

| STATE OF WISCONSIN | CIRCUIT COURT | DANE COUNTY |
|--|---|--|
| STATE OF WISCONSIN – vs. Chvala, Charles 1 Coach House Drive Madison, WI 53714 (DOB: 12-05-54) | Plaintiff Defendant(s) | CRIMINAL COMPLAINT Complaining Witness: Bradley Kust |

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN SAYS THAT THE ABOVE NAMED DEFENDANT(S) IN THE COUNTY OF DANE, STATE OF WISCONSIN.

COUNT 01: EXTORTION

In May of 1997, in Dane County, the above-named defendant did by verbal communication maliciously threaten an injury to the person, business, profession, calling or trade of William Peterson with the intent thereby to extort money from William Peterson, contrary to Wisconsin Statutes section 943.30(1).

COUNT 02: MISCONDUCT IN PUBLIC OFFICE

In May of 1997, in Dane County, the above named defendant in his capacity as a public officer did an act which the defendant knew he was forbidden by law to do in his official capacity, contrary to Wisconsin Statutes section 946.12(2).

COUNT 03: EXTORTION

In March of 1998, in Dane County, the above-named defendant did by verbal communication maliciously threaten an injury to the business, profession, calling or trade of the Wisconsin Realtors Association with the intent thereby to extort money from the Wisconsin Realtors Association, contrary to Wisconsin Statutes section 943.30(1).

COUNT 04: MISCONDUCT IN PUBLIC OFFICE

In March of 1998 in Dane County, the above named defendant, in his capacity as a public officer did an act which the defendant knew he was forbidden by law to do in his official capacity, contrary to Wisconsin Statutes section 946.12(2).

COUNT 05: EXTORTION

In July of 2000, in Dane County, the above-named defendant did by verbal communication maliciously threaten an injury to the business, profession, calling or trade of Wisconsin Wholesale Beer Distributors Association with the intent thereby to extort money, contrary to Wisconsin Statutes section 943.30(1).

COUNT 06: MISCONDUCT IN PUBLIC OFFICE

In July of 2000 in Dane County, the above named defendant, in his capacity as a public officer did an act which the defendant knew he was forbidden by law to

do in his official capacity, contrary to Wisconsin Statutes section 946.12(2).

COUNT 07: MISCONDUCT IN PUBLIC OFFICE

In June of 1999, in Dane County, the above-named defendant while acting as a public officer did exercise a discretionary power in a manner inconsistent with the duties of the defendant's public office and with the intent to obtain a dishonest advantage for another by hiring Wendy Kloiber as a State employee for the purposes of having Wendy Kloiber conduct campaign activities for State Senate Democratic Candidates, contrary to Wisconsin Statutes section 946.12(3).

COUNT 08: MISCONDUCT IN PUBLIC OFFICE

In October of 1999, in Dane County, the above-named defendant while acting as a public officer did exercise a discretionary power in a manner inconsistent with the duties of his office and with the intent to obtain a dishonest advantage for another by offering State employment to Heather Colburn for the purposes of having Heather Colburn conduct fund-raising activities for State Senate Democratic candidates, contrary to Wisconsin Statutes section 946.12(3).

COUNT 09: MISCONDUCT IN PUBLIC OFFICE

From July 1998 through November 1998, in Dane County, the above-named defendant while acting as a public officer did exercise a discretionary power in a manner inconsistent with the duties of his office and with the intent to obtain a dishonest advantage for another by directing employees of the Senate Democratic Caucus to participate and manage the campaigns of Democratic candidates for the Wisconsin State Senate on State of Wisconsin time and using State of Wisconsin resources, contrary to Wisconsin Statutes section 946.12(3).

COUNT 10: MISCONDUCT IN PUBLIC OFFICE

From July 2000 through November 2000, in Dane County, the above-named defendant while acting as a public officer did exercise a discretionary power in a manner inconsistent with the duties of his office and with the intent to obtain a dishonest advantage for another by directing employees of the Senate Democratic Caucus to participate and manage the campaigns of Democratic candidates for the Wisconsin State Senate on State of Wisconsin time and using State of Wisconsin resources, contrary to Wisconsin Statutes section 946.12(3).

COUNT 11: UNLAWFUL POLITICAL CONTRIBUTIONS

In June of 2000, at 44 E Mifflin Street, City of Madison, Dane County, the above-named defendant did intentionally furnish funds to Lance Walter for the purpose of making a political contribution in other than the defendant's own name, contrary to Wisconsin Statutes sections 11.24(1) and 11.61(1).

COUNT 12: CAMPAIGN CONTRIBUTION EXCEEDING LAWFUL LIMITS (AS A

PARTY TO A CRIME)

On or about Fall 2000, at or near 1314 E. Wilson Street, City of Madison, County of Dane, and other locations within County of Dane, the above-named defendant did, as a party to a crime, intentionally make a contribution to a candidate for Wisconsin State Senate, to wit: Mark Meyer, exceeding the maximum contribution of \$1,000 per Wisconsin State Senate candidate allowed under section 11.26(2)(b), contrary to sections 11.26(2)(b), 11.61(1)(b), and 939.05.

COUNT 13: FILING A FALSE REPORT WITH STATE ELECTIONS BOARD (AS A PARTY TO A CRIME)

On or about September 14, 2000, at or near 132 E. Wilson Street, City of Madison, County of Dane, the above-named defendant did, as a party to a crime, intentionally submit a false report, concerning a figure exceeding \$100.00, to a filing officer under Chapter 11 of Wisconsin Statutes, to wit: a form EB-7 relating to a \$50,000 expenditure paid to Media Strategies Research, a copy of which is attached hereto and incorporated herein by reference, contrary to Wisconsin Statutes sections 11.27(1), 11.61(1)(b), and 939.05.

COUNT 14: FILING A FALSE REPORT WITH STATE ELECTIONS BOARD (AS A PARTY TO A CRIME)

On or about October 27, 2000, at or near 132 E. Wilson Street, City of Madison, County of Dane, the above-named defendant did, as a party to a crime, intentionally submit a false report, concerning a figure exceeding \$100.00, to a filing officer under Chapter 11 of Wisconsin Statutes, to wit: a form EB-7 relating to a \$25,000 expenditure paid to Media Strategies Research, a copy of which is attached hereto and incorporated herein by reference, contrary to Wisconsin Statutes sections 11.27(1), 11.61(1)(b), and 939.05.

COUNT 15: FILING A FALSE REPORT WITH STATE ELECTIONS BOARD (AS A PARTY TO A CRIME)

On or about November 2, 2000, at or near 132 E. Wilson Street, City of Madison, County of Dane, the above-named defendant did, as a party to a crime, intentionally submit a false report, concerning a figure exceeding \$100.00, to a filing officer under Chapter 11 of Wisconsin Statutes, to wit: a form EB-7 relating to a \$17,308 expenditure paid to Dixon Media Group, a copy of which is attached hereto and incorporated herein by reference, contrary to Wisconsin Statutes sections 11.27(1), 11.61(1)(b), and 939.05.

COUNT 16: FILING A FALSE REPORT WITH STATE ELECTIONS BOARD (AS A PARTY TO A CRIME)

On or about November 2, 2000, at or near 132 E. Wilson Street, City of Madison, County of Dane, the above-named defendant did, as a party to a crime, intentionally submit a false report, concerning a figure exceeding \$100.00, to a filing officer under Chapter 11 of Wisconsin Statutes, to wit: a form EB-7 relating to a \$274.30 expenditure paid to Deanna Williams and a \$13,450.99

expenditure to Litho Productions, a copy of which is attached hereto and incorporated herein by reference, contrary to Wisconsin Statutes sections 11.27(1), 11.61(1)(b), and 939.05.

COUNT 17: CAMPAIGN CONTRIBUTION EXCEEDING LAWFUL LIMITS (AS A PARTY TO A CRIME)

On or about Fall 2000, at or near 1314 E. Wilson Street, City of Madison, County of Dane, and other locations within County of Dane, the above-named defendant did, as a party to a crime, intentionally make a contribution to a candidate for Wisconsin State Senate, to wit: Dave Hansen, exceeding the maximum contribution of \$1,000 per Wisconsin State Senate candidate allowed under section 11.26(2)(b), contrary to sections 11.26(2)(b), 11.61(1)(b), and 939.05.

COUNT 18: FILING A FALSE REPORT WITH STATE ELECTIONS BOARD (AS A PARTY TO A CRIME)

On or about November 2, 2000, at or near 132 E. Wilson Street, City of Madison, County of Dane, the above-named defendant did, as a party to a crime, intentionally submit a false report, concerning a figure exceeding \$100.00, to a filing officer under Chapter 11 of Wisconsin Statutes, to wit: a form EB-7 relating to a \$4,908.75 expenditure paid to WFRV-TV, a \$3,591.25 expenditure to WGBA-TV, and a \$9,137.50 expenditure to WBAY-TV, a copy of which is attached hereto and incorporated herein by reference, contrary to Wisconsin Statutes sections 11.27(1), 11.61(1)(b), and 939.05.

COUNT 19: CAMPAIGN CONTRIBUTION EXCEEDING LAWFUL LIMITS (AS A PARTY TO A CRIME)

On or about Fall 2000, at or near 1314 E. Wilson Street, City of Madison, County of Dane, and other locations within County of Dane, the above-named defendant did, as a party to a crime, intentionally make a contribution to a candidate for Wisconsin State Senate, to wit: Alice Clausung, exceeding the maximum contribution of \$1,000 per Wisconsin State Senate candidate allowed under section 11.26(2)(b), contrary to sections 11.26(2)(b), 11.61(1)(b), and 939.05.

COUNT 20: CONSPIRACY TO MAKE CAMPAIGN CONTRIBUTIONS EXCEEDING LAWFUL LIMITS

On or about April 24, 2001 to present, at or near 1314 E. Wilson Street, City of Madison, County of Dane, and other locations within County of Dane, the above-named defendant did, conspire or agree with another to commit a felony, to wit: intentionally making contributions to candidates for Wisconsin State Senate, exceeding the maximum contribution of \$1,000 per Wisconsin State Senate candidate allowed under section 11.26(2)(b), and did an act in furtherance of said agreement to commit a felony, contrary to sections

11.26(2)(b), 11.61(1)(b), and 939.31.

AS TO COUNTS 01 AND 03:

Upon conviction of these charges, Class D Felonies, the maximum possible penalty is imprisonment for not more than five years or a fine of not more than \$10,000 or both, for each count.

AS TO COUNT 02, 04, 07, 08 AND 09:

Upon conviction of these charges, Class E Felonies, the maximum possible penalty is imprisonment for not more than two years or a fine of not more than \$10,000 or both, as to each count.

AS TO COUNT 05:

Upon conviction of this charge, a Class D Felony, the maximum possible penalty is imprisonment for not more than ten years or a fine of not more than \$10,000 or both.

AS TO COUNT 06 AND 10:

Upon conviction of these charges, Class E Felonies, the maximum possible penalty is imprisonment for not more than five years or a fine of not more than \$10,000 or both, as to each count.

AS TO COUNT 11-20:

Upon conviction of these charges, unclassified Felonies, the maximum possible penalty is imprisonment for not more than four years, six months or a fine of not more than \$10,000 or both, as to each count.

1. Your complaining witness states that he is a Special Agent employed by the State of Wisconsin Department of Justice, Division of Criminal Investigation (DCI). Your complaining witness makes this complaint based upon his own investigation, based upon his review of transcripts of a John Doe proceeding which occurred before the Honorable Sarah O'Brien, based upon statements made by adult citizens whom your complaining witness believes to be reliable and based upon his review of reports prepared by fellow DCI agents as well as investigators employed by the Milwaukee County District Attorney's Office, acting as special prosecutors for Dane County. He has reviewed these types of reports in the past and has found them to be accurate and reliable. Your complaining witness states that he believes the individuals who testified at the John Doe to be reliable because their testimony was under oath.
2. Your complaining witness states that during the course of his investigation he learned that the defendant, Charles Chvala, is a Democratic State Senator representing the 16th District in the Wisconsin State Senate. The defendant has been a State Senator since 1984. In 1995, the defendant

was elected by his fellow Democrats as the Minority Leader of the State Senate and in 1996 he became the Majority Leader of the State Senate. The defendant has continued to act as the Majority Leader of the State Senate except for a time period between April of 1998 and January of 1999 when he again acted as the Minority Leader.

3. Your complaining witness learned that Douglas Burnett, is employed as the defendant's chief of staff. Mr. Burnett has worked in that capacity for more than eight years. Mr. Burnett served as the defendant's campaign manager during his 1994 gubernatorial campaign.
4. During the course of his investigation, your complaining witness learned that as the Majority Leader of the State Senate, the defendant has a large number of both de facto and de jure powers. Some of these powers are noted in the Wisconsin Blue Book 2001-2002 edition, an official compilation prepared by the Legislative Reference Bureau which states, "Appointments to standing committees are made by the Senate upon nomination by the Chairperson of the Organization Committee, who is also the Majority Leader . . ."
5. Your complaining witness states that during the course of his investigation he learned that as the Chair of the Committee on Senate Organization, the defendant had complete control over scheduling of bills in the Wisconsin State Senate. The 2001-2002 Blue Book at page 266 states, "Both the Senate and Assembly have systematic procedures for scheduling proposals on the house daily calendars. In the 2001 legislature, all proposals reported by Senate standing committees are referred to the Committee on Senate Organization; in the Assembly they are referred to the Committee on Rules. These committees schedule all business for floor debate."
6. This authority is also confirmed by the rules of the Senate. Senate Rule 18(1) provides that, "All proposals, appointments or other business referred to a committee and reported by it to the senate or withdrawn from it by the senate, all proposals or amendments received from the assembly for senate concurrence and all reports from Conference Committee and veto messages received from the Senate, shall be placed in the Committee on Senate Organization." Rule 18(1) also provides that "The chairperson of the Committee on Senate Organization may place a proposal, appointment or other business that is in the Committee on Senate Organization on a calendar that has been established by the committee." The amount of authority vested in Committee on Senate Organization and its Chair is made clear by Senate Rule 1M(2) which states, "Every officer of the Senate is subordinate to the Committee on Senate Organization and in all that relates to the discharge of that officer's several duties, is under the supervision of the Committee on Senate Organization."

7. During the course of his investigation your complaining witness, along with other agents from DCI and investigators from the Milwaukee County District Attorney's Office, interviewed more than 40 lobbyists, State senators, State employees and political activists and defendant's Chief of Staff, Douglas Burnette. As a result of these interviews, your complaining witness states that he learned that during the time period that the defendant acted as the Majority Leader of the Wisconsin State Senate, it has become virtually impossible for legislation to be passed by that body without his approval.
8. Your complaining witness learned that, in addition to his official duties as the Majority Leader, the defendant also was in charge of fundraising for the State Senate Democratic Committee as well as Democratic State Senators and Democratic Senate candidates in numerous high profile races. Your complaining witness spoke to numerous lobbyists, including Michael Bright, Patrick Essie, William Broydrick and Sharon Cook who reported participating in election year "cattle calls" where they were summoned to the defendant's law offices, often in 15 minute intervals, and requested by the defendant to solicit their clients for contributions to candidates that the defendant identified. These lobbyists stated that at these meetings the defendant would produce records or notes showing what contributions the lobbyists clients had made in the past. The defendant would often suggest target amounts for contributions.
9. Your complaining witness states that during the course of his investigation he learned that from the mid to late 1960s until the end of 2001, the legislature employed individuals in party caucuses which were authorized by Wisconsin Statutes section 13.20(1). Four such caucuses existed, one for each party in each house of the legislature. In the defendant's position as the Majority Leader and, for a brief time, the Minority Leader, the director of the Senate Democratic Caucus (SDC) was hired and fired by the defendant and reported directly to him. The defendant was also directly involved in the hiring of SDC staffers and at all times exercised final decision making authority over this process. The Senate Democratic Caucus during the relevant time periods maintained State leased office space at One South Pickney Street in the City of Madison, Dane County, as well as other locations in the City of Madison. The SDC staff consisted of a director, a deputy director, two analysts responsible for maintaining data bases, a graphic artist and approximately five policy analysts, and a receptionist. All of these individuals were State employees who worked in State leased offices on State owned or leased equipment.
10. Your complaining witness states that Milwaukee County District Attorney's Office Investigator Heidi Bisswurm spoke to Donald Schneider who is the Clerk of the Wisconsin State Senate, and Mr. Schneider informed Investigator Bisswurm that as of October of 2000, the gross monthly payroll

for SDC employees was approximately \$46,000. During an earlier interview with DCI Agents Deborah Strauss and Amy Blackwood, Mr. Schneider provided the agents with a copy of the Senate policy manual which addressed political activity stating, "No political activity is permitted during working hours. No State facility, office, office equipment, supplies, etc. may be used for political purposes at any time. During non-office time employees may exercise their citizenship rights by political activity in community involvement." Mr. Schneider also provided the agents with a document called the Wisconsin State Senate Guidelines for Incumbents, which Mr. Schneider indicates he distributes in May of each election year. This document indicates that in November of 1977, the Senate established a written policy that State equipment and supplies are strictly for conducting official State business and are not to be used at all for political campaign activities.

Probable Cause as to Counts 1-2: (Extortion Of William Peterson)

11. Your complaining witness was present at a John Doe proceeding before the Honorable Sarah O'Brien, Circuit Court Judge for Dane County when an adult citizen named William O'Connor appeared and testified. Mr. O'Connor stated he is an attorney with the law firm of Wheeler, Van Sickle and Anderson in Madison. Mr. O'Connor testified that he was also a registered lobbyist in the State of Wisconsin and had been so since about 1981. In 1997, he was retained by the Lake Geneva Historical Society to lobby the legislature with respect to a property known as Black Point Estate on Lake Geneva. Mr. O'Connor testified that Black Point Estate was owned by Mr. William Peterson, and that Mr. Peterson and his wife wished to donate the property to the State of Wisconsin and preserve the undeveloped shore land. Mr. O'Connor stated that a proposal was made to donate Black Point Estate to the State of Wisconsin and to have the property managed by a non-profit corporation. The State would then establish an endowment fund to support the operation of the site. This proposal would grant Mr. Peterson tax benefits for the donation of the property and allow him to avoid having to destroy Black Point Estate and sell the property in pieces.
12. During the course of lobbying on this matter, Mr. O'Connor met with the defendant to explain the specifics of the planned preservation effort. Mr. O'Connor stated that during May of 1997, the legislature was working on the biennial budget bill and the budget bill was pending before the Joint Committee on Finance. In May of 1997, a motion was made before the Joint Committee on Finance to approve the acceptance of the Petersons' donation of the property to the people of the State. Mr. O'Connor recalled that the vote at the Joint Finance Committee was fifteen in favor and one against. Mr. O'Connor had invited his client, William Peterson, to come to Madison that day for the meeting because he felt that the Joint Finance

Committee would be considering the Black Point Estate matter. After the vote, he and Mr. Peterson had lunch at a restaurant in Madison and discussed what the next step was. The motion regarding Black Point Estate called for Mr. Peterson to donate the property and authorized the State Department of Administration to accept the gift.

13. After lunch, Mr. Peterson drove back to Chicago, and Mr. O'Connor walked back to his office. Mr. O'Connor stated that in May of 1997, certain portions of the State Capitol were being renovated, and the Joint Finance Committee was meeting outside the Capitol in a building located on the 100 block of South Martin Luther King Jr. Drive in the city of Madison, Dane County. Mr. O'Connor stopped at this building to obtain a copy of the motion which had been passed by the Joint Finance Committee. After obtaining a copy of the motion, he stated he encountered the defendant on the sidewalk. Mr. O'Connor stated that he spoke to the defendant and told him that the Black Point historic preservation initiative, that he had described to the defendant in a meeting earlier, had been approved that morning by the Joint Finance Committee on a vote of 15 to 1. Mr. O'Connor told the defendant that he was delighted by the vote and assumed with such a strong vote that the proposal would have smooth sailing in both houses of the legislature as the budget bill went forward.

14. **Mr. O'Connor stated that the defendant responded by telling him that if Mr. O'Connor wanted to make sure that his bill didn't get into trouble, he had better have some of his people contribute to some of the defendant's candidates.** The defendant went on to tell Mr. O'Connor that Mr. O'Connor should come to the defendant's legislative office at a later date and that the defendant would provide more information on where the contributions should be directed. The defendant directed Mr. O'Connor to make contact with a member of the defendant's staff concerning the contributions. **The defendant said that the contributions should be made to Senator Rod Moen and Senator Kim Plache. The defendant indicated that Mr. O'Connor's client should make a contribution in the amount of \$500 for each of these candidates.**

15. Mr. O'Connor stated that at the time these requests were made by the defendant, he had no reason to believe that Senator Moen or Senator Plache even knew the Black Point Estate legislation existed. He had never spoken to either senator and had no reason to believe that they were opposed to the proposal.

16. Mr. O'Connor stated that he then contacted Mr. Peterson and told him that he was sickened by the need to make the phone call. Mr. O'Connor explained to Mr. Peterson the conversation with the defendant and the defendant's request for campaign contributions in exchange for assuring that the Black Point proposal would not run into problems. Mr. Peterson

reacted by stating that he was from Chicago, and he was familiar with such requests and joked to the effect that only the dollar amounts were smaller in Wisconsin. Mr. Peterson indicated that he felt he would have to make the contribution.

17. Mr. O'Connor stated that after relaying this information to Mr. Peterson, within the next few days, he went to the defendant's State office, which had also been moved out of the Capitol due to renovation, and spoke to a member of the defendant's staff who gave him information on the campaign committees for Senator Moen and Senator Plache.
18. Mr. O'Connor provided investigators with the Milwaukee County District Attorney's Office a copy of a letter dated June 4, 1997 that he wrote to Mr. Peterson regarding Black Point. This letter states, "Today I saw Senator Chvala who asked 'Are the checks in the mail?' I advised that they would be as soon as I get the correct names for the campaign committees of Senator Moen and Senator Plache. They are: Friends of Rod Moen and Friends of Kim Plache. I suggest that you get the two checks (\$500 each) in the mail at your earliest convenience. I will deliver them directly to Senator Chvala."
19. William Peterson was interviewed by Investigator Bisswurm and informed Investigator Bisswurm that he was in Madison the day the Joint Finance Committee met regarding funding for the Black Point Estate. Mr. Peterson stated that the day after the meeting he received a phone call from Mr. O'Connor. Mr. O'Connor told him that he had a conversation with the defendant in which the defendant had stated that if they wanted to have the Black Point legislation passed, then Peterson better donate some money to the Moen and Plache campaigns. Mr. Peterson stated that Mr. O'Connor told him that he had never seen such a demand before. Mr. Peterson told Mr. O'Connor that this is a typical Chicago alderman tactic and he felt that they needed to make the contribution. He then wrote two checks, one payable to the Friends to Kim Plache for \$500 and one payable to the Friends of Rod Moen for \$500. Mr. Peterson indicated that he was not familiar with either of these state senators and would not have made any contributions but for the demands made by the defendant.
20. Your complaining witness states that campaign finance records maintained by the Elections Board confirmed the receipt of a \$500 contribution from Mr. Peterson to Kim Plache campaign in June of 1997 and a \$500 contribution from Mr. Peterson to Rod Moen campaign in June 1997.
21. Senator Moen told Milwaukee County District Attorneys Office Investigator Aaron Weiss that he was unaware of the contribution made by Mr. Peterson until a recent newspaper article. He was never opposed to the Black Point Legislation. A representative of Senator Plache informed the Milwaukee County District Attorney's office that Senator Plache had no knowledge of the

request for contribution made by the defendant. Senator Plache was not on the Joint Finance Committee in 1997 and had no recollection of being aware of the existence of the Black Point Estate proposal at the time.

22. Your complaining witness states that during his investigation he spoke to numerous lobbyists and State Senators who informed him that after the state budget bill is passed by the Joint Finance Committee, it is then considered by each house of the legislature. The majority party of each house meets, often in closed caucus sessions, and makes whatever changes they wish. Your complaining witness was informed that, in the State Senate, the defendant has almost total control over what is produced by his caucus and passed by the Senate. Therefore Mr. O'Connor knew that even though the Black Point Estate provision had passed by a 15-1 vote, the defendant could block the provision in his caucus and force its removal from the Senate version of the budget. (It should be noted that the term "caucus" in this section refers to a meeting of senators of the same party and is different than the Senate Democratic Caucus). After the contributions were made by William Peterson, the Black Point legislation remained in the State Budget bill passed during the Summer of 1997.
23. Your complaining Witness learned that after the Black Point Estate legislation passed, a group of neighbors who were opposed to the legislation retained lobbyist Eric Peterson. Eric Peterson lobbied the defendant on this issue. Eric Peterson testified that, as part of that lobbying effort, he personally handed contribution checks from the Black Point Estate neighbors made payable to Senate Democratic candidates to the defendant. Your complaining witness states Elections Board records show that in 1999 and 2000 at least three of the neighbors made \$1,000 contributions to State Senator Alice Clausing. A repeal of the Black Point Estate funding was inserted into the State Budget during the Summer of 2001 via an amendment proposed by the defendant and others, but ultimately was vetoed by the Governor.

Probable Cause as to Counts 3-4: (Extortion of Wisconsin Realtors)

24. Investigator Bisswurm spoke to an adult citizen, William Malkasian. Mr. Malkasian identified himself as the President of the Wisconsin Realtors Association. Mr. Malkasian indicated he had worked for the organization for a total of 27 years and has served as the Executive Vice President for 25 years. He stated that he is a registered lobbyist but does most of his work on a federal or national level rather than the local level. Mr. Malkasian stated that in 1998 the Wisconsin Realtors Association had devoted a large amount of effort to lobbying on a bill known as Assembly Bill 334 (AB 334) which dealt with the regulation of home inspectors. Mr. Malkasian stated that his organization wanted home inspectors to be regulated because if a consumer was not happy with a home inspector's failure to identify a defect

in a house being sold, consumers would often turn to the realtors and attack them for the poor performance of the home inspectors because they had no other place to go. The Wisconsin Realtors Association had been working on the piece of legislation for six years prior to the 1998 budget cycle. Mr. Malkasian stated it had taken six years because the legislation was difficult to draft and as a general rule, legislators do not like to increase regulation upon any industry.

25. Mr. Malkasian stated in 1998 the Wisconsin Realtors Association continued to do a lot of work on the bill, and it appeared that everything had been done to line up the necessary votes in both the Assembly and the Senate to get the bill passed. Legislative records show that AB 334 passed the Assembly on February 11, 1998 by a vote of ninety-one in favor, five opposed. Mr. Malkasian stated that he knew from experience that if one branch of the legislature had already passed a bill with at least two weeks left in a session, then there was a good chance of getting the bill scheduled for a vote in the other branch. The joint resolution, which set the schedule for the legislative session, showed that the legislature would be adjourning on March 26, 1998. Mr. Malkasian stated that after the bill passed the Assembly, the normal procedure would be to make a request that the bill be scheduled in the Senate. If the bill was not scheduled, then the Wisconsin Realtors Association would have to start over.
26. Mr. Malkasian stated that it was getting near the end of the 1998 legislative session and AB 334 had still not been scheduled for a vote in the Senate. Mr. Malkasian knew that, as the Chair of the Committee on Senate Organization, the defendant had absolute control over the scheduling of AB 334 for a vote in the Senate. Because it was crunch time in Mid March of 1998, Mr. Malkasian stated that he approached the defendant after a floor session and asked him why the bill had not been scheduled for a vote in the Senate. When Mr. Malkasian approached the defendant to ask him about the scheduling of Assembly Bill 334, the defendant indicated that he could not talk to him about it immediately but they should talk a little bit later.
27. Mr. Malkasian indicated that shortly after he approached the defendant, he and the defendant had a meeting to discuss this matter. Mr. Malkasian's sole purpose for meeting with the defendant was to discuss the scheduling of Assembly Bill 334, which was extremely important to his organization. During this meeting, he asked the defendant what the problem was in getting the bill scheduled for a vote. **The defendant responded, "Bill, you're asking for something but you have not earned it. You have not done anything to show me that it is in my best interest to work with you on this issue."** Thereafter, the defendant made a request for a sizable campaign contribution. The defendant indicated that this campaign contribution would be of benefit to the Wisconsin Realtors Association and allow the association and the defendant to work on their agendas together. Before

leaving the meeting, the defendant said words to the effect of, "Are we clear? Do you have any questions about this." Mr. Malkasian stated that there was no question in his mind that the defendant had linked a sizable campaign contribution from the Wisconsin Realtors Association to the scheduling of AB 334 for a vote. Mr. Malkasian knew that if the realtors failed to make the contribution, then the bill would not be scheduled and would die.

28. Mr. Malkasian stated that after meeting with the defendant, he spoke to the political director of the Wisconsin Realtors Association, Earl Joe Murray. Mr. Murray was in charge of the Wisconsin Realtors Association Political Action Committee money and would have had to have been involved in making the contribution. Mr. Malkasian further stated that nothing like this has ever happened to him again with anyone else. He knew that tying money to legislation was not legal but he really wanted the bill to pass. Mr. Malkasian stated that he felt that the money was squeezed out of him in order to get the legislation passed and did feel victimized. Mr. Malkasian indicated that he currently was on speaking terms with the defendant and had access to the defendant's office. He stated that he feared retribution from the defendant if he had told authorities about what had happened in 1998 and that he did not want to destroy his association's ability to get anything done in the legislature.
29. Mr. Malkasian further stated that in addition to discussing this request with Mr. Murray, he also discussed the request with then State Senator Joseph Wineke. Mr. Malkasian stated that he did this because Senator Wineke was the chief sponsor of the bill in the Senate.
30. Your complaining witness spoke to Earl Joseph Murray who is a lobbyist and political affairs officer for the Wisconsin Realtors Association. Mr. Murray indicated that he had served in that capacity for approximately 15 years. Mr. Murray stated that in 1996 the Wisconsin Realtors Association had opposed the defendant in his election and that in the spring of 1998 they were still attempting to repair their relationship with the defendant. In the spring of 1998, the Wisconsin Realtors Association was working on a home inspector bill and the defendant had requested that the Realtors Association make a contribution to the Senate Democratic Campaign Committee in the amount of \$6,000. Mr. Murray stated that the Realtors Association had given the Senate Democratic Campaign Committee only \$3,000 instead of the entire \$6,000. Mr. Murray then had a conversation with William Malkasian, and that Mr. Malkasian informed him that he had gone to the defendant to ask the defendant why he was blocking the home inspector's bill. The defendant had told Malkasian that the Realtors Association had not come up with the extra \$3,000, and now the defendant wanted \$4,500. Mr. Murray said that after receiving this information from Mr. Malkasian, he managed to come up with the \$4,500 contribution by making an additional \$3,000 contribution from the Wisconsin Realtors Association.

Political Action Committee and obtaining an additional \$1,500 from a local real estate PAC. After the payment was made, AB 334 was then scheduled in the Senate and passed.

31. Regarding the additional \$1,500 contribution beyond the allowed \$6,000, Mr. Murray stated that he first contacted the Milwaukee Concerned Realtors Committee and they turned him down so then he had to go to the Madison Realtors PAC. Campaign finance reports filed by the Senate Democratic Campaign Committee confirm that a \$3,000 contribution had been made by the Realtors PAC on or about February 16, 1998 and that on or about March 20, 1998, an additional \$3,000 was received along with a \$1,500 contribution from the Madison Realtors. Legislative records show that AB 334 was read a second and third time by the Senate on March 19, 1998 and passed.
32. Milwaukee County District Attorney's Office Investigator Aaron Weiss spoke to former State Senator Joseph Wineke, and Mr. Wineke explained that in 1997, as a member of the Senate, he was the Senate author of a bill that required home inspectors to meet standards and obtain a license from the State. The bill had very little opposition and passed the Assembly without much controversy. The bill also passed a Senate committee without much opposition. Mr. Wineke knew the bill would pass once scheduled for a vote in the Senate. Mr. Wineke stated that sometime during 1998, when the bill was awaiting to be scheduled for a vote in the Senate, he received a telephone call from William Malkasian who he knows as the Executive Director of the Wisconsin Realtors Association. Mr. Malkasian told him that the defendant had demanded that the Realtors Association make an additional contribution of \$4,500 to the Democrats and that the defendant had stated, "This bill will not get scheduled unless I get another \$4,500." Mr. Wineke stated that he remembered the event because it made him very angry. He knows that the Realtors Association then made the contribution and the bill was scheduled.
33. Mr. Wineke stated that the bill passed by a consensus in the Senate, which demonstrated the lack of any real opposition. Mr. Wineke stated that if the bill had not been scheduled, it would have effectively been killed for the session. Mr. Wineke further stated that as Senate Majority Leader, the defendant had virtual absolute control over the scheduling of bills because he served as the chairman of the Senate Committee on Organization. Mr. Wineke stated that the majority party has a majority of seats on the committee and that the other Democrats have to follow the defendant's plan or they face being removed from the committee. Mr. Wineke further stated that the bill passed in the "ninth inning" of the legislative session of March of 1998, and that bills that do not pass during the session are dead, which gives the Majority Leader tremendous power at the end of the session because of the ability to control what gets scheduled and what gets killed.

Probable Cause as to Count 5-6: (Extortion of Wisconsin Wholesale Beer Distributors Association)

34. Your complaining witness was present when an adult citizen, Thomas Sheforzen, appeared in John Doe proceedings before the Honorable Sarah O'Brien, Circuit Court Judge for Dane County. Mr. Sheforzen stated that from 1980 until December 11, 2001 he had worked as the President of the Wisconsin Wholesale Beer Distributors Association. As President of the Wisconsin Wholesale Beer Distributors Association, one of his responsibilities was lobbying along with government relations and a number of other duties. Mr. Sheforzen stated that working as a lobbyist for the association, he came to know the defendant and had met with him on a number of occasions. Mr. Sheforzen indicated that during the last several years the biggest piece of legislation that he had worked on was referred to as the "Tied House" Laws. Tied House laws govern the relationship that wholesalers and brewers have with retailers. Mr. Sheforzen met with the defendant from time to time to discuss issues related to the Tied House provisions. At other times he had met with the defendant at the defendant's request for the purposes of discussing campaign contributions that the defendant wished to be made by the association.

35. Mr. Sheforzen stated that he and the defendant got along fine until approximately July of 2000. In July of 2000, he received a telephone call at his office in Madison from the defendant. The defendant was very angry and asked Mr. Sheforzen, **"What the hell are you guys doing?"** Mr. Sheforzen did not know what the defendant was referring to and the defendant said, **"Well, you guys are contributing to my opponent."** The defendant continued, saying, **"Don't you realize who I am?"** Mr. Sheforzen indicated that he did not know what the defendant was talking about. The defendant told him that Don Carrig and George Colletti, both of whom Mr. Sheforzen knows to be members of the association, had made contributions to the defendant's opponent. The defendant continued to be very angry and stated that he was the Senate Majority Leader and questioned what kind of brains the association had to give money to his opponent. Mr. Sheforzen stated that this was not any official policy of the association or any official action of the association and that he assumed it happened because he believed Lisa Nelson who was the defendant's opponent had been Mr. Carrig's campaign manager when Mr. Carrig had previously run for congress in the district now represented by Tammy Baldwin. Mr. Sheforzen also informed the defendant that he knew that Mr. Carrig and Mr. Colletti were good friends.

36. Mr. Sheforzen stated that he subsequently contacted Mr. Carrig and Mr. Colletti and confirmed that they had both given a contribution to Lisa Nelson because they did not like the defendant. Mr. Sheforzen stated that he called

the defendant back and told him why the contributions had been made, confirming what Mr. Sheforger had told the defendant earlier. **The defendant was again angry and told Mr. Sheforger that his people had made a big mistake and again reminded Mr. Sheforger that he was the Majority Leader of the Wisconsin State Senate and told Mr. Sheforger that his organization better at least come up with matching funds for the defendant's campaign to make up for the contributions to the defendant's opponent.** Mr. Sheforger stated that he perceived this as a threat because the defendant kept reminding him in an very angry fashion that the defendant was the Senate Majority Leader. Mr. Sheforger knew that as the Majority Leader, the defendant had control over any legislation that was going to go through the Senate. If he was opposed to your legislation, you were not going to be successful. Mr. Sheforger stated that numerous times during his career as a lobbyist while the defendant was Senate Majority Leader, he had spoken to other senators and had been told that if the defendant was opposed to legislation Sheforger wanted, there was nothing that the other Senators could do about it.

37. After Mr. Sheforger spoke to the defendant a second time, he contacted Sharon Cook who was another lobbyist for the association. They decided that the organization should attempt to make additional contributions to Senator Chvala. Mr. Sheforger believed that the organization did make additional contributions but did not match the amount of money that Mr. Carrig and Mr. Colletti had given to Lisa Nelson. Mr. Sheforger and the defendant then had several telephone conversations centering around campaign contributions. During these conversations, the defendant would continually ask Mr. Sheforger whether he had done anything yet to match the contribution given to Lisa Nelson. In a phone conversation that occurred at the end of September, Mr. Sheforger informed the defendant that his board had declined to make a matching contribution. The defendant responded by stating that Mr. Sheforger had better think about it again and call him back when he had a better answer. In November, shortly before the election, the defendant called Mr. Sheforger and again asked what his organization was doing. Mr. Sheforger responded that the board had said they would not do anything. The defendant responded by asking, "Is that all you're going to say?" Mr. Sheforger told the defendant that that was all he had to tell him and the defendant then slammed down the telephone.

38. Mr. Sheforger stated that after the November 2000 election he saw the defendant in the Capitol and approached him and indicated that he would like to talk to him. The defendant responded by saying, "You had your chance" and walked away. Mr. Sheforger stated that thereafter he attempted to make an appointment to see the defendant but was unable to receive an appointment. In February of 2001 he attended a fund-raiser for the Senate Democratic Campaign Committee at the Argus Bar in Madison. He approached the defendant along with Steve Johnson and Pierre

McCormick, two of the officers in the Wholesale Beer Distributors Association. When he introduced his officers to the defendant, the defendant refused to acknowledge Mr. Sheforgen. When one of the officers indicated that they understood there was a problem and wanted to know what they could do about it, the defendant pointed at Mr. Sheforgen and said, "That's your problem. You have a huge mountain to climb and that's your main problem." Mr. Sheforgen stated that several months after this encounter with the defendant, he was approached by the officers of the association and given the choice of resigning or being fired. Mr. Sheforgen further stated that prior to this incident, in which he failed to secure funds to match the campaign contributions made to Lisa Nelson, he had never had any problems with the defendant and had met with him on numerous occasions.

39. Your complaining witness states that reports maintained by the State Elections Board show that in the 2000 election Lisa Nelson was a Republican candidate for Senate against the defendant in the 16th Senate District. Those records further show that, on or about June 29, 2000, Ms. Nelson received a \$1,000 campaign contribution from Don Carrig and, on or about June 24, 2000, Ms. Nelson received a \$500 campaign contribution from George Colletti.

Other Acts Evidence Relevant to Counts 1-6:

40. Your complaining witness is aware of other incidents where the defendant threatened to block legislation unless campaign contributions were made by lobbyists and their clients. Milwaukee County District Attorney's Office Investigator Heidi Bisswurm spoke to adult citizen Dismas P. Becker. Mr. Becker informed Investigator Bisswurm that he is a former member of the clergy and former representative in the State Assembly. He indicated that he was the Assembly Majority Leader from 1985 until 1986. Mr. Becker stated that sometime after leaving the legislature he became a lobbyist and when he spoke to Ms. Bisswurm in 2002, he indicated that he was a registered lobbyist for the Golden Rule Insurance Company along with a number of other clients. Mr. Becker stated that he heavily lobbied issues on behalf of Golden Rule Insurance regarding HMO reform. He stated that the last time he had contact with the defendant was in 1996 because he has essentially been barred from the defendant's office.
41. Mr. Becker stated that sometime in the summer of 1996 he received a telephone call from the defendant. Mr. Becker recalled that the defendant was very angry during the call based on the defendant's tone of voice and the way the he was acting. The defendant asked Mr. Becker what was going on and Mr. Becker asked the defendant what he meant. The defendant then stated that Mr. Becker's clients, Golden Rule Insurance had contributed money to the his opponent. In 1996 the defendant was up for reelection in

the 16th Senate District and was opposed by Tom Metcalfe. Mr. Becker indicated that he had been unaware of any contribution made by Golden Rule Insurance to Mr. Metcalfe prior to the defendant's phone call. Mr. Becker stated that during the phone call, he told the defendant that his clients give to their friends first and then to people who at least open their door to them. He told the defendant that he did not fall into either of those categories. Mr. Becker further told the defendant that his clients did not give money to people who make public statements against them like the he had recently done.

42. The defendant then stated, **"Well, you tell them if they think they had a hard time during this biennium, wait and see what happens in the next biennium if they don't match that contribution."** Mr. Becker stated that he believed the statement by the defendant meant that the defendant was acknowledging that he had opposed legislation sought by Golden Rule Insurance during the last legislative session, and that legislation sought by Golden Rule Insurance would be opposed and the company treated even worse during the next legislative session if they did not give the defendant a campaign contribution. Mr. Becker believed that this opposition was not to be based on the merits of any such legislation, but rather on the refusal to make campaign contributions. Mr. Becker further informed Investigator Bisswurm that this telephone conversation was placed to him at his office, which was located in the City of Madison in Dane County.
43. Investigator Bisswurm spoke to Brent Embrey who stated that in 1996 he was working in Wisconsin in the Government Relations Department for Golden Rule Insurance Company. He stated at the time the company had retained Dismas Becker as a contract lobbyist. Mr. Embrey could not recall any specifics about Mr. Becker telling him about a 1996 phone call but he did recall that he knew the defendant had become very angry about a campaign contribution that was made to his opponent by someone at Golden Rule Insurance. Mr. Embrey stated that after 1996, the company had to bring in another lobbyist in order to obtain access to the defendant. During this meeting, the defendant expressed to Mr. Embrey that Mr. Becker was not the best lobbyist for Golden Rule Insurance Company. Mr. Embrey stated he did not recall the defendant directly stating that Golden Rule Insurance should fire Mr. Becker, but it was clear that the defendant was angry with Mr. Becker.
44. Your complaining witness has reviewed certified records maintained by the Wisconsin Elections Board and those Elections Board records show that in the September 1996 pre-primary filing for Tom Metcalfe, a contribution was listed from Patrick Carr of Golden Rule Insurance Company in the amount of \$500.00. This contribution is listed as having been made on August 2, 1996. Your complaining witness states that based upon the fact that this contribution was not made until August 2, 1996, the defendant's

conversation in which he threatened Mr. Becker could not have occurred until on or after August 2, 1996.

45. Investigator Bisswurm spoke to Michael Bright who told her that he had worked in government and public affairs for 14 years and is currently a registered lobbyist. Mr. Bright stated that he has had numerous contacts with the defendant over the years. Bright stated that one of the defendant's classic lines was "I don't have a relationship with them," which Bright stated means that the person or group in question hasn't given the defendant money. Your complaining witness states that he has spoken to other lobbyists who also stated the defendant's use of the term "relationship" primarily means giving money.
46. Mr. Bright told Investigator Bisswurm that he first learned what the defendant meant by speaking of a lack of a "relationship" in April or May of 1996. At that time, Mr. Bright represented Fair Liquidation of Waste (FLOW). Fair Liquidation of Waste was an association of Milwaukee suburban interests who desired that sewerage fees be based upon per capita sewerage use rather than upon property values. Legislation was necessary to achieve this goal.
47. Mr. Bright met with the defendant to lobby on behalf of Fair Liquidation of Waste. **During this meeting, the defendant stated words to the effect, "Your client may be right on the issues. In fact they are right on the issues. But it doesn't matter because they [FLOW] have all the "toys" and that "unless they put \$30,000 on the table" the defendant would not help FLOW legislatively.** Mr. Bright was shocked by how blatant the defendant was in demanding money in exchange for legislation.
48. Mr. Bright indicated that he had a similar experience with the defendant's chief of Staff, Mr. Burnett. Mr. Bright stated that he was retained by Midwest Express Airlines to attempt to change that law on how airplanes stored in the state of Wisconsin were taxed. During his lobbying efforts on the tax provision Mr. Bright met several times with the defendant. The provision had been supported by the Assembly, but was having trouble getting through the Senate. During these meetings, the defendant continually told Mr. Bright that he had no relationship with Midwest Express. Mr. Bright believed that what the defendant meant was that Midwest Express had not made campaign contributions to the defendant or other Democratic Senators.
49. Mr. Bright said this conclusion was strengthened by a meeting that he had with Mr. Burnett to discuss the issue. Mr. Bright indicated that within the Capitol it is well known that the defendant works very closely with Mr. Burnett and talking to Mr. Burnett is the same as talking to the defendant. Mr.

Burnett indicated that there was opposition to the bill from smaller airports and that was delaying the bill. Mr. Bright corrected him, pointing out that a compromise had been reached on that issue. Mr. Burnett then told him that Midwest Express needed to make a \$10,000 contribution. Mr. Bright told Mr. Burnett that the airline couldn't do that and that the request was inappropriate. Mr. Burnett told Mr. Bright that he was not doing his job and would have to help Midwest Express understand that they had to be a part of the political process. Mr. Burnett then turned red and insisted that the demand was not a quid pro quo. Your complaining witness states that Mr. Burnett appeared before the John Doe and acknowledged making the request for a \$10,000 campaign contribution during a discussion of the Midwest Express tax issue, but insisted that this was not a quid pro quo.

Probable Cause as to Count 7: (HIRING WENDY KLOIBER)

50. Your complaining witness states that he was present when an adult citizen, Wendy Kloiber, testified in a John Doe Proceeding before the Honorable Sarah O'Brien, and he was also present when follow-up interviews were conducted with Ms. Kloiber. Ms. Kloiber stated that she was hired by the Senate Democratic Caucus as a State employee in June of 1999. **Ms. Kloiber stated that prior to being hired by the Senate Democratic Caucus she interviewed with Andy Gussert, who was the Director of the Senate Democratic Caucus, and with the defendant. Ms. Kloiber stated that she was told by both Mr. Gussert and by the defendant that she was being hired to run the reelection race of then State Senator Alice Clausing.** Mr. Kloiber stated at the time that she was hired to run the Alice Clausing reelection campaign, she knew that she was being hired as a State employee but did not realize that it was illegal for her to work as a State employee and run Senator Clausing's campaign. Ms. Kloiber stated that when she spoke to Mr. Gussert and when she spoke to the defendant, there was some discussion of other duties that she would have but that it was made clear by both individuals that her number one job would be to run Senator Clausing's reelection campaign. Ms. Kloiber stated that one of the first things she was assigned to do when she was hired as a State employee was to set up a fund-raiser for Senator Clausing. Ms. Kloiber stated that this fund-raiser ended up not taking place because of the legislative calendar.
51. Ms. Kloiber stated that prior to being hired at the Senate Democratic Caucus she did not know the defendant, but that during the interview process she met twice with Mr. Gussert and once with the defendant. During the interview with the defendant, Ms. Kloiber indicated that there was a direct discussion of the fact that Ms. Kloiber was being hired to help with Alice Clausing's campaign. Ms. Kloiber indicated that the defendant made a statement to the effect of that they were pleased to have found such a smart woman to work with another smart woman on her reelection.

52. This was confirmed at a lunch meeting that took place with the defendant at a restaurant in downtown Madison two or three weeks after Ms. Kloiber was hired. Ms. Kloiber stated that during this conversation the defendant discussed with Ms. Kloiber how important Alice Clausing was and how important winning that race was. During this lunch meeting, Ms. Kloiber expressed concerns to the defendant that she had no experience running campaigns and needed training. The defendant told her that she should contact Mr. Burnett, who the defendant identified as his chief of staff, because Mr. Burnett knows more about running a campaign than anyone. Ms. Kloiber stated that she then began to work on the Alice Clausing reelection campaign as part of her duties as a State employee at the Senate Democratic Caucus. She said that some of these duties were legitimate constituent relation duties, but others, such as fund-raising and opposition research, she now understands to be purely political and improper for State employees.

53. Your complaining witness states that during the course of this investigation Andrew Gussert spoke to Investigator Bisswurm and confirmed that during the time period in June of 1999 he was employed as the Director of the Senate Democratic Caucus. Mr. Gussert indicated that in that position he reported directly to the defendant. Mr. Gussert stated his office was located in the bank building at One South Pinckney and that he was aware that the office of the Senate Democratic Caucus was a State office and that all its employees were State employees. Mr. Gussert stated that Wendy Kloiber was hired as a State employee specifically to run Alice Clausing's reelection campaign because the defendant believed that a woman needed to run Alice Clausing's campaign. Mr. Gussert stated that eventually Wendy Kloiber ran into some conflict with other members of Alice Clausing's campaign staff and another SDC employee, Carrie Lynch, was assigned to run Senator Clausing's campaign.

54. Mr. Gussert also identified a memo that he had sent to the defendant on or about April 27, 1999. The fax cover sheet for this memo stated, "I've included a resume for Wendy Kloiber for the open analyst position. I met with her yesterday and she would be a good hire. We spoke extensively about the political nature of the job. I'm ready to offer her \$36,000. Do you want to meet with her?" Mr. Gussert further stated that all decisions regarding who was hired at the Senate Democratic Caucus were ultimately made by the defendant. Mr. Gussert in fact indicated that when he interviewed for the job, he asked for and was promised authority to make hiring decisions. However, Mr. Gussert worked until the end of 2000 and during that time period all hiring decisions were made by the defendant.

Probable Cause as to Count 8: (OFFER OF EMPLOYMENT TO HEATHER COLBURN)

55. Your complaining witness states that Investigator Bisswurm spoke to an adult citizen, Heather Colburn. Ms. Colburn stated that she currently works for Emily's List in Washington, D.C. She stated that during the summer of 1999 she was recruited to work for the Senate Democratic Caucus. She stated that she was an acquaintance of Andrew Gussert and knew him when she worked in Democratic politics in Wisconsin. Ms. Colburn stated that she had worked on Tammy Baldwin's 1998 Congressional campaign and that she was looking for another job and that while she was living out of state she had let a lot of people know she was interested in coming back to Wisconsin. She stated that Mr. Gussert contacted her and discussed a job opening with the Senate Democratic Caucus working as a fund-raiser. She stated that Mr. Gussert gave her some information about the job over the phone and via e-mail but she eventually came back to Madison meet with Mr. Gussert in person. Ms. Colburn stated that she believed that this meeting took place in September or October of 1999 but was not sure of the exact date. She stated that in her meeting with Mr. Gussert it was clearly laid out that she would be a full-time fund-raiser working at the Senate Democratic Caucus. She stated that she was taken around the SDC office and introduced to the people who worked there. She said that the only person she knew besides Mr. Gussert was Cindy Maracek because she had worked with Ms. Maracek in the past on graphics projects.

56. Ms. Colburn stated that she interviewed with Mr. Gussert in person and then she interviewed with the defendant. She stated that the interview with the defendant took place at the defendant's law office in downtown Madison, Dane County and that she, Mr. Gussert and the defendant were the only people present at the meeting. Ms. Colburn stated she knew the defendant from her previous work in Madison but did not know him well. **She stated that during this meeting it was clear that the defendant wanted to hire her as a full-time fund-raiser. The defendant explained to her how he approached fund-raising and told her how other Democratic candidates raise money. He also told her what her role as a fund-raiser would be and discussed her fund-raising background. Ms. Colburn stated it was clear during that she this conversation was being a offered a position as a full-time fund-raiser working for the Senate Democratic Caucus.** She stated that no other entity was ever mentioned to her by the defendant and that there was no mention of working part-time for the Senate Democratic Caucus and part-time for the campaign committee.

57. Ms. Colburn stated that the defendant specifically mentioned that she would be an SDC employee and she knew that as the Majority Leader, he was the head of the Senate Democratic Caucus and it would only make sense that she would interview with him for a job with the Senate Democratic Caucus. Ms. Colburn went on to state that she does not know anything about

legislative policy or any other legitimate work at the Senate Democratic Caucus. Her entire background involved fund-raising and that was her career. It was clear to her that putting money into the bank would be her sole job with the SDC. She knew that it was a full-time position and she had discussions with Mr. Gussert regarding health benefits.

58. Ms. Colburn stated that she remembered the interview with the defendant because she remembered thinking that the defendant had done his homework prior to interviewing her. The defendant hit on the points that she finds important such as electing women and having them hold leadership roles in the Democratic Party. In the interview the defendant discussed how he was helping women get elected and pitched the importance of women in the Democratic Party. She remembers thinking how he really tried to sell her on the job by focusing on her important issues. Ms. Colburn stated that she was ultimately offered the job by Mr. Gussert after her interview with the defendant. She stated she ultimately contacted Mr. Gussert and turned the job down.

59. **Your complaining witness states that Investigator Bisswurm spoke to Mr. Gussert and Mr. Gussert acknowledged that he and the defendant spoke of hiring a fund-raiser for the Senate Democratic Caucus and in fact interviewed Ms. Colburn for the job.** Mr. Gussert stated that he knew Ms. Colburn worked for Emily's List in Washington, D.C. and had worked as a fund-raiser in Madison prior to that. He knew Ms. Colburn from her days in Madison and set up a meeting for her with the defendant in Madison to discuss the fund-raising job for the SDC.

60. Mr. Gussert stated he was present for the interview between the defendant and Ms. Colburn which took place in the defendant's law office which is located at 44 East Mifflin Street in the City of Madison, County of Dane. At the interview, the defendant discussed that Ms. Colburn would be doing mainly doing fund-raising work, but the defendant did say that she may have to do some policy work. The defendant offered Ms. Colburn a job as a fund-raiser for the SDC. Mr. Gussert stated that Ms. Colburn ultimately turned down the job.

61. Mr. Gussert also identified several e-mails, as well as a memo, that he had sent to the defendant and Mr. Burnett who is the defendant's chief of staff. This memo, which is misdated August 26, 01, contains an e-mail sent by Ms. Colburn to Mr. Gussert dated August 23, 1999. In the e-mail, Ms. Colburn indicates that she is looking to make around \$35,000+ and states that experienced fund-raisers make about \$3,000 to \$5,000 per month so that's the low end and that her starting date is negotiable. Mr. Gussert added in the memo to the defendant that Ms. Colburn is scheduled to meet with the defendant on Friday, October 8. Mr. Gussert also reiterated that all hiring decisions at the Senate Democratic Caucus were made by the

defendant.

Probable Cause as to Count 9: (USE OF CAUCUS EMPLOYEES 1998 ELECTION)

62. Your complaining witness states that during the course of his investigation he has reviewed a transcripts from John Doe appearances on October 31, 2001 and December 11, 2001 made by an adult citizen, Joanna Richard, as well as a follow-up interview report dated July 2, 2002 with Ms. Richard prepared by Investigator Bisswurm. Ms. Richard stated that from late November of 1995 until January 3, of 1999, she was employed by the Senate Democratic Caucus as the Director of the Caucus. Ms. Richard stated that the defendant was the individual who hired her to be the Director. Ms. Richard stated at the same time that she was hired by the defendant as the Director of the Senate Democratic Caucus she was also given the title of Executive Director of the State Senate Democratic Committee by the defendant. Ms. Richard stated that during the entire time period that she worked for the caucus, the caucus had offices in the City of Madison, Dane County but at three different locations due to renovations in and around the Capitol. Ms. Richard indicated that as the Director of the Caucus, she was a State employee.
63. Ms. Richard stated that in her capacity as Director of the Caucus, she would have almost daily contact with the defendant. Ms. Richard stated that at the time she was hired as the Director of the caucus she believed there were 10 or 11 other employees at the caucus. These included a graphics person, some data people, some computer people and legislative analysts. Ms. Richard stated that during her time period as Director of the Caucus she was involved in hiring a number of individuals and that people who were hired understood that in addition to working for the State they would also be doing work for Democratic candidates. Specifically, Ms. Richard stated that the individuals who worked as analysts at the caucus had their workload divided up by committees and by "targets". Ms. Richard stated that the term "targets" or targeted races referred to State Senate races that the defendant determined would likely be highly contested. Ms. Richard explained that the defendant determined who would be targets for the Senate Democratic Caucus and that if a particular Senator was picked, the caucus would monitor press clippings and votes that the Senator had taken and if the Senator chaired a committee, they would monitor that committee. During this process particular attention would be paid to Republican Senators who the defendant deemed to be vulnerable.
64. Ms. Richard stated that during the time period she worked as the director of the Caucus, the defendant was responsible for hiring decisions. She stated that she would make recommendations on who she wanted to hire and then she would have to argue with the defendant to convince the

defendant that the person that she wanted was the right person to hire. Ultimately the defendant had the final decision making authority. During her tenure, the defendant also had the ultimate decision making authority on wage increases granted to staff members.

65. Ms. Richard informed investigators that she was the Director of the Senate Democratic Caucus during both the 1996 and 1998 campaign seasons. She indicated that during the years when no elections were scheduled, employees of the Senate Democratic Caucus primarily did policy work but also performed some pure campaign work in their State offices on State time. She indicated that one such task was opposition research. Ms. Richard identified a research file maintained by the Senate Democratic Caucus, which contained information about divorce proceedings, involving a potential Republican candidate in the 1998 election against an incumbent Democratic senator. Ms. Richard acknowledged that this type of material would have been obtained and analyzed by State employees on state time.
66. Ms. Richard further stated that as elections drew nearer, the amount of legitimate policy work being done by the caucus began to diminish and the amount of campaign work began to increase. She stated that the planning for election campaigns would start in the January of the election year and by the spring of the election year an SDC staffer would be assigned to run the campaign in each important State Senate district and a campaign plan would be established. From the spring of each election year through the summer, the majority of the Senate Democratic Caucus staff work and their first priority was campaign work. Ms. Richard stated that from September until the election in November, SDC staffers would be working almost exclusively on campaign and that very little policy work would be done during those months.
67. Ms. Richard stated that during the 1996 campaign a chain of command existed in which the defendant would come to her to discuss campaigns and she would then provide the defendant's direction to individual Senate Democratic Caucus staffers who were running campaigns. **However, in 1998, Ms. Richard stated there was a dramatic increase in the defendant's involvement in daily activities during the election cycle. She stated that the defendant would call her everyday several times on her State phone and would question every judgment that was made on campaigns. In addition, the defendant would have to approve all the campaign plans for the candidates.**
68. The Senate Democratic Caucus staff member, who was assigned to run the campaign, would run create a campaign plan and Ms. Richard stated she would edit it and come up with a final version. She would then give her finalized version to the defendant who would revise it and edit it before giving his final approval of the plan. Ms. Richard stated that when she

discussed these campaign plans with the defendant, they did discuss which members of the Senate Democratic Caucus staff would be running the particular campaigns. Ms. Richard further stated that in addition to reviewing the campaign plans the defendant needed to approve campaign literature. Ms. Richard stated that the campaign literature was put together by the staff member, who was the graphics person at the Senate Democratic Caucus, and then it would either be faxed to the defendant or someone from his staff would pick it up at the Senate Democratic Caucus offices.

69. Ms. Richard stated that in 1998 there were three State senate races that were targeted by the defendant: the 15th Senate District involving Judy Robson, the 27th Senate District involving Jon Erpenbach and the 9th Senate District involving Jim Baumgart. Ms. Richard stated that Lance Walter was the SDC employee who ran the Robson race and Julie Laundrie from the SDC ran the Erpenbach race. She stated there were three SDC employees who did work on the Baumgart race: Tara Vasby, Jay Wadd and Scott Ross. Ms. Richard stated that none of these campaign candidates were incumbents at the time the SDC employees worked on their campaigns.
70. Ms. Richard stated that Senator Baumgart did not want help from the Senate Democratic Caucus and from Madison in general. She stated that Senator Baumgart had refused to speak to her about campaign related issues while she was working on the clock for the Senate Democratic Caucus and that he preferred to run his campaign his own way. She indicated that the Senate Democratic Caucus staff members, who went to Mr. Baumgart's district, did so on their own and not because Senator Baumgart directed them to do it.
71. With regard to the Senate race in the 27th District, Ms. Richard stated that Jon Erpenbach was an SDC employee before he ran for the Senate. She stated that he took a leave of absence when he ran and that a number of SDC employees wanted to work on his campaign but that Ms. Richard felt that Julie Laundrie would be the best fit for the job. She discussed this with the defendant and the defendant did not want Ms. Laundrie to be assigned, but Ms. Richard fought hard on the issue until the defendant agreed to allow Ms. Laundrie to run the campaign.
72. Ms. Richard stated that the defendant was obsessed with people's loyalty to him, and the defendant was not sure that Laundrie would be loyal to him. The defendant was concerned because Mr. Erpenbach is the brother-in-law of Senator Russ Feingold and the defendant was concerned that Erpenbach would be more loyal to Senator Feingold than to the defendant. Ms. Richard stated that Ms. Laundrie spent a great deal of her time during the summer and fall working on the Erpenbach campaign. Ms. Richard stated that Ms. Laundrie did take some vacation and compensatory time to

work on the campaign but that Ms. Laundrie would not have had enough vacation or compensatory time to cover the amount of time that she worked on the Erpenbach campaign. Ms. Richard stated that during the 1998 campaign she and the defendant had numerous arguments about the Erpenbach race regarding strategy and other issues. Ms. Richard stated that over time the defendant began to contact SDC staff members directly instead of continuing to argue with her. Ms. Richard stated that these discussions occurred on a very regular basis and occurred in her State office and on her State phone.

73. Ms. Richard stated that due to her numerous disagreements with the defendant, the defendant began calling other SDC staff members such as Ms. Laundrie to discuss campaign strategy directly with them. She stated that she also had conversations with Branda Weix, who was a data person at the caucus, who was responsible for creating fund-raising lists for campaigns during the campaign season. Weix told Ms. Richard that she was receiving direct calls from the defendant about the fund-raising lists. Ms. Richard stated that she also knows that the defendant called Lance Walter and Tara Vasby about the campaigns that they were working on.

74. **Ms. Richard stated that her role with the campaigns as the Senate Democratic Caucus Director included making sure the candidates were doing doors and making fund-raising calls. She also made sure that the candidates were lining up volunteers for election day and that they were meeting the goals for their campaign plans. The defendant would call her on a daily basis at the SDC office on her State phone to ask for an update on each candidate.** She stated that defendant's role with the campaigns was to raise big donor money. Ms. Richard stated that the defendant made fund-raising calls based on lists that were prepared by Branda Weix. She stated that the defendant raised money for individual candidates, the Senate Democratic Campaign Committee and the Democratic Party. She also stated that she believed that the defendant was raising money for independent expenditure groups because there were times when the Senate Democratic Campaign Committee received PAC money after the SDCC had received its maximum amount of contributions and the defendant would tell her to send the check back to the donor. She believes that the defendant would then direct the donor to contribute the money in some other way like an independent expenditure group.

75. Ms. Richard stated that in 1998 the main democratic independent expenditure group used by the defendant as run by an individual named Tom Boeder. She stated that Tom Boeder was placed in this position because he was a close friend of the defendant's chief of staff, Mr. Burnett. It was her belief that Mr. Burnett was giving Boeder information regarding campaigns and, therefore, she did not want to have anything to do with Mr. Burnett. She stated that she believed that Mr. Burnett was giving Boeder

information because Mr. Burnett was very involved with the campaigns and kept a close eye on what was happening. Mr. Burnett would regularly ask her for detailed information on the candidates and for campaign brochures. The types of details he was asking for were things that would not be necessary for him to know if he was simply overseeing the campaign. She stated that Mr. Burnett had access to all of the Senate Democratic Caucus polling information.

76. Your complaining witness states that he spoke with Julie Laundrie. Ms. Laundrie stated that she was hired as an analyst with the Senate Democratic Caucus in 1995 and worked on higher education issues and special elections. She stated that she worked on a special election in the 24th District in Stevens Point and then in 1996 she was put in charge of a State Senate race in Green Bay. Ms. Laundrie stated that during the 1996 campaign she did not have a great deal of contact with the defendant but that it was her understanding that campaign materials, which she provided to Joanna Richard, were then forwarded to the defendant for his approval. Ms. Laundrie stated that during the 1998 campaign the defendant was much more hands on.
77. Ms. Laundrie stated that she ran the campaign for Jon Erpenbach who was a former co-worker of hers at the caucus. **She said that the defendant was very involved because this was a significant race and also because the defendant had wanted another candidate to run instead of Erpenbach. Ms. Laundrie stated that when she ran Erpenbach's campaign, she did so from her Senate Democratic Caucus State office and that she did not take a leave of absence to do so.** She stated that she managed the campaign, did get out the vote plans and assisted radio ads and lists.
78. Ms. Laundrie discussed a continuum indicating during the time period in off election years Senate Democratic Caucus workers concentrated primarily on policy and budget work and then when the election cycle returned, the continuum shifted until the caucus workers devoted approximately 90% of their time to campaign work. **Ms. Laundrie agreed that she worked at least 90% of her time for Erpenbach during his election from her State office and on State time. She stated that the defendant was very involved in this process and was very hands on. She stated that Joanna Richard, who was the director of the caucus at the time, was cut out from the process and that the defendant would contact her directly.**
79. **Ms. Laundrie stated that during the Erpenbach campaign she sometimes spoke to the defendant several times a day especially just before any television ad aired or before a filing deadline. Ms. Laundrie stated that she did her campaign work from her State office and from her home at night. However, she stated that the defendant only called her at her State office, never at home. Ms. Laundrie stated that the defendant had to sign**

off on all of the literature pieces for the Erpenbach campaign and that she delivered the literature pieces to the defendant's State office as well as perhaps to his law office. She stated that sometimes one of the defendant's State paid staffers would bring the pieces back to Ms. Landrie or sometimes Ms. Landrie went to get them herself from the defendant. Ms. Landrie stated that after the election she received a thank you note from the defendant.

80. Ms. Landrie stated that all of her contacts with the defendant regarding campaign ads and other issues occurred over the phone when he called her in her State office. Ms. Landrie stated that she didn't recall the defendant ever coming to the caucus office during the campaign but she understood and knew that the defendant was the Senate Democratic Caucus boss.

81. **Ms. Landrie stated the defendant never cautioned her about doing campaign work in her State office, and she said that she felt that the defendant expected her to do the campaign work. Ms. Landrie stated that based upon the number of contacts she had with the defendant, the nature of those contacts and where those contacts occurred, it was not possible that the defendant did not know that she was doing campaign work in her State office on State time. Ms. Landrie stated that she felt she would have lost her job in the caucus office if Erpenbach had not won his election.** Ms. Landrie further stated that during the 1998 election campaign she knew that Lance Walter was working on the Robson campaign and that he was working the same amount of hours on the Robson campaign that she was working on the Erpenbach campaign.

82. Your complaining witness states that Lance Walter testified before the John Doe in this matter and stated that he was hired by the Senate Democratic Caucus as an analyst in 1997 and ultimately became the Deputy Director of the caucus. **Mr. Walter acknowledged that during election cycles it was a matter of routine for Senate Democratic Caucus staffers to perform campaign work in their offices using State phones and computers.** Mr. Walter acknowledged that in 1998 he ran the campaign of current State Senator Judy Robson. Mr. Walter acknowledged that he was involved in a number of different areas of the Robson campaign including attempting to plan a budget.

83. Mr. Walter stated that he consulted with the defendant in connection with fund-raising and budget issues for the Robson campaign. **Mr. Walter stated that at the beginning of the race a campaign plan and budget was created and shared with the defendant. During the course of the race, there were further discussions between Mr. Walter and the defendant because the defendant's role was to step in and raise money for Senator Robson in an attempt to complete the campaign plan. Mr. Walter stated**

that the defendant would periodically check in with him to find out how much money had come into the campaign, how much money the campaign had on hand and to determine how much money the defendant needed to raise in order to help Senator Robson.

84. Mr. Walter stated that as part of these fund-raising efforts he would have contact with Branda Weix at the State offices of the Senate Democratic Caucus who would produce fund-raising lists for the campaign. These requests would be given to Ms. Weix at her State office and the information would be received back from her at her State office. **Mr. Walter further stated that some discussions with the defendant regarding the budget and fund-raising for the Robson campaign would have occurred during normal business hours while Mr. Walter was in his State office and others would have occurred after hours. Walter received no pay beyond his regular state salary.**

85. Your complaining witness states that Investigator Bisswurm spoke to State Senator Judy Robson and **Senator Robson acknowledged that in 1998, when she ran for the State Senate, she was told by the defendant that she would have someone assigned to help her with media buys, campaign literature and other campaign related activities.** She stated that Lance Walter was the person assigned by the defendant to consult or coordinate with her campaign.

86. Senator Robson stated that she knew Lance Walter worked with the Senate Democratic Caucus but that she assumed that his assistance came through the Senate Democratic Campaign Committee. Senator Robson stated that it was her understanding that Walter's services were being paid for by the Senate Democratic Campaign Committee, but she never asked or checked to see who actually paid his salary. She stated that her campaign did not pay Walter's salary. She stated that she had previously run assembly campaigns and that she had received assistance from the Assembly Democratic Campaign Committee and that she assumed that individuals who provided that assistance had taken leaves of absence, vacation or compensatory time. Senator Robson stated that she assumed that the defendant got SDC workers to volunteer to take time off to work on campaigns but does not know that for sure.

87. Senator Robson stated that in her 1998 campaign she received some of the graphics work for her campaign literature from Lance Walter but did not know where Walter received the graphics work. Senator Robson stated that her contacts with Walter were infrequent except for the last couple weeks prior to the election when he was around all the time. She stated that Mr. Walter did not help her with fund-raising but that she does know that Walter would meet with the defendant to talk about campaign strategy and what issues they should run on during the campaign. She acknowledged that

she had discussions with the defendant about needing the defendant's assistance to raise money and that the defendant did raise some monies for her.

Probable Cause as to Count 10 (USE OF CAUCUS EMPLOYEES 2000 ELECTION)

88. Your complaining witness states that as set forth above, Andrew Gussert spoke to Investigator Bisswurm and informed Investigator Bisswurm that he was hired as the Director of the Senate Democratic Caucus in late January or early February of 1999. Mr. Gussert stated that prior to working at the Senate Democratic Caucus he had worked at the Assembly Democratic Caucus. He stated that sometime during mid to late January of 1999 he had a conversation with Mr. Burnett who he knew was the defendant's chief of staff. Mr. Gussert stated that he had met Mr. Burnett when Mr. Burnett managed the defendant's 1994 gubernatorial campaign. After discussing the position with Mr. Burnett and telling Mr. Burnett that he would take the job if he was offered, Mr. Gussert met with the defendant toward the end of January 1999. Mr. Gussert stated that this meeting took place at the defendant's law office off the square and lasted approximately 15 to 20 minutes. During this conversation, Mr. Gussert asked the defendant if Mr. Gussert would have the power to hire and fire people and the defendant responded, "You will have the same power that Joanna Richard had." Mr. Gussert stated that he was happy with that response because he thought at that point that Joanna Richard had the power to hire and fire people. He did not find out until after he accepted the position that Richard did not have hiring and firing power and that the defendant made all those decisions.

89. Mr. Gussert stated that it became clear after a short time that the defendant was really the one who did the supervising and was in complete control of the Senate Democratic Caucus. Mr. Gussert stated he was told by the defendant after four months on the job that he might be replaced as director by a woman from Pennsylvania named Mary Eisenhower. Mr. Gussert stated that Eisenhower never came to work for the Senate Democratic Caucus but her friend, Brett Cott, was hired as an SDC employee by the defendant over Mr. Gussert's objection. Mr. Gussert stated that he soon learned that the defendant also controlled salary decisions at the Senate Democratic Caucus because there were employees that were denied raises even though he felt they deserved them and others who were given raises over his objection. Mr. Gussert stated that he found it difficult to manage the SDC employees from the start because they were all people who were hired when Joanna Richard was the director. Mr. Gussert stated that when Ms. Richard left, she had wanted Lance Walter to be named as the SDC director and when Mr. Gussert got the job, other SDC employees were not happy about it. Mr. Gussert stated that while he was the director there were a number of employees that were hired including Wendy Kloiber,

Carrie Lynch, Andy Engel and Cindy Maracek.

90. Mr. Gussert stated that he began a campaign plan in October of 1999 and listed those races that he thought might be targeted in the 2000 election. Mr. Gussert stated that he went through that list with the defendant and discussed with the defendant what those candidates would expect from the SDC. The defendant's main concerns were the office budget and fund-raising plans. The defendant was always concerned about how much money each candidate had raised. Mr. Gussert stated he did not create the actual fund-raising plans, but it was part of his job to make sure that the plans were completed.
91. In January of 2000, Mr. Gussert stated that he and the defendant began to discuss candidate recruitment for open seats. He indicated that they were trying to find a candidate to oppose Senator Gary Drzewiecki. He stated that he took one trip to Green Bay with Lance Walter to do candidate recruitment and that they did a literature drop with Brown County Supervisor Dave Hansen and his family. He also spoke with other potential candidates who were referred to him. Mr. Gussert stated he would then send the defendant people he thought would make good candidates. He also tried to recruit candidates for other races, but it soon became clear that Brett Cott would do that job. Mr. Gussert stated that he would often times make decisions or recommendations and the defendant would comment on them and then make the final decision as to which candidate would be picked.
92. With regard to the race against Gary Drzewiecki, Mr. Gussert stated that once it was decided that Dave Hansen would run against Drzewiecki, Lance Walter stepped forward and volunteered to work on the campaign. By February of 2000, the defendant was communicating directly with Lance Walter about the Hansen campaign. Mr. Gussert stated that Wendy Kloiber had been hired to run the Alice Clausing campaign but that Kloiber ran into some conflicts with Clausing's campaign staff and ultimately Carrie Lynch was assigned to run Clausing's campaign. Mr. Gussert stated that Lynch had originally been hired to do media relations but got the Clausing campaign by default because she was the only other woman at the SDC who was available to do the race. Mr. Gussert stated that Ms. Kloiber ended up working full-time on the Hansen campaign along with Lance Walter and spent a good deal of time in Green Bay prior to the election.
93. Mr. Gussert said there continued to be problems with the Alice Clausing campaign because there were a number of people who were involved in the campaign all of whom had the impression that they were in charge. Mr. Gussert stated that he recalled being in a meeting in July or August of 2000 with the defendant along with Senator Clausing, Carrie Lynch and a number of other individuals where they discussed the Clausing campaign. The meeting took place in the SDC conference room during the workday. At the

meeting, the defendant defined each person's role in the campaign and reminded them that they needed to work together. **Mr. Gussert recalled the defendant telling everyone at the meeting, "If we don't win this, Andy is the one who will get fired."**

94. **Mr. Gussert stated that as SDC Director during the 2000 campaign cycle, he believed his job was to implement whatever plan the defendant wanted him to and also act as a liaison between the defendant and the SDC staff. Up until July of 2000 the defendant worked through him if he needed something from a SDC staff member who was working on a campaign. After that time, the defendant contacted SDC staff members directly about the particular campaign they were working on.**
95. Mr. Gussert stated that from time to time he would ask staff members why they did something without his knowledge and the staff member would tell Mr. Gussert that the defendant had told them to do it. **Mr. Gussert stated that he knows the defendant communicated with SDC staffers on a daily basis about the campaigns.** He often heard them calling the defendant and answering questions about campaigns for him. The defendant would also call Mr. Gussert at Mr. Gussert's State office and tell him of a particular problem on a campaign and expect him to fix the problem. **During the height of the campaign season, the defendant would call Mr. Gussert three or four times a day regarding campaigns.** Mr. Gussert stated that from July through November of an election year other legislators knew not to request things from the SDC because the organization switched over to a campaign machine at that time.
96. Mr. Gussert stated that he knew that the defendant was aware of what SDC employees were doing because the defendant communicated with those employees on a daily basis regarding their campaign activities. Mr. Gussert stated that he knew that Branda Weix would regularly communicate with the defendant because she would send the defendant memos and would carbon copy Mr. Gussert on the memos. Mr. Gussert stated that he knows that the data programs that Branda Weix developed for campaigns were extremely time intensive, but that he was not involved in the details of those programs. Mr. Gussert stated the defendant, Ms. Weix and Lance Walter worked together to develop those databases.
97. Mr. Gussert stated that he also knew that the defendant was working directly with Cindy Maracek on campaign literature because there were times when campaign literature was sent to the printer without Mr. Gussert ever seeing it. Cindy Maracek told him that the defendant had approved the literature so it was sent to the printer. In addition, Mr. Gussert said that he knew the defendant approved all campaign literature because the defendant had told him, "I don't want anything to go out without my seeing it." Mr. Gussert stated the defendant was referring to campaign literature from the top tier

ances and his own campaign. Mr. Gussert stated that the defendant would call him on a regular basis to discuss campaign literature and to make edits to particular pieces. Ms. Maracek also told Mr. Gussert that the defendant had called her and made various edits to the literature so she'd change it to reflect the defendant's changes. Mr. Gussert stated that the defendant micro-managed the way that literature was written and scrutinized the language that was used in the pieces.

98. Mr. Gussert further stated that he knows that the defendant directly contacted Carrie Lynch about the Clausen campaign and Lance Walter about the Hansen campaign. He knows that the defendant, Walter and some media consultants would meet to discuss campaign ads that would then be produced without Mr. Gussert's knowledge or input. Mr. Gussert stated that he believed the defendant also spoke with Jay Wadd regarding the Mark Meyer campaign but not as often as he spoke with Lynch and Walter because the Meyer campaign was not as high a priority as the Clausen and Hansen campaigns. Mr. Gussert stated that the defendant never told him that the SDC employees could not use State resources or time to run campaigns. The only thing that the defendant told him was to make sure that SDC employees took vacation or compensatory time if they were seen by outside people working on campaigns. The defendant was concerned about getting caught and did not appear to be concerned about the fact that it was wrong to have State employees working on campaigns while on State time.
99. Your complaining witness states that he spoke with Wendy Kloiber and Wendy Kloiber told him that she did a substantial amount of work on the Hansen campaign in the 2000 election while she was employed by the Senate Democratic Caucus. She stated that she had originally been hired by the caucus to work on Alice Clausen's campaign but that eventually she moved to the Hansen campaign. She stated that she had a meeting with the defendant regarding her campaign work when she was working with Lance Walter on the Hansen race. She stated that she went to the defendant because she was concerned that Mr. Gussert was going to try to move her to another campaign. She stated that she had been told by another employee of the SDC that Gussert was thinking of moving Ms. Kloiber off the Hansen campaign and to the campaign of Kathleen Arciszewski. She stated that she was very upset at the prospect of moving to the Arciszewski campaign because there was no way that that race could be won, but that they had a chance to win the Hansen race.
100. Ms. Kloiber stated that the defendant met with her and assured her that she would be kept on the Hansen race. Ms. Kloiber stated that she moved to Green Bay for several weeks before the election to work on the Hansen race. She stated that she did have contact with the defendant while she was in Green Bay and knows that the defendant was yelling at people to get

out and do doors on the weekend. The defendant never asked her or anyone else about legitimate caucus work they were doing during this time and never asked her if she was taking vacation or compensatory time to cover the time she was living in Green Bay. She stated that she remembered calling the defendant during the Hansen campaign because Lance Walter had a death in the family, and there was an issue as to which of a number of competing events Mr. Hansen should appear at. She contacted the defendant, and the defendant made the decision as to what events Hansen should attend. **Ms. Kloiber stated that there was no question that the defendant knew that she was working full time on the Hansen campaign. She stated it was during this time when she was working full time on the Hansen campaign that she started to realize how much control the defendant had over the Hansen race.** She stated that she remembers there was an ad that focused on an abortion issue that was produced and paid for by an independent expenditure group in favor of Mark Meyer. When the ad aired, there were people who were concerned that this independent group was doing something that would take the Meyer campaign down the wrong track. She stated she knew nothing like that would ever happen with the Hansen campaign because the defendant had control over all the ads and approved them before they were aired. She further stated that she had conversations with the defendant about ads and she knew that he had some pull in the area in terms of what ads were run.

101. Ms. Kloiber confirmed that Andy Gussert knew he would be fired if Alice Clausing lost her race because winning her race was one of the conditions of his employment. She stated that after Gussert left the caucus, she and Gussert were in competition for a job with the Democratic Party of Wisconsin. Ms. Kloiber stated the defendant called the party and pushed for her to get the job because of how well she had done on the Hansen campaign.
102. Ms. Kloiber stated that sometime after the campaign she met with the defendant in his law office for a campaign debriefing. The defendant asked her what they could have done better and how she would rate her overall experience. Ms. Kloiber stated at the conclusion of this meeting the defendant informed her that she was being given a 10% raise. Ms. Kloiber stated that she believed that her raise was linked to her performance on the political campaigns. She stated that during this discussion, in which she was given her raise, there was never any discussion about anything other than campaign related work. During the debriefing, the defendant spoke to Ms. Kloiber about his fund-raising efforts for the Hansen campaign and apologized for failing to raise more funds. A short time later, after Andy Gussert was replaced as the director of the SDC by Jon Carson, Mr. Carson told Ms. Kloiber that he and the defendant were looking to hire a full-time fund-raiser.

103. Ms. Kloiber stated that sometime shortly after the November 2000 elections, the defendant came to a staff meeting at the SDC offices. The defendant brought Mr. Burnett and Mike Brown who was another member of the defendant's staff. Ms. Kloiber stated that an individual named Darcy Luoma was also present at that meeting because she was interviewing for the job as the SDC director. At this meeting the defendant discussed in detail the political campaigns that had been run by the SDC staff and discussed with the SDC staff what they had done well and what they could do differently next time.
104. Your complaining witness states that Investigator Bisswurm spoke to Darcy Luoma who informed Investigator Bisswurm that in December of 2000 she was contacted by the defendant about becoming the director of the SDC. Ms. Luoma stated that the defendant invited her to attend a SDC staff meeting so she could meet the staff and get a feel for what the job was all about. The defendant also wanted her at the meeting so she could give the staff a debriefing as to what she had done for the Gore campaign. Ms. Luoma stated that she has reviewed her calendar and handwritten notes and has determined that the meeting took place on January 16, 2001 during regular business hours. The meeting took place in the Caucus State office in the Firststar Bank building.
105. Ms. Luoma stated that the focus of the meeting was debriefing campaigns. She stated that at the meeting a SDC staff member, who she did not know, later determined to be Carrie Lynch, prepared a handout regarding the Alice Clausing campaign entitled "Why We Lost the 10th". Ms. Luoma turned over to Investigator Bisswurm a copy of handwritten notes dated January 16, 2001 entitled "Senate Dem Caucus Election Debriefing Meeting". These notes were reflect a discussion about the Clausing campaign weaknesses and a discussion about the fact that in particular areas of Senator Meyer's district, Senator Meyer garnered 1,600 votes while Al Gore obtained 6,000 votes. Ms. Luoma stated that she did not take the job as director of the SDC because the job appeared to be too political for her.
106. Your complaining witness states that he spoke with Carrie Lynch and Ms. Lynch informed him that she worked for the Senate Democratic Caucus from September 1999 until October 2001. Ms. Lynch stated that when she was hired at the caucus, she was hired to work as a communications director. She stated that she does not recall being told that the caucus did campaign work. Ms. Lynch stated that she was approached by the defendant at a fund-raiser at the Argus bar in the early part of 2000 and asked if she wanted to work on Senator Alice Clausing's campaign. Ms. Lynch said that the defendant told her that Clausing liked Lynch and wanted to work with Lynch. The defendant told Ms. Lynch that Alice Clausing was the top target in the 2000 campaign.

107. Ms. Lynch stated that she took over as the campaign manager for Alice Clausing in June of 2000 because the campaign was disorganized and there were too many bosses. She stated that she performed some of her duties as manager of Clausing's campaign from her State caucus office in Madison. Ms. Lynch stated that during the last two weeks of the campaign she used vacation time and stayed in Menomonie, Wisconsin. Ms. Lynch stated that among her duties as campaign manager were to draft and approve literature that she described as "Vote For" literature and Ms. Lynch stated that she wrote most of Senator Clausing's campaign literature. Ms. Lynch acknowledged that the majority of Senator Clausing's campaign literature was probably written by Lynch at her State office on her State computer. Ms. Lynch said that the graphics work for the campaign was done by Cindy Maracek and that she would hand Maracek a rough draft of what she wanted and Maracek would come back to her with any questions and then Maracek would complete the work and bring it back to Lynch for editing. Ms. Lynch said that the majority of these transfers occurred in the caucus during regular business hours.
108. Regarding contacts with the defendant during the campaign, Ms. Lynch said that the defendant knew that Lynch controlled the Clausing staff and that Ms. Lynch reported to the defendant on a regular basis. Ms. Lynch said that the defendant called her often on her cell phone and that she met with the defendant once in awhile. Ms. Lynch stated that two days rarely went by without talking to the defendant about the campaign.
109. Ms. Lynch stated that from June of 2000 forward her work on the campaign of Senator Clausing became more intense as the election neared. Ms. Lynch stated that first she worked on the campaign on a weekly basis and then daily during the last few weeks before the election. Ms. Lynch stated that in addition to having graphics work done at the caucus by Ms. Maracek she obtained contributor lists and other data from Branda Weix and Joel Gratz who was another data analyst at the caucus. Ms. Lynch stated that she worked day hours Monday through Friday on the campaign approximately 10 to 20 hours per week during the summertime.
110. **Ms. Lynch stated that the campaign time went up in August and then again significantly in September to approximately 30 hours per week. She stated that she had regular contact with both Mr. Gussert and the defendant and the defendant was aware of the amount of time and commitment spent on the Clausing campaign by Ms. Lynch. Ms. Lynch stated that SDC employees did campaign work because nobody wanted to do it and there wasn't enough money. She further described the campaign work as "forced labor."** Ms. Lynch stated that she also knew that SDC employee Lance Walter managed Senator Hansen's campaign and that Wendy Kloiber worked with Walter on Hansen's campaign and that

SDC employee Jay Wadd ran Mark Meyer's campaign.

111. Your complaining witness states that he was present when Cindy Maracek testified in a John Doe proceeding before the Honorable Sarah O'Brien. During that proceeding, Ms. Maracek acknowledged that during the 2000 election campaign she received requests from Lance Walter and Wendy Kloiber to produce campaign pieces for the Hansen campaign, requests from Jay Wadd to produce pieces for the Mark Meyer campaign and requests from Carrie Lynch to produce pieces for the Clausing campaign. Ms. Maracek further testified that Carrie Lynch told her that the campaign pieces that were being produced for the Clausing campaign were being signed off or approved by the defendant.
112. Your complaining witness states that he has reviewed testimony provided by Lance Walter in a John Doe proceeding presided over by the Honorable Sarah O'Brien. Mr. Walter testified that in approximately January of 2000 he returned from a family leave and had a discussion with Andy Gussert in Senate Democratic Caucus office about targeted races for the 2000 campaign. During this conversation Mr. Gussert and Mr. Walter discussed a plan to target Senate District 30 which was then held by State Senator Gary Drzewiecki. During this conversation, the two of them decided that the Lambeau Field issue could be very effective against Senator Drzewiecki. Mr. Walter acknowledged that he ended up doing a significant amount of work on the campaign in the 30th Senate District including crafting the central message of the campaign and general strategy advice.
113. Mr. Walter testified that when he became involved in the campaign which was eventually won by Brown County Supervisor Dave Hansen, he began working off a campaign that had previously been prepared by Senate Democratic Caucus analyst Brett Cott. Complaining witness states that he had previously been informed by Mr. Gussert that Brett Cott was hired at the SDC by the defendant over the objections of Mr. Gussert. Mr. Walter further testified that after a period of time Wendy Kloiber was assigned to assist him on the campaign and devoted increasingly large amounts of time to the Hansen campaign. Mr. Walter acknowledged that as election day approached the majority of the work done in the caucus office by himself and Ms. Kloiber was in furtherance of the Hansen campaign.
114. Mr. Walter indicated that his involvement with the Green Bay race began in approximately January of 2000 when he started to make some calls in the Green Bay area to see if they could find a potential candidate. Mr. Walter indicated that he knew some people in Green Bay, and he would call them up and tell them that they were looking for a candidate and ask for names. His intention was to try to flush out a candidate or a least a small group of candidates that the defendant and Mr. Walter could meet with to talk about running for office. Mr. Walter stated that he made contact with several

individuals one of which was Dave Hansen. Mr. Walter indicated that he traveled to Green Bay with the defendant for the purposes of attending a public hearing. Thereafter, he and the defendant met with the individuals that Mr. Walter had identified. Mr. Walter stated that shortly thereafter it became clear that both Mr. Walter and the defendant's preference was that Dave Hansen would be their candidate.

115. Mr. Walter indicated that Mr. Hansen eventually agreed to run for State Senate and Mr. Walter began to work on a campaign plan and a budget. Mr. Walter indicated that there were frequent discussions with the defendant about how much the race would cost. Mr. Walter stated he discussed with the defendant his concerns that the Green Bay media market was an expensive market and that Mr. Hansen had no financial means and no history of raising money. The defendant assured both Mr. Walter and Mr. Hansen that the defendant would raise the funds necessary to run the campaign. Mr. Walter stated that he continued to act as an intermediary between Mr. Hansen and the defendant in order to insure that Mr. Hansen continued his campaign.

116. Mr. Walter stated that in general when he is running a campaign, he identifies a target figure of funds that need to be raised and attempts to identify various sources that are available to the candidate to raise money. Mr. Walter stated that generally a hole would be left, sometimes large, sometimes as much as half of the money, where there was no clear source as to where the money would come from. Mr. Walter stated that the defendant's role was then to come in and fill that hole as best he could. Mr. Walter stated that this was the defendant's role in the Hansen campaign. Mr. Walter stated that throughout the course of the campaign he would talk to the campaign and determine how much money had come in and compare that to what was needed and when the money was needed. If Mr. Walter determined that there was a cash flow problem, he would relay that information to the defendant. Mr. Walter stated that he was not directly involved in raising money by the defendant but often times the defendant would call Mr. Walter and ask Mr. Walter to come by the defendant's law office and pick up checks that were to go to the Green Bay race.

117. Mr. Walter also indicated that the defendant was involved in approving literature pieces for the Hansen campaign. Mr. Walter indicated that he would write text for the Hansen literature pieces and bounce ideas off of other campaign workers. After they got the literature to a certain point the defendant felt that it was important because of the critical importance of the race that the defendant himself sign off on the literature pieces. Mr. Walter stated that the literature pieces for the Hansen campaign would be run by the defendant before they would be sent to the printer.

118. Mr. Walter stated that at one point in time during the campaign it was clear that there were difficulties raising money and the defendant

approached Mr. Walter and told him that the defendant wanted Mr. Walter to meet with a fund-raiser that could help fund-raising on the Hansen campaign. The defendant asked Mr. Walter to go to Milwaukee and meet with Barb Candy who the defendant indicated would help raise money for the Hansen campaign. Mr. Walter did meet with Ms. Candy who agreed to provide assistance to the Hansen campaign. Complaining witness states that his investigation revealed that Ms. Candy along with Meghan Bitenc, who was employed in the defendant's State office, performed fund-raising tasks for the Hansen campaign.

119. **Mr. Walter testified that going forward from June of 2000, approximately 40% of his time at the caucus was spent working on the Hansen campaign. Mr. Walter further testified that the defendant was aware of what he was doing for the Hansen campaign and aware of the kind of time it takes to do those things. Mr. Walter testified that it was understood that the defendant knew that Mr. Walter was working at the caucus and that the reason that the defendant could essentially talk to Mr. Walter and ask him to do political things was because Mr. Walter worked for the defendant.** Mr. Walter further testified that the defendant was aware of the amount of data work being done by Branda Weix at the caucus and the amount of graphics work being done by Cindy Maracek at the caucus. Mr. Walter went on to clarify that he knew that the defendant was the leader of the caucus because Mr. Walter had previously lost a job at another caucus when there was a change in leadership. It was clear to Mr. Walter that when the defendant directed him to take steps to convince Dave Hansen to run for State Senate, Mr. Walter had no option of refusing the defendant's request.

120. Your complaining witness states that Investigator Bisswurm spoke to Meghan Bitenc who informed her that she was hired by the defendant to work as a full time state employee on his legislative staff in January of 2000. Ms. Bitenc stated that she had no policy experience prior to being hired by the defendant but had worked exclusively on political campaigns. Ms. Bitenc stated that when she was hired she believed that she would work on the defendant's legislative staff for a while to get to know people and then would transfer over and work on the defendant's campaign in 2000. She assumed that she would have to take a leave to do this because this was what she had seen done in other states. Ms. Bitenc stated that during the spring of 2000 while working in the defendant's state office, the defendant directed her to call Barb Candy who Ms. Bitenc knew to be a fundraiser. Eventually Ms. Bitenc began to work with Ms. Candy and the defendant on fundraising calls. Ms. Bitenc stated that these calls included calls made by the defendant to raise money for the Hansen campaign.

121. Ms. Bitenc stated that the defendant would make these calls during the regular business day from his law office and that her job was to assist him

and take notes regarding the commitments that he received. She stated that she did not take leave or vacation to do this fundraising activity with Mr. Burnett. She also traveled to Green Bay with Ms. Candy for the purposes of meeting with Dave Hansen to discuss fundraising, again without taking any leave or vacation. Ms. Bitenc stated that at one point she raised her concerns about the mixing of campaign and legislative work to Mr. Burnett after a reporter came to the Senate office to ask Mr. Burnett a question about the campaign. Ms. Bitenc thought it was strange that the press seemed to know that state employees worked on campaigns. Mr. Burnett told her that that was the way it was, both democrats and republicans did it and the press knew about it. She stated this conversation was memorable because when she had worked in Virginia, the campaign work was separated from the legislative work.

122. Your complaining witness states that he has spoken with State Senator Dave Hansen, and Senator Hansen acknowledged that he was recruited by the defendant to run for the State Senate in the 30th Senate District. The defendant told Senator Hansen that he would help by making phone calls and raising money for the Hansen campaign. Senator Hansen said that the defendant told him that Lance Walter would be in touch with him during the campaign. Senator Hansen stated that he did not have regular meetings with Mr. Walter but did speak to him by phone on a regular basis. Senator Hansen stated that Wendy Kloiber also worked with Lance Walter on the campaign. Senator Hansen stated that he believed that Lance Walter and Wendy Kloiber worked for Senator Chvala's office or the Democratic Party. He stated he was unaware that Lance Walter and Wendy Kloiber were State employees. Senator Hansen stated that both Walter and Kloiber were very helpful with the campaign, but he didn't see much of them until the last month or so before the election. Senator Hansen also indicated that Lance Walter made arrangements for Sue Meinholz, who was the defendant's State office manager to do the campaign finance reports. Mr. Walter testified that the defendant made the arrangements for Sue Meinholz to do the bookkeeping and campaign finance reports for the Hansen campaign.

123. Your complaining witness states that he spoke with former Senator Alice Clausing and Ms. Clausing acknowledged that Carrie Lynch had provided assistance to her 2000 campaign. Ms. Clausing acknowledged that she knew that Lynch worked for the Senate Democratic Caucus. Ms. Clausing stated that although she knew that Ms. Lynch was an employee of the SDC she assumed that Lynch was providing services on her own time or that she was taking vacation or compensatory time.

Probable Cause as to Counts 11: (UNLAWFUL POLITICAL CONTRIBUTIONS)

124. Your complaining witness states that he has reviewed testimony provided by Mr. Walter, and Mr. Walter testified that in late June or early July

of 2000 Mr. Walter went to the defendant's law office located at 44 East Mifflin Street in the City of Madison, County of Dane. Mr. Walter testified that when he traveled up to the 30th Senate District, it was common for the defendant to ask Mr. Walter to pick up checks to convey to the Hansen campaign. On this particular occasion, however, the defendant handed Mr. Walter an envelope containing over \$1,500 in cash. The defendant handed the envelope to Mr. Walter and told Mr. Walter that it was money that was raised for Senator Hansen by a group who passed the hat for him. The defendant instructed Mr. Walter to make sure that this money got up to Green Bay and into the campaign account. Mr. Walter testified that he subsequently opened the envelope and it contained a series of bills, fives, ones, tens and twenties. He proceeded to count the money and determined that it exceeded \$1,500.

125. Mr. Walter stated that he discussed this situation with Wendy Kloiber and that they were both very uncomfortable but felt that the campaign was strapped and they had been working incredibly hard on it. **Mr. Walter stated that he then took \$1,000 of the cash and deposited into his own bank account and gave the remaining funds to Wendy Klobier for the purposes of having her deposit it into her bank account. Mr. Walter stated that he then transferred the \$1,000 from his personal account to a joint account held by his wife and had his wife write a \$1,000 check to the Dave Hansen campaign. Mr. Walter stated that he did this because he was trying not to tie the Dave Hansen campaign to the defendant in any way.**

126. Mr. Walter identified a deposit slip from the State Capitol Employees Credit Union dated July 3, 2000 reflecting a deposit of \$1,000 cash. Mr. Walter indicated that this was the cash given to him by the defendant. After having transferred the money along with some other funds into a joint account he asked his wife to sign a check to the Hansen campaign. Mr. Walter stated that to the best of his knowledge the monies that exceeded \$1,000 were deposited by Wendy Kloiber into her account and subsequently contributed to the Hansen campaign. Mr. Walter indicated that he did not raise his concerns with the defendant about receiving and handling of the cash. He stated that when he received the money in the envelope, he did not realize how much was there and when he did open it and count it, he did not feel comfortable questioning the defendant about the funds. Mr. Walter further stated that when he counted the funds, the bills were in denominations of 5\$, \$10, and \$20 bills,

127. Your complaining witness states that he spoke with Wendy Kloiber, and Ms. Kloiber informed him that she was approached by Lance Walter who told her that the defendant had been at a union rally and collected contributions. Mr. Walter gave her \$630 in cash and told her that he was unable to contribute the money to the Hansen campaign because he was

already at the \$1,000 limit for the year. Ms. Kloiber stated that she then deposited the \$630 given to her by Mr. Walter into her account and shortly thereafter wrote out a \$750 check to the Dave Hansen campaign. Your complaining witness states that bank records from the UW Credit Union confirm that on June 29, 2000 Ms. Kloiber deposited \$630 cash into her checking account.

128. Your complaining witness states that bank records from the State Capitol Employees Credit Union confirm the transfer made by Mr. Walter and the check signed by Sue Sabatke made payable to the Hansen campaign in July of 2000.

129. Your complaining witness states that Wisconsin Statutes Section 11.26(2)(b) limits the amount of money that can be contributed to candidates for state senate to \$1,000 per election campaign. Chapter 11 also requires that contributions over \$10 be recorded and that any contribution of over \$50 may not be made in cash. Your complaining witness states that during his investigation he received information that the defendant was involved in hundreds of fundraising solicitations for numerous candidates, committees and independent expenditure groups. Therefore, your complaining witness believes that when the defendant gave more than \$1600 in cash to Lance Walter he would have known that it was illegal for Mr. Walter to contribute the money in his own name.

Probable Cause as to Counts 12-20 (UNLAWFUL CAMPAIGN COORDINATION):

130. The defendant unlawfully coordinated Independent Citizens for Democracy's (hereinafter "Independent Citizens for Democracy (PAC)") political activities with Sen. Mark Meyer's 2000 campaign for Wisconsin State Senate. The defendant regularly and directly advised Senator Mark Meyer on his campaign committee's efforts. At the same time, Mr. Burnett controlled Independent Citizens for Democracy (PAC)'s activities to elect Sen. Mark Meyer. The defendant likewise served a substantial role with Independent Citizens for Democracy (PAC)" and with Sen. Mark Meyer's 2000 campaign, including extensive fundraising assistance for both groups.

131. This campaign coordination enabled the defendant to circumvent statutory limits on direct contributions to Sen. Meyer's campaign committee. Section 11.26(2)(b) of Wisconsin Statutes limits individual political action committee donations to \$1,000 per Wisconsin State Senate candidate. The law does not limit the amount a political action committee may give to an independent expenditure group. The defendant used Independent Citizens for Democracy (PAC) to receive unlimited political action committee contributions, and then spent the funds on the Mark Meyer campaign.

132. The defendant's activities violated Wisconsin campaign finance laws in two ways. First, the defendant caused Independent Citizens for Democracy (PAC) to make in kind contributions to the Mark Meyer campaign committee which exceeded the statutory limits of \$1,000.00 per Wisconsin State Senate candidate. Because Independent Citizens for Democracy (PAC) acted in concert, cooperation or consultation with candidate Mark Meyer, Independent Citizens for Democracy (PAC)'s pro-Meyer advertising constituted an in kind contribution to the Mark Meyer campaign committee. Second, the defendant caused Independent Citizens for Democracy (PAC) to file false campaign finance reports. The reports claimed Independent Citizens for Democracy (PAC)'s expenditures were independent, but in fact, the expenditures were coordinated with the Mark Meyer campaign.

Defendant's relationship with Sen. Mark Meyer's campaign

133. Complainant reviewed a summary which Milwaukee County District Attorney's Office Investigator Aaron Weiss prepared of his interview with **Senator Mark Meyer**. Sen. Meyer stated as follows. Sen. Meyer consulted with the defendant about Sen. Meyer's 2000 campaign on a near daily basis. Sen. Meyer described the defendant as a "micro-manager" in regards to Sen. Meyer's campaign. Sen. Meyer consulted with the defendant about themes and content of Sen. Meyer's campaign literature.

134. Sen. Meyer further stated Meghan Bitenc helped him with his campaign fundraising. With Ms. Bitenc's assistance, Sen. Meyer made fundraising telephone calls from the defendant's law firm office. Complainant reviewed a summary of Milwaukee County District Attorney's Office Investigator Heidi Bisswurm's interview with **Meghan Bitenc**, wherein Ms. Bitenc stated she served on the defendant's legislative staff from January to August 2000. Ms. Bitenc did political fundraising at the defendant's direction while on his legislative staff. She stopped fundraising when she left the defendant's staff.

135. Sen. Meyer further stated he had frequent discussions with the defendant's chief of staff, Mr. Burnett, on the message and themes of Sen. Meyer's 2000 campaign. Mr. Burnett advised Sen. Meyer on how and where to spend his campaign committee funds on television and radio campaign advertisements. Sen. Meyer described Mr. Burnett as having expertise in the area of broadcast media. Mr. Burnett advised Sen. Meyer concerning how to target broadcast media to particular voting groups. Mr. Burnett also advised Sen. Meyer concerning the optimal levels of gross ratings points in Sen. Meyer's campaign media markets.

136. Sen. Meyer further stated Jay Wadd was an advisor to his 2000 campaign. Mr. Wadd generally oversaw campaign activities. Mr. Wadd

assisted with the content, production, and media buys for Sen. Meyer's television and radio advertisements. The defendant was aware of who worked on Sen. Meyer's campaign, and had to know of Mr. Wadd's role.

137. Sen. Meyer was cooperative with complainant's investigation and displayed a forthright demeanor throughout the above interview. Sen. Meyer stated he did not know of the defendant control of Independent Citizen's for Democracy (PAC). Sen. Meyer also believed Mr. Wadd was assisting his campaign on vacation time or at other times outside of Mr. Wadd's employment with the Senate Democratic Caucus.
138. Complainant interviewed **Jay Wadd**. Complainant also reviewed a summary which Investigator Bisswurm prepared of her interviews with Mr. Wadd. Mr. Wadd stated as follows. Throughout 2000, he was a paid full-time staff member of the Senate Democratic Caucus. Andrew Gussert, the director of the Senate Democratic Caucus, assigned Mr. Wadd to assist with Sen. Mark Meyer's 2000 campaign for Wisconsin State Senate. Mr. Wadd effectively managed Sen. Meyer's campaign. Mr. Wadd produced the campaign budget, controlled the campaign finances, did strategic analysis, created a campaign web-site, and drafted campaign literature. Mr. Wadd did portions of these campaign tasks at the Senate Democratic Caucus offices during regular hours of his employment as a State of Wisconsin employee. Mr. Wadd stated that, typically, from June to November of an election year, the entire staff of Senate Democratic Caucus was so absorbed in campaign work that no legitimate policy work was ever discussed.
139. Mr. Wadd further stated he repeatedly met with the defendant to discuss Mr. Wadd's work on Sen. Meyer's campaign. The defendant was particularly interested in Sen. Meyer's campaign because it was a tight race.
140. Mr. Wadd further stated the defendant reviewed and approved all of Sen. Meyer's campaign literature and television advertisements before Sen. Meyer's campaign committee disseminated them. Mr. Wadd showed the defendant drafts of Sen. Meyer's campaign literature. Mr. Wadd specifically recalls viewing a tape of a proposed Sen. Meyer campaign television advertisement with the defendant. The defendant approved the advertisement. Mr. Wadd then told the defendant that Mr. Wadd wanted to air the advertisement early in the Meyer campaign. Mr. Wadd explained that Sen. Meyer's campaign committee lacked sufficient funds to do so. Mr. Wadd asked whether the defendant could raise additional funds to allow Sen. Meyer to do the early television spots. The defendant replied he would attempt to raise the funds.

Defendant's relationship with Independent Citizens for Democracy (PAC)

141. Complainant reviewed filings Independent Citizens for Democracy (PAC) made with the State of Wisconsin Elections Board, 134 E. Wilson Street, Madison, Wisconsin. Those submissions reflect as follows. On September 15, 1998, Robin Nix filed a Campaign Registration Statement (Form EB-1) recording Independent Citizens for Democracy (PAC) as an independent committee with Ms. Nix serving as treasurer. On March 24, 1999, Scott McCormick filed an amended Campaign Registration Statement reporting he had replaced Ms. Nix as treasurer.
142. On September 7, 2000, Mr. McCormick swore to, and filed, an Oath for Committees and Individuals Making Independent Disbursements (Form EB-6) on behalf of Independent Citizens for Democracy (PAC). The Form EB-6 states Independent Citizens for Democracy (PAC) supported candidate Mark Meyer. The Form EB-6 further contains Independent Citizens for Democracy (PAC)'s oath, as prescribed by Section 11.06(7) of Wisconsin Statutes, wherein Independent Citizens for Democracy (PAC) swears it does not act in concert, cooperation or consultation with candidate Mark Meyer or any agent or authorized committee of Mark Meyer. A notarial jurat certifies the oath was duly subscribed and sworn in Dane County, Wisconsin.
143. Complainant reviewed four Reports of Independent Disbursements (Form EB-7) which Independent Citizens for Democracy (PAC) submitted to the State of Wisconsin Elections Board. The reports are signed by Scott McCormick and show as follows.
144. By report filed September 14, 2000, Independent Citizens for Democracy (PAC) certified making an "independent expenditure" of \$50,000 on September 11, 2000 to Media Strategies Research in support of Mark Meyer's candidacy for Wisconsin State Senate [Count 13].
145. By report filed October 27, 2000, Independent Citizens for Democracy (PAC) certified making an "independent expenditure" of \$25,000 on October 24, 2000 to Media Strategies Research in support of Mark Meyer's candidacy for Wisconsin State Senate [Count 14].
146. By report filed November 2, 2000, Independent Citizens for Democracy (PAC) certified making an "independent expenditure" of \$17,308 on October 28, 2000 to Dixon Media Group in support of Mark Meyer's candidacy for Wisconsin State Senate [Count 15].
147. By separate report filed November 2, 2000, Independent Citizens for Democracy (PAC) certified making an "independent expenditure" of \$274.30 to Deanna Williams, and \$13,450.99 to Litho Productions, on October 31, 2000, in support of Mark Meyer's candidacy for Wisconsin State Senate [Count 16].

Copies of the above reports are attached hereto and incorporated herein by reference.

148. Each of the above Reports of Independent Expenditures was filed pursuant to the Oath for Committees and Individuals Making Independent Disbursements (Form EB-6). By that oath, Independent Citizens for Democracy (PAC) swore it was not acting in concert, cooperation or consultation with candidate Mark Meyer or any agent or authorized committee of Mark Meyer. Moreover, the above reports, on their face, certify they are "independent disbursements."

149. The reports are false in that, as described in this complaint, Independent Citizens for Democracy (PAC), in fact, did act in concert, coordination, or consultation with Mark Meyer's campaign.

150. Section 11.02(2), Wisconsin Statutes, designates the Wisconsin State Elections Board as the filing officer for campaign finance reports filed by organizations, such as Independent Citizens for Democracy (PAC), which register as independent expenditure committees under section 11.06(7), Wisconsin Statutes.

151. Complaint reviewed copies of bank records which Heartland Credit Union, 555 W. Washington Street, Madison, Wisconsin maintains in the ordinary course of business for checking account number 558350 in the name of "Independent Citizens for Democracy." Those records confirm Independent Citizens for Democracy (PAC) made the above expenditures.

152. Complainant reviewed the following business records which likewise document the above expenditures:

Dixon Media Group invoices to Independent Citizens for Democracy (PAC) in the amount of \$17,308 for producing pro-Meyer television advertisements;

a DeeSigns Williams invoice dated October 23, 2000 to Independent Citizens for Democracy (PAC) in the amount of \$274.30 for a Mark Meyer brochure;

a Litho Productions invoice dated November 15, 2000 to Independent Citizens for Democracy in the amount of \$13,450.99 for a "Mark Meyer Mailer (2nd Mailing)"; and

various business records from television stations WQOW, WLAX and WKBT in LaCrosse, Wisconsin showing Independent Citizens for Democracy (PAC) purchased, through their agent Media Strategies and Research, extensive pro-Meyer television advertisement during September to November

2000.

153. Complainant was present when **Scott McCormick** testified before a John Doe hearing in Dane County Case No. 01-JD-6. Mr. McCormick stated as follows. Both Tom Boeder and Mr. Burnett asked Mr. McCormick to assist with Independent Citizens for Democracy (PAC). Mr. Burnett indicated Independent Citizens for Democracy (PAC) would work to elect Democrats to the Wisconsin State Senate. Mr. Burnett and Mr. McCormick agreed that Mr. McCormick would serve as a figurehead treasurer on behalf of the organization. Mr. McCormick knows Mr. Burnett serves as chief of staff for the defendant's legislative office.
154. Mr. McCormick further testified he served as the nominal treasurer for Independent Citizens for Democracy (PAC) from approximately April 1999 through January 2001. He did not exercise any actual control over Independent Citizens for Democracy (PAC). He did not receive or deposit contributions. He did not issue disbursements. He exercised no control over the organization's checking account with Heartland Credit Union. He had no access to Post Office Box 3274, Madison, Wisconsin 53704 which served as the official mailing address for Independent Citizens for Democracy (PAC).
155. Mr. McCormick further testified that Susan Meinholz and Mr. Boeder routinely brought completed campaign finance reports for Independent Citizens for Democracy (PAC) to Mr. McCormick's home for his signature. On at least one occasion, Mr. McCormick met with Ms. Meinholz in the defendant's legislative office to sign campaign finance reports for Independent Citizens for Democracy (PAC). Mr. McCormick knows Ms. Meinholz serves on the defendant's legislative staff.
156. Complainant interviewed **Tom Boeder** and was present when Mr. Boeder testified before a John Doe hearing in Dane County Case No. 01-JD-6. Mr. Boeder stated as follows. Mr. Boeder actively participated in Independent Citizens for Democracy (PAC) beginning in 1998. Mr. Boeder maintained a home office and computer at his residence at 1314 E. Wilson Street, Madison, Wisconsin to operate Independent Citizens for Democracy (PAC) and other similar political organizations. He was an authorized signer on Independent Citizens for Democracy (PAC)'s checking account 558350 with Heartland Credit Union, Madison, WI. He maintained the checkbook.
157. Mr. Boeder further stated Scott McCormick served as the nominal treasurer for Independent Citizens for Democracy (PAC) during 2000 and early 2001, but Mr. McCormick exercised no control over the organization. Mr. Boeder became the official treasurer in July 2001.

158. Mr. Boeder further stated Mr. Burnett essentially ran Independent Citizens for Democracy (PAC). Mr. Burnett focused Independent Citizen's for Democracy efforts on expressly advocating the election of Mark Meyer, Alice Clausing, and Dave Hansen to the Wisconsin State Senate during the Fall 2000 campaign. Mr. Burnett directed Mr. Boeder's work on Independent Citizens for Democracy (PAC). Mr. Burnett controlled Independent Citizens for Democracy (PAC)'s fundraising, political research, political advertising production, and political advertising dissemination.
159. Regarding fundraising, Mr. Boeder stated, at Mr. Burnett's direction, he successfully solicited the Democratic Legislative Campaign Committee (DLCC), Washington, D.C., for funding for Independent Citizens for Democracy (PAC). Complainant reviewed campaign finance reports which Independent Citizens for Democracy filed with the State of Wisconsin Elections Board. Those reports show the DLCC gave \$292,000 to Independent Citizens for Democracy (PAC) during the Fall of 2000. Mr. Boeder also provided his contemporaneous notes showing Mr. Burnett directed Mr. Boeder to solicit a plumbers union for a \$10,000 to Independent Citizens for Democracy (PAC).
160. Mr. Boeder further stated Mr. Burnett arranged for Susan Meinholz to prepare the campaign finance reports for Independent Citizens for Democracy (PAC). Ms. Meinholz prepared the reports for Mr. McCormick's signature.
161. Regarding political research, Mr. Boeder stated Mr. Burnett gave Mr. Boeder political polling information, background research on candidates, candidate press packets, and position papers written by candidates. Mr. Boeder forwarded these materials to Dixon Media, Washington, DC. to be used in the production of political advertising for television and radio.
162. Regarding political advertising production, Mr. Boeder stated Mr. Burnett reviewed and edited all television and radio scripts produced by Dixon Media. Mr. Boeder provided draft copies of these scripts to Mr. Burnett. Mr. Burnett directed changes, which Mr. Boeder forwarded to Dixon Media. No scripts were submitted for production without Mr. Burnett's direct approval. Mr. Burnett also reviewed and edited the written political advertising which Independent Citizens for Democracy (PAC) disseminated.
163. Mr. Boeder gave complainant three e-mails addressed from Mr. Burnett to Mr. Boeder dated late October, 2000. The e-mails bring two television advertisements to Mr. Boeder's attention. One advertisement attacked Senate candidate Mark Meyer. The second advertisement favored Sen. Meyer's opponent, Dan Kapanke. Mr. Boeder stated Mr. Burnett directed him to forward this information to Dixon Media so they could prepare pro-Meyer advertisements in response.

164. Mr. Boeder gave complainant copies of preliminary drafts of mail brochures which Independent Citizens for Democracy (PAC) disseminated supporting Mark Meyer's candidacy. The drafts contain editing notes directing changes to text and lay out. Mr. Boeder explained Mr. Burnett directed these editing changes.
165. Mr. Boeder gave complainant numerous other e-mails addressed between Mr. Boeder and the DLCC during Fall 2000. The e-mails specifically relate to Independent Citizens for Democracy (PAC)'s campaign to elect Mark Meyer, and include discussions of advertisements being run by Mark Meyer's opponent, television and radio scripts for pro-Meyer advertisements, and transfers of funds for pro-Meyer advertising production and media buys.
166. Mr. Boeder further stated he once encountered the defendant at a fundraiser. On that occasion, the defendant thanked Mr. Boeder for Mr. Boeder's work on Independent Citizens for Democracy.
167. Complainant knows the defendant engaged in fundraising for Independent Citizens for Democracy (PAC). The below-summarized statements of lobbyists Michael Bright and William Broyderick describe such fundraising.
168. Complainant reviewed a summary which Investigator Bisswurm prepared of her interview with **Michael Bright**. Mr. Bright stated as follows. Mr. Bright is a registered lobbyist who owns and operates the firm of Bright Consulting Inc., Madison, WI. The defendant invited Mr. Bright to the defendant's law office during various legislative budget cycles. In these meetings, the defendant reviewed Mr. Bright's clients' political donation track record, and then asked for Mr. Bright's clients to make political contributions to Democratic interests. Sen. Chvala listed political candidates and political committees he wanted to receive monies. The defendant specifically stated that Mr. Bright's clients could keep their political contributions "under the radar" by directing monies "across the Potomac" to the DLCC.
169. Mr. Bright stated the defendant also identified Independent Citizens for Democracy (PAC) as a group to which Mr. Bright's clients should contribute. The defendant named Tom Boeder as the contact person for Independent Citizens for Democracy (PAC). Mr. Bright provided his contemporaneous notes recording the defendant's statements about Independent Citizens for Democracy (PAC).
170. Complainant was present when Milwaukee County District Attorney E. Michael McCann questioned **William Broydrick** at a John Doe hearing in

Dane County Case No. 01-JD-6. Mr. Broydrick stated as follows. He is a registered lobbyist and presently operates the largest lobbying firm in the State of Wisconsin. Mr. Broydrick has attended numerous political fund raising meetings with the defendant. The defendant asked for contributions to certain specific political committees. Mr. Broydrick described the defendant's chosen political committees as "laundromats," meaning in Mr. Broydrick's words, the "money goes through a washing machine and it comes out clean."

171. Mr. Broydrick further stated the defendant specifically requested Mr. Broydrick's clients donate to the DLCC. Mr. Broydrick noted the DLCC funneled \$292,000 to Independent Citizens for Democracy (PAC) in 2000. Mr. Broydrick's clients contributed monies to the DLCC. Mr. Broydrick sometimes delivered these contribution checks to the defendant's office. For example, Ameritech made a \$40,000 contribution to the DLCC during the 2001 legislative budget cycle. Mr. Broydrick believes he handed this check to the defendant so that the defendant would be immediately aware of Ameritech's contribution.
172. When questioned whether such DLCC donations were earmarked for return to Wisconsin, Mr. Broydrick replied as follows. As a matter of routine, the defendant wanted DLCC contribution checks to be physically routed through the defendant. The defendant would thereby "get credit for them."
173. Complainant reviewed a copy of check number 5000095126. The check is drafted in the amount of \$40,000 from SBC/Ameritech to the DLCC, Washington, D.C. and is dated July 9, 2001.
174. Mr. Broydrick stated, over the past several years, he was unaware of any legislation passing over the defendant's objection. Mr. Broydrick noted, when Ameritech donated the above \$40,000, the Senate version of the 2001 budget included a tax provision highly unfavorable to Ameritech. Mr. Broydrick discussed Ameritech's desire to remove the unfavorable tax provision with the defendant. After Ameritech made the above \$40,000 contribution, the unfavorable tax provision was removed from the budget bill by the legislative conference committee.
175. Mr. Broydrick described Ameritech making another donation of \$40,000 to the DLCC in early 2002.
176. Mr. Broydrick also stated the defendant specifically identified Independent Citizens for Democracy (PAC) as a group to which Mr. Broydrick's clients should contribute. Referring to Independent Citizens for Democracy (PAC), the defendant stated "these people do good things." In response to the defendant's solicitation, Mr. Broydrick had his clients give to Independent Citizens for Democracy (PAC). For example, at Mr. Broydrick's

advice, Plumber Local 75 gave \$5,000 to Independent Citizens for Democracy (PAC).

177. Deposit records for Heartland Credit Union checking account 500289 confirm Plumbers Local 75 contributed \$5,000 to Independent Citizens for Democracy (PAC) on September 29, 2000.
178. Mr. Broydrick further stated he received telephone calls from Mr. Boeder requesting Mr. Broydrick's clients give to Independent Citizens for Democracy (PAC). When asked whether he believed Mr. Boeder's group acted independently from the defendant, Mr. Broydrick stated, based upon his long experience in politics, "It's inconceivable that these are actually arm's length transactions."
179. Complainant interviewed **Andrew Gussert**. Mr. Gussert stated as follows. He served as the director of the Senate Democratic Caucus throughout 2000. He extensively discussed and planned, with the defendant, the 2000 Democratic campaigns for the Wisconsin State Senate. Those discussions included analyses of independent political groups' impact upon the election. For example, Mr. Gussert and the defendant extensively talked about the independent expenditures of Wisconsin Education Association Council (WEAC) on the 2000 election races for Wisconsin Senate.
180. In contrast, Mr. Gussert stated the defendant made it clear they did not want to discuss Independent Citizens for Democracy (PAC) with Mr. Gussert. Mr. Gussert knew Independent Citizens for Democracy (PAC) was an important political advertiser in the 2000 Senate election. Referring to Independent Citizens for Democracy (PAC), Mr. Gussert found it strange that, in his words, "there was an 800 pound gorilla in the room" but the defendant did not want to discuss it with Mr. Gussert. Mr. Gussert concluded, from this circumstance, the defendant had some secret control or contact with Independent Citizens for Democracy (PAC).

Defendant's conspiracy to violate campaign finance laws through Independent Citizens for Democracy-Issues (2001)

181. The defendant similarly used Mr. Boeder, as an unknowing co-conspirator, to operate Independent Citizens for Democracy-Issues, Inc. (hereinafter "ICD-Issues Inc. (2001)") in 2001-2002. The circumstances surrounding the formation and operation of ICD-Issues Inc. (2001) show the defendant intended to use the organization to make unlawful in kind contributions to Democratic candidates. Just as the defendant misused Independent Citizens for Democracy (PAC) during the 2000 Wisconsin State Senate, he likewise intended and agreed to misuse ICD-Issues Inc. (2001) in the 2002 Wisconsin State Senate election. [Count 20]

182. Complainant reviewed the Articles of Incorporation which ICD-Issues Inc. (2001) filed with Wisconsin Department of Financial Institutions. The Articles of Incorporation show ICD-Issues Inc. (2001) was incorporated on April 24, 2001. Tom Boeder, Sarah Benedict, and Tom Winchell are listed as the board of directors.
183. A news article dated July 11, 2002 in The Capital Times of Madison, Wisconsin reported Ms. Benedict is a former member of the defendant's legislative staff.
184. Complainant questioned Mr. Boeder concerning his involvement with ICD-Issues Inc. (2001). Mr. Boeder stated as follows. Mr. Burnett recruited Mr. Boeder to establish ICD-Issues Inc. (2001). Mr. Burnett told Mr. Boeder the organization would serve as a receptacle for corporate donations. The money would then be used to disseminate issue advertisements favoring Democratic candidates for Wisconsin State Senate in 2002.
185. Mr. Boeder provided his handwritten notes he made during conversations with Mr. Burnett about the formation of ICD-Issues Inc. (2001). The notes include draft language for a statement of ICD-Issues Inc. (2001)'s political purpose. This language was ultimately incorporated into a one-page statement entitled "Fact Sheet". Mr. Boeder used this statement as his primary written advertisement when fundraising for ICD-Issues Inc. (2001). Mr. Burnett suggested much of the language comprising the Fact Sheet.
186. The ICD-Issues Inc. (2001) Fact Sheet states, in part, as follows:
- "ICD-Issues, Inc...will focus exclusively on issues related to the State Senate and will not get involved in any other issues."
- "ICD-Issues Inc. Inc. can accept soft money donations. Hard money, or PAC, contributions can be made to ICD PAC." (Emphasis added.)
- The underscored excerpt shows ICD-Issues Inc. (2001) and Independent Citizens for Democracy (PAC) were operated in conjunction with each other.
187. Mr. Boeder further stated he conducted fundraising for ICD-Issues Inc. (2001) in the same fashion as fundraising for Independent Citizens for Democracy (PAC). Mr. Burnett provided lobbyist and industry representative names for Mr. Boeder to solicit. Mr. Burnett also told Mr. Boeder how much money to request from these sources. Mr. Boeder found the named sources to be readily forthcoming with large contributions of as much as \$75,000.00 individually. The solicitation leads Mr. Burnett provided were the only persons Mr. Boeder contacted for contributions.

188. Mr. Boeder provided his contemporaneous notes of his telephone conversations with Mr. Burnett. In those conversations, Mr. Burnett told Mr. Boeder whom to solicit for contributions to ICD-Issues Inc. (2001). The notes list lobbyist names and dollar amounts to solicit. Mr. Boeder's notes include the following lobbyist names in reference to the industries and/or organizations shown in parentheses: Patrick Essie (Distilled Spirits Council of the United States), Joseph Strohl (Dominion), Walter Kunicki (WEPCO), Mark Williamson (Madison Gas and Electric), Ron Antonneau (Wisconsin Public Service Corporation), Bill Broyderick (Ameritech), Eric Peterson (liquor wholesalers, road builders), Tony Driessen (MCI-Worldcom), Greg Everts (Wal-Mart), Lee Fanshaw (American Family Insurance), and many others.

189. Complaint reviewed copies of bank records which Heartland Credit Union, 555 W. Washington Street, Madison, Wisconsin maintains in the ordinary course of business for checking account number 569540 in the name of "Independent Citizens for Democracy-Issues Inc." The records show the following checks were deposited into the ICD-Issues Inc. (2001) account:

check 031064 dated June 1, 2001 from Madison Gas and Electric Company for \$75,000;

check 0002661 dated June 5, 2001 from Wisconsin Energy Corporation for \$50,000;

check 000101600 dated June 7, 2001 from PG & E Energy Group for \$25,000;

check 030572 dated June 1, 2001 from Dominion Asset Services, LLC. for \$50,000;

check 030573 dated July 1, 2001 from Dominion Assets Services, LLC for \$75,000;

checks 021278, 023685, 023026 from Distilled Spirits Council of the United States totaling \$75,000;

check 1858 dated June 12, 2001 from Rime Management Group, Inc. for \$10,000;

check 51874 dated September 7, 2001 from Philip Morris Management Corp. for \$20,000;

check 334701 dated June 19, 2001 from American Family Mutual Insurance Company for \$20,000;

and many other high dollar checks from special interests. In total, the Heartland Credit Union account records show ICD-Issues Inc. (2001) amassed \$633,781.58 as of March 31, 2002.

190. Complainant reviewed a copy of the defendant's legislative office calendar. The calendar shows the defendant met with lobbyists at his law firm during May and June 2001. These meetings frequently correlate with donations ICD-Issues Inc. (2001) received.
191. For example, the defendant was scheduled to meet with Lee Fanshaw on June 8, 2001. Lee Fanshaw is an executive and registered lobbyist for American Family Mutual Insurance Company. On June 18, 2001, American Family Mutual Insurance Company gave \$20,000 to ICD-Issues Inc. (2001).
192. As another example, the defendant was scheduled to meet with Tom Hanson on May 30, 2001. Tom Hanson is a registered lobbyist for Dairyland Greyhound Park, Inc. On June 12, 2001, Rime Management Group gave \$10,000 to ICD-Issues Inc. (2001). Rime Management Inc. owns Dairyland Greyhound Park.
193. As another example, the defendant was scheduled to meet with Robert Bartlett on June 28, 2000. Mr. Bartlett is a registered lobbyist and president of the Petroleum Marketers Association of Wisconsin. On July 12, 2001, U.S. Oil Co., Inc., Riiser Energy, and Quality State Oil Co., Inc. all gave \$5,000 each to ICD-Issues Inc. (2001). Each of these corporations is a member of the Petroleum Marketers Association of Wisconsin.
194. As another example, the defendant was scheduled to meet jointly with Joe Strohl and John Matthews on May 16, 2001. Mr. Strohl and Mr. Matthews are registered lobbyists for Dominion Assets Services LLC. On June 1, 2001, Dominion Asset Services LLC gave \$50,000 to ICD-Issues Inc. (2001). Complainant knows Dominion Asset Services, LLC is the owner of the private prison in Stanley, Wisconsin.
195. At the time the above contributors met with the defendant and gave to ICD-Issues Inc. (2001), they each had special interest legislation pending as part of the 2001-2003 Wisconsin State Budget. American Family Insurance had an interest in a budget amendment to build a bridge in Burke, Wisconsin. Dairyland Greyhound Park was to benefit from a budget amendment allowing dog track owners to retain unclaimed winnings. The Petroleum Marketers Association of Wisconsin strongly opposed a budget amendment repealing the gasoline minimum mark-up law. Dominion Assets Services LLC owned the Stanley Prison, and sought a budget amendment funding the State of Wisconsin's purchase of the prison.

196. Mr. Boeder's ICD-Issues Inc. (2001) notes show Mr. Burnett directed Mr. Boeder to solicit the same lobbyists that met with the defendant. The notes read as follows:

"Lee Fanshaw, American Family Ins., appropriate, not traditionally new territory";

"Tom Hanson- 2 letters - fax - cable, dog track, 6/12, Wed will have check, Dairyland -> 10K tomorrow to pick up"

"Robert Bartlett fax (608) 256-7666"; and

"John Matthews, Dominion, 258-4787, 150K, left message"

The above comparison of the defendant's calendar, Mr. Boeder's notes of the fundraising leads Mr. Burnett suggested, and the contribution checks to ICD-Issues Inc. (2001), show a working relationship among those parties.

197. Complainant was present when **Patrick Essie** testified at a John Doe hearing in Dane County case 01JD-06. Mr. Essie stated as follows. He is a lobbyist for Distilled Spirits Council of the United States (DISCUS). He had a fundraising meeting with the defendant in spring of 2001 wherein the defendant discussed what monies Mr. Essie's clients could contribute to Senate Democratic candidates interests. The defendant advised there was an organization which could receive corporate coffer monies from Mr. Essie's clients. The defendant stated Mr. Burnett could provide more information about this organization. Shortly thereafter, Mr. Burnett called Mr. Essie. Mr. Burnett referred Mr. Essie to Tom Boeder and ICD-Issues Inc. (2001). Mr. Essie spoke with Mr. Boeder, and made commitments that DISCUS would make a series of contributions to ICD-Issues Inc. (2001). At Mr. Essie's advice, DISCUS did thereafter contribute a total of \$85,000 to ICD-Issue (2001). Mr. Essie assumed the defendant would be informed of these contributions.

198. Complainant interviewed **Walter Kunicki**. Complainant also reviewed a transcript of Mr. Kunicki's testimony at a John Doe hearing in Dane County case 01JD-06. Mr. Kunicki stated as follows. Mr. Kunicki is an executive and registered lobbyist with Wisconsin Energy Corporation. In April or May of 2001, he had a fundraising meeting with the defendant. The defendant told Mr. Kunicki he wanted Wisconsin Energy Corporation to contribute to ICD-Issues Inc. (2001). The defendant stated the contribution should be in the amount of \$100,000. Mr. Kunicki replied Wisconsin Energy Corporation might be able to contribute \$50,000 immediately and \$50,000 the next year. The defendant stated Tom Boeder would contact Mr. Kunicki concerning these contributions.

199. Mr. Kunicki further stated Mr. Boeder thereafter telephoned him. Mr. Boeder requested a contribution of \$100,000 from Wisconsin Energy Corporation. Mr. Kunicki agreed to \$50,000 immediately with the prospect of an additional \$50,000 the next year.
200. Mr. Kunicki further stated he received a follow up telephone call from the defendant. The defendant reiterated the amount he expected Wisconsin Energy Corporation to contribute to ICD-Issues Inc. (2001) was \$100,000.
201. Mr. Kunicki provided a copy of check number 00022611 dated June 5, 2001 in the amount of \$50,000 from Wisconsin Energy Corporation to "Independent Citizens for Democracy, Attn: Tom Boerner" (sic).
202. Mr. Kunicki further stated that, at the time the defendant made the above solicitations, legislation known as "Power the Future" was pending before the Wisconsin legislature. This legislation was very important to Wisconsin Energy Corporation.
203. Complainant interviewed **Greg Everts**. Mr. Everts stated as follows. He is an attorney with the law firm of Quarles & Brady, Madison, WI. He is not a registered lobbyist, but did some limited lobbying on behalf of his client Wal-Mart in 2001. On April 26, 2001, Mr. Everts met with the defendant to discuss Wal-Mart's interest in repealing the gasoline minimum mark-
204. up law. The defendant suggested there might be an opportunity in the budget process to repeal the law.
205. Mr. Everts further stated that, on May 10, 2001, Tom Boeder called Mr. Everts. Mr. Boeder asked Mr. Everts whether Wal-Mart would contribute to ICD-Issues Inc. (2001). Complainant notes that Greg Everts is not publicly registered as a lobbyist for Wal-Mart. Accordingly, Mr. Everts' representation of Wal-Mart would not have been a matter of general public knowledge at the time Mr. Boeder called Mr. Evert's about Wal-Mart.
206. Mr. Boeder advised complainant that Mr. Burnett directed Mr. Boeder to solicit Mr. Everts for a contribution from Wal-Mart. Mr. Boeder's ICD-Issues Inc. (2001) notes confirm Mr. Burnett identified Mr. Everts as a solicitation lead.
207. Complainant reviewed the transcript of the testimony of **Anthony Driessen** before a John Doe hearing in Dane County Case No. 01-JD-6. Complainant also reviewed the summary which DCI Special Agent Robin Broeske prepared of her interview with Mr. Driessen. Mr. Driessen stated as follows. He is an attorney with Quarles & Brady, Madison, Wisconsin and a registered lobbyist. He met with the defendant on April 26, 2001 to discuss fundraising. The defendant verbally listed those candidates to whom he wanted Mr. Driessen's clients to contribute. The defendant stated

his highest priorities were incumbent candidates Sen. Kim Plache, Sen. Jim Baumgart, and Sen. Judy Robson. Mr. Driessen provided a memorandum he drafted, the day after his meeting with the defendant, summarizing the discussions.

208. Mr. Driessen further stated, during the meeting of April 26, 2001, the defendant mentioned independent expenditures groups and issue advertisement groups as being among "the universe of political contributions" available to Mr. Driessen's clients. The defendant identified Thomas Boeder as responsible for certain of these groups.

209. Mr. Boeder's ICD-Issues Inc. (2001) notes indicate Mr. Burnett identified Mr. Driessen as a solicitation lead.

Defendant's control over other "independent" political groups

210. The defendant had considerable contact with, and control of, other "independent" political groups connected with Tom Boeder. These groups were operated in a similar manner to Independent Citizens for Democracy (PAC) and ICD-Issues Inc. (2001), and show the defendant acted with the same continuing motive, intent, preparation, and plan with respect to Independent Citizens for Democracy (PAC) and ICD-Issues Inc. (2001),

211. Complainant questioned **Tom Boeder** concerning his involvement with independent political groups other than Independent Citizens for Democracy (PAC). Mr. Boeder stated as follows. He had a role in the creation or operation of the following organizations: Future Wisconsin; Independent Citizens for Democracy - Issues, Inc. [incorporated on November 4, 1999 (hereinafter "ICD-Issues Inc. (1999)"); Citizens for Working Families; and On Wisconsin - Issues Inc.

212. Mr. Boeder further stated that, in 1998, Mr. Burnett recruited Mr. Boeder to establish and operate an independent expenditure group named **"Future Wisconsin."** Mr. Boeder was essentially a figurehead. Mr. Burnett actually controlled the group. Future Wisconsin supported and advocated for the election of Democratic candidate Brian Manthey over Republican candidate Mary Lazich for Wisconsin State Senate. Mr. Burnett told Mr. Boeder who to solicit for contributions to Future Wisconsin. Mr. Burnett also controlled the content and dissemination of all political advertising Future Wisconsin funded in the Manthey-Lazich race. When allegations of campaign collusion were raised, Mr. Burnett told Mr. Boeder how to respond to investigative reporters.

213. Mr. Boeder provided fundraising records for Future Wisconsin. Those records included a cover letter dated March 11, 1998 whereby Tim Elverman, Government Relations Director (Midwest Region), Bank One,

forwarded a \$1,000 donation to Future Wisconsin. The letter indicates "cc: Attorney Chuck Chvala." Complainant was present when Mr. Elverman testified before a John Doe hearing in Dane County Case No. 01-JD-06. Mr. Elverman could provide no explanation as to why he notified the defendant of the above payment to Future Wisconsin.

214. Complaint reviewed copies of bank records which M & I Bank, Madison, Wisconsin maintains in the ordinary course of business for checking account number 8973668 in the name of "Future Wisconsin." Those records show the DLCC donated \$102,500 to Future Wisconsin.
215. Mr. Boeder further stated Mr. Burnett recruited him to establish an organization called **"Citizens for Working Families."** Mr. Burnett believed a Wisconsin State Senate seat would be vacated in 1998 calling for a special election. Citizens for Working Families was planned to advocate for the Democratic candidate for this expected opening. The vacancy did not occur, and Citizens for Working Families was disbanded.
216. Mr. Boeder further stated Mr. Burnett recruited him to establish an issues advocacy group called **ICD-Issues Inc. (1999)** in 1999. Mr. Burnett controlled ICD-Issues Inc. (1999) with Mr. Boeder serving as the figurehead. Mr. Burnett told Mr. Boeder who to solicit for contributions to ICD-Issues Inc. (1999). Mr. Burnett obtained contributions totaling \$121,359.30 from the sources Mr. Burnett identified. These sources were primarily lobbyists and the corporate business interests they represented.
217. Complainant reviewed copies of bank records which Heartland Credit Union, 555 W. Washington Street, Madison, Wisconsin maintains in the ordinary course of business for checking account number 562910IN in the name of "Independent Citizens for Democracy-Issues Inc." Those records show the following contributions to ICD-Issues Inc. (1999):
- \$50,000 from Central Wisconsin Development Corporation (a subsidiary of Madison, Gas and Electric) on September 13, 1999;
 - \$5,000 from Alliant Services Company on July 30, 1999;
 - \$10,000 from U.S. Generating Company on July 1, 1999; and
 - \$7,500 from Wisconsin Public Service Corporation on July 15, 1999.
218. Complainant was present when **William McCoshen** testified at a John Doe hearing in Dane County case 01JD-06. Mr. McCoshen stated as follows. He was the president of, and a registered lobbyist for, Energize Wisconsin. Energize Wisconsin was a consortium of utility industry interests which included Alliant Energy among others. During the summer

of 2000, legislation popularly known as "Reliability 2000" was under consideration as part of the biennial State of Wisconsin budget. Passage of Reliability 2000 was of great importance to the utility industry.

219. Legislative records show Reliability 2000 passed the legislature as an amendment (AA-ASA1-AB133) to the budget bill on October 6, 1999.
220. Complainant was present when **Mark Williamson** testified at a John Doe hearing in Dane County case 01JD-06. Mr. Williamson stated as follows. In 1998, he was an executive and registered lobbyist for Madison Gas and Electric. He frequently spoke with the defendant regarding Madison Gas and Electric contributing to Wisconsin Senate Democratic interests. The defendant advised that Madison Gas & Electric could route money to the **Kansas Democratic Party**, and that such contributions would be "helpful" to the defendant. In response to the defendant's comments, Mr. Williamson forwarded the below three checks to the Kansas Democratic Party. Mr. Williamson knows corporate coffer contributions to political candidates and political committees are forbidden by law within the State of Wisconsin.
221. Complainant reviewed copies of the following checks issued by Madison Gas and Electric subsidiaries to the Kansas Democratic Party:
- check 2561 dated October 20, 1998 from MAGAEL Inc. to the Kansas Democratic Party for \$5,000;
- check 1650 dated October 20, 1998 from Great Lakes Energy Corporation to the Kansas Democratic Party for \$15,000; and
- check 1091 dated October 20, 1998 from Central Wisconsin Development Corporation to the Kansas Democratic Party for \$5,000.
222. Mr. Boeder found, among his Independent Citizens for Democracy (PAC) records, copies of these same three checks from Madison Gas and Electric subsidiaries. The check copies were attached to a handwritten note reading "Steve Martino, Kansas Dem. Party, 700 S.W. Jackson St., 3rd Fl, Topeka, KS 66603" and bearing fax and voice telephone numbers. When Investigator Bisswurm asked Mr. Boeder about these checks, he stated he was aware of a scheme for routing campaign money through Kansas, but he was unsure precisely how the scheme worked. Mr. Boeder and Mr. Burnett discussed Mr. Boeder contacting the Kansas Democratic Party for money. Mr. Boeder believes he faxed a fundraising request to the Kansas Democratic Party. He did receive a check from the Kansas Democratic Party. He believes the contribution went to Independent Citizens for Democracy (PAC).

223. Complainant reviewed a campaign finance report dated April 7, 1998 which Mr. Boeder filed on behalf of Future Wisconsin with the State of Wisconsin Elections Board. The report shows Dennis Langley of Leawood, Kansas gave \$4,000 to Future Wisconsin on April 1, 1998. Dennis Langley was chairman of the Kansas Democratic Party when he made this contribution.
224. The above examples of contributions to, and from, the Kansas Democratic Party, suggests an ongoing scheme of reciprocal transfers of campaign money.
225. Mr. Boeder further stated that, at Mr. Burnett's direction, Mr. Boeder transferred the entire cash balance of \$121,359.30 in ICD-Issues Inc. (1999) account with Heartland Credit Union to **Tom Winchell**. Mr. Winchell thereupon took over control of ICD-Issues Inc. (1999) and changed the organization's name to **"On Wisconsin Issues Inc."**
226. Complainant reviewed a filing dated December 21, 1999 with the Wisconsin Department of Financial Institutions showing ICD-Issues Inc. (1999) changed its name to "On Wisconsin Issues Inc." and changed its registered agent from Mr. Boeder to Mr. Winchell.
227. Complainant was present when Tom Winchell testified at a John Doe hearing in Dane County case 01JD-06. Mr. Winchell stated as follows. Andrew Gussert and Mr. Burnett asked him to operate an issue advocacy group called "On Wisconsin Issues Inc." Mr. Burnett indicated the organization would be used to support the candidacy of Democrats for Wisconsin State Senate. Mr. Winchell agreed to run the organization.
228. Mr. Winchell identified a copy of certified check number 4448 dated December 31, 1999 drawn on Heartland Credit Union in the amount of \$121,359.30 as the negotiable instrument whereby Mr. Boeder transferred the funds of ICD-Issues Inc. (1999) to him.
229. Mr. Winchell further stated either Mr. Burnett or Mr. Boeder gave him a fundraising goal of \$380,000 for On Wisconsin Issues-Inc. That figure was the expected cost to broadcast issue advertisements in two media markets significant to the 2000 Senate election.
230. Mr. Winchell further stated Mr. Burnett provided Mr. Winchell with names of lobbyists he should contact to solicit contributions. When Mr. Winchell contacted these lobbyists, he found they readily arranged for large contributions to On Wisconsin Issues, Inc. Mr. Winchell rarely provided more information than a one page form solicitation letter to secure these large contributions. The solicitation letter vaguely stated On Wisconsin Issues, Inc.'s purpose was to "provide the people of Wisconsin with the information they need to make informed decisions on public policy." During

the course of the fundraising efforts, Mr. Winchell informed Mr. Burnett which organizations contributed and how much they contributed.

231. Mr. Winchell recalled that lobbyist Eric Peterson's clients from the beer or alcohol distributors industry made a \$40,000 contribution to On Wisconsin Issues Inc. Mr. Peterson asked Mr. Winchell to make it known Mr. Peterson's clients had made the contribution. Mr. Winchell communicated this information to Mr. Burnett.

232. Mr. Winchell further stated he received numerous contributions to On Wisconsin Issues Inc. which he had not solicited. After Columbia Correctional Facilities or some similarly named organization made an unsolicited contribution of \$5,000, Mr. Winchell sought an explanation from Mr. Gussert. Mr. Gussert stated words to the effect "that's the Stanley Prison issue."

233. These two conversations - the Eric Peterson conversation and Andrew Gussert conversation - made Mr. Winchell uncomfortable. He believed "a line had been crossed, and that in order to maintain separation and to maintain legality" he divested himself from expending On Wisconsin Issues Inc. funds. He turned over control of the expenditures to the independent control of political consultant Kent Fitch.

Interview of Douglas Burnett

234. Milwaukee County Assistant District Attorneys David Feiss and Kurt Benkley have advised complainant as follows. In their capacity as Special Prosecutors for Dane County, and acting on behalf of the State of Wisconsin, they have reached an agreement with Douglas Burnett to cooperate with the investigation and prosecution of the matters set forth in this criminal complaint. Under this agreement, Mr. Burnett must honestly reveal any and all information he possesses relevant to the present investigation and prosecution. He has further agreed to testify truthfully to such matters in any prosecution brought by the State of Wisconsin. In exchange for his cooperation, the State of Wisconsin has agreed to limit the charges against Mr. Burnett to two misdemeanors for unlawful coordinated campaigning with the understanding that Mr. Burnett shall plead guilty to those offenses.

235. Complainant believes Mr. Burnett's statements, as described below, are reliable, truthful, and accurate, because they are extensively corroborated by other witnesses' statements and documentary evidence.

236. Complainant reviewed the report which Investigator Aaron Weiss prepared of his interview with Douglas Burnett on October 16, 2002. Mr. Burnett stated as follows. He has been the chief of staff for defendant's

legislative office for approximately nine years. After reviewing a preliminary draft of this criminal complaint, Mr. Burnett acknowledged the allegations set forth regarding Counts 12-16 and 20 above are substantially accurate and true. Mr. Burnett stated that, during 2000, defendant did coordinate the campaign of Sen. Mark Meyer with the pro-Meyer campaign of Independent Citizens for Democracy (PAC). Mr. Burnett further stated, that during 2001 to present, defendant and Mr. Burnett conspired to operate ICD-Issues Inc (2001) for the purpose of unlawfully violating campaign finance laws.

237. In addition to the matters set forth above, Mr. Burnett stated, during 2000, that he and defendant coordinated the campaign of Sen. Alice Clausing with the pro-Clausing campaign of Independent Citizens for Democracy (PAC), and, that he and defendant likewise coordinated the campaign of Sen. Dave Hansen with the pro-Hansen campaign of Independent Citizens for Democracy (PAC).

238. Mr. Burnett stated that he and defendant designed a scheme to hide defendant's control of Independent Citizens for Democracy (PAC). Under this scheme, defendant directed Mr. Burnett, who in turn directed Thomas Boeder, who in turn, operated Independent Citizens for Democracy (PAC). Mr. Burnett and defendant agreed that defendant would have no direct contact with Mr. Boeder, so that Mr. Boeder would never know of, and could not be a witness to, defendant's control of Independent Citizens for Democracy (PAC). Mr. Burnett further stated he and defendant knew, and together discussed, that it was unlawful for defendant to direct the campaigns of both a Senate candidate and an "independent" group expending money to reelect the same Senate candidate.

239. Mr. Burnett stated as follows regarding coordination with **Sen. Mark Meyer's Fall 2000 election campaign**. Defendant exercised control over Sen. Meyer's political advertising expenditures. Jay Wadd, from the SDC, effectively ran Sen. Meyer's campaign. Mr. Wadd drafted Sen. Meyer's campaign budget, and submitted it to defendant. Mr. Wadd regularly advised defendant as to how much campaign money Sen. Meyer had. Mr. Wadd told defendant that Mr. Wadd wanted to air pro-Meyer television advertising early in the 2000 campaign, but that Sen. Meyer lacked adequate campaign funds to run such an early advertisement campaign. Defendant told Mr. Burnett about this shortfall in Sen. Meyer's campaign funds. Defendant further told Mr. Burnett to direct Mr. Boeder to do an early pro-Meyer television advertising campaign using Independent Citizens for Democracy (PAC) funds. Mr. Burnett reviewed Independent Citizens for Democracy (PAC) campaign finance reports with Investigator Weiss, and pointed out three expenditures totaling \$145,000 made to Media Strategies and Research in September and early October 2000. Mr. Burnett stated those expenditures constituted the pro-Meyer television advertising which defendant directed.

240. Mr. Burnett further stated that defendant reviewed, edited, and approved pro-Meyer television advertising scripts and tapes before they were aired by Sen. Meyer's campaign. Defendant likewise reviewed, edited, and approved pro-Meyer television advertising scripts and dub tapes before they were aired by Independent Citizens for Democracy (PAC). As a general rule, television advertising was only done by Sen. Meyer's campaign and by Independent Citizens for Democracy (PAC) after being approved by defendant.
241. Mr. Burnett stated as follows regarding coordination with **Sen. Dave Hansen's Fall 2000 election campaign**. Lance Walter, of the SDC, effectively ran Sen. Hansen's campaign. Mr. Walter drafted Sen. Hansen's campaign budget, and submitted it to defendant. Mr. Walter regularly advised defendant as to how much campaign money Sen. Hansen had. Mr. Burnett stated that defendant approved and directed expenditure of Sen. Hansen's campaign monies on television advertising. Defendant likewise approved and directed expenditure of Independent Citizens for Democracy (PAC) monies on pro- Hansen television advertising.
242. Mr. Burnett remembered two specific pro-Hansen television advertisements which defendant directed Independent Citizens for Democracy (PAC) to purchase and air. First, early in the Fall 2000 campaign, defendant directed Mr. Burnett to have Independent Citizens for Democracy (PAC) develop, pay for, and air a television advertisement entitled "Dave Hansen - A Wisconsin Original." Defendant reviewed the script for the advertisement, edited it, and directed Mr. Burnett to return it to Mr. Boeder for production. When the advertisement was produced on a dub tape, Mr. Burnett viewed the tape with defendant at his law office. Defendant approved the tape and directed Mr. Burnett to have Independent Citizens for Democracy (PAC) pay for television airing of the advertisement.
243. Mr. Burnett described a second incident of defendant authorizing and directing pro-Hansen television advertisement by Independent Citizens for Democracy (PAC). As to this incident, Mr. Burnett stated as follows. Mr. Burnett and defendant discussed that Sen. Hansen's opponent, then incumbent Gary Drzewiecki, had aired a television advertisement attacking Sen. Hansen during the Fall 2000 campaign. Defendant told Mr. Burnett that Sen. Meyer's campaign could not do a response advertisement for either financial or strategic reasons. Defendant directed Mr. Burnett, instead, to have Independent Citizens for Democracy (PAC) do a television advertisement response. Mr. Burnett did as defendant directed. Mr. Burnett presented both the script and television dub tape to defendant for his review. Defendant approved the advertisement, and at defendant's direction, Independent Citizens for Democracy (PAC) paid for the advertisement to be televised in Green Bay, Wisconsin.

244. Complainant reviewed a Report of Independent Disbursements, dated October 30, 2000, which Scott McCormick filed with the Wisconsin State Elections Board on behalf of Independent Citizens for Democracy (PAC). The reports lists a pro-Hansen \$4,908.75 expenditure on a media buy from WFRV-TV, an anti-Drzwiecki \$3,591.25 expenditure on a media buy from WGBA-TV, and an anti-Drzwiecki \$9,137.50 expenditure on a media buy from WBAY-TV, all occurring on October 30, 2000. The report is stamped as received by the Wisconsin State Elections Board on November 2, 2000. Complainant concludes this report documents the expenditures described in the immediately preceding paragraph of this complaint. A copy of said report is attached hereto and incorporated by reference. [Counts 17 and 18]
245. The above described report is false in that it asserts on its face, that pro-Hansen disbursement listed therein was "independent." The disbursements were, in fact, made in concert, coordination and consultation with Dave Hansen's election campaign.
246. Mr. Burnett further stated defendant controlled what television advertisements Sen. Hansen's campaign purchased and aired during the Fall 2000 campaign. For example, Mr. Burnett described a meeting between defendant, Lance Walter, and Mr. Burnett at Jenna's Bar in Madison, Wisconsin during the Fall 2000 campaign. At that meeting, Mr. Walter discussed a pro-Hansen "Tall Tales" cartoon theme television advertisement which he was producing using Sen. Hansen's campaign funds. This Tall Tales television advertisement was not ready by the expected deadline. Mr. Burnett stated defendant consequently directed Mr. Walter to have Sen. Hansen's campaign produce and air a traditionally formatted pro-Hansen advertisement to fill the gap. Mr. Walter did as defendant directed and caused the Dave Hansen campaign to thereafter air a Lambeau Field theme advertisement
247. Mr. Burnett further stated that, on one occasion during the Fall 2000 campaign, he met with defendant and Chris Micklos at Visuality, which is a Madison, Wisconsin advertising production company. At this meeting, defendant and Mr. Burnett viewed a pro-Hansen television advertisement which the Dave Hansen campaign was purchasing. Defendant directed changes to be made to this advertisement and the production staff made the changes.
248. Mr. Burnett stated as follows regarding coordination with **Sen. Alice Clausen's Fall 2000 election campaign**. Carrie Lynch, of the SDC, effectively ran Sen. Clausen's campaign. Ms. Lynch drafted Sen. Clausen's campaign budget, and submitted it to defendant. Ms. Lynch regularly advised defendant as to how much campaign money Sen. Clausen had. Mr. Burnett stated that defendant approved and directed expenditure of Sen. Clausen's campaign monies on campaign advertising.

Defendant likewise approved and directed expenditure of Independent Citizens for Democracy (PAC) monies on pro-Clausing campaign advertising. [Count 19].

249. Mr. Burnett specifically remembered defendant Chvala arranged for AFSCME WI People Political Action Committee (hereinafter "AFSCME PAC") to make a large in-kind contribution to Independent Citizens for Democracy (PAC) during the Fall 2000 campaign. Defendant told Mr. Burnett that AFSCME PAC agreed to pay for a pro-Clausing political mailing. Defendant directed Mr. Burnett to draft a pro-Clausing piece for issuance through Independent Citizens for Democracy (PAC). Mr. Burnett did so. AFSCME PAC then paid for the printing and mailing of this piece. Mr. Burnett pointed out a contribution of \$26,174.00 dated October 18, 2000 on Independent Citizens for Democracy (PAC)'s pre-election 2000 campaign finance report. Mr. Burnett stated this entry documented the above described pro-Clausing mailing.
250. As to ICD-Issues Inc. (2001), Mr. Burnett stated as follows. Defendant directed Mr. Burnett to set up ICD-Issues Inc. (2001) as a receptacle to receive corporate contributions in 2001. The two agreed that Mr. Boeder would serve as the figurehead. Mr. Burnett and defendant set up the group as a funding source for "issue advertisements" promoting Democratic candidates for the State Senate during the Fall 2002 election. At the time the group was formed, the SDC was still in existence. Defendant and Mr. Burnett planned to spend ICD-Issues Inc. (2001) monies in coordination with Democratic candidates, and to use the SDC employees as agents within the Democratic candidate campaigns to assist in coordinating the Senate campaigns with ICD-Issues Inc. (2001). Defendant and Mr. Burnett knew such coordinated campaigning would be unlawful. Consequently, defendant once again employed Mr. Burnett as an intermediary to direct Mr. Boeder. This scheme hid defendant's control of ICD-Issues Inc. (2001).
251. Mr. Burnett further stated defendant orchestrated the fundraising for ICD-Issues Inc. (2001). Mr. Burnett specifically remembered the following incident. Mr. Burnett and defendant met at Luigi's Restaurant in Madison, Wisconsin for lunch during early 2001. The meeting coincided with the early stages of the biennial State budget process. Defendant reviewed a list of lobbyists with Mr. Burnett. Defendant noted which lobbyists had clients with special interest legislation implicated in the biennial budget. Defendant told Mr. Burnett to have Mr. Boeder solicit money from these same special interest groups. Defendant stated specific dollar amounts Mr. Boeder should request for ICD-Issues Inc. (2001). Mr. Burnett further stated that, during this same time frame, defendant was meeting with lobbyists to solicit campaign contributions.

252. Mr. Burnett further stated that, at defendant's direction, Mr. Burnett routinely reported to defendant who gave money to ICD-Issues Inc. (2001) and how much they gave.
253. Mr. Burnett further stated the present criminal investigation, and the related disbanding of the SDC and other caucuses, prevented defendant and Mr. Burnett from ultimately using ICD-Issues Inc. (2001) in coordination with the 2002 Senate election campaigns.
254. Mr. Burnett further stated he and defendant have coordinated the expenditures of "independent" groups with Wisconsin State Senate candidate campaigns as far back as 1998. Defendant, Mr. Burnett, and Mr. Boeder unlawfully coordinated the campaign efforts of Future Wisconsin with the Senate campaign of Brian Manthey against Sen. Mary Lazich. When a complaint was filed with the Wisconsin State Elections Board alleging Tom Boeder and Future Wisconsin were engaging in unlawful campaign coordination, Mr. Burnett and defendant discussed the situation. Defendant directed Mr. Burnett to make sure Mr. Boeder was "well scripted" when authorities and investigative reporters questioned him. Mr. Burnett provided Mr. Boeder with responses for Mr. Boeder to give verbatim to such inquiries.
255. Mr. Burnett further stated he and defendant intentionally kept their control of the above described "independent" groups secret from the Senate candidates, such as Senators Meyer, Hansen, and Clausen. They also kept the coordination secret from SDC staff running the senators campaigns. Mr. Burnett stated he and defendant did not wish anyone but themselves to know of their coordinated campaigning. They knew the activity was unlawful, and wished to have no witnesses who knew of the coordination. Mr. Burnett stated that defendant is a lawyer, and when he was engaged in unlawful campaign coordination, he was acutely aware of how to limit the witnesses and proof of his wrongdoing.
256. Regarding misuse of SDC employees, Mr. Burnett stated as follows. Defendant routinely directed SDC employees to perform campaign work during both the 1998 and 2000 election Wisconsin State Senate campaigns. Mr. Burnett further stated that, given all the surrounding circumstances, defendant must have known SDC employees were doing this work in the course of their State of Wisconsin employment.
257. Regarding defendant's power to control legislation, Mr. Burnett stated as follows. As Senate Majority Leader, defendant had great power to kill legislation defendant wanted to kill.
258. Regarding the extortion incident involving the Wisconsin Wholesale Beer Distributors, Mr. Burnett stated as follows. Defendant specifically directed Mr. Burnett to remove from the biennial State budget bill, the provisions of

interest to the Wisconsin Wholesale Beer Distributors. Mr. Burnett reviewed a copy of his own drafting request to the Wisconsin Legislative Reference Bureau (LRB) to accomplish defendant's directive. That request contains Mr. Burnett's handwritten notes, which he made during his meeting with defendant. The notes specifically identify, for removal, the provisions of interest to the Wholesale Beer Distributors Association.

259. Mr. Burnett has agreed to submit to further interviews concerning lobbyist activities with defendant, and any other misconduct related to the matters described in the present criminal complaint.

260. Your complaining witness states that in making this complaint he has relied on statements made to him by adult citizen witnesses and victims who are presumed to be reliable. William O'Connor, Wendy Kloiber, Julie Laundrie, Meghan Bitenc, Jay Wadd and Thomas Boeder all were granted limited immunity agreements. Your complaining witness believes these witnesses to be reliable because the information they provided has been corroborated by other witnesses and documents, and because their agreements provided that if they were not truthful any statements made could be used against them. Carrie Lynch received a similar limited immunity grant. Andy Gussert received a grant of limited criminal immunity which is void if he is untruthful and the State has informed Mr. Gussert of its intention to issue forfeiture charges against him. Further Mr. Gussert's information has been corroborated by other witnesses and documents

261. Complainant has attached, and incorporates by reference herein, copies of the orders, dated June 6, 2001, December 18, 2001, and July 26, 2002, of Dane County Circuit Court Judge Diane Nicks, appointing Milwaukee County District Attorney E. Michael McCann and his Assistant District Attorneys David Feiss and Kurt Benkley, as Special Prosecutors to investigate and prosecute the matters alleged in this criminal complaint. All facts presented in this complaint, in its entirety, shall serve as the probable cause basis for each and every criminal count alleged herein. Complainant states that the above does not exhaust his knowledge with regard to the acts charged in this complaint.

******End of Complaint******

**Subscribed and sworn to before me and
approved for filing on this _____ day of
_____, 2002**

DEPUTY / ASSISTANT DISTRICT ATTORNEY Complaining Witness

David A. Feiss\Kurt Benkley\jo

-- FELONY COMPLAINT --

J:\COMPLAINTS2002\CHVALA,CHARLES,DAF.DOC