



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

**J.B. VAN HOLLEN  
ATTORNEY GENERAL**

**Kevin M. St. John  
Deputy Attorney General**

114 East, State Capitol  
P.O. Box 7857  
Madison, WI 53707-7857  
608/266-1221  
TTY 1-800-947-3529

October 3, 2014

*Sent by email*

Mr. Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703

Dear Mr. Kennedy:

I am writing in response to your request for the Department of Justice to represent you and members of the Government Accountability Board (GAB) in a federal lawsuit brought by Citizens for Responsible Government Advocates, Inc. Milwaukee County District Attorney John Chisholm is also a named defendant.

Although the lawsuit broadly seeks a declaration that several sections of Chapter 11 are unconstitutional, the main object of the lawsuit is to seek an order declaring that the definition of “political purposes”...excludes issue advocacy, whether or not coordinated with a political candidate.” (Complaint, pg. 18.) The lawsuit also seeks an injunction and other relief such as attorneys’ fees.

According to your recent filings, it is the GAB’s position that coordinated issue advocacy can be regulated under the Wisconsin Statutes by and through the definition of “political purposes” found in Chapter 11. *See* GAB’s Motion to Intervene (7th Cir., filed July 18, 2014); Affidavit of Kevin Kennedy (Wis. Ct. App., filed Feb. 21, 2014). Moreover, the GAB has challenged the reasoning of Judge Gregory Peterson’s order dated January 10, 2014, in which he quashed several subpoenas issued in the John Doe proceeding. *Id.* at para. 13, pg. 10.

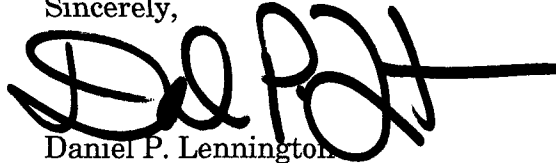
As you are aware, the DOJ is representing Judge Gregory Peterson. This representation is not limited simply to the procedures employed by the John Doe court (Wis. Ct. App. Case Nos. 2013AP2504-8W). This representation also includes defending Judge Peterson’s order quashing the subpoenas (Wis. Sup. Ct. 2014AP296; Wis. Ct. App. Nos. 2014AP417-421). In the Attorney General’s view, Judge Peterson’s order reflects a correct interpretation of the Wisconsin Statutes.

Put simply, representing the GAB's position in the CRG lawsuit would be in direct conflict with our representation of Judge Peterson in the Wisconsin Court of Appeals and Wisconsin Supreme Court. We believe that such dual representation would impair our ability to have full and frank attorney-client communications about these related matters. Moreover, while conflict walls may be appropriate in certain circumstances, we will not construct those walls to advance the tenuous legal positions asserted in the GAB's prior filings.

Based on these circumstances, we must respectfully decline your request for representation.

When the Attorney General declines representation in a case such as this, special counsel may be appointed under Wis. Stat. § 14.11. To request special counsel, you may call Brian Hagedorn at (608) 266-9676.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. P. Lenington', with a long horizontal line extending to the right.

Daniel P. Lenington  
Assistant Deputy Attorney General

DPL: pss