**GRANT F. LANGLEY**City Attorney

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Assistant City Attorneys

BETH CONRADSON CLEARY THOMAS D. MILLER HEIDI E. GALVÁN

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 Grosczcyk

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 Grosczcyk. 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. LANG City Attorney

JAN A. SMOKOWICZ Assistant City Attorney

JAS:amp

Enc.

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## MILWAUKEE POLICE DEPARTMENT

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February 15, 2007

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

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

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:

- An incident occurring on AUGUST 26, 2003 1)
- A citizen complaint made by LOUIS GLENN 2)
- A police shooting incident occurring on N/A 3)

Is this information correct?

YES\_X\_ NO\_

Did you receive legal representation in this matter?

Your signature: 10 Cllen

Print your name: P.O. Alken 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

Deputy Inspector

Professional Performance Division

MKH: kjs

## CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

JONATHAN CERMELE LAURIE A. EGGERT RACHEL L. PINGS MATTHEW L. GRANITZ

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

January 26, 2007

Mr. Ronald D. Leonhardt Milwaukee City Clerk 800 City Hall 200 East Wells Street Milwaukee, WI 53202 2007FE8 -1 PM 2: DG

RE: MPD Criminal Investigation PO Alan Grosczcyk

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:

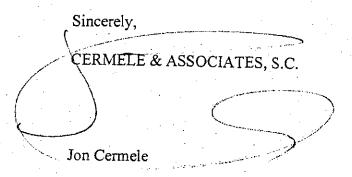
- a. The officer is convicted of a crime;
- b. The officer's employment is terminated for cause;
- c. The officer resigned for reasons other than retirement before the attorneys fees are incurred;
- d. The officer is demoted or reduced in rank
- e. The officer is suspended without pay for 10 of more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

Officer Grosczcyk 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

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 Grosczcyk's actions were privileged and in self-defense.



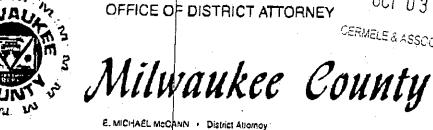
/kjs Enclosures GROSCZCYK

<sup>&</sup>lt;sup>1</sup> 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.

Doboruli Dajay

## RECEIVED

OCT 0 3 2006 .



Robert D. Donongo Jon N. Reggin Parick J. Kenney Lavoil Johnson, Jr. CERMELE & ASSOCIATES, S.C. Thomas A. Schwiz Alexander G. Sklanare Wifism J. Moliny Donald S. Jameson Tatoy Midonwon

Deboruli Delay Pog Tarrani Dauglas J. Simpson Cynthia G. Brown Norman A. Gann Staphanie Gingas Horastein Caco F Janks Mary Anna Sar Nark S. Yıllılama Unda Jonneo TRUPA & L. Pottor David Feise Revent Changler Szychlinste Carole Manchesias Korinetti A. Rein Велоом Р. Спеватор, Да Worren D. Zier Carol Borry Crawley 518469 V. Licoto Brad Vomeni

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 76 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 Grosczcyk 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 to went 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

Milam 9. Falls Physic M. DeCerve Dennie P. Murphy Chnaine M. Krous Phillip A. Arigif Bruce J. Lenagrot Dynie J. Sting Oswiel M. Lac Janes C. Projektowicz Doann L Hoord Politicis A. McGowan Irone E. Pentium Nancy Ebenhuim Kanne Ci Byme Maria Dorsey Jemes W Friedt Kurt D. Beniusy James C. Gniin hidiay St i L. Hardika Jano 7 Chishou Chnelopher A. Lingel Mogan P. Cermody Laure A. Crivalo Beiti D. Zirghel Karen A. Vespalno Rebecca F. Dallel Mark A. Senden Colty L. Heage
Kally L. Heage
'Jolitoy J. Akenburg
Recheol Stencol
Patti Wngimch Kont L. Lovem Kathrin K. Bomor os C. Bingo: Jaramy L. Reser Deviel J. Calver Sere P. Scullen J. Christophar Dan Jocob D. Carr Joy Hernmond Tioval A. Siek eidi E. Cawan Élisabera Mucilar Magan J. Thomas Grant I. Huganar SIGNARA ERVARA NAMED Eic O. Otton Cinistina M. Quinn f/keepin A. Actermen Atom J. Lovin Scoti A. Monto Jestila: K. Phodne Claire Staring Rohessa A. Kielor Millings J. Lamenson Jacon M. Kies Cush Homio Malhew Andres المراجعات AUTOM DOOS A PINCHTY WHILE κειέμευ ιο Βουακυβεί .cαιισυ

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

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

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 Groszczyk
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 Groszczyk 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				
	6 Telephone call to ADA McAdams; telephone call to CIB regarding clearance; receive and review Fax from ADA McAdams clearing PO Groszczyk's conduct; correspondence to client; close file.					
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	<del> </del>	Amount				
	For professional services rendered 6.30	\$693.00				
	Balance due	\$693.00				
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(Rate: \$110.00 per hour)