

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

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ERIC O'KEEFE, and  
WISCONSIN CLUB FOR GROWTH, INC.

Plaintiffs,

v.

Case No. 14cv139-rtr

FRANCIS SCHMITZ, in his official  
and personal capacities,  
JOHN CHISHOLM, in this official  
and personal capacities,  
BRUCE LANDGRAF, in his official  
and personal capacities,  
DAVID ROBLES, in his official  
and personal capacities,  
DEAN NICKEL, in his official  
and personal capacities,  
GREGORY PETERSON, in his  
official capacity,

Defendants.

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**DECLARATION OF REID MAGNEY**

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Pursuant to 28 U.S.C. § 1746, I, Reid Magney, hereby declare as follows:

1. I am an adult resident of Dane County, Wisconsin. I make this declaration based on my personal knowledge of the facts set forth below.

2. I am the Public Information Officer of the Wisconsin Government Accountability Board ("GAB"). I was hired to this position on July 20, 2009. I have initial and significant responsibilities associated with GAB responses to public records requests from the public, state

and local officials, media, interest groups, political parties, etc. In the exercise of these responsibilities, I have become well-versed in Wis. Stats. §§5.05(5s) and 12.13(5) as they relate to prohibitions regarding release of investigation information, including the full text of any complaints, as it is a criminal offense to make an unauthorized disclosure which would subject me up to 9 months in jail or a \$10,000 fine or both.

3. Any person may file a complaint with the board alleging a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19. If the board reviews a complaint and fails to find that there is a reasonable suspicion that a violation has occurred or is occurring, the board shall dismiss the complaint. If the board reviews a complaint, it must determine whether there is probable cause and issue findings. In addition, the board may resolve a complaint via a settlement agreement and civil forfeiture. The findings of no reasonable suspicion or no probable cause, along with settlement agreements and civil forfeitures are public records and may be disclosed pursuant to Wis. Stats. §§5.05(1)(c), 5.05(5s) and 12.13(5).

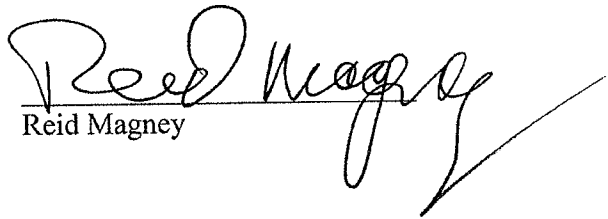
4. I am aware that the GAB has investigated members and candidates belonging to both the Republican and Democratic parties. I often receive requests from the media to comment on complaints filed and released publicly by both parties; however, I always refrain from commenting publicly other than to acknowledge receipt of a complaint that the complainant has already released publicly. Since working with the GAB, it has been my observation that an individual's or entity's affiliation with a political party or cause plays no role in the GAB's analysis of whether an investigation into violations of Wisconsin campaign finance laws should be commenced.

5. Even though Wisconsin law makes it a criminal offence to disclose any information about a possible investigation authorized by the GAB, I am specifically permitted to

provide the attached documents representing civil forfeitures, as well as findings of no reasonable suspicion or no probable cause. These records document GAB actions with regard to both Democrats and Republicans. They support my observations that the GAB approaches complaints and investigations in a nonpartisan manner and is not influenced by the partisan affiliations of complainants or respondents.

6. I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 14<sup>th</sup> day of April 2014.

  
Reid Magney

State of Wisconsin

Government Accountability Board

In the Matter of

SETTLEMENT AGREEMENT

Barrett for Wisconsin 0101475

GAB Case #2013-07-A

This agreement is entered into pursuant to the authority granted in §5.05 (1) (c), *Wisconsin Statutes*, for the purpose of settling a potential action for a violation of Chapter 11, *Wisconsin Statutes*. The parties hereto acknowledge and agree as follows:

1. That Friends of Tom Barrett d/b/a Barrett for Wisconsin, from 4/6/2012 to 6/5/2012, was a registered political committee with the Wisconsin Government Accountability Board.
2. That during that time, Friends of Tom Barrett d/b/a Barrett for Wisconsin benefitted from contributions from political committees totaling \$720,911.40.
3. That §11.26(9)(a) and §11.31(a), *Wisconsin Statutes*, establish that a candidate for governor may not take more than \$700,830 from all political committees during a campaign period (this is also known as the 65% limit).
4. That by accepting contributions over the amount of \$700,830, Friends of Tom Barrett d/b/a Barrett for Wisconsin was in violation of these provisions.
5. That Friends of Tom Barrett has agreed to forfeit the amount of the overage, \$20,081.40, to a charity or charities in settlement of this matter.
6. That Friends of Tom Barrett will provide a copy of the check or checks made out to each charity to the Government Accountability Board with this settlement agreement.

Catherine L. Shaw, Treasurer 1/13/14  
For Friends of Tom Barrett Date

KJ 2/19/14  
STATE OF WISCONSIN Date  
GOVERNMENT ACCOUNTABILITY  
BOARD

By: Kevin J. Kennedy  
Director and General Counsel

State of Wisconsin

RECEIVED  
Government Accountability Board

In the Matter of

2014 FEB 26 PM 2:35

Voces de la Frontera  
Action Committee

SETTLEMENT AGREEMENT  
GOVERNMENT ACCOUNTABILITY BOARD  
GAB Case #2014-01

This agreement is entered into pursuant to the authority granted in §5.05 (1) (c), *Wisconsin Statutes*, for the purpose of settling a potential action for a violation of Chapter 11, *Wisconsin Statutes*. The parties hereto acknowledge and agree as follows:

1. That the Voces de la Frontera Action Committee at all relevant times, was a registered independent disbursement committee with the Wisconsin Government Accountability Board.
2. That the Voces de la Frontera Action Committee produced and distributed mailers on November 13, 2013, supporting and opposing candidates in the 21<sup>st</sup> Assembly District Special Election, held on November 19, 2013.
3. That the Voces de la Frontera Action Committee did not properly amend an independent oath with the G.A.B. prior to making a disbursement and mailing independent literature in violation of §11.06(7), Wis. Stats.
4. That the Voces de la Frontera Action Committee has filed an independent oath with the G.A.B. on January 8, 2014, but it was not timely.
5. That §11.12(6), Wis. Stats., requires reporting within 24 hours of the disbursements during the 15 days preceding the election on November 19, 2013. Voces de la Frontera Action Committee filed a Special Report of Late Independent Disbursement on January 8, 2014, for independent disbursements greater than \$20. This report was filed 55 days late, in violation of §11.12(6), Wis. Stats.
6. That the Voces de la Frontera Action Committee has agreed to pay \$250.00 to the Government Accountability Board in settlement of this matter.

Elliott John Ray Magers February 5, 2014  
ELLIOTT MAGERS Date  
Administrator/Agent – Voces de la Frontera Action  
Committee

[Signature] 2/26/14  
STATE OF WISCONSIN Date  
GOVERNMENT ACCOUNTABILITY BOARD  
By: Kevin J. Kennedy  
Director and General Counsel

2008 Ethics and Accountability Division Forfeitures Paid			
Name	Amount	Program Area	Reason
Kristin Dexter	\$280	Campaign Finance	11.38 Corporate Contribution
Joel's Water Street Auto	\$280	Campaign Finance	11.38 Corporate Contribution
Anthony Evers	\$250	Campaign Finance	11.36(2) Soliciting Public Employee
Jeff Dickert	\$250	Campaign Finance	11.36(2) Soliciting Public Employee
Tamara Grigsby	\$1,000	Campaign Finance	Late Filing of Campaign Finance Report
Christine Sinicki	\$1,000	Campaign Finance	Late Filing of Campaign Finance Report
Scott Newcomer	\$1,000	Campaign Finance	Late Filing of Campaign Finance Report
Anette Polly Williams	\$1,000	Campaign Finance	Late Filing of Campaign Finance Report
Jason LaSage	\$250	Campaign Finance	Late Filing of Campaign Finance Report
Democratic Party of Wisconsin	\$200	Campaign Finance	Late Payment of Filing Fee
Outagamie Co Republican Party	\$200	Campaign Finance	Late Payment of Filing Fee
Kenosha Co Democratic Party	\$200	Campaign Finance	Late Payment of Filing Fee
Rep Party of Milwaukee Co	\$200	Campaign Finance	Late Payment of Filing Fee
State Senate Democratic Comm	\$200	Campaign Finance	Late Payment of Filing Fee
Metro Milw Assn of Commerce	\$200	Campaign Finance	Late Payment of Filing Fee
WPSR Employees PAC	\$200	Campaign Finance	Late Payment of Filing Fee
WI Nurses PAC	\$200	Campaign Finance	Late Payment of Filing Fee
Sprinkler Fitters Local 183	\$200	Campaign Finance	Late Payment of Filing Fee
UNITE-HERE WI STATE COUNCIL PAC	\$200	Campaign Finance	Late Payment of Filing Fee
Assurant Inc PAC	\$200	Campaign Finance	Late Payment of Filing Fee
Service Employees Local 150	\$200	Campaign Finance	Late Payment of Filing Fee
Murphy Oil Corp PAC	\$200	Campaign Finance	Late Payment of Filing Fee
Automobile Club of Michigan	\$200	Campaign Finance	Late Payment of Filing Fee
Community Bankers of WI PAC	\$200	Campaign Finance	Late Payment of Filing Fee
WI Physicians/Dentists PAC	\$200	Campaign Finance	Late Payment of Filing Fee
Dean Health System	\$200	Campaign Finance	Late Payment of Filing Fee
WI PAC, Chicago Reg Carpenters	\$200	Campaign Finance	Late Payment of Filing Fee
Zeneca Inc PAC	\$200	Campaign Finance	Late Payment of Filing Fee
Mark Radcliffe - Radcliffe for Assembly	\$150	Campaign Finance	Failure to Have Proper Disclaimer on Campaign Material

Dick Skare - Skare for Assembly	\$300	Campaign Finance	Failure to Have Proper Disclaimer on Campaign Material
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Year	Name	Amount	Program Area	Reason
2009	Buckel for Assembly	\$50.00	Campaign Finance	Failure to include disclaimer on political communication
2009	Hannah M. Huffman	\$200.00	Ethics	Failing to inform Chief Clerk in advance of using vacation to engage in campaign activities
2009	Anthony S. Evers	\$250.00	Campaign Finance/Ethics	Improper solicitation of contributions from government employees
2009	Baeb 4 Assembly	\$250.00	Campaign Finance	Late July 2009 Continuing Report
2009	Cathy Stepp for State Senate	\$250.00	Campaign Finance	Late July 2009 Continuing Report
2009	David Nickel	\$250.00	Campaign Finance	Late January 2009 Continuing Report
2009	Humane USA PAC	\$250.00	Campaign Finance	Late January 2009 Continuing Report
2009	Jason LaSage	\$250.00	Campaign Finance	Late January 2009 Continuing Report
2009	Jeffrey Dickert	\$250.00	Campaign Finance/Ethics	Improper solicitation of contributions from government employees
2009	Jess Kufahl	\$250.00	Campaign Finance	Late January 2009 Continuing Report
2009	Oneida Tribe of Indians of WI	\$250.00	Campaign Finance	Late July 2009 Continuing Report
2009	SEIU Local 1, WI Workers Fund	\$250.00	Campaign Finance	Late July 2009 Continuing Report
2009	Western WI Rep Conduit	\$250.00	Campaign Finance	Late July 2009 Continuing Report
2009	Joel's Water Street Auto, Inc.	\$280.00	Campaign Finance	Improper corporate contribution
2009	Kristen Dexter for Assembly	\$280.00	Campaign Finance	Improper corporate contribution
2009	Phillip Hees	\$300.00	Campaign Finance	Exceed annual aggregate contribution limits
2009	State Rep. Pridemore	\$300.00	Ethics	Use of state resources for political purpose
2009	Bill Savage	\$500.00	Ethics	Use of state resources for political purpose
2009	Democratic Legislative Campaign Committee	\$500.00	Campaign Finance/Ethics	Soliciting public employee for service of political purpose
2009	Mark Neumann for Governor	\$500.00	Campaign Finance/Ethics	Soliciting public employee for service of political purpose
2009	Annette Polly Williams	\$1,000.00	Campaign Finance	Late January 2009 Continuing Report
2009	Christine Sinicki	\$1,000.00	Campaign Finance	Late January 2009 Continuing Report
2009	Scott Newcomer	\$1,000.00	Campaign Finance	Late January 2009 Continuing Report
2009	Tamara Grigsby	\$1,000.00	Campaign Finance	Late January 2009 Continuing Report
2009	Pierre McCormick	\$1,375.00	Campaign Finance	Exceed annual aggregate contribution limits
2009	Donald Becker	\$2,250.00	Campaign Finance	Exceed annual aggregate contribution limits
2009	Stacey Herzog	\$3,200.00	Campaign Finance	Exceed annual aggregate contribution limits
2009	Jerome Frutschi	\$3,375.00	Campaign Finance	Exceed annual aggregate contribution limits
2009	Kevin Dabney	\$6,000.00	Campaign Finance	Exceed annual aggregate contribution limits
2009	Gary Goyke	\$6,449.07	Campaign Finance	Exceed annual aggregate contribution limits
2010	Daeryk Enterprises, LLC	\$20.00	Campaign Finance	Improper corporate contribution
2010	Amy Winters	\$25.00	Campaign Finance/Ethics/Lob	Improper lobbyist contribution
2010	Greg Chesmore	\$25.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution
2010	Jason Childress	\$30.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution
2010	Kerry Thomas	\$35.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution
2010	Democratic Party of WI	\$37.50	Campaign Finance	Improper corporate contribution
2010	Peter Barca	\$37.50	Campaign Finance	Improper corporate contribution
2010	Michael Woodzicka	\$40.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution
2010	Paul Jadin	\$50.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution
2010	Robert Kraig	\$50.00	Campaign Finance/Ethics/Lob	Improper lobbyist contribution
2010	Susan McNeely	\$50.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution
2010	Bjorn's Formal Wear	\$75.00	Campaign Finance	Improper corporate contribution
2010	Chippewa County Rep. Party	\$75.00	Campaign Finance	Improper corporate contribution
2010	Vilas County Republican Organization	\$81.00	Campaign Finance	Improper corporate contribution
2010	Burton Wagner	\$100.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution
2010	Christine Neumann-Ortiz	\$100.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution
2010	David Grass	\$100.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution
2010	Judge Tim Doyle	\$100.00	Ethics	Use of state resources for political purposes
2010	Kristine Krause	\$100.00	Campaign Finance/Lobbying/E	Improper lobbyist contribution

2010	Mario Mendoza	\$100.00	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	Michael Slattery	\$100.00	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	Paul Norman	\$100.00	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	Stan Davis	\$100.00	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	Stephanie Bloomingdale	\$100.00	Campaign Finance/Ethics/Lob	Improper lobbyist contribution
2010	Thom Ciske	\$100.00	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	American Federation for Children Action Fund, Inc	\$150.00	Campaign Finance	Failure to amend independent oath prior to expenditure
2010	Chippewa Valley Lock & Key, LLC	\$150.00	Campaign Finance	Improper corporate contribution
2010	James Jansen	\$150.00	Campaign Finance	Exceed annual aggregate contribution limits
2010	Mark Fremgen - Fremgen for Judge	\$150.00	Campaign Finance	Improper corporate contribution
2010	William Minahan	\$150.00	Campaign Finance	Exceed annual aggregate contribution limits
2010	Rep. Party of Milwaukee County	\$165.00	Campaign Finance	Improper corporate contribution
2010	Linda Bochert	\$175.18	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	American Indian Chamber of Commerce of WI, Inc	\$200.00	Campaign Finance	Improper corporate contribution
2010	Carnival Spitz, LLC	\$200.00	Campaign Finance	Improper corporate contribution
2010	Digital Printing Innovations, LLC	\$200.00	Campaign Finance	Improper corporate contribution
2010	Rep. Fred Kessler	\$200.00	Campaign Finance/Ethics	Use of State resources for political purposes
2010	Rob Kreibich	\$200.00	Campaign Finance	Unlawful investment of political contributions
2010	William Mielke	\$200.00	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	Clark for Wisconsin	\$250.00	Campaign Finance	Improper corporate contribution
2010	Dennis Puz, Jr.	\$250.00	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	MTEA Political Action Contribution Fund	\$250.00	Campaign Finance	Late Fall 2010 Pre-Primary Report
2010	Rep. Party of Milwaukee County	\$250.00	Campaign Finance	Late July 2010 Continuing Report
2010	RGA Wisconsin 2010 PAC	\$250.00	Campaign Finance	Failure to file independent oath prior to expenditure
2010	Sheboygan Education Association PAC	\$250.00	Campaign Finance	Late January 2010 Continuing Report
2010	West Allis Professional Police Assn PAC	\$250.00	Campaign Finance	Late July 2010 Continuing Report
2010	WI Mortgage Bankers Association	\$250.00	Campaign Finance	Late January 2010 Continuing Report
2010	WI Nurses PAC (WIN PAC)	\$250.00	Campaign Finance	Failure to file independent oath prior to expenditure
2010	Spencer Coggs	\$300.00	Campaign Finance	Improper corporate contribution
2010	Friends of Kelly Thimm	\$375.00	Campaign Finance	Improper corporate contribution
2010	Mark Block	\$450.00	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	Joseph Kachelski	\$475.00	Campaign Finance/Lobbying/B	Improper lobbyist contribution
2010	Friends of Kelly Thimm	\$500.00	Campaign Finance	Improper corporate contribution
2010	Rep. Party of Milwaukee County	\$500.00	Campaign Finance	Late January 2010 Continuing Report
2010	Dem. Party of Columbia County	\$690.00	Campaign Finance	Improper corporate contribution
2010	Check Into Cash	\$750.00	Campaign Finance	Improper corporate contribution
2010	Grace Thomsen	\$1,350.00	Campaign Finance	Exceed annual aggregate contribution limits
2010	David L. DeBruin	\$1,634.00	Campaign Finance	Exceed annual aggregate contribution limits
2010	Robert Habush	\$1,725.00	Campaign Finance	Exceed annual aggregate contribution limits
2010	William Cannon	\$2,066.69	Campaign Finance	Exceed annual aggregate contribution limits
2010	Oneida Nation of Wisconsin	\$6,050.00	Campaign Finance	Improper corporate contribution
2010	Grant Abert	\$7,500.00	Campaign Finance	Exceed annual aggregate contribution limits 2008 & 2009
2010	William Gardner	\$166,900.00	Campaign Finance/Ethics	Laundering campaign contributions
2011	1000 Friends of Wisconsin, Inc.	\$25.00	Lobbying	Late reporting of lobbying interests
2011	American Family Insurance Group	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Americans for Prosperity	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Americash Loans of WI, LLC	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Beloit Beverage	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Boldt Construction	\$25.00	Lobbying	Late reporting of lobbying interests
2011	CG Schmidt	\$25.00	Lobbying	Late reporting of lobbying interests

failure to file special report of late independent disbursement

2011	Construction Labor Management Council	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Deere & Company	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Gibane Building Company	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Ground Water Management & Water Conservation	\$25.00	Lobbying	Late reporting of lobbying interests
2011	IOD Inc.	\$25.00	Lobbying	Late reporting of lobbying interests
2011	League of Independent Voters	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Midwest Consumers for Choice and Competition	\$25.00	Lobbying	Late reporting of lobbying interests
2011	PLS Financial Services	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Printing Industries of Wisconsin	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Radtke Contractors, Inc.	\$25.00	Lobbying	Late reporting of lobbying interests
2011	S.P.E.I.C. Council 1	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Speedy Loan	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Thomas Fontara	\$25.00	Lobbying	Late reporting of lobbying interests
2011	T-Mobile	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Whyte Hirschboeck Dudek S.C.	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Wisconsin Academy of Physician Assistants	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Wisconsin Brewers Guild Inc.	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Wisconsin Crop Production Association	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Wisconsin Ready Mixed Concrete Association	\$25.00	Lobbying	Late reporting of lobbying interests
2011	Bicycle Federation of Wisconsin	\$75.00	Lobbying	Late reporting of lobbying interests
2011	Communications Workers for America D-4	\$75.00	Lobbying	Late reporting of lobbying interests
2011	Institute for Justice	\$75.00	Lobbying	Late reporting of lobbying interests
2011	Kerry Thomas Design & Communic	\$75.00	Lobbying	Late reporting of lobbying interests
2011	Martin Schreiber & Associates, Inc.	\$75.00	Lobbying	Late reporting of lobbying interests
2011	Marvin Walker	\$75.00	Lobbying	Improper Lobbyist Contribution
2011	Steve Brown Apartments	\$75.00	Lobbying	Late reporting of lobbying interests
2011	United Staff Union	\$75.00	Lobbying	Late reporting of lobbying interests
2011	Wisconsin Early Childhood Association, Inc.	\$75.00	Lobbying	Late reporting of lobbying interests
2011	Venture Investors, LLC	\$125.00	Lobbying	Late reporting of lobbying interests
2011	America Votes	\$175.00	Lobbying	Late reporting of lobbying interests
2011	Madison Metropolitan Sewerage District	\$175.00	Lobbying	Late reporting of lobbying interests
2011	Wisconsin Psychological Association Inc.	\$175.00	Lobbying	Late reporting of lobbying interests
2011	Wisconsin Professional Police Assn., Inc.	\$200.00	Lobbying	Late reporting of lobbying interests
2011	Wisconsin Association of Homes and Services for t	\$225.00	Lobbying	Late reporting of lobbying interests
2011	Americans for Prosperity	\$250.00	Lobbying	Late Statement of Lobbying and Expenditures Report
2011	Polly Van Dyke	\$300.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	Time Warner Cable	\$375.00	Lobbying	Late reporting of lobbying interests
2011	Brotherhood of Maintenance Way Employees Divis	\$500.00	Lobbying	Late reporting of lobbying interests
2011	Association of Wisconsin School Administrators, In	\$700.00	Lobbying	Late reporting of lobbying interests
2011	Barbara Frank	\$750.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	Colleen Lange	\$750.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	Dolores Roehl	\$750.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	David Walsh	\$753.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	Richard Pleper	\$1,125.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	David Herro	\$1,500.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	Judith Court	\$1,740.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	John Butler	\$4,000.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	Robert Reich	\$4,500.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	Trygve Solberg	\$4,650.00	Campaign Finance	Exceed annual aggregate contribution limits
2011	Dennis Klein	\$6,151.50	Campaign Finance	Exceed annual aggregate contribution limits
2011	Edward Zore	\$6,600.00	Campaign Finance	Exceed annual aggregate contribution limits

2013 Robert Fettig	\$9,225.00	Campaign Finance	Exceed annual aggregate contribution limits
2012 Charles Kahn and Patti Keating Kahn	\$10.00	Ethics	Late SEI
2012 David or Sheryl Laehn	\$10.00	Ethics	Late SEI
2012 James Conterato or Stephanie Lynn Deuser	\$10.00	Ethics	Late SEI
2012 Brotherhood of Maintenance of Way Employees District 1	\$25.00	Lobbying	Late reporting of lobbying interests
2012 Lesley Salas	\$25.00	Lobbying	Late reporting of lobbying interests
2012 Milwaukee Police Association	\$25.00	Lobbying	Fee for State Lobby Report
2012 National Seating & Mobility, Inc.	\$25.00	Lobbying	Late reporting of lobbying interests
2012 Vetransfer, Inc.	\$25.00	Lobbying	Late reporting of lobbying interests
2012 Vetransfer, Inc.	\$25.00	Lobbying	Late reporting of lobbying interests
2012 Wireless Generation	\$25.00	Lobbying	Late reporting of lobbying interests
2012 Wisconsin Manufacturing Extension Partnership	\$25.00	Lobbying	Late reporting of lobbying interests
2012 Wisconsin Mining Association, Inc.	\$25.00	Lobbying	Late reporting of lobbying interests
2012 Wisconsin State Attorneys Association	\$25.00	Lobbying	Late reporting of lobbying interests
2012 Wonderlic, Inc.	\$25.00	Lobbying	Late reporting of lobbying interests
2012 S.P.E.C. Council 1	\$50.00	Lobbying	Late reporting of lobbying interests
2012 Madison Area Builders Association	\$75.00	Lobbying	Late reporting of lobbying interests
2012 Miron Construction	\$75.00	Lobbying	Late reporting of lobbying interests
2012 National Association of Chain Drug Stores	\$75.00	Lobbying	Late reporting of lobbying interests
2012 Supporting Families Together Association	\$75.00	Lobbying	Late reporting of lobbying interests
2012 Wisconsin Literacy, Inc.	\$75.00	Lobbying	Late reporting of lobbying interests
2012 Jeffrey Greene	\$100.00	Campaign Finance/Ethics	Improper solicitation of political service via government email
2012 Amalgamated Transit Union, Local 998	\$250.00	Lobbying	Late reporting of lobbying interests
Campaign Fund of Metropolitan Milwaukee Assn. of Commerce Political Action Committee MAC			
2012 PAC - RECALL	\$500.00	Campaign Finance	Acceptance of contributions over allowable limits. Exceeded contribution limits to state candidate committee.
2012 Margery Uihlein	\$675.00	Campaign Finance	Exceed annual aggregate contribution limits
2012 Bladen Burns	\$750.00	Campaign Finance	Exceed annual aggregate contribution limits
2012 Robert Hillis	\$894.00	Campaign Finance	Exceed annual aggregate contribution limits
2012 Helen Houla	\$5,175.00	Campaign Finance	Exceed annual aggregate contribution limits
2013 Grant Abert	\$675.00	Campaign Finance	Exceed annual aggregate contribution limits
2013 Anthony Bryant	\$555.00	Campaign Finance	Exceed annual aggregate contribution limits
2013 David DeBruin	\$187.50	Campaign Finance	Exceed annual aggregate contribution limits
2013 Henry Lord	\$1,875.00	Campaign Finance	Exceed annual aggregate contribution limits
2013 William Lynch	\$975.00	Campaign Finance	Exceed annual aggregate contribution limits
2013 Friends of Scott Walker	\$150.00	Campaign Finance	Improper corporate contribution
2013 Rally in the Fox Valley	\$150.00	Campaign Finance	Improper corporate contribution
2013 Morris Andrews	\$500.00	Lobbying	Improper Lobbyist Contribution
2013 Richard Badger	\$270.00	Lobbying	Improper Lobbyist Contribution
2013 Michael Barr	\$50.00	Lobbying	Improper Lobbyist Contribution
2013 Denny Caneff	\$100.00	Lobbying	Improper Lobbyist Contribution
2013 John Engel	\$150.00	Lobbying	Improper Lobbyist Contribution
2013 David Fladeboe	\$50.00	Lobbying	Improper Lobbyist Contribution
2013 Scott Froehke	\$100.00	Lobbying	Improper Lobbyist Contribution
2013 Karen Geiger	\$50.00	Lobbying	Improper Lobbyist Contribution
2013 John Grabel	\$20.00	Lobbying	Improper Lobbyist Contribution
2013 Jodi Habush Snykin	\$250.00	Lobbying	Improper Lobbyist Contribution
2013 Mark Hazelbaker	\$750.00	Lobbying	Improper Lobbyist Contribution
2013 John Hendrick	\$148.00	Lobbying	Improper Lobbyist Contribution

2013	Charles Higley	\$550.00	Lobbying	Improper Lobbyist Contribution
2013	Frank Jablonski	\$35.00	Lobbying	Improper Lobbyist Contribution
2013	Peter Jaskoski	\$500.00	Lobbying	Improper Lobbyist Contribution
2013	Ted Kanavas	\$100.00	Lobbying	Improper Lobbyist Contribution
2013	Kristin Kerschesteiner	\$360.00	Lobbying	Improper Lobbyist Contribution
2013	Kira Loehr	\$50.00	Lobbying	Improper Lobbyist Contribution
2013	Jeffrey Lord	\$2,500.00	Lobbying	Improper Lobbyist Contribution
2013	Charles Luthin	\$100.00	Lobbying	Improper Lobbyist Contribution
2013	Salli Martyniak	\$250.00	Lobbying	Improper Lobbyist Contribution
2013	Susan McMurray	\$20.00	Lobbying	Improper Lobbyist Contribution
2013	George Meyer	\$100.00	Lobbying	Improper Lobbyist Contribution
2013	Allison Miller	\$75.00	Lobbying	Improper Lobbyist Contribution
2013	Katie Nekola	\$250.00	Lobbying	Improper Lobbyist Contribution
2013	Brian O'Connell	\$110.00	Lobbying	Improper Lobbyist Contribution
2013	William Perkins	\$410.00	Lobbying	Improper Lobbyist Contribution
2013	Robert Peterson	\$900.00	Lobbying	Improper Lobbyist Contribution
2013	Scott Peterson	\$50.00	Lobbying	Improper Lobbyist Contribution
2013	John Reinemann	\$50.00	Lobbying	Improper Lobbyist Contribution
2013	Karen Royster	\$25.00	Lobbying	Improper Lobbyist Contribution
2013	Nicole Safer	\$150.00	Lobbying	Improper Lobbyist Contribution
2013	Anne Sayers	\$50.00	Lobbying	Improper Lobbyist Contribution
2013	Jeffrey Spitzer-Resnick	\$40.00	Lobbying	Improper Lobbyist Contribution
2013	Kerry Thomas	\$150.00	Lobbying	Improper Lobbyist Contribution
2013	Jessica Ulstad	\$200.00	Lobbying	Improper Lobbyist Contribution
2013	Nicholas Zavos	\$100.00	Lobbying	Individual Limits
2013	Ramie Zelenkova	\$1,750.00	Campaign Finance	Individual Limits
2013	Cowles for Senate	\$240.00	Campaign Finance	Individual Limits
2013	Friends of Steve Doyle	\$70.00	Campaign Finance	Individual Limits
2013	Friends of Julie Lassa	\$354.00	Campaign Finance	Individual Limits
2013	Friends of Sam's Kerkman Klub	\$925.00	Campaign Finance	Individual Limits
2013	Comm to Elect Lena C. Taylor	\$250.00	Campaign Finance	Individual Limits
2013	Citizens for Tiffany	\$600.00	Campaign Finance	Individual Limits
2013	People for Kleefisch	\$650.00	Campaign Finance	Individual Limits
2013	Friends and Neighbors of Robin Vos	\$696.00	Campaign Finance	Individual Limits
2013	Citizens for Kramer	\$750.00	Campaign Finance	Individual Limits
2013	Tranel for Assembly	\$1,718.00	Campaign Finance	Individual Limits
2013	Friends of Jessica King	\$250.00	Campaign Finance	Individual Limits
2013	Taxpayers for Marklein	\$350.00	Campaign Finance	Individual Limits
2013	Friends of Tom Larson	\$250.00	Campaign Finance	Individual Limits
2013	Janet Bewley for Assembly	\$500.00	Campaign Finance	Individual Limits
2013	People for Rebecca	\$150.00	Campaign Finance	Individual Limits
2013	Friends of Sarah Ann Shanahan	\$66.70	Campaign Finance	Individual Limits
2013	Friends of Kathy Bernier	\$254.00	Campaign Finance	Individual Limits
2013	Friends of Brett Hulsey	\$100.00	Campaign Finance	Individual Limits
2013	Forward with JoCasta	\$500.00	Campaign Finance	Individual Limits
2013	Roger Rivard for Assembly	\$1,350.00	Campaign Finance	Individual Limits
2013	Rick Gudex for Senate	\$100.00	Campaign Finance	Individual Limits
2013	Committee to Elect Lori Compas	\$200.00	Campaign Finance	Individual Limits
2013	Friends of Pat Snyder	\$113.31	Campaign Finance	Individual Limits
2013	Citizens for Eric Toney	\$308.00	Campaign Finance	Individual Limits
2013	Mary Czaja for Assembly			

2013	Nancy VanderMeer 4 Wisconsin	\$1,000.00	Campaign Finance	Individual Limits
2013	Steven Harvey for DA	\$95.00	Campaign Finance	Individual Limits
2013	Scott Fitzgerald for Senate	\$1,500.00	Campaign Finance	Individual Limits
2013	Scott Krug for Assembly	\$1,500.00	Campaign Finance	Individual Limits
2013	Jim Steineke for Assembly	\$500.00	Campaign Finance	Individual Limits
2013	Friends of Steve Nass	400.00	Campaign Finance	Committee Limits
2013	Friends of Robert W. Wirch	347.35	Campaign Finance	Committee Limits
2013	Mary Williams for 87th District Assembly	537.00	Campaign Finance	Committee Limits
2013	Citizens for Tiffany	390.00	Campaign Finance	Committee Limits
2013	Friends of Donna Seidel	500.00	Campaign Finance	Committee Limits
2013	Mursau for Assembly	337.00	Campaign Finance	Committee Limits
2013	Friends of Andy Jorgenson	1,187.00	Campaign Finance	Committee Limits
2013	Friends of Jessica King	280.00	Campaign Finance	Committee Limits
2013	Janet Bewley for Assembly	250.00	Campaign Finance	Committee Limits
2013	Weininger for Assembly	87.00	Campaign Finance	Committee Limits
2013	Roger L Rivard for Assembly	87.00	Campaign Finance	Committee Limits
2013	Friends of Mike Kuglitsch	250.00	Campaign Finance	Committee Limits
2013	Stroebel for Assembly	350.00	Campaign Finance	Committee Limits
2013	Billings for Assembly	500.00	Campaign Finance	Committee Limits
2013	Smith for the 75th	798.78	Campaign Finance	Committee Limits
2013	Citizens for Smriga	1,839.79	Campaign Finance	Committee Limits
2013	Justin Pluess for Assembly	950.00	Campaign Finance	Committee Limits
2013	Fallone for Justice	650.00	Campaign Finance	Committee Limits
2013	Scott Fitzgerald for Senate	\$1,225.00	Campaign Finance	Committee Limits
2013	Friends of Van Waangaard	\$275.00	Campaign Finance	Committee Limits
2013	Wisconsin Family Action	\$475.00	Lobbying	Late reporting of lobbying interests
2013	Voces de la Frontera	\$250.00	Lobbying	Late Statement of Lobbying Activities and Expenditures
2013	State Rep. Hesselbein	\$200.00	Ethics	Use of state resources for political purpose

# Government Accountability Board

## State of Wisconsin

212 E. Washington Ave., Third Floor • Madison, WI 53703 • [gab@wi.gov](mailto:gab@wi.gov) • (608) 266-8005 • Help Desk (608) 261-2028 • <http://gab.wi.gov>

FOR IMMEDIATE RELEASE:  
March 25, 2010

FOR MORE INFORMATION, CONTACT:  
Reid Magney, 608-267-7887

### G.A.B. Announces Excessive Contribution Actions

MADISON, WI – The Government Accountability Board has collected more than \$23,000 in forfeitures from seven people who violated the state's \$10,000 campaign contribution limit in 2008.

The Board investigated 14 individuals who appeared to have violated Wisconsin law prohibiting individuals from making more than \$10,000 in contributions to state and local political candidates and committees in a calendar year. Investigators determined that seven of the individuals had not violated the law, based on the individuals providing documentation that contributions should have been partially attributed to a spouse.

The Board pursued action against seven individuals, and they have paid forfeitures totaling \$23,499.07. The amount of the forfeiture was generally one-and-a-half times the amount of the excess contributions, although the Board approved some smaller forfeitures based on unique circumstances. The following individuals have paid forfeitures:

Individual	2008 Aggregate Contribution Total	Forfeiture Paid
Donald Becker	\$11,500	\$2,250
Kevin Dabney	\$14,000	\$6,000
Jerome Frautschi	\$11,500	\$3,375
Gary Goyke	\$14,074.38	\$6,449.07
Philip Hees	\$10,100	\$300
Stacey Herzing	\$18,125	\$3,200
Pierre McCormick	\$11,250	\$1,875

In Wisconsin's campaign finance law, the Legislature declared that "excessive spending on campaigns for public office jeopardizes the integrity of elections." In addition to setting limits on contributions to a specific candidate for a particular public office during a campaign cycle, the law also sets a \$10,000 limit on an individual's total contributions each calendar year to any combination of Wisconsin candidates or political committees. (*s. 11.26(4) Wis. Stats.*)

Forfeitures collected by the Board are deposited in the State's Common School Fund.

Board staff is now auditing 2009 campaign contributions.

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The Government Accountability Board is responsible for administration and enforcement of campaign finance, elections, ethics and lobbying laws in Wisconsin. The board is made up of six non-partisan, former judges and is supported by an agency of non-partisan staff members. Additional information about the mission of the Government Accountability Board is available by telephone at 608-266-8005, by electronic mail at [gab@wi.gov](mailto:gab@wi.gov), or through the Internet at <http://gab.wi.gov>.

# State of Wisconsin \ Government Accountability Board

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JUDGE DAVID G. DEININGER  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the August 28, 2012 Board Meeting

**TO:** Members, Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:  
Jonathan Becker, Ethics and Accountability Division Administrator  
Michaël Haas, Staff Counsel

**SUBJECT:** Heritage Alliance Voter Guide

### Summary

Heritage Alliance is a 501(c)(4) non-profit organization based in Dallas, Texas, which publishes a Voter Guide on its website. The Voter Guide issues grades for political candidates in several states based upon their positions on various public issues. The Heritage Alliance has sought the Board's advice as to whether the organization must register with the G.A.B. and file campaign finance reports of funds raised and spent related to the Voter Guide as a political communication. Attached is correspondence from the Heritage Alliance presenting arguments as to why it believes the Voter Guide does not qualify as a political communication under Wisconsin Statutes and GAB 1.28, Wis. Adm. Code.

Also attached are screenshots from the Voter Guide, and staff will attempt to set up the technology necessary to display the website at the Board meeting. Board members may view the Heritage Alliance website and Voter Guide by entering a Wisconsin address at <http://www.heritagealliance.com/voter-guide.php>. Board staff is seeking the Board's input and determination regarding the characterization of the Voter Guide as either a political communication subject to campaign finance regulation or an issue ad which is not subject to such regulation. In the opinion of Board staff, the Voter Guide is not subject to regulation pursuant to GAB 1.28.

### Applicable Law

Wis. Stat. §11.05 requires political committees and independent disbursement organizations to register with the G.A.B. and file campaign finance reports when they accept contributions or make expenditures exceeding \$25 in a calendar year for political purposes. A disbursement is for a political purpose when it is made for the purpose of influencing the election or nomination for election of any individual to state or local office. *Wis. Stat. §11.05(16)*.

As the Board is aware, Section GAB 1.28, Wis. Adm. Code, attempts to further define the communications which are subject to campaign finance regulations. A copy of the complete administrative rule is attached, and the Board's open session agenda also includes consideration of a Guideline intended to educate the public and stakeholders about the regulation. The relevant administrative rule language is contained in GAB 1.28(3)(b), referring to a communication which is "susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate," and which lists several factors the Board may consider to determine if a communication is subject to regulation.

#### Heritage Alliance Voter Guide

The Heritage Alliance Voter Guide assigns grades to both incumbents and challengers, for the Republican Partisan Primary and the General Election. The Guide lists candidates for both federal and state offices. The attached exhibits illustrate the candidate information and grades for Republican candidates in a selected State Senate election. The assigned grades reflect a panel's assessment regarding the likelihood that the candidate will govern consistent with certain identified values. The Voter Guide may assign the same grade to opposing candidates, and it contains a disclaimer that the Heritage Alliance does not support or oppose candidates.

The correspondence submitted by the Heritage Alliance asserts that the Voter Guide is not subject to regulation under GAB 1.28 because it is susceptible of a reasonable interpretation other than as an appeal to vote for or against a specific candidate. In support of this argument the correspondence notes that several candidates for the same office may receive the same grade, and that no particular grade results in the organization supporting or opposing a candidate. Applying the standards of GAB 1.28, it also asserts that the Voter Guide does not refer to the personal qualities, character, or fitness of a candidate, and does not support or condemn a particular candidate's position or public record. The Heritage Alliance concludes that its Voter Guide can reasonably be interpreted as a way to educate voters about publicly available information combined with the opinions of conservative leaders in the local community, and is therefore not subject to regulation under Chapter 11 and GAB 1.28.

Given the Board's ongoing efforts to apply the provisions of GAB 1.28 to actual examples of communications, Board staff is seeking the Board's input regarding the Heritage Alliance Voter Guide. The perspective of the Heritage Alliance and its general political philosophy is clear from the Voter Guide and the website containing it. However, the Voter Guide does not expressly advocate for the election or defeat of any specific candidate, and applying campaign finance regulations to expenditures related to it appear problematic, given the "susceptible of no reasonable interpretation" language in GAB 1.28.

In the opinion of Board staff, the Voter Guide may be reasonably interpreted as an effort to provide information to voters about candidates and inviting voters to make their own conclusions regarding the quality of the candidates, whether or not the voter agrees with the Heritage Alliance's political perspective and priorities. In that case, the Voter Guide is susceptible of reasonable interpretations other than as an appeal to vote for or against a specific candidate. Board staff recommends that the Board approve this determination based upon the findings outlined below. Including specific findings will help the Board to establish a body of decisions which may assist in evaluating future cases, and promote consistency in the Board's determinations.

**Recommended Motion:**

The Board advises that the Heritage Alliance Voter Guide does not constitute a political communication pursuant to Wisconsin Statutes Chapter 11 and GAB 1.28, and is not subject to campaign finance registration and reporting requirements. This determination is based upon the following findings by the Board:

1. The Heritage Alliance Voter Guide does not contain terms listed in GAB 1.28(3)(a), Wis. Adm. Code, or their functional equivalents with reference to a clearly identified candidate or unambiguously related to a campaign of a candidate. The Voter Guide contains references to candidates but not terms such as "vote for," "support," or "defeat."
2. The Voter Guide was created and published during the period beginning 30 days preceding the Partisan Primary and presumably will remain published with regard to nominated candidates during the period beginning 60 days preceding the 2012 General Election.
3. The Voter Guide does contain subjective evaluations and judgments regarding the personal qualities, character, and fitness of various candidates for state office, based upon the political perspectives and priorities of the Heritage Alliance. The Voter Guide and the Heritage Alliance website may lead a reader to imply that the candidate's position on issues or public record is being supported or condemned in comparison to other candidates.
4. Although the Voter Guide assigns subjective grades to the candidates who are evaluated, and that information is located on the same website which promotes the views of the Heritage Alliance, it does not unambiguously support or condemn a candidate's position or stance on issues or the candidate's public record.
5. Given that the Voter Guide and the Heritage Alliance website contain information which a reader may interpret as referring to the personal qualities, character, or fitness, and as supporting or opposing a candidate in comparison to other candidates, one reasonable interpretation of the Voter Guide is that it is a communication that is an appeal to vote for or against specific candidates listed in the Guide.
6. Another reasonable interpretation of the Voter Guide is that it is a communication that only provides information to voters about candidates and invites voters to make their own conclusions regarding the quality of the candidates, whether or not the voter agrees with the Heritage Alliance's political perspective and priorities. This interpretation would conclude that the Voter Guide, while summarizing and assessing the candidates' position on issues, does not specifically support or condemn those positions.
7. Because the Heritage Alliance's Voter Guide is susceptible of more than one reasonable interpretation, and one such interpretation is other than an appeal to vote for or against a specific candidate, the Voter Guide is not a communication that is made for a political purpose under the provisions of Chapter 11 and GAB 1.28, Wis. Adm. Code.

# State of Wisconsin \ Government Accountability Board

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JUDGE DAVID G. DEININGER  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the December 18, 2012 Board Meeting

**TO:** Members, Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:  
Michael Haas, Staff Counsel  
Kathleen Marschman, Legal Intern

**SUBJECT:** Billy Graham Evangelistic Association Advertisements

### Summary

The Billy Graham Evangelistic Association (Association) is a 501(c)(3) non-profit organization based in Charlotte, North Carolina, which sponsored two print advertisements in the days prior to the General Election of November 6, 2012. The Board received a complaint from the Freedom From Religion Foundation (Foundation) alleging that the advertisements constituted political communication, thereby requiring the Association to register with the G.A.B. and file campaign finance reports to disclose funds raised and spent related to the advertisements. A copy of the complaint is attached.

The Foundation alleges similar full-page advertisements were published in the October 21, 2012 Wisconsin State Journal and the October 28, 2012 Wisconsin State Journal and Milwaukee Journal Sentinel. Attached is a photocopy supplied by the Foundation and described as the text of a full-page advertisement purported to have appeared in the Wisconsin State Journal on October 21, 2012.

Board staff is seeking the Board's input and determination regarding the characterization of the advertisements of the Association as either political communications subject to campaign finance regulation or issue ads which are not subject to such regulation. In the opinion of Board staff, the advertisements are not subject to regulation pursuant to GAB 1.28, Wis. Adm. Code.

### Applicable Law

Wis. Stat. §11.05 requires political committees and independent disbursement organizations to register with the G.A.B. and file campaign finance reports when they accept contributions or make expenditures exceeding \$25 in a calendar year for political purposes. A disbursement is for a political purpose when it is made for the purpose of influencing the election or nomination for election of any individual to state or local office. *Wis. Stat. §11.05(16)*.

As the Board is aware, Section GAB 1.28, Wis. Adm. Code, attempts to further define the communications which are subject to campaign finance regulations. A copy of the complete administrative rule is attached. There are two distinct tests under GAB 1.28(3) by which a communication is considered to be for a political purpose. The first requires the communication to contain certain enumerated terms, or their functional equivalents, in conjunction with reference to a clearly identified candidate and unambiguously relate to the campaign of that candidate. *GAB 1.28(3)(a), Wis. Adm. Code.* The other refers to a communication which is "susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate," and lists several factors the Board is to consider in determining if a communication is for a political purpose. *GAB 1.28(3)(b), Wis. Adm. Code.* This test also requires a reference to or depiction of a clearly identified candidate.

#### Billy Graham Evangelistic Association Advertisements

The Association's advertisement provided by the Foundation contained a photographic depiction of Billy Graham and reproduction of his signature, constituting approximately one-half of the advertisement. A disclaimer appears indicating the advertisement was paid for by the Association. The upper right quarter of the advertisement contained the text:

"On November 6, the day before my 94<sup>th</sup> birthday, our nation will hold one of the most critical elections in my lifetime. We are at a crossroads and there are profound moral issues at stake. I strongly urge you to vote for candidates who support the biblical definition of marriage between a man and a woman, protect the sanctity of life, and defend our religious freedoms. The Bible speaks clearly on these crucial issues. Please join me in praying for America, that we will turn our hearts back toward God."

The Foundation alleges a similar full-page advertisement appeared in the October 28, 2012 Wisconsin State Journal and Milwaukee Journal Sentinel and contained the text:

"The legacy we leave behind for our children, grandchildren, and this great nation is crucial. As I approach my 94<sup>th</sup> birthday, I realize this election could be my last. I believe it is vitally important that we cast our ballots for candidates who base their decisions on biblical principles and support the nation of Israel. I urge you to vote for those who protect the sanctity of life and support the biblical definition of marriage between a man and a woman. Vote for biblical values this November 6, and pray with me that America will remain one nation under God."

The Foundation asserts that the combination of "coded wording of the ads," the timing, and knowledge of the general public as to the meaning, constituted a call to vote for "certain known Republican candidates for state and federal office." Neither advertisement makes reference to a specific candidate or political party.

Given the Board's ongoing efforts to apply the provisions of GAB 1.28 to actual examples of communications, Board staff is seeking the Board's input regarding the Association's advertisements.

### Analysis

At its August 28, 2012 meeting the Board found a voter guide published by the Heritage Alliance was not a political communication because it was susceptible of a reasonable interpretation other than as an appeal to vote for or against a specific candidate, even though the guide contained references to specific candidates and a subjective "grade" was assigned to each candidate on the same website promoting the political views of the organization. The Board concluded that the voter guide was a communication that provided information to voters about candidates and invited voters to make their own conclusions regarding the quality of the candidates, whether or not the voter agreed with the organization's political perspective and priorities. Additionally, the Board held the voter guide, while summarizing and assessing the candidate's position on issues, did not specifically support or condemn candidates' positions.

Most notable in the current instance is that the advertisements do not make reference to any specific candidate. No candidate is named, no political party is mentioned, and no particular political race is identified. The Association's advertisements do, however, use the terms "vote for," and "cast our ballots for." In the Heritage Alliance Voter Guide case the opposite was true — the candidates were clearly identified, but the operative terms were not used. In both instances a critical element was absent.

Similar to the Heritage Alliance Voter Guide which was available on the same website which promoted the political perspective and priorities of the organization, here the political perspective and priorities of the Association are openly promoted. Additionally, much of the general public is likely aware of the Association's political views given the longstanding reputation of Billy Graham.

In the opinion of Board staff, under either test for determining whether a communication is for a political purpose, the required elements are not satisfied.

### **Recommended Motion:**

The Board concludes that the advertisements referenced above, purchased by the Billy Graham Evangelistic Association, do not constitute political communications pursuant to Wisconsin Statutes Chapter 11 and Wisconsin Administrative Code GAB 1.28, and are not subject to campaign finance registration and reporting requirements. This determination is based upon the following findings of the Board:

1. The advertisements contained terms enumerated in GAB 1.28(3)(a), Wis. Adm. Code, or their functional equivalents. Specifically, the advertisements used the terms "vote for," and "cast our ballots for," but did not clearly identify a candidate or candidate's campaign, rather urged that votes be cast for "candidates who" subscribed to certain positions on issues described in the advertisements.
2. The advertisements were published during the period beginning 60 days preceding the General Election and ending on the date of that election.
3. The advertisements did not refer to the personal qualities, character, or fitness of any identified candidate, though the advertisements made a value statement regarding the personal qualities, character, and fitness of candidates generally.

4. The advertisements declared the Association's position on certain issues without reference to a specific candidate. However, when coupled with the Association's general reputation, a reader could infer the Association's support for a certain candidate or class of candidates.

5. Given that the advertisements did not identify any specific candidate, candidate's campaign, political party, or particular political race, one reasonable interpretation of the advertisements is that the Association was issuing an appeal to voters to consider the individual voter's own positions on the stated issues when casting their votes for candidates on their respective ballots.

6. Another reasonable interpretation of the advertisements is that, because they did not identify any candidate, campaign, or political party, they were communications to pique the interest of readers in order to attract them to the Association. In other words, the advertisements were intended to call attention to, and generate interest in, the Association itself and its mission and goals.

7. Although the advertisements did not identify specific candidates, given the issues identified in the advertisements as well as the general reputation of the Association, readers could make assumptions or inferences to draw conclusions as to the candidates the Association supported. This interpretation would conclude that the advertisements were veiled communications urging votes for specific candidates who maintained comparable positions on the stated issues.

8. Because the Association's advertisements are susceptible of more than one reasonable interpretation, and some of the interpretations would establish that the advertisements were something other than an appeal to vote for or against a specific candidate, the advertisements were not communications that were made for a political purpose under the provisions of Chapter 11, Wis. Stats., and GAB 1.28, Wis. Adm. Code.

Based upon the above Findings, the Board determines that there is no reasonable suspicion that the Billy Graham Evangelistic Association's advertisements violated Wis. Stat. §11.05 or GAB 1.28, Wis. Adm. Code, and dismisses the complaint of the Freedom from Religion Foundation.

State of Wisconsin

Government Accountability Board

In the Matter of

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Shelly Moore

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PRELIMINARY FINDINGS OF FACT  
AND CONCLUSIONS

GAB Case #2011-07

**Background.** The Government Accountability Board received a verified complaint dated June 22, 2011 from the Republican Party of Wisconsin alleging that Shelly Moore, a candidate for the State Senate, had used the e-mail system of the Ellsworth Community School District in connection with her campaign in violation of §11.24, *Wisconsin Statutes*. That section prohibits the making or accepting of a political contribution from property belonging to another. A copy of the complaint and e-mails are attached. The Board authorized an investigation into this matter on August 2, 2011.

**Statutes.** Section 11.24 (1), *Wisconsin Statutes*, provides:

No person may, directly or indirectly, make any contribution other than from funds or property belonging to the contributor. No person may, directly or indirectly, furnish funds or property to another person for the purpose of making a contribution in other than the person's own name. No person may intentionally accept or receive any contribution made in violation of this subsection.

**Findings of Fact.** An investigation was conducted by two members of the Board's staff – Jonathan Becker and Nathan Judnic. In response to a request for all e-mails that may have had a political content, Ms. Moore indicated that she believed we had all "salient" e-mails attached to the complaint and that she had no others.

Mr. Becker and Mr. Judnic interviewed Ms. Moore by telephone on April 30, 2012. In that interview, Ms. Moore stated that she was not a candidate for the Legislature at the time the questioned e-mails were sent. She stated that, although a number of individuals were talking to her about a possible candidacy, she was not initiating any such discussions. She stated that she did not decide to become a candidate until April 29, 2011 as a result of a meeting with local Democrats and was not trying to seek support before that time. Ms. Moore noted that, in the only e-mail she sent that related to her possible candidacy, she said it was "up in the air." That e-mail was sent on Sunday, April 3, 2011.

Ms. Moore further pointed out that the February and March e-mails pertained to political activity in which her union was involved. Ms. Moore stated that she was active in the union and had held a number of offices in the union. Ms. Moore stated that, under the union contract, teachers were permitted to use the school's e-mail system for any union business, including political activities and promoting events such as rallies. Ms. Moore noted that, for the most part, she was responding to e-mails that were sent to her, and they concerned planned union events.

In an e-mail of March 10, 2011, Ms. Moore wrote, "We are not supposed to use school e-mail, but since all of our rights are being taken away, I don't frankly care." Ms. Moore

told us that that was not true, that the restriction only applied to actual candidacies. School district policy provides that the district expects professional staff to "refrain from using position or public property for partisan political or religious purposes." The policy is attached to the complaint. The teachers' contract provides:

The Association and its representatives shall have the right to use school facilities and equipment including computers, email, copy machines, and fax machines when such equipment is not otherwise in use. The Association may also use the district mail service, teachers' mailboxes, and teachers' workroom and lounge bulletin boards for communication to teachers.

Ms. Moore stated that she had been subjected to no discipline by the school district as a result of any of her activities.

**Conclusions.** Based on the evidence obtained, the Government Accountability Board finds there is not probable cause to believe that Ms. Moore's use of the school e-mail system amounted to a campaign contribution to her campaign for office, or a campaign contribution to any other political committee contrary to §11.24, *Wisconsin Statutes*. Ms. Moore does not appear to be a local public official subject to the Ethics Code for Local Public Officials. Whether Ms. Moore violated school district policy is not within the Board's jurisdiction.

These Preliminary Findings of Fact and Conclusions approved unanimously by the six members of the State of Wisconsin Government Accountability Board meeting on June 8, 2012.

STATE OF WISCONSIN

GOVERNMENT ACCOUNTABILITY BOARD

The Verified Complaint of

REPUBLICAN PARTY OF WISCONSIN  
STEPHAN THOMPSON,  
Complainant

Against

VERIFIED  
COMPLAINT

SHELLY MOORE,  
Respondent

The Republican Party of Wisconsin, by and through its representative, Stephan Thompson, brings this verified complaint against Shelly Moore and alleges as follows:

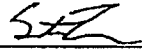
1. Complainant Stephan Thompson is a resident of the State of Wisconsin, and is a qualified elector and is the Executive Director of the Republican Party of Wisconsin with a mailing address of 148 East Johnson Street, Madison, Wisconsin 53703.
2. Respondent Shelly Moore resides at 350 Nicole Lane #6B, River Falls, Wisconsin 54022 and is, as of the date of this Verified Complaint, a candidate for the 10<sup>th</sup> Senate District of Wisconsin and, upon information and belief, a public school teacher with the Ellsworth Community School District.
3. Upon information and belief, Ms. Moore engaged in the use of official school district email to conduct campaign and political activities between February 2011 and April 2011.
4. The exhibits attached hereto are printouts of email exchanges between Ms. Moore and other individuals obtained through an open records request of Ms. Moore's school district email account.
5. Upon information and belief, several of the campaign emails sent through Ms. Moore's school email account occurred during paid school time.
6. *Exhibit A* is an email exchange between Ms. Moore and another individual between April 1, 2011 and April 3, 2011 in which Ms. Moore's candidacy for the 10<sup>th</sup> Senate District is discussed.
7. *Exhibit B* shows repeated email exchanges from March 5, 2011, March 8, 2011 and March 21, 2011 in which Ms. Moore uses her school district email address to discuss the circulation of recall petitions against Senator Sheila Harsdorf and other State Senators.

8. *Exhibit C* is another email exchange over Ms. Moore's school district email on the morning of Friday, March 11, 2011 to discuss the organization of political activity.
9. *Exhibit D* is an email sent on the morning of Wednesday, February 16, 2011 from Ms. Moore's school email address to a group of "Fellow Dems" to solicit participation in a political event.
10. *Exhibit E* is a copy of the staff ethics policy of the Ellsworth Community School District which explicitly requires teachers to "refrain from using position or public property...for partisan political or religious purposes," and a copy of Ms. Moore's teacher's contract in which she certifies that she will abide by the policies of the school district.
11. *Exhibit F* includes a March 10, 2011 email sent from Ms. Moore's school email address in which she acknowledges the impropriety of her continued use of school email to conduct political and campaign activity, stating, "We are not supposed to use school email, but since all of our rights are being taken away, I don't frankly care."
12. The Wisconsin Public Purpose Doctrine prohibits the use of government resources for a non-public purpose such as campaign activity.
13. Chapter 11 of the Wisconsin Statutes prohibits candidates from unlawfully accepting anything of value for campaign purposes. *Wis. Stats. §§11.05 & 11.24.*
14. Upon information and belief, by using her public school email account during paid school time to conduct campaign activity, Ms. Moore knowingly used government resources for private purposes in violation of Wisconsin law.

The above-referenced activity by Ms. Moore violates Wisconsin law. To wit: Ms. Moore utilized government resources for a private purpose in violation of the Wisconsin Public Purpose Doctrine and accepted the benefit of government resources for her campaign in violation of Chapter 11 of the Wisconsin Statutes.

WHEREFORE, Complainant prays that the Government Accountability Board commence an investigation into the actions of Respondant in regard to her activities; commence an action in civil court with respect to any civil violations; refer any criminal violations to the appropriate prosecutorial authorities; and render such other relief that the Government Accountability Board may deem just and equitable.

Dated this 22 day of June, 2011 at Madison, Wisconsin.

  
\_\_\_\_\_  
Stephan Thompson  
REPUBLICAN PARTY OF WISCONSIN

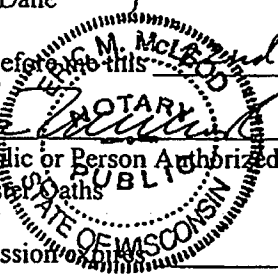
CERTIFICATION

I, Stephan Thompson, being first duly sworn upon oath, state that I personally read the above complaint and that the above allegations are true and correct based on my personal knowledge and, as to those allegations stated on information and belief, I believe them to be true.

  
\_\_\_\_\_  
Stephan Thompson

State of Wisconsin    )  
                                  ) ss  
County of Dane        )

Sworn to before me this 10th day of June 2011.

  
\_\_\_\_\_  
Notary Public or Person Authorized  
to Administer Oaths

My commission expires \_\_\_\_\_  
Or, ☒ is permanent.

A

---

Journal 2.1

---

From: Shelly Moore  
Sent: Sunday, April 03, 2011 4:28 PM  
To: [REDACTED]  
Subject: RE: Congratulations

Hal. Well, we'll see. I still think it's up in the air.

Did much work with the state Dems this weekend in regard to the recalls, however, and things are looking SOO good in many locations. That is the news that is truly exciting!

---

From: [REDACTED]  
Sent: Saturday, April 02, 2011 12:34 PM  
To: Shelly Moore  
Subject: Congratulations

Shelly,

I hear congratulations may be in order. The rumor at the Sommerset rally today, where I spoke, was that you had been chosen as either The Candiddate or WEAC's candidate of choice. Either way congratulations.

Warmly,  
[REDACTED]

---

From: [REDACTED]  
To: Shelly Moore <[moores@ellsworth.k12.wi.us](mailto:moores@ellsworth.k12.wi.us)>  
Sent: Fri, April 1, 2011 1:38:17 PM  
Subject: Re: Please call

Shelly,

We really need to talk. The Western Wisconsin Dems are talking about vetting 8 or candidates starting on April 15th. I help lead churches through the pastoral hiring process and can assure you that their proposed process is going to lead to pandemonium and total gridlock. You never propose more than three candidates to a large group of people. They are determined to loose this election before it has even been triggered.

The State Dems, Polk county Dems, Burnett county Dems and the old guard of the St Croix Dems all seemed to be in agreement earlier in the week on this. I'm trying to set up a meeting with the potential candidates and those that are making this decision because I simply cannot see a candidate worth their political weight being willing to wait until the end of April or beginning of May before their able to start campaigning. Maybe the two of us speaking with a united voice can talk some sense into them.

Hope your interview went well today. Anyway, please call me at [REDACTED]

Thanks,  
[REDACTED]

A

---

From: [REDACTED]  
To: Shelly Moore <moores@ellsworth.k12.wi.us>  
Sent: Mon, March 28, 2011 6:30:15 PM  
Subject: Re: Please call

Shelly,

Sorry I missed your call today. I hit the wrong key and lost your message with your number. Could you email me your cell or home phone?

Thanks,  
[REDACTED]  
[REDACTED]

---

From: Shelly Moore <moores@ellsworth.k12.wi.us>  
To: [REDACTED]  
Sent: Mon, March 28, 2011 8:55:53 AM  
Subject: RE: Please call

Sorry - just got this message - I'll call you later today.

Shelly  
[REDACTED]

---

From: [REDACTED]  
Sent: Sunday, March 27, 2011 7:46 PM  
To: Shelly Moore  
Subject: Please call

Shelly,

I was wondering if you would be able to give me a call? It is rather important. My cell is [REDACTED]

Thanks,  
[REDACTED]

B

Journal 2.1

---

From: Shelly Moore  
Sent: Monday, March 21, 2011 10:19 AM  
To: [REDACTED]  
Subject: RE:

seriously! That is awesome!

We have 8 that we are working on. I am pumped if some already have enough signatures!

---

From: [REDACTED]  
Sent: Monday, March 21, 2011 11:16 AM  
To: Shelly Moore  
Subject:

Just heard from regional afl-cio staff that we have targeted 5-6 races in WI for recall and already have 2 or 3 ready to go.

B

Journal 2.1

---

From: Shelly Moore  
Sent: Saturday, March 05, 2011 9:31 AM  
To: [REDACTED]  
Subject: RE: Sheila Harsdorf

yes. She is eligible and I believe papers are being circulated starting today.

---

From: [REDACTED]  
Sent: Friday, March 04, 2011 8:21 AM  
To: Shelly Moore  
Subject: Sheila Harsdorf

Do we really have a chance at recalling Sheila?

B.

Journal 2.1

---

From: Shelly Moore  
Sent: Tuesday, March 08, 2011 11:39 AM  
To: [REDACTED]  
Subject: RE: Recall

And that's why this matters - because Shelia, et al., aren't thinking about the real people these bad laws affect.

---

From: [REDACTED]  
Sent: Tuesday, March 08, 2011 11:31 AM  
To: Shelly Moore  
Subject: RE: Recall

Thanks. Do you think I should sign before or after I ask her to come back to school to meet with our [REDACTED]

Ha.

It is nothing personal against her, but I have to do what I think is best this Ellsworth area. Let's face it. I have lived her all my life and this area and the people in it mean a lot to me.

[REDACTED]  
Ellsworth Community School District  
P.O. Box 1500  
Ellsworth, WI 54011  
[REDACTED]  
[REDACTED]  
[REDACTED]

-----Original Message-----

From: Shelly Moore  
Sent: Tuesday, March 08, 2011 11:29 AM  
To: [REDACTED]  
Subject: RE: Recall

they are being circulated. Not sure by whom right now. I will try to find out.

---

From: [REDACTED]  
Sent: Tuesday, March 08, 2011 11:27 AM  
To: Shelly Moore  
Subject: Recall

How do we sign Senator Harsdorf's recall papers?

[REDACTED]  
Ellsworth Community School District

1 B

P.O. Box 1500  
Ellsworth, WI 54011

[REDACTED] e  
[REDACTED]  
[REDACTED]  
[REDACTED]

C

Journal 2.1

---

From: Shelly Moore  
Sent: Friday, March 11, 2011 9:39 AM  
To: [REDACTED]  
Subject: RE: RE:

send this - there are ways to get involved with political events this weekend. If you wish to know details, please contact me.

---

From: [REDACTED]  
Sent: Friday, March 11, 2011 9:37 AM  
To: Shelly Moore  
Subject: RE: RE:

[REDACTED] voted no... let me think how I can do this.

-----Original Message-----

From: Shelly Moore  
Sent: Friday, March 11, 2011 9:33 AM  
To: [REDACTED]  
Subject: RE: RE:

I vote yes.

---

From: [REDACTED]  
Sent: Friday, March 11, 2011 9:24 AM  
To: Shelly Moore; [REDACTED]  
Subject: FW: RE:

Can I send this out to WCEA members?

---

From: [REDACTED]  
Sent: Friday, March 11, 2011 9:16 AM  
To: [REDACTED]  
Subject: RE:

10 AM or 2 PM at Earth Angels Coffee House (near post office). We will have training and provide materials.

Please circulate [www.recallharsdorf.com](http://www.recallharsdorf.com) as the resource for ongoing events. There is also a twitter feed and facebook page.

Thanks oh so much.

---

From: [REDACTED]  
To: [REDACTED]  
Subject: RE: RE:  
Date: Fri, 11 Mar 2011 14:22:11 +0000  
Good Morning [REDACTED]

[REDACTED] did a great job last night.

Wondering where and when people should meet if they want to come to River Falls on Saturday to learn how to do the "job."

[REDACTED]  
From: [REDACTED]  
Sent: Thursday, March 10, 2011 2:01 PM  
To: [REDACTED]  
Subject: RE:

[REDACTED]  
From: [REDACTED]  
To: [REDACTED]  
Subject: RE: RE:  
Date: Thu, 10 Mar 2011 19:22:45 +0000  
Sounds good!

From: [REDACTED]  
Sent: Thursday, March 10, 2011 1:15 PM  
To: [REDACTED]  
Subject: RE:

Thank you. We will either be sending a retired teacher or a retired railroad worker, but either one of them know the lay of the land.

From: [REDACTED]  
To: [REDACTED]  
Subject:  
Date: Thu, 10 Mar 2011 19:08:35 +0000  
Hi [REDACTED]

The meeting will be at 4pm at the Ellsworth Middle School.

Thanks,  
[REDACTED]

D

---

Journal 2.1

---

From: Shelly Moore  
Sent: Wednesday, February 16, 2011 9:32 AM  
To: wcea  
Subject: TODAY: River Falls Rally to Protect Public Workers Rights

Fellow Dems - As most of you know, Governor Walker's "budget" goes far beyond finances and strip public workers of their right to negotiate working conditions and wages. A teachers group is organizing this rally to demonstrate to Senator Harsdorf the area's disapproval:

KEEP WISCONSIN MOVING FORWARD:  
A RALLY TO PROTECT OUR RIGHTS

Wednesday, February 16  
5:00 - 6:00 pm  
Falcon's Nest  
University Center  
UW River Falls Campus

HELP US SEND A MESSAGE TO SENATOR HARSDORF:  
VOTE "NO" ON THE GOVERNOR'S ATTACK ON WORKERS' RIGHTS & OUR COMMUNITIES

Candlelight Vigil to follow the rally.

Directions: The rally will be in the FALCON'S NEST room in the UNIVERSITY CENTER.

The Falcon's Nest is on the ground floor, just to the right as you enter the front of the building. If you enter from the rear, near parking lot F, walk through to the front, and go left. There will be plenty of signs to direct you to the rally. Parking after 4:30 P, should not be a problem either on the main streets or in the parking lots. Parking is available, but limited, in parking lots F, U, G, and N behind the University Center.

If you're parking on the main street - Cascade Avenue - the University Center is a short walk through campus.

--

For no more emails from us go  
here <http://mlist.orchidsuites.net/lists/lt.php?id=KkoEBwNRVABTAB4MCVZXSpMGB1JR>

E

Management  
Documents

- ▶ Bylaws & Policies
- ▶ Administrative  
Guidelines
- ▶ Forms
- ▶ State Government

Search for:

Find It!

Ellsworth Community School I  
Bylaws & Policies

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### 3210 - STAFF ETHICS

An effective educational program requires the services of men and women of integrity, high ideals, and human understanding. To maintain and promote these essentials, the Board of Education expects all professional staff members to maintain high standards in their working relationships, and in the performance of their professional duties, to:

- A. recognize basic dignities of all individuals with whom they interact in the performance of duties;
- B. represent accurately their qualifications;
- C. exercise due care to protect the mental and physical safety of students, colleagues, and subordinates;
- D. seek and apply the knowledge and skills appropriate to assigned responsibilities;
- E. keep in confidence legally-confidential information as they may secure;
- F. ensure that their actions or those of another on their behalf are not made with specific intent of advancing private economic interests;
- G. avoid accepting anything of value offered by another for the purpose of influencing judgment;
- H. refrain from using position or public property, or permitting another person to use an employee's position or public property for partisan political or religious purposes. This will in no way limit constitutionally or legally protected rights as a citizen.

E.

ELLSWORTH COMMUNITY SCHOOL DISTRICT

STEP ON SCHEDULE

10.85 MA

Ellsworth, Wisconsin 54011

TENTATIVE ASSIGNMENT

## TEACHER'S CONTRACT

Teacher

IT IS HEREBY AGREED by and between the Board of Education of the Ellsworth Community School District, Ellsworth, Wisconsin and Michelle Moore, a professionally trained educator legally qualified in the State of Wisconsin, hereinafter designated "teacher", that the teacher is to teach and assume responsibilities of co-curricular activities in said schools as directed by the Superintendent or Principals or Board of Education for a term of 190 Days (including school days indicated in Wisconsin Statute 115.01 (10), pre-service and in-service days for a sum of \$ \*See Note Below\* commencing on or about the 23rd day of August, 2010, and for such service properly rendered the School Board is to pay the amount due according to this contract in twenty-four installments.

\*\*\*NOTE: Salaries will be updated when the Teacher's union agreement is settled\*\*\*

IT IS FURTHER AGREED, that the above salary shall be increased by compensation for extra-curricular assignments. Extra curricular assignments will be on a separate contract.

IT IS FURTHER AGREED, that this contract is made and shall remain subject to the provisions Sections 118.21 and 118.22 and other applicable provisions of Title XIV of the Wisconsin Statutes, as revised, and to the rules, regulations and policies of the School Board now existing and as may be hereinafter enacted and the Teacher agrees to, in all respects, abide by and comply with the same. This contract is specifically made subject to and will be amended and modified to comply with the terms and provisions of any applicable collective bargaining agreement between the Board of Education and representatives of the collective bargaining unit which represents the "teacher" entered into subsequent to the tender of this contract to the teacher. This individual contract is subject to amendment by a subsequent collective bargaining agreement.

This contract may be modified or terminated at any time during the term hereof by the mutual written agreement of the parties hereto.

This contract is not valid unless signed and returned by the teacher on or before April 15, 2010.

Dated this 15<sup>th</sup> day of March, 2010

## SCHOOL BOARD OF ELLSWORTH COMMUNITY SCHOOL DISTRICT

President

Lauree Andrews

Treasurer

John L. L.

Clerk

Mary E. Elandson

Superintendent

[Signature]

I, the undersigned teacher, represent to the School Board that I am not now under contract of employment with another school district for any period covered by this contract. I hereby accept the provisions as set forth in this contract.

Signature

M. Moore

Date Signed

3/30/10

Address

350 Nicole Ln #66 River Falls, WI 54022

Date of Birth

1/10/74

Social Security Number

OFFICE USE ONLY

Date Received:

REC  
1118  
MAN

Revised 2/16/2010

F

Journal 2.1

---

From: Shelly Moore  
Sent: Thursday, March 10, 2011 11:15 AM  
To: [REDACTED]  
Subject: RE: Efforts in Ellsworth

I appreciate you contacting me. I agree - the situation is both dire and urgent.

We have scheduled an emergency union meeting for today at 4 and will have recall papers there. And will continue to work throughout today and tomorrow to get support staff and other personnel on board as well.

We are not supposed to use school email, but since all of our rights are being taken away, I don't frankly care.

Thank you,  
Shelly Moore

From: [REDACTED]  
Sent: Thursday, March 10, 2011 10:07 AM  
To: Shelly Moore  
Subject: Efforts in Ellsworth

Shelly,

You did not solicit this email so please forward it to your home email if school policy does not allow.

To the point-

1. I have family in Ellsworth, graduated from Ellsworth, and support Ellsworth teachers.
2. I live in Hudson and I am currently involved in Recall efforts here.
3. I will be attending a St. Croix Dem' meeting in Roberts tonight so let me know if you need anything brought up at that meeting at 7:00PM.
4. Most importantly, we need to organize the Ellsworth teachers so that a huge recall effort can be pushed in Ellsworth and Pierce County next week when teachers are off for spring break. This needs to be coordinated quickly, via email to Ellsworth teachers (if possible) before the end of tomorrow or they might be off the email 'grid' for over a week.

•

5. If needed I can take off work to help in any way I can. Perhaps there are efforts already under way, but I didn't want to lose a single minute. Our recall clock is ticking.

[REDACTED] my home number is 713-580-2550. [REDACTED]s  
[REDACTED]

[REDACTED]  
[REDACTED]

**2011-13 Sandy Pasch for Senate Campaign**

**2011-25 Sandy Pasch and Citizen Action of WI**

Mr. Becker provided an oral and written report. Staff recommends dismissal of both complaints. The first complaint was about Ms. Pasch's picture appearing on the cover of the Shepherd Express weekly newspaper, which the campaign did not pay for, but was an editorial endorsement. The second complaint was about coordination because Ms. Pasch sits on the board of Wisconsin Citizen Action, which made independent expenditures in support of her campaign. Minutes of Citizen Action's board meeting indicate Ms. Pasch left the room when the independent expenditure was being discussed.

**MOTION:** To dismiss the complaints in cases 2011-13 and 2011-25, with staff to issue findings consistent with Board action. Moved by Judge Cane, seconded by Judge Vocke. Motion carried unanimously.

# State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
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<http://gab.wi.gov>



JUDGE THOMAS H. BARLAND  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the December 13, 2011 Board meeting

**TO:** The Government Accountability Board

**FROM:** Jonathan Becker

**SUBJECT:** In the Matter of Sandy Pasch for Senate, GAB Case #2011-13, and In the Matter of Sandy Pasch and Wisconsin Citizen Action, GAB Case #2011-25

### **In the Matter of Sandy Pasch for Senate, GAB Case #2011-13**

The Government Accountability Board received a verified complaint, dated July 14, 2011 from Wisconsin GrandSons of Liberty, Inc. alleging that Sandy Pasch for Senate ran an ad in a Milwaukee weekly, the Shepherd Express; distributed a flyer for an event sponsored by Grass Roots North Shore; and posted materials on Facebook and another website without including a proper attribution statement identifying the sponsor of the communication in violation of §11.30(2)(b), *Wisconsin Statutes*. At its August 2 meeting, the Board authorized an investigation into this matter.

I spoke with Sandy Pasch who stated that her campaign had not purchased an ad in Shepherd's Express. I also spoke to Lou Fortis, the owner of Shepherd's Express, who confirmed this and stated that the front page picture and vote for Sandy Pasch message was an editorial endorsement. Finally, there is no report in her campaign finance filings that Ms. Pasch's campaign made any disbursements to Shepherd Express.

I also spoke with Jackie Boynton, Ms. Pasch's campaign treasurer. She had no memory of the campaign ever purchasing space in the Shepherd Express and no memory of the campaign creating a flyer for an event sponsored by Grass Roots North Shore. She stated that Grass Roots North Shore was a group of citizens active in campaigns.

### **In the Matter of Sandy Pasch and Wisconsin Citizen Action, GAB Case #2011-25**

The Government Accountability Board received a verified complaint dated August 1, 2011 from the Republican Party of Wisconsin alleging that Sandy Pasch, a candidate for the State Senate, and Citizen Action of Wisconsin, Inc. had improperly coordinated campaign expenditures by Citizen Action in violation of §11.06 (7), *Wisconsin Statutes*. If true, Citizen Action would also have violated §11.38, *Wisconsin Statutes*, (prohibiting contributions by corporations) and Ms. Pasch and Citizen Action may also have violated campaign contribution limits. The basis for the complaint is that Ms. Pasch was a member of the Board of Directors of Citizen Action while she was a candidate. At its August 2 meeting, the Board authorized an investigation into this matter.

I spoke with Robert Kraig, Executive Director, and Matt Brusky, Deputy Director, of Citizen Action of Wisconsin. Mr. Kraig stated that the Citizen Action Board meets only four times a

year. At its May 13, 2011 meeting, staff requested the general authority to participate in the upcoming recall elections. Mr. Kraig state that the Board gave staff that authority but there was no discussion about which races the organization would be involved in. According to Mr. Kraig, the Board does not “micromanage” and leaves most decisions to staff. Staff made the decision to make independent expenditures on behalf of Ms. Pasch.

Both Mr. Kraig and Mr. Brusky stated that Ms. Pasch left the room where the Board meeting was being held before the question of participation in the recalls was brought up. The minutes of the May meeting reflect this. Both Mr. Kraig and Mr. Brusky also stated that they had no conversations about the campaign with Ms. Pasch or anyone from her campaign until after the election.

Ms. Pasch confirmed that she left the Citizen Action Board meeting before any discussions about recall campaign activity and that she had no conversations with staff or other Board members about her campaign.

Jackie Boynton has been Ms. Pasch’s campaign treasurer for 4 years – since Ms. Pasch’s first run for the Assembly. Ms. Boynton was also on the Board of Directors of Citizen Action of Wisconsin. She stated that she attended the May Board meeting and did not leave the room. She said the Board was asked to approve the organization’s involvement in recall races. She thought that Ms. Pasch’s race was discussed. She stated that she was never involved in any discussions about specific activities or expenditures in Ms. Pasch’s race with any staff or directors (other than Ms. Pasch) of Citizen Action.

#### **Recommendation**

Staff recommends dismissal of both complaints.

There is no evidence that Ms. Pasch’s campaign purchased any ads in the Shepherd Express. It is true that there was no disclaimer on her Facebook page, but our approach in instances involving lack of disclaimers on web sites is simply to inform individuals of the obligation to create a disclaimer and to post it. The lack of disclaimer on the flyer appears de minimus and it is unclear who actually paid for it.

There is no evidence that Citizen Action of Wisconsin acted in cooperation or consultation with Ms. Pasch, Ms. Boynton, or anyone else associated with the Pasch campaign on any independent disbursements. In my view, Ms. Boynton’s presence at the May meeting does not amount to consultation or cooperation. Ms. Boynton’s statement that the Pasch race may have been mentioned at the May Board meeting does not comport with the statements made by Mr. Kraig or Mr. Brusky. Moreover, Ms. Boynton’s memory generally struck me as unreliable as she remembered almost nothing else.

**2011-15 Friends of Dave Hansen, et al**

Jonathan Becker prepared a written report. Mr. Becker gave an oral report about a "RICO" complaint filed against Senator Dave Hansen alleging improper coordination of political ads, the basis of which is their similarity. Staff recommends dismissal. Discussion of how to handle frivolous complaints.

**MOTION:** Dismiss the complaint against Senator Hansen and warn complainant Dave Boyce about filing a frivolous complaint. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried unanimously.

# State of Wisconsin \ Government Accountability Board

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<http://gab.wi.gov>



JUDGE THOMAS H. BARLAND  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

---

## MEMORANDUM

**DATE:** For the August 2, 2011 Board Meeting  
**TO:** Members, Government Accountability Board  
**FROM:** Jonathan Becker  
**SUBJECT:** Friends of Dave Hansen, et al., 2011-15

On July 18, 2011, the Government Accountability Board received a "RICO" complaint (attached) alleging that Friends of Dave Hansen and other groups violated campaign finance laws by improperly coordinating political ads. The basis for the complaint is the similarity of the ads. Without more, there does not seem to be any basis for an investigation.

**Recommendation:** That the Board dismiss the complaint because there is no reasonable suspicion that a violation of the ethics code has occurred or is occurring.

State of Wisconsin	Government Accountability Board
In the Matter of	)
	)
	)
Keep Our North Strong PAC	)
Holperin for Senate, and	)
Jim Holperin	)
	GAB Case #2008-40

**Background.** The Government Accountability Board received a complaint suggesting improper coordination between Keep Our North Strong PAC, Holperin for Senate, and Jim Holperin. The allegation is based on the fact that Roger Breske is the sole funder of the PAC and also was an active member of Mr. Holperin's Senate campaign. The PAC paid for ads supporting Mr. Holperin.

**Preliminary Findings of Fact.** The Government Accountability Board adopts the attached Report of Investigation as its Preliminary Findings of Fact in this matter. The Board does not possess or have knowledge of any information which would tend to refute or discredit these findings.

**Applicable Statutes and Legal Standard.** The investigation's purpose was to learn if there is probable cause to believe that Keep Our North Strong PAC, Holperin for Senate, and Jim Holperin violated §11.06 (4) or (7) or §11.26, *Wisconsin Statutes*, through the furnishing and receipt of an in-kind campaign contribution. This could have occurred if there had been improper coordination between the PAC and the Holperin campaign.

Coordination is sufficient to treat a communication (or the expenditure for it) as a contribution if the communication is made at the request or suggestion of the campaign (i.e., the candidate or agents of the candidate). In the absence of a request or suggestion from the campaign, if the cooperation, consultation or coordination between the two is such that the candidate or his agents can exercise control over, or there has been substantial discussion or negotiation between the campaign and the spender over, a communication's: (1) content; (2) timing; (3) location, mode, or intended audience (e.g., choice between newspaper or radio advertisement); or (4) "volume" (e.g., number of copies of printed materials or frequency of media spots). Substantial discussion or negotiation is such that the candidate and the spender emerge as partners or joint venturers in the expressive expenditure, but the candidate and spender need not be equal partners.

**Findings.** The Government Accountability Board concludes there is no probable cause to believe that Keep Our North Strong PAC, Holperin for Senate, or Jim Holperin violated §11.06 (4) or (7) or §11.26, *Wisconsin Statutes* in connection with the Fall 2008 campaign.

The State of Wisconsin Government Accountability Board on the unanimous, affirmative vote of the six members meeting on June 22, 2009, adopts these preliminary findings of fact and conclusions.

STATE OF WISCONSIN  
GOVERNMENT ACCOUNTABILITY  
BOARD

By: Michael Brennan, Chair

State of Wisconsin	Government Accountability Board
In the Matter of	)
	)
	)
Keep Our North Strong PAC	)
Holperin for Senate, and	)
Jim Holperin	)
	REPORT OF INVESTIGATION
	GAB Case #2008-40

**Background.** The Government Accountability Board received a complaint from Keith Gilkes suggesting improper coordination between Keep Our North Strong PAC, Holperin for Senate, and Jim Holperin. The allegation was based on the fact that Roger Breske was the sole funder of the PAC and also was active in Mr. Holperin's Senate campaign. The PAC paid for ads supporting Mr. Holperin.

**Purpose of Investigation.** The investigation's purpose was to learn if there is probable cause to believe that Keep Our North Strong PAC, Holperin for Senate, and Jim Holperin violated §11.06 (4) or (7) or §11.26, *Wisconsin Statutes*, through the furnishing and receipt of an in-kind campaign contribution.

**Legal Standard.** Coordination is sufficient to treat a communication (or the expenditure for it) as a contribution if the communication is made at the request or suggestion of the campaign (i.e., the candidate or agents of the candidate). In the absence of a request or suggestion from the campaign, if the cooperation, consultation or coordination between the two is such that the candidate or his agents can exercise control over, or there has been substantial discussion or negotiation between the campaign and the spender over, a communication's: (1) content; (2) timing; (3) location, mode, or intended audience (e.g., choice between newspaper or radio advertisement); or (4) "volume" (e.g., number of copies of printed materials or frequency of media spots). Substantial discussion or negotiation is such that the candidate and the spender emerge as partners or joint venturers in the expressive expenditure, but the candidate and spender need not be equal partners.

**Investigation Activities.** The investigation was conducted by Shane Falk and Jonathan Becker. We interviewed:

- Senator Jim Holperin
- Former Senator Roger Breske
- Mike Tate, founder and director of Keep Our North Strong PAC
- Jodi Tesch, the PAC's treasurer and Roger Breske's daughter
- Mark Webster, political consultant
- Susan Meinholz, former aide to then-Senator Breske, current aide to Senator Holperin

- Elizabeth Novak, aide to Senator Holperin
- Jason Childress, former executive director of the State Senate Democratic Committee
- Mike Wittenwyler, attorney

We also asked Keith Gilkes whether he possessed any information in addition to that provided in the complaint. He did not

**Findings.** Although the interrelationship of the individuals involved with Senator Holperin's campaign and Keep Our North Strong PAC provides a reasonable basis for suspecting the possibility of improper coordination, we found no evidence of that. Indeed, we found that the individuals involved were extremely careful to avoid any communications that could lead to an inference of coordination.

Roger Breske resigned his Senate seat in June 2008 when he was appointed the Commissioner of Railroads. His campaign committee then had approximately \$76,000. Mr. Breske stated that he told his aide, and campaign treasurer, Susan Meinholz, to find someone to whom to give the money and to make sure it was legal. Mr. Breske stated he hoped the money would go to someone who would use it in his district.

Mike Tate came to learn of the availability of the Breske campaign money. Mr. Tate was experienced in putting together independent committees to be involved in campaigns. (Mr. Tate was just elected to be Chair of the State Democratic Party). Mr. Tate states that he first conferred with Mark Webster about whether Mr. Webster was interested in forming an independent PAC. Mr. Webster told him he was not. Mark Webster confirmed the phone call. Mr. Webster states that he told Mr. Tate that he was not interested in obtaining the Breske campaign money and that, while he was not involved with the Holperin campaign, he wanted to preserve that option. Mr. Webster states that, as a result, he and Mr. Tate spoke no further about the matter.

Mr. Tate then consulted with Attorney Mike Wittenwyler about the legality of contacting Mr. Breske. Mr. Wittenwyler, in turn, conferred with the Government Accountability Board's former staff attorney, George Dunst. Mr. Wittenwyler states that he advised Mr. Tate to contact Ms. Meinholz, rather than Mr. Breske.

Mr. Tate contacted Ms. Meinholz and told her of his idea to form a PAC that would be involved in races in northern Wisconsin. Ms. Meinholz decided to provide the money to Mr. Tate's PAC.

Mr. Tate states that no one ever told him where to spend the money. Ms. Meinholz states that she never discussed with Mr. Tate how the money would

be used; however, she stated she told Mr. Tate it would be good if the money was spent in Mr. Breske's district in support of Mr. Holperin. Mr. Tate and Ms. Meinholz had two further conversations – one about the appearance of the transfer of money from the Breske campaign to the Keep Our North Strong PAC and the other about a possible PAC treasurer.

Mr. Tate states that he never conferred with Mr. Breske or anyone connected with the Holperin campaign about the campaign or during the campaign. Mr. Tate asked Jodi Tesch to be the PAC's treasurer on Ms. Meinholz's recommendation. Ms. Tesch states that she asked her father if that would be okay and he said yes, if Ms. Meinholz approved it. Ms. Tesch's only role in the PAC was to sign campaign finance reports.

Mr. Breske states he never talked to Mr. Tate during the campaign and had no information about the Keep Our North Strong PAC. Mr. Breske states that he became aware of the PAC only when he saw a PAC ad on television. Mr. Breske played only a limited role in Senator Holperin's campaign – appearing with him at a few campaign events and authorizing the use of his name as endorsing Mr. Holperin.

Senator Holperin states that he had met Mr. Tate only once, while Senator Holperin was at the Department of Tourism. Senator Holperin had no subsequent contact or communication with Mr. Tate and had no contact or communication with anyone associated with the PAC. Senator Holperin states that he never spoke to Ms. Meinholz about the PAC, although Ms. Meinholz had told him of the Breske campaign money and that it would be used to assist his campaign. Senator Holperin states that when he asked Jason Childress of the State Senate Democratic Committee about the PAC, Mr. Childress said he would not tell him anything.

Susan Meinholz states that she never spoke to Mr. Tate or to anyone about Keep Our North Strong PAC activities and had no further contact with Mr. Tate after the fund transfer from the Breske campaign committee to the PAC. Ms. Meinholz states that she had no conversations with Mr. Childress about PAC activities.

Elizabeth Novak was assigned to assist the Holperin campaign by Mr. Childress and the State Senate Democratic Committee. She states that she never spoke with Mr. Childress about Mike Tate or the PAC.

Jason Childress states that he had discussions with Ms. Meinholz about disposition of the Breske campaign funds after Mr. Breske announced he would resign and not seek reelection. Mr. Childress states they talked in generalities about options for divesting the funds, including the possibility of contributing the money to an independent group. Mr. Childress states that they talked about the leap of faith such a donation would require because one

could not know how an independent group will apply the money or whether its message would be good or bad.

Mr. Childress states that Mr. Webster had told him that he was not interested in forming an independent group to support the Holperin campaign but that Mike Tate might be. Mr. Childress states that Mr. Webster advised him not to speak with Mr. Tate about the Holperin campaign.

Mr. Childress states that at some point during the campaign he learned that an independent group was doing ads in favor of the Holperin campaign. Mr. Childress states that he never talked to Mr. Tate about the Breske campaign funds or about ads for Holperin or anything regarding the Holperin campaign. Mr. Childress states that the State Senate Democratic Committee had a strict policy of having "absolutely no discussion" between a candidate's operation and any independent group. Mr. Childress states that, although he assumed that Keep Our North Strong PAC had some of Mr. Breske's money, he did not receive confirmation of that until "after the election when the Republicans griped" about the PAC's late filing of the oath of independent expenditures (for which the PAC earlier paid a \$500 forfeiture).

Mr. Childress states that he had discussions frequently with Senator Holperin during the campaign, including about third party ads. Mr. Childress did not recall Senator Holperin asking about Keep Our North Strong PAC but states he told Senator Holperin numerous times to have no contact with independent groups for fear of legal consequences.

Submitted June 15, 2009 by:

Shane Falk, Staff Attorney  
Jonathan Becker, Administrator  
Division of Ethics & Accountability

**2008-12 Wisconsin Education Association Council**

**MOTION:** Adopt preliminary findings and close the matter. Moved by Nichol, seconded by Myse. Motion carried unanimously.

State of Wisconsin	Government Accountability Board
In the Matter of	)
	)
	)
Wisconsin Education	)
Association Council	)
	PRELIMINARY FINDINGS OF FACT AND CONCLUSIONS
	GAB Case #2008-12

**Background.** The Government Accountability Board received information that on March 31, 2008, the following voicemail message was received by an employee of the Wisconsin Department of Justice at his state office:

Hello, this is Mary Bell, WEAC President. I am calling WEAC members like you to urge you to exercise your civic duty to vote in the spring general election on April 1. Our recommended candidate for State Supreme Court is Justice Louis Butler. Justice Butler's record is one of consistently supporting fair treatment of employees and protecting the well being of children. In addition, he has been key in building collegiality on the Supreme Court, thereby producing well reasoned decisions. Please join me in supporting Justice Louis Butler for State Supreme Court on April 1<sup>st</sup>. Thank you.

The recipient, Dean F. Stensberg, Executive Assistant at the Department of Justice, has indicated that he is not a member of the Wisconsin Education Association Council ("WEAC").

**Preliminary Findings of Fact.** Based on its investigation, the Government Accountability Board finds the following:

1. According to WEAC, WEAC paid for robocalls in support of Louis Butler in the 2008 Supreme Court race. The calls were made by contracted vendors to phone numbers of WEAC members provided to the vendors.
2. WEAC states that member records are updated yearly by local teacher unions and provided to WEAC in Madison.
3. According to WEAC, it did not purchase or use any other list for making calls.
4. The call to Mr. Stensberg was made to (608) 267-1932.
5. WEAC's calling list identified that number as belonging to Susan Anderson.
6. According to records of the Department of Public Instruction, Susan Anderson was a teacher in Green Bay, Wisconsin for some period of time until 2005 and a teacher in the Madison, Wisconsin school district in the 2007-2008 school year, the latest year for which the Department has information.
7. Ms. Anderson states that she taught in Wisconsin until 2005, taught in New York for the 2005-2006 school year and returned to Wisconsin for

the 2006-2007 school year. She is a member of Madison Teachers, Inc., a WEAC local.

8. Ms. Anderson states that she returned to Wisconsin with a Sprint cellular phone number from New York of (607) 267-1932. She states that the Madison school district recorded this number incorrectly with a "608" area code, which caused her problems at the time.

**Applicable statutes.**

Section 11.29 (1), *Wisconsin Statutes*, provides:

**11.29 (1)** Nothing in this chapter restricts any corporation, cooperative, unincorporated cooperative association, or voluntary association other than a political party or personal campaign committee from making disbursements for the purpose of communicating only with its members, shareholders or subscribers to the exclusion of all other persons, with respect to endorsements of candidates, positions on a referendum or explanation of its views or interests, without reporting such activity. No such corporation, cooperative, or association may solicit contributions from persons who are not members, shareholders or subscribers to be used for such purposes.

Section 11.38 (1) (a) 1., *Wisconsin Statutes*, provides:

**11.38 (1) (a) 1.** No foreign or domestic corporation, or association organized under ch. 185 or 193, may make any contribution or disbursement, directly or indirectly, either independently or through any political party, committee, group, candidate or individual for any purpose other than to promote or defeat a referendum.

**Conclusions.**

The Government Accountability Board concludes that there is no basis for any further proceeding against the Wisconsin Education Association Council in this matter.

The State of Wisconsin Government Accountability Board on the unanimous, affirmative vote of the six members meeting on August 27, 2008, adopts these preliminary findings of fact and conclusions.

STATE OF WISCONSIN GOVERNMENT  
ACCOUNTABILITY BOARD

By Thomas Cane, Chair

**2008-13      Americans for Prosperity**

Staff recommended closing the matter.

**MOTION:** Adopt preliminary findings and close the matter. Moved by Myse, seconded by Manian. Motion carried unanimously.

State of Wisconsin	Government Accountability Board
In the Matter of	)
	)
	)
	)
Americans for Prosperity	)
	GAB Case #2008-13

**Background.** The Government Accountability Board received information that in March 2008 Americans for Prosperity sent the attached letter to Matthias Stelly at 2113 Chamberlain Avenue, Madison, Wisconsin. Mr. Stelly has been deceased for 10 years, and the communication was received by the current occupant at that address, who is not a member of Americans for Prosperity.

**Preliminary Findings of Fact.** Based on its investigation, and affidavits submitted by Mark J. Block and Katie Engdahl, the Government Accountability Board finds the following:

1. Americans for Prosperity Wisconsin is a state chapter of Americans for Prosperity, Inc. ("AFPI").
2. AFPI was established in 2004 in the District of Columbia by Americans for Prosperity Foundation, Inc. ("AFPF"), a Delaware corporation.
3. AFPF was previously named Citizens for a Sound Economy Foundation, Inc.
4. Records of Citizens for a Sound Economy show that Matthias Stelly joined that organization on November 15, 1994. Members of AFPF (formerly Citizens for a Sound Economy) were transferred to AFPI's database when the latter organization was formed in 2004.
5. Americans for Prosperity Wisconsin's membership list includes members of AFPI who were Wisconsin residents.
6. According to AFPW, the letter in question was mailed only and exclusively to individuals in the AFPW membership database and AFPW did not acquire names of individuals from any other databases or lists to whom it mailed the letter.
7. AFPW states that it removes individuals from its database individuals whose letters are returned by the post office.
8. AFPW states it has now removed Mr. Stelly's name from its membership database.

**Applicable statutes.**

Section 11.29 (1), *Wisconsin Statutes*, provides:

**11.29 (1)** Nothing in this chapter restricts any corporation, cooperative, unincorporated cooperative association, or voluntary association other than a political party or personal campaign committee from making disbursements for the purpose of communicating only with its members, shareholders or subscribers to the exclusion of all other persons, with respect to endorsements of candidates, positions on a referendum or explanation of its views or interests, without reporting such activity. No such corporation, cooperative, or association may solicit contributions from persons who are not members, shareholders or subscribers to be used for such purposes.

Section 11.38 (1) (a) 1., *Wisconsin Statutes*, provides:

**11.38 (1) (a) 1.** No foreign or domestic corporation, or association organized under ch. 185 or 193, may make any contribution or disbursement, directly or indirectly, either independently or through any political party, committee, group, candidate or individual for any purpose other than to promote or defeat a referendum.

**Conclusions.**

The Government Accountability Board concludes that there is no probable cause to believe that Americans for Prosperity violated §11.38, *Wisconsin Statutes*, in connection with mailing the letter that was the subject of this investigation.

The State of Wisconsin Government Accountability Board on the unanimous, affirmative vote of the six members meeting on October 6, 2008, adopts these preliminary findings of fact and conclusions.

STATE OF WISCONSIN GOVERNMENT  
ACCOUNTABILITY BOARD

By Thomas Cane, Chair

# AMERICANS FOR PROSPERITY

## WISCONSIN CHAPTER

March 25, 2008

Dear Member - Wisconsin Americans for Prosperity:

Next Tuesday's election for Wisconsin Supreme Court is perhaps the most critical our state has had since I became state director of AFP-Wisconsin 3 years ago.

### Your Vote is Critical April 1

#### Judicial Activism Hurts Prosperity.

In what is expected to be a very close election, activist Justice Louis Butler faces a strong challenge from judicial traditionalist Judge Michael Gableman of Burnett County.

In recent years, the Wisconsin Supreme Court has issued a series of activist rulings that have overturned liability limits for Wisconsin businesses and even created new liability for industry.

Justice Butler is a member of the four-member activist majority. If he is defeated, a traditionalist majority is likely to re-emerge on the Supreme Court. If Butler wins, an activist majority will be even more firmly established. Judge Gableman has said he opposes legislating from the bench and would defer to the Legislature on policymaking.

Polling has found this race to be very close. Your vote is critical.

Please read the editorial from *The Wall Street Journal* below before you vote on April 1.

#### ***The Wall Street Journal* -- Wisconsin Bar Brawl** March 24, 2008; Review and Outlook -- Page A14

When Wisconsin voters go to the polls this April Fool's day, the state Supreme Court may realize the joke's on them. After four years of judicial activism, one of the court's most liberal members, Justice Louis Butler, is up for re-election -- and voters get to send a message about what they expect from their judges.

The last time Badger State voters had a chance to vote on Justice Butler, in 2000, the then-Milwaukee County Municipal Judge lost by nearly 2-1 to then-state Supreme Court Justice Diane Sykes. But when a seat opened up on the high court in 2004 with the elevation of Justice Sykes to the federal Seventh Circuit Court of Appeals, Democratic Governor Jim Doyle appointed Judge Butler to the slot.

Liberals suddenly enjoyed a 5-4 majority on the court, and it swung sharply to the left. The court systematically dismantled the state's tort reform laws, eliminating caps on noneconomic damages in

medical malpractice rulings. In another case, the court made Wisconsin the only state to accept "collective liability" for manufacturers in cases involving lead paint. Whether a company actually produced the paint became irrelevant to guilt or innocence.

Looking at the medical malpractice ruling, Judge Sykes noted in a speech that "the court's majority is making a political policy judgment, not a legal one." Also noticing were members of the state's business community, which has proceeded to finance an election challenge to Justice Butler. Many have rallied around the strong challenge by Burnett County Judge Michael Gableman, a former state prosecutor. In a campaign of dueling TV ads, opponents who often call Justice Butler, a former public defender, "Loophole Louis" have been criticizing his criminal jurisprudence.

But while the Butler campaign has howled about unfairness, the Wisconsin plaintiffs bar is pouring money into the race on his behalf. In the current election cycle, more than \$228,000 in contributions have come from the state's lawyers -- more than half of the campaign's total. In a TV spot, groups supporting the liberal Justice are claiming that Judge Gableman's district is one of the pokiest in dealing with criminal cases. They neglect to mention that this is because he's the only judge in the district, but you have to smile at the spectacle of liberal groups trying to save a liberal judge by calling his opponent soft on crime.

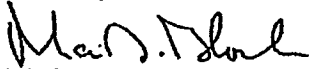
Refereeing all this is a supposedly bipartisan "watchdog" group known as the Wisconsin Judicial Campaign Integrity Committee, formed in December. Chaired by Tom Basting, president of the Wisconsin Bar Association, the group claims to represent the interest of fair and impartial courts. They want both candidates to sign a "Code of Judicial Conduct" campaign pledge, which Mr. Gableman has so far declined to do.

So who are these self-appointed guardians of fairness? Of the committee's eight members, seven are Democrats -- either political leaders or donors to Governor Doyle. Three are reported to have ties to Justice Butler's campaign. And in emails collected by the Wisconsin Club for Growth in February, committee members were quoted as calling Judge Gableman's campaign aides "mercenaries" and suggesting campaign strategies that might benefit Justice Butler.

Judicial elections aren't always enlightening, but they are a natural public reaction when courts usurp the power of legislatures. They can also be a check on a legal elite who think they should dominate the bench. Justice Butler picked this election fight when he and four colleagues decided, by judicial fiat, to make Wisconsin a national mecca for the trial bar.

**Please make sure you vote and urge your family, friends and business associates to make the time on Tuesday April 1<sup>st</sup> to make it to the polls.**

Sincerely,



Mark Block

State Director, Americans for Prosperity of Wisconsin

**THIS COMMUNICATION IS BEING SENT TO YOU PURSUANT TO WIS. STATS. § 11.29(1). IF YOU NO LONGER WISH TO RECEIVE COMMUNICATIONS FROM AFP-WISCONSIN, PLEASE NOTIFY US AT:**

Mark J. Block, Executive Director, Americans for Prosperity, Wisconsin Chapter  
1126 South 70th Street, Suite S 219A, Milwaukee, WI 53214  
Phone: (414) 475-2975, Toll Free: 1-877-667-2975  
Email: [infowi@afphq.org](mailto:infowi@afphq.org)

**2008-16      Representative Michael Huebsch**

**MOTION:** Adopt the report, find no probable cause, and dismiss the matter.  
Moved by Myse, second by Cane. Motion carried unanimously.

State of Wisconsin	Government Accountability Board
In the Matter of	)
	)
	)
	)
<b>Rep. Michael Huebsch</b>	)
	<b>PRELIMINARY FINDINGS OF FACT AND CONCLUSIONS</b>
	<b>GAB Case #2008-16</b>

**Background.** The Government Accountability Board received a complaint on May 2, 2008 from James D. Wine alleging that former Assembly Speaker Michael Huebsch (1) in 2006 and 2007 caused his campaign account to reimburse him for mileage that he did not incur for a political purpose and (2) from May 1, 2005 to December 31, 2006 gave his vote or influence, or otherwise took official action on 2005 Assembly Bills 195, 414, 764, 766, 787, 892, 960, 981, 1021, 1072, 1073, and 1217 in consideration of, or upon condition that, one or more individuals furnish Mr. Huebsch with campaign contributions.

**Preliminary Findings of Fact.** The Board adopts the attached Report of Investigation as its Preliminary Findings of Fact in this matter. The Board does not possess or have knowledge of any information which would tend to refute or discredit these findings.

**Applicable statutes.**

Section §11.25 (2) (a), *Wisconsin Statutes*, provides:

(2) (a) No person, committee or group may make or authorize a disbursement or the incurrence of an obligation from moneys solicited for political purposes for a purposes which is other than political, except as specifically authorized by law.

Section §19.45 (13), *Wisconsin Statutes*, provides:

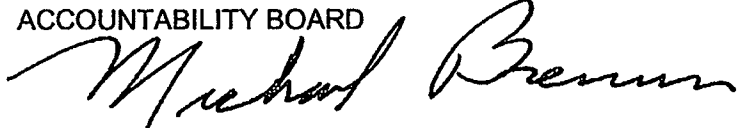
(13) No state public official or candidate for state public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05, or any person making a communication that contains a reference to a clearly identified state public official holding an elective office or to a candidate for state public office.

**Conclusions.**

The Government Accountability Board concludes there is no probable cause to believe that Michael Huebsch violated §11.25 (2), *Wisconsin Statutes*, nor has he violated §19.45 (13), *Wisconsin Statutes*.

The State of Wisconsin Government Accountability Board on the unanimous, affirmative vote of the six members meeting on March 31, 2009, adopts these preliminary findings of fact and conclusions.

STATE OF WISCONSIN GOVERNMENT  
ACCOUNTABILITY BOARD

A handwritten signature in black ink, appearing to read "Michael Brennan", is written over the printed name.

By Michael Brennan, Chair

State of Wisconsin

Government Accountability Board

In the Matter of

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)  
)  
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**REPORT OF  
INVESTIGATION**

**Rep. Michael Huebsch**

**GAB Case #2008-16**

**Background.** The Government Accountability Board received a complaint on May 2, 2008 from James D. Wine alleging that former Assembly Speaker Michael Huebsch (1) in 2006 and 2007 caused his campaign account to reimburse him for mileage that he did not incur for a political purpose and (2) from May 1, 2005 to December 31, 2006 gave his vote or influence, or otherwise took official action on 2005 Assembly Bills 195, 414, 764, 766, 787, 892, 960, 981, 1021, 1072, 1073, and 1217 in consideration of, or upon condition that, one or more individuals furnish Mr. Huebsch with campaign contributions.

**Investigation Activities.** The Board's investigators, Doug Haag, John Norsetter, and Dean Nickel examined documents, and interviewed Representative Huebsch, lobbyists, and others as detailed in the investigators' reports provided to the Board. The Board does not possess or have knowledge of any information which would tend to refute or discredit these findings.

**Findings.**

This investigation was predicated on a two part allegation: First, that the mileage reimbursements claimed by Rep. Mike Huebsch were unrealistic and that Rep. Huebsch was possibly converting campaign funds to his personal use by overstating the number of miles that he claimed. Secondly, that during the 2005-2006 legislative sessions, as Assembly majority leader, Rep. Huebsch received contributions to his campaign fund in a disproportionate amount from certain industries during times that bills of interest to those industries were moving through the legislature. The allegation was that campaign contributions to Rep. Huebsch were tied to the movement of the bills. The investigation found no evidence to substantiate either allegation.

***Mileage claims.***

Rep. Huebsch stated that, in his role as majority leader, he traveled constantly throughout Wisconsin. He also averaged two to three trips per week between Madison and his home district in the LaCrosse area. Rep. Huebsch stated that, in 2005, he stopped claiming reimbursement for mileage expenses on his State of Wisconsin Time and Travel Reports. Rep. Huebsch said that since he had become majority leader earlier that year, his travel often combined state business with "political" content. He stated that he wanted to avoid claiming state reimbursement for travel that also involved political business. Rep. Huebsch stated that, from that time forward, he used his campaign funds for all travel reimbursement, except for the per diem that he claimed while in Madison. A review of the documents held by the Assembly Chief Clerk verified that Rep. Huebsch stopped claiming expenses other than per diem in August, 2005.

*Pay to play allegations.*

The complaint alleged fundraising irregularities in four areas: alcohol (beer, wine and liquor industries), health care (hospital and medical industries), insurance and telephone. The allegations were based on spikes in campaign contributions from specific industries occurring near the time that bills were brought to a vote. We interviewed lobbyists representing clients in each area.

The majority of the lobbyists interviewed stated that the fact that Rep. Huebsch agreed with their clients on issues was the major factor in making contributions to him. Several indicated the fact that Rep. Huebsch was Assembly majority leader and in a position of influence were also factors influencing campaign contributions.

No lobbyist that we interviewed stated that he or she believed that Rep. Huebsch's vote or influence on a bill was based on or influenced by campaign contributions. In fact, when asked directly about this, all stated that they did not recall any instance in which they talked to Rep. Huebsch about contributions and legislation in the same conversation. Several went further and stated that Rep. Huebsch was an honest public servant and was not a legislator that they would think of if there were anyone in the legislature involved in "pay to play".

A number of lobbyists also pointed out that, during the 2005-2006 sessions, Rep. Huebsch was the Assembly majority leader, but John Gard was the Speaker of the Assembly. They considered Rep. Gard as being the driving force in determining what legislation moved through the Assembly, rather than Rep. Huebsch.

With respect to the relation between the timing of contributions and the scheduling of bills, each lobbyist that we interviewed stated in one form or another that contributions are not based on the status of bills in the legislature, but rather on the timing of fundraisers, legislative days, industry days, or other similar events.

These statements were corroborated by our examination of the timing of contributions with specific events. We found, for example, that the Tavern League of Wisconsin held a legislative day on March 29, 2005 at which Rep. Huebsch spoke. Rep. Huebsch had an annual fundraiser golf outing in September, 2005. The Wisconsin Hospital Association held a fundraiser for Rep. Huebsch in connection with its annual convention on September 22, 2005 which raised \$7000-\$8000 for Rep. Huebsch's campaign. The fundraiser had been scheduled the previous year. Rep. Huebsch held fundraisers in April and June of 2005, one in Madison and the other in the Wisconsin Dells, both attended by representatives from the various beer, wine and liquor associations.

A significant allegation of the complaint centered on the receipt of campaign contributions from the beer, wine, and liquor industry in connection with AB787. A substantial majority of contributions from that industry were given to Rep. Huebsch in April 2005. This pre-dated a Supreme Court decision on May 16 of that year affecting distribution issues in the liquor industry. Only after the Court ruling did the need for the bill arise and was the bill subsequently introduced.

In sum, Rep. Huebsch and the lobbyists with whom we spoke all denied a link between contributions and bill scheduling. Empirical evidence from our examination of the timing of fundraising events, bill histories, and contribution patterns tends to substantiate those assertions.

**Conclusion.**

The investigation found no evidence to support a finding of probable cause to believe that Michael Huebsch violated either §11.25 (2), *Wisconsin Statutes*, or has he violated §19.45 (13), *Wisconsin Statutes*.

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
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<http://gab.wi.gov>



JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

July 16, 2009

The Honorable Lena Taylor  
State Senator  
Room 415 South  
State Capitol  
Madison WI 53707-7882

Dear Senator Taylor:

I am writing to formally notify you that the Government Accountability Board has completed its investigation regarding a traffic citation issued to you by the Milwaukee Police Department on January 23, 2009, which was subsequently voided and then re-issued by Department officials. The goal of our agency's investigation was to determine whether you violated Wis. Stats. Section 19.45, the Code of Ethics for State Public Officials. Section 19.45(2) prohibits a public official from using his or her public position or office to obtain financial gain or anything of substantial value for his or her private benefit. Section 19.45(3) prohibits a public official from soliciting or accepting, directly or indirectly, anything of value if it could reasonably be expected to influence the official's vote, official actions or judgment, or could reasonably be considered a reward for any official action on the part of the public official.


G.A.B. staff conducted interviews with you and with every member of the Milwaukee Police Department involved in the incident. The Government Accountability Board considered this matter and made a finding that no probable cause existed to conclude that you had violated the Ethics Code. The Board's decision was based on its evaluation of the evidence and credibility of the statements gathered in the staff investigation.

In summary, the evidence showed that you did not request that the traffic citation be voided or that you be given special consideration. The evidence established that the decision was initiated by members of the Police Department. In addition, we found no evidence that your contact with the traffic officers who gave you the ticket involved the use of your public office or position.

This notification concludes our agency review of this matter. As a record of the Board's finding of no probable cause, this correspondence may be considered a public record pursuant to Wis. Stats. Section 5.05(5s)(e)4. We appreciate your cooperation with our investigation, and if you have any questions about this matter, please feel free to contact us.

Sincerely,

GOVERNMENT ACCOUNTABILITY BOARD

  
Kevin J. Kennedy  
Director and General Counsel

**GAB 2010-01 Dan Bohrod and GAB 2010-02 Terri McCormick**

Michael Haas updated the Board on investigations into complaints that the above two candidates have solicited public employees. Staff recommends dismissing both complaints regarding s. 11.36, and the s. 11.30 complaint against Bohrod due to lack of reasonable suspicion that any violations have occurred.

**MOTION:** To dismiss complaints due to a lack of reasonable suspicion that any violations have occurred. Moved by Judge Cane, seconded by Judge Nichol. Motion carried unanimously.

# State of Wisconsin \ Government Accountability Board

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http://gab.wi.gov



JUDGE WILLIAM EICH  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the Meeting of March 23-24, 2010

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:  
Jonathan Becker, Ethics and Accountability Division Administrator  
Michael Haas, Staff Counsel

**SUBJECT:** In the Matter of Dan Bohrod  
2010-GAB-01  
In the Matter of Terri McCormick  
2010-GAB-02

### Background Summary

The Board has recently received complaints alleging that two different candidates – state treasurer candidate Dan Bohrod and congressional candidate Terri McCormick -- have solicited public employees in violation of §11.36, Wis. Stats. Given their similarities as well as the Board's previous discussion regarding the interpretation of "political solicitation," it may be helpful for the Board to consider the two matters together.

### Issues

Do communications issued by political committees and delivered to email addresses of public officials and employees violate §11.36, Stats., when those communications include political messages but do not request a contribution or involvement in campaign activity?

Does a press release issued by a campaign committee require an attribution statement pursuant to §11.30, Stats. when the press release clearly indicates that it was created and released by the committee and no disbursement for the production and distribution of the press release can be identified?

### Recommended Motion

Dismiss the two complaints regarding §11.36 allegations, and the §11.30 complaint against candidate Bohrod due to lack of reasonable suspicion that any violations have occurred.

### Factual Background

In the first matter, the Board received a complaint from Attorney Michael Maistelman on behalf of the campaign of State Treasurer Dawn Marie Sass. The complaint alleges that candidate Dan Bohrod's campaign emailed a press release to a large list which included email address for public officials or employees, including addresses using the domain addresses of [co.dane.wi.us](http://co.dane.wi.us), [wisc.edu](http://wisc.edu), and [legis.wisconsin.gov](http://legis.wisconsin.gov). The press release was critical of incumbent Treasurer Sass, was issued on campaign stationery and mentions the Bohrod candidacy, but does not specifically invite or request either political contributions or volunteer activity. The complaint also alleges that candidate Bohrod violated §11.30 by failing to include an attribution statement on the press release to identify the source of the press release. A copy of the complaint and the press release are attached.

In the second matter, congressional candidate Terri McCormick's campaign emailed a communication to the office email address of the Outagamie County Clerk, and presumably to other local officials. The message was addressed to "local government leader" and invited recipients to sign up to receive regular newsletters from the McCormick campaign by clicking on a link in the email. The email promotes the McCormick campaign and uses its logo, but, like the Bohrod press release, does not specifically invite or request either political contributions or volunteer activity. A copy of the McCormick email is attached as well as the page that appears when a recipient activates the link to register for the newsletter.

### Analysis

#### A. §11.36 Solicitation Issues

The Bohrod press release was apparently emailed to several state elected officials and employees as well as to at least one local government employee. The McCormick email was apparently emailed to a list of local government employees or officers. The relevant provisions of §11.36, Stats. state as follows:

- (1) No person may solicit or receive from any state officer or employee...any contribution or service for any political purpose while the officer or employee is engaged in his or her official duties....
- (2) No person may solicit or receive from any officer or employee of a political subdivision of this state any contribution or service for any political purpose during established hours of employment or while the officer or employee is engaged in his or her official duties.
- ....
- (4) No person may enter or remain in any building, office or room occupied for any purpose by the state, by any political subdivision thereof...or send or direct a letter or other notice thereto for the purpose of requesting or collecting a contribution.

- (5) In this section, "political purpose" includes an act done for the purpose of influencing the election or nomination for election of a person to national office, and "contribution" includes an act done for that purpose.

Section 11.01(6), Stats., contains the general definition of "contribution," which focuses on a transfer of money or anything of value. In addition, §11.01(16), Stats., states that "An act is done for a "political purpose" when it is done for the purpose of influencing the election or nomination for election of any individual to state or local office...."

At its meeting of October 5, 2009, the Board discussed political communications that are sent to governmental email addresses, and the type of communication that constitutes a solicitation of a contribution or service under §11.36, Stats. The consensus of the Board was that a political communication does not necessarily solicit a contribution or service for a political purpose solely because the communication is made by a registered committee. Consistent with that finding, it is the opinion of Board staff that neither the Bohrod campaign press release nor the McCormick email solicited a political contribution or service from public officers or employees.

At most, in both instances the committees were seeking the attention of potential recipients and asking them to read the communication. The McCormick email also invites readers to click a link which opens up a page to sign up for future newsletters from the campaign. Those actions of a recipient of an email do not seem to constitute an act done for the purpose of influencing the election or nomination of an individual to an elected office. Therefore the invitations of the Bohrod and McCormick campaigns to read their respective communications would not seem to constitute a solicitation for a political contribution or service.

#### B. §11.30 Attribution Issues

The complaint filed by the Sass campaign also alleges that the Bohrod campaign failed to include the attribution required by §11.30, Stats. on its press release. Section 11.30(2)(b) states that every communication of a political committee which is paid for or reimbursed by a committee shall be identified by the words "Paid for by", followed by the name of the committee making the payment for the communication and the name of the committee treasurer.

The Bohrod press release clearly identifies the campaign committee as its source but does not include the words "Paid for by" or the treasurer's name. In speaking with Mr. Bohrod, however, staff has determined that there is no specific expense that can be attributed to the creation or distribution of the press release. Mr. Bohrod wrote the press release himself on his personal computer and sent it to the email addresses he had accumulated. The press release was not generated by a paid staff member of the campaign or using a computer purchased by the campaign, in which case it might have been easier to identify some specific disbursement that could be attributed to the press release. The staff's opinion, therefore, is that the Bohrod press release also did not violate §11.30, Stats.

Staff Recommendation

Pursuant to §5.05(2m)(c)4., Board staff recommends that the Board dismiss the complaints against candidates Dan Bohrod and Terri McCormick due to a lack of reasonable suspicion that any violations of §11.36, Stats., has occurred. Staff further recommends dismissing the complaint against candidate Bohrod alleging a violation of §11.30 for the same reason.

**2010-17 Senator Dan Kapanke**

**MOTION:** The Board finds no probable cause to believe Senator Kapanke violated the law because he has demonstrated by clear and convincing evidence that the business opportunities were available to the general public. Staff to send letter for Senator Kapanke to the Board chair, outlining the criteria for findings in this case. Moved by Judge Nichol, seconded by Judge Myse.

Discussion.

**MOTION:** To amend the motion to say the Board has investigated the complaint against Senator Kapanke, concluded that no violation occurred, and dismisses the complaint under 5.05(2)(m). Moved by Judge Nichol, seconded by Judge Myse. Motion carried unanimously.

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

April 7, 2011

Eric M. McLeod  
Michael Best & Friedrich LLP  
One South Pinckney Street, Suite 700  
P.O. Box 1806  
Madison, WI 53701-1806

Re: In the Matter of Senator Dan Kapanke,  
GAB Case #2010-17

Dear Mr. McLeod:

As we previously informed you, the Government Accountability Board considered allegations from Mike Tate that the LaCrosse Loggers Foundation Inc. improperly used funds received from LaCrosse Baseball LLC to pay the City of Lacrosse for an obligation assumed by Senator Kapanke in April 2008 to make improvements at the city-owned stadium rented by the baseball team. The gist of the complaint was that the funds the Foundation used were funds transferred from the baseball team that the team had received from lobbying principals. Wisconsin's lobbying law prohibits a principal to furnish anything of pecuniary value to a state elected official. Pursuant to an agreement with the former Ethics Board, Senator Kapanke was to transfer all advertising revenue received from lobbying principals to the Foundation to be used for charitable purposes.

Mr. Tate's complaint alleged that on March 5, 2009, the City of La Crosse entered into a Third Addendum to the Lease Agreement with La Crosse Baseball, LLC, to cover the costs of installing lighting at the baseball team's home ballpark at Copland Field. As part of this Third Addendum to the Lease Agreement, La Crosse Baseball, LLC, was required to make semi-annual payments to the City of La Crosse on June 15, 2009 and December 15, 2009, and continuing semi-annually for a period of 10 years. The semi-annual lease payments are in the amount of \$16,930.80. Additionally, a \$225,000.00 Promissory Note was executed personally and individually by Senator Kapanke and his wife to cover the costs of the lighting and guarantee the lease payments.

Mr. Tate's complaint also alleged that the Form 990 filed with the IRS by the La Crosse Loggers Foundation, Inc., documents a \$16,930.80 payment to the City of La Crosse on June 12, 2009. Mr. Tate alleges that the Foundation's lease payment converted its lobbying principal funds to the benefit of Senator Kapanke because the lease payment is a contractual obligation and debt of the La Crosse Baseball, LLC, which is also personally guaranteed by Senator Kapanke. (Previous Ethics Board records document that Senator Kapanke held a 100% interest in the La Cross Loggers, LLC.)

At its meeting of December 13, 2010, the Board concluded that no further action was warranted with respect to Mr. Tate's allegations. This was because Senator Kapanke was under no obligation to, and received no consideration for, undertaking the improvements. Indeed, the Foundation could have directly agreed with the City to pay for the improvements. In the Board's view, the obligation undertaken by Senator Kapanke to make stadium improvements was a voluntary undertaking for which neither he nor LaCrosse Baseball received any consideration and could have been undertaken directly by the Foundation as a charitable endeavor. For this reason the Board concluded that no further action was warranted.

However, in the course of its investigation, the Board reviewed LaCrosse Baseball's financial disclosures which raised concerns that although the baseball team donated thousands of dollars of revenue received from lobbying principals to the Foundation, LaCrosse Baseball may not have deposited all such revenues with the Foundation for the years 2007, 2008, and 2009.

At the request of Senator Kapanke, the Board examined the question of whether his LLC's receipt of such revenues from lobbying principals was nevertheless permitted because the payments were available to the general public. Section 13.625 (2), provides:

13.625 (2) No principal may engage in the practices prohibited under sub. (1) (b) and (c). This subsection does not apply to the furnishing of transportation, lodging, food, meals, beverages or any other thing of pecuniary value which is also made available to the general public.

By its terms, this applies to items of pecuniary value that a *principal* makes available to the general public. In 80 Op. Att'y Gen. 205, Attorney General Doyle stated:

I agree that the criteria you suggest are appropriate for determining whether an item or service is available to the general public under section 13.625(2). Under those criteria, something is available to the general public if:

1. It is available to anyone who wants it and who meets the criteria for eligibility;
2. The criteria are: (a) established and readily identifiable; and (b) drawn without the purpose or effect of giving a preference to or conferring an advantage upon an agency official, legislative employee or elective state official; and
3. There is no offer or notice of availability directed to an agency official, legislative employee or elective state official with the effect of conferring an advantage not also given others who meet the criteria.

Under these criteria, a legislator who is an alumnus of a university which is also a principal could purchase school memorabilia from the school but the school could not hire the official as a "consultant."

In the same opinion, at p. 208, the Attorney General, in explaining the exception, stated:

Therefore, an official may purchase banking services and may receive loans from a bank which hires a lobbyist if the services and loans are provided to the official on

the same terms and conditions that the services and loans are provided to the general public. Similarly, an official could purchase legal services from or sell legal services to an association, corporation or partnership that employs a lobbyist if such services are provided on the same terms or conditions to the general public.

In March 1994, the Ethics Board asked for clarification of the Attorney General's statement. In a letter of November 28, 1994, the Attorney General stated that a lobbying principal could not only sell goods and services to a state official if they are also made available to the general public; a lobbying principal could also purchase legal services from an official, but one must look at the facts to determine if the exception applies.

The Attorney General stated:

I would agree with you that a principal which used a bidding process to select an attorney who was also a public official would have gone a long way towards establishing that the employment had been made available to the general public. Likewise, if the lobbying principal approached comparable firms or lawyers, that is, law firms with comparable expertise and resources, and after due consideration chose the officials' law firm, a finder of fact could certainly conclude that the employment had been made available to the general public.

The Attorney General went on to say that "[t]he law must be interpreted and enforced in such a way so as to permit legitimate business relationships between principals and the attorneys they wish to employ." The Attorney General further said that factors such as a pre-existing professional relationship between a principal and an official, a payment amount that is not unusual, and a relationship that mirrors similar relationships could be pertinent in determining whether something is available to the general public.

Applying these criteria, the Board concluded that LaCrosse Baseball's transactions with lobbying principals were available to the general public and that there is no probable cause to believe that Senator Kapanke has violated the lobbying law.

Sincerely,



Kevin J. Kennedy  
Director and General Counsel

# State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** May 18, 2011  
**TO:** Members of the Public  
**FROM:** Government Accountability Board  
**SUBJECT:** Complaints Arising from Budget Repair Bill Dispute  
Case No. 2011-GAB-01

## **SUMMARY**

The Government Accountability Board has received numerous complaints related to recent events and the actions of various state public officials involved in the debate regarding Governor Scott Walker's budget repair bill. Over the course of several weeks in February and March, Board staff was inundated with telephone calls and email messages complaining about tactics used by officials on either side of the debate, and requesting that the Board take action to enforce procedural rules and penalize elected officials for perceived unethical conduct. The Board has examined each of these complaints.

While the complaints characterized various actions of public officials as morally or politically "unethical," the Board's role is to enforce the specific provisions of the Ethics Code for State Public Officials, as well as the campaign finance, elections, and lobbying laws. It is not to pass judgment on political actions or political positions.

Pursuant to §5.05(2m)(c)4., Wis. Stats., if the board reviews a complaint and fails to find that there is a reasonable suspicion that a violation of the laws under the Board's jurisdiction has occurred or is occurring, the board shall dismiss the complaint. In determining whether an investigation of the many complaints received by the Board related to the budget repair bill controversy was warranted, the Board accepted the allegations contained in the complaints as true. For the reasons stated, the Board has dismissed each of the complaints described below due to lack of reasonable suspicion that a violation of any law administered by the Government Accountability Board has occurred.

## **COMPLAINTS AND DISPOSITIONS**

1. A series of allegations was made in a complaint filed by the Democratic Party of Wisconsin (DPW) against Governor Scott Walker on March 7, 2011. Many individual citizens and organizations filed complaints with similar allegations. These complainants are summarized as follows:

- A. **Allegation:** Governor Walker participated in a telephone call with an individual who falsely represented himself to be David Koch. Mr. Koch is a contributor to conservative causes. An organization headed by Mr. Koch contributed \$43,000 directly to the Walker gubernatorial campaign and \$1 million to the Republican Governors Association, which spent \$3.4 million on television ads in support of the Walker campaign. During the telephone call, the Koch impersonator asked how he could help the effort to support the Governor's proposed budget repair bill. Governor Walker responded that some Republican legislators would benefit from advertisements being run in their districts in support of the bill. The statement allegedly constitutes a request to initiate political disbursements in coordination with the Governor's campaign, in violation of the oath of independent disbursements and §11.06(7)(c), Wis. Stats.

**Board's Finding:** Section 11.06(7)(c), Stats., prohibits a committee which files an oath of independent disbursements from acting in cooperation or consultation or in concert with any candidate or agent or authorized committee of a candidate who is supported by the committee or benefits from a disbursement of the committee. In this instance, Governor Walker was not speaking with a representative of a committee or organization making independent disbursements, but with an individual who falsely represented himself as someone speaking on behalf of such an organization. Taking all facts alleged as true, the Board found that the complaint failed to establish reasonable suspicion that a violation of §11.06(7)(c), Stats., occurred, and the Board dismissed this allegation.

- B. **Allegation:** Governor Walker participated in the telephone call with the individual falsely representing himself to be David Koch while he was in the Governor's Office in the Capitol building. The telephone call, therefore, constituted a violation of §11.36(4), Stats., which prohibits any person from remaining in any state building for the purpose of requesting a political contribution.

**Finding:** The Governor's statement, at most, is a suggestion that his agenda and supportive legislators would benefit from issue advertising. The Governor did not request monetary or in-kind political contributions. Taking all facts alleged as true, the Board found that the complaint failed to establish reasonable suspicion that a violation of §11.36(4), Stats., occurred, and the Board dismissed this allegation.

- C. **Allegation:** During the telephone call with the individual falsely representing himself to be David Koch, Governor Walker stated that he has the Attorney General's office "looking into" strategies to force the return to the State of Democratic Senators, who had left the State in order to deny the required quorum for Senate action on the budget repair bill. The statement allegedly constituted a misuse of the independently elected office of Attorney General for primarily political motivations.

**Finding:** Taking all facts alleged as true, the Board found that the Governor's statement regarding the Attorney General's role and involvement in the political debate did not establish reasonable suspicion that a violation of a specific provision of the Ethics Code for State Public Officials occurred. The statement estab-

lishes nothing more than the Governor speculating about possible support for his agenda from another constitutional officer and seeking legal advice from the State's lawyer about possible legal options and strategies to advance the Governor's proposed agenda. Accomplishing a goal of his legislative agenda does not confer a personal financial benefit on Governor Walker, and the Ethics Code does not prohibit officials from engaging in activity that might be perceived as political, provided that the office is not used in a specific way to support a campaign effort, such as by organizing a fundraising event or issuing campaign communications. Therefore, the Board dismissed this allegation.

- D. **Allegation:** During the telephone call described above, Governor Walker stated that he consulted with staff members and Cabinet officials to consider "planting" troublemakers to incite violence in peaceful protests at the Capitol, and that he decided not to do so only because such a tactic might scare the public into thinking that he should settle the dispute to avoid problems. The Governor's statement allegedly constitutes a conspiracy to recklessly endanger public safety in violation of §§939.31 and 947.01, Stats.

**Finding:** Taking all facts alleged as true, the Board found that the Governor's statement did not constitute a violation of a specific provision of the Ethics Code for State Public Officials or any other law under the Board's jurisdiction, and dismissed this allegation. No evidence suggests that the Governor actually encouraged or organized others to incite violence at any protests, and any alleged violations of the criminal statutes cited are within the purview of local law enforcement and prosecutors, not the Board. Notably, the Dane County District Attorney announced that his office had investigated this allegation and found no grounds for prosecution under the criminal statutes.

- E. **Allegation:** During the telephone call described above, Governor Walker stated that he was preparing to issue layoff notices to 5,000 – 6,000 public sector employees in an attempt to "ratchet up" the political pressure on Democratic Senators to return to the State and allow a vote on the budget repair bill. This statement allegedly constituted a threat against, and intimidation of public sector employees for political purposes, and is an unfair labor practice in violation of §111.84, Stat.

**Finding:** Taking all facts alleged as true, the Board found that the Governor's statement did not establish reasonable suspicion that a violation of a specific provision of the Ethics Code for State Public Officials or any other law under the Board's jurisdiction has occurred. Alleged violations of the employment relations provisions of Chapter 111 are matters to be resolved pursuant to that Chapter, and not by the Board. Authorizing layoff notices would not result in a personal and financial benefit to Governor Walker that is prohibited by the Ethics Code.

- F. **Allegation:** During the telephone call described above, the individual falsely representing himself to be David Koch offered to pay for the Governor to fly to California, where he would be "shown a good time." Governor Walker responded by stating that it would "be great." This offer and the Governor's response allegedly constituted a violation of §19.45(2), which prohibits a state

official from using his public position or office to obtain financial gain or anything of substantial value for the private benefit of the official or the official's immediate family.

Finding: Governor Walker's response was not an acceptance of something of value because there was no offer actually made by Mr. Koch, only an imaginary offer made by the individual representing himself as David Koch. Furthermore, no such actual trip has been offered to, or taken by, the Governor. Taking all facts alleged as true, therefore, the Board found that the complaint did not establish reasonable suspicion that a violation of §19.45(2), Stats., occurred, and dismissed this allegation.

2. In addition to the allegations included in the complaint filed by the Democratic Party of Wisconsin, the Board received the following complaints against Governor Walker, his administration, and Republican legislators related to events surrounding the budget repair bill dispute:

- A. Allegation: Citizens for Responsibility and Ethics in Washington (CREW), and several others, alleged that Governor Walker and Senate Majority Leader Scott Fitzgerald misused state resources by ordering the Wisconsin State Patrol to visit the homes of Democratic Senators, and by issuing orders that the State Patrol detain Democratic Senators if they were located in Wisconsin and transport them to the Capitol to participate in Senate business. The complaints noted that the Superintendent of the State Patrol is Stephen Fitzgerald, the father of Senator Fitzgerald, and that State troopers cannot take part in any dispute between an employer and employee over wages or working conditions.

Finding: The CREW complaint essentially asserted that the involvement of the State Patrol in attempting to locate and detain Senate Democrats is a violation of §19.45(5), Stats., which prohibits state public officials from using or attempting to use their public position to influence or gain unlawful benefits, advantages or privileges for themselves or for others. The Department of Transportation issued a response to the CREW complaint which is attached as Exhibit A. The response of the State Patrol notes that it possesses broad latitude in its authorized duties, including protecting the safety of State officials and assisting local law enforcement.

Taking all alleged facts as true, the Board found that the complaints regarding the use of the State Patrol did not establish a reasonable suspicion that a violation of §19.45(5), Stats., occurred, or that the directives given to the State Patrol constituted an unlawful benefit. The State Patrol was not asked to intervene in a labor dispute, but rather in a search for legislators who were intentionally absent from the Senate's floor session. The Senate possesses broad authority to compel attendance of absent Senators pursuant to Article IV, §7 of the Wisconsin Constitution, which authorizes each house of the Legislature "to compel the attendance of absent members in such manner and under such penalties as it may provide." Given the broad language of this provision, and the broad latitude of the State Patrol's duties, the Board found that its actions did not confer an unlawful benefit upon Governor Walker and Senate Majority Leader Scott Fitzgerald.

- B. **Allegation:** The Board received several complaints regarding the adoption and implementation of Senate rules by Majority Leader Scott Fitzgerald and Republican Senators in the absence of Democratic Senators, including threatening to withhold paychecks of Democratic Senators, terminating public testimony at a committee hearing and debate on the Assembly floor, changing voting rules, convening a floor session prior to the announced time, and failing to provide adequate notice of a conference committee meeting under the Open Meetings Law.

**Finding:** The Board found that allegations regarding the rules of the Senate were not within the jurisdiction of the Board. Article IV, §8 of the Wisconsin Constitution provides that each house of the Legislature may determine the rules of its own proceedings, and punish its members for contempt and disorderly behavior. The Board has no authority to second-guess or oversee the reasonableness of the Senate's rules or their implementation, unless those rules violate statutory provisions of the Ethics Code, campaign finance regulations, or lobbying laws. Legislative actions taken by the majority of the Senate do not constitute use of a public office for a personal and financial benefit. In addition, whether or not those actions were influenced by political motivations does not convert them to campaign activities. Therefore, taking all alleged facts as true, the Board found that these allegations fail to establish reasonable suspicion that a violation of the Ethics Code has occurred, and dismissed the complaints.

- C. **Allegation:** The Board received a number of complaints alleging that Governor Walker and the Secretary of the Department of Administration had unlawfully restricted public access to the Capitol building, as a method of terminating protests and demonstrations regarding the Governor's budget repair bill.

**Finding:** The Board found that this allegation did not fall under the Board's jurisdiction to enforce the specific provisions of the Ethics Code for State Public Officials. As demonstrated by the civil case brought in Dane County Circuit Court, whether or not public access to the Capitol was properly restricted is a constitutional question, and not an issue of enforcing the Ethics Code. Access to the Capitol building was restricted pursuant to official policies of the Department of Administration, which provided no personal financial gain to any of the state public officials involved. Taking all alleged facts as true, therefore, the Board found that these allegations failed to establish reasonable suspicion that a violation of the Ethics Code has occurred, and the dismissed these complaints.

- D. **Allegation:** The Board received various complaints that elected officials have used the budget repair bill debate to advance political motives. For instance, some complaints argued that the fourteen Democratic Senators violated their oaths of office by hiding out in Illinois as a political maneuver. Others have complained about Senator Fitzgerald's public comments that the elimination of most collective bargaining rights for public employees will make it more difficult for President Obama's 2012 re-election campaign in Wisconsin.

**Finding:** This category of complaints was aimed at political tactics of elected officials. The Board noted that the oath of office does not prohibit a legislator

from being absent during the floor session. An alleged violation of the oath of office is also not a basis for enforcement under the Ethics Code, without some violation of a specific provision of the Ethics Code. The Ethics Code also does not prohibit elected officials from speaking about potential political consequences of legislative action, or even from using the public office for political advantage. Taking all alleged facts as true, therefore, the Board found that these complaints did not establish a reasonable suspicion that such political tactics and statements violated the Ethics Code.

3. The Board received several complaints regarding the fourteen Senate Democrats who left the State:

**Allegation:** The Senate Democrats unlawfully used funds from their respective campaign accounts, or gifts from supporters, to pay for lodging and meal expenses during their stay in Illinois.

**Finding:** In response to verbal inquiries, Board staff had issued an informal opinion to the Senate concluding that, while the Ethics Code prohibited Democratic Senators from accepting gifts to pay for their food and lodging, campaign funds could be used for such purposes. The staff's guidance was based on recognition that the decision of Senate Democrats to leave the State involved at least some political purpose which supported the use of political contributions. In addition, staff noted that the Elections Board and Government Accountability Board have consistently interpreted the term "political purpose" broadly, to include activities which may have both an official state purpose as well as a purpose to affect the outcome of future elections. The Board formally affirmed the staff's informal opinion regarding the Senate Democrats use of campaign funds for lodging and living expenses during their stay in Illinois. Therefore, taking all alleged facts as true, the Board found that these allegations failed to establish reasonable suspicion that a violation of the Ethics Code or campaign finance laws has occurred, and dismissed the complaints.

## CONCLUSION

The Government Accountability reviewed the complaints and made the findings described above at its meeting on March 23, 2011. The Board also directed staff to make a written public announcement of the Board's findings regarding these matters. In summary, the complaints involved allegations which are outside the jurisdiction of the Board, did not include evidence of a violation of the laws the Board administers, and/or involved the use of political tactics and strategies which are resolved at the ballot box rather than by use of the enforcement tools available to the Board. Due to the high volume of similar complaints, and the public interest in the resolution of the complaints, the Board is issuing this public statement regarding its findings in these matters, not only to conclude the complaint process, but also as a method of educating the public regarding the Board's jurisdiction and enforcement responsibilities.

**2011-09 Luther Olsen**

Jonathan Becker prepared a written report. Mr. Becker gave an oral report about a complaint from Scot Ross of One Wisconsin Now against Senator Olsen alleging he violated Section 19.42(2) by co-sponsoring and voting for a bill that his wife would personally profit from. Staff recommends dismissal because even if all alleged facts are true, there is no violation of the law because CESA is a body politic and is therefore not an organization with which the spouse is associated.

**MOTION:** Dismiss the complaint against Luther Olsen. Moved by Judge Cane, seconded by Judge Deininger. Motion carried unanimously.

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

August 4, 2011

The Honorable Luther Olsen  
State Capitol, Room 123 South  
Madison, WI INTER-D

Scot Ross  
One Wisconsin Now  
152 West Johnson Street, Ste. 214  
Madison, WI 53703

Dear Senator Olsen and Mr. Ross:

At its meeting of August 2, 2011, the Government Accountability Board dismissed Mr. Ross' complaint alleging that Senator Olsen violated §19.45 (2), *Wisconsin Statutes*, by participating in legislative matters affecting a Cooperative Educational Service Agency (CESA) of which Senator Olsen's wife is the administrator. The Board determined that there is no reasonable suspicion that Senator Olsen violated the law.

The complaint alleged that Senator Olsen violated §19.45 (2) by co-sponsoring and voting for a bill that would allow CESAs to establish charter schools and to be paid \$7,775 per student that enrolled in the school. Senator Olsen's wife is the Administrator for CESA 6. At a committee hearing, Senator Olsen also spoke and voted against a proposed bill amendment that would have affected CESA 6's ability to proceed with plans for establishing a charter school outside its geographic district.

Section 19.45 (2) provides:

(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

There is no allegation that Senator Olsen's wife would personally profit from CESA 6 establishment of a charter school. The allegation is that Senator Olsen's actions would lead to financial gain for "an organization with which he is associated." However, an "organization," within the meaning of the Ethics Code, does not include a "body politic." Section 19.42 (11) provides:

(11) "Organization" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity *other than an individual or body politic*.

(Emphasis added).

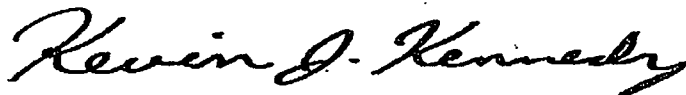
Senator Luther Olsen  
Scot Ross  
August 4, 2011  
Page 2

CESAs are bodies politic. They are created by chapter 116, *Wisconsin Statutes*, and are governmental subdivisions. *Miller v. Mauston School District*, 222 Wis.2d 540 (Ct. App. 1998) (CESAs are local governmental subdivisions). Thus, an official action that benefits a CESA (or a school district or other local government unit with which an official is associated), even one headed by the official's spouse, does not violate the Ethics Code.

Please note that §5.05 (5s) (e) 3., *Wisconsin Statutes*, provides that "any record containing a finding that a complaint does not raise a reasonable suspicion that a violation of the law has occurred" is a record of the Board that is open to public inspection and copying under §19.35 (1), *Wisconsin Statutes*.

Sincerely,

GOVERNMENT ACCOUNTABILITY BOARD

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive, flowing style.

Kevin J. Kennedy  
Director and General Counsel

GAB 2011-09

**2011-30 Governor Scott Walker**

Jonathan Becker presented an oral and written report about a complaint alleging that a website touting the Governor's accomplishments is a misuse of state resources. He said the website is well within the power of incumbency, and recommended dismissal.

**MOTION:** Dismiss the complaint. Moved by Judge Cane, seconded by Judge Vocke.  
Motion carried unanimously.

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<http://gab.wi.gov>



JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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November 15, 2011

Margaret Brick  
Democratic Party of Wisconsin  
110 King Street, Suite 203  
Madison, WI 53703

Dear Ms. Brick:

This is to inform you that the Government Accountability Board has dismissed your complaint against Governor Scott Walker filed on October 25, 2011. The complaint alleged that Governor Walker violated §19.45 (2), *Wisconsin Statutes*, by using state resources to create and host a website entitled "Reforms and Results." The Board found no reasonable suspicion to believe that Governor Walker violated the Ethics Code through that activity.

Sincerely,

A handwritten signature in black ink, reading "Jonathan Becker".

Jonathan Becker, Administrator  
Division of Ethics and Accountability

cc: Governor Scott Walker

2011-GAB-30

### **Vos Matter**

Jonathan Becker gave an oral report regarding an ethics complaint filed against State Representative Robin Vos regarding legislation to cap damage awards in certain lawsuits. Representative Vos is a landlord, and the complaint alleges he voted on a matter that would benefit him financially. Mr. Becker said the legislation is broad public policy, and would not be retroactive.

**MOTION:** To dismiss the complaint. Moved by Judge Vocke, seconded by Judge Cane. Motion carried unanimously.

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

November 17, 2011

Vincent P. Megna  
2600 N Mayfair Road, Ste 1030  
Milwaukee, WI 53226

Dear Mr. Megna:

This is to inform you that the Government Accountability Board has dismissed your complaint against Representative Robin Vos filed on November 3, 2011. The complaint alleged that Representative Vos violated the Ethics Code for State Public officials, Ch. 19, subch. III, *Wisconsin Statutes*, by sponsoring and promoting Special Session Senate Bill 12 relating to capping attorneys fees in certain cases. The Board found no reasonable suspicion to believe that Representative Vos violated the Ethics Code through that activity. The reasons for that determination are set out in the enclosed letter of November 3, 2011 from the Board's Director and General Counsel, Kevin J. Kennedy, to Representative Vos which Representative Vos has made public.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan Becker".

Jonathan Becker, Administrator  
Division of Ethics and Accountability

cc: Representative Robin Vos

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

November 3, 2011

The Honorable Robin Vos  
State Representative  
Room 309 East  
State Capitol  
P.O. Box 8953  
Madison, WI 53708

Dear Representative Vos:

Your staff contacted our office this morning to ask our opinion as to whether your participation in the consideration and vote regarding Special Session Senate Bill 12, relating to factors determining the reasonableness of attorney fees, would violate the Ethics Code for State Public Officials. It is our understanding that the bill would limit attorney fees in certain cases to amounts lower than allowed under current law. We also understand that you have been involved in a lawsuit as the owner of a rental property, and that SB 12 may have governed the award of attorney fees in that case if it had been in effect when that lawsuit was filed. Based upon media reports, it is unclear whether passage of the bill might still affect or influence the outcome of the lawsuit.

The Government Accountability Board, and the State Ethics Board before it, has analyzed similar matters to determine if the circumstances present a conflict of interest under the Code of Ethics for State Public Officials, specifically under Section 19.45 of the Wisconsin Statutes. I am including with this correspondence a formal opinion of the Board, 2009 GAB 02, which outlines the Board's analysis of such matters. The opinion may also be found at the following link: <http://gab.wi.gov/node/411>

In short, even if Special Session Senate Bill 12 applied to your lawsuit, or to future litigation in which you were involved, it is our opinion that the Ethics Code does not prohibit you from participating in the debates or votes pertaining to the bill. The language at the bottom of page 2 and top of page 3 of the attached opinion is particularly relevant. It states that Sections 19.45(2) and 19.46(1)(a) of the Statutes do not apply when an official action is (a) a legislative decision that affects a large class of people; (b) the official's presence in the class is not significant when compared to the number of similarly situated people in the class; and (c) the effect of the proposed legislation on the official is not significantly different than on other members of the class. The attached opinion also cites other previous opinions which have come to the same conclusion.

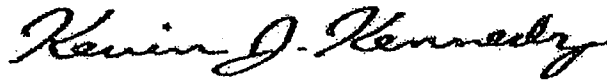
As applied to your question, it appears that the proposed bill is certainly a legislative decision and that it would affect not only all landlords in the State, but all other individuals and businesses which may become party to a variety of different legal actions. In addition, your presence in the class is not significant when compared to the number of similarly situated people who might be affected, and the effect on you is not significantly different than on other members of the class.

The Honorable Robin Vos  
November 3, 2011  
Page 2

In other words, the bill is not one that affects, for instance, only ten property owners, with you or your business owning the largest property that would be affected.

Thank you for contacting the Government Accountability Board. I hope that this information responds to your question, but please feel free to contact us if you have any other questions.

GOVERNMENT ACCOUNTABILITY BOARD

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive style with a large, stylized "K" and "J".

Kevin J. Kennedy  
Director and General Counsel

**2012-05, Representative Evan Wynn**

Mr. Becker provided an oral and written report. Staff recommended an investigation at the March 20 meeting, based on a complaint received March 6, 2012 alleging that two news releases from Representative Wynn were campaign pieces produced and distributed using state resources. The Board asked Mr. Becker to come back to the Board at a future meeting with examples of prior investigations and enforcement actions for similar activities. Mr. Becker said that prior communications, for which the Board imposed forfeitures, were critical of candidates for other State offices while Representative Wynn's said the communications were critical of another member of the Legislature, which is permitted and were issued before any announced candidacies. Based on that review and the distinctions noted, staff recommends dismissal.

Discussion.

**MOTION:** Not to authorize an investigation because of no reasonable suspicion a violation has occurred. Moved by Judge Cane, seconded by Judge Barland.

Roll call vote: Barland: Aye Brennan: Aye  
Cane: Aye Deininger: Aye  
Nichol: Aye Vocke: Aye

Motion carried unanimously.

# State of Wisconsin \ Government Accountability Board

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JUDGE DAVID G. DEININGER  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

July 5, 2012

Beth Vruwink  
24 W. Ash Ln.  
Milton, WI 53563

**Re: In the Matter of Representative Evan Wynn, 2012 GAB-05**

Dear Ms. Vruwink:

The Government Accountability Board received your complaint against Rep. Evan Wynn on March 6, 2012. Your complaint alleged that Rep. Wynn used state resources to produce and distribute two documents whose focus was on criticizing Rep. Andy Jorgensen, in violation of Wis. Stats. §19.45(2), which prohibits the use of a state office to obtain anything of substantial value for private benefit and the use of state office for an unlawful benefit.

The Government Accountability Board authorized an investigation into this matter at its March 12, 2012 meeting. GAB staff conducted initial inquiries into whether reasonable suspicion existed to pursue further action in this matter. At the conclusion of these inquiries, the staff recommended the Board dismiss the complaint. The communications issued by Rep. Wynn were critical of another member of the Legislature and their voting record, which is permitted. In addition, the communications were issued prior to any announcement of candidacies for the 2012 Fall Election. Based on these facts, the Board approved the GAB staff recommendation at its May 15, 2012 meeting and dismissed this complaint on the grounds of no reasonable suspicion that a violation had occurred. The Board considers this matter closed.

If you have questions, please contact the Government Accountability Board Helpdesk at (608) 261-2028.

Regards,

A handwritten signature in black ink, appearing to read 'Nathan W. Judnic'.

Nathan W. Judnic  
Campaign Finance Auditor  
Wisconsin Government Accountability Board

Cc: Jonathan Becker, Division Administrator – Ethics and Accountability

*Sent*

*7/5/12*

*NJ*

## 2012-08 – ALEC

Mr. Becker made an oral and written presentation regarding disposition of the complaint by the Center for Media and Democracy (CMD) alleging that legislators broke Wisconsin's lobbying law by attending conferences sponsored by the American Legislative Exchange Council (ALEC). Mr. Becker said the activity is legal because if it can be demonstrated that an activity is on behalf of the state, an organization can pay. Legislators can attend the conference, and if ALEC did not pay, the state would pay. CMD also accused ALEC of lobbying without registration, but the group itself does not lobby anyone, and does not pay anyone to communicate with legislators. Many of ALEC's individual members are already registered lobbying principals.

**MOTION:** Adopt Preliminary Findings and Conclusions on Pages 15-17 of the Closed Session Board materials. Moved by Judge Cane, seconded by Judge Brennan. Motion carried unanimously.

State of Wisconsin	Government Accountability Board
In the Matter of	)
	) PRELIMINARY FINDINGS OF
	) FACT AND CONCLUSIONS
American Legislative Exchange	)
Council and Time Warner Cable	) GAB Case #2012-08

**Background.** On March 23, 2012, the Government Accountability Board received a complaint from The Center for Media and Democracy against the American Legislative Exchange Council ("ALEC") and 43 Republican legislators alleging violations of §19.45 and §13.625, Wis. Stats. The Center for Media and Democracy filed a supplement to its complaint on April 11, 2012. The complaint centered on the reimbursement and/or payment of travel expenses to legislators for attendance at ALEC conferences. The complaint also alleged that legislators accepted free tickets to a baseball game and party from Time Warner Cable, a Wisconsin lobbying principal and member of ALEC. Finally, the complaint alleged that a number of legislators failed to report the receipt of expense payments by ALEC on their Statements of Economic Interests.

#### **Findings of Fact.**

##### Attendance at ALEC conferences

The Ethics Code, §19.45 (3m), Wis. Stats., generally prohibits state public officials from accepting, food, drink, travel or lodging from anyone unless a specific exception applies. However, §19.56 (3) (c) permits an official to accept payment or reimbursement of actual and reasonable costs for such items if the official can show by clear and convincing evidence that the costs were incurred or items received on behalf of, and primarily for the benefit of, the State. Guideline 1222, adopted by the Board, further provides that the payment of costs should be provided, arranged, or sanctioned by an event's organizer. The Board has also advised that an official may attend meals and hospitality suites hosted or sanctioned by the event organizer, but not events held in conjunction with a conference but not officially a part of it.

In a staff opinion issued to ALEC on June 30, 2010, and affirmed by the Board on October 15, 2010, the Board said:

The fact that lobbying organizations may make donations to ALEC or that lobbyists may assist in ALEC's fundraising does not bring the lobbying law into play as long as these organizations and individuals neither earmark any monies nor help to decide which Wisconsin legislators receive a scholarship. As I understand it, only ALEC staff makes scholarship award decisions.

Legislators may accept actual and reasonable expenses of travel as well as conference fees. If reimbursement is provided directly to a legislator, he or she must report that to the Board.

In response to a letter of August 20, 2012 which was a part of the Board materials at its last meeting, the Board received a letter from ALEC's attorney. ALEC's response

indicates that ALEC has, for the most part, been following the Board's advice and that ALEC contributors do not choose which legislators will attend conferences.

It does appear that on November 3, 2010, ALEC provided the ALEC Public Chairs in Wisconsin, Senator Scott Fitzgerald and then-Representative Michael Huebsch, with the names of specific donors to the scholarship fund for Wisconsin. In his November 12, 2010 Memorandum to ALEC, ALEC's attorney advised ALEC not to provide this information to legislators and ALEC's attorney has stated that ALEC has said it is following his recommended procedures.

At no time did the Board advise ALEC not to disclose contributors, although that appears to be a good practice. The question arises whether the fact that contributors to ALEC may designate contributions to be used for Wisconsin legislators was improper. This practice does not violate any statutory provision or the Board's advice against earmarking for specific individuals as long as the contributors are not involved in the selection of legislators or the determination as to the amount of reimbursement each legislator will receive.

#### Baseball game

As indicated above, legislators are permitted to accept food and drinks at dinners and hospitality suites that are a scheduled part of a conference. It does not matter who may underwrite the dinner or hospitality suite, as long as the conference sponsor has arranged or sanctioned the event. On the other hand, the Board has generally advised legislators against attending events like concerts or golf outings, even if sanctioned, because the State would never reimburse for such activities and it would be harder to demonstrate that attendance was primarily for the benefit of the State and not for private benefit.

According to ALEC, the baseball game event was the scheduled dinner event for that day of the ALEC conference. So it appears to fall in between an official dinner and an entertainment event. The Board has asked legislators who attended the event to reimburse ALEC \$25 for the cost of baseball tickets because attendance at a baseball game is primarily of private benefit and not a benefit to the State. This appears to have been the cost of attendance minus the value of food and drink that was put at \$50. All legislators who attended the event have done so.

#### Statements of Economic Interests

In the past, the Board's staff advised the Chief Clerks that legislators who received direct reimbursement from a conference sponsor must report that on the individual's Statement of Economic Interests. We also advised the Chief Clerks that if a legislator paid expenses from the legislator's office account, and a conference sponsor reimbursed the State directly, there was no need to report anything. The reasoning was that the State is paying the expenses and the State is receiving reimbursement. In addition, it would all be a matter of public record.

The Board has obtained from ALEC the names of all legislators who were directly reimbursed. The Board determined that a number of legislators failed to include the receipt of expenses from ALEC on their Statements of Economic interest, although a

number reported the expense receipt by letter and other treated it as a campaign expense reimbursement. There is no evidence that the failure to report was done intentionally.

Conclusion

There is no probable cause to believe that ALEC violated the Ethics Code or lobbying law in connection with reimbursing the expenses of legislators who attended the 2010, 2011, or 2012 ALEC conferences.

There is no probable cause to believe that any legislators violated the Ethics Code or lobbying law in connection with accepting reimbursement for the expenses of attending the 2010, 2011, or 2012 ALEC conferences.

Legislators should, and have, paid ALEC for the cost of the baseball game which was the venue for a conference dinner and no further action is warranted..

Legislators should have reported receipts from ALEC to the Government Accountability Board on their Statements of Economic Interests, by separate letter to the Board, or as campaign expense reimbursement. All but three legislators addressed this and we are in communications with those individuals.

Adopted by the six members of the Board at its meeting of March 20-21, 2013.

STATE OF WISCONSIN  
GOVERNMENT ACCOUNTABILITY BOARD