

CANDIDATE VANDERLEEST CHALLENGE WORK SHEET

1. NAME OF CHALLENGERS - Linda Patzke
2. NAME OF CANDIDATE CHALLENGED – David Vanderleest
3. OFFICE SOUGHT BY CANDIDATE – 30th SD Recall Election
4. NUMBER SIGNATURES REQUIRED FOR OFFICE SOUGHT - 400
5. GROSS NUMBER OF SIGS. SUBMITTED BY CANDIDATE – Approx. 470
6. NUMBER OF SIGNATURES VERIFIED BY STAFF - 462
7. NUMBER OF PAGES CHALLENGED –
 - a. All 62 pages, based on candidate’s address on Declaration of Candidacy.
 - b. 47 pages, based on candidate’s address as circulator.
8. NUMBER OF CORRECTING AFFIDAVITS FILED - 0
9. TOTAL NUMBER OF INDIVIDUAL SIGNATURES CHALLENGED – 104
10. REASONS FOR CHALLENGES TO INDIVIDUAL SIGNATURES

A. SIGNATORY ADDRESS OUTSIDE DISTRICT

A total of 50 signatures for signatories were challenged as residing outside the district (challenge Exhibits A, A-1 to A-45). Staff had previously struck 3 of the challenged signatures (page 3, line 3; page 10, line 5, and page 34, line 3). Staff originally verified all of the remaining signatures challenged as residing outside of the district, so any of the remaining challenges affirmed by the Board will result in a reduction in staff’s verified total.

Staff reviewed the evidence submitted by the challenger, specifically the affidavit of Mike Pfohl, the summary document labeled Exhibit A, and Exhibits A-1 through A-45 (Exhibit A cited to Exhibits A-46 through A-50, but those exhibits were not included in the challenge documents. Where the Voter Public Access (VPA) printout which was provided with the affidavit accompanying the challenge indicates that the signatories resided outside the 30th Senate District, staff recommends that the Board affirm the challenge and invalidate the signatures. This is the case for 37 of the remaining challenged signatures not already struck by staff.

The two challenges to page 4, line 1 (Paula Crabbe, 763 Channel Tunnel, Green Bay) and page 33, line 5 (K. Sefcik, 2110 Magy Lane, Green Bay) fail as VPA verifies that those addresses are within the 30th Senate District.

The five challenges to page 10, line 3 (Charlotte Schenkus, P.O. Box 13162, Green Bay); page 10, line 4 (Ashley Schenkus, P.O. Box 13162, Green Bay); page 18, line 2 (Debbie Belfanz, 2887 Lobelia Ct., Green Bay); page 57, line 2 (Name illegible, 959 Shawano Ave., Green Bay); and page 10, line 8 (Teresa Earley, 5792 County I #3, Oconto Falls) fail because the challenge did not include any supporting documentation. Therefore, these challenges do not present clear and convincing evidence to rebut the presumption that a signatory's signature and address information is entitled to a presumption of validity, pursuant to GAB §2.05(4).

The challenge to page 27, line 1 (Art Gary?, 2481 Clintville Rd., Suamico) fails because the supporting documentation (Exhibit A-28) appears to be a printout from a Land Records Search. Without more, this exhibit does not constitute clear and convincing evidence to rebut the presumption that a signatory's signature and address information is entitled to a presumption of validity, pursuant to GAB §2.05(4).

The challenge to page 27, line 5 (SJ Dagry?, Pulaski) fails because it is unclear whether the address on the challenge document (Exhibit A-29) is the same as the address listed on the nomination paper. Therefore, the signatory's address is entitled to a presumption of validity, pursuant to GAB 2.05(4), which has not been rebutted by clear and convincing evidence.

The challenge to page 34, line 1 (Chastity Kriczle?, Westpoint Rd., Green Bay) fails because the challenge document (Exhibit A-33) does not establish by clear and convincing evidence that the address lies outside the 30th Senate District, and therefore the signatory's address is presumed to be valid, pursuant to GAB §2.05(4).

Recommendation: Reduce Verified Total by 37.

B. SIGNATORY ADDRESS INSUFFICIENT:

The challenge alleges that the addresses of 54 signatories cannot be determined by the nomination papers and therefore the signatures must be struck pursuant to §8.15(2), Wis. Stats., and GAB §2.05(12) and (15)(c), Wis. Adm. Code.

Two of the challenged signatures, page 22, line 8 (John Dexter, 2714 Aquarius, Green Bay) and page 25, line 9 (Name illegible, 2080 Muirwood Lane, Green Bay) are already recommended to be struck above as being outside the 30th Senate District. A third challenged signature, page 48, line 10, has no signature on that line and therefore the challenge should be denied. In addition, the first challenge listed on Exhibit B and

the challenge to page 27, line 9 both relate to Candidate Vanderleest's own address, a challenge which will be evaluated following review of any response submitted by Mr. Vanderleest.

The remaining 49 challenges in this category fail because the challenge does not establish by clear and convincing evidence necessary to rebut the presumption under GAB §2.05(4) that the address is valid. The summary listed on Exhibit B simply states that each address challenged is "unverifiable" and/or illegible without providing any documentation to support or prove the challenge, and the Exhibits B-1 through B-9 do not provide specific evidence sufficient to overcome the presumption of validity.

Recommendation: No change.

C. SIGNATORY SIGNED MORE THAN ONCE:

The challenge alleges that Kenneth McDowell signed the nomination papers twice, on page 29, lines 2 and 5. The two signatures, however, list different addresses, and it is unclear whether the signature is actually from the same person. Therefore, staff recommends rejecting this challenge based primarily on the presumption of validity and substantial compliance found in GAB §2.05(4) and (5), Wis. Adm. Code, and the challenger failing to meet the clear and convincing burden found in GAB §2.07(3)(a), Wis. Adm. Code.

Recommendation: No change.

D. SIGNATORY DID NOT SIGN FOR SELF:

The challenge alleges that one of two signatures at page 42, lines 3 and 4, should be struck because they appear to be in the same handwriting and therefore at least one person did not sign his or her own name in contravention of GAB §2.05(8-9), Wis. Adm. Code. It is not clear, however, that the handwriting is of the same person, and the last name on page 42, line 3 appears to be different than that alleged in the challenge (Pfohl Aff., Exhibit 2, par. 4.d). Staff recommends rejecting this challenge based on the presumption of validity and substantial compliance found in GAB §2.05(4) and (5), Wis. Adm. Code, and the challenger failing to meet the clear and convincing burden found in GAB §2.07(3)(a), Wis. Adm. Code.

Recommendation: No Change.

E. INSUFFICIENT DATE :

The challenge alleges that that one signature is dated after the date of the circulator's certificate on page 34, line 2 (Name illegible). The Board's administrative rules provide that a signature may not be counted if it is dated after the date of the certificate of circulator. GAB 2.05 (15)(b). The digit that is challenged appears to be

either a “6” or a “0”. Staff’s original review determined that the signatory should be given the benefit of the doubt, given that the date noted could be June 10, 2011, and that other signatures on the same page listed that date. Therefore, staff recommends rejecting this challenge based on the presumption of validity and substantial compliance found in GAB §2.05(4) and (5), Wis. Adm. Code, and the challenger failing to meet the clear and convincing burden found in GAB §2.07(3)(a), Wis. Adm. Code.

Recommendation: No Change.

11. NUMBER OF SIGNATURES VERIFIED BY STAFF AFTER CHALLENGE:

Total Initially Verified by Staff:	462
Minus Recommended Challenges:	<u>37</u>
Total Verified After Challenge:	425