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BETH CDNRADSON CLEARY
THOMAS D. MILLER
HEIDI E. GALVÁN
Assistant City Attorneys

May 19, 2008

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


Re: Communication from Attorney Jonathan Cermele, Cermele & Associates,
S.C. for legal fees for Police Officer Alan Groszczyk
C.I. File No. 07-S-41-2; EC 2409

Dear Council Members:

Returned herewith is a document filed by Attorney Jonathan Cermele for attorney's fees for representing Police Officer Alan Groszczyk. The claim is in the amount of \$693.00 for 6.30 hours of service billed at the rate of \$110 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 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:amp
Enc.
1032-2007-454:124731v1

OFFICE OF THE CITY ATTORNEY

Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551 • Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

February 15, 2007

TO: P.O. ALLEN GROSZCZYK
DISTRICT: SOB/TEU

RE: Receipt of Legal Services from Law Firm of
Attorney Jonathan Cermele

RECEIVED
07 FEB 22 AM 11:19
INTERNAL AFFAIRS
DIVISION

Attorney Jonathan Cermele 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 AUGUST 26, 2003
- 2) A citizen complaint made by LOUIS GLENN
- 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: P.O. Allen R. Groszcyk

Print your name: P.O. Allen R. GROSZCZYK

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

Mary K. Hoerig
MARY K. HOERIG
Deputy Inspector
Professional Performance Division

MKH: kjs

CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

JONATHAN CERMELE
LAURIE A. EGGERT
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6310 WEST BLUEMOUND ROAD
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MILWAUKEE, WISCONSIN 53213
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January 26, 2007

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

**RE: MPD Criminal Investigation PO Alan Grosczyk
Regarding: Officer-Involved Shooting
Date of Incident: August 4, 2006
Location of Incident: 11053 South 76th Street**

Dear Mr. Leonhardt:

This claim is being submitted under §895.35(2), STATS., which provides that:

Notwithstanding sub (1), the City . . . shall reimburse a protective services officer for reasonable attorney fees incurred by the officer in connection with a criminal proceeding arising from the officer's conduct in the performance of official duties, unless, in relation to that conduct, any of the following applies:

- a. The officer is convicted of a crime;
- b. The officer's employment is terminated for cause;
- c. The officer resigned for reasons other than retirement before the attorneys fees are incurred;
- d. The officer is demoted or reduced in rank
- e. The officer is suspended without pay for 10 or more working days. §895.35(2), STATS.

Officer Grosczyk is considered a "protective services officer" under the statute. He has incurred the fees compiled in this claim as a direct result of his being investigated for actions taken within his official capacity, and in the performance of his duties, in connection with the use of deadly

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CITY OF MILWAUKEE
CITY CLERK

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CITY ATTORNEY

force. None of the "exceptions" apply¹.

The incident resulted in the District Attorney's Office conducting a criminal investigation into the shooting of Mr. Richard Betker, under Chapter 979, STATS. That investigation qualifies as a "proceeding" which mandates payment under 895.35(2), STATS.

Attached is a copy of Assistant District Attorney McAdams' letter dated August 24, 2006 stating that no charge was appropriate as Officer Groszczyk's actions were privileged and in self-defense.

Sincerely,

CERMELE & ASSOCIATES, S.C.

Jon Cermele

/kjs
Enclosures
GROSCZYK

¹ The officer was not convicted of a crime, terminated for cause, resigned prior to incurring the fees associated with this claim, demoted, or suspended without pay for more than 10 days. See 895.35(2)(b), STATS.



OFFICE OF DISTRICT ATTORNEY

RECEIVED

OCT 03 2006

GERMELE & ASSOCIATES, S.C.

Milwaukee County

E. MICHAEL McCANN • District Attorney

August 24, 2006

Deputy Chief Brian O'Keefe
Milwaukee Police Department, CIB
749 West State Street
Milwaukee, WI 53233

RE: Police shooting on August 4, 2006, on South 76th in Franklin, WI

Dear Deputy Chief O'Keefe:

As you are aware, on August 4, 2006, there was a search warrant execution in the 11000 block of South 76th Street in Franklin, Wisconsin. The search warrant was directed at the recovery of firearms, which were alleged to be in the possession of a known felon. Unfortunately, during the execution of the search warrant, City of Milwaukee Police Officer Groszczyk shot Richard Betker in the shoulder and in the hand. For the reasons that follow, however, no charge is appropriate.

A brief review of the facts is in order. A City of Milwaukee Police Department tactical team went to this location to execute a search warrant for firearms at around 10:00 p.m. on August 4, 2006. The tactical team created a diversion by smashing the front window. At the same time, another entry team apparently kicked in the back door on the other side of the house. Mr. Betker, who was in bed with his wife with the TV on, heard the commotion and responded by coming to the door of the bedroom with a gun in his hand. Mr. Betker believed that some sort of home invasion or burglary was about to take place so he brandished the gun in an apparent attempt to dissuade anyone from entering his bedroom. It was dark and several members of the entry team were flashing lights in his direction and it is my opinion that the shock of the entry and noise from the TV set disoriented him. I believe that the officers saw the firearm and that they saw Mr. Betker retreat briefly backward into the bedroom not knowing what Mr. Betker's intentions were. Undoubtedly, this all happened very quickly in an environment that can be characterized as chaotic.

In brief, there are two reasons that Officer Groszczyk's actions are reasonable. First, Mr. Betker clearly was brandishing a weapon and attempting to intimidate the officers from coming forward. Second, even though Mr. Betker was

- Robert D. Donohoe
- Jon N. Reddin
- Patrick J. Kenney
- Lavell Johnson, Jr.
- Jamae J. Martin
- Thomas A. Schwitz
- Alexander G. Sklenarz
- William J. Molik
- Donald S. Jackson
- Gate C. Shelton
- Terry McGowan
- Gary D. Lipkorn
- Davis Hobbes
- Daboruli Daley
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- Cynthia G. Brown
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- Gregory J. Highway
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- Kathryn L. Childs
- Jason M. Kieckhefer
- Crash Hoenig
- Matthew Andrew
- Glen Lind
- Jenna Martin
- Anthony White
- Anthony Apple
- Julia Carlan
- Nicole Doninger
- E. A. Kerahan
- L. J. Krammer

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Deputy Chief O'Keefe
August 15, 2006
Page 2

apparently moving backwards at the time he was shot, that action in and of itself is ambiguous because it could very well have reasonably seemed to the officers that he was merely making himself more difficult to subdue. When I met with Mr. Betker and his attorney on August 11, Mr. Betker stated that even after the gun was shot out of his hand, he was attempting to get another loaded firearm he had hidden near his headboard and that he would have never let anyone enter the bedroom as he was under the continuing misapprehension that a home invasion was taking place.

For all of the above reasons, no charge is appropriate.

Sincerely,



Thomas McAdams
Assistant District Attorney

TM/mk

CERMELE & ASSOCIATES, S.C.

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January 26, 2007

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

RE: MPD Criminal Investigation re: Officer-Involved Shooting
Regarding: PO Alan Groszcyk
Date of Incident: August 4, 2006
Location of Incident: 11053 South 76th Street
Professional services

	<u>Hours</u>
8/4/2006 Several telephone calls to and from officers regarding officer-involved shooting; open file; travel to PAB; interview PO Groszcyk and provide statement to DA McAdams and Detectives; return travel; memos to file.	5.40
8/31/2006 Telephone call from ADA McAdams; telephone call to and from client.	0.20
9/6/2006 Telephone call to ADA Mc Adams.	0.20
10/3/2006 Telephone call to ADA McAdams; telephone call to CIB regarding clearance; receive and review Fax from ADA McAdams clearing PO Groszcyk's conduct; correspondence to client; close file.	0.50
	<u>Amount</u>
For professional services rendered	6.30 \$693.00
Balance due	<u>\$693.00</u>

(Rate: \$110.00 per hour)