

Department of Justice ("DOJ"); their appearance was formally made in that case on September 15, 2006, more than two years ago. Specifically, Assistant Attorneys General Maureen McGlynn Flanagan and Assistant Attorney General Mary E. Burke have made formal appearances and have submitted pleadings and motions on our behalf in that case.

5. Other Assistant Attorneys General have also participated in the representation, including Assistant Attorney General Alan Lee.
6. Last Thursday, September 11, 2008, I met with Assistant Attorneys General Lee, Flanagan and Burke on the *Practical Political Consulting* case. During that meeting, Assistant Attorney General Lee asked me if we, the Defendants in the *Practical Political Consulting* case, would waive the conflict created by the Attorney General suing us in this case.
7. Sunday, September 14, 2008, I received a proposed conflict waiver form from Assistant Attorney General Burke for my consideration.
8. Neither I or the GAB have waived the Attorney General's conflict created by him and the DOJ suing us and the GAB Board members in this case, nor do we have any intention to do so.
9. Four of the Defendants in this case, members of the GAB Board Thomas Cane, Gerald Nichol, Michael Brennan and William Eich, are also currently Defendants, sued in their official capacities, in *Swaffer, et al. v. Deninger, et al.*, which is pending before the United States District Court for the Eastern District of Wisconsin as Case No. 08-CV-0208. It was filed on March 10, 2008.
10. *Swaffer* is a civil rights case brought under 42 U.S.C. § 1983. The Attorney General and attorneys he supervises at the DOJ, specifically Assistant Attorneys General Chris Blythe and Jennifer Sloan Lattis, are currently representing these GAB Board members in that litigation, having first made a formal appearance in the case on March 17, 2008. Assistant Attorney General Alan Lee is also participating in that case on behalf of the GAB Board members.
11. This Affidavit is made in support of Defendants' Motion for Disqualification of Plaintiff's Counsel.

Kevin J. Kennedy

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

Notary Public, District of Columbia
My Commission expires: _____