

# State of Wisconsin \ Government Accountability Board

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JUDGE VICTOR MANIAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the June 10, 2016 Board Meeting

**TO:** Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:  
Nathan W. Judnic, Staff Counsel  
David P. Buerger, Staff Counsel

**SUBJECT:** Final 2016 Ballot Access Challenges

This Memorandum summarizes Board staff's review of challenges that have been filed to nomination papers of candidates for the 2016 General Election. Challenges have been filed to 13 candidates. The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence. Wis. Admin. Code GAB § 2.07(4). Below, staff has summarized the challenges, responses, and provided analyses and recommendations. Following this Memorandum are staff's Challenge Worksheets for any complaint that challenges individual signatures and which documents staff's line-by-line thorough review of all challenges. If a Challenge Worksheet was not required, it is noted in the introductory portion of each challenge below.

1. James Anderson Complaint against Tony Hartmann, Democratic Party Candidate for the 47<sup>th</sup> Assembly District  
G.A.B. Case No. EL 16-066 - WITHDRAWN

Staff assigned: Nathan Judnic

This complaint was withdrawn by the complainant on June 1, 2016, therefore no action by the Board is required.

2. Michael Meyer Complaint against Christine Sinicki, Democratic Party Candidate for the 20<sup>th</sup> Assembly District  
G.A.B. Case No. EL 16-067 - WITHDRAWN

Staff assigned: Nathan Judnic

This complaint was withdrawn by the complainant on June 9, 2016, therefore no action by the Board is required.

**3. James Miller Complaint against Robert Burke, Libertarian Party Candidate for the 7<sup>th</sup> Congressional District**  
G.A.B. Case No. EL 16-068

Signatures required for office: 1,000  
Signatures challenged: 79  
Signatures initially approved: 1,010

Staff assigned: David Buerger

(Please note that Candidate Burke has also been challenged by Donald Raihala in G.A.B. Case No. EL 16-078. Board staff recommends taking up both challenges together.)

The complaint alleges that 79 signatures were obtained from individuals that did not reside in the 7<sup>th</sup> Congressional District. Due to these insufficiencies, the complaint alleges that Candidate Burke filed an insufficient number of nomination paper signatures and should be denied ballot status.

Board staff determined that Candidate Burke submitted nomination papers containing 1,010 signatures. State law requires a minimum of 1,000 signatures for the office of Representative in Congress.

**Challenges to signatures from outside the district:** Upon reviewing the complaint, and after verification against the information in the WisVote system, Board staff determined 75 signatures are of individuals residing outside of the 7<sup>th</sup> Congressional District. Staff determined that four challenged signatures were within the 7<sup>th</sup> Congressional District. For a signature to be counted, a signer of the nomination papers for the office of Representative in Congress, must reside in the district which the candidate named on the paper will represent, if elected. [Wis. Stat. § 8.15\(3\)](#). Board staff recommends accepting the challenge as to 75 signatures and rejecting the challenge to four signatures of individuals residing outside the 7<sup>th</sup> Congressional District.

As documented in the challenge worksheet that follows this memorandum, staff rejected the out-of-district challenges to 4 signatures and sustained the out-of-district challenges to 75 signatures.

**Response of Candidate Burke:** None received.

**Recommended Motion 1 (Raihala challenge accepted):** Sustain the challenges to 75 signatures, verify 922 valid signatures, deny ballot access to Candidate Burke, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**Recommended Motion 2 (Raihala challenge rejected):** Sustain the challenges to 75 signatures, verify 935 valid signatures, deny ballot access to Candidate Burke, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**4. Donald Raihala Complaint against Robert Burke, Libertarian Party Candidate for the 7<sup>th</sup> Congressional District**  
G.A.B. Case No. EL 16-078

Signatures required for office: 1,000  
Signatures challenged: 67  
Signatures initially approved: 1,010

Staff assigned: David Buerger

(Please note that Candidate Burke has also been challenged by James Miller in G.A.B. Case No. EL 16-68 and if that challenge has been accepted as recommended this challenge is largely redundant although it does challenge 13 signatures that the Miller challenge does not.)

**The complaint alleges that 67 signatures were obtained from individuals that did not reside in the 7<sup>th</sup> Congressional District.** Due to these insufficiencies, the complaint alleges that Candidate Burke filed an insufficient number of nomination paper signatures and should be denied ballot status.

Board staff determined that Candidate Burke submitted nomination papers containing 1,010 signatures. State law requires a minimum of 1,000 signatures for the office of Representative in Congress.

**Challenge to signatures from individuals outside of district:** Upon reviewing the complaint, and after verification against the information in the WisVote system, Board staff determined 67 signatures are of individuals residing outside of the 7<sup>th</sup> Congressional District. For a signature to be counted, a signer of the nomination papers for the office of Representative in Congress, must reside in the district which the candidate named on the paper will represent, if elected. [Wis. Stat. § 8.15\(3\)](#). Board staff recommends accepting the challenge as to 67 signatures of individuals residing outside the 7<sup>th</sup> Congressional District.

As documented in the Challenge Worksheet that follows this Memorandum, staff accepted the challenges to 67 signatures, leaving the candidate with only 943 valid signatures.

**Response of Candidate Burke:** None received.

**Recommended Motion 1 (Miller challenge accepted):** Sustain the challenges to 67 signatures; verify 922 valid signatures, deny ballot access to Candidate Burke, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**Recommended Motion 2 (Miller challenge rejected):** Sustain the challenges to 67 signatures; verify 943 valid signatures, deny ballot access to Candidate Burke, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**5. James Miller Complaint against Donald Raihala, Republican Party Candidate for the 7<sup>th</sup> Congressional District**  
G.A.B. Case No. EL 16-069

Signatures required for office: 1,000  
Signatures challenged: 144  
Signatures initially approved: 1,016

Staff assigned: David Buerger

This complaint raises two separate issues:

- (1) Signatures or printed names appear to be in the same handwriting
- (2) Signatories provided incomplete address information

Board staff determined that Candidate Raihala submitted nomination papers containing 1,016 signatures. State law requires a minimum of 1,000 signatures for the office of Representative in Congress.

**Signatures or printed names appear to be in the same handwriting.** The complaint alleges that 39 signatures or printed names appear to be written in the same handwriting as at least one other signature on the page, indicating that the same person may have signed the page more than once using different names. The complainant has provided no additional evidence for this allegation other than the pages themselves and as such these challenges do not meet the “clear and convincing evidence” standard required to rebut the presumption of validity established by Wis. Admin. Code GAB §§ [2.05\(4\)](#) and [2.07\(3\)\(a\)](#) and [\(4\)](#).

**Signatories provided incomplete address information.** The complaint alleges 105 signatures are invalid because they are missing complete address information, fail to identify the signatory’s municipality of residence, or identify an incorrect municipality of residence. Upon reviewing these challenges, staff identified four signatures that should have been rejected for incomplete residential address information. Board staff recommends accepting these four challenges and rejecting the remainder for the reasons described below.

The complainant challenges six signatures for using the abbreviation “Sup” for the municipality of residence. The Board has rejected challenges to signatures alleged not to include the proper municipality of residence where the municipality can be determined by other information contained on the nomination papers, pursuant to [Wis. Admin. Code GAB § 2.05\(15\)\(c\)](#). For instance, the municipality of “WFB” was determined by the mailing address to indicate “Whitefish Bay,” or “Gtown” was determined by the zip code to indicate “Germantown.” Upon review by Board staff, the addresses listed for these signatories all appear within the City of Superior and staff believes “Sup” constitutes substantial compliance under [Wis. Admin. Code GAB § 2.05\(5\)](#).

The complainant also challenges five signatures where the municipality name field contains “ditto” marks. [Wis. Admin. Code GAB § 2.05\(13\)](#) states that a “signature shall be counted when identical residential information or dates for different electors are indicated by ditto marks.” In each case, valid municipalities were listed the row above these signatures. Board staff therefore recommends the challenges to these signatures be rejected.

The remainder of complainant’s challenges take issue with the exact type of municipality (i.e., town/village/city) not being identified by the signatory. The Board and its staff have advised candidates and challengers that a signatory’s failure to check the correct box to indicate “Town, Village or City” is not a basis for disqualifying a signature unless a challenger can show that the given address is outside the subject jurisdiction or district. For instance, the challenger needs to show that a given address has to be in the Village of X, not in the Town of X and, therefore is outside District Y. [Wis. Admin. Code GAB 2.05\(15\)\(c\)](#) allows for missing information such as the type of municipality as long as residency can be determined by the information provided on the nomination paper. The signatory’s error or omission in checking a box on a form alone is not sufficient evidence for a challenge and Board staff recommends rejecting these challenges.

Candidate Raihala submitted correcting affidavits by the June 6<sup>th</sup> deadline that would repair 26 signatures. Typically staff does not update the number of valid signatures based on correcting affidavits if the candidate is still above the minimum number of signatures required, but as the Board will be adjusting Candidate Raihala’s valid signature count based on the challenge, Board staff believes it is also appropriate to reflect these corrections in the final count.

**Response of Candidate Raihala:** Candidate Raihala submitted a timely, verified response and correcting affidavit on June 9, 2016. In the response, Candidate Raihala alleges that the challenge to his nomination papers are frivolous and asserts that the complainant has failed to meet the burden of presenting clear and convincing evidence sufficient to overcome the presumption of validity. Candidate Raihala also references the Board’s Nomination Paper Challenges manual in defense to the allegation that any signature be rejected for failure of the signatory to specify the type of municipality. See GAB Manual: [Nomination Paper Challenges](#), at page 6.

The correcting affidavit filed by Candidate Raihala on June 9<sup>th</sup> primarily adds types of municipality where missing and clarifies the signatory’s municipality of residence when previously marked with ditto marks or abbreviations. As Board staff is already recommending these be accepted, no further adjustment to the verified signature total is necessary as a result. The correcting affidavit does provide the missing information required for three of the four challenges where staff agreed with the complainant and so those three signatures: page 15, line 6; page 35, line 6; and page 78, line 4 are properly rehabilitated.

**Recommended Motion:** Sustain the challenge to one signature and reject the remainder of the challenges for the reasons indicated above, verify 1,041 signatures, grant ballot access to Candidate Raihala, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**6. George J. Gillis Jr. Complaint against Eric Wimberger, Republican Party**  
**Candidate for the 30<sup>th</sup> State Senate District**  
G.A.B. Case No. EL 16-070

Signatures required for office: 400

Signatures challenged: All signatures submitted (challenge to header information)

Signatures initially approved: 516

\*No Challenge Worksheet

Staff assigned: Nathan Judnic

**The complaint alleges that all nomination papers submitted by Candidate Wimberger (Pages 1–71) fail to identify the Candidate’s correct residential address.** Wis. Stat. §§ 8.15(5)(a) and (b), outline the information required in the header of a candidate’s nomination paper:

(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.

The Declaration of Candidacy (Form GAB-162) requires the candidate to include their present address, including their municipality of residence for voting purposes. *See* [Form GAB-162](#). The declaration of candidacy shall be sworn to before any officer authorized to administer oaths. Wis. Stat. § 8.21(2). All nomination papers submitted by Candidate Wimberger (Pages 1–71) have an identical caption which contains in relevant part the language, “I, the undersigned, request the name of Eric Wimberger residing at **1146 Pine Street Upper**, Green Bay, WI 54301 be placed on the ballot....” Candidate Wimberger’s Declaration of Candidacy contains the address “**1146 ½, Pine St.**, Green Bay, WI 54301, City of Green Bay.” The complaint incorrectly alleges that Candidate Wimberger’s Declaration of Candidacy contains an address of **1145 ½ Pine Street**. The complaint includes Candidate Wimberger’s Declaration of Candidacy as Exhibit A, and it clearly contains the address of “**1146 ½ Pine St.**” The complaint also contains a copy of Candidate’s Wimberger’s voter registration information accessed via the MyVoteWI website. Candidate Wimberger’s voter registration contains an address of 1146 Pine Street, UPPR, Green Bay, WI, 54301.

“Any information which appears on a nomination paper is entitled to a presumption of validity.” Wis. Admin. Code GAB § 2.05(4). “The burden is on the challenger to establish any insufficiency.” Wis. Admin. Code GAB § 2.05(3)(a). “The filing officer shall examine any evidence offered by the parties when reviewing a complaint challenging the sufficiency of the nomination papers of a candidate for state or local office. The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.” Wis. Admin. Code GAB § 2.07(4). While there is clearly a minor discrepancy between the street number listed on Candidate Wimberger’s nomination papers and his Declaration of Candidacy, the discrepancy appears to occur because the same residence has two acceptable house numbers: 1146 Upper and 1146 ½. The fact that Candidate Wimberger resides in a location that has two acceptable house numbers, and he lists one house number on his nomination papers and one house number on his Declaration of Candidacy does not disqualify the signatures contained on the nomination

papers. The requirement on both documents is to list their residence, and Candidate Wimberger has complied with that requirement. At the very least, Candidate Wimberger has substantially complied with the requirement to provide his address on his nomination papers and Declaration of Candidacy. Staff recommends rejecting the challenge to all signatures contained on Pages 1-71 as the staff believes Candidate Wimberger listed a correct residential address on his ballot access documents.

**Response of Candidate Wimberger.** Candidate Wimberger filed a timely, verified response to the complaint filed against his nomination papers. The response contained a sworn affidavit of Candidate Wimberger, contending that the complaint filed by Mr. Gillis fails to meet the burden of proving papers are insufficient under Wis. Admin. Code GAB § 2.07(3)(a); that Mr. Gillis incorrectly alleges that his Declaration of Candidacy contains an address of 1145 ½ Pine Street, instead of 1146 ½ Pine Street; that he has lived at 1146 Pine Street since 2010; 1146 Pine Street is a split level dwelling with two separate units therein; that his unit is often referred to as the upper unit or 1146 ½ which he describes as being synonymous labels interchangeable to distinguish only from the lower unit; that he receives mail and deliveries with the “upper” or the “1146 ½” label, and even with just “1146” and no distinction of the unit. Finally, Candidate Wimberger’s affidavit states that nomination paper filings with the GAB are presumed valid; Wis. Stat. § 8.15(5)(a) requires the address described “substantially” and that “1146 ½” and “upper” are synonymous terms describing his residence and therefore the challenger does not meet his burden to show insufficiency. Candidate Wimberger attaches two pieces of mail delivered to his residence – the first piece of mail shows an address of “1146 ½ Pine St” and the second piece of mail shows an address of “UPPR 1146 Pine St.” Candidate Wimberger’s response reinforces the recommendation of the staff to reject challenges to Pages 1-71 of his nomination papers.

**Recommended Motion:** Reject all challenges to signatures contained on Pages 1-71 of Candidate Wimberger’s nomination papers; verify a total of 516 valid signatures, grant ballot access to Candidate Wimberger, and direct staff to prepare and issue a Findings and Order consistent with this motion.

7. **Daniel G. Riemer Complaint against Zachary Marshall, Republican Party**  
**Candidate for the 7<sup>th</sup> Assembly District**  
G.A.B. Case No. EL 16-071

Signatures required for office: 200  
Signatures challenged: 20  
Signatures initially approved: 206

Staff assigned: Nathan Judnic

**The complaint alleges that 7 signatures were obtained from individuals who previously signed nomination papers for other candidates running for the same office.** “Only one signature per person for the same office is valid.” Wis. Stat. § 8.15(2), Wis. Admin. Code GAB § 2.05(11). “If a challenger establishes that an elector signed the nomination papers of a candidate more than once or signed the nomination papers of more than one candidate for the same office, the 2<sup>nd</sup> and subsequent signatures may not be counted.” Wis. Admin. Code GAB § 2.07(3)(b). Staff determined that 7 individuals signed Candidate Daniel Riemer’s (Democratic

Party Candidate for the 7<sup>th</sup> Assembly District) nomination papers before they signed Candidate Marshall's nomination papers, therefore the signatures contained on Page 18, Line 3; Page 19, Lines 7 and 8; Page 20, Line 1; Page 21, Line 4; Page 11, Line 8; Page 13, Line 4 should be struck. The signature at Page 21, Line 4 contains the same name on both nomination papers, but contains a different address. Staff believes this to be the same person, and therefore recommends the second signature on Candidate Marshall's nomination papers be struck. In his verified response discussed below, Candidate Marshall does not dispute that these challenges should be sustained. The staff recommends sustaining the challenges to these signatures, removing 7 signatures from Candidate Marshall's signature count. The Board has previously approved this recommendation. See GAB Manual: [Nomination Paper Challenges, March 2016](#), at page 4.

**The complaint alleges that 9 signatures contain a printed name that is illegible so the identity of the individual cannot be determined.** At its April 17, 2014 meeting, the Board adopted staff recommendations regarding nomination paper standards and review relating to 2013 Wisconsin Act 160. This Act amended Wis. Stat. § 8.15(2) to state that for a signature to be valid, "each signer of a nomination paper shall legibly print his or her name in a space provided next to his or her signature." The Board also adopted guidance that was provided to all Wisconsin County and Municipal Clerks and the Milwaukee County and City Election Commissions and posted publicly on the Board's website. See GAB Memorandum, Nomination Paper Standards and Review, dated April 10, 2014 from Michael Haas, Elections Division Administrator and David Buerger, Elections Specialist (hereinafter guidance memorandum). The guidance memorandum outlines at page 2 the adopted standard for reviewing the legibility of printed names:

1. *If the filing officer can discern no part of the printed name, it should be deemed illegible and the signature should not be counted.*
2. *If the filing officer can discern a possible name, but may not be certain of the exact spelling of the name, the printed name is deemed legible and the signature may be counted if otherwise valid.*
3. *The filing officer is not required to consult extrinsic sources of information (voter registration records, telephone directories, etc.), but may do so if it assists the filing officer in discerning a possible name.*

The guidance memorandum at pages 2-3 further states:

*The above standards are intended to preserve the presumption of validity for the information contained on the petition, but also ensure that invalid signatures are not counted when there is absolutely no readable information to determine the name of the signer. This standard for legibility requires more than an unintelligible mark, but also provides filing officers with the flexibility to find a printed name to be legible even when 100% of the letters in that name cannot be determined.*

*The review standards described in this memorandum will govern only the filing officer's review. If signatures are subsequently challenged based on the legibility of the printed name, then the filing officer must consider all the evidence presented by both parties, and reject signatures where the challenger has met their burden of providing clear and*

*convincing evidence that overcomes the presumption of validity. Wis. Admin. Code GAB §2.07(4).*

Using the above standards adopted by the Board, the staff initially determined that the following signatures contained printed names which were illegible, and therefore struck: Page 1, Line 7; Page 4, Line 10; Page 7, Line 7 (previously struck); Page 11, Line 3; Page 14, Line 5 and Page 17, Line 3 – for a total of 5 signatures. As discussed below, Candidate Marshall filed a verified response which provides additional, extrinsic evidence that has allowed the staff to revisit the original recommendations of insufficiency provided on the Challenge Worksheet. Consultation of extrinsic sources to determine sufficiency of nomination papers is allowed under Wis. Admin. Code GAB §§ 2.05(3) and 2.07(1). If the challenger establishes that information on a nomination paper is insufficient, the burden is on the challenged candidate to then to establish its sufficiency. Wis. Admin. Code GAB § 2.07(3)(a). Final staff recommendations on these signatures will be provided following the discussion of Candidate Marshall’s response below.

**The complaint alleges that 3 signatures (1 of which is also challenged for containing an illegibly printed name) contain illegible addresses.** Pursuant to Wis. Stat. § 8.15(2) and Wis. Admin. Code GAB § 2.05(12), a complete address and street number (or postal address if it is located in the district that the candidate seeks to represent) is required for each signature on a nomination paper. As documented in the Challenge Worksheet that follows this Memorandum, staff initially rejected the challenge to the signature contained on Page 5, Line 8, and sustained the challenges to signatures contained on Page 14, Line 6 and Page 7, Line 7. As discussed below, Candidate Marshall filed a verified response which provides additional, extrinsic evidence that has allowed the staff to revisit the original recommendations of insufficiency provided on the Challenge Worksheet. Consultation of extrinsic sources to determine sufficiency of nomination papers is allowed under Wis. Admin. Code GAB §§ 2.05(3) and 2.07(1). If the challenger establishes that information on a nomination paper is insufficient, the burden is on the challenged candidate to then to establish its sufficiency. Wis. Admin. Code GAB § 2.07(3)(a). Final staff recommendations on these signatures will be provided following the discussion of Candidate Marshall’s response below.

**The complaint alleges that 2 signatures were crossed off, and therefore should not be counted.** Wis. Admin. Code GAB § 2.05(5) states: “[w]here 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.” “Any information which appears on a nomination paper is entitled to a presumption of validity.” Wis. Admin. Code GAB § 2.05(4). The burden of proof for establishing that a signature is insufficient is clear and convincing evidence. Wis. Admin. Code GAB § 2.07(4). Staff examined the signatures and printed names, and believes the printed names provided meet the standard for legibility as articulated in the guidance memorandum. Board staff believes the names are discernible, even though staff may not be certain as to the exact spelling of the names. The signatures were partially legible, with some scribbles and a line through a portion of the signature, but there is no requirement that the signature must be legible. Staff does not believe the challenger has provided clear and convincing evidence to overcome the presumption of validity of these signatures. Staff recommends rejecting the challenges to the signatures contained on Candidate Marshall’s nomination papers at Page 2, Line 7 and Page 17, Line 7.

**Response of Candidate Marshall.** A timely, verified written response was filed by Jennifer Toftness, Republican Assembly Campaign Committee, on behalf of Candidate Zachary

Marshall. Candidate Marshall does not dispute the challenges to signatures of individuals that signed nomination papers of another candidate before they signed his papers. Candidate Marshall contends that all challenges based of legibility of the name or address should be rejected and the signatures found sufficient. Candidate Marshall attaches Exhibits A-H to his response, which includes address lookup screenshots from Whitepages.com, excerpts of maps showing the proximity of an address to those contained on the same nomination page, and an address lookup screen shot from another online database source. Finally, Candidate Marshall argues that the signatures that were alleged to be crossed off should be counted, because the challenger has not provided evidence to overcome the presumption of validity for those signatures. Candidate Marshall also cites the Government Accountability Board manual which supports the argument that the signature of an individual does not have to legible for it to be sufficient. See GAB Manual: [Nomination Paper Challenges, March 2016](#), at pages 5-6.

Illegibly Printed Names: Candidate Marshall’s response provides clear and convincing evidence to rebut the finding of insufficiency by the staff on review of the challenge complaint for 8 of the 9 signatures challenged. The evidence provided by Candidate Marshall for the signature contained on Page 11, Line 3 does not place the signer at the address listed on the nomination paper, and places the signer at a different address, therefore the staff recommends this signature be struck. For the remaining 8 signatures, the staff has previously recommended rejecting the challenge to 4 of those signatures and now recommends rejecting the challenges to the remaining 4 signatures.

Illegible Addresses: Candidate Marshall’s response provides clear and convincing evidence to rebut the finding of insufficiency by the staff on review of the challenge complaint for all 3 signatures challenged. The staff now recommends rejecting the challenges to the 3 challenges to signatures due to an illegible address.

**Recommended Motion:** Sustain the challenges to 8 signatures at Page 18, Line 3; Page 19, Lines 7 and 8; Page 20, Line 1; Page 21, Line 4; Page 11, Line 8; Page 13, Line 4; Page 11, Line 3; reject challenges to the other 12 signatures, verify a total of 208 valid signatures, including 10 supplemental signatures, grant ballot access to Candidate Marshall, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**8. Enku Edgar Lin Complaint against Leon D. Young, Democratic Party Candidate for the 16<sup>th</sup> Assembly District**  
G.A.B. Case No. EL 16-072

Signatures required for office: 200

Signatures challenged: All

Signatures initially approved: 400

Staff assigned: David Buerger

This complaint raises several different issues:

- (1) Candidate Young submitted more than 400 signatures
- (2) Circulators pre-filled the date of signing for several signatures
- (3) Signatures or printed names appear to be in the same handwriting
- (4) Duplicate signatures were submitted

- (5) Signatories provided illegible or incomplete printed names
- (6) Signatories provided incomplete address information
- (7) Signatures from outside of the district were accepted

**Candidate Young submitted more than 400 signatures.** The complaint alleges that because Candidate Young submitted more than the maximum number of signatures allowed under [Wis. Stat. § 8.15\(6\)\(d\)](#) for the office he is seeking, any excess signatures should be rejected. This penalty is not specified by state law or administrative code and is contrary to the Board’s established practice.

In practice, Board staff asks candidates to not submit more than the maximum number of signatures, but commonly find that candidates have additional pages of signatures that they would like to file in the event that there is a problem with the first set. Board staff has accepted such signatures as “supplemental” filings in the past and do not examine them unless the candidate’s original filing is deemed insufficient.

In this case, Candidate Young submitted 45 pages containing approximately 436 total signatures. Upon review, staff was only able to verify 413 signatures from that original filing and as the maximum for the office was 400, Candidate Young was verified at 400 signatures. Staff did not reject the extra 13 signatures or separate them out as a supplemental filing at that time, but preserved them with the original filing. A separate supplemental filing was later received on May 31<sup>st</sup> containing another 36 signatures. Consistent with the directive of [Wis. Stat. § 5.01\(1\)](#) which states: “except as otherwise provided, chs. 5 to 12 shall be construed to give effect to the will of the electors,” and as there is no penalty specified in law for submitting excess signatures, and Board staff has an established practice for preserving such signatures in the event they are needed, staff recommends initially accepting all signatures originally submitted by Candidate Young despite the maximum quantity expressed in [Wis. Stat. § 8.15\(6\)\(d\)](#).

**Circulators pre-filled the date of signing for several signatures.** The complaint alleges that on pages 1-34, the circulator appears to have pre-filled the date of signing. The complaint further alleges that because of this, it is impossible to discern the actual date that the signature was obtained.

In this case, Candidate Young appears to have pre-printed the year of signing on all pages. On several pages it also appears that the circulators filled in the month and day of signing for the signatory as well. This is accepted practice and pre-printing the year is actually advised by Board staff when reviewing nomination paper templates. Circulators filling in street number and name, municipality of residence, and date for signers are also permitted by Board policy:

*“In applying the statutes and administrative rules, the Board and staff has previously required that the individual signing a nomination paper must be the one to make the signature, but that other information such as the street address and date of signing could be completed by the circulator as well as the signer.”* Clerk Communication from Elections Division Administrator Michael Haas entitled “Nomination Paper Standards and Review” (April 11, 2014), found at <http://www.gab.wi.gov/node/3164>.

Furthermore, the circulator is required to certify the fact that “each person signed the paper with full knowledge of its contents on the date indicated opposite his or her name.” Falsifying such a certification is a Class I felony. Wis. Stat. §§ [12.13\(3\)\(a\)](#), [12.60\(1\)\(a\)](#). The complainant has

provided no additional evidence for this allegation other than the pages themselves and as such this challenge does not meet the “clear and convincing evidence” standard required to rebut the presumption of validity established by Wis. Admin. Code GAB §§ [2.05\(4\)](#), [2.07\(3\)\(a\)](#), [\(4\)](#).

As pre-printing dates is an acceptable and even advised practice and the circulator is additionally required to certify that each signature was collected on the date indicated, Board staff recommends rejecting this challenge.

**Signatures or printed names appear to be in the same handwriting.** The complaint alleges that 16 signatures or printed names appear to be written in the same handwriting as at least one other signature on the page, indicating that the same person may have signed the page more than once using different names. The complainant has provided no additional evidence for this allegation other than the pages themselves and as such these challenges do not meet the “clear and convincing evidence” standard required to rebut the presumption of validity established by Wis. Admin. Code GAB §§ [2.05\(4\)](#), [2.07\(3\)\(a\)](#), [\(4\)](#). Board staff recommends rejecting these challenges.

**Duplicate signatures were submitted.** The complaint alleges four signatures appear twice in the set of signatures submitted by Candidate Young. Duplicate signatures are prohibited by [Wis. Admin. Code GAB § 2.05\(11\)](#).

Upon review of the complaint and nomination papers Board staff agrees with the challenge to the duplicate signature of “Henrietta Outlaw” and recommends rejecting the duplicate signature on page 43, line 7. The other three challenges are against signatures that appear to have the same name, but have different addresses. Given the possibility of individuals with the same name, particularly individuals who may be named after a parent or relative who live in the same community, absence further evidence, Board staff recommends rejecting those challenges.

**Signatories provided illegible or incomplete printed names.** At its April 17, 2014 meeting, the Board adopted staff recommendations regarding nomination paper standards and review relating to 2013 Wisconsin Act 160. This Act amended [Wis. Stat. § 8.15\(2\)](#) to state that for a signature to be valid, “each signer of a nomination paper shall legibly print his or her name in a space provided next to his or her signature.” The Board also adopted guidance that was provided to all Wisconsin County and Municipal Clerks and the Milwaukee County and City Election Commissions and posted publicly on the Board’s website. See Clerk Communication entitled “Nomination Paper Standards and Review” issued April 11, 2014, found at <http://www.gab.wi.gov/node/3164> (hereinafter guidance memorandum). The guidance memorandum outlines at page 2 the adopted standard for reviewing the legibility of printed names:

1. *If the filing officer can discern no part of the printed name, it should be deemed illegible and the signature should not be counted.*
2. *If the filing officer can discern a possible name, but may not be certain of the exact spelling of the name, the printed name is deemed legible and the signature may be counted if otherwise valid.*

3. *The filing officer is not required to consult extrinsic sources of information (voter registration records, telephone directories, etc.), but may do so if it assists the filing officer in discerning a possible name.*

The guidance memorandum at pages 2-3 further states:

*The above standards are intended to preserve the presumption of validity for the information contained on the petition, but also ensure that invalid signatures are not counted when there is absolutely no readable information to determine the name of the signer. This standard for legibility requires more than an unintelligible mark, but also provides filing officers with the flexibility to find a printed name to be legible even when 100% of the letters in that name cannot be determined.*

*The review standards described in this memorandum will govern only the filing officer's review. If signatures are subsequently challenged based on the legibility of the printed name, then the filing officer must consider all the evidence presented by both parties, and reject signatures where the challenger has met their burden of providing clear and convincing evidence that overcomes the presumption of validity. [Wis. Admin. Code GAB § 2.07\(4\)](#).*

The complaint challenges five signatures claiming either that the printed name is not legible or it is incomplete. Upon review of the five signatures challenged Board staff believes the three signatures on pages 8, 13, and 33 meet the standard for legibility as articulated in the guidance memorandum. Board staff does not believe the challenger has met his burden of providing clear and convincing evidence to overcome the presumption of validity for these signatures and recommends rejecting the challenges to these three signatures.

However, two signatures do appear incomplete. On page 22, line 2, staff could only discern the name "Trennequa," which appears to be a first name with no discernable last name. Also on page 33, line 7, staff believes the printed name does not match the name in the signature column. Board staff recommends rejecting these two signatures.

**Signatories provided incomplete address information.** The complaint challenges five signatures claiming the signatory's address was incomplete. Upon review, staff identified two signatures that should have been rejected for incomplete residential address information. On page 34, line 10, the address appears to be missing a street number and should have been rejected. Also on page 44, line 5, staff were only able to discern "27 43 NS," which does not appear to be a valid address within the district. Board staff recommends accepting both challenges and rejecting both signatures. The other three signatures appear to have legible addresses and staff recommends rejecting challenges to these signatures.

**Signatures from outside of the district were accepted.** The complaint alleges 215 signatures were obtained from individuals that did not reside in the 16<sup>th</sup> Assembly District. After verification against the information in the WisVote system, Board staff determined 200 signatures are of individuals residing outside of the 16<sup>th</sup> Assembly District. Staff agreed with all of these challenges. For a signature to be counted, a signer of the nomination papers for the office of Representative to the Assembly must reside in the district which the candidate named on the paper will represent, if elected. [Wis. Stat. § 8.15\(3\)](#). Board staff recommends accepting the challenge as to 214 signatures and rejecting the challenge to one signature (Page 28, Line 5)

that appears to from an individual who lives at the same address as the line above. Please note that as 10 of these challenged signatures were already rejected for other reasons, the verified signature count should only be decreased by 204.

Board staff determined that Candidate Young submitted nomination papers containing 413 valid signatures and filed four additional supplemental pages containing 32 valid signatures. State law requires a minimum of 200 signatures for the office of Representative to the Assembly.

As documented in the challenge worksheet that follows this memorandum, staff accepted 209 challenges leaving the candidate with 204 valid signatures. Adding in the 32 supplemental signatures brings the final total of valid signatures to 236.

**Response of Candidate Young:** Candidate Young filed a timely, verified response on June 9, 2016. In the response Candidate Young admits to submitting more than 400 signatures, but denies that the Board has the authority to strike the excess signatures. Candidate Young asserts that the complainant has failed to meet his burden of showing clear and convincing evidence to rebut the presumption of validity as it pertains to the challenges to signatures for pre-filled dates or duplicate signatures. Candidate Young also asserts that to the extent illegible names or incomplete addresses are contained within the nomination papers, submitted those signatures still substantially comply with the requirements and should be accepted.

Candidate Young also raises the issue that the complaint as filed does not comply with Wis. Admin. Code GAB §§ [20.03\(4\)](#), [\(5\)](#). Subsection 4 requires a complaint to state the “name and last known post office address of the complainant and respondent.” Subsection 5 provides the specific language to be used in the verification statement of the complaint. While the complainant here has failed to strictly adhere to these requirements, Board staff believes that underlying purposes of those requirements are to: (1) ensure that the complaint can be served on respondent, and (2) that the complainant verifies the allegations of the complaint under oath. In this case, there was no question as to both the complainant and respondent’s mailing addresses and the complainant signed a substantially similar statement<sup>1</sup> to the language specified in § [20.03\(5\)](#). Board staff recommends considering the complaint despite these structural defects.

**Recommended Motion:** Sustain challenges to 209 signatures and reject the challenges to the remaining signatures for the reasons set forth above; verify 236 valid signatures, grant ballot access to Candidate Young, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**9. Orville J. Seymer Complaint against Paul F. Nehlen III, Republican Party**  
**Candidate for the 1<sup>st</sup> U.S. Congressional District of Wisconsin**  
**G.A.B. Case No. EL 16-073**

Signatures required for office: 1000

Signatures challenged: All signatures submitted (challenge to header information)

Signatures initially approved: 1624

Declaration of Candidacy challenged: Yes

\*No Challenge Worksheet

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<sup>1</sup> The complaint contained the following verification language: “I swear under oath that the information contained in this complaint is true based on my person knowledge and/or information and belief.”

Staff assigned: Nathan Judnic

**The complaint alleges that the Declaration of Candidacy filed by Candidate Nehlen is invalid because he failed to provide his correct mailing municipality, failed to provide his correct municipality of residence for voting purposes and failed to provide his correct street name.** Wis. Stat. § 8.21(1) provides that a candidate for office, other than a presidential elector under Wis. Stat. § 8.20(2)(d), shall file a declaration of candidacy no later than the time of filing nomination papers for that office. The declaration of candidacy shall be sworn before any officer authorized to administer oaths. Wis. Stat. § 8.21(2). The candidate shall provide on the declaration of candidacy a statement that discloses the candidate’s municipality of residence for voting purposes, and the street and number, if any, on which the candidate resides. Wis. Stat. § 8.21(4)(b). Candidate Nehlen’s Declaration of Candidacy lists his present address as 2520 Country Drive, PO Box 796, Williams Bay, WI 53191 and his municipality for voting purposes as the City of Delavan. It would appear that Candidate Nehlen left off the word “side” when completing the name of his street on his Declaration of Candidacy, and that he checked the City box instead of the Town box when indicating his municipality of residence for voting purposes. Delavan is the appropriate name of the municipality, but he currently resides in the Town, and not the City according to Walworth County tax parcel records accessed online. Candidate Nehlen listed PO Box 796 in Williams Bay with a Williams Bay zip code of 53191 for his “mailing municipality and state” on the Declaration of Candidacy. This would appear to be where Candidate Nehlen receives mail, which is acceptable. Wis. Stat. § 8.21 does not disallow a candidate to list a mailing address on their Declaration of Candidacy, which can be a Post Office Box, as long as their residential address with number and street, and municipality for voting purposes is provided. The staff believes that while the street name and type of municipality for voting purposes are incorrect on Candidate Nehlen’s Declaration of Candidacy, these minor discrepancies do not warrant disqualification from the ballot. Candidate Nehlen Declaration of Candidacy was timely filed on June 1, 2016 along with his nomination papers. Staff recommends the Board direct Candidate Nehlen to amend his Declaration of Candidacy to correct the discovered errors “before the candidate assumes office or is defeated for election or nomination” under Wis. Stat. § 8.21(6).

**The complaint alleges that all nomination papers submitted by Candidate Nehlen are invalid because the Candidate’s municipality of residence for voting purposes is incorrect in the header of the nomination papers. Therefore all signatures collected on those nomination papers are invalid.** Wis. Stat. §§ 8.15(5)(a) and (b), outline the information required in the header of a candidate’s nomination paper:

(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.

Candidate Nehlen’s nomination paper header includes his residential address as “2520 Countryside Drive” with a municipality for voting purposes of the “Delavan” with the “City” box checked; mailing address of PO Box 796, Williams Bay, WI, 53191. “Any information which appears on a nomination paper is entitled to a presumption of validity.” Wis. Admin. Code GAB § 2.05(4). “The burden is on the challenger to establish any insufficiency.” Wis. Admin. Code GAB § 2.05(3)(a). “The filing officer shall examine any evidence offered by the parties when reviewing a complaint challenging the sufficiency of the nomination papers of a candidate for state or local office. The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.” Wis. Admin. Code GAB § 2.07(4). Candidate Nehlen resides at 2520 Countryside Drive, therefore the paper complies with the § 8.15(5)(a) requirement to list the candidate’s street address. Candidate Nehlen’s mailing address is a PO Box in Williams Bay, WI 53191, therefore the paper complies with the § 8.15 (5)(b) requirement to list a mailing address. What is left, is whether checking the “City” box versus the “Town” box is fatal to the nomination paper heading. The Board has previously rejected challenges to signatures where a signer failed to check a municipality type box, or checked an incorrect municipality type box. *See* GAB Manual: [Nomination Paper Challenges, March 2016](#), at page 6. The staff believes the nomination paper heading substantially complies with the requirements of Wis. Stat. §§ 8.15(5)(a) and (b) and the challenges to all nomination papers containing this header should be rejected.

**Response of Candidate Nehlen:** None provided.

**Recommended Motion:** Reject all challenges to signatures contained on nomination papers submitted by Candidate Nehlen; verify a total of 1624 valid signatures, grant ballot access to Candidate Nehlen, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**10. Doug Haeefe Complaint against David Alexander Aguayo, Independent Candidate for the 76<sup>th</sup> Assembly District**  
G.A.B. Case No. EL 16-074

Signatures required for office: 200  
Signatures challenged: 15  
Signatures initially approved: 206

Staff assigned: David Buerger

**The complaint alleges that 13 signatures were obtained from individuals that did not reside in the 7<sup>th</sup> Congressional District and 2 signatures have an incomplete residential address.** The complaint alleges that due to these defects Candidate Aguayo has filed an insufficient number of nomination paper signatures and should be denied ballot status.

Board staff determined that Candidate Aguayo submitted nomination papers containing 206 signatures. State law requires a minimum of 200 signatures for the office of Representative to the Assembly.

**Challenge to signatures from outside of the district:** Upon reviewing the complaint, and after verification against the information in the WisVote system, Board staff determined 13 signatures are of individuals residing outside of the 76<sup>th</sup> Assembly District. Staff agreed with all of these challenges. For a signature to be counted, a signer of the nomination papers for the office of Representative to the Assembly must reside in the district which the candidate named on the paper will represent, if elected. [Wis. Stat. § 8.15\(3\)](#). Board staff recommends accepting the challenge as to 13 signatures and rejecting the challenge to 4 signatures of individuals residing outside the 7<sup>th</sup> Congressional District.

**Challenge to signatures with incomplete residential address information:** Upon reviewing the complaint, staff identified two signatures that should have been rejected for incomplete residential address information. It appears that the signers listed their phone numbers in this field instead of their street address. One of these signatures had already been rejected for an improper date, but the other had been mistakenly accepted. Board staff recommends accepting both challenges, although the number of verified signatures will only be decreased by one as a result of one of the signatures having already been rejected.

As documented in the challenge worksheet that follows this memorandum, staff agrees with the out-of-district challenges to 13 signatures and also agrees with the challenges to both signatures alleged to have incomplete residential information. As one of those signatures was already struck for an improper date, Board staff recommends subtracting 14 signatures from the prior verified total leaving 192 valid signatures.

**Response of Candidate Aguayo:** None received.

**Recommended Motion:** Sustain challenges to 15 signatures, verify 192 valid signatures, deny ballot access to Candidate Aguayo, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**11. Doug Haefele Complaint against Jade Thomson, Libertarian Party Candidate for the 57<sup>th</sup> Assembly District**  
G.A.B. Case No. EL 16-075

Signatures required for office: 200  
Signatures challenged: All  
Signatures initially approved: 175

Staff assigned: David Buerger

After staff review of Candidate Thomson's nomination papers, only 175 signatures could be verified. This is short of the 200 signatures required to appear on the ballot as a candidate for Representative to the Assembly. Candidate Thomson has not filed an appeal of the staff's determination and did not submit any correcting affidavits. Candidate Thomson has also not filed the Statement of Economic Interests (SEI) as required to appear on the ballot. As such, staff recommends ballot access be denied to Candidate Thomson and that the Board not reach the issue presented in the challenge by Mr. Haefele as the issue is moot.

**Recommended Motion 1:** Verify 175 valid signatures and deny ballot access to Candidate Thomson; dismiss the challenge as moot, and direct staff to prepare and issue a Findings and Order consistent with this motion.

Alternatively, if the Board wishes to consider the complaint, Mr. Haeefele alleges that the Campaign Registration Statement (GAB-1) and Declaration of Candidacy (GAB-162) filed by the candidate identify her as an “Libertarian” while the heading of her nomination papers identify her as a “Progressive Libertarian”, therefore all 220 signatures on the nomination papers originally submitted by the candidate are invalid.

[Wis. Stat. § 8.15\(5\)\(a\)](#) provides that each nomination paper shall have substantially the following words, among others, printed at the top: “candidate representing the (name of party).” Additionally, [Wis. Stat. § 8.19\(3\)](#) requires that “the Board not certify... the name of any person whose nomination papers indicate a party name comprising a combination of existing party names, qualifying words, phrases, prefixes or suffixes in connection with any existing party name.”

Staff reviewed the candidate’s original Declaration of Candidacy, which identified her as a “Progressive Libertarian” on June 1, 2016 when Candidate Thomson appeared in person to submit her ballot access documents. Every nomination paper page also clearly designated the candidate as a “Progressive Libertarian.” However, the GAB-1 indicated that Candidate Thomson was a Libertarian. Board staff pointed out this discrepancy and informed Candidate Thomson that due to the restriction on using existing party names, the Board would likely not be able to certify her name for the ballot as a Progressive Libertarian, but may be able to do so as a Libertarian. Candidate Thomson then executed a new Declaration of Candidacy indicating her affiliation with the Libertarian Party and submitted her nomination papers with the understanding that the party name on the nomination papers not matching the GAB-1 and GAB-162 would have to be considered by the Board before ballot status could be granted.

[Wis. Admin. Code GAB § 2.05\(5\)](#) states: “[w]here 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.” Here, Candidate Thomson did indicate her affiliation with the Libertarian Party on her nomination papers by placing the words “Progressive Libertarian” in the header. There is no indication in the complaint that any signer was confused as to Candidate Thomson’s partisan affiliation.

Another candidate recommended for ballot status, Holly Wood Webster, made a similar mistake by circulating nomination papers that indicated her partisan affiliation as “Pro-life Democrat.” In that case Board staff permitted Candidate Wood Webster to amend her GAB-162 to “Democratic” and Board staff is recommending her for ballot status.

The Board could similarly choose to accept the nomination papers with the “Progressive Libertarian” label as substantial compliance. However, unlike Candidate Wood Webster, the Board would still be compelled to deny ballot status for Candidate Thomson due to her lack of sufficient signatures and failure to file an SEI as required.

**Response of Candidate Thomson:** None received.

**Recommended Motion 2:** Reject the challenge to the signatures on all 26 pages of Candidate Thomson’s nomination papers due to the designation of “Progressive Libertarian” in the header because the candidate substantially complied with the header requirements; verify 175 valid signatures, deny ballot access to Candidate Thomson, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**12. Doug Haeefe Complaint against Jacob Wischmeier, Democratic Party Candidate for the 78<sup>th</sup> Assembly District**  
G.A.B. Case No. EL 16-076

Signatures required for office: 200  
Signatures challenged: 20  
Signatures initially approved: 213

Staff assigned: Nathan Judnic

**The complaint alleges that 6 signatures were obtained from individuals who previously signed nomination papers for other candidates running for the same office.** “Only one signature per person for the same office is valid.” Wis. Stat. § 8.15(2), Wis. Admin. Code GAB § 2.05(11). “If a challenger establishes that an elector signed the nomination papers of a candidate more than once or signed the nomination papers of more than one candidate for the same office, the 2<sup>nd</sup> and subsequent signatures may not be counted.” Wis. Admin. Code GAB § 2.07(3)(b). Staff determined that 6 individuals signed Candidate Lisa Subeck’s (Democratic Party Candidate for the 78<sup>th</sup> Assembly District) nomination papers before they signed Candidate Wischmeier’s nomination papers, therefore the signatures contained on Page 4, Lines 7 and 10; Page 7, Lines 2,3,7 and 10 should be struck. The staff recommends sustaining the challenges to these signatures and removing 6 signatures from Candidate Wischmeier’s signature count. The Board has previously approved this recommendation. *See* GAB Manual: [Nomination Paper Challenges, March 2016](#), page 4.

**The complaint alleges that 9 signatures (2 of which are also challenged alleging an illegible address) were obtained from individuals that reside outside of the 78<sup>th</sup> Assembly District.** “All signers on each separate nomination paper for all state offices...shall reside in the jurisdiction or district which the candidate named on the paper will represent, if elected.” Wis. Stat. § 8.15(3). Staff researched each of the 9 challenged signatures by using the State’s centralized voter registration system (WisVote), and determined that all 9 signatures (Page 17, Lines 9 and 10; Page 20, Lines 7 and 8; Page 21, Lines 3, 5 and 6; Page 22, Lines 7 and 10) were addresses within the 78<sup>th</sup> Assembly District. The staff recommends rejecting the challenge to these signatures because these individuals do live within the 78<sup>th</sup> Assembly District. The Board has previously approved the policy of researching these addresses and making recommendations based on the WisVote system results. *See* GAB Manual: [Nomination Paper Challenges, March 2016](#), page 7.

**The complaint alleges that 4 signatures (1 of which is also challenged alleging an illegible printed name) contain illegible addresses.** Pursuant to Wis. Stat. § 8.15(2) and Wis. Admin. Code GAB § 2.05(12), a complete address and street number (or postal address if it is located in the district that the candidate seeks to represent) is required for each signature on a nomination paper. As documented in the Challenge Worksheet that follows this Memorandum, staff rejected

the challenges to signatures contained on Page 6, Line 9; Page 7, Line 8; Page 17, Lines 9 and 10. Staff was able to determine a street number, street name and city for each of the 4 signatures challenged and provided that information on the Challenge Worksheet. The staff recommends rejecting the challenges to these signatures as the addresses are legible.

**The complaint alleges that 3 signatures do not contain a date of signing or contain a date that is invalid.** Wis. Stat. § 8.15(2) states that for a signature to be valid, “each signer of a nomination paper...shall list... the date of signing. Wis. Admin. Code GAB § 2.01(15)(a) allows for a signature to survive an omitted date challenge if “the date can be determined by reference to the dates of other signatures on the paper.” Wis. Admin. Code GAB § 2.05(5) states: “[w]here 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.” “Any information which appears on a nomination paper is entitled to a presumption of validity.” Wis. Admin. Code GAB § 2.05(4). Staff examined the challenged signature contained on Page 10, Line 6 and determined the date was 5/21/16. Staff examined the challenged signature on Page 1, Line 3 and was able to determine the date was valid even though the day and year were incomplete, because it could be “bracketed” between two validly dated signatures. Bracketing of incomplete date information between complete date information is allowed under the application of Wis. Admin. Code GAB § 2.05(15)(a). The Government Accountability Board has consistently approved this recommendation based in part on advice from the Wisconsin Department of Justice. See GAB Manual: [Nomination Paper Challenges, March 2016](#), page 7. Staff examined the challenged signature on Page 20, Line 1 and determined that the date provided by the signer does not exist. The individual listed a date of 4/31/16 as the date of signing. April is a month that only contains 30 days. The signature is also first on the page, making it more difficult to determine the actual signing date based on other information on the page, and to determine whether the signature was obtained during the allowable period of time for circulation. Staff recommends rejecting the challenges to the 2 signatures contained on Page 10, Line 6 and Page 1, Line 3 and sustaining the challenge to the 1 signature contained on Page 20, Line 1.

**The complaint alleges that 1 signature contains a printed name that is illegible.** At its April 17, 2014 meeting, the Board adopted staff recommendations regarding nomination paper standards and review relating to 2013 Wisconsin Act 160. This Act amended Wis. Stat. § 8.15(2) to state that for a signature to be valid, “each signer of a nomination paper shall legibly print his or her name in a space provided next to his or her signature.” The Board also adopted guidance that was provided to all Wisconsin County and Municipal Clerks and the Milwaukee County and City Election Commissions and posted publicly on the Board’s website. See GAB Memorandum, Nomination Paper Standards and Review, dated April 10, 2014 from Michael Haas, Elections Division Administrator and David Buerger, Elections Specialist (hereinafter guidance memorandum). The guidance memorandum outlines at page 2 the adopted standard for reviewing the legibility of printed names:

1. *If the filing officer can discern no part of the printed name, it should be deemed illegible and the signature should not be counted.*
2. *If the filing officer can discern a possible name, but may not be certain of the exact spelling of the name, the printed name is deemed legible and the signature may be counted if otherwise valid.*

3. *The filing officer is not required to consult extrinsic sources of information (voter registration records, telephone directories, etc.), but may do so if it assists the filing officer in discerning a possible name.*

The guidance memorandum at pages 2-3 further states:

*The above standards are intended to preserve the presumption of validity for the information contained on the petition, but also ensure that invalid signatures are not counted when there is absolutely no readable information to determine the name of the signer. This standard for legibility requires more than an unintelligible mark, but also provides filing officers with the flexibility to find a printed name to be legible even when 100% of the letters in that name cannot be determined.*

*The review standards described in this memorandum will govern only the filing officer's review. If signatures are subsequently challenged based on the legibility of the printed name, then the filing officer must consider all the evidence presented by both parties, and reject signatures where the challenger has met their burden of providing clear and convincing evidence that overcomes the presumption of validity. Wis. Admin. Code GAB § 2.07(4).*

The complaint alleges that the printed name next to the signature contained on Page 7, Line 8 is not legible. Upon review of the signature and printed name, staff believes the printed name provided meets the standard for legibility as articulated in the guidance memorandum. Board staff believes the name is discernible, even though staff may not be certain as to the exact spelling of the name. The burden of proof placed on the challenger to overcome the presumption of validity of information on the nomination paper is contained in Wis. Admin. Code GAB § 2.07(4). Staff does not believe the challenger has provided clear and convincing evidence to overcome the presumption of validity of this signature. The staff has provided the name of the individual that signed the nomination paper in the Challenge Worksheet which follows this Memorandum. The staff recommends rejecting the challenge to the signature contained on Page 7, Line 8 of Candidate Wischmeier's nomination papers. The Government Accountability Board has applied the printed name standards described above for previous challenges. See GAB Manual: [Nomination Paper Challenges, March 2016](#), pages 5-6.

**Response of Candidate Wischmeier.** A timely, verified written response to was filed by Candidate Wischmeier. Candidate Wischmeier generally contends "that almost every one of these allegations are frivolous and I should maintain the majority of my 213 good signatures." Wischmeier Response, page 1. Candidate Wischmeier contends that 7 signatures challenged for being outside of the 78<sup>th</sup> Assembly District should be counted because the far west portion of the 78<sup>th</sup> Assembly District has a Verona mailing address, but is in Madison and within the district. Candidate Wischmeier does not respond to the allegation that 2 additional signatures are outside of the 78<sup>th</sup> Assembly District (Page 17: Lines 9 and 10). Staff has recommended rejecting the challenges to all 9 signatures subject to this challenge because they are all within the 78<sup>th</sup> Assembly District.

Candidate Wischmeier concedes in his response that 6 individuals signed Lisa Subeck's nomination papers on May 1, 2016 before they signed his nomination papers on later dates in May, but argues that Candidate Subeck did not file her ETHCF-1 form, Campaign Registration Statement to register her campaign with the Board until May 9, which is after she obtained the

questioned signatures. Wis. Stat. § 8.15(4)(b) 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.” Candidate Subeck filed all required ballot access documents with the Board prior to the statutory deadline, therefore Candidate Wischmeier’s argument is unpersuasive, and the staff still recommends sustaining the challenge to 6 signatures from individuals that signed Candidate Subeck’s nomination papers first. The Government Accountability Board has previously approved recommendations to reject challenges to signatures collected prior to a campaign registration statement being filed with the Board. *See* GAB Manual: [Nomination Paper Challenges, March 2016](#), page 3.

Candidate Wischmeier contends that the signature contained on Page 10: Line 6 was obtained on 5/21/16 and cannot be read to be 6/21/16 because that day has not occurred yet, the other signatures on the page in direct proximity to the signer’s house were obtained on 5/21/16 and while the handwriting is sloppy, the month should be read as a “5” and not a “6.” Staff has recommended rejecting the challenge to this signature because the date is 5/21/16 which is within the allowable circulation period. Candidate Wischmeier contends that the signature on Page 20: Line 1, dated 4/31/16 is that of his Aunt and that he obtained the signature on the weekend of his 35<sup>th</sup> birthday which is April 29. He states that the signer must have forgotten how many days exist in April and would sign an affidavit to correct the error, but she is out of the country and not available to do so until after the Board’s meeting to hear challenges. Staff recommends sustaining the challenge and striking this signature. As the circulator of this nomination paper, Candidate Wischmeier could have corrected this error by submitting a correcting affidavit under Wis. Admin. Code GAB § 2.05(4). The staff did not receive a correcting affidavit from Candidate Wischmeier to rehabilitate this signature.

Finally, Candidate Wischmeier contends that the signatures at Page 7, Line 8; Page 6, Line 9 and Page 1 (?), Line 3 are legible and should therefore be deemed valid under the Board’s Code provisions that place the burden of proof of the challenger and provides the presumption of validity to information on the page. The staff recommends rejecting the challenges to those signatures because the printed name on Page 7, Line 8 is legible; the address contained on Page 6, Line 9 is legible; and the date contained on Page 1, Line 3 can be bracketed and accepted as valid.

**Recommended Motion:** Sustain the challenges to 6 signatures contained on Page 4, Lines 7 and 10 and Page 7, Lines 2, 3, 7, 10 for signatures obtained from individuals that signed nomination papers of another candidate. Sustain the challenge to the signature on Page 20, Line 1 for an invalid date. Reject all other challenges to signatures contained on Page 17, Lines 9 and 10; Page 20, Lines 7 and 8, Page 21, Lines 3, 5 and 6; Page 22, Lines 7 and 10; Page 6, Line 9; Page 7, Line 8; Page 10, Line 6; Page 1, Line 3; verify a total of 206 valid signatures, grant ballot access to Candidate Wischmeier, and direct staff to prepare and issue a Findings and Order consistent with this motion.

**13. Doug Haebele Complaint against Mary Czaja, Republican Party Candidate for the 35<sup>th</sup> Assembly District**  
G.A.B. Case No. EL 16-077

Signatures required for office: 200  
Signatures challenged: 223

Signatures initially approved: 252

Staff assigned: Nathan Judnic

**The complaint alleges that 223 signatures contained on 25 nomination paper pages are invalid because the Certification of Circulator fails to correctly identify the municipality of residence of the circulator.** Candidate Czaja circulated all 25 nomination paper pages that are subject to the challenge complaint. Pursuant to Wis. Stat. § 8.15(4)(a), the circulator’s certification must include the circulator’s “residence with street and number, if any...” Additionally, “[n]o signature may be counted when the residency of the circulator cannot be determined by the information given on the nomination paper.” Wis. Admin. Code GAB § 2.05(14). Wis. Admin. Code GAB § 2.05(5) states: “[w]here 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.” “Any information which appears on a nomination paper is entitled to a presumption of validity.” Wis. Admin. Code GAB § 2.05(4).

Staff recommends that the Board deny the challenges to the signatures contained on pages 1-25 of Candidate Czaja’s nomination papers because the municipality of residence for the circulator (the candidate) can be found in the heading of the nomination paper. The header on each of the challenged nomination pages states that the candidate “resides at W4587 County Road S, in the Town of Skanawan, Irma, WI 54442...” The Certification of Circulator completed by Candidate Czaja, as the circulator of all of the challenged pages, certifies that she resides at “W4587 Hwy S, Irma WI 54442.” Candidate Czaja’s nomination papers substantially comply with the requirement to include the candidate’s municipality of residence. The Government Accountability Board has consistently approved this recommendation. *See* GAB Manual: [Nomination Paper Challenges, March 2016](#), at page 4.

In addition to the “Town of Skanawan” being included in the header as the candidate’s ‘municipality for voting purposes,’ “Irma” does appear to be a valid United States Postal Service (USPS) mailing city. Irma is an unincorporated community located within the Town of Skanawan. Entering Candidate Czaja’s address into the official USPS zip code look-up feature online, reveals that Candidate Czaja’s address is W4587 County Road S, Irma, WI 54442. Entering W4587 County Road S, Skanawan, WI into the zip code look-up, results in the address being automatically converted to W4587 County Road S, Irma, WI 54442. Candidate Czaja’s Declaration of Candidacy lists her address as W4587 Hwy S, Irma, WI, 54442 in the Town of Skanawan. Finally, Candidate Czaja’s address for voting purposes, as maintained by the State’s centralized voter registration system (WisVote), lists Candidate Czaja’s address as W4587 County Rd S, Irma, WI 54442. Based on these factors, it would be hard to argue, and no evidence has been entered to the contrary, that an elector signing nomination papers was confused as to where Candidate Czaja lives. Nor would it be difficult to locate the circulator of the nomination papers based on the information provided, should it be necessary to do so.

**Response of Candidate Czaja.** A timely, verified written response was filed by Jennifer Toftness, Republican Assembly Campaign Committee, on behalf of Candidate Mary Czaja. Candidate Czaja’s response asserts that Candidate Czaja’s legislative website lists her voting address as W4587 Hwy S Apt. A, Irma, Wisconsin, 54442. A screenshot of her website showing that address is attached to the response. Candidate Czaja also submitted an affidavit and attached a screenshot of her legislative webpage showing her voting address as W4587 Hwy S Apt. A, Irma, Wisconsin, 54442. Nomination papers circulated by Candidate Czaja in 2012 for the same

office, contain the same information in the Circulator's Certification as her papers do in 2016. A copy of nomination papers circulated by Candidate Czaja, showing the same circulator information is attached to the response and was attached to Candidate Czaja's affidavit. Candidate Czaja contends that she has substantially complied with the requirement of the circulator to certify their municipality of residence. Candidate Czaja contends that GAB precedent, including the Nomination Paper Challenges manual published by the GAB have consistently found substantial compliance for papers missing the municipality in the circulator's address where the candidate is the circulator and where the missing information is supplied by reference to other information on the same page – in the header. Candidate Czaja cites to the Nomination Paper Challenges manual, as well as prior challenge decisions of the GAB: EL 12-16, *Gratz v. VanderMeer*, EL 12-12, *Kessler v. Hall*, EL 14-11, *Toftness v. Barnes*, and EL 14-18 *Gratz v. LaForest* to support her argument that the challenges to her nomination papers should be rejected.

**Recommended Motion:** Deny challenges to 223 signatures contained on pages 1-25 of Candidate Czaja's nomination papers, and verify a total of 252 valid signatures, grant ballot access to Candidate Czaja, and direct staff to prepare and issue a Findings and Order consistent with this motion.