

MICHAEL S. MAISTELMAN

Attorney at Law ♦ Court Commissioner

May 11, 2005

Via Email and US Mail
Attorney George Dunst
Legal Counsel
State of Wisconsin Elections Board
17 West Main Street
Suite 310
Madison, WI 53703

Re: John Weishan Jr. & Gerry Broderick v. Scott Walker and Friends of Scott Walker

Dear Mr. Dunst:

Enclosed for filing please find one (1) original and one (1) copy of John Weishan Jr, & Gerry Broderick's Verified Complaint in the above-referenced matter.

Please file the original, file stamp the copy and return the file-stamped copy to the undersigned in the enclosed self-addressed envelope

I am forwarding a copy of the same via US Mail postage prepaid to the Respondent Scott Walker and Friends of Scott Walker

Very Truly Yours,


Michael S. Maistelman

MSM/am
Enclosures

Cc: Scott Walker and Friends of Scott Walker (via US Mail with enclosures)
John Weishan Jr. & Gerry Broderick (via US Mail with enclosures)

3127 W. Wisconsin Avenue ♦ Milwaukee, WI 53208
Telephone: 414.908.4254 **Facsimile:** 414.271.1884 **Email:** msmlaw@execpc.com

♦ Also licensed in Massachusetts

BEFORE THE
WISCONSIN STATE ELECTIONS BOARD

The Complainant:
John Weishan Jr., &
Gerry Broderick,

Complainants,

v.

Scott Walker and the Campaign Committee
Friends of Scott Walker,

Respondents.

VERIFIED COMPLAINT

The Complainants, John Weishan Jr. and Gerry Broderick ("the Complainants") by their attorney Michael S. Maistelman, for this verified Complaint against Scott Walker and the Campaign Committee Friends of Scott Walker make this Complaint pursuant to Wis. Stats. Sec. 11.60(5), and allege as follows:

1. Complainant, John Weishan Jr. is a resident of the State of Wisconsin, a qualified elector who is the Milwaukee County Supervisor from 16th Supervisory District. Complainant Weishan resides at 2605 S. 82nd Street, West Allis, WI 53219.
2. Complainant, Gerry Broderick is a resident of the State of Wisconsin, a qualified elector who is the Milwaukee County Supervisor from 3rd Supervisory District. Complainant Broderick resides at 1800 East Newberry, Milwaukee, Wisconsin 53211.
3. Upon information and belief Respondent Scott Walker is a resident of the State of Wisconsin, a qualified elector and the current Milwaukee County Executive and resides at 2334 North 73rd Street, Wauwatosa, Wisconsin 53213.
4. Upon information and belief Respondent Friends of Scott Walker is a state candidate campaign committee registered under the laws of the State of Wisconsin and has an address of 2334 North 73rd Street, Wauwatosa, Wisconsin 53213. The candidate campaign committee has a State Elections Board identification number of 102575.
5. Upon information and belief on or about November 4, 2004 Scott Walker and his Campaign Committee used campaign resources to communicate with over 40,000 Milwaukee area electors to encourage the electors to support Scott Walker's budget proposal. *See* attached hereto and incorporated herein as Exhibit A, the newspaper article regarding the number of calls placed by the Walker Campaign. Respondents also reported the political expenditure on its

January 2004 Campaign Finance Report, more specifically the following entry:
"11/5/2004", "The Markesan Group Llc", "10500 N Port Washington Road Suite 203", "Mequon", "WI", "53092-5539", "recorded phone calls", "2932.62"

6. When Respondents communicated with the electors they failed to include the identification of the Political Committee, which paid for the communication. *See* attached hereto and incorporated herein as Exhibit B, the admission by the Walker Campaign.

RESPONDENTS ANONYMOUSLY DISBURSED CAMPAIGN FUNDS IN VIOLATION OF WISCONSIN LAW

7. Paragraphs 1-6 above are re-alleged and incorporated herein by reference.

8. Wis. Stats. Sec. 11.30(1) provides:

No disbursement may be made or obligation incurred anonymously, and no contribution or disbursement may be made or obligation incurred in a fictitious name or by one person or organization in the name of another for any political purpose.

RESPONDENTS FAILED TO IDENTIFY THE SOURCE OF THE POLITICAL COMMUNICATIONS IN VIOLATION OF WISCONSIN LAW

9. Paragraphs 1-8 above are re-alleged and incorporated herein by reference.

10. Wis. Stats. Sec. 11.30(2)(a) provides:

The source of every printed advertisement, billboard, handbill, sample ballot, television or radio advertisement or other communication which is paid for by or through any contribution, disbursement or incurred obligation shall clearly appear thereon. This paragraph does not apply to communications for which reporting is not required under s. 11.06 (2).

RESPONDENTS FAILED TO IDENTIFY THE NAME OF THE COMMITTEE AND THE NAME OF THE TREASURER OF THE COMMITTEE IN VIOLATION OF WISCONSIN LAW

11. Paragraphs 1-10 above are re-alleged and incorporated herein by reference.

12. Wis. Stats. Sec. 11.30(2)(b) provides:

Every such communication the cost of which is paid for or reimbursed by a committee or group, or for which a committee or group assumes responsibility,

whether by the acceptance of a contribution or by the making of a disbursement, shall be identified by the words "Paid for by" followed by the name of the committee or group making the payment or reimbursement or assuming responsibility for the communication and the name of the treasurer or other authorized agent of such committee or group.

CIVIL PENALTIES

13. Paragraphs 1-12 above are re-alleged and incorporated herein by reference.
14. Wis. Stats. Sec. 11.60(1) provides

Any person, including any committee or group, who violates this chapter may be required to forfeit not more than \$500 for each violation.

CRIMINAL PENALTIES

15. Paragraphs 1-14 above are re-alleged and incorporated herein by reference.
16. Wis. Stats. Sec. 11.61(b) & (c) provides:

11.61(b) - Whoever intentionally violates s. 11.25, 11.26, 11.27 (1), 11.30 (1) or 11.38 is guilty of a Class I felony if the intentional violation does not involve a specific figure or if the intentional violation concerns a figure which exceeds \$100 in amount or value.

11.61(c) - Whoever intentionally violates any provision of this chapter other than those provided in par. (a) and whoever intentionally violates any provision under par. (b) where the intentional violation concerns a specific figure which does not exceed \$100 in amount or value may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

WHEREFORE, Complainants respectfully request that the Wisconsin State Elections Board take action against Respondents including fining the Respondent's Campaign pursuant to Wis. Stats. Sec. 11.60(1), which provides for a fine of \$500.00 per separate violation. Respondents made roughly 40,000 separate telephone calls/violations. Complainants also request that the Wisconsin State Elections Board forwards this Complaint to the District Attorney's office for criminal investigation pursuant to Wis. Stats. Secs. 11.61(1)(b) & (c) and for other such relief that is just and equitable.

Dated at Milwaukee, Wisconsin this 11th day of May 2005

ATTORNEY MICHAEL S. MAISTELMAN

By: 

Michael S. Maistelman

State Bar No. 1024681

Counsel for Complainants

P.O. ADDRESS:

3127 W. Wisconsin Ave.

Milwaukee, Wisconsin 53208-3957

(414) 908-4254

(414) 271-1884 (Fax)

VERIFICATION

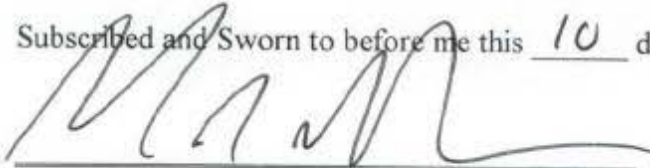
STATE OF WISCONSIN)
) ss
MILWAUKEE COUNTY)

I, Gerry Broderick, being first duly sworn, on oath, deposes and states that I am the Milwaukee County Supervisor from the 3rd Supervisory District, and that the foregoing verified complaint is true and correct based upon my personal knowledge except as to those matters therein stated upon information and belief and, as to those matters, he believes them to be true.

Dated at Milwaukee, Wisconsin this 10th day of May 2005.


Gerry Broderick - Complainant

Subscribed and Sworn to before me this 10 day of May 2005.


Notary Public, State of Wisconsin
My Commission expires _____ or Is Permanent.

VERIFICATION

STATE OF WISCONSIN)
) ss
MILWAUKEE COUNTY)

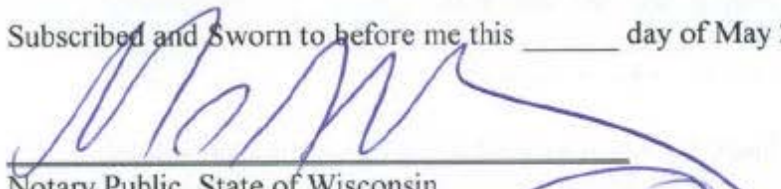
I, John Weishan Jr., being first duly sworn, on oath, deposes and states that I am the Milwaukee County Supervisor from the 16th Supervisory District, and that the foregoing verified complaint is true and correct based upon my personal knowledge except as to those matters therein stated upon information and belief and, as to those matters, he believes them to be true.

Dated at Milwaukee, Wisconsin this 7th day of May 2005.



John Weishan - Complainant

Subscribed and Sworn to before me this _____ day of May 2005.



Notary Public, State of Wisconsin
My Commission expires _____ or Is Permanent.



Original URL: <http://www.jsonline.com/news/metro/nov04/272555.asp>

Some call their supervisors after Walker message

Automated call goes out to 40,000 about freeze on county property taxes

By **JESSE GARZA** and **DAVE UMHOEFER**
jgarza@journalsentinel.com

Posted: Nov. 4, 2004

The switchboard at the Milwaukee County Board lit up Thursday after an automated telephone message from County Executive Scott Walker urged taxpayers to call their supervisors and voice support for his proposed tax freeze.

"I saw that the supervisors' staffers were quite busy," Supervisor Paul Cesarz said.

"You could hear all of the phones ringing in the hallways outside their offices."

Although many callers voiced support for Walker, some complained to his office about receiving an automated political message after a campaign season in which they were inundated with such calls.

Walker said about 40,000 calls were placed to Milwaukee County residents. The recorded message describes how Walker's proposed 2005 budget essentially freezes the county tax levy while supporting senior citizens, parks and programs for those in need.

During the message, Walker tells listeners that county supervisors are trying to raise taxes, gives them the telephone number to the County Board and urges them to tell supervisors not to raise taxes.

"What could be more democratic?" Walker said Thursday, noting that his campaign fund paid for the calls.

He said some callers to his office questioned how the calls were paid for because the message did not include a disclaimer.

"We recorded one. It's supposed to be on there," he said, speculating it was probably omitted in the rush to get the calls out.

Supervisor and Finance Chairman Richard Nyklewicz was skeptical of the explanation.

"I find that very interesting," Nyklewicz said, noting that he received at least 15 calls beginning about 3:30 p.m. Some of the callers were prompted by Walker's message and some called while listening to Mark Belling's program on WISN-AM (1130), he said.

"I don't mind it. I welcome the opportunity to talk with constituents," Nyklewicz said.

"But it's clear to me the county executive is in a campaign mode."

The calls, organized by Walker's former chief of staff and campaign aide, Jim Villa, began Thursday afternoon, Walker said.

Today, his staff will assess how effective the calls were before deciding whether to send out "another wave," he said.

The County Board's Finance Committee endorsed a 2005 budget that would boost property tax collections for county government by 2.96%, for a levy of \$225.9 million, up \$6.5 million from Walker's plan.

Cesarz said that his office received from 15 to 20 calls after about 3 p.m. and that the callers said they were prompted by Walker's message.

"The calls were definitely supportive" of Walker, Cesarz said. "Some wanted to know how I would vote, and I told them I'm in full support of his budget.

"I understood the county executive would be serious and firm in his resolve and believes when he was elected, he carried a mandate by voters who want property tax freezes."

Supervisor Gerry Broderick, who supports the committee's version of the budget, said he received a "couple" calls from people against a tax raise but was not aware of Walker's automated message.

"He's entitled to do what he thinks is best as far as supporting his own policy," Broderick said. "It doesn't surprise me if you have a lot of money and knee-jerk support from people who only look out for themselves."

Finance Committee members felt that Walker's plan relied too heavily on a risky borrowing plan and one-time revenue from county land sales.

From the Nov. 5, 2004, editions of the Milwaukee Journal Sentinel
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Friends of Scott Walker



November 5, 2004

VIA FACSIMILE ONLY

Milwaukee County Elections Commission
Room G-3
901 N 9th Street
Milwaukee, WI 53233

State of Wisconsin Elections Board
17 West Main Street, Suite 310
Madison WI 53072

RE: Disclaimer / Friends of Scott Walker SEB # 102575

Gentleman:

On November 4, 2004 our campaign made recorded phone calls to a list of our supporters. These calls were made in support of County Executive Scott Walker's budget proposal.

While it is not entirely clear if one was legally necessary or not, when the call was recorded it did include a disclaimer. However, when the calls were placed by our automated call vendor the disclaimer was inadvertently omitted from the call.

We regret that the calls were not made as intended, which included the disclaimer, and are notifying you of the situation in case you receive any inquiries on this matter.

Please contact us if you have further questions or concerns at 414-333-9476.

Very truly yours,

Friends of Scott Walker

John Hiller
Treasurer

Cc: Scott Walker