

**STATE OF WISCONSIN
WISCONSIN ELECTIONS COMMISSION**

IN THE MATTERS OF:
NOMINATION PAPERS FILED BY KANYE WEST
WITH RESPECT TO THE NOVEMBER 3, 2020
ELECTION FOR PRESIDENT OF THE UNITED
STATES:

WILLIAM BRENT III *et al.*,

And

JOSEPH R. SANTELER,

Complainants,

v.

KANYE WEST; AND MICHELLE TIDBALL,

Respondents.

No. _____

And

No. _____

**RESPONDENTS' CONSOLIDATED VERIFIED RESPONSE
TO ADMINISTRATIVE COMPLAINTS**

This Response is made pursuant to Wis. Admin. Code EL § 2.07(2) and other applicable law. A copy of this Combined Response has been emailed to the Complainants at the time the Combined Response was filed with the Commission.¹

INTRODUCTION

1. Mr. West's campaign for President of the United States (the "Campaign") is organized as a non-profit corporation in the State of Wyoming.

2. The Campaign is in receipt of two Complaints that make a number of serious, and

¹ The Santeler Complaint did not include his address, email or otherwise. It is with great irony that Mr. Santeler's Complaint is deficient for lack of return address for much the same reason as he claims Mr. West's nomination papers are deficient. However, as will be shown, Mr. Santeler's Complaint is deficient and does not approach the significant burden to overcome the presumption of validity.

incorrect, allegations against the Campaign as well as its signature gatherers.

3. Complaint one (the “Brent Complaint”) was filed by the following individuals: William Brent III, Richard C. Hughes, Keith Smith, and Lauren Steven. The second complaint (the “Santeler Complaint”) was filed by Joseph R. Santeler (collectively the “Complaints” and “Complainants”). Due to the significant overlap of the allegations and arguments presented in the Complaints, the Campaign, through its counsel, is filing a combined response to both Complaints.

4. These Complaints represent a well-organized effort funded by wealthy outside groups, including the Wisconsin Democratic Party ² and its allies,³ who fear the candidacy of Kanye West, and seek to silence him. The Kanye West campaign represents a uniting, inspiring and faith-based vision that is successfully motivating disenfranchised and previously unengaged voters to participate in the political process. In fact, in each state where Kanye West has campaigned, thousands of new voters have signed on to support his candidacy in a very short period of time.

5. People of color have long been marginalized in this country. In seeking to remove Kanye West from the ballot and silence the voices of those who signed to place him, the Complainants are continuing this marginalization simply because Mr. West’s views and perspectives on issues do not conform with theirs and those of the Party they represent.

6. In Wisconsin, partisan Democratic operatives and private investigators responded

² It has been widely reported that the Complaint filed by William Brent III and others is a front for the Democratic Party. *See, e.g.,* Marlene Lenthang, *Kanye West’s Nomination Papers Are Challenged In Wisconsin As State Democrats Say He Submitted Documents Late And Used Bogus Signatures Including ‘Mickey Mouse’ and ‘Bernie Sanders’*, DailyMail.com (Aug. 9, 2020), <https://www.dailymail.co.uk/news/article-8609213/Wisconsin-challenges-Kanye-Wests-nomination-citing-late-papers-bogus-signatures.html>; Brent III Compl. Affidavit of Remiker at ¶¶ 20, 22 (admitting that he is a Democrat partisan loyalist and noting that they attempted to contact “all individuals who had signed nomination papers” for Mr. West.

³ Mr. Santeler has donated to Democratic causes. Federal Election Commission, Individual Contributions: Joseph Santeler (last accessed Aug. 10, 2020), available at https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=Joseph+R.+Santeler&contributor_name=Joseph+Santeler.

to Mr. West's campaign with shameful threats against his supporters and an organized effort of harassment and intimidation. The baseless attacks made in the media and included in these complaints highlight the aggressive nature of this effort to silence a unique, strong, and popular voice in this Presidential campaign and those who have signed their names in support of his candidacy. They also indicate an overt effort to diminish the choices voters have on Election Day. The two-party system is specifically designed to limit third-party candidates. Yet it is false to assert that voters fall neatly into two categories and wrong to reject voters' obvious desire to add more diverse voices to the Presidential contest. Denying the wishes of thousands of people who signed to place Mr. West on the ballot only serves the interests of the two major parties and will have a chilling effect on future third party candidates. It will also provide a disincentive for those individuals who signed to participate in the electoral process in the future.

7. This organized effort is so biased, and aggressive against Mr. West, that Mr. West's opponents enlisted the assistance of an ersatz private investigator to track and spy upon the Campaign's signature gatherers. *See* Brent Compl. at Aff. of Myers. This spy was successful in sleuthing out nothing much in particular and instead is wasting this Commission's time with verifiably false information. As discussed in more depth *infra*, he was patently wrong when stating, with "personal knowledge," that certain circulators did not reside at their listed places of residence.

8. Respondent Kanye West is a resident of Wyoming and a candidate for President of the United States.

9. Respondent Michelle Tidball is a resident of Wyoming and a candidate for Vice President of the United States.

10. As will be shown herein, Mr. West has a sufficient number of signatures and has

otherwise complied with Wisconsin law and deserves a place of the ballot this November.

STANDARD OF REVIEW

11. Mr. West’s nomination papers are presumed valid. *See* Wis. Admin. Code EL § 2.05(4) (“Any information which appears on a nomination paper is entitled to the presumption of validity.”). The Commission reviewed the nomination papers when submitted and found that there were approximately 2,660 signatures,⁴ *see* Wisconsin Election Commission, *Kanye West Nomination Paper Receipt* (attached as Exhibit A), which is well over the required threshold. *See* Wis. Stat. Ann. § 8.20(4) (requiring “not less than 2,000 and nor more than 4,000 electors” to qualify for the ballot).

12. The Complainants bear the significant burden of proving that Mr. West’s nomination papers were insufficient. *See* Wis. Adm. Code EL § 2.07(3)(a). Mr. West, on the other hand, need show nothing unless Complainants meet their burden. *Id.* (“The burden is on the challenger to establish any insufficiency.”). The Complainants’ burden is “clear and convincing evidence.” *Id.* at § 2.07(4). The Complainants, therefore, must provide evidence that their alleged deficiencies are “highly probable or reasonably certain” to be true. *See State v. Harris*, 326 Wis. 2d 685, 701 (Wis. 2010) (quoting *Black’s Law Dictionary*, 577 (7th ed. 1999)).

ARGUMENT

I. THE NOMINATION PAPERS AND DECLARATION OF CANDIDACY WERE TIMELY FILED.

A. Respondents’ Nomination Paperwork was Timely Filed.

i. The Nomination Paperwork Was Filed “Not Later” than 5 P.M.

13. Section I of the Brent Complaint and Count II of the Santeler Complaint allege that Mr. West failed to meet the statutory deadline for filing nomination paperwork for President

⁴ Upon information and belief, there were approximately 2,908 signatures submitted to the Commission.

of the United States. The Complainants are incorrect as a matter of fact and law.

14. Wisconsin law states that “[n]omination papers for independent candidates for president and vice president, and the presidential electors designated to represent them . . . may be filed not later than 5 p.m. on the first Tuesday in August preceding a presidential election.” Wis. Stat. § 8.20(8)(am). The Commission alleged that the nomination paperwork was filed at 5:00:14 p.m. *See* Aff. of Ruhland. Even if this is true, the nomination papers were filed “not later” than 5 p.m.

15. The statutory provision does not distinguish between minutes and seconds. For the average observer, arriving before 5:01 p.m. is arriving “not later” than 5 p.m. The phrase “not later” is particularly instructive in that it indicates the presumption that the seconds from 5:00:00 to 5:00:59 are inclusive to 5 p.m. As the statute states “5 p.m.”, for something to be filed later than “5 p.m.” it would have to be filed at 5:01 p.m.

16. The legislature could have made a law that stated that the nomination paperwork should be filed not later than 5:00:00 p.m. Or, similarly, the legislature could have stated that the paperwork must be filed “by” 5 p.m. The legislature took neither of these paths and instead the legislature codified the common conception of time which is that if a filing is made by before the expiration of 5:00 pm, it is filed at 5 p.m.

ii. The Complainants’ “Evidence” Is Insufficient to Overcome their Burden of Proof.

17. As an initial matter, even as far as counsel is aware, there is no official timekeeping mechanism for the filing of nomination papers with the Wisconsin Elections Commission (the “Commission”).⁵ There is no official paperwork or timestamp demonstrating

⁵ If there is an official timekeeping mechanism for the Wisconsin Election Commission, it is been purposefully withheld thus far. *See generally* Aff. of Ms. Ruhland. In either event, the lack of an official timing mechanism or procedure is in violation of the First and Fourteenth Amendments to the U.S. Constitution.

that the nomination paperwork was filed late. *See* Aff. of Ruhland. While a Commission staffer stated that it was 14 seconds after 5 p.m., there was nothing provided by the Commission’s staff to verify that information. *Id.* Again, there was no timestamp provided and the Commission accepted the documents for filing. *Id.* Furthermore, given that seconds were obviously critical in this situation, it is vital to be able to know and evaluate the precise timepiece used by Commission staff in accepting the filing.

18. Both Complaints rely on the hearsay reporting of WISN for the proposition that the nomination paperwork was filed late. *See, e.g.,* Brent Compl. at Aff. of Mr. Remiker; Santeler Compl. at Ex. C. There is no evidence as to how the WISN reporting team kept time, what type of timepiece they used, and if that timepiece was properly calibrated. Similarly, Devin Remiker, who provides a video which purports to show his watch as some sort of proof as to the time, also alleges that the paperwork was not timely filed. First, similar problems infect Mr. Remiker’s timekeeping as that of the WISN reporting team. There is no evidence to show that the time being shown on Mr. Remiker’s watch was accurate.⁶ Mr. Remiker is also an employee of the Wisconsin Democratic Party. Therefore, it is quite evident that as a person with an interest in keeping Mr. West off the ballot, Mr. Remiker’s affidavit cannot be treated as credible and his alleged timekeeping should be considered questionable at best.

iii. The Nomination Paperwork Was Present in the Commission’s Office Before 5 P.M., Which Is Sufficient Under Wisconsin Law.

19. The Wisconsin Supreme Court has interpreted the deadline for filing to be “present in the office” where the filing is supposed to occur by the appropriate deadline. *State ex*

⁶ iPhones and the related watches are known to be inaccurate and suffer from bugs. *See, e.g.,* Mike Peterson, *There’s A Time Zone Bug In IOS and iPadOS. Here’s What To Do About It*, Apple ToolBox (May 1, 2020), <https://appletoolbox.com/theres-a-widespread-time-zone-bug-in-ios-11-heres-what-you-need-to-know>; Haider Ali Khan, *iPhone Users In The US Are Seeing The Wrong Time And Here Is Why*, iLounge (Mar. 8, 2020), <https://www.ilounge.com/news/iphone-time-wrong>.

rel. Stearns v. Zimmerman, 257 Wis. 443, 446 (Wis. 1950). As the Court stated: “If the candidate or some one in his behalf [is] **present in the office**” where filing is required “to tender the nomination papers not later than 5 o’clock p.m. central . . . time [the agency] would have been obliged to accept them; but if the candidate or his representative fails, as here, **to reach the office** until later than the time specified the tender comes too late.” *State ex rel. Stearns v. Zimmerman*, 257 Wis. 443, 446 (Wis. 1950) (emphasis added).

20. The individuals who delivered the nomination paperwork to the office, reached the office before 5 p.m. Aff. of Ruhland. If one assumes that the time of 5:00:14 p.m. given by the Commission staff is correct, then it is plausible, depending on when the “clock stopped” that the individuals who were delivering the nomination paperwork were in the office before 5 p.m. In fact, again, depending again on when the clock was stopped by Committee staff, the delivery of the nomination paperwork was obstructed by multiple individuals while in the office. This also resulted in a delay by obstructing the person carrying the remainder of the nomination petitions to reach the elevator. Aff. of Ruhland.

21. Therefore, irrespective of the deficiencies in the Commission’s time tracking—and the Complainants’ unreliable evidence—delivery was timely to the Commission’s office before 5 p.m.

iv. The Commission Ratified the Filing as Timely Once it Was Accepted for Filing.

22. Even assuming, *arguendo*, that the nomination paperwork was actually filed at 5:00:14 p.m.—and that 14 seconds after 5 p.m. is in fact late pursuant to Wisconsin law—the act of the Commission in accepting the filing ratified the filing as timely.

23. Wisconsin law states that the “filing officer shall review all nomination papers filed with it . . . to determine the facial sufficiency of the papers filed.” Wis. Admin. Code EL §

2.05(3). Papers filed with the Commission are given the presumption of validity. Wis. Admin. Code EL § 2.05(4). Furthermore, by not providing a time stamped receipt,

24. Furthermore, the authority in the Complaints is not as strong as the challengers would let the Commission believe. Each case presented in the Complaints as dispositive of the question of timeliness arose as a challenge by the putative candidate against the responsible government agency for *refusing to accept* the nomination paperwork. However, the present matter arises under a different factual and legal context. Here, the filing was accepted by the Commission as timely. Therefore, because the filings were accepted by the Commission, a presumption of timeliness attaches.

25. In *State ex rel. Conlin v. Zimmerman*, the Wisconsin Secretary of State “declined to accept the papers [for nomination as a candidate for Governor] on the ground that the time within which the nomination papers should be filed as provided by statute had expired.” 245 Wis. 475, 476 (Wis. 1944).

26. In *State ex rel. Stearns v. Zimmerman*, the Wisconsin Secretary of State refused to accept the nomination paperwork for a candidate for U.S. Senate because he entered the office after 5:01 p.m. on filing day. 257 Wis. 443, 443-44 (factual recitation in court syllabus).

27. In *State ex rel. Ahlgrimm v. State Election Board*, the putative judicial candidate filed his nomination paperwork with the incorrect government office. 82 Wis. 2d 585, 587. Upon learning of his error, he requested to the correct office that he be certified over 15 days after the requisite deadline. *Id.* at 588. The agency refused. *Id.* The Court denied his challenge. *Id.* at 597.

28. These cases, therefore, collectively show that when a state agency declines to accept a filing as late, the Wisconsin Supreme Court will accept the agencies declining to accept the filing (backed by appropriate evidence).

B. Timely Delivery Was Prevented by Commission Procedure and Other Outside Actors.

29. While the general rule is that time limits set by the legislature are “strictly observed,” *State ex rel. Stearns*, 257 Wis. at 445, the Wisconsin Supreme Court will, if necessary, “construe [the statute] to discover the intent of the legislature in the situation presented” *Id.* at 446 (citing *Manning v. Young*, 210 Wis. 588 (Wis. 1933)). Therefore, if an appropriate “fact or situation appears,” the Supreme Court will “construe” the statute to extend time when “no provision” was otherwise made by the legislature. *Id.* (*Manning*, 210 Wis. 588).

30. In *Manning v. Young*, the Wisconsin Supreme Court extended the time for circulation and filing of nomination papers when the legislature failed to provide for the situation when the 21st day fell on a legal holiday when the receiving office would be closed. *Manning*, 210 Wis. at 594; *see also State ex rel. Stearns*, 257 Wis. at 446 (describing the *Manning* decision). The current situation surrounding the filing of the nomination papers for the Campaign presents the very type of “fact or situation” contemplated by the Wisconsin Supreme Court.

31. It remains unclear as to why, but the office doors were closed and locked when the individual with the nomination petitions arrived. *Aff. of Ruhland*. Ms. Ruhland was advised that she would have to call the Commission to get them to open the door. This process cost the filers at least 45 seconds. *Aff. of Ruhland*. But for the locked doors, the nominating paperwork would have arrived before the 5 p.m. deadline.

32. In addition to the doors being locked at the Commission, once the Campaign staff were able to gain entry, they were immediately delayed by an overly aggressive media as well as a Democratic operative. The interference of these third parties likely resulted in the loss of time—depending on when the timekeeper stopped the clock. *Aff. of Ruhland*. It simply cannot be the rule that third parties can—either willingly or accidentally—be the direct cause for the delay

that results in a candidate not being placed on the ballot.

33. Therefore, even assuming filing was not timely to begin with, the Commission should find that the nomination paperwork was timely filed here due to the locking of the Commission's doors as well as the interference of the media and a rival campaign.

C. The Commission Violated the Campaign's and Mr. West's Rights to Freely Associate Under the First Amendment and to Equal Protection Under the Fourteenth Amendment.

34. If the Commission does not place Mr. West on the November ballot, the State will have violated the Campaign's and Mr. West's rights under the Free Association Clause of the First Amendment because the State (1) failed to have a consistent approach to time keeping, and a lack of standards for how such time should be kept—including who should keep it; and (2) Commission kept the door to a public building locked on a filing day with a deadline fast approaching that directly caused the filing to be late (if it was late in the first instance).

35. Associating for the advancement of political beliefs is one of our most precious freedoms. *Anderson v. Celebrezze*, 460 U.S. 780, 787 (1983). “A prime objective of most voters in associating themselves with a particular party must surely be to gain a voice in that selection process.” *Kusper v. Pontikes*, 414 U.S. 51, 58 (1973). In fact, the “basic function of a political party is to select the candidates for public office to be offered to the voters at general elections.” *Id.* Third parties have been a “fertile source[] of new ideas and new programs,” in particular. *See Anderson*, 460 U.S. at 794.

36. Relatedly, the U.S. Supreme Court has consistently held that those who circulate petitions to get a candidate's name on the ballot are exercising their core political speech rights guaranteed under the First Amendment to the U.S. Constitution. *See Meyer v. Grant*, 486 U.S. 414, 422 (1988); *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186 (1999). Petition

circulation is core political speech because petition circulation involves “[b]oth the expression of a desire for political change and a discussion of the merits of the proposed change.” *Meyer*, 486 U.S. at 421; *Am. Constitutional Law Found.*, 525 U.S. at 212 (Thomas, J., concurring) (“[T]he First Amendment, by way of the Fourteenth Amendment, guards against the State's efforts to restrict free discussions about matters of public concern.”).

37. State action “in the context of a Presidential election . . . implicate[s] a uniquely important national interest.” *Anderson*, 460 U.S. at 794-95. “Thus in a Presidential election a State’s enforcement of more stringent ballot access requirements, including filing deadlines, has an impact beyond its own borders.” *Id.* at 795. “In short, the primary values protected by the First Amendment—‘a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open,’—are served when election campaigns are not monopolized by the existing political parties.” *Id.* at 794 (quoting *New York Times Co. v. Sullivan*, 376 U.S. 245, 270 (1964)).

38. “The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise.” *Bush v. Gore*, 531 U.S. 98, 104 (2000).

39. On information and belief, the two major party candidates had already filed their nomination paperwork before the deadline.

40. Here, if the State denies the Campaign and Mr. West a place on the ballot, it will be in violation of Mr. West’s, the Campaign’s, and the Campaign’s supporters’ rights to free association and equal protection. The Commission kept the door to a public building locked on a filing day with a deadline fast approaching. Further, the Commission provided no security or crowd management so that when the nominating paperwork arrived, the campaign

representatives could make it quickly through the doors and into the office.

41. Relatedly, by not having an official timekeeping device, timekeeping strategy, and/or timekeeper, the Commission violated Mr. West's and the Campaign's rights to equal protection under the Fourteenth Amendment to the United States Constitution.

42. "Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05 (citing *Harper v. Virginia Bd. of Elections*, 383 U.S. 663, 665 (1966)).

43. The lack of a common clock or common timekeeper violates the Equal Protection Clause. Without a common clock or timekeeper to determine if a petition is delivered timely, administrators at the Commission can apply different means to determine timeliness. Administrators at the Commission can use one clock for favored candidates—one set a minute slower—and one clock for disfavored candidates—one set a minute faster. This is the sort of unfettered discretion which violates the Equal Protection Clause. *See Sangmeister v. Woodard*, 565 F.2d 460, 464 (7th Cir. 1977) (holding as unconstitutional the practice where an electoral board used their discretion to place certain favored candidates first on a ballot); *Mann v. Powell* 333 F. Supp. 1261, 1264 (N.D. Ill. 1969) (three-judge court) (enjoining a statute that permitted the Illinois Secretary of State (in some circumstance) from exercising discretion to place favored candidates first on the ballot).

II. THE CIRCULATORS COMPLIED WITH ALL APPLICABLE LAWS.

44. Complainants allege that several circulators failed to follow applicable laws, and as such, all nomination papers submitted by those certain circulators should be invalidated in their entirety. Brent Compl. ¶¶ 33-52; Santeler Compl. ¶¶ 21-24. Specifically, Complainants allege that, in violation of Wis. Stat. Ann. § 8.14(4), several circulators (1) misrepresented the

nature and content of the nominating papers and (2) provided false or incomplete addresses, and as such, their respective nominating papers should be stricken in their entirety. *Id.*

45. Complainants' allegations fall short of the required burden to challenge nomination papers. "Any information on a nomination paper is entitled to a presumption of validity," and any challenge to that information bears the burden of rebutting that presumption. Wis. Admin. Code EL § 2.05(4). The required evidentiary burden on challengers is that of clear and convincing evidence. *Id.* at § 2.07(4). While Complainants provide some evidence to support their allegations, their evidence falls short of the high clear and convincing standard. Further, "where a 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." *Id.* at § 2.05(5).

A. Alleged Misrepresentation by Circulators.

46. Complainant Brent, without referencing any specific pages or line numbers, claims that entire pages of nominating signatures should be disregarded because a single elector (out of many) on a few pages, after being contacted and harassed by Democratic Party operatives, appears to suffer from buyer remorse and claims to not have understood what they signed. Brent Compl. ¶¶ 33-42. Complainants cite no cases or legal authorities in support of this unique proposition—because there is none. One cannot meet a clear and convincing evidentiary burden to strike ten signatures per page by providing one affidavit of an elector, unrelated to the others, and allege, after signing days earlier, that they did not fully understand what they were signing. At best, that single signature might be stricken, assuming clear and convincing evidence, but not the entire page.

47. Further, as discussed by circulators, that they consistently informed potential

signers that they were seeking signatures to get Mr. Kanye West's name on the ballot as a candidate for President of the United States. *See* Affidavits of Petition Circulators. Additionally, as they were trained to do and consistently practiced, the circulators made sure the header on the top of the nomination papers was clearly displayed. *See id.* This way, potential signatories would know the purpose of the signature gathering effort. *See id.* No one was aware of any of their colleagues concealing the header portion when seeking signatures. *See id.* No one was aware of any petition circulator making misleading statements to convince someone to sign a petition to get Mr. Kanye West's name on the ballot. *See id.*

48. Here, while some electors, similar to a purchaser of a home security system from a door-to-door salesman, experienced buyer's remorse after signing on the dotted line, that does not mean they were intentionally misled by the circulator collecting their signature, nor that they misunderstood what they were signing at the time they signed. People will remember and disclose what best supports their narrative. In this case, all of the elector affidavits provided by Complainants were only obtained after they were called and harassed by Democratic Party operatives—none of them came forth on their own accord. *See* Brent Complaint, Aff. of Devin Remiker, ¶ 22. As the Democratic Party contacted all of the electors, but only came forward with a few affidavits, one can assume that the others were perfectly fine with, and fully understood, what they signed. *Id.* (“I supervised an effort to contact all individuals who had signed the nomination papers submitted to the WEC”). In this case, the silence of these many individuals speaks loudly indeed. Affiant, Devin Remiker's claim that over 100 electors claim they were misinformed—even if that were the case, it accounts for less than 4% of the total signatures gathered—nowhere close to the clear and convincing standard. *Id.* Given the nature in which the affidavits were obtained, and that “[a]ny information on a nomination paper is entitled to a

presumption of validity,” The allegations of misrepresentation on the part of several circulators in the Brent Complaint clearly fall short of the required clear and convincing burden, and no signatures should be stricken as a result.

B. Alleged False or Incomplete Circulator Addresses.

i. Brent Address Circulator Challenge.

49. Complainant Brent claims that circulators Kenneth Linares, Benjamin Rush, Jr., and Joseph Durrell provided false addresses, and, that as a result 637 signatures should be invalidated. Brent Compl. ¶¶ 43-52. To support this false claim, Complainants appear to have hired a private investigator, or a self-proclaimed “real estate expert,” in Charles Myers, to attempt to track down the residences of the circulators. Brent Compl. at Aff. of Myers. Mr. Myers, under penalty of perjury, claimed that Mr. Linares, Mr. Rush, and Mr. Durrell did not live at the addresses they placed on the nominating papers. *Id.* In making these false allegations it is clear that Mr. Myers was grossly incorrect. As evidenced by the attached affidavits of Mr. Linares, Mr. Rush, and Mr. Durrell, all three of them clearly reside at the addresses indicated in the nominating papers. *See* Aff. of Linares; Aff. of Rush; Aff. of Durrell. Included with the affidavits is additional supporting evidence, such as copies of utility bills, pictures of driver licenses, and even a picture with the individual in front of the residence. *Id.*

50. This attempt to challenge the residences of Mr. Linares, Mr. Rush, and Mr. Durrell is clear evidence of the lengths the Democratic Party will go to in order to remove Mr. West from the ballot. Not only is the affidavit of Charles Myers misleading and false, it serves to cast a cloud over the credibility of the other supporting affidavits provided by Complainants.

ii. Santeler Address Challenge.

51. In addition to the circulator address challenge brought by Complainant Brent,

Complainant Santeler also challenges the validity of several circulator addresses because they do not comply with Wis. Stat. § 8.40, and therefore all signatures on those pages should be stricken. Santeler Compl. ¶¶ 21-24. This argument fails for many reasons.

52. First and foremost, the required evidentiary burden on challengers to prove an insufficiency in the nominating papers is that of clear and convincing evidence. Wis. Admin. Code EL § 2.07(4). The burden to rebut the challenges does not shift to the challenged candidate to prove sufficiency *until and if* the challenger first meets their clear and convincing burden. Wis. Admin. Code EL § 2.07(3)(a). Here, the challenger clearly falls short of meeting their high clear and convincing burden. Complainant Santeler only claimed, without any evidence or further discussion, that several circulators failed to comply with Wis. Stat. § 8.40, and therefore should be stricken—he failed to provide any specific reasons why the address failed to comply. Complainant Santeler fails to properly raise the issue, let alone prove the noncompliance by clear and convincing evidence. Therefore, this argument fails, and the challenged signatures should stand.

53. However, out of an abundance of caution, for these additional reasons, Complainant Santeler’s argument fails. First, the Wisconsin Code provision that Complainant Santeler alleges the circulators failed to follow, Wis. Stat. Ann. § 8.40, applies to requirements for referendum petitions, not ballot access for an independent candidate for President of the United States. Second, the law that does govern the situation at hand, Wis. Stat. Ann. § 8.15(4)(a), only explicitly requires their residence address include “street and number”—which every challenged address does include. Further, “where a 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.” Wis. Admin. Code EL § 2.05(5). Here,

given that the “street and number” are listed for each challenged circulator, the Commission should find substantial compliance.

54. Finally, with minimal effort, based on information provided on additional pages of the nomination signature packet, information regarding the city and state of each challenged circulator is readily ascertainable. For example, the challenged pages 19, 20, 161, 233, and 234⁷ have a “street and number” and then include a ZIP code—as § 8.15(4)(a) fails to provide specific instructions for the circulator to include their residence—a ZIP code should be more than sufficient. Additionally, Complainant Santeler challenges several pages of circulators Lisa Hill (1,2,5,6,7,8,233) and others where additional pages in the packet clearly show the city and state (or ZIP code)—page 234 shows that Lisa Hill resides in Oklahoma City, OK; page 226 shows Downey, CA, which is the same circulator as page 225; page 224 shows Miami Gardens, FL, which is the same circulator as page 225; and page 161 shows a ZIP code of 60627, which is the same circulator as page 162.

III. THE CANDIDATE HAS PROPERLY STATED HIS RESIDENCE AND POST-OFFICE ADDRESS.

55. “Complainant Santeler argues that Mr. West’s nominating packet should be rejected in its entirety because Mr. West failed to place his residence and post-office address on the nomination papers. Santeler Compl. ¶¶ 3-11. In addition to claiming that Mr. West failed to place his “residence” on the nominating papers, Complainant Santeler mistakenly argues that Wis. Stat. § 8.20(2)(c) requires that Wisconsin law requires two different addresses for (1) the residence, and (2) the post-office address. *Id.* However, a clear reading of the statute in question, as well as supporting case law, shows that this information is typically achieved by a single

⁷ It appears that Complainant Santeler references the hand-written page numbers in the bottom right of the nomination packets, as opposed to the typed bates numbering. As such, nomination pages referenced herein shall be referenced in the same manner.

address.

56. First, the address placed by Mr. West on his nominating papers, 3202 Big Horn Ave., Cody, WY 82414, is the address where the campaign, Kanye 2020, is incorporated. *See* Articles of Incorporation attached as Exhibit B. The 3202 Big Horn Ave. address is where Mr. West receives mail. Therefore it is his “post-office address” as required by Wis. Stat. § 8.20(2)(c).

57. Second, Wis. Stat. § 8.20(2)(c) does not ask for the residential address, it asks for the “residence and post-office address”, which is entirely different than a residential address. The term, “residence,” when unaccompanied by the qualifier “address” does not require a full street address, but simply a general geographical location where the individual resides (i.e. Mr. West is a Wyoming resident, or, Mr. West is a resident of Cody, Wyoming). *See In re Burke*, 229 Wis. 545 (1938) (discussion of “residence” in the general sense of the word—i.e. city or state); see also *Milwaukee County v. State Dep't of Public Welfare*, 271 Wis. 219, 222 (1955) (discussion of “residence” in the general sense of the word—i.e. city or state). The fact that the statute in question is only asking for one address is further evidenced by the nomination paper forms promulgated by the Commission, in that there is only one line for a single address. Here, the address placed by Mr. West on his nominating papers shows both his residence (Cody, Wyoming) and his post-office address (3202 Big Horn Ave., Cody, WY 82414)—therefore Mr. West clearly complied with the plain language and clear meaning of Wis. Stat. § 8.20(2)(c) in that he placed his “residence and post-office address” on the nomination papers. It is important to note that the term “address” as used in Wis. Stat. § 8.20(2)(c) is singular, not the plural “addresses,” which would imply two addresses. When a municipality is listed for a candidate for mailing purposes, it is presumed that the municipality is the same for other required purposes.

See Nomination Paper Challenges, January 2018, Wisconsin Election Commission, Section 1(c), <https://elections.wi.gov/publications/manuals/common-nomination-paper-challenges>.

58. Finally, in the event the Commission determines that two addresses were required, the information currently included on the nomination papers substantially complied with the requirements. “[W]here a 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.” Wis. Admin. Code EL § 2.05(5). Mr. West has substantially complied with this requirement.

IV. ADDITIONAL SIGNATURE AND ADDRESS CHALLENGES OF ELECTORS FALL SHORT OF CLEAR AND CONVINCING STANDARD.

59. In addition to the challenges discussed above, Complainant Brent attempts to challenge the inclusion of hundreds of electors in the nominating packet due to issues primarily with their address and/or names. Brent Compl. ¶¶ 53-75. The majority of these challenges are misguided and ill-informed, as such, for the reasons discussed below, the challenged electors should not be stricken as Complainant Brent suggests.

A. Address Challenges

60. Wis. Stat. Ann. § 8.20(5) requires that each elector signing nominating papers must include their “municipality of residence for voting purposes” and the “street and number, if any, on which the signer resides[.]” Complainant Brent incorrectly suggests that if the address where the signer resides differs from the address where they are registered to vote, that the elector must be stricken. *Id.* at ¶ 56. Such is simply not the case as the elector is only required to include their municipality for voting purposes, not their entire registered voting address. When issues arise regarding the validity of electors’ addresses, it is important to note that they are

presumptively valid. Wis. Admin. Code EL § 2.05(4). With issues such as a missing apartment number or when municipalities are otherwise abbreviated or shortened from the standard name, those challenges are typically dismissed, the Commission is readily able to ascertain the “municipality of residence.” *See* Nomination Paper Challenges, January 2018, Wisconsin Election Commission, Section 3(d), <https://elections.wi.gov/publications/manuals/common-nomination-paper-challenges>. Here, the vast majority of the challenged address include the municipality for voting purposes and the street and number at which they reside (although the street and number are not required, “if any”). As such, simply because that address does not match exactly with the purported voting address, those electors should not be stricken. Complainant Brent created a strawman argument (that the full registered voting address must be included) and then proceeded the attack based on that flawed strawman argument. All that is required for inclusion is the “municipality for voting purposes”—nothing more, nothing less.

61. Additionally, it appears that Complainant Brent ran the addresses through a software program which supposedly flagged addresses that did not match—such an analysis is ripe for error. A careful review of the flagged addresses showing that several addresses which were allegedly incorrect appear to be substantially similar. Perhaps the address is the database used by the Complainant has the incorrect address, or the software misread the entered address from the nominating papers. The following page and line designations⁸ appear to be substantially similar: Page 161, line 7; Page 156, line 7; Page 180, line 3; Page 323, line 9; Page 409, line 1; Page 422, line 8; Page 245, line 3; Page 133, line 7; Page 313, line 8; Page 124, line 1; Page 368, line 1; and Page 122, line 3. This list is by no means exhaustive, but it does show that Complainant’s analysis is flawed, suspect, and simply does not meet the high clear and

⁸ It appears that Complainant Brent, in the PDF included with his Complaint, used the page number from the PDF, as opposed to the pages in the bottom right of the nominating papers (this further shows the analysis was performed by software).

convincing standard.

B. Illegible Printed Names.

62. Complainant Brent argues that due to several printed names being illegible, that the elector should be stricken. Brent Complaint ¶¶ 58-61. They included the affidavit of a handwriting expert. *Id.* A quick review of the handwriting expert’s report shows that many of the supposed illegible names, are indeed legible. For example, Nos. 6,10, 16, 18, 41, 51, and many, many others are clearly legible, even to the untrained eye. In situations where only part of the name can be discerned, but does not have the exact spelling, that signature should be counted. *See* Nomination Paper Challenges, January 2018, Wisconsin Election Commission, Section 3(c), <https://elections.wi.gov/publications/manuals/common-nomination-paper-challenges>. Further, there is no requirement that the signed name be legible, or that the signed name not be printed. *Id.*

C. Signature Date.

63. Complainant Brent further argues that electors that failed to include a full date should be stricken. Brent Complaint ¶¶ 66-69. However, “Wis. Admn. Code EL § 2.05(15)(a) allows for a signature to survive an incomplete date challenge if ‘the date can be determined by reference to the dates of other signatures on the paper.’” *See* Nomination Paper Challenges, January 2018, Wisconsin Election Commission, Section 3(e), <https://elections.wi.gov/publications/manuals/common-nomination-paper-challenges>. As such, if the date of signing can be determined by other dates on the form, following the advice of the Wisconsin Department of Justice, all dates should be counted. *Id.* Here, the majority of the alleged defective dates can be determined by other dates on the page, as such, they should not be stricken.

D. Miscellaneous Challenges.

64. Complainant Brent broadly states that “it is impossible to verify whether someone who provides a fake name is an elector” purporting to argue that if they cannot verify a signature, and provide no additional evidence to challenge an elector, that the elector should be stricken. Brent Compl. ¶ 74. However, that is not how a challenge to an elector works. The burden is on the Complainant to prove by clear and convincing evidence that the elector should be stricken. Wis. Admin. Code EL § 2.07(3)(a). A complainant cannot simply raise an issue, with little or no evidence, and shift the burden to the candidate to prove validity—which is what Complainant attempts to do here. The burden to rebut the challenges does not shift to the challenged candidate to prove sufficiency *until and if* the challenger first meets their clear and convincing burden. *Id.* As such, and purported challenges, with little or no supporting evidence, should be dismissed.

CONCLUSION

65. For the aforementioned reasons, the Commission should dismiss the Complaints and Mr. West and Miss. Tidwell’s names should appear on the ballot in November.

CURRAN & PFEIL, LLC

Electronically signed by
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Certificate of Service

I certify that, on August 10, 2020, I caused a copy of this Combined Response to be emailed to the Brent Complainants' Counsel at the same time the Combined Response was filed with the Commission at the email addresses below.

For the Brent Complainants:
STAFFORD ROSENBAUM LLP
Jeffrey A. Mandell
222 West Washington Ave., Suite 900
Post Office Box 1784
Madison Wisconsin 53701
jmandell@staffordlaw.com

I also certify that, no address—email or otherwise—was included with the Santeler Complaint. Therefore, it is impossible to cause a copy of the Combined Response to be emailed or otherwise sent to Mr. Santeler. It is requested that the Commission promptly send a copy of this Response to Mr. Santeler to any such address as it may have from him.

/s/ _____
Michael C. Curran