	0.50
3/27/03	Telephone call to and from MPD Open Records; telephone call to and from IAD.	0.30

	<u>Hours</u>	
3/28/03 Telephone call to and from IAD; telephone call to and from Commenader Settingsgaard.	0.50	
5/8/03 Review of correspondence from MPD Open Records; correspondence to client; close file.	0.50	
		<u>Amount</u>
For professional services rendered	5.50	\$605.00
Additional charges:		
5/8/03 MPD Open Records request		10.25
Total costs		<u>\$10.25</u>
Total amount of this bill		<u>\$615.25</u>
Balance due		<u><u>\$615.25</u></u>

(Rate: \$110.00 per hour)

MILWAUKEE POLICE DEPARTMENT

COPY

CIU/Internal Affairs Division

Tuesday, August 13, 2002

SUMMARY

IN THE MATTER OF: CIU NO. 02-126 - THEFT OF MONEY
UNKNOWN OFFICER

TO: STEVEN M. SETTINGSGAARD
Police Commander

Sir:

This report was dictated by Detective Mark LEVENHAGEN, of the Criminal Investigation Unit/Internal Affairs Division (CIU/IAD), Day Shift.

ALLEGATION:

The complainant, Robert C. BATTLE, B/M, Date of Birth April 12, 1964, alleges that on Monday, May 27, 2002, at approximately 12:45 A.M., after he was arrested for Possession of a Controlled Substance with Intent to Deliver and State Disorderly Conduct, Milwaukee Police Officers took Five Hundred Eighteen Dollars (\$518.00) in cash from him (Mr. BATTLE) and put only Three Hundred Thirteen Dollars (\$313.00) on inventory.

INVESTIGATION:

This complaint was investigated by Detective LEVENHAGEN at the direction of Commander Steven M. SETTINGSGAARD.

RE: CIU# 02-126 - THEFT
ALLEGATION OF ROBERT BATTLE
PAGE 2

The police reports indicate that Robert BATTLE was taken into custody for Possession of a Controlled Substance and State Disorderly Conduct on Monday, May 27, 2002, at about 12:45 A.M. at 3323 North Richards Street. Robert BATTLE states that he had some money in his wallet and cash in his front pocket, which was taken from him by unknown Milwaukee Police Officers. He states that at one point one of the officers started to count out the money to him, but never finished. Mr. BATTLE stated to Detective LEVENHAGEN that before the officers took him downtown one of the officers opened the squad door and started to count his, Mr. BATTLE, money out in front of him. He states the officer said, "you have got Two Hundred Dollars (\$200.00) here and some ones. At that point Mr. BATTLE said to the officer, "You got One Hundred Dollars (\$100.00) in my wallet, right." He states the officer said, "yeah." It should be noted that based on Mr. BATTLE own description of what the officer said, he had Two Hundred Dollars (\$200.00) and then reminded the Officer that he had another One Hundred Dollars (\$100.00) in his wallet plus some ones. This would add up to Three Hundred Dollars (\$300.00) and some ones. The officers inventoried Three Hundred Thirteen Dollars (\$313.00). Mr. BATTLE states that the officer continued to count his money, but never said an exact amount. Mr. BATTLE states he never asked the officer what the exact amount was, and could not explain why he did not do that if he felt there was a discrepancy. Mr. BATTLE stated that after the officer counted his money, the officer put Mr. BATTLE's empty wallet back in Mr. BATTLE's pocket. Mr. BATTLE insisted that he had exactly Five Hundred Eighteen Dollars (\$518.00) in his pocket when officers stopped him.

Mr. BATTLE's wife, Lyntrelle BATTLE, was interviewed by Detective LEVENHAGEN regarding this incident. Mr. BATTLE had told Detective LEVENHAGEN that his wife had given him Two Hundred Thirty-Eight Dollars (\$238.00) out of her cashed

check. Lyntrelle BATTLE denied giving Mr. BATTLE Two Hundred Thirty-Eight Dollars (\$238.00) from her check. She stated it was One Hundred Twelve Dollars (\$112.00). Lyntrelle BATTLE also stated she doesn't believe Robert BATTLE would have had Five Hundred Dollars (\$500.00) in cash on him when arrested, but she can't be sure.

Officers originally were sent to a Recklessly Endangering Safety call with shots fired in the area of 3323 North Richards. Multiple officers responded to the call. Five officers known to have contact with Robert BATTLE were interviewed by Detective LEVENHAGEN and other detectives. Officers interviewed were:

Police Officer John WITKOWSKI, Payroll Number 65192, Tactical Forcement Unit

Police Officer William ESQUEDA, Payroll Number 63590, Squad 585

Recruit Officer Rodolfo GOMEZ, Payroll Number 69416, Squad 585

Police Officer Mickal CHEMLICK, Payroll Number 67331, Squad 575

Officers GOMEZ and ESQUEDA both stated that they observed Officer CHEMLICK counting out the money taken and recovered from Robert BATTLE in front of Mr. BATTLE. Officer GOMEZ states he did not remember the amount, but Officer ESQUEDA stated that he remembered the amount counted to be Three Hundred Thirteen Dollars (\$313.00). Officer ESQUEDA stated that he observed Officer CHEMLICK count the money in front of Mr. BATTLE, and Robert BATTLE never indicated that any money was missing at that time.

Officer CHEMLICK stated that he counted the cash recovered from Mr. BATTLE in front of him, and that it contained a total of Three Hundred Thirteen Dollars (\$313.00). Officer CHEMLICK states that at the time the money was counted in front of him, Mr. BATTLE did not dispute the amount of Three Hundred Thirteen Dollars (\$313.00). Officer CHEMLICK stated that he had custody of the money taken from Mr. BATTLE from the

RE: CIU# 02-126 - THEFT
ALLEGATION OF ROBERT BATTLE
PAGE 4

time he took custody of Robert BATTLE until the money was put in the register downtown, which indicates that Three Hundred Thirteen Dollars (\$313.00) was put on Inventory Number 193843 as evidence on May 27, 2002.

CONCLUSION:

Evidence through interviews of officers shows that three Milwaukee Police Officers were present when Three Hundred Thirteen Dollars (\$313.00) was counted out in front of the complainant, Robert BATTLE. At that point Mr. BATTLE did not dispute the amount officers stated that they had taken from him. There were also discrepancies in the amount that Robert BATTLE states he had received from his wife, and the amount his wife stated she had given Robert BATTLE earlier in the week. There is no evidence that Robert BATTLE did have Five hundred Eighteen Dollars (\$518.00) when officers arrested him. There were multiple officers involved in the investigation of the original incident, and Robert BATTLE could not say who originally took money from his person. Officers interviewed stated that they came up with Three Hundred Thirteen Dollars (\$313.00) which was put on inventory. There is no evidence of any criminal wrongdoing by any Milwaukee Police Officer regarding this incident. The Theft Complaint by Robert BATTLE will be held open and any new leads that come forward will be investigated. This ends the investigation into this allegation at this time.

Respectfully submitted,

Det Mark N. Levenhagen

Mark LEVENHAGEN
Police Detective
CIU/IAD, Day Shift

ML:js
See Page 11 of 11 for Summary

4-2007-10-1
1/1

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

JUNE 6, 2003

TO: Captain RICHARD OLIVA
District SOB

RE: ATTACHED MEMORANDUM(S)

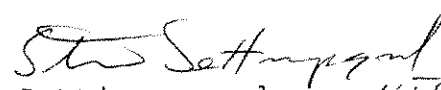
Please see that the police officer(s) named in the attached memorandum(s) respond by filling in the requested information.

Then return the memorandum(s) to the Internal Affairs Division.

MILWAUKEE POLICE
INTERNAL AFFAIRS
DIVISION

03 JUN 10 PM 3:30

RECEIVED


Steven M. Settingsgaard
Police Commander
Internal Affairs Division

Attachment (s)

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

June 5, 2003

TO: P.O. JOHN WITKOWSKI
DISTRICT SOB TEU

RE: Receipt of Legal Services from Law Firm of
Attorney

Attorney Laurie Eggert has made a claim with the City, indicating the attached was provided with legal services arising out of one of the following situations:

- 1) An incident occurring on MAY 27, 2002
- 2) A citizen's complaint made by ROBERT BATTLE
- 3) A police shooting incident occurring on N/A

Is this information correct?

YES NO


Did you receive legal representation
in this matter?

YES NO

Your signature: _____

Print your name: _____

Upon completion, please return this memorandum to the Internal Affairs Division at the Police Academy (Room 325) as soon as possible.


Steven M. Settingsgaard
Police Commander
Internal Affairs Division

SMS:kjs