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March 8, 2012

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BY HAND DELIVERY

Eric M. McLeod
Michael Best & Friedrich LLP
One South Pinckney Street, Suite 700
Madison, WI 53703

Baldus et al. v. Brennan et al.
U.S. Eastern District of Wisconsin Case No. 11-CV-562

Dear Eric:

We received your March 5, 2012 letter responding to our letter of March 1, 2012. We do recall Mr. Ottman's deposition testimony (as well as similar testimony by Messrs. Foltz and Handrick) that they were not instructed to retain all of the materials that they created or reviewed during the redistricting process and that, in fact, they did not do so. That testimony, however, does not explain why the January 20, 2011 e-mail attached to our March 1st letter was not produced in response to our subpoena to Mr. Ottman.

First, although your March 5th letter states that the open records request that resulted in the production of the e-mail at issue was submitted in the spring of 2011, it is our understanding that the open records request was submitted in *December* 2011. This is an important distinction, and to ensure that we have a correct understanding of the circumstances under which this e-mail was released, we ask that you identify with specificity the open records request from the spring of 2011 that Mr. Ottman believes resulted in the release of the January 20, 2011 e-mail.

Second, if in fact Mr. Ottman's January 20, 2011 e-mail was released in response to an open records request submitted in December 2011, it appears that as of that time (which post-dates our December 13, 2011 subpoena to Mr. Ottman), the e-mail in question was still in existence. If Mr. Ottman did "delete" it, it was both subject to recovery and to subpoena. This raises the serious question of the breadth of the search conducted for materials in response to the subpoenas that we served on Messrs. Ottman, Foltz, and Handrick.

When an e-mail is deleted from a user's inbox, it is commonly retained in an archive or remains stored in some form on the computer, network, or e-mail server. Searching for responsive materials to our subpoenas, Messrs. Ottman, Foltz, and Handrick were obligated to search (or have someone search for them) any archives or other locations where "deleted" e-mails might be retained. Please confirm that, in fact, such archives or other locations were searched for responsive materials as the subpoenas required.

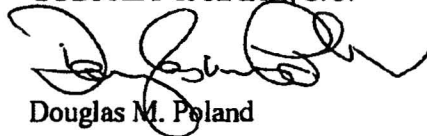
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McLeod	
EXHIBIT NO.	34
2-5-13	RPTR PC
For the Record, Inc. (608) 833-0392	

Ottman	
EXHIBIT NO.	23
4/30/12	RPTR SM
For the Record, Inc. (608) 833-0392	

Eric M. McLeod
March 8, 2012
Page 2

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Douglas M. Poland

DMP:mem
Enc.

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Patrick Hodan (By Hand Delivery)
Daniel Kelly (By Hand Delivery)
Peter Earle (By E-mail and U.S. Mail)

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