

The Golden Fleece? A Recent Investigation Raises Questions About the City's "Expert" Spending

By Dirk VanderHart of The Portland Mercury (June 11, 2014)

AS A HIGH-PRICED "vocational consultant," Scott Stipe is paid a premium for his time—nearly \$200 an hour.

But Margie Sollinger, the City of Portland's ombudsman, needed less than 20 minutes last year to poke holes in some steep overcharges Stipe had billed to the city.

Stipe, the president of Career Directions Northwest, had been helping the city with two recent lawsuits. Sollinger found he'd incorrectly invoiced the city for hours that he hadn't worked—and that he'd attempted to charge, in one case, a higher hourly rate than he was contracted for.

"This was way too easy," Sollinger says of the errors she identified. "I looked at this for maybe 15 minutes and I found a couple thousand dollars."

What's more, the city attorney's office wasn't clear what certain charges even meant, and Sollinger noted that services similar to Stipe's could be had for much cheaper.

The city attorney's office says it's taking steps to better monitor its spending, and notes that the overbilling Sollinger identified amounted to a relative pittance in the grand scheme of city expenses.

But the investigation calls into question just how much the office scrutinizes relatively common agreements with expensive expert consultants, and whether these types of billing errors have slid by unnoticed for years.

"The concern extends to all of the city's expert consultant contracts," Sollinger says, "not just those with the city attorney's office."

The city has contracted with Stipe twice, for two lawsuits that ran more or less at the same time.

In August 2010, a man named Thomas Glenn sued the city, claiming police had injured him during a rough, unnecessary arrest at his home in 2008. A lawsuit from the family of Lindsay

Alyse Leonard, a 23-year-old Portlander who was fatally run down by a car on SE Foster in 2009, came two days later. That suit claimed the city hadn't properly maintained the crosswalk.

In both cases, city attorneys decided to hire a "vocational expert"—someone who could help put a dollar amount on how much income the plaintiffs might have lost out on because of the city's alleged actions. For Stipe's services, attorneys promised to pay \$190 an hour. Neither contract was supposed to exceed \$20,000.

In the Glenn case, that threshold was reached in less than six months of intermittent work. According to invoices the *Mercury* obtained via Oregon's public records law, Stipe worked off and on beginning in June 2011. He charged the city for hours of reviewing documents, labor market research, consultations, and preparations for consultations. Invoice items ranged from six-minute phone calls on specific dates to vague, hours-long blocks of time labeled only "September 2011."

The lack of specificity concerned Sollinger.

"I would expect that the city attorney's office is assessing whether the quality of a consultant's work is commensurate with the number of hours spent," she wrote in an email to the *Mercury*. "I would also expect that the city attorney's office is conducting a detailed review of the invoices."

In an invoice submitted after his February 2013 testimony in the Glenn trial (which the city ultimately won), Stipe billed the city for six hours—\$1,140—for a "cancellation fee," indicating he'd blocked off a full day to testify in May 2012, but that the trial had been rescheduled.

But the city had given warning of that postponement months in advance, according to emails obtained by the *Mercury*, much longer than the seven days required in Stipe's services agreement. The city attorney's office didn't realize that until Sollinger pointed out the error.

Stipe, who declined to be interviewed for this story, told officials it was an honest mistake, and removed the six hours from his invoice.

Next, Deputy City Attorney Bill Manlove struggled to explain what certain items on the invoice meant, and why they were being charged. The investigation prompted him to seek clarification on a series of billings in which Stipe had charged for an hour of work listed as "case staffing."

Stipe explained, in an email to city staff, that he charges for a minimum of one hour for any meeting he has to block off on his calendar.

"I have to set aside time and put it on my calendar and I have no idea if it will take 10 minutes or an hour," Stipe wrote. "That is my policy and I have never had it questioned before."

The consultant's final pay for the Glenn case: \$25,673.

The billing inconsistencies in the second lawsuit Stipe worked are less clear. The city attorney's office declined to provide invoices because the suit is still in litigation. But City Attorney Tracy Reeve tells the *Mercury* that Stipe attempted to bill the city for \$200 an hour, rather than the agreed-upon \$190—something Sollinger caught right away.

And emails show the ombudsman pointed out a further wrinkle in Stipe's services: They're very, very expensive. A vocational expert hired by the plaintiffs in the Glenn case, John Lipnicki, charged about \$18,000 less in pre-trial fees, Sollinger wrote in an email to the city attorney's office.

"For what it's worth," Sollinger wrote, "I talked to an attorney in Multnomah County counsel's office and he mentioned that he has used Lipnicki before and thought that he was a very good vocational expert."

In response to Sollinger's findings, then-City Attorney Jim Van Dyke said he'd put new language into contracts with expert witnesses, demanding invoices be "sufficiently detailed to justify the amount claimed."

But Reeve, who officially became city attorney in January, downplayed the problems with Stipe's billing, and shooed away suggestions they might extend to the city's frequent contracts with experts.

"We're talking a total of less than \$2,000," Reeve says. "We do expert witness contracts at much higher rates."

In the Glenn case alone, court records show, attorneys also tapped police and medical experts—not just Stipe. The city attorney's office, Reeve says, is putting new practices into place demanding better scrutiny of invoices. But she says that's not because of Sollinger's findings.

"We changed them as a result of looking at best practices," Reeve says. "One of our goals is making sure we're good stewards of public resources."

Even so, the city's attorney's office was worryingly inconsistent when the *Mercury* requested public records associated with Sollinger's investigation.

First, the office said no emails existed between the ombudsman and city attorney's office staff. When that proved false, the office said it had made a mistake. But it declined to release the emails, saying they fell under "attorney-client privilege"—even though they involved an investigation into internal practices, not legal counsel.

When pressed again, the city attorney's office reversed that stance, releasing 34 pages of emails. With only minor redactions.