

STATE OF WISCONSIN

CIRCUIT COURT

WALWORTH COUNTY

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STATE OF WISCONSIN,  
P. O. Box 7857  
Madison, WI 53707-7857,

Plaintiff,

v.

Case No. 14-CF- 256

DONALD A HOEFT JR W/M  
1776 Conant Street  
Lake Geneva, WI 53147  
DOB: 9/28/1949  
Height: 5'10" Weight: 230  
Hair: Blonde Eyes: Blue

Defendant.

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**CRIMINAL COMPLAINT**

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Your complainant, Detective Robert Schiltz, being first duly sworn on oath, states as follows:

**COUNT ONE: MISCONDUCT IN PUBLIC OFFICE**

On or about March 19, 2012 and June 18, 2013, in the City of Lake Geneva, Walworth County, State of Wisconsin, the defendant did, in his capacity as a public officer or public employee, exercise a discretionary power in a manner inconsistent with the duties of his employment and with intent to obtain a dishonest advantage for himself or another, specifically by failing to transfer funds from recycled oil to the City of Lake Geneva, contrary to Wis. Stat. §§ 946.12(3) and 939.50(3)(i), a class I felony, for which the penalty upon conviction is a fine not to exceed \$10,000 and/or imprisonment not more than three years and six months.

**COUNT TWO: THEFT (<\$2500)**

On or about March 19, 2012, in the City of Lake Geneva, Walworth County, Wisconsin, the defendant did, by virtue of his employment, intentionally transfer money that was in his possession and custody, to wit: funds from recycled oil, without the consent of the City of Lake Geneva, contrary to the defendant's authority and with intent to convert the money to his own use or the use of another contrary to Wis. Stat. § 943.20(1)(b).

Upon conviction of this offense, a class A misdemeanor, the maximum possible penalty is imprisonment not to exceed 9 months and a fine not to exceed \$10,000, or both, pursuant to Wis. Stat. §§ 943.20(3)(a) and 939.51(3)(a).

**COUNT THREE: THEFT (<\$2500)**

On or about June 18, 2013, in the City of Lake Geneva, Walworth County, Wisconsin, the defendant did, by virtue of his employment, intentionally transfer money that was in his possession and custody, to wit: funds from recycled oil, without the consent of the City of Lake Geneva, contrary to the defendant's authority and with intent to convert the money to his own use or the use of another contrary to Wis. Stat. § 943.20(1)(b).

Upon conviction of this offense, a class A misdemeanor, the maximum possible penalty is imprisonment not to exceed 9 months and a fine not to exceed \$10,000, or both, pursuant to Wis. Stat. §§ 943.20(3)(a) and 939.51(3)(a).

**COUNT FOUR: MISCONDUCT IN PUBLIC OFFICE**

On or about and between March 19, 2010 and November 6, 2013, in the City of Lake Geneva, Walworth County, State of Wisconsin, the defendant did, in his capacity as a public officer or public employee, exercise a discretionary power in a manner inconsistent with the duties of his employment and with intent to obtain a dishonest advantage for himself or another,

specifically by failing to transfer funds from scrapping city property to the City of Lake Geneva, contrary to Wis. Stat. §§ 946.12(3) and 939.50(3)(i), a class I felony, for which the penalty upon conviction is a fine not to exceed \$10,000 and/or imprisonment not more than three years and six months.

**COUNT FIVE: THEFT (\$2500-5000)**

On or about and between March 19, 2010 and November 6, 2013, in the City of Lake Geneva, Walworth County, Wisconsin, the defendant did, by virtue of his employment, intentionally transfer possession of money that was in his possession and custody, to wit: funds from scrapped city property, without the consent of the City of Lake Geneva, contrary to the defendant's authority and with intent to convert the money to his own use or the use of another contrary to Wis. Stat. § 943.20(1)(b).

Upon conviction of this offense, a Class I felony, the maximum possible penalty is imprisonment not to exceed 3 years and 6 months and a fine not to exceed \$10,000, or both, pursuant to Wis. Stat. §§ 943.20(3)(bf) and 939.50(3)(i).

**COUNT SIX: ENCOURAGING A VIOLATION OF PROBATION**

On or about May 8, 2013, in the City of Lake Geneva, Walworth County, Wisconsin, the defendant did, intentionally aid or encourage a probationer to violate a term or condition of her probation contrary to Wis. Stat. § 946.46.

Upon conviction of this offense, a class A misdemeanor, the maximum possible penalty is imprisonment not to exceed 9 months and a fine not to exceed \$10,000, or both, pursuant to Wis. Stat. §§ 946.46 and 939.51(3)(a).

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## PROBABLE CAUSE

Detective Robert Schiltz of the Walworth County Sheriff's Office reports that in October 2013 the Walworth County Sheriff's Department received a report from a confidential informant encouraging them to look into the activities of Lake Geneva Street Department Superintendent Ronald Carstensen. The Street Department is located at 1065 Carey Street in the City of Lake Geneva, Walworth County, Wisconsin. Detective Schiltz met with the informant, who stated that Carstensen has been providing City of Lake Geneva sand to a private company, C&D Landscaping. The confidential informant also stated that the defendant and Street Department employees have "scrapped" City property and kept the profits.

On January 6, 2014, Lake Geneva Police Department Detective Joseph Ecklund spoke with Lake Geneva Street Department Working Foreman Donald Hoeft, the defendant. The defendant stated that he has been the number two Street Department employee under Ronald Carstensen for seven years. The defendant has worked for the Street Department for eighteen years. The defendant stated that he has run the day to day business of the Street Department recently and is the first one in and last one out.

### Oil recycling

The defendant stated that the Street Department used to have 55 gallon oil barrels into which they would deposit oil and then take it to Dale Otto's. The defendant stated that now a company comes from Spring Grove, Illinois and collects the oil from the Street Department barrel. The defendant stated that the oil in the tank is from City trucks and the barrel is not open to the public. The defendant stated that he thinks he received \$250 from the oil recycling company. The defendant stated that he cashed the checks at his bank and gave the cash to Carstensen. The defendant stated that he thinks the last time was summer of 2013.

On January 7, 2014, Detective Ecklund contacted Jerry Kutsch, representative of Heritage Crystal Clean of Spring Grove, Illinois. Kutsch stated that the defendant was on their account. Kutsch stated that his records showed that there were two oil pick-ups from the Lake Geneva Street Department and both checks were written to the defendant personally. Kutsch emailed copies of the checks to Detective Ecklund. Check #1968 was written to the defendant for \$240.00 on March 19, 2012 and Check #110350 was written to the defendant on June 18, 2013 for \$240.00. Kutsch stated that he thought it was "a little weird" that a municipality would have a check written out to an individual.

Detective Ecklund spoke with Lake Geneva Comptroller Peg Pollitt on January 2, 2014 and asked her if she had ever received any funds from oil recycling companies and she stated that she had not. Pollitt stated that the proper procedure if an employee received funds for recycled city property would be for the employee to bring the payment for the property and any supporting documentation to the front counter of City Hall to be receipted in as sold property.

The defendant stated that the Street Department has a "slush fund," which is a cash box in Carstensen's office. The defendant stated that he knows where the box and its key are kept. The defendant stated that money from oil recycling goes into the "slush fund" and is used for the defendant's cell phone bill as well as parties and food for Street Department workers. The defendant stated that Carstensen had "total control" over the "slush fund" but that Carstensen would tell the defendant to go get money out to pay for items, such as donuts for the employees.

### **Scrap metal recycling**

Detective Ecklund asked the defendant about the Street Department procedure for recycling scrap metal. The defendant stated that the Street Department used to have a steel dumpster from FCF out of Burlington. The defendant stated that FCF charged the city \$350 for the dumpster. The defendant stated that Carstensen decided that they could save money by doing

the recycling themselves. The defendant stated that he did not keep track of how many scrap runs they made but thinks it was five or six from 2009 through 2013. The defendant stated that he personally made three or four scrap runs and employee Neil Waswo also went a "few" times. The scrap materials came from three locations in the Street Department: Building 1; an outside location next to the oil recovery drum; and Building 3, the wood building. The defendant stated that employees sometimes brought in their personal scrap as well as scrapping the city materials in the piles. The defendant stated that sometimes he used his own truck and other times they used city trucks to transport the scrap. The defendant stated that money from scrapping was given to Carstensen and the defendant assumed Carstensen was receipting it into City Hall. The defendant stated that Carstensen told him that Carstensen was giving the City "some of the money."

Detective Ecklund obtained records from Chicago Surplus and Recycling owner Jared Gabiner. Their records showed the following transactions related to Lake Geneva, totaling \$2,077.77 in 2012 and 2013:

- 2/15/2012: \$254.23 to Don Hoefft
- 3/22/12: \$291.08 to Don Hoefft
- 11/14/12: \$387.96 to Don Hoefft
- 11/15/12: \$222.86 to "City Lk Geneva"
- 11/20/12: \$172.75 to Don Hoefft
- 11/29/12: \$119.68 to Don Hoefft
- 12/13/12: \$121.97 to Neil Waswo
- 11/6/13: \$433.67 and & 73.57 to Neil Waswo

Gabiner's records also showed license plates for the transactions that indicated Hoefft and Waswo were driving city vehicles for these scrap runs.

On December 16, 2013, Lake Geneva Police officer Seth Keller contacted Dave Metzger at TEC Recycling Center, which has locations in Twin Lakes, Kenosha County and Union

Grove, Racine County, Wisconsin. Metzger located records for six drop-offs from the defendant or the Lake Geneva Street Department:

- 10/9/2012: \$111.00 for copper wire from Donald Hoeft (Twin Lakes)
- 10/19/2012: \$ 43.95 for metal from Donald Hoeft (Twin Lakes)
- 12/17/2012: \$367.86 for metal from Lake Geneva Street Dept. (Union Grove)
- 6/25/2013: \$121.79 for metal from Lake Geneva Street Dept. (Union Grove)
- 9/6/2013: \$241.93 for metal from Donald Hoeft (Union Grove)

Detective Ecklund showed the defendant the TEC and Chicago Surplus records. The defendant stated that of all the transactions, one might have been his personal items, but he could not be sure. The defendant stated that it would have been one trip at most that was his personal items and the rest would have been city materials.

On January 22, 2014 Gabiner provided additional records to Detective Ecklund for scrap runs from Lake Geneva in the year 2010. There were ten trips in 2010, documented and signed for by the defendant and including a photocopy of his driver's license:

- 3/15/2010: \$1,172.87
- 3/19/2010: \$598.10
- 3/24/2010: \$1,078.65
- 3/24/2010: \$2,854.00
- 3/25/2010: \$578.98
- 3/25/2010: \$666.50
- 3/29/2010: \$532.75
- 4/13/2010: \$300.00
- 10/21/2010: \$55.18 (driving his personal vehicle, license plate HOEFT)
- 12/8/2010: \$255.98

All of the vehicles used for transport in 2010 were registered to the City of Lake Geneva, except for the defendant's personal vehicle on October 21, 2010. City records show that the \$1,231.67 and \$1,078.73 amounts were receipted into City Hall. The remaining seven loads in 2010 were delivered to Chicago Surplus in City of Lake Geneva vehicles and not receipted into City Hall. The total of those seven loads was \$5,786.31.

On December 12, 2013, Detective Ecklund spoke with Street Department employee Neil Waswo. Waswo stated that he is entering his sixth year working at the Street Department. Waswo stated that he had asked if the money they received from recycling was the city's money and Carstensen told him it was their "slush fund." Waswo stated that the defendant had told him that if the Mayor knew about the "slush fund" he would "want to get his hands on it." Waswo stated that the former mayor [William Chesen] had told the Streets Department that they had to remove the "slush fund." Detective Ecklund spoke with Chesen, who stated that in 2008 he told Carstensen and Dennis Jordan that the Street Department needed to have a system for accounting exactly where petty cash goes.

Waswo stated that the last time he made a scrap metal run was in the fall of 2013. Waswo stated that he and employee Brett Behrens each took a truck full of scrap to Chicago Surplus. Waswo stated that he specifically remembered taking twelve-foot steel sidewalk forms. Waswo told Carstensen that it was a shame they were throwing them away because they could still be used by the city. Waswo stated that the system was that Street Department employees would have to present their licenses at the scrap yard if the total was over \$100. Waswo stated that he would bring the recycling money back to Carstensen or the defendant.

Street Department employee Brett Behrens spoke with Detective Ecklund on December 12, 2013. Behrens stated that he had made scrap runs to Chicago Surplus approximately four times with Waswo. Behrens stated that they hauled scrap metal, ballasts, street lights, and the "guts" from the street light heads. Behrens stated that the first time he went with Waswo he observed Waswo hand the cash from the scrap transaction (\$433) to the defendant when they returned to the Street Department. Behrens stated that he did not see the money transfer the second time, but knew that Waswo received \$73 from the scrap yard. Behrens stated that it was "common sense" that this system was wrong and that the money should have gone to City



Administrator Dennis Jordan at City Hall, not to the cash box in the Street Department that Carstensen stated he had. Behrens stated that he observed the defendant make scrap runs alone as well.

Terrance Krohn, who has worked at the Street Department for twenty-six years, spoke with Detective Ecklund on December 13, 2013. Krohn stated that he heard the defendant telling Behrens and Waswo to use city trucks 15 and 16 to haul scrap from the city, such as old steel bristle brushes from the street sweeper. Krohn stated that when they returned, Waswo took money out of his pocket, stated, "I don't want nothing to do with this," and walked into Carstensen's office. Krohn stated that Waswo came out of Carstensen's office without the money and made a comment about it being out of his hands now.

The defendant stated that money from scrap metal recycling goes into the "slush fund."

City Administrator Dennis Jordan stated to Detective Ecklund that no consent was given for the defendant or anyone else to keep proceeds from scrapping or recycling City property.

### **Encouraging a probation violation**

Detective Ecklund reports that, during the course of his investigation, an anonymous complainant reported that the defendant had signed off on a female probationer's community service hours in exchange for a good price on her truck. Detective Ecklund reports that on June 2, 2014 he contacted the Wisconsin Department of Transportation (DOT) to find out what, if any, vehicles were registered to the defendant. Investigator Bartnik of the DOT reported that the defendant owns a 1996 Chevrolet truck that he purchased on May 21, 2013 from Darla Ackley. DOT provided the vehicle records to Detective Ecklund.

Detective Ecklund looked up Darla Ackley on the Wisconsin Circuit Court Automated Program and observed that on November 16, 2012 she was placed on eighteen months probation for an operating while intoxicated conviction in Walworth County Circuit Court file no. 12-CT-

119 with conditions including 45 days in jail and 45 hours of community service. Detective Ecklund contacted Ackley's probation agent, E. Castillo, who stated that Ackley called the office on April 9, 2013 to say that she had completed ten hours of community service and was going to wait for nicer weather to work in the parks. Castillo stated that Ackley called back on May 7, 2013 to say that she had completed the remaining thirty-five hours.

Karen Witt of the Walworth County Sheriff's Office confirmed that Ackley submitted documentation of her community service hours, as ordered. Witt provided Ackley's community service time sheet to Detective Ecklund. The time sheet showed that Ackley completed ten hours of community service while in jail. The defendant had signed off on community service work allegedly performed by Ackley for the City of Lake Geneva Street Dept on the following days:

- 5 hours on 4/3/13
- 5 hours on 4/4/13
- 4 hours on 4/5/13
- 8 hours on 4/8/13
- 8 hours on 4/10/13
- 5 hours on 4/12/13

City Administrator Dennis Jordan's signature is at the bottom of the page next to "Supervisor's Name" with the date "5-8-2013" handwritten above it.

Detective Ecklund contacted Ackley on June 4, 2014. Ackley stated that she completed ten hours of community service in jail and then had a hard time finding places to do her community service when she was released. Ackley stated that the defendant is a good friend and she was able to do her community service for the Street Department. Detective Ecklund showed Ackley her community service time sheet and asked her which hours she actually worked. Ackley stated that she believed that she worked ten hours for the Street Department, five on April 3rd and five on April 4th, 2013. Ackley stated that she did not work the remaining twenty-

five hours recorded on her time sheet. Ackley stated that the defendant told her that if she sold him her truck for \$1,000 he would sign off on the rest of her hours. Ackley stated that she believed the truck to be worth approximately \$2,000. Ackley stated that the defendant filled out her time sheet and she faxed it to the Walworth County Courthouse. Ackley stated that it was the defendant's idea to falsify her time sheet in exchange for the \$1,000 price on her truck.

Ackley stated that approximately a week after the last day she actually performed her community service (April 4, 2013) the defendant paid her \$1,000 in cash for her truck and she sent a money order to the bank to get a lien lifted off the truck. Detective Ecklund reports that the defendant's bank records show that he wrote a check for "cash" in the amount of \$1,000 on April 11, 2013. Ackley stated that the defendant came to her house and picked up the truck "a couple days" after he paid her.

Detective Ecklund spoke with the defendant on June 5, 2014. Detective Ecklund showed the defendant Ackley's community service time sheet and the defendant identified his signatures verifying Ackley's work for the Street Department from April 3 through April 12, 2013. The defendant also confirmed that he bought Ackley's 1996 Chevrolet truck from her in May 2013. The defendant initially stated that Ackley worked thirty-five hours at the Street Department to fulfill her community service. The defendant stated that he knew Ackley was on probation. The defendant stated that the time sheet was an accurate record of the hours Ackley volunteered. Eventually, when told that Ackley admitted that she did not work the entire thirty-five hours, the defendant admitted that he signed for hours that Ackley did not work. The defendant stated that he believed that Ackley worked three days and that he signed off on three more days she did not work. The defendant stated that "It teaches you not to help people." He further stated, "Was I wrong? Probably, yeah."

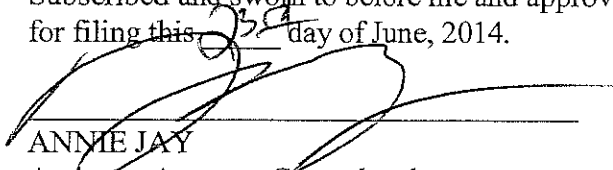
Your complainant is a Detective with the Walworth County Sheriff's Office, who bases his knowledge of this complaint on:

- the official law enforcement agency reports of the Lake Geneva Police Department and Walworth County Sheriff's Office, which reports were prepared in the normal course of law enforcement duties;
- statements by citizen informant(s), who are eyewitnesses to the facts they relate;
- statements by the defendant, which were made contrary to his penal interests;
- the official records of: the City of Lake Geneva; the Circuit Court for Walworth County; the Department of Transportation; the FBI Triple I Teletype; and the Wisconsin Circuit Court Automated Program, which records are maintained in the normal course of business duties.

Dated this 23 day of June, 2014.

  
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DETECTIVE ROBERT SCHILTZ, Complainant

Subscribed and sworn to before me and approved  
for filing this 23<sup>rd</sup> day of June, 2014.

  
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