

State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of June 27, 2011

TO: Members, Wisconsin Government Accountability Board

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

Prepared Kevin J. Kennedy and Presented by:
Shane Falk and Michael Haas, Staff Counsels

SUBJECT: Challenge to Nomination Papers of Kim Simac

June 21, 2011 was the deadline for filing nomination papers for offices to be elected in the July 19, 2011 Recall Elections for Senate Districts 12, 22, and 30. On Friday, June 24, 2011 Jacob Hajdu submitted a challenge to the nomination papers of Kim Simac, a candidate for the office State Senator from the 12 Senate District.

The challenge consisted of two allegations. The first allegation was the nomination papers contained 101 signatures with insufficiencies. This allegation was supported by a 4-page spread sheet, listing by page and signature line number, the alleged insufficiencies. No additional supporting evidence was submitted.

The second allegation was the candidate's Declaration of Candidacy fails to identify a municipality.

Note: This memorandum and recommendation was prepared before the candidate's filed a response. Because staff recommends the candidate's ballot access documents substantially comply with all statutory requirements including a sufficient number of signatures and a sufficient Declaration of Candidacy and the candidate be placed on the ballot for the June 19, 2011 recall primary election, staff prepared this memorandum before evaluating any response filed on behalf of the candidate.

I. Insufficient Signatures

Signature challenges were not reviewed by the staff because even if all challenges were accepted, the candidate would still have a sufficient number of valid signatures. Attached is a challenge worksheet which summarizes the staff application of our analysis to the challenges.

II. No municipality listed on Declaration of Candidacy

The challenge alleges the candidate's Declaration of Candidacy fails to identify a municipality of residence. The challenge asserts this failure warrants the Board's refusal to accept the document. Presumably this would mean denying ballot access because a Declaration of Candidacy is required to be timely filed as a condition to having the candidate's name on the ballot. Wis. Stats §8.30 (4).

Wisconsin law requires a candidate to submit a sworn Declaration of Candidacy with the candidate's nomination papers. Wis. Stats §8.21 (1). Among the information required to be listed on the Declaration of Candidacy is the following information for candidates for state or local office: *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. Stats §8.21 (4)(b).

The candidate listed 3860 Kula Vista Drive, Eagle River Wisconsin 54521 as her present municipality of residence for voting purpose on the Declaration of Candidacy. This address is where the candidate is registered to vote. It is located in the Town of Lincoln, Vilas County. It is in the 12 State Senate District.

While the Town of Lincoln, Vilas County is not listed on the Declaration of Candidacy, according to the agency's Statewide Voter Registration System (SVRS) the street address is located in the Town of Lincoln, Vilas County and the 12 State Senate District. This substantially complies with the statutory requirement. The candidate can submit an amended Declaration of Candidacy to reflect the address is in the Town of Lincoln, Vilas County.

Recommendation

Staff recommends the Board adopt the following motions:

1. The Government Accountability Board finds the nomination papers submitted by Kim Simac contain at least 601 and as many as 702 valid signatures as reflected by the staff analysis set out in its memorandum and challenge worksheet which are adopted by the Board and incorporated by reference in this motion.
2. The Government Accountability Board finds the Declaration of Candidacy submitted by Kim Simac substantially complies with the statutory requirement to list her municipality of residence for voting purposes when she listed a street address with a number, post office and zip code that is located in the Town of Lincoln, Vilas County and the 12 State Senate District.
3. The Government Accountability Board directs the staff to certify Kim Simac for placement on the ballot for the June 19, 2011 recall primary election.

Candidate Simac Challenge Work Sheet

1. Name of Challenger - Jacob Hajdu
2. Name of Candidate Challenged – Kim Simac
3. Office Sought By Candidate – 12th Senate District Recall Election
4. Number Signatures Required For Office Sought - 400
5. Estimated Number of Signatures Submitted By Candidate – 711
6. Number of Signatures Verified By Staff - 702
7. Number of Pages Challenged – 0
8. Number of Correcting Affidavits Filed - 0
9. Total Number of Individual Signatures Challenged – 101
10. Reasons for Challenge to Individual Signatures - Challenges not reviewed by staff because even if all challenges are accepted, the candidate would still have sufficient number of valid signatures. See calculation below.
11. Number of Signatures Verified By Staff After Challenge:

Total Initially Verified by Staff:	702
Minus Proposed Challenges:	101
 Total If All Challenges Accepted:	 601