

State of Wisconsin \ Government Accountability Board

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MEMORANDUM

DATE: For the Meeting of June 8, 2012

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel
Government Accountability Board

Prepared and Presented by:
Michael Haas, Staff Counsel
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SUBJECT: 2012 Partisan Ballot Access Challenges

This memorandum summarizes Board staff's review of challenges that have been filed to nomination papers of candidates for the 2012 fall elections. Challenges have been filed to 20 candidates, and staff recommends resolving those challenges as outlined below.

1. Frederick P. Kessler Complaint against Mario Hall, Democratic Candidate for the 12th Assembly District Complaint EL12-12

Board staff determined that Candidate Hall submitted nomination papers containing 236 signatures. State law requires a minimum of 200 signatures for the office of Representative to the Assembly. The complaint alleges that the nomination papers, due to various insufficiencies regarding individual signatures, incorrect or incomplete circulation information, and deficiencies with respect to content in the headers of some pages fail to contain at least 200 valid signatures.

Candidate Hall's response disputes most of the challenges raised in the complaint and makes no comment in regards to the others.

Challenges to Circulator Information: The complaint contains 6 challenges with respect to circulator information. The complaint alleges that on 20 individual pages, the circulator listed the incorrect municipality of residence. Staff review of Candidate Hall's mailing address does confirm the candidate, who is the circulator for these pages, correctly listed "Milwaukee" as his residence. The complaint also alleges that on 5 pages the circulator failed to list any municipality of residence. While this is true, the candidate was also the circulator on these 5 pages and did include the required information in the header on the distributed pages. Pursuant

to GAB 2.05, Wis. Adm. Code, “Where any required item of information on a nomination paper is incomplete, the filing officer shall accept the information as complete if there has been substantial compliance with the law.” GAB Ch.2.05. It is the opinion of staff that Candidate Hall has substantially complied with supplying the required circulator information on these disputed pages.

The challenge also alleges two pages fail in their entirety because Candidate Hall, as the circulator, listed “Brown Deer/Milwaukee” or simply “Milw” for the municipality. Again, according to Section GAB 2.05 mentioned above, the opinion of staff is that Candidate Hall substantially complied and that these pages meet the legal requirements of nomination papers. The complaint’s last two challenges to entire pages concern all signatures on pages which were missing the date in the circulator’s certification, as required by GAB 2.05(15)(a). Staff had already struck these signatures during initial review.

Challenges to Individual Signatures: The challenge alleges deficiencies in 19 individual signatures for the following reasons: Incomplete or missing dates, incomplete or missing addresses, no information at all, and addresses outside of the 12th State Assembly District. Of these challenges, staff had already struck or did not count 4 of the signatures. After searching for the addresses in SVRS (State Voter Registration System), staff confirmed that 7 of the 10 addresses that were challenged as outside the 12th Assembly District were in fact out of the district. The remaining signatures are disputed for omitting the year from the date; however, GAB 2.05(15)(a) provides that an incomplete or missing date may be determined by reference to the dates of other signatures on the paper. Accordingly, these signatures substantially comply with the necessary requirements via information that can be determined from other surrounding signatures on the page.

Challenges to Heading of Nomination Papers: The last challenge in the complaint asserts that Candidate Hall wrongly listed the City of Milwaukee as his municipality for mailing purposes. Staff has confirmed that SVRS lists Candidate Hall’s municipality for mailing purposes as Milwaukee, as does the United States Postal Service although Hall’s current municipality for voting purposes is in fact Brown Deer. Candidate Hall’s header contains the correct required information.

Recommended Motion: The Board reduces the verified signature count of Candidate Hall by 7 to 239, dismisses the remainder of the complaint, and grants ballot access to Candidate Hall.

2. Joel Diny Complaint against David VanDerLeest, Republican Candidate for 20th Assembly District Complaint EL 12-13

Board staff determined that Candidate VanDer Leest submitted 214 valid signatures. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint alleges that the nomination papers contain 16 signatures from individuals residing outside the district and 2 with illegible addresses.

Upon reviewing the complaint, and after conducting a verification via the Voter Public Access (VPA) function in SVRS, staff determined the 18 challenged signatures were outside the district, and thus invalid. However, staff believes that 5 signatures originally struck should be included. The signatures were struck because they had an incomplete date or the date appeared to be outside the circulation period. Upon subsequent review, the dates are within the circulation

period or are bracketed by dates within the circulation period, and therefore comply with Section 2.05 (15)(a), Wis. Adm. Code, which provides that an individual signature on a nomination paper may be counted when the date can be determined by reference to the dates of other signatures on the paper.

Mr. VanDer Leest filed a correcting affidavit in an attempt to rehabilitate additional signatures struck by staff. Under Section GAB 2.05(4), Wis. Adm. Code, such correcting affidavits must be filed within three days of submitting nomination papers – June 4, 2012. Mr. VanDer Leest did not file his affidavit until June 7, 2012, and therefore his correcting affidavits were disregarded.

Recommended Motion: Approve challenge as to 18 signatures, add 5 signatures originally struck, verify 201 valid signatures, and grant ballot status for Candidate VanDerLeest.

3. Joel Zepnick Complaint against Jose Guzman, Democratic Candidate for the 9th Assembly District Complaint EL 12-14

Board staff determined that Candidate Guzman submitted 286 valid signatures. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint challenges 136 signatures on the following grounds:

- A circulator did not correctly list her address (because she did not include an apartment number)
- Signers did not list their municipality (because they abbreviated “Milwaukee”)
- One person fraudulently signed as three additional individuals
- An address is not in the district
- An individual failed to date the individual’s signature
- Some individuals signed for others

Mr. Zepnick included an affidavit of a private investigator who averred that one signer stated that she had signed the names of three individuals; that the owner of a house listed as the address of three signers informed him that the three signers did not live at that address; and that the occupant of another house told him that an individual signer who had listed that address did not live there. Candidate Guzman did not file a response.

Upon reviewing the complaint, and after conducting a verification via the Voter Public Access (VPA) function in SVRS, staff believes that 11 signatures should be struck for the following reasons: 1 signature is outside the district; 3 addresses are non-existent; the names of 3 individuals were signed by another; 4 individuals do not live at the address indicated.

Although originally stricken by staff for failing to have a date, 1 signature should be added because the signature is bracketed by signatures with dates within the period for circulating nomination papers.

Staff recommends denying other challenges – using an abbreviation to indicate the City of Milwaukee and a circulator not providing an apartment number – as the address information constitutes substantial compliance with the statutory requirements.

Recommended Motion: Approve challenge as to 11 signatures and dismiss the remainder of the complaint, include an additional signature originally struck, verify 276 valid signatures, and grant ballot status for Candidate Guzman.

4. **Lena Taylor Complaint against David King, Republican Candidate for the 4th State Senate District** Complaint EL 12-15

Board staff determined that Candidate King submitted 456 valid signatures. State law requires a minimum of 400 valid signatures for the office of State Senator. The complaint alleges that 233 signatures should be struck as being out of the district, providing an illegible or non-existent address, lacking a date or municipality, or abbreviating the City of Milwaukee. Of those signatures challenged for lacking a date or providing an illegible or non-existent address, staff had previously struck 14.

Upon reviewing the complaint, and after conducting a verification via the Voter Public Access (VPA) function in SVRS, staff determined an additional 47 signatures were outside the district, and thus invalid, and that 4 addresses do not appear to exist. Staff was able to read the 2 addresses claimed to be illegible but determined they were, nevertheless, outside the district as well. Staff recommends that the Board continue to follow the well-established practice of permitting abbreviations to municipalities and therefore denying the challenges to addresses that abbreviate "Milwaukee."

Recommended Motion: Approve challenge as to 51 signatures and dismiss the remainder of the complaint, verify 405 valid signatures, and grant ballot status for Candidate King.

5. **Joel Gratz Complaint against Nancy VanderMeer, Republican Candidate for the 70th Assembly District** Complaint EL 12-16

Board staff determined that Candidate VanderMeer submitted nomination papers containing 368 signatures. State law requires a minimum of 200 signatures for the office of Representative to the Assembly. The complaint alleges that the nomination papers did not comply with a requirement to list the municipality of the circulator, thus rendering the 358 signatures contained on those pages invalid.

Candidate VanderMeer's response states that the challenges are completely without merit and are frivolous, inaccurate, or misleading. The response requests that the Board reject the challenge.

Section 8.15(4)(a), Wis. Stats., states in the relevant portion that "the certification of a qualified circulator stating his or her residence with street and number, if any, shall appear at the bottom of each nomination paper, stating he or she personally circulated the nomination paper and personally obtained each of the signatures." Each of the circulator certifications contains the complete address of the respective circulators. There is no separate requirement that the circulator indicate the municipality of residence (e.g., "Town of" or "City of"). The nomination papers of Candidate VanderMeer fulfill the requirements for the circulator's certification and comply with the statute.

Recommended Motion: The Board dismisses the challenge complaint of Joel Gratz against candidate Nancy VanderMeer, verifies 368 signatures, and grants ballot access for Candidate VanderMeer.

6. **Joel Gratz Complaint against Tom Lamberson, Republican Candidate for the 8th Assembly District** Complaint EL 12-17

Board staff determined that Candidate Lamberson submitted 243 valid signatures. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint alleges that the nomination papers did not comply with a requirement to identify the name of the candidate's municipality for mailing purposes, making all of the nomination papers insufficient. Mr. Lamberson did not file a response.

Section 8.15, Wis. Stats., governs "Nominations for partisan primary." Section 8.15 (5) (a), provides that each nomination paper shall have substantially the following words, among others, printed at the top: the candidate's residential street address. Section 8.15 (5) (b) requires each candidate include his mailing address on the nomination papers. Mr. Lamberson's nomination papers provided his address as 1204 Enterprise Dr. and named the City of Verona as his municipality for voting purposes. The box on the nomination papers for indicating a municipality for mailing purposes was left blank.

The established policy of the Board in reviewing nomination papers has been to find substantial compliance with §8.15, Wis. Stats., by presuming the validity of the information listed unless evidence to the contrary is presented. Absent such evidence, the municipality listed for voting purposes is presumed to be the same as the municipality listed for mailing purposes. The complainant has offered no evidence to the contrary in this case.

Recommended Motion: Dismiss the complaint, verify 243 valid signatures, and grant ballot status for Candidate Lamberson.

7. **Jason Diederichs Complaint against Barry Nelson, Republican Candidate for the 25th Assembly District** Complaint EL 12-18

Board staff determined that Candidate Nelson submitted 210 valid signatures. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint alleges that Mr. Nelson circulated his nomination papers prior to the date he filed a Form GAB-1 registering his campaign committee with the Government Accountability Board. Mr. Nelson filed his GAB-1 on June 1, 2012, the same day he filed his nomination papers with the Board.

Section 8.15 (4)(b), Wis. Stats., provides that if a candidate has not filed a campaign registration statement prior to the time of filing nomination papers, "the candidate shall file the statement with the papers." Mr. Nelson complied with this section.

Recommended Motion: Dismiss the complaint, verify 210 valid signatures, and grant ballot status for Candidate Nelson.

8. Jason Diederichs Complaint against Mike Howe, Republican Candidate for the 25th Assembly District Complaint EL 12-19

Board staff determined that Candidate Howe submitted 210 valid signatures. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint alleges that 12 signers reside outside of the 25th Assembly District and that 2 signers provided only a P.O. Box, rather than a street address. Mr. Howe did not file a response.

In determining that Mr. Howe had submitted 210 valid signatures, Board staff had already struck 5 signatures challenged by Mr. Diederichs as being outside the 25th Assembly District. Upon reviewing the complaint, staff determined an additional 6 signatures were outside the district, and thus invalid, after conducting verification via the Voter Public Access (VPA) function in SVRS, bringing the number of valid signatures to 204.

With respect to the two signatures accompanied only by a P.O. Box, past Board policy has been to accept such signatures if the entire municipality in which the P.O. Box is located is within the District. Board staff has verified that is the case with the two signatures challenged for this reason, through verification using VPA and SVRS. The P.O. Boxes are listed as being in Whitelaw, Wisconsin, which is entirely within the 25th Assembly District.

Recommended Motion: Dismiss the complaint, verify 204 valid signatures, and grant ballot status for Candidate Howe.

9. Robb Bradford Kahl Complaint against Amanda Mary-Mariah Hall, Democratic Candidate for the 47th Assembly District Complaint EL 12-20

Board staff determined that Candidate Hall submitted nomination papers containing 210 signatures. State law requires a minimum of 200 signatures for the office of State Representative. The complaint alleges that Candidate Hall's nomination papers contain a material misrepresentation concerning her address because her actual address as represented to the State Bar of Wisconsin and in 2012 traffic cases in Dane and Columbia counties was different than those on her nomination papers and not within the 47th District, thus her papers should be rejected. The complaint also alleges insufficiencies concerning 33 signatures for various reasons, including incomplete signatures, incorrect circulator address, illegible signatures, changes made by an individual other than the circulator, signers out of district, addresses that do not exist, and invalid dates.

The response requests that the Boards reject the challenges. Candidate Hall's response denies invalidity of her address, nomination papers signatures circulated by Alexander James Brown, and insufficiency of current signatures. The response alleges that the Candidate's residence according to the State Bar of Wisconsin, Dane County Circuit Court, and Columbia County Circuit court was a previous address and Candidate Hall further attest in a sworn affidavit that her current address remains the address in Madison listed on her nomination papers. In addition, Candidate Hall alleges that since Mr. Kahl failed to identify and address his complaint to a candidate for 47th State Assembly District in question his complaint should be dismissed by the Board.

Section 8.15(5)(a) and (b) Wis. States., state in relevant part that

(a) “[e]ach nomination paper shall have substantially the following words printed at the top: I, the undersigned, request that the name of (insert candidate’s last name plus first name, nickname or initial, and middle name, former legal surname, nickname or middle initial or initials if desired, but no other abbreviations or titles) residing at (insert candidate’s street address) be placed on the ballot at the (general or special) election to be held on (date of election) as a candidate representing the (name of party) so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in (name of jurisdiction or district in which the candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

(b) Each candidate shall include his or her mailing address on the candidate’s nomination papers.

Further in Section 6.10(1) Wis. Stats., the standard for an elector’s residence is the “place where the person habitation is fixed, without any present intent to move, and to which, when absente the person intends to return.” Ms. Hall’s sworn statement that her permanent residence is the location in Madison listed on her nomination papers sufficiently rebuts the allegations in the challenge.

Staff recommends striking 4 total signatures cited in the complaint. Two signatures should be struck because voters signed nomination papers for another candidate prior to signing Candidate Hall’s nomination papers. Two additional signatures should be struck because their addresses are outside of the 47th State Assembly District. Two signatures that were challenged were already stricken by Board staff during the review process.

Recommended Motion: The Board strikes 4 signatures against Candidate Amanda Hall, verifies 206 signatures, and grants ballot access for Candidate Hall.

10. Jennifer Toftness Complaint against David Stolow, Libertarian Candidate for 32nd Assembly District Complaint EL 12-21

Board staff determined that Candidate Stolow submitted nomination papers containing 201 signatures and also submitted 11 valid supplemental signatures. State law requires a minimum of 200 signatures for the office of Representative to the Assembly. The complaint alleges that the nomination papers contain 34 signatures with addresses that are invalid or outside the 32nd Assembly District. Candidate Stolow filed a response asserting that the challenged addresses were complete and valid.

The complaint challenges 21 addresses as invalid because they contain post office boxes, are addresses of commercial properties, or are incomplete. Staff had previously struck 4 of these addresses. In the case of addresses listed as post office boxes rather than street addresses, the municipalities listed are entirely within the 32nd Assembly District and the Board’s practice has been to count such signatures as valid. In the case of the properties asserted to be commercial addresses, Candidate Stolow’s response sufficiently rebuts the allegation by stating that he collected the signatures at those locations and that either they are not commercial addresses, or that the signer is a shopkeeper whose resides above the business or in a different part of the commercial building. Staff recommends denying the challenges related to alleged commercial businesses.

Regarding addresses which the complaint alleges omit municipality information, staff confirmed that the municipality information is present and that the addresses are located within the 32nd Assembly District.

The complaint alleges that 13 signatures contain addresses outside the District (the complaint contains 18 such challenges but 5 of the challenges are duplicates). Staff had previously struck 7 of these signatures, and by consulting information in SVRS and Voter Public Access, staff confirmed that the remaining 6 signatures are outside the 32nd Assembly District.

Recommended Motion: Approve challenge as to the 6 signatures outside of the 32nd Assembly District, dismiss the remainder of the complaint, add 11 supplemental signatures; verify 206 valid signatures, and grant ballot status for Candidate Stolow.

11. Jennifer Toftness Complaint against Randy Bryce, Democratic Candidate for the 62nd Assembly District Complaint EL 12-22

Board staff determined that Randy Bryce submitted nomination papers containing 259 signatures. State law requires a minimum of 200 signatures for the office of State Representative. The complaint alleges that Candidate Bryce's nomination papers contain a material misrepresentation concerning his address because his actual address as represented to Racine County Circuit Court in March of 2012 was different than those on his nomination papers and was also not in within the 62nd District thus rendering his papers invalid, insufficient, inaccurate, and false.

The response alleges that the residence given to the Racine County Circuit Court is the temporary residence of Mr. Bryce (his parent's home) and Mr. Bryce further attests in a sworn affidavit that his permanent residence remains the address in Racine that is listed on his nomination papers.

Section 8.15(5)(a) and (b) Wis. Stats., state in relevant part that

(a) "[e]ach nomination paper shall have substantially the following words printed at the top: I, the undersigned, request that the name of (insert candidate's last name plus first name, nickname or initial, and middle name, former legal surname, nickname or middle initial or initials if desired, but no other abbreviations or titles) residing at (insert candidate's street address) be placed on the ballot at the (general or special) election to be held on (date of election) as a candidate representing the (name of party) so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

(b) Each candidate shall include his or her mailing address on the candidate's nomination papers.

Further in Section 6.10(1) Wis. Stats., the standard for an elector's residence is the "place where the person's habitation is fixed, without any present intent to move, and to which, when absent the person intends to return." In addition, Section 6.10(5) Wis. Stats., provides that "[a] person shall not lose residence when the person leaves home and goes into another state or county, town, village or ward of this state for temporary purposes with an intent to return." Mr. Bryce's sworn statement that his permanent residence is the location in Racine listed on his nomination papers sufficiently rebuts the allegations in the challenge.

Recommended Motion: The Board dismisses the challenge complaint of Jennifer Toftness against candidate Randy Bryce, verifies 259 signatures, and grants ballot access for Candidate Bryce.

12. Jennifer Toftness Complaint against Kelley Albrecht, Democratic Candidate for the 63rd Assembly District Complaint EL 12-23

Board Staff determined that Candidate Albrecht submitted in excess of the maximum allowed 400 signatures for the office of Representative to the Assembly. The complaint alleges that Candidate Albrecht's submitted nomination papers contain deficiencies that render entire pages invalid as well as numerous grounds for disqualifying individual signatures.

In response, Candidate Albrecht submitted a sworn affidavit of Joel Gratz maintaining that the nomination papers are in substantial compliance with requirements of Section G.A.B .2.05, Wis. Adm. Code, and that the deficiencies noted in the complaint rise far above the normal expectations of compliance than has been customary in the past.

The first alleged deficiency raised in the complaint is that Candidate Albrecht listed the incorrect office on 66 of her nomination pages. Where title of office is sought, Candidate Albrecht listed "Assembly" instead of "Representative to the State Assembly" and the complaint alleges that all signatures on the pages with this "error" should not be counted. Board staff disagrees with this assessment, concluding that "Assembly" is interchangeable with and commonly understood to mean "Representative to the State Assembly". In addition to this, the header on all of the disputed pages clearly states "Representative to the State Assembly-63rd District" leaving signatories in little doubt as to what office their signatures would apply. These facts constitute substantial compliance pursuant to GAB 2.05, and Candidate Albrecht's papers are sufficient with regards to the title of the office sought.

The second challenge raised by the complainant alleges that on 21 pages Candidate Albrecht failed to designate in her certification statement "so that voters will have the opportunity to vote for () him or () her for the office listed above" and that therefore all signatures on those pages should be struck. Board staff believes such an omission is an oversight of a technical requirement, and that Candidate Albrecht's nomination papers substantially comply with the statutory requirements without completing the gender identification checkbox.

The third challenge to papers in their entirety is that the district number is illegible under the "District or Jurisdiction" number heading on 21 of Candidate Albrecht's papers and

that accordingly all signatures on those pages should be rendered invalid. In addition to Board staff analyzing those pages and concluding that the number heading is in fact legible, immediately to the right of that heading is the “Name of jurisdiction or candidate in which the candidate seeks office”. On every contested page, this heading contains the words “Representative of the Assembly – 63rd District”. Board staff believes that this rises to the standard of substantial compliance as enunciated by GAB 2.05, Wis. Adm. Code.

The remaining challenges to Candidate Albrecht’s nomination papers are to 34 individual signatures: 15 for incomplete or missing addresses, two for duplications, and 17 for being located outside of the 63rd Assembly District. Staff analysis, using SVRS and Voter Public Access, as well as individual assessment, determined that all 15 alleged incomplete or missing addresses were sufficiently complete to verify their existence. Staff analysis employing the duplicate protocol developed for the recent recall petitions resulted in confirming two duplicate signatures. Finally, staff’s analysis of the 17 extra-jurisdictional addresses revealed 13 additional addresses that should be struck because they are outside of the 63rd District.

Recommended Motion: Tthe Board reduces the verified signature total by 15 (2 duplicates and 13 out of district) dismisses all remaining challenges raised in Jennifer Toftness’s complaint against candidate Kelley Albrecht, and grants ballot access for Candidate Albrecht. (Candidate Albrecht’s papers contained 451 signatures, so even with recommended these reductions, her verified total would remain at 400).

13. Jennifer Toftness Complaint against Cindy Moore, Democratic Candidate for the 15th Assembly District Complaint EL 12-24

Board Staff determined that Candidate Moore submitted nomination papers containing 246 valid signatures for the office of Representative to the Assembly. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint alleges that Candidate Moore’s submitted nomination papers contain deficiencies that render entire pages invalid as well as two instances for disqualifying individual signatures.

In response, Candidate Moore submitted a sworn affidavit of Joel Gratz maintaining that the nomination papers are in substantial compliance with Section GAB 2.05 requirements and that the deficiencies noted in the complaint rise far above the normal expectations of compliance than has been customary in the past.

The first alleged deficiency raised in the complaint is that Candidate Moore listed the incorrect office on 33 of her nomination pages. Where title of office is sought, Candidate Moore listed “Assembly” instead of “Representative to the State Assembly” and therefore the complaint argues that all signatures on the pages with this “error” should not be counted. Board staff disagrees with this assessment, concluding that “Assembly” is interchangeable with and commonly understood to mean “Representative to the State Assembly.” In addition, the header on all of the disputed pages clearly states “Representative to the State Assembly-63rd District” leaving signatories in little doubt as to what office their signatures would apply. Pursuant to Section GAB 2.05, Wis. Adm.

Code., Candidate Moore's papers are sufficient with regards to the title of the office sought.

The second challenge raised by the complaint alleges that on 26 pages Candidate Moore failed to designate in her certification statement "so that voters will have the opportunity to vote for () him or () her for the office listed above" and that therefore all signatures on those pages should be struck. Board staff believes such an omission is an oversight of a technical requirement, and that Candidate Albrecht's nomination papers substantially comply with the statutory requirements without completing the gender identification checkbox.

The third general challenge to Candidate Moore's nomination papers allege that the name of the municipality is not specified on 10 pages and that therefore all signatures on those pages should be struck. Section 8.10 (2)(c), Wis. Stats., provides that "[e]ach candidate shall include his or her mailing address on the candidate's nomination papers." The statutes are silent in regards to inclusion of municipality for voting purposes. Accordingly, Candidate Moore's nomination papers are in compliance.

The remaining general challenge to papers in their entirety alleged by the complaint is that the district number is illegible under the "District or Jurisdiction" number heading on 19 of Candidate Moore's papers and that accordingly all signatures on those pages should be rendered invalid. In addition to Board staff analyzing those pages and concluding that the number heading is in fact legible, immediately to the right of that heading is the "Name of jurisdiction or candidate in which the candidate seeks office". On every contested page, this heading contains the words "Representative of the Assembly – 15th District." Board staff believes that this rises to the standard of substantial compliance as enunciated by Section GAB 2.05, Wis. Adm. Code.

The remaining two challenges to Candidate Moore's nomination papers are to two separate signatures. Staff analysis, using SVRS and VPA as well as individual assessment revealed that one address is outside the 15th District but that the other address, despite being a commercial property, does in fact have 6 registered voters listed in SVRS, including three who signed Candidate Moore's petition. The complaint does not appear to present evidence sufficient to overcome the presumption of validity regarding the addresses associated with these signatures.

Recommended Motion: The Board reduces the verified signature total by 1 to 245, dismiss all remaining challenges raised in Jennifer Toftness's complaint against Candidate Cindy Moore, and grant ballot access for Candidate Moore.

14. Jennifer Toftness Complaint against Eric Prudent, Democratic Candidate for the 98th Assembly District Complaint EL 12-25

Board Staff determined that Candidate Prudent submitted 202 valid signatures for the office of Representative to the Assembly. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint alleges that Candidate Prudent submitted nomination papers contain 29 deficiencies to individual signatures that defeat his attempt to gain access to the ballot. In response, Candidate

Prudent notes that he submitted three correcting affidavits and disputes the basis for several of the other individual challenges.

The first allegation raised in the complaint is that one individual signed both Candidate Prudent's nomination papers as well the nomination papers of another candidate for the same office. Section 8.15(2) Wis. Stats., in relevant part states, "[o]nly one signature per person for the same office is valid". Since the disputed signature was added to Candidate Prudent's nomination papers subsequent to his competitor, this signature should be struck from the verified total.

The second set of allegations concern 6 individual signatures that were investigated by the challenger by comparing names to those found on the Waukesha tax rolls. The challenger claims that the names either don't match the tax rolls or that the addresses do not exist. In addition to the presumption of validity under Section GAB 2.05(4), board staff consulted both VPA and SVRS for these 6 signatures and all 6 were verified in VPA. These signatures remain included in the verified total.

The third set of contested signatures concern three correcting affidavits containing 20 signatures. Of these three, two were submitted after the June 1st deadline and so were not considered in the staff's analysis, but the remaining affidavit that rehabilitates page 23 of Candidate Prudent's nomination papers was submitted in a timely fashion and thus increases his total by 9. The complaint alleges that the affidavit was not signed but in fact it was signed. In addition to these 9 signatures, Candidate Prudent also submitted in a timely manner 2 supplemental signatures. These should be reflected in the verified total as well.

The last issue raised by the complaint is the allegation that two signatures contain addresses that are not within the 63rd District. Staff analysis using SVRS confirms that the addresses are located outside the District and two signatures should be struck.

Recommended Motion: The Board verifies a total of 211 signatures (the original 202 valid signatures, plus 9 corrected by affidavit, plus 2 supplemental signatures, minus 2 signatures which are outside of district and 1 duplicate signature), dismiss all remaining challenges of Jennifer Toftness, and grant ballot access for Candidate Prudent.

15. Alvin Ott Complaint against Josh Young, Independent Citizens of Wisconsin Candidate for the 3rd Assembly District Complaint EL 12-26

Board staff determined that Candidate Young submitted 214 valid signatures. The complaint alleges that Mr. Young signed two nomination signature pages (page 10 containing 10 names and page 20 containing 6 names) as the circulator when, in fact, they had been circulated by another individual. Mr. Ott submitted a sworn statement that he had spoken to two individuals who had signed on page 10 and two individuals who had signed on page 20 and that the individuals had stated that they never spoke to or met Mr. Young and that it was another individual who had circulated the nomination papers. Mr. Ott provided the names and phone numbers of the individuals to whom he spoke but did not submit sworn statements from the individuals involved.

In response, Mr. Young submitted a sworn statement that he had inadvertently signed page 10 when he discovered it had not been signed by a circulator and he incorrectly believed he had circulated that page, before discovering that it had been circulated by another individual. Mr. Young included a sworn statement by Amy Muehlbauer that she personally circulated, and obtained the signatures on, page 10, but had forgotten to sign it. Mr. Young also stated that he circulated and obtained signatures on page 20, but that

the top 2 signatures were in place from another circulator. He asserts that the remaining 4 signatures on page 20 should not be struck as he obtained them.

As to page 10, Ms. Muehlbauer's statement would succeed in rehabilitating all 10 signatures if her correcting affidavit is considered timely. The affidavit is dated June 5, 2012. Section GAB 2.05(4), Wis. Adm. Code, provides that correcting affidavits may be filed not later than three calendar days after the deadline for filing nomination papers. The deadline for filing nomination papers was June 1, 2012 and the deadline for filing correcting affidavits was 5:00 p.m. on June 4, 2012. Staff recommends that the Board decline to accept Ms. Muehlbauer's correcting affidavit to rehabilitate the 10 signatures on page 10.

Regarding page 20, while the challenge does not include sworn statements from persons with first-hand knowledge regarding the circulator, Mr. Young's response acknowledges that he circulated that page only after another circulator had obtained the first two signatures. Staff recommends that the Board strike the first two signatures of page 20 and allow the remaining four signatures.

Finally, Mr. Young has submitted an affidavit from Robin M. Sanders with respect to page 1 of the nomination papers, consisting of 8 signatures, 6 of which had been struck by staff because the dates of those signatures were later than the circulation date noted by the circulator. Ms. Sanders states that she placed on the document the first date she began circulating the nomination paper and was unaware that she was required to place the date of the final signature and asked that the date be changed to reflect that. However, Ms. Sanders' affidavit is also dated June 5, 2012 and therefore was submitted after the deadline for filing correcting affidavits. Staff recommends that the Board decline to change the staff's original determination that the signatures on page 1 are not valid due to the incorrect date on the circulator's certification.

Recommended Motion: Approve challenge as to the 10 signatures on page 10 and the first 2 signatures of page 20 of the nomination papers; deny Candidate Young's attempt to rehabilitate 6 signatures on page 1; verify 202 valid signatures, and grant ballot status for Candidate Young.

16. Katrina Shankland Complaint against David Verhage, Democratic Candidate for the 71st Assembly District Complaint EL 12-27

Board staff determined that Candidate Verhage submitted 227 valid signatures. State law requires a minimum of 200 valid signatures for the office of State Representative to the Assembly. The complaint alleges that 187 signatures suffer from a variety of deficiencies, including signatures from persons outside the requisite district, incomplete municipalities and addresses, invalid addresses, illegible addresses, invalid circulator addresses, omitted dates and other insufficiencies regarding the signatures.

Although Candidate Verhage gave no response to the complaint he did supply correcting affidavits to supplement his nomination papers.

Challenges alleging Extra-Jurisdictional Municipalities: Of the 27 signatures challenged for this reason, staff had already struck 15 in its initial review of Candidate Verhage's nomination papers. Board staff

confirmed, using SVRS, 10 further addresses that should be struck and confirmed that 2 were within the 71st District. Staff recommends the verified total be reduced by 10 signatures to reflect these findings.

Challenges alleging that the Municipality of Residence is Incomplete: The complaint alleges that 68 signatures should be struck for alleged insufficient municipality information. Staff analysis revealed that while all of these signatures contained neglected to include municipalities in the "Municipality" field, all of them did include the municipality in the "Address" field. Staff recommends the Board dismiss all of these challenges as this falls well within the standard of "substantial compliance" and established Board practice.

Challenges alleging Invalid Municipality of Residence: The complaint alleges that one signature should be excluded due to the signer labeling the resident municipality a "city" rather than a "town". Staff found SVRS does in fact classify the municipality as a "city" and further, even if this were not the case, staff would recommend the Board dismiss the challenge as this falls well within the standard of "substantial compliance".

Challenges alleging invalid addresses: The complaint alleges that three signatures should be excluded for using invalid addresses. Using VPA and USPS databases, staff discovered that the addresses are valid and that the complainant mis-entered the address data. Staff recommends the Board dismiss these challenges.

Challenges alleging Incomplete Addresses: The complaint alleges that 50 signatures are insufficient because the mailing addresses are incomplete. All of these signatures are challenged for failure to include designations such "St." for street, or "Ave." for avenue, or for using abbreviations for town and city names, or for placing the address in the municipality field. Section GAB ch. 2.05(12) requires only that a complete address, including municipality of residence for voting purposes, and the street and number, if any, of the residence, (or a postal address if it is located in the jurisdiction that the candidate seeks to represent), shall be listed for each signature on a nomination paper. Under a substantial compliance standard, where all of the information is correctly given on the page, staff recommends following the established practice of permitting information to be included in one of several designated fields. Staff recommends that the Board dismiss all of these challenges.

Challenges alleging Illegible Addresses: The complaint alleges that 5 signatures are illegible and should therefore be struck. Staff has determined that only one of these signatures is indeed illegible and should be struck. Staff recommends that the verified total should be reduced by one signature and that Board dismiss the 4 remaining challenges.

Challenges alleging Insufficient Signatures: The complaint alleges 30 signatures are insufficient because they are printed. GAB 2.05(8) requires the elector "sign his or her own name...". The rule does not require that the signature be made in cursive. Staff counted these signatures as valid and recommends the Board dismiss all of these challenges.

Challenges alleging Omission of Dates: The complaint alleges 2 signatures omitted the date, however since these signatures are bracketed by ones that have the correct date. Section GAB 2.05(15)(a) allows for a signature to survive an incomplete date challenge if "the date can be determined by reference to the dates of other signatures on the paper." Staff recommends the Board dismiss these two challenges.

Challenge alleging that a Circulator Address is Invalid: Complainant alleges that Charles Bossingham's address on page 21 of Candidate Verhage's nomination papers is not valid. However, the Complainant

mis-entered the data in attempting to locate the address. Mr. Bossingham's address is 911 Ramble Lane, not 511 Ramble Lane. Staff recommends that the Board dismiss this complaint.

Challenges alleging that Affidavits are Insufficient: The complaint alleges that two of Candidate Verhage's affidavits are insufficient because the affidavits do not indicate in the checkbox that they have been notarized. Staff analysis has determined that both affidavits are clearly stamped with seals demonstrating clearly that they have in fact been notarized properly.

Recommended Motion: Approve challenge as to 11 signatures, verify a total of 216 valid signatures, dismiss the remaining 176 challenges and grant ballot access to Candidate Verhage.

17. Jennifer Toftness Complaint against Chad Bucholtz, Democratic Candidate for the 22nd Assembly District Complaint EL 12-28

Board staff determined that Candidate Bucholtz submitted 204 valid signatures. State law requires a minimum of 200 valid signatures for the office of State Representative to the Assembly. The complaint alleges that 17 signatures contain either an invalid address or the signer resides outside of the Assembly district. Candidate Bucholtz provided no response. Staff determined that the 17 challenged signatures were of one individual with an invalid address and the remaining individuals residing outside of the District. Staff recommends striking 17 signatures.

Recommended Motion: Approve challenge as to 17 signatures, verify a total of 187 valid signatures, and deny ballot access.

18. Matthew Spencer Complaint against Jesse Roelke, Democratic Candidate for the 84th Assembly District Complaint EL 12-29

Board staff determined that Candidate Roelke submitted 208 valid signatures. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint alleges that 12 signatures are of individuals residing outside the 84th Assembly District. Candidate Roelke's response asserts that 3 of the challenged signatures are within the District, and that Board staff did not properly account for a correcting affidavit to rehabilitate one signature.

Staff had previously struck 5 of the challenged signatures. Staff determined that an additional 4 challenged signatures were outside of the 84th Assembly District and the remaining 3 signatures were in the District, through verification using Voter Public Access (VPA) and SVRS. Candidate Roelke also filed a timely correcting affidavit to rehabilitate one additional signature which staff had struck due to an incorrect date, and which was not included in the total approved by staff. Adding that signature and subtracting 4 of the challenged signatures, staff recommends that the Board find Candidate Roelke has submitted 205 valid signatures.

Recommended Motion: Approve challenge as to 4 signatures, deny remaining challenges, and approve 1 rehabilitated signature, to verify a total of 205 valid signatures, and grant ballot access.

19. Joel Gratz Complaint against Jonathan Dederling, Green Party Candidate for the 78th Assembly District Complaint EL 12-30

Board staff determined that Candidate Dederling submitted 212 valid signatures. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint alleges that the nomination papers contain 13 signatures from individuals residing outside the 78th Assembly District. Of those, 3 signatures are also claimed to be illegible. In addition, one signature is claimed to be illegible as is the address associated with that signature making it impossible to determine whether the individual resides in the district.

Upon reviewing the complaint, and after conducting a verification via the Voter Public Access (VPA) function in SVRS, staff determined that 9 challenged signatures were outside the district, and thus invalid, bringing the number of valid signatures to 203. Staff was able to read the address claimed to be illegible and determined it to lie within the district.

Section 8.15 (2), Wis. Stats., requires each signer of a nomination paper to provide a signature and address. There is no requirement that a signature must be legible and staff recommends denying the challenges alleging that signatures are illegible.

Recommended Motion: Approve challenge as to 9 signatures with addresses outside the 78th Assembly District, dismiss the remainder of the complaint, verify 203 valid signatures, and grant ballot status for Candidate Dederling.

20. Chris Kapenga Complaint against Thomas Hibbard, Democratic Candidate for the 99th Assembly District Complaint EL 12-31

Board staff determined that Candidate Hibbard submitted nomination papers containing 209 valid signatures. State law requires a minimum of 200 valid signatures for the office of Representative to the Assembly. The complaint alleges that signatures should be struck due to missing address information, incomplete dates, and incomplete information in the petition header. Candidate Hibbard filed a response asserting that the petition information is complete and substantially complies with the statutory requirements. Candidate Hibbard also filed correcting affidavits, but they were submitted after the deadline for doing so, and staff recommends disregarding the correcting affidavits.

First, the complaint alleges that 3 signatures contain incomplete addresses. Upon review of the addresses and verification through Voter Public Access and SVRS, staff determined that the 3 addresses exist and are sufficiently complete. Second, the complaint alleges that 20 signatures should be struck because of incomplete or missing dates. Seven of these signatures had been struck by staff in its review. The remaining dates are either complete in the opinion of staff, or the missing information can be inferred from other data on the petition pages, pursuant to Section GAB 2.05(15)(a), Wis. Adm. Code.

Third, the complaint also alleges that all signatures on 7 pages should be struck because the header is missing the date of the election. Staff had previously struck all signatures on these pages. Finally, the complaint alleges that all of the nomination pages should be struck because they omit the appropriate name of the office's jurisdiction or district.

Four of the pages contain the district designation in the appropriate designated box. The remainder of the nomination papers contain "State of Wisconsin" in the box for the district, but state "Rep. to Assembly" in the box for the title of the office, and list "99" as the box requesting the district number. All of this information being contained on the same line of the petition header and separated only by boxes in the form constitutes substantial compliance pursuant to Section GAB 2.05(5), Wis. Adm. Code.

Recommended Motion: Dismiss the, verify 209 valid signatures, and grant ballot status for Candidate Hibbard.