

In the Matter of

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**PRELIMINARY FINDINGS OF FACT
AND CONCLUSIONS**

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Shelly Moore

)

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:

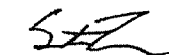
1. Complainant Stephan Thompson is a resident of the State of Wisconsin, and is a qualified elector and is the Executive Director of the Republican Party of Wisconsin with a mailing address of 148 East Johnson Street, Madison, Wisconsin 53703.
2. Respondent Shelly Moore resides at 350 Nicole Lane #6B, River Falls, Wisconsin 54022 and is, as of the date of this Verified Complaint, a candidate for the 10th 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 10th 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

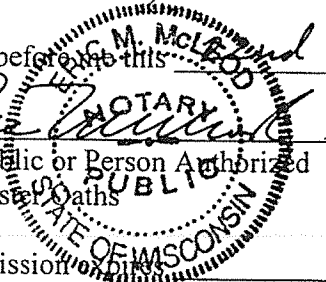
I, Stephan Thompson, being first duly sworn upon oath, state that I personally read the above complaint and that the above allegations are true and correct based on my personal knowledge and, as to those allegations stated on information and belief, I believe them to be true.



Stephan Thompson

State of Wisconsin)
) ss
County of Dane)

Sworn to before me this 2nd 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

Ha! 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.

Wamly,
[REDACTED]

From: [REDACTED]
To: Shelly Moore <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

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 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.

C
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.

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For no more emails from us go
here<<http://mlist.orchidsuites.net/lists/lt.php?id=KkoEBwNRVABTAB4MCVZXSGMGB1JR>>

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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 15th day of March, 2010

SCHOOL BOARD OF ELLSWORTH COMMUNITY SCHOOL DISTRICT

President

Laurie Andrews

Treasurer

Steph 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 Numbr

OFFICE USE ONLY

Date Received:

REC
MAR

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 715-580-5250, [REDACTED] is
[REDACTED]

[REDACTED] 1-800-475-0000, [REDACTED] 1-800-475-0000, [REDACTED] 1-800-475-0000
[REDACTED]