

below.⁵

20. Scott Walker was the Milwaukee County Executive from 2002 to 2010. In 2006 and 2010, Walker was a candidate for the office of Governor of the State of Wisconsin. To that end, the "Friends of Scott Walker" campaign committee was established to raise money in seeking that office. According to GAB filings, the committee was comprised of two principals, the candidate Scott Walker and the Treasurer John Hiller. The Friends of Scott Walker also had a campaign "Finance Committee" whose responsibility was raising significant campaign money for the Scott Walker for Governor campaign. Daniel Morse and Mary Stitt were heavily involved in fundraising. The responsibility of the "Finance Committee" was raising contributions from "large donors" (individuals who contributed more than \$2,500 to the campaign). The Finance Committee had a goal of raising \$1,150,000 dollars for the Walker gubernatorial campaign in 2010. Daniel Morse was involved in sending out letters to individuals who agreed to serve on the committee. Those members included Ed Aprahamian and David Boerke, who was involved with the Reuss Plaza lease. (See letters dated July 24, 2008 and August 6, 2008 respectively – Attachment A and B).

A. REUSS PLAZA

21. The Friends of Scott Walker, according to GAB filings, was comprised of two principals, the candidate Scott Walker and the Treasurer John Hiller. During the Spring of 2010, Scott Walker's campaign Treasurer, John Hiller with the Boerke Company, negotiated for the extension of a lease between Milwaukee County and the Boerke Company at the Reuss Plaza. At that time Andrew Jensen and David Boerke represented "The Boerke Company," a commercial real estate broker, who were also

⁵ Wis. Stats sec. 11.36 provides:

1) No person may solicit or receive from any state officer or employee or from any officer or employee of the University of Wisconsin Hospitals and Clinics Authority any contribution or service for any political purpose while the officer or employee is engaged in his or her official duties, except that an elected state official may solicit and receive services not constituting a contribution from a state officer or employee or an officer or employee of the University of Wisconsin Hospitals and Clinics Authority with respect to a referendum only. Agreement to perform services authorized under this subsection may not be a condition of employment for any such officer or employee.

(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.

involved in the lease negotiations on behalf of the building owner. The owner of Reuss Federal Plaza was RAIT Financial Trust. The leased space at Reuss Federal Plaza was space occupied by the offices of the Milwaukee County Department on Aging and the county Care Management Organization. The lease required renewal on or before June 30, 2010 and would expire at the end of 2010 in the absence of extension.

22. John Hiller, as a person involved in the lease renewal negotiations for his client, RAIT Financial Trust, had a direct pecuniary interest in the lease contract. Records obtained from John Hiller per subpoena and search warrant establish that John Hiller through J.M. Hiller Consulting LLC entered into a contract on October 26, 2009 with RAIT Financial Trust for the purpose of assisting RAIT Financial trust in obtaining a lease extension for the Milwaukee County Department of Aging at the Reuss Federal Plaza. Hiller was to be paid a retainer of \$8,500 per month under the contract, with the first payment due with the execution of the contract that occurred on October 30, 2009. Per a review of Hiller bank records, he received minimally a total of \$110,500.

23. Scott Walker, was both a public official and the candidate of the Friends of Scott Walker gubernatorial campaign committee; accordingly he had at least an indirect pecuniary interest in the Boerke lease transaction in that:

- a. During 2009, Boerke Co. representatives contributed \$4,250 to the Friends of Scott Walker, of which \$3,750 came from David Boerke.
- b. Negotiations for "re-upping" (or extending) the lease commenced in late 2009 and continued until June 2010.
- c. Between May 12, 2010 and June 30, 2010, David Boerke contributed an additional \$5,250 to the Walker campaign and Andrew Jensen, also a principal of the Boerke Co., contributed an additional \$350.00. This was during the timeframe in which the Reuss Plaza lease extension was under consideration.
- d. David Boerke, a principal with the Boerke Company, was involved with the Scott Walker for Governor campaign "Finance Committee" whose responsibility was raising significant campaign money for the Scott Walker for Governor campaign. Boerke was responsible for raising contributions from "large donors" (individuals who contributed more than

\$2,500 to the campaign). The Finance Committee had a goal of raising \$1,150,000 dollars for the Walker gubernatorial campaign in 2010.

- e. The lease is worth millions of dollars in gross revenues to clients of the Boerke Co. (per an e-mail of Hiller dated 8/23/10, the lease was worth \$853,000 each year - over the 5 year lease term revenues of \$4,265,000 would be generated.)

MISCONDUCT IN PUBLIC OFFICE (PTAC)

24. I submit that there is probable cause to believe that Scott Walker, John Hiller, and Andrew Jensen, in concert together, committed a felony, i.e., Misconduct in Public Office violations of Wisconsin Statutes §§946.12⁶ and 939.30⁷ in that:

- a. As described above, during 2009 and 2010, John Hiller was the treasurer of the Friends of Scott Walker gubernatorial campaign. During 2009 into 2010, John Hiller, as a consultant and representative of RAIT Financial Trust, together with Andrew Jensen and David Boerke of "The Boerke Company" were involved in negotiations with Milwaukee County with the extension of the lease at Reuss Federal Plaza.
- b. During the negotiations, on or about June 11, 2010, Milwaukee County

⁶ Wisconsin Statutes §946.12 provides:

Any public officer or public employee who does any of the following is guilty of a Class I Felony:

(2) In the officer's or employee's capacity as such officer or employee, does an act which the officer or employee knows is in excess of the officer's or employee's lawful authority or which the officer or employee is forbidden by law to do in the officer's or employee's official capacity; or

(3) Whether by act or commission or omission, in the officer's or employee's capacity as such officer or employee exercises a discretionary power in a manner inconsistent with the duties of the officer's or employee's office or employment or the rights of others and with intent to obtain a dishonest advantage for the officer or employee or another.

⁴ Wisconsin Statutes §939.30 provides in pertinent part:

(3) . . . whoever, with intent that a felony be committed, advises another to commit that crime under circumstances that indicate unequivocally that he or she has the intent is guilty of a Class H felony.

(4) . . . For a solicitation to commit a Class I felony, the actor is guilty of a Class I felony.

Executive Scott Walker directed his Chief of Staff, Thomas Nardelli, to request an extension of the lease of office space occupied by the Milwaukee County Department of Aging at Reuss Federal Plaza. On June 11, 2010, Thomas Nardelli sent an e-mail to Acting Director of Transportation and Public Works Jack Takarian directing him to request the lease extension. The six month lease extension was in the interest of Milwaukee County in order to provide adequate time to evaluate the space needs of Milwaukee County and to consider proposals and plans for any relocation.

- c. On June 14, 2010, Jack Takarian sent an e-mail to Andrew Jensen of the Boerke Company, formally requesting a six month extension of the Reuss Plaza lease.
- d. On Wednesday, June 23, 2010 at 2:58 p.m., County Executive Scott Walker using the private e-mail account, skw@scottwalker.org, sent an e-mail to John Hiller advising that Walker would call Hiller, but instructing Hiller that he (Walker) needs " . . . a letter to Jack (Takarian) saying *no* to an extension."
- e. On the afternoon of June 23, 2010, Hiller then forwarded the e-mail of County Executive Scott Walker to Andrew Jensen, with a copy to Greg Wolfson (employed by RAIT Financial Trust – the owner of Reuss Federal Plaza). Hiller requested that Jensen draft a letter to Jack declining the six-month extension, with a draft being sent to Hiller. The request from County Executive Scott Walker requesting the *rejection* of Milwaukee County's request for an extension made by Walker's own Department of Transportation and Public Works, was against the interests of Milwaukee County according to witnesses.
- f. John Hiller was involved in drafting the letter rejecting the request for the six-month lease extension.
- g. On June 25, 2010, Andrew Jensen of the Boerke Company sent an e-mail with a letter attached dated June 25, 2010 to Acting Director of

Transportation and Public Works Jack Takarian, rejecting the request for the six-month extension.

Solicitation to Commit Misconduct in Public Office and Misconduct in Public Office.

25. Further, I submit that there is probable cause to believe that John Hiller, in concert with others, solicited county employees to commit a felony, i.e., Misconduct in Public Office violations of Wisconsin Statutes §§946.12 and 939.30 and that Andrew Jensen and county employees were involved in Misconduct in Public Office as Party to a Crime in violation of Wisconsin Statutes §§946.12 and 939.05, including John Hiller, Andrew Jensen, Scott Walker, Tim Russell, Jim Villa, and Cindy Archer in that:

- a. On July 2, 2010, Request for Proposals (RFP) No. 6562 was published in connection with an effort to provide office space for certain county agencies.
- b. The designated county representative for the RFP was Mr. Brian Dranzik, Director of Operations for the Department of Transportation and Public Works.
- c. The purpose of designating a single point of contact, as I understand it, is to assure the fair and equal distribution of all relevant information to all participating vendors.
- d. The pre-approval procedures, including the process of dissemination of information relevant to the RFP, are regulated by county ordinance. (Chapter 32)
- e. On July 27, 2010, rather than contacting the county's designated point of contact, John Hiller e-mailed Kelly Rindfleisch, Deputy Chief of Staff for the Office of the County Executive, asking her to obtain information pertinent to the open RFP process, prior to the close of the submission period for proposals.
- f. On August 12, 2010, after the RFP process closed, but prior to a final decision, John Hiller directly contacted Scott Walker about the RFP via e-mail. In that e-mail to Walker, Hiller proposed three options related to the RFP. One of the options proposed by Hiller asked Walker to accept the "Federal Plaza" bid (that of Boerke Company) as "it won on all merits", with the issuance of a separate RFP that dealt with the City

Campus county property. The RFP contact remained Brian Dranzik.

- g. On August 18, 2010, John Hiller directly contacted Scott Walker as a follow-up to the August 12, 2010 e-mail. Hiller suggests that he could get someone, an attorney, to call Corporation Counsel to suggest that they "scrap" the RFP and start over. Hiller suggests the use of "David Halbrooks" so there would be no connection to Hiller.
- h. On August 21, 2010 Cindy Archer (using the non-Milwaukee County e-mail of carcher1@wi.r.com) sends two e-mails. The first e-mail is sent to Jim Villa, Tim Russell and Scott Walker regarding the City Campus analysis related to the RFP. Villa forwards that e-mail to Hiller, with the advice that Hiller is not to respond or discuss as Villa is sharing the information confidentially. Approximately 1 hour later, Archer sends a second e-mail to Tim Russell with a copy to Scott Walker. In the e-mail, Archer proposes that Hiller should propose buying it (the City Campus building that is the subject of the RFP) for \$1. Archer discusses the proposal of Hiller (Boerke Co.) and the different rental rates proposed. In that e-mail, Archer states, "If you can help Hiller, now is the time." In the same paragraph, Archer acknowledges that the other vendors have been told to come back with a best and final offer by Wednesday (August 25). On August 22, 2010 at 11:14 a.m., Archer forwards the e-mail regarding the Reuss Federal Plaza to Jim Villa at jv@jimvilla.com; Villa in turn forwards the e-mail of Archer to Hiller on that date at 11:38 a.m., with the message, "Again, confidential."
- i. On Monday, August 23, 2010 at 12:35 p.m., Archer (using her private e-mail carcher1@wi.r.com) sends Hiller an e-mail, with a copy to Scott Walker and Villa, discussing the costs and the RFP. Also attached is a document related to the City Campus / RFP proposal and an analysis of the costs and levy impact.

26. I incorporate by reference and attachment the affidavit of Robert Stelter and exhibits dated September 7, 2011 with respect to a search warrant application for the Boerke Company, as it relates to the lease negotiations and RFP related to Reuss Plaza.

27. As detailed above, John Hiller - the campaign treasurer for the Friends of Scott Walker gubernatorial campaign fund, maintained contact directly with members of the Milwaukee County Executive office including Milwaukee County Executive Scott Walker, seeking the extension of the Reuss Plaza lease and response to RFP 6562. John Hiller had a pecuniary interest in a lease with the Boerke Company. At this same time, Scott Walker had a direct or indirect pecuniary interest in a contract with the Boerke Company, created as a result of Hiller's status as campaign treasurer and his involvement in the lease extension and RFP on behalf of the owners of the Reuss Plaza. David Boerke was also a member of the "finance committee" - a committee involved with contributors to the Scott Walker for Governor campaign in amounts greater than \$2,500. Scott Walker also had a direct or indirect pecuniary interest in the contract as a result of campaign contributions from individuals from the Boerke Company.

Cindy Archer, Milwaukee County Director of Administrative Services provided information related to Reuss Plaza to Jim Villa, the former Chief of Staff for Scott Walker, who in turn provided the information to John Hiller, a representative of RAIT Financial Trust, the owner of Reuss Federal Plaza, whose proposal was pending with those of other vendors in August, 2010. Also involved was Tim Russell, an employee with the Milwaukee County the Department of Housing. Jim Villa was the former chief of Staff for County Executive Scott Walker from approximately 2002 to 2003 and 2005 to June 2007. Accordingly, based upon the information set forth in this affidavit, I believe that probable cause exists that evidence related to a violations of Wisconsin Statutes §§946.12, 939.30, 19.58 and 19.59 and 939.05 may be found with the person and at the residence of Cindy Archer; I also believe that said evidence may be found with the person, residence and office of Jim Villa, and request that the court issue a search warrant for the above premises for the evidence described in ¶15(a) and ¶15(b) above.

B. PROTECTING AMERICA'S FUTURE, WISCONSIN FUTURE FUND, RUNNER MEDIA AND RELATED ACTIVITIES.

28. Timothy Russell, John Hiller and Jim Villa are involved in political action committees, and in the course of that involvement, Russell was engaged in political activity while a Milwaukee County employee. The political action committees include