

IN THE MATTER OF SUBPOENAS FOR CERTAIN FINANCIAL RECORDS HELD IN THE NAME OF FRIENDS OF JIM SCHMITT

SEP 15 2015

CLERK OF COURTS BROWN COUNTY, WI

RETURN OF SUBPOENA FOR DOCUMENTS (BMO HARRIS BANK)

I hereby certify that, by virtue of a Subpoena Duces Tecum issued on June 29, 2015 to BMO Harris Bank, that financial institution did provide the following documents on August 28, 2015 as follows:

As described in the subpoena, account origination and closing documents, periodic statements, account debit items and all account credit items;

Said response was delivered by UPS Express mail and this response purports to be a complete response to the subpoena, which response is now in the custody of the Milwaukee County District Attorney's Office.

Dated at Milwaukee, Wisconsin on this 3rd day of September 2015.

[Handwritten signature of Bruce J. Landgraf]

Bruce J. Landgraf Assistant District Attorney Milwaukee County State Bar No. 1009407

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K.L.

STATE OF WISCONSIN

CIRCUIT COURT

FILED

BROWN COUNTY

IN THE MATTER OF SUBPOENAS FOR  
CERTAIN FINANCIAL RECORDS HELD IN  
THE NAME OF FRIENDS OF JIM SCHMITT

SEP 15 2015

CLERK OF COURTS  
BROWN COUNTY, WI

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**STATE'S REQUEST FOR COURT ORDERED SUBPOENA**

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Pursuant to section 968.135, Wis. Stats., the State of Wisconsin, by its attorney, Assistant District Attorney Bruce J. Landgraf, acting as a Special Prosecutor for Brown County, moves the Court for an Order issuing a Subpoena to BMO Harris Bank, requiring BMO Harris Bank to provide the records as described in the accompanying Subpoena.

For the reasons stated in the Affidavit accompanying this request, the State believes that probable cause exists for the Court to find that the documents named in the attached subpoena constitutes evidence of the crimes of Excess Contributions contrary to Wis. Stat. § 11.26, Corporate Contribution contrary to Wis. Stat. § 11.38 and Reporting Violations contrary to Wis. Stat. § 11.27(1). In addition, the State also requests the Court to find that probable cause exists to believe that the documents named in the attached subpoena are now under the custody and control of BMO Harris Bank.

Because as more fully set forth on the attached Affidavit I believe that public disclosure of the contents of these application papers will harm this investigation, I request that any return of these papers be sealed and that BMO Harris Bank be ordered not to disclose to anyone, other than their attorney, the contents of the subpoena and/or the fact that they have received the subpoena. .

This application is respectfully made to this court under the terms and provisions of Wisconsin Statutes §968.135.

Dated at Milwaukee, Wisconsin, this 22 day of June 2015.



Bruce J. Landgraf  
Assistant District Attorney  
State Bar No. 01009407



2. In conjunction with election and campaign finance investigations over the past ten years, I estimate I have been involved in requests for well in excess of 250 search warrants and subpoenas.

3. I have been appointed, and I continue to serve, as a Brown County Special Prosecutor in the matter of certain campaign finance irregularities concerning a campaign committee known as the Friends of Jim Schmitt.

4. With this Affidavit and its supporting papers, I am requesting the court to issue a subpoena for the campaign finance bank records for the campaign committee "Friends of Jim Schmitt." This request is based upon a review of campaign finance reports and campaign finance bank records (voluntarily provided by the Friends of Jim Schmitt). This review was performed by Milwaukee County District Attorney staff acting in support of the Public Integrity Unit. In light of the review of these records, I believe there is a probable cause basis to believe that violations of the campaign finance laws have occurred and that bank records will be evidence of such violations. Specifically, I believe that there is good cause to believe that on multiple occasions during the present "campaign period," as defined by statute, individuals contributed - and the campaign committee accepted - contributions beyond the limits imposed by statute. Similarly, I believe there is good cause to conclude that in the current "campaign period," again as defined by statute, the campaign committee accepted contributions from corporations, which contributions are prohibited by law. There is also reason to believe that Schmitt the campaign committee certified "No Activity," *i.e.*, no campaign finance transactions and account balance changes, on a Form GAB-2A for the period of the July 2014

Continuing Report when in fact campaign account activity in the form of deposits and withdrawals did occur.

5. Based upon my review of Campaign Registration Statements, known as Form GAB-1s, as it relates to the "Friends of Jim Schmitt:"

- a. The candidate is James J. Schmitt;
- b. The office involved is that of the Mayor of the City of Green Bay;
- c. The most recent election date is listed as April 7, 2015;
- d. The next most recent election date was April 5, 2011;
- e. The campaign finance account is currently held at BMO Harris Bank, with a bank account number of 48096 26466;
- f. For a period of time from January 2011 to an undetermined future point in time, presumably about January 2012,<sup>1</sup> the campaign finance account was held at Nicolet Bank. It was bank account number 1009933;
- g. The GAB-1s were signed as follows:
  - i. On January 2, 2011, by the candidate and Mark McMullen, Treasurer;
  - ii. On January 31, 2012, by the candidate and Dona Schmitt, Treasurer;and
  - iii. On December 21, 2014, by the candidate and Daniel Pichler, Treasurer;

6. I have also received and reviewed campaign finance reports for the Friends of Jim Schmitt. These relate to the last campaign election period from 2011 to 2015.

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<sup>1</sup> By law, a campaign committee may have only one campaign account. Wis. Stat. § 11.10(4). In a GAB-1 Registration Statement dated January 31, 2012, the Friends of Jim Schmitt list a campaign account at BMO Harris Bank. This represents a change from the earlier GAB-1, which listed a Nicolet Bank account as the campaign account.

7. I have received certain bank records which the Schmitt campaign committee, through counsel, turned over to me and which I in turn turned over to accounting staff for analysis. These records are generally identified as follows:

- a. Bank statements from 10/09/2012 to 12/31/2014;
- b. Fronts of checks from 09/23/2011 to 12/14/2011 and from 08/14/2013 to 12/27/2013; and
- c. Several deposit slips identified as follows:
  - i. Dated 09/29/2011 in the amount of \$3,850.00;
  - ii. Dated 09/29/2011 in the amount of \$125.00;
  - iii. Dated 10/05/2011 in the amount of \$1,700.00;
  - iv. Dated 10/06/2011 in the amount of \$1,200.00; and
  - v. Dated 10/06/2011 in the amount of \$1,700.00.

8. Mr. Schmitt's attorneys have offered to provide additional records upon my further request. However, given the review of these records conducted by my office as described below, it is my judgment that the best evidence for further investigation is a complete set of the bank records themselves.

**RELEVANT WISCONSIN LAW**

9. Campaign finance reports are, of course, required to be filed by law under ch. 11 of the Wisconsin Statutes. These reports must disclose the names, addresses and (for contributions exceeding \$100) the employment of the contributor as well as the amount contributed. Wis. Stat. § 11.06(1)(a) and (b).

10. By law, contributions exceeding \$50 must be made by negotiable instrument or evidenced by an itemized credit card receipt bearing on the face the name of the remitter. Wis. Stat. §11.16(2).

11. Campaign contributions are limited by law. This is true for contributions received from any one individual as well as contributions received from any one campaign committee or political action committee.

12. Contribution limits apply cumulatively to the entire primary and election "campaign" in which a candidate participates. Wis. Stat. § 11.26(3). Wisconsin law defines an election cycle or "campaign" as follows:

11.26(17)(c) In the case of a candidate who has been a candidate in a previous election for which he or she continues to be registered under s. 11.05, the "campaign" of the candidate begins on the day after the closing date for the period covered by the first financial report filed by or on behalf of the candidate subsequent to the date of the previous election, or if the candidate has incurred obligations from a previous campaign, the date on which the candidate receives sufficient contributions to retire those obligations, whichever is later . . . .

13. Wis. Stat. §11.26(1) limits the amount a candidate may receive in any one election cycle or "campaign."

11.26(1) No individual may make any contribution or contributions to a candidate for election or nomination to any of the following offices and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate:

\* \* \*

(d) Candidates for local offices, an amount equal to the greater of the following:

1. Two hundred fifty dollars.
2. One cent times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than \$3,000.

(2) No committee other than a political party committee or legislative campaign committee may make any contribution or contributions to a candidate for election

or nomination to any of the following offices and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate:

\* \* \*

(e) Candidates for local offices, an amount equal to the greater of the following:

1. Two hundred dollars.
2. Three-fourths of one cent times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than \$2,500.

14. According to information I have received from Ms. Kris Teske, Clerk of the City of Green Bay, the limit for individual contributions is \$1,040.<sup>2</sup>

15. According to information I have received from Ms. Kris Teske, Clerk of the City of Green Bay, the limit for contributions by a campaign committee or a political action committee is \$780.<sup>3</sup>

16. Based upon my review of the Friends of Jim Schmitt campaign finance reports and the Wisconsin Statutes quoted above, I believe the current campaign period for the Friends of Jim Schmitt runs from July 1, 2011 to June 30, 2015.

17. An intentional violation of Wis. Stat. §11.26 is a crime. In other words, it is a crime to intentionally accept contributions in excess of statutory limits. It is a Class I felony if the intentional violation does not involve a specific figure or if the intentional violation concerns a figure which exceeds \$100 in amount or value. Where the intentional violation concerns a specific figure which does not exceed \$100 in amount or value, then the crime is a misdemeanor punishable by a fine of not more than \$1,000 and/or imprisonment of not more than 6 months. Wis. Stat. §11.61(1)(b) and (c).

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<sup>2</sup> Ms. Teske advises that "For the 2000 census our population was 102,767 [and] . . . [f]or the 2010 census our population was 104,057." My calculation uses the higher census number.

<sup>3</sup> See Note 2.



18. In addition to limits placed on the amount of money which may be contributed by individuals and committees, Wisconsin law prohibits certain contributions from certain sources. Specifically, a corporation may not contribute to – and a candidate committee may not solicit or accept contributions – from corporations. Criminal penalties apply.

Wis. Stat. § 11.61(1)(b). Wis. Stat. § 11.38(1)(a)1 provides:

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

Although § 11.38(1)(a)1 has been held to be unconstitutional in the context of corporations making truly independent expenditures in the exercise of Free Speech rights, see *Wisconsin Right to Life v. Barland*, 751 F. 3d 804 (7<sup>th</sup> Cir. 2014), I do not understand the *Barland* decision to impact the legality or the illegality of direct contributions by corporations to candidate committees. Such direct corporate contributions to candidate committees remain illegal. The Wisconsin Attorney General agrees. See OAG 05-20 (August 9, 2010).

19. It is also a crime to intentionally file a false campaign finance report. Wis. Stat. §§ 11.27 and 11.61(10)(b).

**PROBABLE CAUSE TO BELIEVE THAT VIOLATIONS OF WISCONSIN CAMPAIGN FINANCE LAWS HAVE BEEN COMMITTED**

20. The information contained in this Probable Cause section of the Affidavit is based on information derived from an examination of campaign finance reports and bank records as supplied to me by the Friends of Jim Schmitt and the Clerk of the City of Green Bay. The examination and analysis contained in this Affidavit was conducted by Ms. Katherine Bourne. Ms. Bourne is employed by the Milwaukee County District Attorney Office and she works in the Public Integrity Unit performing financial analyses

relevant to cases handled by the unit. Ms. Bourne has her degree in criminology. She is currently working on her Masters Degree in Accounting and expects to receive her Masters Degree in December 2015.

21. I note that a primary purpose of campaign finance rules and regulations is to allow for the public inspection of reports which accurately identify a candidate's contributors and the amount of those contributions. The threat of scrutiny of such reports by the public tends to insure that candidates will follow the dictates of law. Invariably, a candidate's errors will be called to his or her attention at a time when a candidate least appreciates such publicity. I note that this is what happened here. In the early stage of the 2015 Spring Election period, the campaign reports of the Friends of Jim Schmitt were scrutinized and errors were publicized. See Exhibit A ("Mayor's campaign shows \$10K in illegal contributions.")

22. Beyond my experience as a prosecutor, I do not have a background in either finance or accounting. Nevertheless I have read and understood the requirements of campaign finance reporting as explained in a "plain English" manual published by the Wisconsin Government Accountability Board. See [http://www.gab.wi.gov/sites/default/files/publication/63/campaign\\_finance\\_overview\\_local\\_candidates\\_nov\\_2\\_31246.pdf](http://www.gab.wi.gov/sites/default/files/publication/63/campaign_finance_overview_local_candidates_nov_2_31246.pdf). This publication describes limits on contributions from individuals and other committees. *Id.* at pp. 4-5. It also plainly states that corporate contributions are prohibited. *Id.* at p. 6.

#### Excessive Contributions

23. Table 1 reflects certain contributions reported by the Friends of Jim Schmitt by name, date and amount. These contributions exceed the limit of \$1,040 per individual per campaign period. The Schmitt campaign committee, after the publicity referred to in

the previous paragraph, either returned or adjusted the reporting of some – but not all – excess contributions. In Table 1, the italicized names (also printed in blue) represent persons to whom the excess contribution was returned. The underlined names and contributions (also printed in red) represent those contributions that have not been adjusted on campaign finance reports.

<b>Name</b>	<b>Donation/Check Date</b>	<b>Amount</b>
Bush, Robert	9/24/2011	1,000.00
	3/29/2013	250.00
	<b>Donor Total</b>	<b>\$ 1,250.00</b>
<u>Charles, David</u>	<u>12/1/2011</u>	<u>1,000.00</u>
	3/26/2013	500.00
	<u>11/11/2014</u>	<u>250.00</u>
	<b>Donor Total</b>	<b>\$ 1,750.00</b>
Christensen, James	10/13/2011	625.00
	4/11/2013	500.00
	<b>Donor Total</b>	<b>\$ 1,125.00</b>
Dahlin, Bernard	9/25/2011	1,000.00
	3/15/2013	1,000.00
	<b>Donor Total</b>	<b>\$ 2,000.00</b>
Ferguson, Larry	9/29/2011	250.00
	4/8/2013	1,000.00
	<b>Donor Total</b>	<b>\$ 1,250.00</b>
Fulwiler, Terrance	10/5/2011	500.00
	4/5/2013	500.00
	11/4/2013	250.00
	7/27/2014	250.00
	<b>Donor Total</b>	<b>\$ 1,500.00</b>
Howald, Timothy	10/20/2011	500.00
	3/31/2013	1,000.00
	9/17/2014	500.00
	<b>Donor Total</b>	<b>\$ 2,000.00</b>

Name	Donation/Check Date	Amount
<i>Kane, Michael</i>	10/3/2011	500.00
	3/30/2013	500.00
	11/25/2013	250.00
	<b>Donor Total</b>	<b>\$ 1,250.00</b>
<i>Kress, William</i>	11/3/2011	200.00
	3/17/2013	1,000.00
	<b>Donor Total</b>	<b>\$ 1,200.00</b>
<i>Lewis, William</i>	10/6/2011	300.00
	3/30/2013	500.00
	11/13/2013	250.00
	<b>Donor Total</b>	<b>\$ 1,050.00</b>
<i>McMullen, Mark</i>	11/4/2011	500.00
	4/16/2013	750.00
	11/25/2014	100.00
	<b>Donor Total</b>	<b>\$ 1,350.00</b>
<i>Pyle, Robert</i>	10/15/2011	1,000.00
	4/15/2013	1,000.00
	<b>Donor Total</b>	<b>\$ 2,000.00</b>
<i>Resch, Richard</i>	11/4/2011	500.00
	4/10/2013	1,000.00
	<b>Donor Total</b>	<b>\$ 1,500.00</b>
<i>Santaga, Greg</i>	11/3/2011	1,000.00
	4/12/2013	1,000.00
	<b>Donor Total</b>	<b>\$ 2,000.00</b>
<i>Schmidt, Karl</i>	12/3/2011	500.00
	4/10/2013	1,000.00
	11/8/2014	250.00
	<b>Donor Total</b>	<b>\$ 1,750.00</b>
<i>Smet, Scott</i>	10/4/2011	1,000.00
	4/11/2013	1,000.00

Name	Donation/Check Date	Amount
	<b>Donor Total</b>	<b>\$ 2,000.00</b>
Toonen, Robert	10/18/2011	1,000.00
	3/18/2013	1,000.00
	<b>Donor Total</b>	<b>\$ 2,000.00</b>
<b><u>Van Boxtel, Susan</u></b>	<b><u>10/3/2011</u></b>	<b><u>500.00</u></b>
	<b><u>3/31/2013</u></b>	<b><u>250.00</u></b>
	<b><u>7/27/2014</u></b>	<b><u>250.00</u></b>
	<b><u>11/11/2014</u></b>	<b><u>250.00</u></b>
	<b>Donor Total</b>	<b>\$ 1,250.00</b>
Weyers, Robert	12/8/2011	500.00
	3/20/2013	1,000.00
	12/26/2013	250.00
	<b>Donor Total</b>	<b>\$ 1,750.00</b>
Zietlow, Donald	10/28/2011	750.00
	3/18/2013	1,000.00
	7/27/2014	250.00
	<b>Donor Total</b>	<b>\$ 2,000.00</b>

**Table 1**

24. Table 2 is a listing of the changes made to campaign finance reports after there was publicity concerning excessive and therefore illegal donations. See Exhibit A. The Friends of Jim Schmitt reacted to public criticism by filing amended returns which, except in the cases of Mr. Kane and Mr. Lewis, simply changed the name of the donor. For example, the Robert Weyers March 20, 2013 contribution appears on the amended report listed as a contribution in the name of Jody Weyers at the same address. See Figure 1 and Figure 2 below. Similar changes were made for all contributors listed in Table 2.

Name on Original CFR	Name on Amended CFR	Amount	Date
Bush, Robert	Bush, Carol	250.00	3/29/2013
Charles, David	Charles, Dave Jr.	500.00	3/26/2013

Name on Original CFR	Name on Amended CFR	Amount	Date
Christensen, James	Christensen, Paula	500.00	4/11/2013
Dahlin, Bernard	Dahlin, Alice	1,000.00	3/15/2013
Ferguson, Larry	Ferguson, Kayleen	1,000.00	4/8/2013
Fulwiler, Terrance	Fulwiler, Kris	500.00	4/5/2013
Howald, Timothy	Howald, Judy	1,000.00	3/31/2013
Kress, William	Kress, William Jr.	200.00	11/3/2011
McMullen, Mark	McMullen, Mary	750.00	4/16/2013
Pyle, Jean	Pyle, Kai	250.00	11/15/2013
Pyle, Robert	Pyle, Jean	1,000.00	4/15/2013
Resch, Richard	Resch, Sharon	1,000.00	4/10/2013
Santaga, Gergory	Santaga, Crista	1,000.00	4/12/2013
Schmidt, Karl	Schmidt, Debra	1,000.00	4/10/2013
Smet, Scott	Smet, Mary	1,000.00	4/11/2013
Toonen, Robert	Toonen, Dave	1,000.00	3/18/2013
Weyers, Robert	Weyers, Jody	1,000.00	3/20/2013
Zietlow, Donald	Zietlow, LaVonne	1,000.00	3/18/2013

**Table 2**

25. While one<sup>4</sup> appropriate way of handling an excess contribution would be to issue a campaign check to the donor refunding the excess, an analysis of the campaign finance reports indicates that this is not the way the Friends of Jim Schmitt handled these transactions. The campaign finance reports indicate that the Friends of Jim Schmitt simply “re-labelled” the original donation as coming from a different person, in most cases a person that appears to be the spouse of the original donor. Even if the campaign wished to accept a “new” donation from the spouse of a contributor, the proper procedure for such a transaction would be to refund the excess to the original contributor and accept a new check from the “different” donor on a new date.

26. Figure 1 and Figure 2 are examples of this method of “re-classification.” Figure 1 is a segment of the original July 2013 Continuing Campaign Finance Report for the

<sup>4</sup> Another way would be to disgorge the campaign account of the tainted money and donate the overage to a charity.

Friends of Jim Schmitt, filed July 19, 2013. Figure 2 is a segment of the amended July 2013 Continuing Campaign Finance Report for the Friends of Jim Schmitt, filed

Date	Check #: <input checked="" type="checkbox"/> In-Kind <input type="checkbox"/> Loan <input type="checkbox"/> Conduit	Conduit Name:	Amount	Calendar Year-to-Date Total
3/20/13	Full Name, Mailing Address and Zip Code Robert Weyers P.O. BOX 12057 GREEN BAY, WI 54307	Occupation, Name and Address of Principal Place Of Employment (If year-to-date total exceeds \$100) N/A	1000.00	1000.00
	Check #: <input checked="" type="checkbox"/> In-Kind <input type="checkbox"/> Loan <input type="checkbox"/> Conduit	Conduit Name:		

Figure 1

Date	Check #: <input checked="" type="checkbox"/> In-Kind <input type="checkbox"/> Loan <input type="checkbox"/> Conduit	Conduit Name:	Amount	Calendar Year-to-Date Total
3/20/13	Full Name, Mailing Address and Zip Code Jody Weyers P.O. BOX 12057 GREEN BAY, WI 54307	Occupation, Name and Address of Principal Place Of Employment (If year-to-date total exceeds \$100) N/A	1000.00	1000.00
	Check #: <input checked="" type="checkbox"/> In-Kind <input type="checkbox"/> Loan <input type="checkbox"/> Conduit	Conduit Name:		

Figure 2 (highlighting in copy received from Friends of Jim Schmitt)

on January 13, 2015. These illustrations show that the Friends of Jim Schmitt amended their campaign finance reports by filing copies with changes made to the name of the donor. In the case of Figure 1 and Figure 2, the name of the donor was changed from Robert Weyers to Jody Weyers, with the same Post Office box address.<sup>5</sup> This change appears to have made with "white-out."

27. I have examined all of the campaign finance reports for the Friends of Jim Schmitt through the 2015 Pre-Election Report. I find no indication that the Friends of Jim Schmitt did in fact return campaign monies for the overages in Table 1 (except as to Mr. Lewis and Mr. Kane) and then accept "new" funds from the "new" contributor. In other words, it appears that the Friends of Jim Schmitt simply "re-classified" excess contributions that were actually received from one person as "really" being received from another person, in most cases, an (apparent) spouse.

<sup>5</sup> A Post Office box address is not a "street address" as required by Wis. Stat. § 11.06(1)(a).

28. While this violation might be viewed as technical by some (presumably by persons who believe that one spouse always does the thinking for the other and that couples are politically monolithic), this "reclassification" practice was not limited to (apparent) spouses. See Figure 3 and Figure 4. A similar procedure was used for "David Charles" of New Franken, Wisconsin and "Dave Charles, Jr." Government Accountability Board records available on the Internet at <https://myvote.wi.gov> indicate that the "David Charles" residing in New Franken, Wisconsin is "David R. Charles." On the other hand, Wisconsin Department of Motor Vehicle records reflect that "David R. Charles, Jr." is 40 years old and lives at 1530 Creekside Lane in Green Bay, Wisconsin. Wisconsin GAB voter records reflect that "David Sr." votes at the Green Bay Town Hall and has consistently done so since at least 2006. However, GAB records also show that "David Jr." votes at Christ of the Bay Lutheran Church and has done so since at least 2012. The inference to be drawn from this information is that "David Jr." did not live at the address stated in the Friends of Jim Schmitt campaign finance report in 2012 or thereafter. Stated another way, the campaign finance report misrepresents the home address of Dave Charles Jr.

Date	Full Name, Mailing Address and Zip Code	Occupation, Name and Address of Principal Place Of Employment (If year-to-date total exceeds \$100)	Amount	Calendar Year-to-Date Total
3/26/13	David CHARLES 5845 N. SHORE ACRES NEW FRANKEN, WI 54229	N/A	500.00	<del>50.000</del> 500.00
Check #: <input checked="" type="checkbox"/> In-Kind <input type="checkbox"/> Loan <input type="checkbox"/> Conduit		Conduit Name:		

Figure 3

Date	Full Name, Mailing Address and Zip Code	Occupation, Name and Address of Principal Place Of Employment (If year-to-date total exceeds \$100)	Amount	Calendar Year-to-Date Total
3/26/13	Dave CHARLES JR 5845 N. SHORE ACRES NEW FRANKEN, WI 54229	N/A	500.00	<del>50.000</del> 500.00
Check #: <input checked="" type="checkbox"/> In-Kind <input type="checkbox"/> Loan <input type="checkbox"/> Conduit		Conduit Name:		

Figure 4



Contributions by Corporations

29. As reported on the amended January 2012 Campaign Finance Report (CFR), the checks listed in Table 3 were received from corporations. According to the campaign

Name on Check	Name per CFR	Amount	Date
Oneida Seven Generations Corp	Oneida Seven Generations	500.00	9/30/2011
Gunta & Reak, S.C.	Greg Gunta	500.00	10/11/2011
JPTR LLC	JPTR	250.00	10/14/2011
Green Bay Title Company, Inc	Gerald Faller	375.00	10/12/2011

**Table 3**

Committee, the first three checks listed above in Table 3 have been returned to the contributors. This return occurred after public criticism over the acceptance of illegal contributions, as I generally understand the sequence of events relevant here. Unlike the first three checks, the Green Bay Title Company, Inc. contribution is not identified as having been returned to the contributor.

30. As reported on the amended July 2013 Campaign Finance Report (CFR), the check listed in Table 4 was received from a corporation. According to the campaign, this check was returned to the donor.

Name on Check	Name per CFR	Amount	Date
Check Not Provided	Lin, Liebmann, Med, LLC	500.00	4/8/2013

**Table 4**

31. As reported on the amended January 2014 CFR and based upon a review of bank records turned over by the campaign, the contributions listed in Table 5 below appear to be from corporations. According to bank statements, the Cantilever Studio, L.L.C. contributions were PayPal donations. None of the contributions listed in

Name on Check	Name per CFR	Amount	Date
Wanzek & Jaekels, S.C.	Jim Jaekels	250.00	12/4/2013
CBS-Global, LLC	Mike Schwantz	25.00	12/2/2013
Lammi Sports Management, Inc	Brian Lammi	100.00	12/10/2013
Cantilever Studio, LLC	"C S" <sup>6</sup>	25.00	12/2/2013
Cantilever Studio, LLC	"C S" <sup>7</sup>	25.00	12/7/2013

Table 5

Table 5 were reported as returned to the contributors in any of the materials supplied to District Attorney's office.

32. As reflected in Table 5, the Friends of Jim Schmitt identify certain receipts dated December 2, 2013 and December 7, 2013 as contributions from "C S." See Figure 5 (which incorrectly lists the year as "2014," as evidenced by the amended report in Figure 6).

Date 12/2/14	Full Name, Mailing Address and Zip Code CS	Occupation, Name and Address of Principal Place Of Employment (if year-to-date total exceeds \$100)	Amount 25.00	Calendar Year-to-Date Total 25.00
Check If: <input type="checkbox"/> In-Kind <input type="checkbox"/> Loan <input type="checkbox"/> Conduit		Conduit Name:		
Date 12/7/14	Full Name, Mailing Address and Zip Code CS	Occupation, Name and Address of Principal Place Of Employment (if year-to-date total exceeds \$100)	Amount 25.00	Calendar Year-to-Date Total 25.00
Check If: <input type="checkbox"/> In-Kind <input type="checkbox"/> Loan <input type="checkbox"/> Conduit		Conduit Name:		

Figure 5

33. As noted in ¶31 and in Table 5, the records supplied to me by the campaign establish that these initials and these dates are consistent with a corporate contribution from Cantilever Studios, L.L.C. However, in an amended January 2014 Continuing

<sup>6</sup> "C S" was changed to "Carl Schmitt" by virtue of an amendment filed January 13, 2015. Based upon reports in "The Compass," the official newspaper of the Catholic diocese of Green Bay, "Carl Schmitt" is a priest and he is Jim Schmitt's brother. The Schmitt campaign identifies him as a resident of Sturgeon Bay, Wisconsin in the campaign finance report.

<sup>7</sup> See Note 6.

Report filed January 13, 2015, "C S" is identified as "Carl Schmitt," a person believed to be Jim Schmitt's brother and a priest from Sturgeon Bay. See Note 6. The amended entry is shown here as Figure 6.

Date	Check #	Full Name, Mailing Address and Zip Code	Occupation, Name and Address of Principal Place Of Employment (If year-to-date total exceeds \$100)	Amount	Calendar Year-to-Date Total
12/2/13		CS Carl Schmitt Sturgeon Bay		25.00	25.00
12/7/13		CS CARL Schmitt Sturgeon Bay		25.00	25.00
SUBTOTAL ITEMIZED CONTRIBUTIONS THIS PAGE				\$ 725.00	

Figure 6

34. The "C S" amendment is remarkable for several reasons. First, a contribution by the corporation Cantilever Studios, L.L.C. would be prohibited by law. Second, the amendment on January 13, 2015 was done at a time when the Schmitt committee was already being publicly criticized for accepting corporate contributions. Third, the records which the campaign committee provided to me identify "C S" both by date and by contribution amount as Cantilever Studios, L.L.C., not Carl Schmitt. Fourth, Cantilever Studios, L.L.C. is not otherwise identified on any report as a contributor. Fifth, no checks from Carl Schmitt were provided by the campaign (but a contribution in the amount of \$25 may properly be made in cash). With respect to this last point, an examination of bank records for cash deposits in December 2013 would be helpful to this inquiry.

Misreported Committee Contribution

35. In reviewing check copies provided by the campaign committee, one contribution was listed on the January 2012 CFR as an individual contribution in the name of

Nicholas Liesch. See Figure 7. Upon reviewing the bank records (provided by the campaign committee), the actual check came from a Political Action Committee and was signed by Nicholas Liesch. See Figure 8. This is significant in my opinion because the contribution – had it been properly listed as a PAC contribution – would have been identifiable as exceeding the limit of \$780 for committee contributions.

Date	Full Name, Mailing Address and Zip Code	Occupation, Name and Address of Principal Place Of Employment (if year-to-date total exceeds \$100)	Amount	Calendar Year-to-Date Total
11/2/11	Nicholas Liesch 2828 N Ballard Rd Appleton, WI 54911	2828 N Ballard Rd Appleton, WI 54911 WG Building	54911-8703	1,000.00
Check # <input type="checkbox"/> In-Kind <input type="checkbox"/> Loan <input type="checkbox"/> Conduit		Conduit Name:		

Figure 7


<b>NORTHEAST WISCONSIN BUILDING &amp; CONSTRUCTION TRADES COUNCIL</b> POLITICAL ACTION ACCOUNT 2828 N BALLARD RD APPLETON, WI 54911-8703		JPMORGAN CHASE BANK, N.A. MILWAUKEE, WISCONSIN 53202 12-1-750	1023
DATE 11/2/2011	PAY TO THE ORDER OF Friends of Jim Schmitt	\$ **1,000.00	11/2/2011
One Thousand and 00/100		DOLLARS	
Friends of Jim Schmitt			
EMO WGBE ID #501360			
MICR line: ⑈001023⑈			

Figure 8

36. However, in a separate instance, according to the Schmitt July 2013 Continuing campaign finance report,<sup>8</sup> on March 28, 2013, this same PAC, the Northeast Wisconsin Building & Construction Trades Council – PAC, made another donation of \$1,000. This time, unlike the prior time, the contribution was reported as a committee contribution of \$1,000. This is remarkable for at least two reasons. First, the cumulative contribution

<sup>8</sup> The Schmitt campaign did not supply me with check copies for calendar year 2013.

of \$2000 is substantially over the committee limit of \$780. Second, the March 28, 2013 \$1000 contribution, as reported, is itself in excess of the allowable limit.

Unreported Contributions

37. In reviewing check copies provided by the campaign, four checks were found that were not included on any campaign finance reports.

- a. Check No. 5522 dated November 4, 2011 written by the Builder's Direct Fund in the amount of \$100;
- b. Check No. 5193 dated January 31, 2012 written on the account of Mark W. or Wendy L. Nysted in the amount of \$500;
- c. Check No. 1175 dated December 10, 2013 written by Lisa A Iapalucci in the amount of \$25; and
- d. Check No. 2065 dated December 8, 2013 written on the account of "Jeffrey M. or Jacqueline M. Mirkes" in the amount of \$25.

38. In addition to these four checks, in records supplied to me by the campaign, there was a letter dated December 5, 2013 from the Wisconsin Public Service Corporation which provided, "Enclosed is a check in the amount of \$150.00, which we are pleased to provide in support of your work. This is from the Wisconsin Public Service Corporation PAC." Such a PAC check was not reported by the Schmitt campaign on any campaign finance report.

Campaign Account Activity Misrepresented

39. On July 21, 2014, the Friends of Jim Schmitt filed a Short Form GAB-2A "No Activity" report for the time period of January 1, 2014 to June 30, 2014. Apparently signed by "J. Schmitt," the campaign certified as follows:

I certify that the above named committee or candidate did not receive contributions or other income, make disbursements, or incur obligations during the period covered by this report and that the cash balance remains the same as previously reported. This report fulfills filing requirements under Sec. 11.06(9), Stats.

40. However, notwithstanding this certification, based on the bank statements provided by the Friends of Jim Schmitt, the following activity occurred on the following dates. See Table 6. Further, the beginning balance for the campaign finance

Date	Activity	Amount	Check #
1/16/2014	Withdrawal	80	1019
1/21/2014	Withdrawal	1182.28	1020
2/13/2014	Withdrawal	250	1021
3/3/2014	Deposit	50	
4/21/2014	Deposit	100	

**Table 6**

account for the time period of the July 2013 Continuing Report was \$115,868.52 and the ending balance was \$114,563.10.

*Irregular Campaign Account Activity*

41. In reviewing check copies provided by the campaign, two checks deposited into the campaign account were written out to a person named "Scott Wochos," not the Friends of Jim Schmitt. The check signers were listed as donors on the Schmitt CFR.

Person Signing Check	Check Payee	Contributor listed on CFR	Amount	Check Date
Joseph M. Baemmert	Scott Wochos	Joseph Baemmert	\$125.00	11/10/2011
William F. Kress	Scott Wochos	William Kress <sup>9</sup>	\$200.00	11/3/2011

**Table 7**

See Table 7. The Kress check has a Memo Line entry of "Mayor Schmitt Lunch."

There is a "Scott Wochos" listed as a Schmitt contributor on CFRs.<sup>10</sup>

42. These circumstances suggest that Mr. Wochos paid for a table at a fundraiser luncheon and was then reimbursed by Kress and Baemmert. A review of the back of the checks, which were presumably signed over to the campaign by Mr. Wochos, would

<sup>9</sup> William Kress was listed as on the original CFR. By virtue of an amendment filed January 13, 2015, the name of "William Kress" was changed to "William Kress, Jr."

<sup>10</sup> Mr. Scott Wochos' contribution, however, is reported with a date of March 29, 2013. There is, nonetheless, a Frank Wochos listed as contributor with a reported contribution date of November 2, 2011, a date far closer to the date of the checks listed in Table 7.

confirm (or refute) such a "sign-over" circumstance. That, however, can only be confirmed by an examination of bank records. This circumstance illustrates the fact that the campaign records (which did not include the backs of checks) are no substitute for the actual bank records themselves. I do note, as an aside however, that in my review of campaign finance account records over the past ten years, I cannot recall ever seeing this type of check "sign-over."

43. Likewise, the review of CFRs and bank records indicate there are two donations listed on the January 2012 Continuing Report for which no check copy was provided by the Schmitt campaign. This again illustrates the point that campaign records are no substitute for the actual bank records themselves.

**PROBABLE CAUSE TO BELIEVE THAT THE BANK ACCOUNTS WILL CONTAIN EVIDENCE OF SUCH WISCONSIN CAMPAIGN FINANCE LAW VIOLATIONS**

44. One does not request to examine four years of bank records without some measure of pause. This is especially true where, as here, the campaign committee has turned over many (but not all) campaign records and has invited further requests for information as I may desire. It is my judgment, however, that the bank records are needed for a complete review of potential campaign finance violations for these reasons:

- a. The acceptance of excess contributions is a practice that recurs throughout the entire campaign cycle of 2011 to 2015. Not all of these excess contributions have been returned or – as this campaign committee seems to prefer to do – “re-classified” or “re-attributed” to different contributors.
- b. A practice of accepting a check or checks over the limit from one person and “re-classifying” or “re-attributing” them to others is such that, in my judgment,

warrants a general examination of all bank records. While I recognize that most of these re-attributions are to an (apparent) spouse and some would call this a technical violation, the David Charles example set forth at ¶28 is particularly noteworthy in that it involves re-attribution from an apparent father to a son who is forty years old and who does not live with his father even though the report states that he does.

c. In my experience, at least two additional circumstances identified in this Affidavit also warrant a general examination of bank records. Both the failure to report contributions and a report of "No Activity" when account activity does in fact occur are circumstances that provide a probable cause basis for violations of Wis. Stats. § 11.27(1). Moreover, such circumstances generally undermine confidence in the credibility of the campaign finance reports and justify a general review of all bank records.

45. Consequently, I respectfully submit that the Nicolet Bank and BMO Harris Bank records will be valuable in the investigation of a potential crime under Wis. Stat. §§11.26 and 11.61(1)(b) and (c), relating to excessive contributions by an individual and/or a committee. Likewise, they will be valuable evidence in the investigation of a potential crimes under Wis. Stat. §§ 11.38, 11.27(1) and 11.61(1)(b) and (c), and they will be valuable to rule out the possibility of general fraud in the reporting of campaign finances.

46. As a matter of personal experience and common sense, I know that both Nicolet Bank and BMO Harris Bank will keep records of the checking account activities on accounts that it maintains for its customers. I know that they will maintain all of the types of banking records that are described in the subpoena accompanying this



application to the court. That is, it will maintain records of account origination documents, signature cards, all credit items (including copies of deposit tickets, deposit items and credit memos) and all debit items (including copies of checks, debit card transactions and other debits to the account).

47. I know that BMO Harris Bank does business in the State of Wisconsin and, based upon information published by BMO Harris Bank on the Internet, I know that BMO Harris Bank maintains a branch at 2042 Lime Kiln Road, Green Bay, Wisconsin 54311.

48. Based upon information published by Nicolet Bank on the Internet, I know that Nicolet Bank does business in the State of Wisconsin and maintains a branch at 2082 Monroe Road Green Bay, Wisconsin 54311.

49. Based upon the foregoing information, I respectfully request that the court issue a subpoena as follows:

- a. To Nicolet Bank for accounts held in the name of Friends of Jim Schmitt, including Account 1009933:
  - i. Account origination documents including account agreement(s) and signature card(s); and
  - ii. For the period of June 1, 2011 to the present, periodic statements, account debit items (including front and backs of checks) and all account credit items (including account transfer slips, deposit tickets, fronts and backs of deposit items).
- b. To BMO Harris Bank for accounts held in the name of Friends of Jim Schmitt, including Account 48096 26466:
  - i. Account origination documents including account agreement(s) and signature card(s); and
  - ii. For the period of June 1, 2011 through the present, periodic statements, account debit items (including front and backs of checks) and

all account credit items (including account transfer slips, deposit tickets, fronts and backs of deposit items).

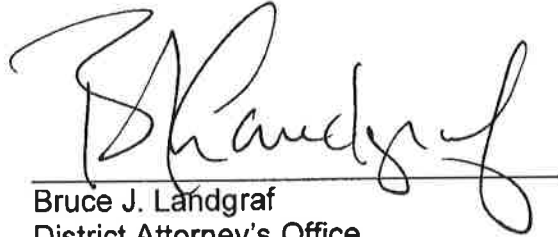
50. This general inquiry has been the subject of significant media interest. I anticipate that further investigation may be required after an examination of bank records. One such example of that would be possible questions directed to any of the persons named in this Affidavit. It has been my experience that any form of publicity harms an investigation of this nature. Publicity, whether in the media or by word of mouth, warns the potential targets that criminal charges are possible. This in turn makes it more likely that witness statements may be subject to improper influence. It has also been my experience that the chance for a truthful statement is enhanced when a witness is not forewarned of a possible interview. I have no doubt that the persons named in this Affidavit are well-respected, law-abiding citizens in the Green Bay area. I also have no doubt that the persons running the banks named in this Affidavit are also well-respected, law-abiding citizens in the Green Bay area. It has been my experience, however, word of investigations of this nature spreads quickly unless checked by judicial order. For these reasons, I respectfully request that the court order that any

[Continued on next page]

return of these papers be sealed and I request that the recipients of these subpoenas be ordered as follows:


**By order of the court, you are ordered not to disclose to anyone, other than your own attorney, the contents of this subpoena and/or the fact that you have received this subpoena. Violation of this Order is punishable as Contempt of Court.**

Dated this 22 day of June 2015.



Bruce J. Landgraf  
District Attorney's Office  
Milwaukee County

Subscribed and sworn to before me at Milwaukee, Wisconsin on this 22<sup>nd</sup> day of June 2015.

  
Notary Public, Milwaukee County  
State of Wisconsin  
My commission is permanent.

