

**CIRCUIT COURT
CRIMINAL DIVISION**

STATE OF WISCONSIN **WASHINGTON COUNTY**

STATE OF WISCONSIN **CRIMINAL COMPLAINT**

Plaintiff,

vs. DA Case No.: _____

Gardner, William E. **Complaining Witness:**
218 Third Street, Apt. 323 Dean Nickel
Hartford, WI 53027-1574
DOB: 11/18/1947 **Court Case No.:**

Defendant,

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN, ON INFORMATION AND BELIEF STATES THAT:

COUNT 1: EXCESSIVE POLITICAL CONTRIBUTIONS – PARTY TO A CRIME

The above-named defendant, between about November 1, 2009 and April 30, 2010, at 5300 North 33rd Street, Milwaukee, did, as party to a crime, make contributions to a candidate for election to the Office of Governor, to wit: Scott Walker, exceeding \$10,000 during the campaign period, by an amount greater than \$100, contrary to Wis. Stats. §§11.26(1), 11.61(1)(b) and 939.05.

COUNT 2: UNLAWFUL POLITICAL CONTRIBUTIONS – PARTY TO A CRIME

The above-named defendant, between about November 1, 2009 and April 30, 2010, at 5300 North 33rd Street, Milwaukee, did, as party to a crime, furnish funds to other persons for the purpose of making contributions in other persons' names, contrary to Wis. Stats. §§11.24(1), 11.61(1)(a) and 939.05.

AS TO COUNTS 1 & 2:

Upon conviction of these offenses, Class I felonies, as to each Count, the defendant may be fined not more than \$10,000, or imprisoned not more than 3.5 years or both.

Introduction / Origination of Investigation

Complainant states that he is a retired certified law enforcement officer working under contract as an investigator with the Government Accountability Board (GAB). I have over 30 years of law enforcement experience in the State of Wisconsin. I was employed from May 1976 until March 1980 with the City of Brodhead (Wisconsin) Police Department. I was employed for over 26 years (1980-2006) with the Wisconsin Department of Justice, Division of Criminal Investigation (DCI). During that time period, I investigated and supervised investigation in numerous financial crimes, including money laundering, embezzlement, price fixing and other forms of financial misconduct. From 2001 until 2006, I supervised the Financial Crimes and Public Integrity Units of DCI. I have received training in financial crimes investigation from the Drug Enforcement Administration, International Association of Financial Crime Investigators and the U.S. Treasury Department.

Based upon my work in this investigation, I know that William Gardner, the defendant, is the owner of the Wisconsin and Southern Railroad (hereinafter referred to as "the Railroad" or "WSOR"). Having obtained a Search Warrant for computer and other digital information at the corporate headquarters and having gathered that information with the consent and cooperation of the Railroad, I know the Railroad is headquartered in Milwaukee, Wisconsin. The corporate offices are located at 5300 North 33rd Street, Milwaukee, Wisconsin. Financial operations for the corporation are conducted from that address.

This investigation was formally initiated on May 10, 2010 by the Government Accountability Board. It was based upon a complaint by a former woman friend of William Gardner. Described in greater detail below, on April 19, 2010, the former friend contacted Attorney Michael Haas of the Government Accountability Board. She said an unnamed individual was supporting a candidate who was "for" the individual's business, and that he (the unnamed man) had asked her (the friend) to make a contribution to the candidate using the unnamed man's funds. She is not identified by name in this complaint at her request.

Although the friend did not identify William Gardner by name, based upon information that she did share, Attorney Haas was able to identify the person as William Gardner and the business as the Wisconsin & Southern Railroad.

Jurisdiction & Venue

William Gardner is a resident of Hartford, Wisconsin having an address of 218 Third Street, Apt. 323. By operation of law, notwithstanding the fact that all transactional events took place in the City and County of Milwaukee, the County of Washington is the proper jurisdiction and venue for the prosecution of these crimes. See Wis. Stats. §§11.61(2) and 971.19(12).

On May 18, 2010, William Gardner, through his attorneys, contacted the Government Accountability Board. Gardner thereafter provided information in the form of Exhibit A. His disclosure reflects a continuing pattern of railroad employees (and his daughter Stephanie Schladweller) who were reimbursed – with either Gardner's personal funds or the funds of the Wisconsin and Southern Railroad – for contributions made to political candidates.

In May 2010, the Government Accountability Board consulted with Milwaukee County Assistant District Attorney Bruce J. Landgraf, whose office had the responsibility to investigate the corporation inasmuch as Railroad is headquartered in Milwaukee County. Subsequently, Assistant District Attorney Landgraf, as the designee of Milwaukee County District Attorney John Chisholm, was appointed to serve as a Special Prosecutor for Washington County, thereby allowing him to handle issues involving both jurisdictions.

This investigation was thereafter conducted under the auspices of an ongoing Milwaukee County John Doe investigation, Milwaukee County Case No. 10JD000007. The Honorable Neal Netteshelm presides over this John Doe proceeding. The John Doe is subject to a Secrecy Order. To the extent that the John Doe investigation relates to William Gardner and the Wisconsin and Southern Railroad, Judge Netteshelm has authorized the release of information necessary for the prosecution of William Gardner, the Railroad and all railroad employees.

At all relevant times for purposes of this complaint, I know that Scott Walker was a candidate for the Office of Governor. Having received the nomination of his party, Mr. Walker was elected Governor in November 2010.

Summary of the Investigation

As developed during the course of this investigation, William Gardner and the Wisconsin and Southern Railroad have cultivated an ongoing relationship with the State of Wisconsin, local governments and their policy makers. Based upon testimony and documentary evidence gathered in this John Doe investigation, I know that the Railroad receives millions of dollars in grants and loans from the State of Wisconsin. Indeed, the corporate chief financial officer described this revenue source as "essential" to the operation of the Railroad. To this end, the Railroad employs Ken Lucht to function as a government liaison. For example, according to his 2009 job description, he spent more than 75% of his time on tasks involving contact with government agencies, especially the State government. Specifically, 25% of his job was described as "Lobby our state and federal lawmakers for railroad-

friendly legislation," and "Lobby our state and federal lawmakers for increased funding for track & structure upgrades."

On or about November 15, 2005, GAB records reflect that Mr. Gardner paid a \$1,000 forfeiture to the State of Wisconsin Ethics Board for a violation of campaign finance laws. He made a \$5,000 contribution in July of 2005 during a period while he was acting as a lobbyist. At the time of the contribution, Gardner, as a registered lobbyist, was prohibited from making such a contribution. Gardner was reimbursed by the Friends of Scott Walker for this contribution on November 17, 2005. See Exhibit A. As reflected on Exhibit A (provided to the investigation by William Gardner), Gardner "donated back" the same amount to the Friends of Scott Walker through his daughter, Stephanie Schladweiler, on the same day, November 17, 2005.

On November 19, 2009, during the recent election cycle, Gardner made a \$5,000 contribution to the Friends of Scott Walker. A Subpoena for Documents was issued for the Wells Fargo Bank account of William Gardner and bank records indicate that Check No. 4007 was issued to, and negotiated by, the Friends of Scott Walker (also referred to hereinafter as "FOSW"). See Figure 1.

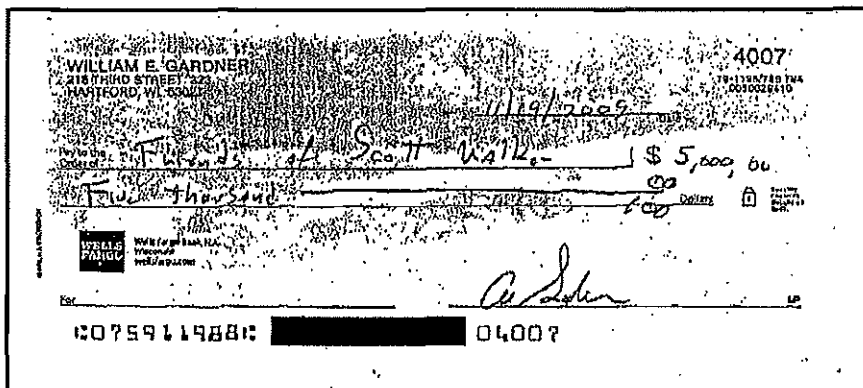


Figure 1

On November 19, 2009, e-mails exchanged by FOSW staffers Luke Fuller and Joe Fadness reflect that: "I (Fuller) just spoke with Bill Gardner, he said he is going to mail a check for \$5,000 today. He would like Scott to give him a call also. His cell is . . ." (414) 750-XXXX.

On or about November 20, 2009, based upon my review of WSOR documents provided to the investigation by William Gardner, Gardner submitted an expense statement to the Railroad that included an expense for "Friends of Scott Walker" "Contribution for Governor" in the amount of \$5,000. Gardner's Wells Fargo Bank records reflect that a WSOR corporate expense check in an amount matching the November 20, 2009 expense statement was deposited into his account on November 23, 2009.

In November 2009, Gardner also wrote checks to Representative Mike Sheridan and the Assembly Democratic Campaign Committee in amounts of \$2,000 each. A State Assemblyperson is limited by law to a maximum donation of \$500 per election cycle. Mr. Gardner ultimately issued checks in the amount of \$500 to Representative Sheridan and \$3,500 to the ADCC. This gives rise to the fair inference that Mr. Gardner was informed as to the law of campaign contribution limits. Indeed, in his testimony before John Doe Judge Neal Nettesheim, lobbyist Ken Lucht testified that he did research and "very well could have" created a document that digested the limits that could be contributed to a candidate in the races for Governor, Assembly and Senate. The document (see Figure 2 below) was recovered as part of the Search Warrant executed on June 24, 2010 at the Railroad for digital evidence

Campaign Finance Rules	
For anyone giving money to candidate:	
Gubernatorial Race	\$10,000 aggregate limit Per Election Cycle
Assembly Race	\$500.00 aggregate limit per election cycle
Senate Race	\$1,000 aggregate limit per election cycle.

Figure 2

in the form of e-mails and network files. The "meta-data" for the Microsoft WORD file shown in Figure 2 lists Lucht as the "Author" of the document. The document specifically identifies \$10,000 as the maximum sum which could be contributed to a gubernatorial candidate in an election cycle. Concerning this document, Lucht testified as follows:

- Q. My first question would be, what were the circumstances as best you recall that led to the research that's represented by this document?
- A. Bill Gardner had asked some questions. He asked me questions about how much he could contribute towards a candidate or candidates. I did not have the answers that he was looking for, so I did some research.

Lucht further testified that he shared his research with Gardner. The "Last Modified" date of this document was January 28, 2010, as reflected in the "meta-data" for the WORD file.

On December 10, 2009, FOSW staffer Joe Fadness wrote to William Gardner in an e-mail, "This is confirmation of your breakfast meeting with County Executive Scott Walker on Monday, December 21."

On December 14, 2009, Railroad employee Steven Beske donated to the Friends of Scott Walker. In his John Doe testimony, Steven Beske stated that he is the Superintendent of Transportation for the Railroad. Beske testified that he contributed \$5,000 to the Friends of Scott Walker "because Bill Gardner asked me (Beske) to." Beske was asked the following question and gave the answer set forth below:

Q. Okay. And tell me what you recall about that conversation that you had with Mr. Gardner.

A. It was very brief. Just could you write out a check for \$5,000 to the Scott Walker campaign. I'll get you the exact name to put on the check and I'll get you an address of where to send it. And then fill out an expense form for reimbursement and give that to Gibby. And then don't send in your check until you get the check from WSOR, so your account isn't overdrawn or you're having problems of that nature.

"Gibby" is identified as Gilbert Loberg. He works in the Accounting Division of the Railroad and he processes expense reimbursement requests. Beske testified that he wrote out a contribution check payable to the Friends of Scott Walker dated December 14, 2009. The John Doe Judge issued a Subpoena Duces Tecum for the bank records of Mr. Beske at Chase Bank. Those records confirm the deposit of a Railroad check in the amount of \$5,000, posted on December 17, 2009. Further these bank records indicate that on December 18, 2009, Chase Bank processed a check payable to, and endorsed by, the Friends of Scott Walker in the amount of \$5,000.

On December 14, 2009, the same day that Mr. Beske wrote out his contribution check, Gardner's former friend made out a check payable to the Friends of Scott Walker in the amount of \$10,000. She has told GAB attorneys and investigators that William Gardner directed her to do this. She further stated that she received a personal check from William Gardner in the amount of \$10,000 to fund this contribution. Her bank records, obtained by order of the John Doe Judge from Chase Bank, confirm her statements. The friend also stated that she left William Gardner during an argument in December 2009. After the break-up, but before the \$10,000 check cleared the bank, she learned from a friend, Gregory Edminster, that this activity was probably illegal. She stopped payment on the \$10,000 check to the Friends of Scott Walker and thereafter returned the money to Gardner. These facts are also confirmed by an examination of her Chase Bank records.

A dispute ensued concerning personal property. The dispute concerned both items given to the friend and items belonging to the friend but retained by Gardner. This dispute ultimately led to the contact between the friend and the Government Accountability Board on April 19, 2010 described below.

WSOR corporate records provided to the investigation by the Railroad, as well as Wells Fargo Bank records obtained by court order, indicate that Gardner was issued a check by the Railroad for a sum including the \$10,000 contribution by the friend. See Exhibit A. The reimbursement check was issued on or about December 17, 2009 and was deposited into Mr. Gardner's account on December 18, 2009.

On December 14, 2009, William Gardner wrote out a second check to the Friends of Scott Walker in the amount of \$5,000. Gardner received the sum of \$5,000 in the form of reimbursement from the

corporation. See Exhibit A. The check was cashed by the campaign committee. Wells Fargo Bank records confirm these facts.

On December 15, 2010, James Lombard wrote a check out to the Friends of Scott Walker in the amount of \$5,000. In his John Doe testimony, Mr. Lombard testified that he is the Vice-President of Marketing and Sales for the Railroad. Lombard testified that he contributed \$5,000 to the Friends of Scott Walker at the request of William Gardner. He further testified that he submitted an expense reimbursement request for \$5,000 and thereafter he received and cashed a check in that amount issued by the corporation. Mr. Lombard's bank records confirm his testimony.

On December 21, 2009, FOSW staffer Joe Fadness wrote in an e-mail (produced by the campaign to the GAB investigators) the following concerning William Gardner:

Bill Gardner pledged to raise \$30K by 12/31/09. To that end, please be on the lookout for the money listed below. It should be categorized as follows - Category type: Misc; Category: Finance Committee (2010). Please put "Bill Gardner Commitment" in the internal memo.

The FOSW campaign provided records indicating that William Gardner met with the candidate Scott Walker on December 21, 2009 at the Crowne Plaza and Suites in Milwaukee.

On January 5, 2010, based upon my examination of e-mails exchanged between Gardner and his ex-friend, Gardner learned from the FOSW campaign committee that a "Stop Payment" on the friend's \$10,000 contribution check had been issued. Except as otherwise noted in this paragraph, there is no indication in e-mail evidence or otherwise that the illegal character of the reimbursed contributions was discussed with Gardner until April. Likewise, it appears that the friend did not explain the reason for the Stop Payment to the campaign. However, I did conduct an interview of Gregory Edminster, the person who told the friend that the practice of reimbursing political campaign contributions was likely illegal. He stated that he contacted the campaign and he was assured by a campaign committee management staff member that the campaign "had methods to detect illegal contributions and that they were confident that there were no illegal contributions coming into the Walker campaign."

In February 2010, Ken Lucht, the Governmental Relations person for the Railroad, was solicited by William Gardner to contribute \$5,000 to the Friends of Scott Walker. He was in fact "reimbursed" by the Railroad for that amount and this is confirmed by a review of Lucht's Summit Credit Union financial records. However, as Lucht stated in his John Doe testimony, he did not forward this contribution to the Walker campaign. He kept the money, he testified, because he did not think it was "right" to contribute the money. He returned the money to the WSOR corporation in May of 2010 after William Gardner publicly disclosed his conduct in violation of the campaign finance laws.

In February 2010, Bernard Meighan contributed to the Scott Walker campaign. Mr. Meighan testified at the John Doe proceeding that he is the Superintendent for Maintenance for the Railroad. He further stated that he was asked by William Gardner to make a \$5,000 contribution to the Friends of Scott Walker under circumstances like those described above by other employees. Namely, he expected to submit an expense form to the corporation and be reimbursed for the contribution. He forwarded a personal check dated February 3, 2010 in the amount of \$5,000 to the Friends of Scott Walker. An examination of his bank records, subpoenaed by the John Doe Judge from the Horizon Bank, confirm that on February 16, 2010 a WSOR check in the amount of \$5,000 was deposited into Meighan's personal bank account. Bank records further reflect that on February 24, 2010 a check payable to, and endorsed by, the Friends of Scott Walker was posted to, and paid out of, Meighan's personal account.

On March 16, 2010, based upon a review of e-mails provided by the campaign committee, Gardner wrote to Walker fundraiser Dan Morse telling him that he (Gardner) had "rounded up" two others for \$5,000 each, referring to Lucht and Melghan.

Based upon e-mails developed through the execution of the Search Warrant at the Railroad for digital evidence from the WSOR network and e-mail system, the e-mail represented by Figure 3 was discovered. On March 2, 2010, Gardner wrote to FOSW fundraiser Dan Morse, "Do I need to buy a ticket for the dinner on Monday????????????", a reference to a fundraiser dinner featuring Jeb Bush. Morse wrote back to Gardner (as shown in Figure 3) that he was "maxxed out," meaning he could not legally contribute more to the Friends of Scott Walker.

From: Dan Morse [REDACTED]
Sent: Tuesday, March 02, 2010 4:36 PM
To: Bill Gardner
Subject: RE: Dinner with Jeb Bush

Let me put you in touch with Mary Stitt, the person in charge of the event. Since you are maxxed out, that will not be a problem.

Please let me know if you do not hear from her in the next 24 hours.

Thanks
Dan

Figure 3

Morse then immediately contacted Mary Stitt, another campaign fundraiser, indicating that Gardner was raising \$100,000 for Scott Walker and needed a seat at the Jeb Bush dinner.

From: Dan Morse [REDACTED]
Sent: Tuesday, March 02, 2010 4:36 PM
To: 'Mary Stitt'
Subject: FW: Dinner with Jeb Bush

Can you please email Bill Gardner? He maxxed out already and is in the middle of raising \$100,000 for Scott. Can we take care of him at the Roundtable and whatever else he wants?

I told him you would call or email him.

Dan

Figure 4

On the same day, March 2, 2010, David Hackbarth was solicited by Gardner to make a contribution to the Friends of Scott Walker. David Hackbarth testified at the John Doe proceedings that he is the Chief Mechanical Officer for the Railroad. He identified a copy of a check, No. 4333, dated March 22, 2010 payable to the Friends of Scott Walker in the amount of \$4,900. Like the other employees identified earlier in this complaint, he stated he was reimbursed for this contribution by the Railroad.

At the same time that David Hackbarth was solicited to make a contribution, on March 2, 2010, Dale Thomas was also solicited. At the John Doe hearings, Thomas testified that he is the Chief Mechanical Officer / Cars for the Railroad. He too confirmed that he was solicited by Gardner to make a contribution to the Friends of Scott Walker in the amount of \$4,900, that he made the contribution and that he was reimbursed by the Railroad in that amount. An examination of Thomas' M&I Bank records, subpoenaed by the John Doe Judge, confirms these statements by Thomas.

Moreover, Thomas testified to the following series of e-mails (Figure 5 to Figure 8 below).

From: Bill Gardner
Sent: Tuesday, March 02, 2010 14:43
To: Dale Thomas
Subject: Scott Walker

Dale,

In the next week turn in an expense report showing that you paid to Scott Walker (Friends of Scott Walker) a check for \$4,900.00.

Once Gibby give you the check deposit it in your checking account. Once that is done then write a check to Scott Walker from your own personally account for the sum of \$4,900.00 and send the Check to

Friends of Scott Walker
Post Office Box 100828
Wauwatosa, WI 53210

Keep me posted on this and when the check is sent.....

bg

Figure 5

From: Dale Thomas
Sent: Tuesday, March 02, 2010 5:07 PM
To: Bill Gardner
Subject: RE: Scott Walker

Will Do.

Dale

Figure 6

From: Bill Gardner
Sent: Tuesday, March 02, 2010 17:30
To: Dale Thomas
Subject: RE: Scott Walker

And lets not blab this around.....

bg

Figure 7

From: Dale Thomas
Sent: Tuesday, March 02, 2010 5:54 PM
To: Bill Gardner
Subject: RE: Scott Walker

I kinda figure that, my lips are sealed.

Dale

Figure 8

When asked to explain his "my lips are sealed" response, Thomas stated that he "wondered" if it was illegal and that he "found it all to be quite odd:"

Q. And if I'm reading this correctly, you replied to him, I kind of figured that, my lips are sealed; correct?

A. Yes.

Q. What did you mean by that?

A. I wasn't going to take this outside of the company or to somebody that was not at a management level.

Q. Okay. Did you believe when you read it -- when you made that reply that this process might be illegal?

A. I'm sure I wondered it, because as I stated before, I found it all to be quite odd.

Concerning the foregoing series of e-mails, Mr. Gardner's attorneys have stated that Gardner solicited Thomas' silence out of a concern for lavish political spending during tight economic times requiring Railroad wage cuts.

Based upon my review of documents that were released to the investigation by the campaign, William Gardner had another meeting with Scott Walker on April 13, 2010 at Noodles & Company in Madison.

Recovered from the WSOR e-mail system on June 24, 2010, Figure 9 is an e-mail exchange in the days following the April 13, 2010 meeting between the candidate Scott Walker and William Gardner. It provides a record of the matters that Gardner discussed with the gubernatorial candidate.

From: [REDACTED]@scottwalker.org
Sent: Saturday, April 17, 2010 7:19 PM
To: Bill Gardner
Subject: Re: thanks for meeting me at Noodles this week.....

Thanks a million!

Sent from my Verizon Wireless BlackBerry

From: "Bill Gardner" [REDACTED] >
Date: Thu, 15 Apr 2010 11:37:50 -0500
To: [REDACTED]@scottwalker.org>
Subject: thanks for meeting me at Noodles this week.....

Dear Scott,

Again thanks for taking the time to meet with me this week at Noodles. I know you have a busy schedule again of your successful run for Wisconsin Governorship.

As I said, I hope you pick a Secretary of Transportation that understands that the State of Wisconsin owns about 700 miles of RR in the state of WI. that I currently operate for the state. I have take off the WI. roadways 250,000 trucks each year and will continue to do the same as long as I get support in upgrading this old warn out rail system that I currently operate on for the State of WI..

With all the necessary tools provided by State Government, including adequate funding for capital upgrades to the state-owned freight railroad system, the Wisconsin & Southern Railroad Co. will continue to spur economic development throughout the state and do what we do best – bring good high-paying jobs to Wisconsin by providing an alternative mode of transportation for Wisconsin Communities and Businesses.

As for me, I enjoy coming to work each day and working with existing customers building new additions to their existing facilities or working with new customers that build new facilities on the WSOR system which brings new jobs and new tax dollars to the State of WI. and local communities.

Keep up the good work and I will do everything I can do to get you in the Governors Mansion.....

bg

Figure 9

Several days later, Gardner's former friend contacted the GAB in an apparent attempt to force Gardner to return her personal property to her. Figure 10 is a re-print of the e-mail exchanged between William Gardner, his attorney and his former friend on the same day that the GAB was initially contacted concerning this violation of campaign finance laws, April 19, 2010. Attorney Brian Baird, who was mediating the property dispute between Gardner and his ex-friend, was the original recipient of the friend's e-mail, with a copy being sent to William Gardner.

Subject: RE: I think you should know
From: "Bill Gardner" [REDACTED]
Date: Mon, 19 Apr 2010 13:05:19 -0500
To: "S [REDACTED]", <bbaire [REDACTED]>

S [REDACTED],

Knock yourself out. I did nothing wrong and have broken no law.....

bg

From: S [REDACTED]
Sent: Mon 4/19/2010 11:24 AM
To: bbaire [REDACTED]
Cc: Bill Gardner
Subject: Re: I think you should know

Brian,

I am writing this e-mail letting u know that I have been speaking with the attorney (Michael Haas), for the State of Wisconsin Department of Elections Accountability Board, located in Madison, WI. Attorney Mike Haas is very receptive to the information I have given to him so far, the only part I have left out is the name of the individual and the business concerned. Which I will do, and we have all the necessary documents to go further with this, if I do not receive all of my belongings, and I mean **everything** belonging to me, by the 30th of April, 2010. That gives you 10 bussiness days to have them delivered to me. I think I have been quite patient concerning this matter, and it is illegal to hold them any longer period. (ie: legal documents included)

I do not think Bill, The WSOR, or any other parties or individuals concerned in any of his business dealings would like any legal problems, or the public embarrassment that this will cause.

Sincerely, S [REDACTED]

Figure 10

At the end of April 2010, Gardner solicited other Railroad employees for contributions. Based upon my interviews of two additional employees, Ken Clemmons and Kathleen Sackett, I know William Gardner continued to solicit Railroad employees to contribute to the Friends of Scott Walker after April 19, 2010. On April 25, 2010, Gardner asked Clemmons and Sackett to make contributions to the Scott Walker campaign and then submit expense forms for reimbursement from the Railroad. The sum of \$4,900 was specified. Ms. Sackett states she refused to make the contribution. Mr. Clemmons states that the legality of the practice was questioned when he and Sackett travelled from their offices in Madison to Milwaukee during the first part of the business week in the days following the April 25 e-mail. Gardner was not present for the meeting; he was vacationing out of state. The attorneys for William Gardner state that it was this exchange between Sackett and other Railroad employees that led to the decision to publicly admit these campaign finance violations.

On May 10, 2010, the Government Accountability Board formally commenced its investigation based upon the April 19, 2010 information provided by the former friend.

