

Table of Contents

Nature of the Action..... 1

The Parties..... 3

Jurisdiction and Venue..... 4

Factual Allegations..... 4

I. The Substantive and Procedural Strictures of Wis. Stat. §§ 5.01-5.95 5

II. The Use of John Doe Proceedings in Wisconsin..... 8

III. The Criminal Investigation into Mr. O’Keefe, the Club, and Other Conservative-Leaning Groups..... 10

 A. The GAB and Precursor John Doe Proceedings 10

 B. The Current John Doe Proceeding Against Mr. O’Keefe, the Club, and Other Conservative-Leaning Groups 14

 1. *The Formation of John Doe II* 14

 2. *The GAB Investigation Commences*..... 17

 3. *The Expansion of John Doe II and the Special Prosecutor* 18

 3. *The Expansion of John Doe II and Appointment of the Special Prosecutor* 18

 4. *John Doe II is Revealed: The Warrants and Subpoenas against Targets* 23

 5. *The Order Quashing the John Doe II Subpoenas* 25

IV. The GAB Has Exceeded its Statutory Authority by Using a John Doe Proceeding in Place of the Procedures Mandated by its Enabling Statute..... 26

 A. John Doe II: A Criminal Proceeding Conducted by the GAB 27

 B. The Ten-Month Unauthorized Investigation 31

 C. Post-Referral Involvement by the GAB..... 33

 D. Unauthorized Requests for Search Warrants 35

 E. Illegal Inspection of Bank Records..... 36

 F. Continued Activity after Termination of Investigation 37

V. The GAB has Deprived Mr. O’Keefe and the Club of their Statutory Rights by Avoiding the Procedural Mandates of its Enabling Statute..... 38

Count I 41

Count II	44
Count III	45
Prayer for Relief	46
Demand for Jury Trial	47

Nature of the Action

1. The GAB, a state agency charged with investigating and prosecuting alleged civil violations of Wisconsin state laws on elections, ethics, and lobbying, has exceeded its statutory authority and evaded its statutory obligations by pursuing and funding a far-reaching criminal proceeding into virtually every conservative-leaning group in Wisconsin. This unprecedented criminal investigation has proceeded under the auspices of a secret proceeding called a John Doe. John Doe proceedings are creatures of statute, and until recently, were used only by prosecutors and judges for the purpose of determining probable cause to pursue criminal charges.

2. The GAB's use of a John Doe has created a Frankenstein monster. The GAB has grafted its existing powers for civil enforcement of campaign finance laws onto law enforcement powers borrowed from the John Doe statute, and from this hybrid bundle of investigative powers, has lopped off vital procedural protections. The result is terrible to behold: a creature that covertly collects sensitive information on political activities that do not – and cannot – constitute a crime, all the while maintaining a nearly impenetrable shield of secrecy. Most troubling of all, the monster is fed by taxpayer dollars that were never intended for this purpose.

3. The GAB's enabling statute, Wis. Stat. §§ 5.01-5.95 (the "Enabling Statute"), makes no reference to the use of a John Doe. Instead, it provides for the adherence to a detailed procedure through which the GAB must pursue an investigation and enforcement action, along with procedural safeguards to the accused, including notice and disclosure to the subjects of the investigation. The Enabling Statute also creates a dichotomy between "civil" actions that may be pursued by the GAB and "criminal" actions that may not be pursued by the GAB. The GAB's use of the John Doe device exceeds the agency's statutory authority. Simultaneously, the GAB's

decision to operate under the John Doe procedures instead of GAB's Enabling Statute deprives Mr. O'Keefe and the Club of their statutory rights.

4. The GAB's illegitimate and unauthorized participation in the John Doe proceeding has come at significant expense to the taxpayers in Wisconsin. Since at least August of 2012, the GAB has spent and continues to spend substantial resources in furtherance of the proceeding. To date, the GAB and its staff have obtained and examined hundreds of thousands of documents in connection with the John Doe proceeding. The GAB has appointed four special investigators to head the criminal investigation, and more than 30 subpoenas have been issued throughout Wisconsin and across the country to conservative-leaning groups, internet service providers, and financial institutions. In addition, the GAB has obtained and executed search warrants through pre-dawn raids by armed deputies on the homes of targets throughout Wisconsin. The total expenditures related to the investigation, and the hourly rate of the special investigators, was kept a closely guarded secret.

5. This lawsuit seeks to halt the GAB's end-run around the substantive and procedural mandates of its Enabling Statute, requiring the GAB to dismember its Frankenstein monster and conduct only those activities for which it receives taxpayer dollars. Accordingly, Mr. O'Keefe and the Club seek relief in the form of: (1) a judgment declaring that the GAB has made and continues to make illegal expenditures associated with its participation in the secret John Doe proceeding and other unauthorized activities, and enjoining GAB from making any additional unlawful expenditures of public funds; (2) a judgment declaring that the GAB has deprived Mr. O'Keefe and the Club of their statutory rights and the procedural safeguards of the GAB's Enabling Statute, and enjoining GAB to follow the procedures mandated under its

Enabling Statute; and (3) a writ of mandamus to compel the GAB to release documents under the Wisconsin Public Records Law or its Enabling Statute.

6. Mr. O’Keefe and the Club hereby expressly reserve for independent adjudication in the federal courts all federal questions relating to this matter, including but not limited to any federal First Amendment and Fourteenth Amendment claims for freedom of speech or press, freedom of political association, freedom of communication of ideas, due process, and equal protection. The claims asserted in this case are not made in derogation of any claims pursued or to be pursued by Mr. O’Keefe and the Club in a United States District Court, but instead concern matters of state law properly litigated in state court. *See generally Pennhurst State Sch. v. Halderman*, 465 U.S. 89 (1984); *England v. Louisiana State Bd. of Med. Examiners*, 375 U.S. 411 (1964).

The Parties

7. Plaintiff Eric O’Keefe is an individual residing in Iowa County, Wisconsin. Mr. O’Keefe is a veteran volunteer political activist who has been involved in political and policy advocacy since 1979. The GAB has targeted Mr. O’Keefe as a subject of its investigation in both his individual capacity and in his official capacity as a director and treasurer for Wisconsin Club for Growth.

8. Plaintiff Wisconsin Club for Growth is a Wisconsin corporation recognized as a non-profit entity under Section 501(c)(4) of the Internal Revenue Code. It is a local, independent affiliate of the national Club for Growth and promotes free-market beliefs and policies in Wisconsin.

9. Defendant Government Accountability Board (the “GAB”) is a Wisconsin state agency formed in 2007 to administer Wisconsin state laws on elections, ethics, and lobbying.

The GAB is composed of six former judges who serve staggered, six-year terms. The GAB has authority to pursue civil enforcement of Wisconsin state laws on elections, ethics, and lobbying, but is prohibited from pursuing criminal enforcement of such laws.

10. Defendant Kevin J. Kennedy is the Director and General Counsel for the GAB, a position he has held since formation of the GAB in 2007.

Jurisdiction and Venue

11. This Court has personal jurisdiction over the GAB and Mr. Kennedy because the GAB is a Wisconsin state board and Mr. Kennedy is domiciled within the State of Wisconsin. This Court is not deprived of personal jurisdiction on the basis of sovereign immunity because this action is based on conduct by the GAB and Mr. Kennedy that is outside the bounds of their statutory authority.

12. Venue is proper in this Court pursuant to Wis. Stat. § 801.50 because Mr. O'Keefe and the Club have designated Waukesha County as the proper venue and the defendants in this action are a state board and an agent acting in an official capacity of that board.

Factual Allegations

13. In a calculated power grab, the GAB has improperly used a John Doe proceeding to explore speculative criminal theories of campaign finance law without challenge by the accused or scrutiny by the public. In so doing, the GAB has exceeded its statutory authority and has deprived Mr. O'Keefe and the Club of their statutory rights. The GAB's actions not only have injured its political targets, but also have injured every taxpayer in the State of Wisconsin.

14. Due to the secretive nature of the GAB's investigative process and its confidential John Doe proceeding, the full extent of the GAB's conduct is unknown to many, including Mr. O'Keefe and the Club.

I. The Substantive and Procedural Structures of Wis. Stat. §§ 5.01-5.95

15. The purpose, functions, duties, and powers of the GAB are set forth in its Enabling Statute, Wis. Stat. §§ 5.01-5.95.

16. Under Wis. Stat. § 5.05(1), the GAB is responsible for administering Wisconsin laws relating to elections, ethics, and lobbying (i.e., Chapters 5-12 and subchapter III of Chapter 13 and subchapter III of Chapter 19).

17. In discharging its duties, the GAB has the power to subpoena, depose witnesses, bring a civil forfeiture action, revoke licenses, sue for injunctive relief or a writ of mandamus or prohibition, intervene in a civil action, and issue rules relating to the interpretation or implementation of laws concerning elections or election campaigns. *See* Wis. Stat. § 5.05(1)(b)-(f). The Enabling Statute thus grants the GAB certain investigatory and rulemaking authority, as well as the ability to seek civil remedies for violations of the laws it administers. *See id.*

18. The process by which the GAB must pursue investigations of potential violations of the laws it administers is detailed at length in Wis. Stat. § 5.05(2m). In pertinent part, Wis. Stat. § 5.05(2m) states that “[t]he board shall investigate violations of laws administered by the board and may prosecute alleged civil violations of those laws, directly or through its agents under this subsection, pursuant to all statutes granting or assigning that authority or responsibility to the board.”

19. All matters investigated by the GAB must begin with a complaint filed by a person or entity, or must arise from information obtained through a prior investigation. *See id.* at § 5.05(2m)(c)2.a (“Any person may file a complaint with the board alleging a violation[.]”); *see* also *id.* at § 5.05(2m)(c)13 (“If a special investigator . . . in the course of an investigation authorized by the board, discovers evidence that a violation . . . has occurred or is occurring, the

special investigator . . . may present that evidence to the board.”). The GAB does not have a roving commission to search for potential violations of the laws it administers. *See id.* at § 5.05(2m)(a) (the GAB’s investigation must be “pursuant to all statutes granting or assigning that authority or responsibility to the board.”).

20. Upon receipt of a complaint, the GAB must first determine whether there is reasonable suspicion that a violation has occurred or is occurring. *Id.* at § 5.05(2m)(c)4. If no reasonable suspicion exists, the GAB must dismiss the complaint and provide written notice of the dismissal to the subject(s) of the investigation and the party who made the complaint. *Id.* at §§ 5.05(2m)(c)4, 5.05(2m)(c)9. If reasonable suspicion exists that a violation has occurred or is occurring, the GAB may authorize the commencement of an investigation by issuing a resolution with an affirmative vote of at least four members. *Id.* The resolution must specifically describe the matter to be investigated. *Id.*

21. To assist in its investigation, the GAB may authorize the Ethics and Accountability Division of the GAB to investigate or it may elect to retain a special investigator. *Id.* at § 5.05(2m)(c)4. To retain a special investigator, the administrator of the Ethics and Accountability Division of the GAB (who, during all relevant times, was Jonathan Becker) must submit the names of three qualified individuals to be selected by the GAB. *Id.* Any individual retained as a special investigator by the GAB must enter into a written contract with the GAB setting forth the terms of the engagement. *Id.*

22. After commencement of an investigation, the GAB and its agents must satisfy reporting requirements set forth in its Enabling Statute. The agent(s) in charge of the investigation, whether a special investigator or the Ethics and Accountability Division, must make periodic reports to the GAB at least every thirty (30) days. *Id.* at § 5.05(2m)(c)5. Before

the GAB can spend more than \$10,000 on any investigation, a progress report must also be submitted with a recommendation to commit additional resources. *Id.* The GAB must then vote to commit additional resources to the investigation. *Id.*

23. In addition to the reporting requirements, the investigation must follow a strict procedural timeline. The GAB and its agent(s) must meet in person every ninety (90) days to review the progress of the investigation. *Id.* During the meeting, the investigator(s) must recommend to the GAB one of three courses: (1) make a finding that probable cause exists to believe that a violation has or is occurring; (2) determine that further investigation of the matter is necessary to make the probable cause decision; or (3) terminate the investigation due to lack of sufficient evidence to support a finding of probable cause. *Id.* at § 5.05(2m)(c)5(a)-(c). At least four members of the GAB must affirmatively vote to continue the investigation or it will be deemed terminated by operation of statute. *Id.* at § 5.05(2m)(c)5.

24. During the investigation, the GAB has the power to subpoena witnesses and property, but can only do so after an affirmative vote by at least four members of the GAB and “after providing notice to any party who is the subject of an investigation.” *Id.* at § 5.05(1)(b). The GAB may also authorize the special investigator to request a circuit court to issue a search warrant if “such action is legally appropriate.” *Id.* at § 5.05(2m)(c)4.

25. At the conclusion of the investigation, the GAB must make preliminary written findings of fact and conclusions, including a determination of whether or not probable cause exists that a violation has occurred or is occurring. *Id.* at § 5.05(2m)(c)9.

26. If the GAB determines that there is probable cause to believe that a violation has occurred or is occurring, the GAB may either authorize the Ethics and Accountability Division to file a civil complaint or, “in lieu of civil prosecution of any matter by the board, refer the matter

to the district attorney for the county in which the alleged violator resides[.]” *Id.* at § 5.05(2m)(c)11. In the event the appropriate district attorney fails to commence a civil or criminal prosecution, the GAB may refer the matter to the district attorney in a contiguous county and then to the attorney general. *Id.* at § 5.05(2m)(c)15.

27. If the GAB refers the matter to a district attorney or attorney general, the prosecuting attorney must submit a report to the GAB within forty (40) days detailing any action taken regarding the matter. *Id.* at § 5.05(2m)(c)18. The prosecuting attorney must also file periodic reports with the GAB every 30 days.

28. At no point is the GAB authorized to initiate and pursue criminal enforcement against an individual or entity. In fact, except as provided in Wis. Stat. § 5.05(2m)(i), which pertains to “an action for a criminal violation” against the attorney general or candidate for attorney general, the GAB is prohibited from pursuing criminal enforcement of alleged violations of laws relating to elections, ethics, and lobbying. *See id.* at § 978.05(1) (the district attorney shall “have *sole* responsibility for prosecution of all criminal actions from violations.” (emphasis added)); *see also* OAG 1-08 (“Except as provided in Wis. Stat. § 5.05(2m)(i), the Board cannot prosecute criminal proceedings under those statutory provisions.”).

29. The GAB’s Enabling Statute does not permit the GAB to investigate and pursue enforcement actions outside the context of the mandatory procedures set forth in the Enabling Statute. Accordingly, the GAB’s ability to utilize a John Doe proceeding is restricted by its Enabling Statute.

II. The Use of John Doe Proceedings in Wisconsin

30. A John Doe proceeding is an independent legal proceeding convened by a judge for the purpose of determining whether a crime has been committed and, if so, by whom.

31. The John Doe procedure is codified in Wis. Stat. § 968.26. A John Doe proceeding may be initiated when “a district attorney requests a judge to convene a proceeding to determine whether a crime has been committed in the court’s jurisdiction.” *Id.* at § 968.26(1). Alternatively, a John Doe proceeding may be initiated if a person “who is not a district attorney complains to a judge that he or she has reason to believe that a crime has been committed within the judge’s jurisdiction[.]” *Id.* at § 968.26(2)(am). In that circumstance, the judge who received the complaint must refer the complaint to the district attorney or other prosecutor for a determination of whether to issue charges. *Id.* at § 968.26(2)(b). If the district attorney or other prosecutor refuses to issue charges, the judge may nonetheless initiate a John Doe proceeding to determine if a crime has been committed. *Id.*

32. The John Doe proceeding itself is conducted for the sole reason of determining whether probable cause exists that a crime has been committed. In this regard, it is inherently criminal in nature. Although the proceeding has been held not to be a “felony” proceeding on the ground that the classification of criminal conduct is not determined until after a criminal complaint is filed, the proceeding has been classified and referred to as a “criminal proceeding” or “the John Doe criminal proceeding.” *See, e.g., State v. Unnamed Defendant*, 150 Wis. 2d 352, 366, 441 N.W.2d 696, 701 (1989) (describing the history and modern use of “the John Doe criminal proceeding.”).

33. The John Doe proceeding is not a mechanism for determining whether an agency should pursue civil enforcement for alleged violations of state law.

34. At the conclusion of the proceeding, the John Doe judge is charged with making an affirmative finding of whether probable cause exists and, if so, initiating a prosecution by

issuing a criminal complaint. *Id.* at 359. At that time, a warrant may issue for the arrest of the accused. *Id.*

35. John Doe proceedings offer many advantages to law enforcement officials. For instance, a John Doe Proceeding carries with it the power to subpoena witnesses, take testimony under oath, compel the testimony of a reluctant witness, and issue a search warrant under appropriate circumstances. In addition, the Wisconsin Rules of Evidence are not applicable to John Doe proceedings and an accused does not have a right to testify through an examination by his or her lawyer, have that lawyer cross-examine other witnesses, or have his or her lawyer argue before the John Doe judge.

36. Perhaps most significantly, law enforcement officials may request the John Doe judge to issue a secrecy order providing that all aspects of the proceeding must remain secret for all purposes until closed. John Doe judges frequently grant such requests, and the secrecy order often extends not only to the accused and to all witnesses examined, but also to the John Doe judge as well.

III. The Criminal Investigation into Mr. O’Keefe, the Club, and Other Conservative-Leaning Groups

37. The GAB, in conjunction with district attorneys in five counties in Wisconsin, has initiated a wide-scale criminal investigation into Mr. O’Keefe, the Club, and other conservative-leaning groups throughout Wisconsin and the country. In so doing, the GAB has both exceeded its statutory authority to act under the Enabling Statute and has side-stepped its obligations as detailed in its Enabling Statute.

A. The GAB and Precursor John Doe Proceedings

38. The criminal investigation into Mr. O’Keefe and the Club is an outgrowth from an unprecedented set of interrelated John Doe proceedings spearheaded by District Attorney John

Chisholm at the Milwaukee County Attorney's Office ("John Doe I"). John Doe I officially began on May 5, 2010 based on a sworn statement that the Milwaukee District Attorney had reason to believe that money (approximately \$11,000) had been misappropriated from a veteran's fund called Operation Freedom, which Governor Scott Walker founded. Over the next three years, John Doe I expanded eighteen times and evolved into an ongoing, statewide audit of almost all of the political activities of supporters of Governor Walker.

39. The GAB did not hesitate to join in John Doe I. On May 10, 2010, the GAB opened an investigation into William Gardner and the Wisconsin & Southern Railroad Company ("WSOR") based on a complaint it received on April 19, 2010 by a former friend of Mr. Gardner. The former friend stated that she had been asked to make a campaign contribution on behalf of Mr. Gardner and WSOR. *See* Government Accountability Board, *G.A.B. and Milwaukee County District Attorney Announce Resolution of Significant Campaign Finance Investigation* (Apr. 11, 2011), attached hereto as **EXHIBIT A**.

40. The investigation was uncontested from the outset. On May 18, 2010, shortly after the GAB opened its investigation, an attorney for Mr. Gardner contacted the GAB and voluntarily disclosed evidence regarding his conduct. *See* Criminal Complaint against William Gardner, Circuit Court of Washington County, Wisconsin, at 2 (April 11, 2011), attached hereto as **EXHIBIT B**. Mr. Gardner also issued a press release accepting responsibility for the violations. *Id.* at 12. As a result of these disclosures and admissions by Mr. Gardner, the GAB had probable cause to believe that a violation of campaign finance law had occurred.

41. Contrary to the enforcement procedures set forth in its Enabling Statute, which require the GAB to *either* pursue civil enforcement *or* refer the matter to the district attorney for the county in which the alleged violator resides, Wis. Stat. § 5.05(2m)(c)11 (stating that the

referral must be “in lieu of civil prosecution of any matter by the board”), the GAB sought the best of both worlds. As stated in a press release by the GAB:

The Board subsequently contacted the Milwaukee County District Attorney’s Office and the two agencies worked closely together over the past year to complete a John Doe investigation before Judge Neal Nettesheim. The investigation involved obtaining and reviewing hundreds of digital documents and e-mails from WSOR, bank records, and the testimony of over a dozen witnesses.

See Press Release, Ex. A at 3. The GAB’s referral of the matter to the Milwaukee County District Attorney’s Office should have precluded its further involvement in any civil proceedings. *See* Wis. Stat. § 5.05(2m)(c)11.

42. Not only was the GAB unwilling to forego civil enforcement against Mr. Gardner and WSOR as mandated by its Enabling Statute, it was also unwilling to let go of a potential opportunity to conduct a far-reaching, expansive investigation. Under the secret umbrella of John Doe I – made possible through the Thirteenth Addendum to the Secrecy Order – the GAB and the Milwaukee District Attorney’s Office discreetly scoured for incriminating evidence against conservative-leaning organizations (including Friends of Scott Walker) for the next eleven (11) months. The GAB subpoenaed multiple financial institutions, examined dozens of witnesses, and executed a search warrant at WSOR. All the while, Mr. Gardner and WSOR had already confessed their crimes and had provided the GAB with incriminating evidence regarding those involved and exculpatory evidence against those not.

43. The proceeding ultimately resulted in Mr. Gardner executing a settlement agreement in which he agreed to plead guilty to two felony counts and WSOR agreed to pay a civil forfeiture to the GAB of \$166,900.00. *See* Press Release Ex. A at 1. Despite donations by Mr. Gardner to both political parties (e.g., the Assembly Democratic Campaign Committee and Friends of Scott Walker), the one-sided focus of the GAB’s investigation was apparent in its

press release: The GAB expressed that it “uncovered no evidence that any individual connected with Friends of Scott Walker had any knowledge of the illegality of the contributions.” Press Release, Ex. A at 2. The press release made no mention of any inquiry into the knowledge of the Assembly Democratic Campaign Committee or other candidates in the Democratic Party. *See id.*

44. The GAB affirmatively sought to interject itself into the John Doe proceeding so that it could conduct its far-reaching investigation in secret. The GAB not only failed to forego civil enforcement after its referral of the matter to Milwaukee District Attorney Chisholm, but it also failed to refer the matter to the appropriate district attorney (i.e., the district attorney for the county in which Mr. Gardner resided, Washington County). *See id.* Indeed, the Milwaukee County District Attorney’s Office had to file a criminal complaint in Washington County to give effect to the plea deal. *See id.*

45. Most troubling of all, the Criminal Complaint filed in Washington County was sworn by Dean Nickel in his capacity as a special investigator for the GAB. *See* Criminal Complaint, Ex. B at 1 (“Complainant states that he is . . . working under contract as an investigator with the Government Accountability Board (GAB).”). The filing of a criminal complaint by a GAB investigator further contravened the requirements of the Enabling Statute, which provides that the “[p]rosecution of alleged criminal violations . . . may be brought *only* as provided in par. (c)11., 14., 15., and 16. and s. 978.05(1).” Wis. Stat. § 5.05(2m)(a) (citing the referral provisions of the Enabling Statute and the statute granting district attorneys the “sole responsibility” for prosecuting crimes) (emphasis added).

46. Instead of acting pursuant to the clearly defined mandates of its Enabling Statute, the GAB affirmatively sought to take advantage of the additional authority, secrecy, and flexibility available to prosecutors in the expansive John Doe proceeding in Milwaukee County.

With its successful and unchallenged use of the John Doe device, the GAB had established a precedent for using a John Doe to expand its power and protect it from public and legislative scrutiny.

47. John Doe I eventually came to an end pursuant to an order on February 21, 2013, but not before commencement of the current proceedings against Mr. O’Keefe, the Club, and other conservative-leaning groups.

B. The Current John Doe Proceeding Against Mr. O’Keefe, the Club, and Other Conservative-Leaning Groups

48. On October 3, 2013, Mr. O’Keefe and the Club were served with subpoenas requiring them to produce a staggering amount of documents that encompassed almost any political activity by Mr. O’Keefe or the Club from 2009 to 2013 in Wisconsin and beyond. Unbeknownst to Mr. O’Keefe and the Club, they had already been the subjects of a secret coordinated John Doe proceeding for more than a year.

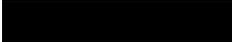
1. The Formation of John Doe II

49. On August 8, 2012, personnel from the Milwaukee County District Attorney’s office met with and notified the GAB of alleged criminal violations of Wisconsin’s campaign finance laws. Shortly thereafter, on August 10, 2012, the Milwaukee County District Attorney’s office petitioned the Milwaukee County Circuit Court to open a John Doe proceeding for the ostensible purpose of investigating alleged criminal campaign finance violations involving campaign coordination. The Milwaukee County District Attorney’s office asserted that it had reason to believe that a criminal violation of campaign finance law had been committed within its jurisdiction. In support of its petition, Milwaukee investigator Robert Stelter submitted an affidavit that cited materials obtained from John Doe I. *See* Petition for Commencement of a

John Doe Proceeding, Case No. 12JD000023 (Milwaukee Cnty, Wis. Aug. 10, 2012), attached hereto as **EXHIBIT C**.

50. The current John Doe proceeding, Case No. 12JD000023 (“John Doe II”), officially commenced on September 5, 2012 pursuant to an order by the Honorable Barbara Kluka. At or near the same time, board members of the GAB and its staff, including the GAB Director and General Counsel Kevin J. Kennedy and GAB Ethics Division Administrator Jonathan Becker, were admitted as parties to John Doe II.

51. On information and belief, Kevin Kennedy and Jonathan Becker unilaterally admitted the GAB to John Doe II without the knowledge or approval of the GAB Board. The GAB Board was not even informed of the GAB’s involvement during its October 23, 2012 meeting, despite being more than a month after its admission to John Doe II. Instead, Kevin Kennedy and Jonathan Becker waited until the December 18, 2012 meeting to inform the GAB Board about John Doe II. And rather than informing the GAB Board about their prior involvement, Kevin Kennedy and Jonathan Becker misled the GAB Board about the time period in which they had “learned” of John Doe II. *See* Memorandum for Dec. 18, 2012 Board Meeting, attached hereto as **EXHIBIT D** (filed under seal) (“

” (emphasis added)).

52. Ever since their admission to John Doe II, the GAB and its staff have attempted to hide their ongoing, substantive role in the criminal investigation, even from other public officials. The GAB and the District Attorneys have gone so far as to exclusively use private “Gmail” accounts to discuss the investigation, despite having official email accounts with the

State of Wisconsin. *See* Meeting Notes, Badger John Doe, at 2-3 (July 2, 2013), attached hereto as **EXHIBIT E** (filed under seal).

53. Notwithstanding their use of “offline” email accounts, the GAB admonished that “team members should communicate with the understanding that their communications could become public or subject to discovery at some point.” *See* Investigation Planning – Meeting Notes, GAB Office (Aug. 15, 2013), attached hereto as **EXHIBIT F** (filed under seal).

54. On December 10, 2012, Milwaukee District Attorney’s Office Investigator Robert Stelter requested at least fifteen (15) search warrants and subpoenas for telephone and internet service providers and financial institutions throughout the country, including [REDACTED]

[REDACTED]. On information and belief, the GAB participated or assisted the Milwaukee District Attorney’s Office in obtaining these search warrants and subpoenas against targets of the Doe. *See* Robert Stelter, Affidavit in Support of a Request for Search Warrants and Subpoenas (Dec. 10, 2012), attached hereto as **EXHIBIT G** (filed under seal).

55. On January 18, 2013, Milwaukee County District Attorney Chisholm met with Attorney General J.B. Van Hollen to seek assistance from the Wisconsin Department of Justice. In a letter dated May 31, 2013, the Attorney General declined to assist in the proceeding. *See* Letter from Attorney General J.B. Van Hollen to District Attorney John T. Chisholm, May 31, 2013, attached hereto as **EXHIBIT H**. The Attorney General declined to assist in the proceeding on the basis of potential conflicts of interest, concerns about the ability to maintain an

appearance of impartiality, and the availability of the GAB to conduct an investigation. *Id.* In particular, the Attorney General stated:

Should the Government Accountability Board, after investigation, believe these matters are appropriate for civil enforcement, they have the statutory authority to proceed. Should the Government Accountability Board determine, after investigation, that criminal enforcement is appropriate, they may refer the matter to the appropriate district attorney.

Id.

56. District Attorney Chisholm never informed Attorney General Van Hollen that the GAB had already been admitted as a party to John Doe II since the outset of the proceeding. Nor did the GAB or Mr. Kennedy, who, having been admitted to John Doe II, presumably were aware of the content District Attorney Chisholm's letter, act to correct the misimpression District Attorney Chisholm had left with the Attorney General.

2. *The GAB Investigation Commences*

57. On June 20, 2013, less than one month after the Attorney General declined to assist in John Doe II, the GAB voted to commence an investigation into whether there was probable cause that a violation of campaign finance laws had occurred or was occurring. At the time the GAB voted to commence its investigation, it had already been participating in John Doe II for approximately ten months.

58. The GAB's participation in John Doe II has been substantial since the time it was admitted as a party. According to meeting notes between the GAB and the Milwaukee County District Attorney's Office, Jonathan Becker was personally involved in – and in fact primarily responsible for – the hunt for a special prosecutor and determining how he or she would be paid:

- 4) Special Prosecutors/Investigators
 - ...
 - i. Bruce and David still have no idea how this is funded. Jon [Becker] informed them that [two attorneys] will do it for \$240 per hour, which is a

significant reduction from their \$325 per hour fees. Bruce mentioned that we really have to get someone for \$100 per hour. He indicated that exhausting the special prosecutor fund for one case would have significant implications with the other DAs across the state.

Jon mentioned that perhaps the GAB could also retain the same person acting as special counsel as the GAB investigator and then supplement his or her pay with GAB funds. Bruce and David liked that idea. Would be limited to the investigation process though.

See Meeting Notes, Badger John Doe, Ex. E at 2-3; see also Wis. GAB, Closed Session Minutes, at 4 (June 20, 2013), attached hereto as EXHIBIT I (filed under seal) (“[REDACTED]”).

59. While Jonathan Becker was busy contacting individuals to find a special prosecutor for John Doe II, GAB Staff Counsel Shane Falk was drafting a legal memorandum discussing the claims, elements, statutes of limitations, and operative statutes and cases that could be used in a subsequent prosecution. *See Meeting Notes, Badger John Doe, Ex. E at 4.* The GAB Board further authorized the use of special investigators and a forensic IT company in its June 20, 2013 closed session meeting. *See Closed Session Minutes (June 20, 2013), Ex. I at 5.*

3. The Expansion of John Doe II and Appointment of the Special Prosecutor

60. On June 26, 2013, six days after commencing its investigation, the GAB met with and referred the matter to the district attorneys for Milwaukee, Columbia, Dane, Dodge, and Iowa Counties at its offices in Madison, Wisconsin. During the meeting, the GAB informed the district attorneys of the alleged violations of campaign finance laws by Mr. O’Keefe, the Club, and other conservative-leaning groups, and the district attorneys discussed the initiation and coordination of four additional John Doe proceedings and the appointment of a unified special prosecutor to conduct the proceedings.

61. By July of 2013, the GAB had located a special prosecutor for John Doe II. On July 16, 2013, GAB Ethics Division Administrator Jonathan Becker called Francis D. Schmitz and asked him if he was interested in working on John Doe II, including by serving as a special prosecutor. Mr. Schmitz accepted the offer. *See* Declaration of Francis Schmitz, *O'Keefe v. Schmitz*, Case No. 14-cv-00139 (E.D. Wis. Aug. 22, 2014), attached hereto as **EXHIBIT J**; *see also* Actions Items Update, Badger John Doe, at 1 (July 24, 2013), attached hereto as **EXHIBIT K** (filed under seal).

62. With a proposed special prosecutor in place, the GAB and Milwaukee District Attorney's Office coordinated with the district attorneys in Columbia, Dane, Dodge, and Iowa Counties to petition for and commence John Doe proceedings in their respective counties. Between July 22 and August 21, 2013, a Petition for Commencement of a John Doe Proceeding was filed and a John Doe commenced in Columbia, Dane, Dodge, and Iowa Counties. The State Courts Administrator subsequently issued orders appointing Judge Kluka as the presiding judge for the coordinated John Doe proceeding.

63. As the multi-county coordinated John Doe proceeding continued to form, the GAB assigned two GAB staff counsel – Nathan Judnic and Shane Falk – to review the financial and bank records of the John Doe II targets that were obtained from the search warrants and subpoenas issued in December of 2012. *See* Action Items Update, Ex. K at 2; *see also* Investigation Planning – Meeting Notes, Ex. F at 4; Investigation Status Update – Meeting Notes, at 7 (Aug. 26, 2013), attached hereto as **EXHIBIT L** (filed under seal). GAB staff also assisted in summarizing the documents obtained from the warrants and subpoenas served in December 2012, including whether supplemental warrants and subpoenas would be required and from whom. *Id.* at 2.

64. On August 21, 2013, the district attorneys for the coordinated John Doe proceeding sent a letter to Judge Kluka requesting the appointment of Schmitz as a special prosecutor for John Doe II across all counties. *See* Letter Seeking Appointment of Special Prosecutor, Aug. 21, 2013, attached hereto as **EXHIBIT M**. In the letter, the five district attorneys argued that appointment of a special prosecutor was warranted because, “by operation of § 978.05(1), the responsibility for the prosecution of the crimes alleged in the John Doe Petition is fractionated across the offices of five different Wisconsin prosecutors” yet the proceeding “is one overall undertaking and should be managed by one prosecutor with general authority in all five counties.” *Id.*

65. The district attorneys also referenced the Attorney General’s refusal to assist the criminal investigation. *Id.* In so doing, they specifically cited the GAB’s lack of authority to pursue charges of criminal conduct in a John Doe:

The Attorney General, however, does not address the fact that – to the extent this is a *criminal* investigation – the GAB is no substitute for statewide criminal justice authority. Plain and simple, the GAB lacks authority to criminally prosecute anyone.

Id. The district attorneys also recognized that continued involvement by the GAB implicates the procedures and requirements of the GAB’s Enabling Statute, which would undercut the secretive nature of the John Doe:

[M]indful that its investigation may compromise a related criminal inquiry by a prosecutor, the only rational course of action for the GAB (and the course actually taken here) is to involve – at the outset – the office of the affected prosecuting attorneys.

Id. Instead, the district attorneys represented that they needed a special prosecutor “empowered to investigate the possible crimes that are more fully described in the John Doe papers filed herein.” *Id.* Furthermore, the special prosecutor “should be authorized to determine if criminal

charges are appropriate and if he so determines should be given the authority to issue charges and proceed through to disposition with any such charges.” *Id.*

66. The letter requesting the appointment of a multi-county special prosecutor was an important step in the scheme for creating a multi-county Doe. But the GAB and members of the Milwaukee County District Attorney’s office recognized that none of the required justifications under § 978.045 for appointing a special prosecutor applied. A plan was hatched to use the letter to “prompt” Judge Kluka to appoint Schmitz as the special prosecutor “by her own motion”:

Paperwork appointing Fran Schmitz as the special prosecutor (SP). Discussion as to the law surrounding the appointment of a special prosecutor – 978.045. Judge Kluka, by her own motion can appoint the special prosecutor if one of the enumerated situations in the statute does not specifically apply. Landgraf indicated that he and Robles had drafted a letter to Judge Kluka – from the DA’s in all 5 counties – explaining the appointment process in the statute. This will hopefully prompt Judge Kluka to issue an order appointing Fran the SP. Discussion as to a roadmap for Fran to have the letter signed by the DA’s in Iowa, Dodge and Columbia counties. Hopefully occur the week of August 19.

TO DO: Landraf and Schmitz coordinate and schedule SP appointment letter signing in Iowa, Dodge and Columbia counties and get it to Judge Kluka as soon as possible.

Investigation Planning – Meeting Notes, Ex. F at 2.

67. The letter to Judge Kluka failed to disclose that Schmitz had already been hired and had begun acting as a special investigator for the GAB. On August 7, 2013, Schmitz signed a GAB Agreement for Special Investigator, which stated that he would “at the direction of the Government accountability Board’s Ethics & Accountability Division Administrator,” investigate violations of campaign finance laws and would be paid at a rate of \$130 per hour. *See* GAB Special Investigator Contracts, attached hereto as **EXHIBIT N** (filed under seal). The GAB also provided Schmitz office space from which to work.

68. Schmitz, acting as the GAB's agent, personally obtained the signatures of at least some of the five county prosecutors who signed the letter requesting Schmitz's appointment as special prosecutor. *See Investigation Planning – Meeting Notes, Ex. F at 2.* Accordingly, Schmitz and the GAB were aware that the letter failed to disclose that the GAB was already participating in the Doe and had already made plans to pay for the major costs of the Doe. This included the billings from Schmitz himself, as well as the costs of operating a sophisticated electronic archive of massive quantities of data seized or obtained in John Doe I and II.

69. On August 23, 27, and 29 of 2013, Judge Kluka issued orders appointing Francis D. Schmitz as the special prosecutor for each of the five counties in the coordinated John Doe II. *See Appointment Order, In the Matter of a John Doe Proceeding, Case Nos. 12JD000023, 13JD000001, 13JD000006, 13JD000009, 13JD000011 (Aug. 27, 2013), attached hereto as EXHIBIT O (filed under seal).* The Appointment Order provided that Schmitz was to be paid by the Department of Administration. *Id.* at ¶ 9.

70. The GAB would eventually hire four more special investigators – Patrick K. Malloy, Dean Nickel, Elizabeth Blackwood, and J. Douglas Haag – to work on John Doe II. *Id.* In addition, the GAB retained Digital Intelligence, a private company, to serve as the main depository and custodian of evidence obtained, including materials from John Doe I, the records obtained from the dozen-plus search warrants and subpoenas from December 2012, and any subsequent process issued in John Doe II. *See Action Items Update, Badger John Doe, Ex. K at 1.*

4. *John Doe II is Revealed: The Warrants and Subpoenas against Targets*

71. On September 30, 2013, Judge Kluka issued approximately thirty (30) subpoenas on the subjects of the John Doe proceeding, including Mr. O’Keefe and the Club. Judge Kluka also authorized at least five (5) search warrants.

72. The search warrants authorized by Judge Kluka were requested by Dean Nickel, one of the special investigators appointed by the GAB to pursue the criminal investigation. The GAB Board was told that special investigator Nickel signed the subpoenas because “District Attorney John Chisholm wants to protect the investigation and believes having someone outside of his office sign the affidavit is one way to achieve this.” *See* Wis. GAB, Closed Session Minutes, at 2 (Sept. 25, 2013), attached hereto as **EXHIBIT P** (filed under seal).

73. Despite the general applicability of Chisholm’s concern for protecting the investigation, the subpoenas were requested by Milwaukee investigator Robert Stelter, not GAB investigator Dean Nickel. The GAB had a different, overarching concern with respect to the subpoenas. It was explicit about avoiding any actions that would the trigger notice requirements under its Enabling Statute:

[REDACTED]

Investigation Planning – Meeting Notes, Ex. F at 5 (emphasis added).

74. The search warrants approved by Judge Kluka were executed on October 3, 2013 through pre-dawn raids by armed officers. The officers used floodlights to illuminate the subjects’ homes, restrained the occupants of the home, and seized business papers, phones, computer devices, and other devices. The same day, subpoenas were served on numerous individuals and entities, including Mr. O’Keefe and the Club. The subpoenas indicated that they

were covered by a secrecy order prohibiting the recipients from disclosing the contents and very existence of the subpoenas.

75. The search warrants and subpoenas extended to targets throughout Wisconsin. In addition to the subpoenas received by Mr. O’Keefe and the Club, it has since been publicly revealed that R.J. Johnson, Kate Doner, Wisconsin Manufacturers and Commerce, Friends of Scott Walker, and Governor Scott Walker were also subjects of search warrants or subpoenas. These identities were revealed during a Federal Civil Rights Action that challenged the constitutionality of Doe proceeding. *See O’Keefe, et al. v. Schmitz et al.*, Case No. 2:14-cv-00139 (E.D. Wis. Feb. 10, 2014). Many more warrants and subpoenas were planned for other targets throughout the country, including media figures such as Charlie Sykes and Sean Hannity. *See Investigation Planning – Meeting Notes, Ex. F at 7; see also Investigation Status Update – Meeting Notes, Ex. L at 8.*

76. The GAB played a substantial role in preparing and drafting the search warrants and subpoenas executed and served on October 3, 2013. According to GAB Board meeting minutes:



Wis. GAB, Closed Session Minutes, at 1 (Oct. 2, 2013), attached hereto as **EXHIBIT Q** (filed under seal).

77. Additional subpoenas for bank records were also served on October 21, 2013. *See Wis. GAB, Closed Session Minutes, at 7 (Oct. 22, 2013), attached hereto as EXHIBIT R* (filed under seal).

5. *The Order Quashing the John Doe II Subpoenas*

78. On October 25, 2013, Mr. O’Keefe, the Club, and four other recipients of subpoenas filed motions to quash the subpoenas directed against them. In addition, two subjects of the search warrants filed motions for return of the seized property. Special Prosecutor Schmitz opposed the motions, and the GAB staff assisted him in preparing the responses. *Id.* at 8.

79. Prior to a ruling on the motions to quash and motions for return of the seized property, Judge Kluka unexpectedly recused herself from the John Doe proceeding on October 29, 2013. Judge Kluka’s recusal prompted the Director of State Courts to assign Judge Gregory Peterson as the new presiding judge over the coordinated John Doe proceeding.

80. On January 10, 2014, Judge Peterson issued a decision and order quashing the subpoenas and ordering the return of the seized property. In his decision and order, Judge Peterson found that the subpoenas and warrants were improper because they were based on an invalid interpretation of the law. *See Decision and Order Granting Motions to Quash Subpoenas and Return of Property* (Jan. 10, 2014).

81. Special Prosecutor Schmitz thereafter filed a Petition for Supervisory Writ and Writ of Mandamus with the Court of Appeals on February 21, 2014 for each of the coordinated John Doe proceedings. Through the Petition, Special Prosecutor Schmitz seeks a reversal of Judge Peterson’s decision to quash the subpoenas and order the return of the seized property. Like Schmitz’s response to the motions to quash, the GAB and its staff were directly involved in drafting the Petition for Supervisory Writ. *See Wis. GAB, Closed Session Minutes*, at 4 (Jan. 14, 2014), attached hereto as **EXHIBIT S** (filed under seal).

82. Kevin Kennedy, the Director and General Counsel of the GAB, filed an affidavit in support of the Petition for Supervisory Writ and Writ of Mandamus. Consistent with his prior

efforts to obfuscate his role and the role of the GAB in John Doe II, Kennedy did not disclose his status and the status of GAB as admitted parties to John Doe II, nor did he disclose that the GAB had hired Schmitz to act on its behalf. Instead, Kennedy asked that the “Court consider the rights of the G.A.B., as a third party, and the rights of the public in general” in analyzing the petition. See Affidavit of Kevin J. Kennedy in Support of Supervisory Writ and Writ of Mandamus, attached hereto as **EXHIBIT T**.

83. After briefing in the Court of Appeals, Mr. O’Keefe, the Club, and other parties filed petitions to bypass in the Supreme Court of Wisconsin. As of the filing of this First Amended Complaint, those petitions have been fully briefed and remain pending.

IV. The GAB Has Exceeded its Statutory Authority by Using a John Doe Proceeding in Place of the Procedures Mandated by its Enabling Statute

84. By pursuing speculative criminal theories through a secret John Doe, the GAB has departed from the procedural mandates and limitations set forth in its Enabling Statute. Specifically, the GAB has exceeded its statutory authority by: (a) secretly participating in a criminal proceeding and exercising control and authority over the special prosecutor; (b) conducting a covert, unauthorized investigation for ten (10) months before voting to open an investigation; (c) continuing to participate in John Doe II and conduct its investigation after its referral to one or more district attorneys for criminal prosecution; (d) seeking and obtaining search warrants for John Doe targets without authorization from a circuit court; (e) inspecting, storing, and copying financial records without authorization from a circuit court; and (f) continuing an investigation after it was terminated by operation of law.

85. The GAB’s expenditure of agency resources and time for each of these actions constitutes an illegal expenditure.

A. John Doe II: A Criminal Proceeding Conducted by the GAB

86. The GAB's authority to act is expressly delegated through its Enabling Statute; the GAB is not authorized to act outside the authority granted in its Enabling Statute.

87. Under its Enabling Statute, the GAB is authorized to investigate a violation of the laws it administers if it receives a "complaint" from a person or entity (§ 5.05(2m)(c)4) or if a special investigator uncovers the information from a prior investigation and reports it to the GAB Board (§ 5.05(2m)(c)13). In either circumstance, the GAB's authority is limited to: (1) determining whether there is reasonable suspicion that a violation has occurred or is occurring; and (2) if reasonable suspicion exists, pursuing an investigation to determine if probable cause exists. *Id.* at § 5.05(2m)(c)4.

88. Although any investigation conducted by the GAB may reveal conduct amounting to a criminal violation of Wisconsin law, the GAB does not have the authority to prosecute the criminal violation itself. The GAB may only prosecute civil violations of the laws it administers. *Id.* at § 5.05(2m)(a) ("The board . . . may prosecute alleged civil violations of those laws Prosecution of alleged criminal violations investigated by the board may be brought only as provided in the [referral provisions of the Enabling Statute] and s. 978.05(1) [a Wisconsin District Attorney]."). The GAB simply has no authority to enter the realm of criminal enforcement.

89. By participating as it has in a John Doe proceeding, the GAB has crossed the line from investigation and civil enforcement into impermissible criminal enforcement. Not only have the GAB and the district attorneys unmistakably declared that they are pursuing the Doe targets for *criminal* violations of campaign finance laws, they are doing so by virtue of a John Doe proceeding – a "criminal proceeding" that culminates with either formal criminal charges

against the accused or dismissal of the John Doe petition. *See Unnamed Defendant*, 150 Wis. 2d at 366.

90. The GAB, through its agents Schmitz and Nickel, have confirmed the criminal nature of a John Doe proceeding. According to Schmitz and Nickel, John Doe proceedings are “akin” to a criminal prosecution because:

John Doe Proceedings are brought by the state in its sovereign capacity with the end result being a criminal prosecution. John Doe Proceedings are governed by Wisconsin’s criminal statutes, instituted by a prosecutor, overseen by a judge, involve criminal procedural due process protections, require probable cause findings, and expose individuals to criminal penalties.

Defendants-Appellants’ Joint Reply Brief on Appeal of Motions to Dismiss and Preliminary Injunction, *O’Keefe v. Chisholm*, No. 14-1822, at 44 (7th Circuit Sept. 8, 2014).

91. The GAB’s participation in the John Doe proceeding – a distinctly criminal proceeding – violates the Enabling Statute’s express prohibition against the GAB engaging in criminal enforcement of Wisconsin laws.

92. In addition to its participation in John Doe proceedings, the GAB has violated its Enabling Statute and Wis. Stat. § 978.05(1) by exercising authority and control over the John Doe Special Prosecutor. Since the time of his initial appointment as special prosecutor, Schmitz has been paid his \$130 hourly rate exclusively by the GAB. The GAB has paid for his work despite Schmitz’s clear role as a criminal prosecutor. *See Wis. Stat. § 978.045(1r)* (“An attorney appointed under this subsection shall have all the powers of the district attorney.”). Schmitz not only signed pleadings and papers as the special prosecutor, but performed tasks solely related to his role as the John Doe prosecutor. *See Investigation Status Update – Meeting Notes, Ex. L at 2* (researching district attorney powers and ability to empanel a grand jury); *Investigation Status*

have Mr. Schmitz work for the GAB and be paid as an investigator or have Mr. Schmitz essentially work free until the Special Prosecutor's fund had money to pay him for his work.

Id. As a special prosecutor paid by the GAB, Schmitz also enjoyed a much higher hourly rate than he could lawfully receive as special prosecutor. *See* Wis. Stat. § 978.045(2)(a) (“The court shall fix the amount of compensation for any attorney appointed as a special prosecutor under sub. (1r) according to the rates specified in s. 977.08(4m)(b) [i.e., \$50 per hour].”).

96. On information and belief, after the filing of this lawsuit in May of 2014, Francis Schmitz revised his billing invoices all the way back to October of 2013 to make his time entries appear more commensurate with a role as GAB special investigator and to discount time unmistakably spent as the special prosecutor. *See* Schmitz Invoices, attached hereto as **EXHIBIT X** (filed under seal). Nonetheless, the revised billing entries still reflect time paid by the GAB for Schmitz's handling of the John Doe as the special prosecutor. *See id.*

97. The GAB's payment for Special Prosecutor Schmitz's services as the special prosecutor also violates Judge Kluka's order requiring that Schmitz be paid by the Department of Administration. *See* Appointment Order, Ex. O at ¶ 9. On information and belief, Schmitz and the GAB never disclosed to the John Doe Judge that they never intended to follow this part of the order and in fact failed to follow it. Even if the GAB or Schmitz did disclose these facts to the John Doe judge, the parties refrained from documenting the payment arrangement in any court or official record.

98. The GAB's actions in participating in John Doe II, a criminal proceeding, and paying Francis Schmitz for his role as special prosecutor violate its Enabling Statute and, therefore, constitute illegal expenditures.

B. The Ten-Month Unauthorized Investigation

99. The GAB has been involved in this case since its receipt of a complaint by Milwaukee County District Attorney Chisholm on or before August 8, 2012. As a complainant to the GAB, District Attorney Chisholm informed the GAB of alleged violations of campaign finance laws by Mr. O’Keefe, the Club, and other conservative-leaning groups.

100. Despite the GAB’s authority to commence an investigation “[i]f the board believes that there is reasonable suspicion that a violation . . . has occurred or is occurring,” the GAB did not vote to authorize an investigation. *See* Wis. Stat. § 5.05(2m)(c)4; *see also* Wis. GAB, Closed Session Minutes, at 5-6 (May 21, 2014), attached hereto as attached hereto as **EXHIBIT Y** (filed under seal) (Jonathan Becker stating that Chisholm approached the GAB with “John Doe I” evidence that allegedly “indicated a major violation of campaign finance law” but that no “civil investigation” was opened). Instead, the GAB and its staff side-stepped the investigatory procedures in its Enabling Statute to join the John Doe II proceeding in Milwaukee County. The GAB was admitted to John Doe II and was given complete access to all materials covered by the Secrecy Order in John Doe II.

101. The GAB’s desire to avoid its procedural mandates is apparent. The standard for commencing a John Doe proceeding is essentially identical to the standard for commencing an investigation by the GAB. A John Doe proceeding may commence upon a showing that there is “reason to believe” that a violation of campaign finance law had occurred. Similarly, a GAB investigation may commence if the GAB believes there is “reasonable suspicion” that a violation has occurred. *See id.* at § 5.05(2m)(c)4 (“If the board believes that there is reasonable suspicion that a violation under subd. 2 has occurred or is occurring, the board may by resolution authorize the commencement of an investigation.”).

102. As a party to John Doe II, the GAB was able to conduct its affairs in complete secrecy, permitting the GAB to explore speculative criminal theories without any notice to the accused or any knowledge or oversight by the legislature or the public.

103. For ten months, the GAB participated in the John Doe II proceeding without opening an investigation as required by its Enabling Statute. During that time, the GAB committed substantial resources in furtherance of John Doe II, including helping with numerous search warrants for telephone records, bank records, and e-mail accounts. The GAB also analyzed substantial amounts of John Doe I materials, coordinated John Doe meetings and prepared detailed agendas for those meetings, drafted legal memorandums, and handled the hunt for a special prosecutor.

104. From August 8, 2012 until it voted to open its investigation on June 20, 2013, the GAB was engaged in an unauthorized investigation contrary to the mandates of its Enabling Statute. All resources used by the GAB in furtherance of John Doe II during this period of time constituted illegal expenditures of taxpayer funds.

105. Only after learning that Attorney General Van Hollen would not assist with John Doe II did the GAB vote on June 20, 2013 to commence an investigation under Wis. Stat. § 5.05(2m)(c)4. On information and belief, the GAB, working in concert with Milwaukee prosecutors, commenced the investigation for the purpose of expanding John Doe II to Dane, Columbia, Dodge, and Iowa Counties and facilitating its participation in those proceedings. Only six days after voting to open its investigation, on June 26, 2013, the GAB gathered the district attorneys at its offices in Madison, Wisconsin and referred the matter to them.

C. Post-Referral Involvement by the GAB

106. The GAB's referral to the district attorneys is a significant event under its Enabling Statute. The referral reflects the GAB's choice between either: (a) pursuing a civil enforcement action; or (b) referring the matter to a district attorney for criminal investigation and prosecution. *Id.* at § 5.05(2m)(c)11 (“[T]he board may, in lieu of civil prosecution of any matter by the board, refer the matter to the district attorney for the county in which the alleged violator resides.”). The GAB chose to refer the matter.

107. At the time of its referral, the GAB unquestionably believed that it had probable cause to believe that a violation of campaign finance laws had occurred. In fact, it had already participated in seeking and obtaining over a dozen search warrants and subpoenas in December of 2012 that were based on a finding of probable cause. *See Stelter Affidavit for Search Warrants and Subpoenas*, Ex. G at 3 (requesting warrants and subpoenas under Wis. Stat. §§ 968.135, 968.375, and 968.12, which require probable cause). Special prosecutor Schmitz even recognized that the affidavit used to obtain the process issued in December 2012 contained sufficient probable cause to justify further issuance of process. *Investigation Status Update – Notes*, Ex. U at 1 (“[REDACTED]”).

108. Similar to its investigation into William Gardner and WSOR, the GAB was unwilling to maintain the limited role defined by its Enabling Statute. It wanted to refer the matter and create a multi-county criminal proceeding (which it was improperly directing) and also wanted to maintain its ability to pursue a civil forfeiture. The GAB's strategy for dealing with the dilemma was simple: it would simply delay taking a formal vote to find probable cause until it could milk the John Doe to obtain evidence that satisfied the criminal standard of beyond a reasonable doubt:

[REDACTED]

See Closed Session Minutes (Dec. 17, 2013), Ex. W at 4 (emphasis added). This concern, aired on December 17, 2013, was well after Schmitz had been appointed as special prosecutor and shows that the existence of probable cause was a foregone conclusion to the GAB. See also Wis. GAB, Closed Session Minutes, at 2 (Jan. 6, 2014), attached hereto as **EXHIBIT Z** (filed under seal) (discussion between a GAB Board member and Schmitz about whether [REDACTED] and Schmitz’s determination to [REDACTED] [REDACTED]). The GAB wanted to finish the criminal proceeding before focusing on civil enforcement. *Id.* at 2 (“[REDACTED] [REDACTED]”).

109. After the GAB referred the matter to the district attorneys, the GAB was required by its Enabling Statute to forego any further involvement in the matter. See Wis. Stat. § 5.05(2m)(c)11 (the referred proceedings were to be held “in lieu of civil prosecution of any matter by the board[.]”). Indeed, the district attorneys even conveyed to Judge Kluka that the GAB would no longer be playing a role within John Doe II. See Exhibit M (further involvement by the GAB “may compromise a related criminal inquiry by a prosecutor.”).

110. Yet, since the time of its referral, the GAB has continued to play a prominent role in John Doe II. In September of 2013, for instance, GAB special investigator Nickel sought multiple search warrants in John Doe II on behalf of the GAB. Furthermore, the GAB continues

to employ Mr. Schmitz as a special prosecutor-investigator, providing him an office and paying him to pursue John Doe II on behalf of the GAB. The GAB itself also continues to be a party to John Doe II and it continues to expend resources on the investigation.

111. The GAB's continued involvement in John Doe II – or in any proceeding regarding the matters it referred to the district attorneys – is prohibited by its Enabling Statute and constitutes actions outside the scope of its statutory authority.

D. Unauthorized Requests for Search Warrants

112. The search warrants executed through pre-dawn raids on October 3, 2013 were requested and obtained by GAB special investigator Dean Nickel on behalf of the GAB.

113. The GAB does not have independent authority to issue a search warrant, but its Enabling Statute permits it to request one under certain circumstances. Wis. Stat. § 5.05(2m)(c)4 states:

A special investigator who is retained by the board may request the board . . . to authorize the special investigator to request a circuit court to issue a search warrant. The board may grant the request by approving a motion to that effect at a meeting of the board if the board finds that such action is legally appropriate.

114. By requesting a search warrant in a John Doe proceeding, the GAB violated the procedures of its Enabling Statute. Although the GAB Board authorized special investigator Nickel to request the search warrants, the Enabling Statute requires the search warrant to be issued by a *circuit court*. *See id.* Because a John Doe proceeding is not conducted by a circuit court, the GAB cannot lawfully obtain a search warrant through a John Doe proceeding. *See In re John Doe Proceeding*, 260 Wis. 2d 653, 669 (2003) (“[A] John Doe proceeding is commenced by a judge, who acts as the tribunal. Therefore, an order issued by a judge in a John Doe proceeding is not a judgment or order of a circuit court. [A]n order issued by a John Doe Judge is not an order of a ‘circuit court’ or a ‘court of record.’” (internal citations omitted)).

115. The search warrants requested by the GAB were obtained in violation of its Enabling Statute.

E. Illegal Inspection of Bank Records

116. In December of 2012, over a dozen search warrants and subpoenas were sent throughout the country, including to financial institutions. Additional subpoenas for bank records were also served on October 21, 2013. These subpoenas and search warrants yielded large volumes of bank records, which the GAB inspected and summarized. *See* Action Items Update, Ex. K at 2; *see also* Investigation Planning – Meeting Notes, Ex. F at 4; Investigation Status Update – Meeting Notes, Ex. L at 7.

117. The GAB’s inspection of these financial records violated its Enabling Statute, which requires that any inspection or copying of financial accounts be authorized by order of a circuit court upon a showing of probable cause. *See* Wis. Stat. § 5.05(1)(b) (“A circuit court may by order permit the inspection and copying of the accounts and the depositor’s and loan records at any financial institution, as defined in s. 705.01(3) . . . upon a showing by the board of probable cause[.]”).

118. Although the GAB believed it had probable cause at the time of its inspection, it had not obtained an order of a circuit court authorizing it to obtain the records or inspect them. *See In re John Doe Proceeding*, 260 Wis. 2d at 669 (“[A]n order issued by a John Doe Judge is not an order of a ‘circuit court’ or a ‘court of record.’”). Accordingly, the GAB’s inspection of financial records was in violation of its Enabling Statute.

F. Continued Activity after Termination of its Investigation

119. In addition to the above-described violations of its Enabling Statute, the GAB is violating its Enabling Statute by continuing to pursue John Doe II and its investigation long after it was terminated by operation of law.

120. Under Wis. Stat. § 5.05(2m)(c)5, the GAB Board must meet “at least once every 90 days” to review the progress of the investigation. During its meeting, the GAB Board must affirmatively vote to re-authorize the investigation or it is deemed closed by operation of statute. *Id.* (“If, after receiving a report, the board does not vote to continue an investigation for an additional period not exceeding 90 days, the investigation is terminated at the end of the reporting interval.”).

121. The GAB voted to authorize an investigation on June 20, 2013, but the GAB Board failed to vote to re-authorize the investigation until September 25, 2013, ninety-seven (97) days after the investigation commenced. Accordingly, the investigation was deemed closed by operation of the statute. *Id.* In May of 2014, this failure was researched and discussed at length by Judge [REDACTED] and supported by Judge [REDACTED]. *See* Closed Session Minutes (May 21, 2014), Ex. Y at 4-5. Judge [REDACTED] concluded that the investigation had closed as of September 18, 2013, but GAB staff attempted to challenge this position. *See id.*

122. For the next ten months, the GAB continued its investigation – including its participation in John Doe II – based on informal votes about certain activity to be conducted by GAB staff. On July 21, 2014, the GAB conducted a formal vote on whether to re-authorize the investigation. The motion to re-authorize the investigation failed by a [REDACTED] vote. *See* Wis. GAB, Closed Session Minutes, at 3-4 (July 21, 2014), attached hereto as **EXHIBIT AA** (filed under

126. The GAB's Enabling Statute specifies the process the GAB is required to follow in investigating alleged violations of campaign finance laws. The Enabling Statute obligates the GAB to follow various procedural safeguards designed to protect the subjects of the investigation and minimize the likelihood of arbitrary enforcement. These safeguards include notice and disclosure requirements, as well as mandatory voting, reporting, and appointment requirements. *See* Wis. Stat. §§ 5.05(1), 5.05(2m)(c)4-10.

127. Despite having received a complaint by District Attorney Chisholm and directly engaging in an investigation into Mr. O'Keefe and the Club (including at times without authorization), the GAB has failed to satisfy the procedural mandates of its Enabling Statute.

128. The GAB failed to give Mr. O'Keefe and the Club notice of its investigation and the requested subpoenas despite playing a substantial role in John Doe II. On information and belief, the GAB was involved in requesting and obtaining the subpoenas issued in December of 2012.

129. Under Wis. Stat. § 5.05(1)(b), the GAB may subpoena documents and papers only "after providing notice to any party who is the subject of an investigation[.]" As subjects of the GAB's investigation, as well as John Doe II, Mr. O'Keefe and the Club were entitled to receive notice of the investigation and the requested subpoenas. The GAB's failure to provide that notice violated its Enabling Statute. The GAB further violated its Enabling Statute on October 21, 2013, when it requested and obtained additional subpoenas, yet once again failed to notify Mr. O'Keefe and the Club about the subpoenas. To date, the only "notice" Mr. O'Keefe and the Club have received relating to the GAB investigation is when they were *served* subpoenas on October 3, 2013. They did not even receive notice of the requests for the October 3, 2013 subpoenas that were to be directed at them.

130. The GAB also failed to give Mr. O’Keefe and the Club immediate written notice upon the termination of the investigation. Under the Enabling Statute, the GAB is explicitly required to notify the accused upon the termination of the investigation, including if by operation of statute for failure to re-authorize every 90 days. *See* Wis. Stat. § 5.05(2m)(c)9 (“Whenever the board dismisses a complaint or a complaint is deemed to be dismissed under subd. 5., the board shall immediately send written notice of the dismissal to the accused and to the party who made the complaint.”). The GAB did not send Mr. O’Keefe and the Club written notice of the dismissal on September 18, 2014 (when it failed to re-authorize the investigation in 90 days), nor did it send written notice on July 21, 2014 (when an after-the-fact vote to continue the investigation failed).

131. The GAB further violated its Enabling Statute by failing to provide Mr. O’Keefe or the Club exculpatory evidence in its possession. This duty arose after the GAB had referred the matter to five district attorneys, an act it took after obtaining access to evidence that, in its view, amounted to probable cause. *See* Wis. Stat. § 5.05(2m)(c)10.

132. The GAB has expressly refused to provide documents to which Mr. O’Keefe or the Club are entitled, despite a formal request for documents under Wis. Stat. §§ 5.05(1)-(2m) and a formal request under the Wisconsin Public Records Law, Wis. Stat. §§ 19.31-19.39, for documents explicitly open to public inspection and copying under Wis. Stat. § 5.05(5s)(e)2. *See* Public Records Requests and GAB Denial, attached hereto as **EXHIBIT DD**.

133. The GAB’s participation in John Doe II – which itself is in excess of the GAB’s statutory authority – does not and cannot override the express procedural mandates of its Enabling Statute. Nor can the GAB seek admission to a John Doe proceeding and its

accompanying secrecy order in order to avoid giving notice to the subject of its investigation and circumvent its disclosure requirements.

134. As shown by the GAB's prior conduct in John Doe I, however, this is not the first time the GAB has utilized a John Doe proceeding in an attempt to avoid its obligations and responsibilities to conduct investigations in accordance with the investigative procedure clearly delineated in its Enabling Statute. Not only did the GAB improperly refer its investigation into Mr. Gardner and WSOR to the wrong district attorney (who incidentally had initiated a John Doe proceeding), the GAB then continued to pursue civil prosecution against WSOR despite the express prohibition in Wis. Stat. § 5.05(2m)(c)11.

135. By failing to follow the statutory safeguards and obligations in its Enabling Statutes, the GAB has deprived Mr. O'Keefe and the Club of their statutory rights.

Count I

Declaratory Judgment – Taxpayer Suit for Illegal Expenditures by the GAB

136. Mr. O'Keefe and the Club incorporate by reference the allegations in all paragraphs of this First Amended Complaint as though fully set forth in this paragraph.

137. Mr. O'Keefe and the Club bring this claim on their behalf and on behalf of all taxpayers in Wisconsin.

138. The GAB's Enabling Statute authorizes the GAB to administer campaign finance laws in the State of Wisconsin, including both the power to issue regulations and the power to investigate potential violations of the laws it administers. However, the GAB must execute its powers in accordance with the procedural mandates and obligations provided by its Enabling Statute. The GAB has no authority to act outside of the statutory authority provided by its Enabling Statute.

139. In this case, the GAB has failed and continues to fail to stay within the confines of its statutory authority by, among other actions: (a) secretly participating in a criminal proceeding and exercising control and authority over the special prosecutor; (b) conducting a covert, unauthorized investigation for ten (10) months before voting to open an investigation; (c) continuing to participate in John Doe II and conduct its investigation after its referral to one or more district attorneys for criminal prosecution; (d) seeking and obtaining search warrants for John Doe targets without authorization from a circuit court; (e) inspecting, storing, and copying financial records without authorization from a circuit court; and (f) continuing an investigation after it was terminated by operation of law.

140. The GAB cannot seek to expand its statutory authority by utilizing the John Doe procedure in place of the procedural mandates and safeguards provided by its Enabling Statute. Nonetheless, that is exactly what the GAB has accomplished in this case. Under the veil of the John Doe proceeding and the Secrecy Order that comes with it, the GAB joined John Doe II in September of 2012 prior to the commencement of a GAB investigation, and the GAB has continued to play a prominent role in John Doe II ever since.

141. Despite its desire to maintain control and expand its reach, the GAB cannot unilaterally expand its statutory authority to allow it to continue participating in the John Doe proceeding against Mr. O’Keefe, the Club, and other conservative-leaning groups.

142. Nor can the GAB seek to expand its statutory authority by arbitrarily refusing to make necessary findings and determinations, all the while participating in a years-long John Doe proceeding to no end. *See* Wis. Stat. § 5.05(2m)(c)5 (establishing a 90-day period in which the GAB must review the investigation and setting forth the requirements to continue the investigation for another 90-day period).

143. As shown by the role assumed by the GAB in the proceedings against Mr. Gardner and WSOR, the GAB has shown a propensity to utilize John Doe proceedings in an attempt to exceed its statutory authority. The fact that the GAB desires the extra power conferred to district attorneys in a John Doe proceeding does not permit it to exceed its well-defined powers under its Enabling Statute.

144. Because the GAB's actions were outside of its statutory authority, the time and money expended by the GAB constitutes an illegal expenditure of state resources. The illegal expenditures by the GAB not only include the money it pays directly to special prosecutor Francis Schmitz (to pursue John Doe II) and its four special investigators (to support the pursuit), but also every hour of time spent by its staff and other agents of the GAB in its continued pursuit against Mr. O'Keefe, the Club, and other conservative-leaning groups through John Doe II, including its unauthorized search warrants and illegal inspection of financial records.

145. Many of these same conclusions were reached by one of the six members of the GAB Board. *See* Memorandum regarding Investigation Case # 2013-02 and Investigation Procedures, Ex. BB.

146. The issue of whether the GAB is acting outside of its statutory authority, and thus making illegal expenditures, constitutes an actual, real, substantial, and presently existing controversy that may be resolved by specific relief.

147. Mr. O'Keefe and the Club seek, on behalf of themselves and all taxpayers in the State of Wisconsin, a declaratory judgment under Wis. Stat. § 806.04 declaring that the GAB has made and continues to make illegal expenditures associated with its participation in John Doe II.

148. Mr. O'Keefe and the Club also seek, on behalf of themselves and all taxpayers in the State of Wisconsin, equitable relief to enjoin the GAB from continued involvement in the

John Doe II and any other participation in John Doe proceedings in lieu of the statutory procedures required by its Enabling Statute.

Count II

Declaratory Judgment – The Statutory Rights of Mr. O’Keefe and the Club

149. Mr. O’Keefe and the Club incorporate by reference the allegations in all paragraphs of this First Amended Complaint as though fully set forth in this paragraph.

150. Not only has the GAB exceeded its statutory authority by pursuing a criminal investigation in a secret John Doe proceeding, the GAB has utilized the John Doe proceeding to avoid adhering to its obligations and duties set forth in its Enabling Statute.

151. Despite opening an investigation into Mr. O’Keefe and the Club, issuing process through the John Doe proceeding, referring the matter to district attorneys in lieu of civil enforcement, and terminating the investigation, the GAB has failed to fulfill its notice and disclosure requirements.

152. The GAB’s refusal to comply with the procedural mandates of its Enabling Statute has deprived Mr. O’Keefe and the Club of their statutory rights. In addition, the GAB’s use of John Doe II in lieu of its statutory procedures deprives Mr. O’Keefe and the Club of the procedural safeguards set forth in the Enabling Statute. *See* Wis. Stat. § 5.05(2m)(c)11 (referral to a district attorney must be “in lieu of civil prosecution of any matter by the board.”).

153. The issue of whether the GAB has deprived Mr. O’Keefe and the Club of their statutory rights and the procedural safeguards of the GAB’s enabling statute is an actual, real, substantial, and presently existing controversy that may be resolved by specific relief.

154. Mr. O’Keefe and the Club seek a declaratory judgment under Wis. Stat. § 806.04 declaring that the GAB has deprived Mr. O’Keefe and the Club of their statutory rights and the

procedural safeguards of the GAB's enabling statute. Mr. O'Keefe and the Club also seek equitable relief to enjoin the GAB from continuing to avoid its duties and obligations by participating in the John Doe proceeding.

Count III

Open Records Law – Mandamus

155. Mr. O'Keefe and the Club incorporate by reference the allegations in all paragraphs of this First Amended Complaint as though fully set forth in this paragraph.

156. Mr. O'Keefe and the Club bring this claim under Wis. Stat. § 19.37(1)(a) for mandamus to compel the release of public records.

157. On May 1, 2014, Mr. O'Keefe and the Club sent the GAB an informal request for documents and materials that pertained to them, including two categories of documents that Mr. O'Keefe and the Club were entitled to receive pursuant to the GAB's enabling statute: any subpoenas or notice of subpoenas sought, issued, or obtained by the GAB and any exculpatory evidence in the possession of the GAB. Three days later, on May 4, 2014, Mr. O'Keefe and the Club formally requested eight categories of documents under the Wisconsin Public Records Law, Wis. Stat. § 19.31-19.39. *See* Public Records Requests and GAB Denial, Ex. DD.

158. In a letter dated May 7, 2014, the GAB denied the public records requests in full. Mr. O'Keefe and the Club responded by letter on May 8, 2014, challenging three of those denials based on the evidence available at that time: (a) that the GAB "has no investigation records responsive to" the request seeking documents relating to a referral by the GAB; (b) that the GAB had no record of subpoenas or notices of subpoenas responsive to the request seeking notice of all subpoenas sought, issued, or obtained by the GAB; and (c) that it was not required to give Mr.

O’Keefe and the Club exculpatory evidence in its possession because a finding of probable cause had not occurred. *See id.*

159. The GAB’s denial of the above-described requests was improper under the Public Records Law, Wis. Stat. § 19.31-19.39. A writ of mandamus is appropriate to compel the production of these records as requested.

160. Mr. O’Keefe and the Club seek a writ of mandamus compelling the production of the above-described records. Mr. O’Keefe and the Club further seek an award of reasonable attorneys’ fees, damages of not less than \$100, and other actual costs incurred.

161. The GAB’s denial of the public records requests was arbitrary and capricious in that the GAB denied the request in order to conceal the extent of its involvement in John Doe II and its continued activities after it referred the matter to one or more district attorneys. Accordingly, an award of punitive damages is appropriate under Wis. Stat. § 19.37(3).

Prayer for Relief

WHEREFORE, Mr. O’Keefe and the Club pray for and request relief against the Government Accountability Board in the form of:

- A. A declaratory judgment declaring that the GAB has made and continues to make illegal expenditures associated with its participation in John Doe II;
- B. A declaratory judgment declaring that the GAB has made and continues to make illegal expenditures associated with its continued activity after termination of the investigation, its improper requests for search warrants, and its unlawful inspection of financial records;

C. A declaratory judgment declaring that the GAB has deprived Mr. O’Keefe and the Club of their statutory rights and the procedural safeguards of the GAB’s enabling statute;

D. Equitable relief to enjoin the GAB from continued involvement in John Doe II and any future John Doe proceedings;

E. Equitable relief to enjoin the GAB to follow the procedures mandated in its Enabling Statute, including, but not limited to: (a) having an affirmative vote by at least four members of the GAB Board approving an investigation before its staff may conduct any activity relating to an investigation; (b) following the notice and disclosure requirements as to Mr. O’Keefe and the Club; (c) acting solely as a third party and not conducting research and drafting legal documents on behalf of other litigants; (d) from continuing to avoid its duties and obligations by participating in the John Doe proceeding; and

F. Mandamus relief ordering the GAB mandamus compelling the GAG to produce records requested by Mr. O’Keefe and the Club, including an order awarding damages, costs, attorneys’ fees, and punitive damages.

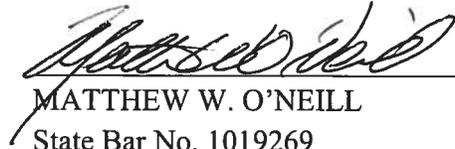
Demand for Jury Trial

Mr. O’Keefe and the Club demand a trial by jury on all claims or issues so triable.

Dated: December 19, 2014

Respectfully submitted,

FOX, O'NEILL & SHANNON, S.C.



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Index of Exhibits

Exhibit	Title	Status
Exhibit A	Government Accountability Board, G.A.B. and Milwaukee County District Attorney Announce Resolution of Significant Campaign Finance Investigation (Apr. 11, 2011)	Public
Exhibit B	Criminal Complaint against William Gardner, Circuit Court of Washington County, Wisconsin (April 11, 2011)	Public
Exhibit C	Petition for Commencement of a John Doe Proceeding, Case No. 12JD000023 (Milwaukee Cnty, Wis. Aug. 10, 2012)	Public
Exhibit D	Memorandum for Dec. 18, 2012 Board Meeting	Under Seal
Exhibit E	Meeting Notes, Badger John Doe (July 2, 2013)	Under Seal
Exhibit F	Investigation Planning – Meeting Notes, GAB Office (Aug. 15, 2013)	Under Seal
Exhibit G	Robert Stelter, Affidavit in Support of a Request for Search Warrants and Subpoenas (Dec. 10, 2012)	Under Seal
Exhibit H	Letter from Attorney General J.B. Van Hollen to District Attorney John T. Chisholm, May 31, 2013	Public
Exhibit I	Wis. GAB, Closed Session Minutes (June 20, 2013)	Under Seal
Exhibit J	Declaration of Francis Schmitz, <i>O'Keefe v. Schmitz</i> , Case No. 14-cv-00139 (E.D. Wis. Apr. 15, 2014)	Public
Exhibit K	Actions Items Update, Badger John Doe (July 24, 2013)	Under Seal
Exhibit L	Investigation Status Update – Meeting Notes (Aug. 26, 2013)	Under Seal
Exhibit M	Letter Seeking Appointment of Special Prosecutor, Aug. 21, 2013	Public
Exhibit N	GAB Special Investigator Contracts	Under Seal
Exhibit O	Appointment Order, <i>In the Matter of a John Doe Proceeding</i> , Case Nos. 12JD000023, 13JD000001, 13JD000006, 13JD000009, 13JD000011 (Aug. 27, 2013)	Under Seal
Exhibit P	Wis. GAB, Closed Session Minutes (Sept. 25, 2013)	Under Seal
Exhibit Q	Wis. GAB, Closed Session Minutes (Oct. 2, 2013)	Under Seal
Exhibit R	Wis. GAB, Closed Session Minutes (Oct. 22, 2013)	Under Seal
Exhibit S	Wis. GAB, Closed Session Minutes (Jan. 14, 2014)	Under Seal
Exhibit T	Affidavit of Kevin J. Kennedy in Support of Supervisory Writ and Writ of Mandamus	Public
Exhibit U	Investigation Status Update – Notes (Sept. 9, 2013)	Under Seal
Exhibit V	Legislative Fiscal Bureau, Funding for Special Prosecutors Under s.	Public

	978.045	
Exhibit W	Wis. GAB, Closed Session Minutes (Dec. 17, 2013)	Under Seal
Exhibit X	Schmitz Invoices	Under Seal
Exhibit Y	Wis. GAB, Closed Session Minutes (May 21, 2014)	Under Seal
Exhibit Z	Wis. GAB, Closed Session Minutes (Jan. 6, 2014)	Under Seal
Exhibit AA	Wis. GAB, Closed Session Minutes (July 21, 2014)	Under Seal
Exhibit BB	Memorandum regarding Investigation Case # 2013-02 and Investigation Procedures (May 21-22, 2014)	Under Seal
Exhibit CC	Wis. GAB, Closed Session Minutes (March 19, 2014)	Under Seal
Exhibit DD	Public Records Requests and GAB Denial	Public