

June 9, 2016

SENT VIA EMAIL GABnptracker@wi.gov

Government Accountability Board  
212 E. Washington Avenue, 3<sup>rd</sup> Floor  
Madison, Wisconsin 53703

RE: PAUL NEHLEN VERIFIED RESPONSE

Dear Messrs. Nathan W. Judnic and David P Buerger:

I have enclosed a copy of the Verified Response on behalf of Mr. Paul Nehlen III.

A copy of the response has also been mailed to the Complainant Orville Seymer at the address listed in the Verified Complaint.

Please contact me if you have any questions about this Verified Response.

Sincerely,

GRIEVE LAW, LLC

Thomas P. Grieve  
The Columns  
1305 N. Barker Rd., Suite 5  
Brookfield, WI 53045

p. 262-786-7100  
f. 262-786-7103  
email: tom@grievelaw.com

*Counsel for Paul Nehlen*

Enclosure: Verified Response

CC: Complainant Orville Seymer  
3020 W Acre Avenue  
Franklin, WI 53132

**STATE OF WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD**

ORVILLE J. SEYMER  
Complainant

v.

PAUL F. NEHLEN III  
Respondent.

**VERIFIED RESPONSE**

Mr. Paul F. Nehlen III (“Mr. Nehlen”), through counsel, hereby submits this Verified Response to the Verified Complaint filed by Mr. Orville J. Seymer (“Complainant”).

Mr. Nehlen requests you recommend this matter for immediate dismissal and find Mr. Nehlen’s Declaration of Candidacy is valid, all signatures on the Nomination Papers are valid despite any inadvertent errors on the Nomination Papers unrelated to those signatures, and all Certifications of Circulators are valid despite any inadvertent errors on the Nomination Papers unrelated to the circulator’s certification.

**Discussion**

**I. Mr. Nehlen’s Declaration of Candidacy is Valid**

Mr. Nehlen filed a valid Declaration of Candidacy pursuant to Wis. Stat. §8.21. Only candidates for “*state* and *local* office shall include in the declaration of candidacy... (b) 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) (emphasis added). Complainant has not made a proper challenge to Mr. Nehlen’s Declaration of Candidacy. Mr. Nehlen is a federal candidate for the office of U.S. Representative to Wisconsin’s First Congressional District. As such, Wis. Stat. §8.21(4)(b) does not apply to Mr. Nehlen’s valid Declaration of Candidacy.

Complainant ignores the plain text of the statute by applying the address requirement to Mr. Nehlen, a candidate for *federal* office, and improperly alleging Mr. Nehlen’s Declaration of Candidacy is invalid because “Respondent failed to provide the correct mailing municipality, and he failed to provide the correct municipality of residence for voting.”

Further, the Instructions for Completing the Declaration of Candidacy, under bullet point five, specifically explain in layman’s terms, that “Federal candidates are not required to provide this information, however an address for contact purposes is helpful.” Exhibit 1, GAB-162 (Rev 2014-04) Instructions for Completing the Declaration of Candidacy. A simple reading of the instructions clarifies the validity of Mr. Nehlen’s Declaration of Candidacy, and Complainant has no proper challenge to Mr. Nehlen’s Declaration of Candidacy.

## II. Mr. Nehlen's Nomination Papers are Valid

Every citizen had a right to appear at an election as a candidate for any office for which he is qualified. *State ex rel. Ahlgrimm v. State Elections Board*, 82 Wis. 2d 585, 594 (Wis. 1978). "The burden is on the challenger to establish any insufficiency" to the nomination papers of a candidate. GAB 2.07(3). In this case, Complainant challenges the validity of Mr. Nehlen's nomination papers due to an inadvertent error resulting in the "city" box being checked instead of the "town" box next to the candidate's correctly typed name of municipality for voting purposes- Delevan.

Wisconsin law does *not* require a candidate's municipality for voting purposes but instead only requires a candidate "include his or her *mailing* address on the candidates nomination papers." Wis. Stat. §8.15(5)(b) (emphasis added). Mr. Nehlen included his mailing address on his Nomination Papers, and, thus, his nomination papers are valid. Additionally, prior to circulation, the GAB reviewed and approved Mr. Nehlen's nomination papers on April 5, 2016 at 1:54pm by Mr. David Buerger. Exhibit 2, Sample Nomination Paper PNehlen.

However, Complainant alleges the Nomination Papers "contain [an] incorrect municipality of residence for voting purposes of [Mr. Nehlen]" improperly relying on Wis. Stat. §8.15(5)(b) as support for this challenge to the validity of the entirety of Mr. Nehlen's nomination papers and requests the GAB refuse to place Mr. Nehlen's name on the ballot pursuant to Wis. Stat. 8.30(1)(a). However under Wis. Stat. 8.30(1)(a), the GAB "*may*" only refuse to place a candidate's name on a ballot where "nomination papers are not prepared, signed, and executed as required by [Chapter 8 of the Wisconsin election statutes]" (emphasis added). Because Mr. Nehlen prepared, signed, and executed his nomination papers in compliance with Wis. Stat. §8.15(5)(b), section 8.30(1)(a) does not give the GAB authority to refuse to place Mr. Nehlen's name on the ballot.

Even if Mr. Nehlen's municipality for voting purposes is required and the GAB determines it has authority to refuse to place Mr. Nehlen's name on the ballot, Wis. Stat. 8.30(1)(a) gives the GAB discretion on whether to place a candidate's name on the ballot by use of the word "*may*". The GAB has a policy where it seeks to find substantial compliance in reviewing nominations papers and has "rejected challenges to petitions where the candidate has not specified a municipality for voting purpose." GAB Nomination Paper Challenges Manual at 2 (Rev. 3/2016). Since the GAB has rejected challenges where a candidate has not even completed the municipality at all, the GAB should also reject the Complainant's challenge to the inadvertent error resulting in the "city" box being checked instead of the "town" box.

The GAB has "discretion to ignore irregularities in the actual preparation of nomination papers." *State ex rel. Ahlgrimm v. State Elections Bd.*, 82 Wis.2d 585, 596 (1978); *See also In re Petition of Jensen*, 121 Wis. 2d 467, 469-70 (Wis. Ct. App. 1984) (finding substantial compliance generally requires that "petitions be circulated in a manner that protects against fraud and that assures that signers know the content of the petition"). Strict conformity preparing nomination papers is not required unless noncompliance with a statute is expressly declared to be fatal. *State ex rel. Ahlgrimm v. State Elections Bd.*, 82 Wis.2d 585, 596 (1978). In this case, any noncompliance is not declared fatal by the Wisconsin statutes nor is completion of the "check box" for voting municipality purposes even required by law. Because Mr. Nehlen included his mailing address on his Nomination Papers in accordance with Wis. Stat. §8.15(5)(b), his nomination papers are valid and the GAB should find substantial compliance in executing such nomination papers and place Mr. Nehlen's name on the ballot.

**Conclusion**

Mr. Nehlen, through counsel, requests you recommend this matter for immediate dismissal, and find:

1. Mr. Nehlen's Declaration of Candidacy is valid;
2. all signatures on the Nomination Papers are valid despite any inadvertent errors on the Nomination Papers unrelated to those signatures; and
3. all Certifications of Circulators are valid despite any inadvertent errors on the Nomination Papers unrelated to the circulator's certification.
4. it is proper to certify Mr. Nehlen as a candidate and place his name on the ballot.

Dated this 9<sup>th</sup> day of June, 2016.

Respectfully submitted,

GRIEVE LAW, LLC

Thomas P. Grieve  
The Columns  
1305 N. Barker Rd., Suite 5  
Brookfield, WI 53045

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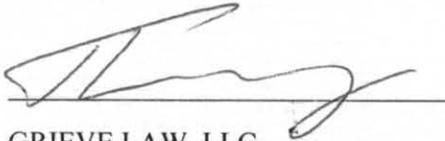
*Counsel for Paul Nehlen*

**VERIFICATION**

I hereby certify that, on this 9th day of June, 2016, a copy of the foregoing Verified Response has also been mailed, postage prepaid, first class U.S. Mail, to the Complainant at the address listed in the Verified Complaint as follows:

Orville Seymer  
3020 W Acre Avenue  
Franklin, WI 53132

I hereby swear the foregoing response submitted on behalf of Mr. Paul Nehlen is true based on information and belief.

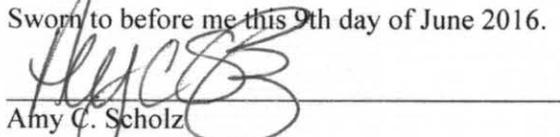


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email: tom@grievelaw.com

NOTARY  
Sworn to before me this 9th day of June 2016.



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Amy C. Scholz  
Notary Public  
My commission is permanent.



## Instructions for Completing the Declaration of Candidacy

All candidates seeking ballot status for election to any office in the State of Wisconsin must properly complete and file a **Declaration of Candidacy**. This form must be **ON FILE** with the proper filing officer no later than the deadline for filing nomination papers or the candidate's name will not appear on the ballot. A facsimile will be accepted if the FAX copy is received by the filing officer no later than the filing deadline and the signed original declaration is received by the filing officer with a postmark no later than the filing deadline.

### Information to be provided by the candidate:

- Type or print your name on the first line.
- The title of the office and **any district, branch, or seat number** for which you are seeking election must be inserted on the second line. *For legislative offices insert the title and district number, for district attorneys insert the title and the county, for circuit court offices insert the title, county and branch number, and for municipal and school board offices insert the title and any district or seat number.*
- Type or print the political party affiliation or principle supported by you in five words or less on the third line. *Nonpartisan candidates may leave this line blank.*
- **Felony convictions:** Your name cannot appear on the ballot if you have been convicted of a felony in any court in the United States for which you have not been pardoned. Please see footnote on page 1 for further information with respect to convictions for misdemeanors involving a violation of public trust. **These restrictions only apply to candidates for state and local office.**
- Your current address, including your municipality of residence for voting purposes, must be inserted on the fourth line. This must include your entire mailing address (**street and number, municipality where you receive mail**) and the name of the municipality in which you reside and vote (town, village, or city of \_\_\_). If your address changes before the election, an amended Declaration of Candidacy must be filed with the filing officer. Wis. Stat. § 8.21. *Federal candidates are not required to provide this information, however an address for contact purposes is helpful.*
- Type or print your name on the fifth line as you want it to be printed on the official ballot. You may use your full legal name, or any combination of first name, middle name, and initials, or nickname with last name.

**Note:** The Government Accountability Board has determined that, absent any evidence of an attempt to manipulate the electoral process, candidates are permitted to choose any form of their name, including nicknames, by which they want to appear on the ballot.

No titles are permitted. In addition, names such as "Red" or "Skip" are permitted, but names which have an apparent electoral purpose or benefit, such as "Lower taxes," "None of the above" or "Lower Spending" are not permitted. It is also not permissible to add nicknames in quotes or parentheses. For example, John "Jack" Jones or John (Jack) Jones are not acceptable, but John Jones, Jack Jones or John Jack Jones are acceptable.

This form must be sworn to and signed in the presence of a notary public or other person authorized to administer oaths, such as a county or municipal clerk. Wis. Stat. § 8.21(2).

### Information to be provided by the person administering the oath:

- The county of notarization.
- The date the Declaration of Candidacy was signed and the oath administered.
- The signature and title of the person administering the oath. If signed by a notary public, the date the notary's commission expires must be listed. *The notary seal is not required.*

All candidates for offices using the nomination paper process and all school district candidates must file this form with the appropriate filing officer no later than the deadline for filing nomination papers. Wis. Stats. §§ 8.10 (5), 8.15 (4)(b), 8.17 (2), 8.20 (6), 8.50 (3)(a), 120.06 (6)(b).

Candidates nominated for local office at a caucus must file this form with their municipal clerk within 5 days of receiving notice of nomination. Wis. Stat. § 8.05 (1)(j).

Exhibit 1

**NOMINATION PAPER FOR PARTISAN OFFICE**

Candidate's name (required); no titles may be used.  
**Paul Nehlen III**

Candidate's residential address (required) No P.O. box addresses  
 Street, fire, or rural route number; box number (if rural route); and name of street or road  
**2520 Countryside Drive**

Candidate's mailing address, including municipality for mailing purposes (required if different than residential address or voting municipality)  
**PO Box 796, Williams Bay**

Candidate's municipality for voting purposes (required).  
 Town of  
 Village of  
 City of  
**Delavan**  
(name of municipality)

State (required) Zip code  
**WI 53191**

District or Jurisdiction (required if applicable)  
 District number 01  
 Jurisdiction (county)

Title of office (required)  
**Representative in Congress**

General Election date (required) Mo/Day/Year  
**11/08/2016**

Name of Party or Statement of Principle (5 words or less)  
**Republican**

Name of jurisdiction or district in which candidate seeks office (required)  
**1st Congressional District**

I, the undersigned, request that the candidate, whose name and residential address are listed above, be placed on the ballot at the election described above as a candidate representing the party or statement of principle indicated above, so that voters will have the opportunity to vote for  him or  her for the office listed above. I am eligible to vote in the jurisdiction or district in which the candidate named above seeks office. I have not signed the nomination paper of any other candidate for the same office at this election.

**The municipality used for mailing purposes, when different than municipality of residence, is not sufficient. The name of the municipality of residence must always be listed.**

Signatures of Electors	Printed Name of Electors	Residential Address (No P.O. Box Addresses) Street and Number or Rural Route (Rural address must also include box or fire no)	Municipality of Residence Check the type and write the name of your municipality for voting purposes <input type="checkbox"/> Town <input type="checkbox"/> Village <input type="checkbox"/> City <input type="checkbox"/> Town <input type="checkbox"/> Village <input type="checkbox"/> City	Date of Signing Mo/Day/Year
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

**CERTIFICATION OF CIRCULATOR**

I, \_\_\_\_\_, (Name of circulator) certify: I reside at \_\_\_\_\_, (Circulator's residential address - include number, street, and municipality)

I further certify I am either a qualified elector of Wisconsin, or a U.S. citizen, age 18 or older who, if I were a resident of this state, would not be disqualified from voting under Wis. Stat. § 6.03. I personally circulated this nomination paper and personally obtained each of the signatures on this paper. I know that the signers are electors of the jurisdiction or district the candidate seeks to represent. I know that each person signed the paper with full knowledge of its content on the date indicated opposite his or her name. I know their respective residences given. I intend to support this candidate. I am aware that falsifying this certification is punishable under Wis. Stat. § 12.13(3)(a).

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 (Signature of circulator)

Exhibit 2