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FILED

January 15, 2009

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF : Administrative Action
: :
GEORGE A. DENDRINOS, M.D. : SUPPLEMENTAL ORDER
License No. MA 67899 :
: :
TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY :

This matter was reopened before the New Jersey State Board of Medical Examiners (the "Board") for consideration of the issue of the amount of costs to be assessed upon respondent George Dendrinos, which issue was specifically reserved at the time that we entered our order in this matter both to afford the Attorney General an opportunity to make a cost application and to allow respondent to submit written objections to any items sought to be recovered as costs by the Attorney General. Pursuant to the Final Order Granting Summary Decision to the State, (entered April 17*,

* The Board's determination regarding liability and schedule for the parties' cost submissions was announced on the record at the

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2008 effective March 14, 2008), the Attorney General was directed to file an application for costs and attorney's fees no later than March 14, 2008 and respondent's opposition was due fifteen days thereafter. Upon review of the submissions made by the parties, we conclude, as announced on the record in open session at the July 9, 2008 Board meeting, that respondent is to be required to pay a total of \$21,614.44 in costs, consisting of the following cost assessments:

<u>Costs</u>	<u>Amount Assessed</u>
Transcript and court reporter costs	\$ 869.00
Counsel fees	\$16,799.50
Paralegal fees	0
Investigative costs	<u>\$ 3,945.94</u>
Total costs	\$21,614.44

Set forth below is a summation of the history of this matter (limited to submissions made in support of or opposition to the Attorney General's cost application) and the conclusions we have reached which support the within Order.

DISCUSSION

The Attorney General submitted a timely certification detailing all costs sought on March 13, 2008 with the following attached exhibits:

Exhibit A - time sheet report of DAG John P. Miscione

conclusion of the February 2008 hearing.

Exhibit B - time sheet report of DAG Michael S. Rubin

Exhibit C - time sheet report of Paralegal Kevin Moxley

Exhibit D - memorandum dated June 19, 2005 by the Department of Law and Public Safety setting forth a Uniform Rate of Compensation

Exhibit E - Affidavit of William V. Roeder, Executive Director as to certified shorthand reporting costs incurred in this matter

Exhibit F - Certification of Costs of Cyndy M. Gohl as to costs of investigation in this matter

Within said exhibits including certifications the Attorney General documented totals of \$869.00 in shorthand reporting costs, \$1,320.00 in paralegal fees, \$18,567.00 in counsel fees and \$3,945.94 in investigative costs of the Enforcement Bureau that had been incurred in the course of the proceedings regarding Dr. Dendrinis. The Attorney General's certification was supported by time sheets of DASG Miscione and Rubin. A memorandum by Nancy Kaplan, then Acting Director of the Department of Law and Public Safety detailing the uniform rate of compensation for the purpose of recovery of attorney fees (see State v. Waldron, Docket No. L702-99 (Law Div. December 4, 2001) established in 1999 and amended in 2005, sets the hourly rate of a DAG with ten plus years of legal experience at \$175.00 per hour.

We have received and reviewed the submissions of the parties. Respondent's letter brief of July 2, 2008 was submitted out-of-time detailing his objections to the Attorney General's certification of costs. The State submitted a reply on July 8, 2008. The Board considered the matter on the papers at its regularly scheduled meeting on July 9, 2008.*

Respondent outlines his objections as follows: The first Deputy Attorney General to handle the matter, DAG John Miscione, spent seven (7) hours on November 7, 2007 (with charges totaling \$1,225) described in the timesheets as "obtaining the PEC transcript for insertion of references." Respondent asserts it should not have taken that long to perform that function. Secondly, he objects to DAG Miscione spending 30.2 hours (charges totaling \$5,285.00) drafting a Summary Decision brief consisting of fourteen (14) pages plus an appendix. He also opposes the charges for 10.1 hours by DAG Miscione to prosecute the case, (totaling \$1,767) with no description as to what tasks were accomplished. Additionally, he lodges objection to the paralegal charges in this case of 24 hours at \$55.00 per hour totaling \$1,320. He asserts

* The Board's initial deliberations concluded with a determination not to consider respondent's submission in opposition to costs as it was untimely and there was no adequate explanation for the failure to abide by the schedule set by the Board. Therefore, the State's reply was also not initially considered. However, upon further review the Board subsequently reversed that determination and considered both submissions.

that the absence of information detailing the functions performed by the paralegal makes it impossible to challenge the validity of the time expenditures. Finally, he objects to payment of costs associated with the reassignment of the matter to a second DAG and requests that the DAG should certify specifically the time which was involved in the transfer.

DAG Rubin submitted a response dated July 8, 2008. The State asserts that in regard to the seven (7) hours billed by Deputy Attorney General Miscione for November 7, 2007, respondent mischaracterized the entry on the time sheet as "obtaining" PEC transcript while the actual record indicates "obtaining and reviewing." The review of the transcript for the purpose of ascertaining admissions sufficient for a Summary Decision Motion explains the time expenditure. The Attorney General also contends that 30.2 hours spent on researching, analyzing, drafting, preparing, editing, revising and finalizing a 14 page Brief and Appendix with multiple attachments in Support of Complainant's Motion for Summary Decision is reasonable. We find the time expenditure was necessary to appropriately prosecute the case and decline to modify those cost assessments.

In regard to five entries by DAG Miscione without description of work - DAG Rubin postulates that the 7.1 hours of the 10.1 invested by DAG Miscione may have been spent drafting, editing and reviewing PEC minutes as there are no other entries for

that work in the timesheets, "CRW" (indicating research/writing) is the billing code used, and the next time entry is revision of the Committee Minutes after the Committee Chair's review. Using our discretion we decline to impose these costs on respondent because of the lack of specificity as to the functions performed. For the same reason we are striking the 55 hours totaling \$1,320.00 of paralegal work which has no description in the original cost certification. Although on the date the Board considered the cost application the State provided a supplemental certification providing more specificity as to the functions performed, there was no opportunity for a response from respondent on that issue. We decline to consider those costs here, although we recognize we have the authority to consider the supplemental information even in the absence of a reply by respondent.

We decline to strike any costs for the reassignment of the matter from one DAG to another based on the following rationale. The matter was reassigned on February 1, 2008. From that time to February 13, 2008 the date of the hearing on complainant's Motion for Summary Decision, 21.3 hours were spent as certified in the State's Certification of Costs. Portions of that time were spent on settlement negotiations and drafting and preparation for oral argument on the motion and a mitigation hearing. We find that time expenditure reasonable and necessary for the actions performed and not duplicative costs. The

descriptions are sufficiently detailed to enable us to make that determination, and note that it is permissible in any event to impose costs for that function, as more than one attorney may be involved in the prosecution of a matter.

Conclusions and Order

We note initially that, at this time, there is no dispute between the parties on the items sought for transcript costs in the amount of \$869 or Enforcement Bureau costs of \$3,945.94. Nor is there any objection by respondent to the hourly rates at which attorneys fees were calculated. Rather he focuses and limits his objections to the lack of specificity in the certifications supporting the application for costs and the reasonableness of the number of hours spent. We are constrained to note that the rates charged by the Division of Law of \$175 for the DASG with 10 or more years experience has been approved in prior litigated matters and appears to be well below the community standard.

Moreover, with two exceptions, we find the application as supplemented to be sufficiently detailed to permit our conclusion that the amount of time spent, and the overall fees sought to be objectively reasonable as well. (See, Poritz v. Stang, 288 N.J. Super 217 (App. Div. 1996) and the Rules of Professional Conduct.) The Board has determined to disallow 10.1 hours (at \$175.00 an hour totaling \$1,767.50) that DAG Miscione recorded with no narrative description and 24 hours (at \$55 an hour totaling \$1,320) submitted

regarding paralegal Kevin Moxley and originally submitted without a description.— We find that in regard to all other charges the Attorney General has adequately documented the legal work which was performed and find that the work documented was work necessary to advance the prosecution of this case. We reject respondent's assertions that the hours expended were unnecessary, duplicative and/or unproductive. We are thus satisfied that the Attorney General has adequately documented the tasks performed to support his application for attorney's fees and that his claims are reasonable especially when viewed in the context of the seriousness and scope of the action maintained against Dr. Dendrinis. Furthermore, the costs are justified in this case involving the protection of the public safety and welfare as the conduct involves violations of the Board's sexual misconduct regulations.

In sum, we find that the Attorney General may be awarded the attorney's fees assessed herein pursuant to N.J.S.A. 45:1-25, and we further determine that the Attorney General should be awarded all transcript, court reporter costs and costs of investigation.

IT IS THEREFORE on this 14 day of January, 2008, 

ORDERED THAT:

Respondent Dr. Dendrinis is hereby ordered within thirty (30) days of the date of this Order by certified check or money order made payable to the Treasurer of New Jersey and delivered to

William Roeder at the office of the Board of Medical Examiners to pay costs incurred by the State pursuant to N.J.S.A. 45:1-25 in the amount of \$21,619.49. In the event the costs are not timely satisfied a Certificate of Debt may be filed.

NEW JERSEY STATE BOARD OF MEDICAL
EXAMINERS

By: 

Paul C. Mendelowitz, M.D.
President