

J.B. VAN HOLLEN,

Plaintiff,

Case No. 08-CV-4085

vs.

GOVERNMENT ACCOUNTABILITY BOARD,
THOMAS CANE, GERALD NICHOL,
MICHAEL BRENNAN, WILLIAM EICH,
VICTOR MANIAN, GORDON MYSE,
KEVIN J. KENNEDY and NATHANIEL E. ROBINSON.

Defendants.

SECOND AFFIDAVIT OF KEVIN KENNEDY

STATE OF WISCONSIN)
)ss
COUNTY OF DANE)

Kevin J. Kennedy, being first duly sworn on oath, deposes and says:

- A. At all times relevant to this lawsuit, I have been the Director and General Counsel for the Government Accountability Board (“GAB”). I make this second affidavit to expand and clarify Paragraphs 6 & 7 of my initial affidavit. Those paragraphs should read as follows:

- 6. Last Thursday, September 11, 2008, I met with Assistant Attorneys General Lee, Flanagan and Burke on the Practical Political Consulting cases. During that meeting, Assistant Attorney General Lee asked me if we, the Defendants in the Practical Political Consulting cases, Nos. 06-CV-3089 and 07-CV-2542, consented to have Assistant Attorneys General Lee, Flanagan and Burke continue representing them in those long-standing cases despite filing by the Attorney General of Case No. 08-CV-4085. I advised them I needed to check with my Board Members before I signed a written waiver. I instructed Assistant Attorneys General Lee, Flanagan and Burke that they should proceed with their representation in Case Nos. 06-CV-3089 and 07-CV-2542 unless they heard

otherwise from me.

7. On Sunday, September 14, 2008, I received a proposed conflict waiver form from Assistant Attorney General Burke consistent with our conversation of September 11, 2008, regarding continued representation by Assistant Attorneys General Lee, Flanagan and Burke in Case Nos. 06-CV-3089 and 07-CV-2542. On September 17, 2008, I asked Assistant Attorneys General Lee, Flanagan and Burke to suspend activity in the Practical Political Consulting cases until resolution of defendants' Motion for Disqualification in Case No. 08-CV-4085.

- B. This Affidavit is made in support of Defendants' Motion for Disqualification of Plaintiff's Counsel.

Kevin J. Kennedy

Subscribed and sworn to before me
this 17th day of September, 2008.

Notary Public, State of Wisconsin
My Commission is permanent.