

BORNS LAW OFFICE, LLC

www.bornslaw.com

Attorney:

Mark F. Borns*

** Court Commissioner*

Paralegal:

Jeannine M. Hanson

July 19, 2010

Wisconsin Government Accountability Board
212 East Washington Avenue, Third Floor
Madison, Wisconsin 53703

Re: Complaint of Young Republicans of Dane County
Tammy Baldwin for Congress

Dear People:

I am the attorney for Tammy Baldwin for Congress. I am writing in order to respond to the verified complaint filed on or about July 16, 2010 by Charla Halverson on behalf of the Young Republicans of Dane County.

The complaint at paragraph 4 cites GAB 2.05(1) which provides:

Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements.

The complaint at paragraph 5 further states, without citation to any authority, that Tammy Baldwin must list her residential address.

Respondent's nomination papers do not include, nor do they substantially include, the Respondent's name of municipality and address of residence for voting purposes, not a separate mailing or office address.

Congresswoman Baldwin's responses, to be discussed in more detail below, are:

1. There are significant security reasons for not listing her street address.
2. The statutes and administrative code do not require that Congresswoman Baldwin list her

residential street address in her nomination papers.

3. The G.A.B. has specifically approved the use of an office address on the nomination papers in this election cycle and in prior election cycles.

ARGUMENT

1 There Are Significant Security Reasons for Not Listing Tammy Baldwin's Street Address on Her Nomination Papers.

Because of the number and nature of threats directed against Tammy Baldwin she has been advised not to make her residential street address readily available. See affidavit of Curt Finkelmeyer, paragraph 9 with attachments; affidavit of Matt Wachter, paragraphs 7 and 8; affidavit of William Murat, paragraphs 4-11.

Since 2000, Tammy Baldwin has not made her residential street address readily available and has not put that address on her nomination papers, due to the threats she has received. Affidavit of Matt Wachter, paragraph 8; affidavit of William Murat, paragraphs 10-11.

The practice of not disclosing information for security reasons has been approved in the recent United States Supreme Court case of Citizens United v. Federal Election Commission, 558 U.S. ____ (2010). At page 52 of Citizens United the court cited with approval to Buckley v. Valeo, 424 U.S. 1 and McConnell:

“as-applied challenges would be available if a group could show a “ ‘reasonable probability’ ” that disclosure of its contributors’ names “ ‘will subject them to threats, harassment, or reprisals from either Government officials or private parties.’ ” [citation omitted]

Any interpretation of the statutes or administrative code that would put the Congresswoman at risk of harm should be avoided. Interpretations of statutes that lead to absurd results are to be avoided. State ex rel. Kalal v. Circuit Court for Dane County, 2004 WI 58, ¶46.

Whether Tammy Baldwin resides in the 2nd Congressional District and is eligible to hold that office is a different matter than whether her nomination papers contain the street address of her residence. Tammy Baldwin resides in Madison, Wisconsin. Affidavit of William Murat, paragraph 12.

2. The Statutes and Administrative Code Do Not Require That Congresswoman Baldwin List Her Residential Street Address.

The complainant alleged that “Respondent’s nomination papers do not include, nor do they substantially include, the Respondent’s name of municipality and address of residence for voting purposes, not (sic?) a separate mailing or office address.” However, there appears to be no specific requirement that such information be disclosed.

Qualifications for serving in the House are spelled out in Article I, Section 2 of the US Constitution as follows: “The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.” There is no constitutional requirement that a citizen reside in the district in order to be placed upon the ballot.

Wis. Stat. §8.07 provides that the board shall promulgate rules for use by election officials in determining the validity of nomination papers and signatures thereon.

GAB 2.05(12) requires the address “for each signature on a nomination paper.” That requirement applies to electors, not the candidate.

GAB 2.07 requires the standards set forth in GAB 2.05 be applied “to determine the sufficiency of nomination papers.” GAB 2.05(17) also requires that GAB 2.05 be used when determining the validity of nomination papers. There is nothing in GAB 2.05 which requires the voting address or residence of a candidate to be on nomination papers.

GAB 2.07(3)(a) requires that the “burden is on the challenger to establish any insufficiency.” The challenger in this case cites no legal authority and has not met its burden. Nor does any such authority exist.

At best, at the very best, there is a non-specific requirement contained in Wis. Stat. §8.15(5) regarding the candidate’s residential street address. The language of the statute requires that the nomination papers have “substantially the following words.” This is not mandatory language as to each and every word (such as the candidate’s residential street address). And in fact, form GAB-168 (Nomination Paper for Partisan Office), does not require a residential address. It requires a “street, fire, or rural route number” (See further discussion below) Tammy Baldwin’s nomination papers do contain “substantially the following words” as set forth in the statute, but her slight variation is to state “whose campaign office address is” rather than “residing at.”

A construction which does not give effect to every word is generally to be avoided. County of Columbia v. Bylewski, 94 Wis.2d 153, 164 (1980) The legislature used the phrase “substantially the following words.” The word “substantially” must be given effect. The legislature did not dictate that the exact words must be used.

In the next section of GAB-168 (after “street, fire, or rural route number . . .”) the form requires “Name of municipality for voting purposes.” (Emphasis in original) The same admonition for “voting purposes” is not included under the “street, fire or rural route number” box of the form. Tammy Baldwin identifies Madison as the name of her municipality for voting purposes. Madison is in fact the municipality of her residence. See affidavit of Curt Finkelmeyer, paragraph 2; Affidavit of William Murat, paragraph 12. She has therefore complied with the express mandates of the form (to the extent that the form does in fact dictate any specific requirements).

Wis. Stat. §8.15(5)(b) contains mandatory language (“shall”) which requires the candidate’s mailing address be put on the nomination papers. But the mailing address is not necessarily the same thing as the candidate’s residential address. Tammy Baldwin has set forth her mailing address on her nomination papers. She has complied with the statute.

3. The G.A.B. has approved the use of an office address on the nomination papers in this election cycle and in prior election cycles.

Because of the security issues involved, the exclusion of Tammy Baldwin’s residential address from her nomination papers has been approved by the GAB (and formerly by the Election Board) in 2010 and in prior years. See attached affidavits. The Elections Board in its meeting of May 17, 2000 approved the use of the campaign address on Tammy Baldwin’s nomination papers. See attached.

The GAB is authorized to promulgate rules and to assist in the conduct of elections, including the creation of forms. As such, the GAB is an administrative agency and its interpretations of its own rules are to be given great deference. In this case, the GAB staff and board (the Election Board) has approved the exclusion of Tammy Baldwin’s residential address from her nomination papers since the year 2000. See attached affidavits and exhibits. The GAB has interpreted its rules to permit Tammy Baldwin’s nomination papers in the form in which she submitted them.

The GAB has a long standing policy of giving effect to the intent of the signatories. The signatories’ clear intent is that Tammy Baldwin should have her name placed upon the election ballot. See also GAB2.05(4) (*Any information which appears on a nomination paper is entitled to a presumption of validity*).

Wisconsin Government Accountability Board
July 19, 2010
Page 5

Congresswoman Baldwin has acted prudently by seeking approval of her nomination papers. If the rules are going to change she should receive notice in advance. A new rule should not be applied in an *ex post facto* manner for the 2010 election cycle.

On behalf of Congresswoman Baldwin, I ask that you dismiss the complaint. Please contact me if there is anything further which you require.

Sincerely,

BORNS LAW OFFICE, LLC

A handwritten signature in black ink, appearing to read 'Mark F. Borns', with a large, stylized flourish at the end.

Mark F. Borns
MFB:ms
encls.

AFFIDAVIT

STATE OF WISCONSIN)
 : ss
COUNTY OF DANE)

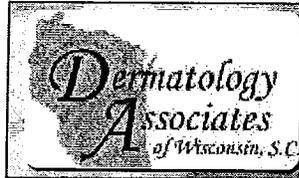
The undersigned, being first duly sworn, states as follows:

1. I am the Campaign Manager for Tammy Baldwin for Congress.
2. On July 7, 2010, I submitted to the Wisconsin Government Accountability Board Tammy Baldwin's Declaration of Candidacy and Nomination Papers.
3. I spoke directly with Diane Lowe, Election Specialist, to review the paperwork. I specifically pointed out to Ms. Lowe that we used the office address rather than the home address of Congresswoman Tammy Baldwin on the documents, as we had done in previous years.
4. Ms. Lowe stated that she was aware that we normally submitted the forms with the office address. Ms. Lowe's only concern was that Congresswoman Tammy Baldwin signed the Declaration of Candidacy with her Congressional Office address while her nomination papers listed her campaign office address.
5. Ms. Lowe consulted with their staff attorney, and was instructed to have us change the Declaration of Candidacy address to the campaign office address to match the nomination papers. We did so and submitted an amendment later that day.
6. At no time was I instructed by the G.A.B. to place Congresswoman Tammy Baldwin's home address on the nomination papers.
7. I worked in Congresswoman Baldwin's Madison office from 2004-2007. During that time I took more than 10 phone calls either from citizens or from the police, communicating threats of harm to Tammy Baldwin or to Congress in general. It is my strong opinion that Tammy receives more of these threats than most members of Congress.
8. Attached is an article from the Associated Press which states that Reid Magney of the GAB stated that "state election officials have allowed Baldwin to use her campaign office as her address for years because she received threats after she was first elected in 1998."


Matt Waechter

Subscribed and sworn to before me
this 18 day of July, 2010.


Notary Public, State of Wisconsin
My Commission: 15 Dec.



Oh, the damage sun can do

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GOP challenges U.S. Rep. Tammy Baldwin's nomination papers

JULY 17, 2010

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Republicans have filed a challenge to U.S. Rep. Tammy Baldwin's nomination papers.

The Young Republicans of Dane County allege Baldwin, D-Madison, listed her campaign office as her address on the papers rather than her voting address.

State Government Accountability Board spokesman Reid Magney said state election officials have allowed Baldwin to use her campaign office as her address for years because she received threats after she was first elected in 1998.

— The Associated Press

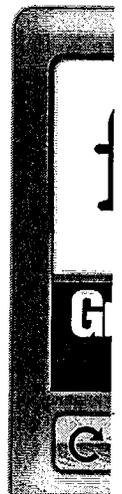
Additional information

(Links will open in a new window)

- ◆ Campaign 2010 blog.
- ◆ Complete coverage of 2010 elections in Northeastern Wisconsin.
- ◆ Sign up for news, weather, Green Bay Packers and high school sports text alerts.

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listed. This form was approved by the G.A.B. in 2008. This is the same address as used on the 2010 election cycle nomination papers, which was also approved by the GAB.

9. Attached are some of the threatening communications which Tammy Baldwin's office has received. Within the last 2 to 3 years there was a communication which threatened Tammy Baldwin with a sexual assault.


Curt Finkelmeyer

Subscribed and sworn to before me
this 18th day of July, 2010.


Notary Public, State of Wisconsin
My Commission: 1/3/09



**HAND DELIVERED
RECEIVED**

Nomination Paper for Partisan Office

I, the undersigned, request that the name of

Tammy Baldwin

*Approved for
as per
5/10/10*

whose campaign office address is 1900 North King Jr. Blvd., Lower Level 4, Madison, WI 53703, in the municipality of the City of Madison, be placed on the ballot at the general election to be held on November 2, 2010 as a candidate representing the Democratic Party so that voters have the opportunity to vote for her for the office of

Representative in Congress, 2nd District (Wisconsin)

I am eligible to vote in the 2nd Congressional District. I have not signed the nomination paper of any other candidate for the same office in this election.

The municipality used for mailing purposes, when different than municipality of residence, is not sufficient. The name of the municipality of residence must always be listed.

Signatures of Electors	Print Name	Street & Number or Rural Route <small>Rural address must also include box or fire no.</small>	Municipality Of Residence and Zip <small>(Indiana Town, Village or City)</small>	Date Today MM/DD/YY
			<input type="checkbox"/> Town <input type="checkbox"/> City <input type="checkbox"/> Village	1 / 10
			<input type="checkbox"/> Town <input type="checkbox"/> City <input type="checkbox"/> Village	1 / 10
			<input type="checkbox"/> Town <input type="checkbox"/> City <input type="checkbox"/> Village	1 / 10
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			<input type="checkbox"/> Town <input type="checkbox"/> City <input type="checkbox"/> Village	1 / 10

CERTIFICATION OF CIRCULATOR

I, _____ certify that I reside at: _____ (circulator's residence - include number, street, and municipality.) I personally circulated this nomination paper and personally obtained each of the signatures on this paper. I know that the signers are electors of the jurisdiction or district the candidate seeks to represent. I know that each person signed the paper with full knowledge of its content on the date indicated opposite his or her name. I know their respective residences given. I intend to support this candidate. I am aware that falsifying this certification is punishable under S.12.13 (3) (a) Stats.

(Signature) _____ / 2010 (Today's Date) _____

Finkelmeyer, Curt

From: Finkelmeyer, Curt
Sent: Wednesday, November 28, 2007 1:50 PM
To: Murat, Bill
Subject: FW: Congresswoman Baldwin invites you to a Listening Session

From: Baldwin Enews Reply
Sent: Tuesday, November 27, 2007 4:55 PM
To: Finkelmeyer, Curt
Subject: FW: Congresswoman Baldwin invites you to a Listening Session

From: [REDACTED]
Sent: Wed 11/21/2007 6:33 AM
To: Baldwin Enews Reply
Subject: RE: Congresswoman Baldwin invites you to a Listening Session

FUCK YOU LESBO BITCH!!!! QUIT SENDING ME EMAILS!!!! AND TAKE A NICE MAN COCK UP YOUR PUSSY!!!!

From: tammy.baldwin@congressnewsletter.net
Subject: Congresswoman Baldwin invites you to a Listening Session
To: [REDACTED]
Date: Tue, 20 Nov 2007 15:57:47 -0800

If you are having trouble viewing this E-newsletter, [click here](#).

November 20, 2007		Unsubscribe	Update My Profile
<input type="checkbox"/> Congresswoman Tammy Baldwin - Proudly Serving Wisconsin In Congress			
Website About Tammy Our District How I Can Help News Issues			
Congresswoman Tammy Baldwin Invites You to a Listening Session <i>"I want to hear from you"</i> <u>November 26, 2007 - Monday</u>		Yes, I want to update my profile! Click Here Please Feel Free to Tell a Friend	

Columbus 12:30 - 1:30pm Columbus Public Library
223 W. James Street

Baraboo 3:00 - 4:00pm Baraboo Public Library
230 Fourth Avenue

Middleton 5:30 - 6:30pm Middleton Senior Center
7448 Hubbard Avenue

November 27, 2007 - Tuesday

Fort Atkinson 1:30 - 2:30pm Dwight Foster Public
Library
102 E. Milwaukee Avenue

Whitewater 3:00 - 4:00pm UW Whitewater
Esker Hall (UWW
Campus)

Beloit 5:15 - 6:15pm Beloit City Hall
100 State Street

November 28, 2007 - Wednesday

Monroe 10:30 - 11:30am Behring Senior Center
1113 10th Street

Or voice your opinion by contacting me via my
website or offices: www.tammybaldwin.house.gov

E-mail:

E-mail:

E-mail:

Send

Yes, please
periodically send me
e-mail updates.

[Click Here](#)

*Please note that your
e-mail address will not
be shared with
anyone.

Contact Information

Website: <http://tammybaldwin.house.gov/>

MADISON OFFICE
10 East Doty Street
Suite 405
Madison, WI 53703
(608) 258-9800
(608) 258-9808 Fax

WASHINGTON OFFICE
2446 Rayburn Building
Washington, DC 20515
(202) 225-2906
(202) 225-6942 Fax

BELOIT OFFICE
400 East Grand Avenue
Suite 402
Beloit, WI 53511
(608) 362-2800
(608) 362-2838 Fax

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You keep typing, we keep giving. Download Messenger and join the I'm Initiative now. [Join in!](#)

Tiffany,

I was filing this email in one of my "interesting" files but noticed it didn't seem to be recorded in IQ. Do you know if it is?

Thanks.

Curt

From: Finkelmeyer, Curt
Sent: Tuesday, March 16, 2010 1:59 PM
To: Henry, Tiffany
Cc: Forbeck, Helen
Subject: RE: Frightening Healthcare Call

Tiffany,

Thanks. I shared this with Bill.

Curt

From: Henry, Tiffany
Sent: Tuesday, March 16, 2010 1:47 PM
To: Finkelmeyer, Curt
Cc: Forbeck, Helen
Subject: Frightening Healthcare Call

Curt,

I informed Helen of the constituent who called this afternoon opposing healthcare. ~~_____~~ called very upset with the healthcare bill and urged for CTB to vote no on the bill. He gave the normal myths and lies that have been stated about the bill however his last comment didn't sit with me very well.

Don stated that if Tammy votes yes on the bill that he would find out where she lives in Madison knock on her door and protest her vote and campaign for the person who runs against her. He stated that he would do this everyday until she is out of office. I just wanted to alert you to this caller.

~~_____~~
Thanks,

Tiffany

Invites You to a Listening Session

"I want to hear from you"

November 26, 2007 - Monday

- Columbus 12:30 - 1:30pm Columbus Public Library
223 W. James Street
- Baraboo 3:00 - 4:00pm Baraboo Public Library
230 Fourth Avenue
- Middleton 5:30 - 6:30pm Middleton Senior Center
7448 Hubbard Avenue

November 27, 2007 - Tuesday

- Fort Atkinson 1:30 - 2:30pm Dwight Foster Public
Library
102 E. Milwaukee Avenue
- Whitewater 3:00 - 4:00pm UW Whitewater
Esker Hall (UWW
Campus)
- Beloit 5:15 - 6:15pm Beloit City Hall
100 State Street

November 28, 2007 - Wednesday

- Monroe 10:30 - 11:30am Behring Senior Center
1113 10th Street

Or voice your opinion by contacting me via my website or offices: www.tammybaldwin.house.gov

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Please Feel Free to Tell a Friend

E-mail:

E-mail:

E-mail:

Send

Yes, please periodically send me e-mail updates.

[Click Here](#)

*Please note that your e-mail address will not be shared with anyone.

Contact Information

Website: <http://tammybaldwin.house.gov/>

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10 East Doty Street
Suite 405
Madison, WI 53703
(608) 258-9800
(608) 258-9808 Fax

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Washington, DC 20515
(202) 225-2906
(202) 225-6942 Fax

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Paynette, Wisconsin Listening Session, 2009.

**STATE OF WISCONSIN
GOVERNMENT ACCOUNTABILITY BOARD**

AFFIDAVIT

))
DISTRICT OF COLUMBIA) ss.
))

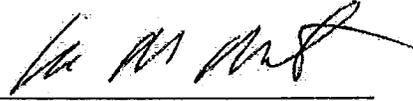
I, William M. Murat, being first duly sworn on oath, depose and state that:

1. I am Chief of Staff to Congresswoman Tammy Baldwin (hereinafter "Congresswoman Baldwin"), a position that I have held since March, 2001. From January 1999 through February 2001 I served as Congresswoman Baldwin's District Director, based in her Madison, Wisconsin ("Madison") office.
2. In early 2000, Congresswoman Baldwin advised me of a package that she received in the mail at her residence, then located on Riverside Drive in Madison. The package contained a number of threatening indicators, including the fact that it was wrapped in aluminum foil. The return address on the package was a person known to Congresswoman Baldwin to be suffering from schizophrenia.
3. With this information, and having taken the package into my possession, I contacted the Madison Police Department. The police department bomb squad responded and took the package into their possession. They subsequently determined that the package did not contain any threatening device.
4. Following this incident, I received follow-up communications from the Madison Police Department and the U.S. Capitol Police, and arranged for a special security briefing by agents of the U.S. Capitol Police, U.S. Secret Service, Federal Bureau of Investigation, and Madison Police Department. In addition, as a result of this and other incidents, a physical security assessment was arranged. On April 25, 2000, U.S. Capitol police officers traveled to Madison to conduct detailed security assessments of Congresswoman Baldwin's office in Madison, as well as her residence. Subsequently, they prepared a written report for Congresswoman Baldwin detailing a number of specific recommendations. They also met with me and with Congresswoman Baldwin to review and discuss recommendations. Those recommendations included that she take special precautions to keep the address of her personal residence out of public documents.

5. On July 7, 2000, U.S. Capitol Police Detective Bill Zimmerman traveled to Madison to brief Congresswoman Baldwin and her staff on threat assessment and appropriate security precautions. Detective Zimmerman reiterated the importance of not publishing Congresswoman Baldwin's home address to protect her safety.
6. In the intervening years, I am personally aware of numerous incidents of written or verbal threats directed toward Congresswoman Baldwin which have been transmitted to the U.S. Capitol Police.
7. As District Director, I received a number of very threatening communications, including threats to commit physical harm to Congresswoman Baldwin. I personally turned over a number of these threatening letters to the U.S. Secret Service in Madison, Wisconsin for their follow up. In addition, the Baldwin office has received communications from individuals who have threatened to go to Congresswoman Baldwin's home to do harm to her.
8. Following violent attacks on a number of Congressional offices around the nation in March 2010, I participated in a further briefing conducted by the U.S. Capitol Police in which they reiterated the importance of taking prudent steps to protect Members of Congress and their staff from violence.
9. I personally contacted the U.S. Capitol Police regarding a verbal threat of concern as recently as June 2010.
10. As a result of the recommendations of the U.S. Capitol Police, since 2000, Congresswoman Baldwin's campaign nomination papers have included the address of her campaign office, rather than her personal residence. I have personally examined the original printed nomination papers from 2000 and saw that they stated:

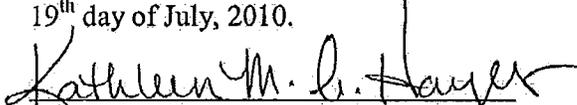
"I, the undersigned, request that the name of Tammy Baldwin whose campaign office address is 319 W. Gorham St., Madison, WI 53703, be placed on the ballot at the general election to be held on November 7, 2000, as a candidate representing the Democratic Party so that the voters will have an opportunity to vote for her for the office of Representative in Congress, 2nd District (Wisconsin)."
11. I am aware that in each subsequent election year (2002, 2004, 2006 and 2008) that Congresswoman Baldwin's nomination papers have included her campaign office address.
12. In the past decade I have visited Congresswoman Baldwin's home in Madison on numerous occasions. My most recent visit to her home was on July 10, 2010. I have personal knowledge that she lives in Madison, Wisconsin in the 2nd Congressional district.

Dated this 19th Day of July, 2010.



William M. Murat

Subscribed and sworn to before me this
19th day of July, 2010.


Kathleen M. A. Hayes
Notary Public, District of Columbia
My Commission expires 31 May 2015

Kathleen M.A. Hayes
Notary Public, District of Columbia
My Commission Expires 5/31/2015

VI. Administrative Rules

A. Report on Legislative Action Relating to Definition of Express Advocacy Pp. 47-50

This report was received for information purposes. The Elections Board took no action.

VII. Campaign Finance Administration

A. Report of Campaign Finance and Elections Administrator Oral Report

 The Elections Board directed staff to advise the Baldwin Congressional campaign that the candidate may use the campaign address on the candidate's nomination papers or obtain a court order to restrict the disclosure of the candidate's home address for security reasons.

The Elections Board agreed that a committee consisting of Board members, staff and experts in computer technology will be appointed by the Elections Board Chairperson to identify and make recommendations on election and campaign issues related to technology.

B. Report on Status of Electronic Filing Software Oral Report

This report was received for information purposes. The Elections Board took no action.

VIII. Legislation

A. Legislative Status Report Pp. 51-69

This report was received for information purposes. The Elections Board took no action.

B. Summary of Provisions of 1999 Assembly Bill 700 Pp. 70-73

This report was received for information purposes. The Elections Board took no action.

IX. Agency Administration

A. Report of Executive Director Oral Report

This report was received for information purposes. The Elections Board took no action.

III. LITIGATION (Continued)

C. Elections Board Litigation (Continued)

MOTION: THE ELECTIONS BOARD CONVENE IN CLOSED SESSION PURSUANT TO SECTION 19.85 (1)(g) WIS. STATS FOR THE PURPOSE OF CONFERRING WITH LEGAL COUNSEL CONCERNING STRATEGY TO BE ADOPTED WITH RESPECT TO LITIGATION IN WHICH THE AGENCY IS OR IS LIKELY TO BECOME INVOLVED.

Motion by Don Millis, second by John Savage. Motion carried on roll call vote.