



**Attorneys at Law**

Michael S. Maistelman  
*Court Commissioner*  
*Also licensed in Massachusetts*

Matthew D. Lerner

David R. Halbrooks  
*Of Counsel*

5027 W. North Avenue  
Milwaukee, WI 53208-1132  
www.maistelmanlaw.com  
(phone) 414-908-4254  
(fax) 414-447-0232

July 19, 2010

Via facsimile (608) 267-0500 & US Mail

Kevin Kennedy,  
Executive Director, Wisconsin Government Accountability Board  
212 East Washington Avenue,  
Third Floor  
Madison, Wisconsin 53707-7984

Re: Verified Response of Todd Kolosso, Regarding Complaint of Andrew Davis.

Dear Executive Director Kennedy,

Our offices have been retained by Fifth Congressional District Candidate Todd Kolosso regarding the above-referenced nomination paper challenge.

As a general rule, the Elections Board's policy with respect to the nomination process is to help or facilitate candidate ballot access, not to find a justification for impeding it and the challenge procedure is applied in that spirit. As much as possible, the selection and elimination of candidates should be left to the electorate.

January 14, 2004, Memorandum to Elections Board Regarding Nomination Paper Challenges, George A. Dunst, Legal Counsel

To be considered by the Board, a challenge complaint must establish probable cause to believe that a violation of elections law has occurred. That means that a complaint must allege facts which, if true, would constitute a failure to comply with Wisconsin's elections, (not campaign finance), statutes. In the case of challenges to nomination papers, the complaint must allege a violation of ch.8, Stats., the statutory chapter governing nominations to the general election ballot. The statutory standard for compliance is "substantial compliance" as set forth in s.5.01(1), Stats., as follows:

- 5.01 Scope. (1) CONSTRUCTION OF CHS. 5 TO 12. Except as otherwise provided, chs.5 to 12 shall be construed to give effect to the will of the electors, if that can be ascertained from the proceedings, notwithstanding informality or failure to comply with some of their provisions.

There are three legal arguments that this Response addresses:

1. Signatures should not be counted because they do not have a valid date.

**Response:** If the GAB can determine the date of a signature based upon other information contained on the Nomination Page then the signature shall be counted. This Board and its predecessor have allowed the use of ditto marks dates and have counted signatures where no dates exist as long as the Board could reasonably determine the date based upon the dates signed by Electors before and after the challenged Elector.

2. Signatures are missing proper municipality of residence.

**Response:** If the GAB can determine the municipality based upon consulting with maps and other publicly available information as well as information contained on the Nomination Page then the signature shall be counted. This Board and its predecessor have allowed the use of ditto marks for municipality and have counted signatures where no municipality has been written as long as the Board could reasonably determine the municipality based upon the municipalities listed by Electors before and after the challenged Elector.

3. Signatures are improperly signed.

**Response:** Whether an Elector prints his/her name, writes in cursive or uses any other mark which indicates a manifestation of intent (if they are unable to spell their name for example) this Board and its predecessor have always counted the Elector . Furthermore, If a circulator's signature can be determined based upon the totality of the evidence, including other Nomination Sheets properly executed, then any minor errors will not invalidate the entire Nomination Sheet.

Respectfully Submitted,

/s/

Michael S. Maistelman

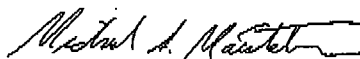
C: Andrew Davis (Via US Mail)

**VERIFICATION**

Michael S. Maistelman, being first duly sworn, on oath, deposes and says as follows:


1. That he is an attorney duly authorized to practice law in the State of Wisconsin and that he is legal counsel to Todd Kolosso and Todd Kolosso for Congress.
2. That I have read the forgoing Verified Response and that the same is true and correct as to the legal arguments contained therein.

Dated at Madison, Wisconsin this 19<sup>th</sup> day of July 2010.



\_\_\_\_\_  
Michael S. Maistelman  
Attorney at Law

Subscribed and Sworn to before  
me this 19 day of July, 2010.

  
 \_\_\_\_\_  
 Notary Public, State of Wisconsin  
 My Commission Expires ~~\_\_\_\_\_~~ [Is Permanent].