

State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

November 29, 2011

Mike McCabe
Wisconsin Democracy Campaign
210 North Bassett Street, Suite #215
Madison, WI 53703

Dear Mr. McCabe:

On October 11, 2011, you sent a letter containing an open records request asking for “the results of complaints and investigations by the Government Accountability Board since 2008 involving candidates and political committees whose campaign finance reports failed to disclose the occupations and employers of campaign contributors as required under Wis. Stats. 11.06 (b). A summary of this information that identifies the committee and the forfeiture or other action taken by the GAB is sufficient.” The letter was sent via e-mail from Michael Buelow of your office.

On November 7, 2011, we responded to your request through two e-mails to Mr. Buelow stating that there is nothing to report. I am sorry if the e-mail was not clear or if Mr. Buelow failed to inform you of our response.

The Government Accountability Board has no records responsive to your request that it would be permitted to make available to you under §5.05 (5s), *Wisconsin Statutes*. That statute provides that records obtained or prepared by the Board in connection with an investigation, including a complaint itself, are not subject to the open records law, with limited exceptions. Those exceptions are:

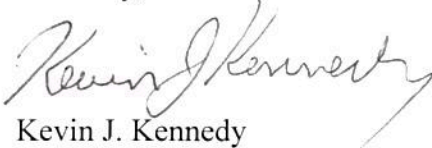
1. Any record of the action of the Board authorizing the filing of a civil complaint.
2. Any record of the action of the Board referring a matter to a district attorney or other prosecutor.
3. Any record containing a finding that a complaint does not raise a reasonable suspicion that a violation of the law has occurred.
4. Any records containing a finding, following an investigation, that no probable cause exists to believe that a violation of the law has occurred.
5. A settlement agreement.

The Board has no records responsive to your request that fall under any of the exceptions. The Board has received two complaints since 2008 alleging a failure to provide employer and occupation information. One matter was resolved through the committee immediately providing missing information in a phone call. The other matter remains open. The Board has imposed no forfeitures for this type of violation.

I can tell you that the Board takes all campaign finance reporting requirements seriously. While §11.06 (5), *Wisconsin Statutes*, does provide that each report "shall be filed with the appropriate filing officer on the dates designated in §11.20" and despite the fact that this section is entitled "Report must be complete," the statute only requires a committee to "make a good faith effort to obtain all required information." Our general approach, when there appears to be missing information, is to make efforts to obtain that information. If a committee has failed to report all required information, it is also our general approach to document the procedures a committee has put in place to obtain information and to ensure that such procedures are being followed. It would be unlikely that the Board could successfully obtain a forfeiture if a committee was, in fact, making good faith efforts to obtain information.

Thank you for your interest in the activities of the Government Accountability Board.

Sincerely,

A handwritten signature in cursive script that reads "Kevin J. Kennedy". The signature is written in dark ink and is positioned above the typed name and title.

Kevin J. Kennedy
Director and General Counsel