

IN THE SUPREME COURT OF WISCONSIN

No. _____

HOWIE HAWKINS and ANGELA WALKER,

Petitioners

v.

WISCONSIN ELECTIONS COMMISSION, ANN S. JACOBS in her official capacity as
Chair of the Wisconsin Elections Commission, MARK L. THOMSEN in his
official capacity as Vice-Chair of the Wisconsin Elections Commission, MARGE
BOSTELMANN in her official capacity as Secretary of the Wisconsin Elections
Commission, JULIE M. GLANCEY in her official capacity as a Commissioner on
the Wisconsin Elections Commission, DEAN KNUDSON in his official capacity
as a Commissioner on the Wisconsin Elections Commission, ROBERT F.
SPINDELL, JR. in his official capacity as a Commissioner on the Wisconsin
Elections Commission, and ALLEN ARNTSEN,

Respondents.

**AFFIDAVIT OF JACOB J.CURTIS IN SUPPORT OF EMERGENCY PETITION
AND MEMORANDUM TO SUPREME COURT TO TAKE JURISDICTION OF
AN ORIGINAL ACTION, EMERGENCY MOTION FOR A TEMPORARY
INJUNCTION**

STATE OF WISCONSIN)
)
COUNTY OF MILWAUKEE)

Jacob J. Curtis being first duly sworn under oath, deposes and states as follows:

1. I am an attorney duly licensed to practice law in Wisconsin. I am one of the attorneys at von Briesen & Roper, s.c. representing Petitioners, Howie Hawkins and Angela Walker (the “Candidates”) in this matter. I make this Affidavit in support of the Candidate’s Emergency Petition and Memorandum to Supreme Court to Take Jurisdiction of an Original Action, Emergency Motion for a Temporary Injunction.

2. Attached as Exhibit A is a true and correct copy of the August 7, 2020, verified complaint filed by Defendant Allen Arntsen (“Arntsen”) with the Commission under Wis. Admin. Code § EL 2.07, Wis. Stat. § 5.05, and Wis. Stat. § 5.06.

3. Attached as Exhibit B is a true and correct copy of the January 2018 advisory issued by the Commission, Nomination Paper Challenges.

4. Attached as Exhibit C is a true and correct copy of the Memorandum for the August 20, 2020, Commission Meeting, prepared by

Nathan Judnic, from Administrator Meagan Wolfe, and to the Members of the Commission.

5. Attached as Exhibit D is a true and correct copy of the August 21, 2020, correspondence informing the Candidates of the motions passed by the Commission at its August 20, 2020 hearing.

6. Attached as Exhibit E is a true and correct copy of a blank Form EL-162, Declaration of Candidacy.

Dated this 3rd day of September, 2020.



Jacob J. Curtis

Subscribed and sworn to before me

this 3rd day of September, 2020.



Notary Public, State of Wisconsin

My Commission expires: 2-12-2021



STATE OF WISCONSIN

WISCONSIN ELECTIONS COMMISSION

IN THE MATTER OF:
NOMINATION PAPERS FILED BY HOWIE HAWKINS
WITH RESPECT TO THE NOVEMBER 3, 2020
ELECTION FOR PRESIDENT OF THE UNITED STATES

ALLEN ARNTSEN,
821 S. Shore Dr., Madison, WI 53715,

Complainant,

v.

Case No. _____

THE WISCONSIN GREEN PARTY,
PO Box 108, Madison, WI 53701,

HOWIE HAWKINS,
410 Beard Ave., Syracuse, NY 13205, and

ANGELA WALKER,
315 Royal Street, Apt A, Florence, SC 29506,

Respondents.

VERIFIED COMPLAINT

This Complaint is made pursuant to Wis. Stat. § 5.06(1) and other laws applicable to elections and election campaigns.

1. Complainant Allen Arntsen is a Wisconsin elector residing at 821 South Shore Drive, Madison, Wisconsin 53715.

2. Upon information and belief, Respondent Howie Hawkins filed, or caused to be filed on his behalf, nomination papers with the Wisconsin Elections Commission on August 4, 2020 to secure a spot on the ballot for President of the United States in the November 3, 2020

election.

3. Upon information and belief, Respondent Angela Walker filed, or caused to be filed on her behalf, nomination papers with the Wisconsin Elections Commission on August 4, 2020 to secure a spot on the ballot for Vice President of the United States in the November 3, 2020 election.

4. Respondent The Wisconsin Green Party is listed on the nomination papers filed by Mr. Hawkins and Ms. Walker as the political party affiliated with their candidacies. Upon information and belief, The Wisconsin Green Party may have arranged for the filing of the nomination papers on behalf of Mr. Hawkins's and Ms. Walker's candidacies.

5. Upon information and belief, the nomination papers filed on behalf of Mr. Hawkins's and Ms. Walker's candidacies were allegedly circulated for signatures between July 1, 2020 and August 4, 2020.

6. Upon information and belief, Respondents submitted three thousand eight hundred eighty (3,880) signatures to the Wisconsin Elections Commission (the "WEC").

7. Upon information and belief, two thousand forty-six (2,046) of the signatures appear on nomination papers that were printed with an incorrect address for Ms. Walker. Those nomination papers were printed with an address for Ms. Walker reading: "3204 TV Road, Room 231, Florence SC." That is not a correct address for Ms. Walker; Ms. Walker's correct address is 315 Royal Street, Apt A, Florence, SC 29506. Consequently, those nomination papers were printed with and bear an incorrect address for Ms. Walker and should be disallowed, and the signatures appearing on them should be stricken and not counted in their entirety, leaving one thousand eight hundred thirty-four potentially valid signatures.

8. Upon information and belief, even if the nomination papers on which those 2,046 signatures appear are not disallowed in their entirety and all signatures stricken, there are specific

deficiencies that require the WEC to strike signatures from those nomination papers.

9. Upon information and belief, one thousand eight hundred thirty-four (1,834) signatures appear on nomination papers where the incorrect address for Ms. Walker was not corrected, and the incorrect address for Ms. Walker remained on the nomination papers as of the date on which those nomination papers were signed by electors. The signatures appearing on those nomination papers must be stricken in their entirety and not counted.

10. Upon information and belief, an additional forty-eight (48) nomination papers were printed with an incorrect address for Ms. Walker but the incorrect address was crossed out on the nomination paper, and the correct address was handwritten on the nomination paper. But the handwritten corrected address was neither initialed nor dated, so from the face of those nomination papers, they are invalid, and the signatures appearing on them should be stricken and not counted.

11. Upon information and belief, an additional fifty-seven (57) nomination papers were printed with an incorrect address for Ms. Walker but the incorrect address was crossed out on the nomination paper, and the correct address was handwritten on the nomination paper *after* the date on which the electors signed those nomination papers. Because those nomination papers contained an incorrect address for Ms. Walker as of the date on which they were signed by electors, those nomination papers are invalid and the signatures appearing on them should be stricken and not counted.

12. Under Wis. Stat. § 8.20(4), Respondents were required to submit valid signatures of “not less than 2,000 nor more than 4,000 electors” to qualify Mr. Hawkins and Ms. Walker for the ballot as independent candidates for President of the United States and Vice President of the United States, respectively.

13. If all nomination papers on which Ms. Walker’s address was incorrectly printed are

invalidated and the 2,046 signatures appearing on them are stricken, Mr. Hawkins's and Ms. Walker's nomination papers will contain only one thousand eight hundred thirty-four (1,834) signatures, less than the required number of signatures to qualify them for the ballot in the November 3 election.

14. If the nomination papers on which Ms. Walker's address was incorrectly printed and was not corrected at all (1,834), the nomination papers on which Ms. Walker's address was corrected in writing but without any initial of the person making the correction or the date of the correction (48), and the nomination papers on which Ms. Walker's address was corrected in handwriting *after* the date of signature of the electors (57) are invalidated and the signatures appearing on them are stricken, Mr. Hawkins's and Ms. Walker's nomination papers will contain only one thousand nine hundred forty-one (1,941) signatures, less than the required number of signatures to qualify them for the ballot in the November 3 election.

15. Each of Mr. Hawkins and Ms. Walker as a "candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements." Wis. Admin. Code § EL 2.05(1).

16. The Wisconsin Elections Commission has jurisdiction over this Complaint as provided in Wis. Admin. Code § EL 2.07.

ARGUMENT

The nomination papers submitted by Respondents are attached to this Verified Complaint as Exhibit A. There are a total of 680 pages of nomination papers, each of which is separately numbered. Based upon a review of those nomination papers, a total of two thousand forty-six (2,046) of the signatures appear on nomination papers that were printed with an incorrect address for Ms. Walker. Those nomination papers were printed with an address for Ms. Walker reading:

“3204 TV Road, Room 231, Florence SC.” That is not a correct address for Ms. Walker; Ms. Walker’s correct address is 315 Royal Street, Apt A, Florence, SC 29506. These nomination papers are legally insufficient, such that Mr. Hawkins and Ms. Walker should not be included on the ballot in Wisconsin for the November 3, 2020 election. This is true under the two different analyses set forth below, both of which arise from the nomination papers having been printed with an incorrect address for Ms. Walker. Under either analysis, the flaws in the nomination papers submitted by Mr. Hawkins and Ms. Walker are sufficient to preclude Mr. Hawkins and Ms. Walker from the ballot for the November 3, 2020 election, and definitively establish that the nomination papers submitted by Respondents are legally insufficient to qualify Mr. Hawkins and Ms. Walker for inclusion on the ballot for the November 3, 2020 election.

First, there are 2,046 signatures that appear on nomination papers that were printed with an incorrect address for Ms. Walker. Consequently, even if an attempt was made to somehow correct those nomination papers, they are invalid and should be stricken, and all signatures appearing on those nomination papers should be stricken and not counted. When those signatures are eliminated, even with no further analysis, Respondents have only 1,834 signatures that remain, less than the required number of signatures to qualify them for the ballot in the November 3 election.

Second, even if the 2,041 signatures appearing on nomination papers printed with an incorrect address are not stricken solely because the printed address is incorrect, further analysis demonstrates that there are other deficiencies requiring that additional signatures be stricken. Attached as Exhibit B is a spreadsheet identifying those deficiencies, which fall into three categories:

- **Incorrect Address/Not Corrected:** Some of the nomination papers that were printed with an incorrect address for Ms. Walker remain entirely uncorrected. Those nomination papers are identified in the fourth column of Exhibit B, which bears the heading “VP Address”. A code of “3024” in the fourth column indicates that the incorrect address for Ms. Walker appears on the corresponding nomination paper identified in the second column, which bears the heading “Petition #”. There are 1,834 signatures on the nomination papers identified in the fourth column with the code of “3024”. Because those nomination papers bear an incorrect address for Ms. Walker, they should be stricken and not counted toward the total number of signatures.
- **Incorrect Address/Retroactively Corrected:** There was an attempt on some nomination papers printed with an incorrect address to correct the address by striking out the incorrect printed address and handwriting in the correct address. On many of those nomination papers, those corrections were dated but that date indicates that the correction was made *after* the electors had signed the nomination paper. Consequently, Ms. Walker’s address was incorrect at the time the electors signed those nomination papers. Those nomination papers are identified by a code of “315**”. There are 57 signatures on those nomination papers. Moreover, by affixing a correct address to the nomination paper *after* the electors had signed those nomination papers, the Circulators (or others) who retroactively affixed a corrected address have demonstrated that they presented the electors with incorrect nomination papers, which constitutes a knowing and material alteration of nomination papers after they had been signed by electors.

Those nomination papers should be invalidated, and the signatures should be stricken and not counted toward the total number of signatures.

- **Incorrect Address/No Date or Initials of Correction**: Finally, for some nomination papers printed with an incorrect address, there was an attempt to correct the address by striking out the incorrect printed address and handwriting in the correct address, but the person making the handwritten correction failed to affix their initials next to the correction, and failed to indicate the date of correction. The lack of any indication of the person making the correction, or the date of the correction, renders such nomination papers invalid on their face. Those nomination papers are identified by a code of “315*”. There are 48 signatures on those nomination papers. Those nomination papers should be invalidated, and the signatures should be stricken and not counted toward the total number of signatures.

When the number of nomination papers with these three other categories of deficiencies are totaled, the aggregate number of signatures on defective nomination papers – 1,834 signatures on papers bearing an uncorrected address, plus 57 signatures on papers bearing an address that was retroactively corrected in handwriting *after* being signed by electors, plus 48 signatures on papers bearing an address that was corrected but without the initials of the person making the correction and the date of correction – totals 1,939 signatures. When those are subtracted from the total number of signatures submitted (3,880), the remaining number of signatures totals 1,941 signatures. Therefore, even if the nomination papers that were printed with an incorrect address are not invalidated wholesale, and the 2,041 signatures of electors are not stricken in their entirety, Mr. Hawkins and Ms. Walker still lack a sufficient number of valid

signatures to qualify Mr. Hawkins and Ms. Walker, respectively, for the ballot as independent candidates for President of the United States and Vice President of the United States.


CONCLUSION

For the foregoing reasons, Respondents have not properly submitted nominating papers with the requisite number of signatures for Mr. Hawkins and Ms. Walker to be placed on the ballot for the November 3, 2020 election.

This Verified complaint is made pursuant to Wis. Admin. Code EL § 2.07 and Wis. Stat. §§ 5.05 and 5.06.

WHEREFORE, Complaint respectfully requests that the Wisconsin Elections Commission conduct any investigation it deems appropriate pursuant to Wis. Admin. Code EL 2.07(5), promptly hold a hearing on this matter to the extent it deems necessary, and ultimately rule that the nomination papers submitted by Respondents are legally insufficient for the reasons set forth in this Verified Complaint.

Dated this 7th day of August, 2020.

By: 
Allen Arntsen
821 S. Shore Dr.
Madison, WI 53715

Complaint prepared by:

STAFFORD ROSENBAUM LLP
Jeffrey A. Mandell, SBN 1100406
Douglas M. Poland, SBN 1055189
Attorneys for Complainant

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VERIFICATION

Allen Arntsen being duly sworn, on oath, deposes and says:

1. That Allen Arntsen is an elector of Dane County, Wisconsin.
2. That Allen Arntsen has read the foregoing Verified Complaint and that the same is true and correct, except as to those matters therein stated upon information and belief or cited to affidavits of other identified individuals, as to which matters he believes them to be true.

Dated at Madison, Wisconsin this 7th day of August 2020.



Allen Arntsen



Notary Public, State of Wisconsin

My commission expires: 5-18-2024

KARYNA A. HALVERSON
NOTARY PUBLIC
STATE OF WISCONSIN

Page #	Petition #	Gatherer	VP Address (# of signatures	Strike
1	618	Thistle Petterson	3024	10	1
2	619	Thistle Petterson	3024	10	0
3	632	Thomas Ward	3024	10	8
4	634	Thomas Ward	3024	10	10
5	641	Emerson Ziehr	3024	10	1
6	643	Emerson Ziehr	3024	10	1
7	665	Corey Hagemann	3024	10	1
8	667	Corey Hagemann	3024	10	10
9	644	Emerson Ziehr	3024	9	10
10	666	Corey Hagemann	3024	9	8
11	668	Corey Hagemann	3024	9	7
12	606	Kyle Richmond	3024	8	
13	620	Mary Jo Walters	3024	8	1
14	633	Thomas Ward	3024	10	10
15	642	Emerson Ziehr	3024	8	3
16	607	Samuel Chance	3024	5	2
17	601	Daniel Hashke	3024	5	
18	602	Daniel Hashke	3024	5	
19	603	Daniel Hashke	3024	5	
20	605	Michael Childers	315	5	
21	610	Rebecca Kemble	315*	5	
22	611	Rebecca Kemble	315*	5	1
23	612	Rebecca Kemble	315*	5	
24	613	Rebecca Kemble	315*	5	2
25	614	Rebecca Kemble	315*	5	
26	615	Eric DeVries	3024	5	
27	626	Joyce Ellwanger	3024	5	
28	628	Thomas Alberg	3024	5	
29	631	Michael McCallister	3024	5	
30	661	Ras Ammar Nsoroma	3024	5	5
31	657	Thomas Hoffman	3024	5	5
32	664	Jeff Salzman	3024	5	
33	671	Karen McKim	3024	5	
34	674	Karen Fischbach	3024	5	2
35	675	Grant Singer	3024	5	
36	676	Grant Singer	3024	5	1
37	677	Grant Singer	3024	5	5
38	678	Grant Singer	3024	5	
39	679	Grant Singer	3024	5	2
40	640	Lane Burns	3024	4	1
41	647	Karl May	3024	4	2
42	660	Ras Ammar Nsoroma	3024	4	
43	625	Madeleine King	3024	3	3

44	629	Mary Janzeu Quinn	3024	3	3
45	638	Ryan T. O'leary	3024	5	3
46	639	Lane Burns	3024	3	
47	672	Nicole Butterbaugh	315	3	1
48	673	Karen Fischbach	3024	3	1
49	616	Eric DeVries	315	2	
50	617	Jeffrey Lewis	3024	2	1
51	624	Patrick Kozlowski	3024	2	
52	630	Royal Brevvaxling	3024	2	
53	635	Thomas Ward	3024	2	
54	636	Nathanael Dresser	3024	2	
55	637	Mark Stewart	3024	2	
56	649	Richard Gorud	315	2	2
57	653?	Kyerra Simmons	3024	2	1
58	659	Ras Ammar Nsoroma	3024	2	1
59	669	Corey Hagemann	3024	2	2
60	680	Grant Singer	3024	2	1
61	608	Samuel Chance	3024	1	1
62	609	Herd	3024	1	1
63	621	Thistle Petterson	3024	1	1
64	622	Nathan Johnson	3024	1	
65	623	Bradky Geyer	3024	1	
66	627	Kevin Demler	3024	1	
67	645	Rick Lerche	3024	1	1
68	646	David Schwab	3204	1	
69	648	Kathleen Turner	315	1	1
70	650	Michael Kurki	3024	1	
71	651	Ronald Hardy	3024	1	1
72	652	Richard Petersen	3024	1	
73	653	Keevin Peuse	315	1	
74	654	Daniel Mattson	315	1	
75	655	Timmothy R?	315	1	
76	656	Jacqueline Janecke	3024	1	1
77	663	Gabrielle Sherrard	315	1	1
78	662	Joseph Caliendo	3024	1	
79	670	Dennis L Boyer	315*	1	1
80	604	Daniel Hasch??	3024	2	2
81	508	G??y Thompson	315	5	5
82	558	Dana C???e?	315	4	4
83	529	Gary Thompson	315	5	4
84	524	Gary Thompson	315	5	5
85	517	Gary Thompson	315	5	4
86	503	Gary Thompson	315	5	5
87	509	Gary Thompson	315	5	4
88	516	Gary Thompson	315	5	4
89	560	Dana C???e?	315	5	5
90	561	Dana C???e?	315	5	5
91	567	Dana C???e?	315	5	2
92	569	Dana C???e?	315	5	5
93	574	Dana C???e?	315	5	5
94	575	Dana C???e?	315	5	5
95	579	Dana C???e?	315	5	
96	580	Dana C???e?	315	5	5
97	584	David Schwab	3024	5	3

98	585	David Schwab	3024	5	5
99	587	David Schwab	3024	5	2
100	589	David Schwab	315*	5	5
101	593	David Schwab	315	5	3
102	594	David Schwab	315	5	3
103	548	Gary Thompson	315	5	3
104	549	Gary Thompson	315	5	5
105	550	Gary Thompson	315	5	4
106	551	Gary Thompson	315	5	5
107	552	Gary Thompson	315	5	5
108	553	Gary Thompson	315	5	2
109	554	Gary Thompson	315	5	5
110	542	Gary Thompson	315	5	2
111	543	Gary Thompson	315	5	5
112	544	Gary Thompson	315	5	5
113	546	Gary Thompson	315	5	5
114	547	Gary Thompson	315	5	2
115	512	Gary Thompson	315	5	5
116	513	Gary Thompson	315	5	5
117	514	Gary Thompson	315	5	2
118	515	Gary Thompson	315	5	4
119	518	Gary Thompson	315	5	5
120	519	Gary Thompson	315	5	5
121	520	Gary Thompson	315	5	5
122	521	Gary Thompson	315	5	5
123	522	Gary Thompson	315	5	5
124	523	Gary Thompson	315	5	5
125	526	Gary Thompson	315	5	5
126	527	Gary Thompson	315	5	5
127	528	Gary Thompson	315	5	5
128	530	Gary Thompson	315	5	5
129	531	Gary Thompson	315	5	5
130	532	Gary Thompson	315	5	4
131	533	Gary Thompson	315	5	5
132	534	Gary Thompson	315	5	5
133	535	Gary Thompson	315	5	5
134	536	Gary Thompson	315	5	5
135	537	Gary Thompson	315	5	5
136	538	Gary Thompson	315	5	5
137	539	Gary Thompson	315	5	5
138	540	Gary Thompson	315	5	0
139	541	Gary Thompson	315	5	2
140	480	Ralph Bennett	315	5	5
141	481	Ralph Bennett	315	5	2
142	482	Ralph Bennett	315	5	4
143	484	Ralph Bennett	315	5	3
144	485	Ralph Bennett	315	5	5
145	486	Ralph Bennett	315	5	4
146	489	Ralph Bennett	315	5	3
147	490	Ralph Bennett	315	5	4
148	492	Ralph Bennett	315	5	5
149	493	Ralph Bennett	315	5	4
150	497	Gary Thompson	315	5	4
151	498	Gary Thompson	315	5	5

152	499	Gary Thompson	315	5	5
153	500	Gary Thompson	315	5	5
154	501	Gary Thompson	315	5	5
155	502	Gary Thompson	315	5	5
156	505	Gary Thompson	315	5	1
157	506	Gary Thompson	315	5	5
158	507	Gary Thompson	315	5	4
159	509	Gary Thompson	315	5	4
160	510	Gary Thompson	315	5	
161	511	Gary Thompson	315	5	4
162	453	Ralph Bennett	315	5	5
163	457	Ralph Bennett	315	5	5
164	459	Ralph Bennett	315	5	5
165	460	Ralph Bennett	315	5	5
166	462	Ralph Bennett	315	5	5
167	466	Ralph Bennett	315	5	5
168	468	Ralph Bennett	315	5	5
169	469	Ralph Bennett	315	5	5
170	470	Ralph Bennett	315	5	5
171	471	Ralph Bennett	315	5	3
172	479	Ralph Bennett	315	5	0
173	478	Ralph Bennett	315	5	1
174	477	Ralph Bennett	315	5	2
175	476	Ralph Bennett	315	5	3
176	474	Ralph Bennett	315	5	1
177	473	Ralph Bennett	315	5	5
178	472	Ralph Bennett	315	5	1
179	451	Ralph Bennett	315	5	1
180	452	Ralph Bennett	315	4	0
181	465	Ralph Bennett	315	4	1
182	454	Ralph Bennett	315	4	1
183	458	Ralph Bennett	315	4	2
184	464	Ralph Bennett	315	4	0
185	463	Ralph Bennett	315	4	1
186	495	Ralph Bennett	315	4	0
187	496	Ralph Bennett	315	4	1
188	188	Ralph Bennett	315	4	1
189	467	Ralph Bennett	315	4	0
190	525	Gary Thompson	315	4	4
191	545	Gary Thompson	315	4	0
192	555	Gary Thompson	315	4	0
193	559	Dana Corley	315	4	3
194	564	Dana Corley	315	4	4
195	572	Dana Corley	315	4	0
196	573	Dana Corley	315	4	0
197	487	Ralph Bennett	315	4	0
198	491	Ralph Bennett	315	4	0
199	595	David Schwab	315	5	1
200	600	David Schwab	315	4	0
201	483	Ralph Bennett	315	4	1
202	455	Ralph Bennett	315	5	3
203	475	Ralph Bennett	315	5	3
204	578	Dana Corley	315	3	0

205	582	Dana Corley	315	3	0
206	565	Dana Corley	315	3	3
207	563	Dana Corley	315	3	2
208	598	David Schwab	315	3	0
209	556	Gary Thompson	315	4	1
210	566	Dana Corley	315	3	2
211	588	David Schwab	3024	3	0
212	592	David Schwab	315	2	0
213	591	David Schwab	315*	2	0
214	586	David Schwab	3024	3	1
215	599	David Schwab	315	2	0
216	568	Dana Corley	315	2	3
217	562	Dana Corley	315	2	2
218	557	Gary Thompson	315	2	1
219	494	Ralph Bennett	315	1	1
220	456	Ralph Bennett	315	5	5
221	590	David Schwab	315*	1	0
222	581	Dana Corley	315	1	1
223	571	Dana Corley	315	1	1
224	570	Dana Corley	315	0	0
225	597	David Schwab	315	0	0
226	583	Dana Corley	315	0	0
227	461	Ralph Bennett	315	2	2
228	576	Dana Corley	315	5	5
229	577	Dana Corley	315	5	5
230	120	Barbara Dahlgren	3024	10	0
231	118	Barbara Dahlgren	3024	10	0
232	86	Rita Maniotis	3024	10	10
233	85	Rita Maniotis	3024	10	10
234	84	Barbara Dahlgren	3024	10	3
235	79	Barbara Eisenberg	315**	10	10
236	82	Barbara Dahlgren	3024	10	0
237	81	Barbara Dahlgren	3024	10	0
238	80	Barbara Dahlgren	3024	10	5
239	77	Barbara Dahlgren	3024	10	4
240	75	Sam Michael	3024	10	9
241	71	Barbara Dahlgren	3024	10	2
242	70	Barbara Dahlgren	3024	10	0
243	69	Barbara Dahlgren	3024	10	0
244	67	Barbara Eisenberg	3024	10	0
245	66	Barbara Eisenberg	3024	10	0
246	65	Barbara Eisenberg	3024	10	0
247	64	Barbara Dahlgren	315	9	0
248	63	Barbara Dahlgren	3024	10	0
249	62	Barbara Dahlgren	3024	10	0
250	60	Barbara Eisenberg	315**	10	0
251	59	Barbara Eisenberg	3024	10	0
252	58	Barbara Eisenberg	3024	10	0
253	57	Barbara Eisenberg	3024	10	0
254	56	Barbara Eisenberg	315**	10	0
255	54	Barbara Dahlgren	315	9	0
256	53	Barbara Dahlgren	315	9	0
257	52	Barbara Dahlgren	315	9	0
258	51	Barbara Dahlgren	315	9	0

259	50	Barbara Dahlgren	3024	10	0
260	49	Barbara Eisenberg	3024	10	0
261	48	Barbara Eisenberg	3024	10	0
262	47	Barbara Eisenberg	3024	10	0
263	46	Barbara Eisenberg	3024	10	0
264	45	Barbara Dahlgren	3024	10	0
265	44	Barbara Dahlgren	315	9	0
266	43	Barbara Dahlgren	315	9	0
267	41	Barbara Eisenberg	3024	10	0
268	40	Barbara Eisenberg	3024	10	0
269	39	Barbara Eisenberg	3024	10	0
270	38	Barbara Eisenberg	315**	10	0
271	37	Barbara Dahlgren	315	9	0
272	36	Barbara Dahlgren	315	9	0
273	35	Barbara Dahlgren	315	10	0
274	34	Barbara Dahlgren	315	9	0
275	33	Barbara Dahlgren	315	9	0
276	32	Barbara Dahlgren	3024	10	0
277	31	Barbara Dahlgren	3024	10	3
278	30	Barbara Dahlgren	3024	10	0
279	29	Barbara Dahlgren	3024	10	0
280	28	Barbara Dahlgren	3024	10	0
281	27	Barbara Dahlgren	315**	10	0
282	26	Barbara Dahlgren	3024	10	0
283	25	Barbara Dahlgren	3024	10	0
284	24	Barbara Dahlgren	3024	10	0
285	23	Barbara Eisenberg	315**	10	0
286	22	Barbara Dahlgren	3024	10	0
287	21	Barbara Dahlgren	3024	10	0
288	20	Barbara Dahlgren	3024	10	0
289	19	Barbara Dahlgren	3024	10	0
290	17	Barbara Dahlgren	3024	10	0
291	16	Barbara Dahlgren	3024	10	0
292	15	Barbara Dahlgren	3024	10	0
293	13	Barbara Eisenberg	315**	10	0
294	12	Rita Maniotis	3024	10	0
295	11	Rita Maniotis	3024	10	0
296	10	Rita Maniotis	3024	10	0
297	9	Rita Maniotis	3024	10	0
298	8	Rita Maniotis	3024	10	0
299	7	Rita Maniotis	3024	10	0
300	5	Rita Maniotis	3024	10	0
301	4	Rita Maniotis	3024	10	0
302	2	Rita Maniotis	3024	10	0
303	3	Rita Maniotis	3024	10	0
304	6	Rita Maniotis	3024	10	0
305	18	Barbara Dahlgren	3024	10	0
306	42	Barbara Dahlgren	315	10	0
307	55	Barbara Eisenberg	3024	10	0
308	61	Barbara Dahlgren	3024	10	0
309	68	Rita Maniotis	3024	10	0
310	72	Sam Michael	3024	10	0
311	74	Sam Michael	3024	10	0
312	76	Jeffrey M Reese	3024	10	0

313	78	Barbara Dahlgren	3024	10	0
314	83	Barbara Eisenberg	315**	10	0
315	87	Barbara Dahlgren	315	10	1
316	89	Rita Maniotis	3024	9	1
317	90	Rita Maniotis	3024	9	0
318	92	Rita Maniotis	3024	9	0
319	93	Rita Maniotis	3024	10	0
320	94	Rita Maniotis	3024	10	1
321	95	Barbara Dahlgren	3024	9	0
322	98	Lori A. Serb	3024	9	0
323	111	Mary Sanderson	3024	9	0
324	116	Barbara Dahlgren	3024	10	0
325	117	Barbara Dahlgren	3024	10	0
326	119	Barbara Dahlgren	3024	10	1
327	121	Barbara Dahlgren	3024	10	0
328	123	Barbara Dahlgren	3024	10	0
329	125	Barbara Dahlgren	3024	10	0
330	14	Rita Maniotis	3024	10	0
331	1	Rita Maniotis	3024	10	0
332	91	Rita Maniotis	3024	10	0
333	106	Jennifer Kedroske	3024	8	0
334	97	Lori A. Serb	3024	8	1
335	96	Sam Michael	3024	8	0
336	88	Rita Maniotis	3024	9	0
337	107	Zackry Wiese	3024	6	0
338	109	Jeff Jacobs	3024	6	0
339	114	Barbara Dahlgren	3024	6	0
340	122	Rita Maniotis	3024	10	0
341	130	Thomas S Rodman	3024	5	0
342	133	Thomas S Rodman	3024	5	0
343	132	Thomas S Rodman	3024	5	0
344	141	Thomas S Rodman	3024	5	0
345	145	Thomas S Rodman	3024	5	0
346	146	Thomas S Rodman	3024	5	0
347	147	Thomas S Rodman	3024	5	0
348	148	Thomas S Rodman	3024	5	0
349	149	Thomas S Rodman	3024	5	0
350	142	Thomas S Rodman	3024	5	0
351	143	Thomas S Rodman	3024	5	0
352	134	Thomas S Rodman	3024	5	0
353	136	Thomas S Rodman	3024	5	0
354	144	Keith Mann	3024	5	0
355	127	Thomas S Rodman	315	5	0
356	137	Thomas S Rodman	3024	5	0
357	138	Thomas S Rodman	3024	5	0
358	128	Rick Bruening	3024	5	0
359	139	Thomas S Rodman	3024	5	0
360	129	Keith Mann	315	5	0
361	140	Thomas S Rodman	3024	5	0
362	131	Thomas S Rodman	3024	5	0
363	150	Thomas S Rodman	3024	5	0
364	105	Quincy Sheuers Soliecl	3024	4	0
365	110	Jeff Jacobs	3024	4	0
366	124	Barbara Eisenberg	315*	4	0

367	135	Thomas S Rodman	3024	5	0
368	115	Barbara Dahlgren	315	4	0
369	112	Caleb Kulich	3024	3	0
370	101	William Breihan	3024	2	0
371	103	Kathleen Pape	3024	2	0
372	73	Sam Michael	3024	10	0
373	126	Greg Banks	3024	5	0
374	100	Jeffrey M Reese	3024	2	0
375	104	Hilda J Richey	3024	2	0
376	102	James McKeeven	3024	2	0
377	108	Greg Banks	3024	2	0
378	99	Corey G. Hagemann	3024	1	0
379	113	Lori A. Serb	3024	1	0
380	283	Monte Letourneau	315**	10	0
381	282	Monte Letourneau	315**	10	0
382	281	Jason Kern	3024	10	0
383	279	Sativa Silver	3024	10	0
384	277	Danielle R Meyer	315*	10	0
385	276	Wendy Gillespie	3024	10	0
386	269	Rita Maniotis	3024	10	0
387	268	Rita Maniotis	3024	10	0
388	267	Rita Maniotis	3024	10	0
389	265	Rita Maniotis	3024	10	0
390	264	Rita Maniotis	3024	10	0
391	263	Rita Maniotis	3024	10	0
392	261	Rita Maniotis	3024	10	0
393	258	Rita Maniotis	3024	10	0
394	255	Rita Maniotis	3024	10	0
395	254	Rita Maniotis	3024	10	0
396	252	Rita Maniotis	3024	10	0
397	251	Rita Maniotis	3024	10	0
398	250	Rita Maniotis	3024	10	0
399	248	Rita Maniotis	3024	10	0
400	246	Rita Maniotis	3024	10	0
401	244	Rita Maniotis	3024	10	0
402	243	Rita Maniotis	3024	10	0
403	224	Sam Michael	3024	10	0
404	290	Monte Letourneau	315**	10	1
405	288	Jason Kern	3024	9	0
406	280	Sative Silver	3024	10	0
407	278	Monte Letourneau	315**	10	0
408	275	Wendy Gillespie	3024	10	9
409	273	Rita Maniotis	3024	10	0
410	272	Rita Maniotis	3024	10	1
411	262	Rita Maniotis	3024	10	0
412	253	Rita Maniotis	3024	10	0
413	249	Rita Maniotis	3024	10	0
414	241	Barbara Eisenberg	315	9	7
415	240	Barbara Eisenberg	315	9	9
416	239	Barbara Eisenberg	315	9	8
417	238	Barbara Eisenberg	315	9	9
418	237	Barbara Eisenberg	315	9	9
419	236	Barbara Eisenberg	315	9	9
420	235	Barbara Eisenberg	315	9	7

421	234	Barbara Eisenberg	315	9	9
422	233	Barbara Eisenberg	315	9	2
423	232	Barbara Eisenberg	315	9	7
424	231	Barbara Eisenberg	315	9	7
425	230	Barbara Eisenberg	315	9	1
426	266	Barbara Eisenberg	3024	10	10
427	228	Barbara Eisenberg	315	9	9
428	229	Barbara Eisenberg	315	8	7
429	291	Monte Letourneau	315**	9	9
430	271	Rita Maniotis	3024	10	4
431	256	Rita Maniotis	3024	10	4
432	227	Barbara Eisenberg	315	9	9
433	257	Rita Maniotis	3024	10	10
434	213	Thomas S Rodman	315	5	0
435	210	Thomas S Rodman	315	5	1
436	209	Thomas S Rodman	315	5	1
437	208	Thomas S Rodman	315	5	2
438	207	Thomas S Rodman	315	5	2
439	206	Thomas S Rodman	315	5	1
440	205	Thomas S Rodman	315	5	2
441	204	Thomas S Rodman	315	5	1
442	203	Thomas S Rodman	315	5	1
443	201	Thomas S Rodman	315	5	1
444	199	Thomas S Rodman	315	5	0
445	198	Thomas S Rodman	315	5	1
446	197	Thomas S Rodman	315	5	1
447	196	Thomas S Rodman	315	5	1
448	195	Thomas S Rodman	315	5	1
449	194	Thomas S Rodman	315	5	1
450	193	Thomas S Rodman	315	5	0

452	192	Thomas Rodman	315	5	3
453	191	Thomas Rodman	315	5	0
454	190	Thomas Rodman	315	5	3
455	189	Thomas Rodman	315	5	0
456	177	Thomas Rodman	3024	5	4
457	176	Thomas Rodman	3024	5	4
458	214	Thomas Rodman	315	5	3
459	215	Thomas Rodman	315	5	2
460	217	Thomas Rodman	315	5	1
461	216	Thomas Rodman	315	5	1
462	218	Thomas Rodman	315	5	1
463	219	Thomas Rodman	315	5	2
464	221	Thomas Rodman	315	5	2
465	300	William Deans	315	5	1
466	299	William Deans	315	5	5
467	298	William Deans	315	5	2
468	297	William Deans	315	5	2
469	296	William Deans	315	5	3
470	292	Dustin Hartl	315 **	5	5
471	226	Sam Michael	3024	5	5
472	152	Thomas Rodman	3024	5	1
473	153	Thomas Rodman	3024	5	3

474	154	Thomas Rodman	3024	5	3
475	155	Thomas Rodman	3024	5	3
476	156	Thomas Rodman	3024	5	1
477	157	Thomas Rodman	3024	5	5
478	158	Thomas Rodman	3024	5	0
479	159	Thomas Rodman	3024	5	0
480	160	Thomas Rodman	3024	5	1
481	161	Thomas Rodman	3024	5	0
482	162	Thomas Rodman	3024	5	2
483	163	Thomas Rodman	3024	5	1
484	164	Thomas Rodman	3024	5	0
485	165	Thomas Rodman	3024	5	2
486	166	Thomas Rodman	3024	5	0
487	167	Thomas Rodman	3024	5	3
488	168	Thomas Rodman	315	5	3
489	169	Thomas Rodman	315	5	0
490	170	Thomas Rodman	315	5	0
491	171	Thomas Rodman	315	5	2
492	172	Thomas Rodman	3024	5	4
493	173	Thomas Rodman	3024	5	0
494	174	Thomas Rodman	3024	5	2
495	175	Thomas Rodman	3024	5	0
496	294	Greg Banks	315	4	0
497	223	Thomas Rodman	315	4	1
498	222	Thomas Rodman	315	4	0
499	202	Thomas Rodman	315	4	0
500	184	Thomas Rodman	3024	4	0
501	183	Thomas Rodman	3024	4	1
502	182	Thomas Rodman	3024	4	0
503	181	Thomas Rodman	3024	4	0
504	180	Tom Rodman	3024	4	0
505	179	Tom Rodman	3024	4	0
506	178	Thomas Rodman	3024	4	1
507	151	Thomas Rodman	3024	4	0
508	287	Wendy Gillespie	3024	4	3
509	274	Rita Maniotis	3024	4	4
510	289	Monte Letourneau	315 **	3	3
511	270	Rita Maniotis (illegible?)	3024	3	3
512	185	Thomas Rodman	3024	3	0
513	186	Thomas Rodman	3024	3	2
514	285	Katya Whiterabbit	315	2	2
515	286	Wendy Gillespie	315	2	0
516	225	Sam Michael	3024	2	2
517	187	Leland Pan	3024	2	0
518	188	Michael J. White	3024	2	1
519	293	Molly Katzeey	3024	2	0
520	284	Mike McCallister	3024	1	0
521	245	Rita Maniotis	3024	1	0
522	220	Thomas Rodman	315	1	0
523	295	Greg Banks	315	1	0
524	259	Rita Maniotis (illegible?)	3024	0	0
525	247	Rita Maniotis (illegible?)	3024	0	0
526	242	Barbara Eisenberg	315	0	0
527	260	Rita Maniotis	3024	0	0

528	200	Thomas Rodman	315	0	0
529	212	Thomas Rodman	315	0	0
530	211	Thomas Rodman	315	0	0
531	381	William Deans	315	5	0
532	382	William Deans	315	5	0
533	383	William Deans	315	5	2
534	384	William Deans	315	5	1
535	385	William Deans	315	5	1
536	386	William Deans	315	5	1
537	387	William Deans	315	5	0
538	388	William Deans	315	5	2
539	390	William Deans	315	5	2
540	391	William Deans	315	5	3
541	392	William Deans	315	5	2
542	393	William Deans	315	5	3
543	395	William Deans	315	5	3
544	396	William Deans	315	5	1
545	397	William Deans	315	5	1
546	398	William Deans	315	5	0
547	399	Gregory Barnum	315	5	0
548	403	Gregory Barnum	315	5	1
549	404	Gregory Barnum	315	5	2
550	405	Gregory Barnum	315	5	2
551	406	Gregory Barnum	315	5	0
552	408	Gregory Barnum	315	5	1
553	409	Gregory Barnum	315	5	0
554	410	Gregory Barnum	315	5	0
555	411	Gregory Barnum	315	5	2
556	413	Gregory Barnum	315	5	0
557	415	Gregory Barnum	315	5	1
558	416	Gregory Barnum	315	5	0
559	417	Gregory Barnum	315	5	1
560	418	Gregory Barnum	315	5	2
561	419	Gregory Barnum	315	5	0
562	420	Gregory Barnum	315	5	1
563	421	Gregory Barnum	315	5	0
564	422	Gregory Barnum	315	5	2
565	423	Gregory Barnum	315	5	0
566	424	Gregory Barnum	315	5	1
567	426	Gregory Barnum	315	5	1
568	427	Gregory Barnum	315	5	2
569	428	Gregory Barnum	315	5	0
570	429	Gregory Barnum	315	5	2
571	431	Gregory Barnum	315	5	1
572	432	Gregory Barnum	315	5	0
573	433	Gregory Barnum	315	5	1
574	435	William Youmo?	315	5	5
575	436	William Young	315	5	3
576	437	William Young	315	5	0
577	439	William Young	315	5	0
578	441	William Young	315	5	1
579	442	William Young	315	5	0
580	443	William Young	315	5	1
581	326	William Deans	315	5	1

582	327	William Deans	315	5	1
583	328	William Deans	315	5	1
584	330	William Deans	315	5	2
585	331	William Deans	315	5	1
586	332	William Deans	315	5	0
587	333	William Deans	315	5	0
588	334	William Deans	315	5	0
589	335	William Deans	315	5	3
590	336	William Deans	315	5	0
591	337	William Deans	315	5	1
592	338	William Deans	315	5	0
593	339	William Deans	315	5	1
594	340	William Deans	315	5	1
595	341	William Deans	315	5	1
596	342	William Deans	315	5	0
597	343	William Deans	315	5	0
598	344	William Deans	315	5	2
599	345	William Deans	315	5	0
600	347	William Deans	315	5	2
601	349	William Deans	315	5	0
602	350	William Deans	315	5	4
603	351	William Deans	315	5	0
604	352	William Deans	315	5	1
605	353	William Deans	315	5	3
606	354	William Deans	315	5	3
607	355	William Deans	315	5	1
608	357	William Deans	315	5	2
609	358	William Deans	315	5	1
610	359	William Deans	315	5	3
611	360	William Deans	315	5	0
612	361	William Deans	315	5	3
613	362	William Deans	315	5	2
614	363	William Deans	315	5	2
615	364	William Deans	315	5	1
616	365	William Deans	315	5	0
617	366	William Deans	315	5	2
618	367	William Deans	315	5	4
619	368	William Deans	315	5	1
620	369	William Deans	315	5	0
621	370	William Deans	315	5	1
622	371	William Deans	315	5	1
623	372	William Deans	315	5	0
624	373	William Deans	315	5	5
625	374	William Deans	315	5	2
626	375	William Deans	315	5	1
627	376	William Deans	315	5	0
628	377	William Deans	315	5	0
629	379	William Deans	315	5	0
630	380	William Deans	315	5	0
631	302	William Deans	315	5	1
632	303	William Deans	315	5	1
633	308	William Deans	315	5	1
634	309	William Deans	315	5	1
635	310	William Deans	315	5	1

636	311	William Deans	315	5	1
637	312	William Deans	315	5	1
638	313	William Deans	315	5	1
639	314	William Deans	315	5	0
640	315	William Deans	315	5	0
641	316	William Deans	315	5	0
642	317		315	5	0
643	318	William Deans	315	5	0
644	301	William Deans	315	5	1
645	321	William Deans	315	5	1
646	322	William Deans	315	5	2
647	325	William Deans	315	5	2
648	304	William Deans	315	4	1
649	306	William Deans	315	4	0
650	307	William Deans	315	4	0
651	319	William Deans	315	5	3
652	320	William Deans	315	5	2
653	323	William Deans	315	5	2
654	324	William Deans	315	5	1
655	329	William Deans	315	5	1
656	346	William Deans	315	5	1
657	348	William Deans	315	5	1
658	356	William Deans	315	5	2
659	378	William Deans	315	5	1
660	399	William Deans	315	4	0
661	400	Gregory Barnum	315	5	1
662	412	Gregory Barnum	315	5	1
663	414	Gregory Barnum	315	5	1
664	425	Gregory Barnum	315	5	1
665	430	Gregory Barnum	315	5	2
666	434	Gregory Barnum	315	5	1
667	440	William Young	315	5	1
668	447	Ralph Bennett	315	5	1
669	448	Ralph Bennett	315	5	3
670	305	William Deans	315	3	0
671	389	William Deans	315	5	2
672	401	Gregory Barnum	315	4	2
673	438	William Youg?	315	5	5
674	446	William Youg	315	5	5
675	449	Ralph Bennett	315	5	3
676	402	Gregory Barnum	315	2	0
677	407	Gregory Barnum	315	5	3
678	450	Ralph Bennett	315	5	5
679	445	Unknown	315	3	3
680	444	William Yoono	315	2	2

NOMINATION PAPER CHALLENGES

January 2018



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Introduction

Parties wishing to challenge nomination papers of state and federal candidates file such challenges with the Wisconsin Elections Commission (WEC). Parties wishing to appeal a decision of a local election official regarding nomination papers or challenges related to local candidates may also file a complaint with the WEC. In either case, parties are reminded that the Board may, if it finds, by a preponderance of the evidence, that a challenge or complaint is frivolous, order the complainant to forfeit up to the greater of \$500 or the expenses incurred by the WEC. in investigating the complaint.

The requirements and standards related to nomination papers and challenges to nomination papers are governed generally by Ch. 8, Wis. Stats, and EL Ch. 2, Wis. Admn. Code. Pursuant to Wis. Admn. Code EL §2.05(5), “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.” Furthermore, any information on a nomination paper is entitled to a presumption of validity. Wis. Admn. Code EL § 2.05(4). Both challenges and responses must be verified (notarized) and may include supporting documentation. The burden is on the challenger to establish, by clear and convincing evidence, any insufficiency of the nomination papers and if the challenger does so, the burden then shifts to the challenged candidate to establish that the nomination papers or any challenged signatures are sufficient. Wis. Admn. Code EL §§ 2.07(2) and (3).

Over the years, WEC staff and its governing body have analyzed numerous types of challenges and developed a consistent methodology for resolving the most common challenges that have been filed. This document should hopefully help candidates and political parties concentrate their efforts on challenges with a supportable legal basis, and reduce the filing of frivolous challenges or those involving legal issues which have been well settled.

While challenges are not limited to those described in the administrative rules, there are two general categories of challenges – challenges to the header of the nomination papers which may result in declaring all signatures contained on nomination papers using that header to be invalid, and challenges to individual signatures which do not affect the validity of other signatures on the nomination papers.

Please Note: This document summarizes previous decisions of the State Elections Board, the Government Accountability Board and the Wisconsin Elections Commission related to the most common challenges to nomination papers and other election petitions. It is intended to itemize and consolidate previous decisions which state and local filing officers may rely on as precedents regarding the general legal questions and principles involved. However, the facts of individual circumstances and challenges vary, and the application of these principles will be determined on a case by case basis.

Summary of Previous Board Decisions - Common Nomination Paper Challenges

1. Candidate Information (Header Portion of Paper)

None of the information in the header of the nomination paper, (i.e., candidate's name, candidate's address, political party represented, date of election, office sought, name of jurisdiction or district in which candidate seeks office), may be altered, amended, corrected or added after circulation of the nomination paper. This is the nomination information that each signatory saw and relied upon in deciding to sign the paper in support of placing the candidate's name on the ballot.

a. Office Title and District Designation

Challenge: Irregularities in the title of the office or the district number as required by Wis. Stat. §§ 8.10(2)(b), 8.15(a).

Analysis: Staff has typically allowed for variances in listing the office title, such as "Assembly," "Representative," "State Assembly." In the past, staff determined that the papers were sufficient as long as the electors could determine the office and district the candidate was pursuing by other information provided in the nomination paper heading. Additionally, where the title or district designations are illegible or in the incorrect boxes, staff has found these pages to substantially comply when the required information could be determined elsewhere in the nomination paper heading. This recommendation has been approved in prior cases.

b. Election Date

Challenge: Incomplete or missing date of election as required by Wis. Stat. §§ 8.10(2)(b), 8.15(5)(a).

Analysis: When a date of election is completely missing from a petition, staff has recommended approving the challenge and striking the signatures on those pages. When a date is listed but incomplete or incorrect (e.g., using the date of the primary, not indicating the year, indicating the month and year but not the day, indicating an incorrect date, or incorrectly indicating "general" as the type of election on the petition heading), past policy for this Board and the former Elections Board found substantial compliance with Wis. Stat. §§ 8.10 or 8.15 where there was sufficient notice to the signers that the candidate was seeking office at the election immediately following circulation of the nomination papers. Consequently, staff has typically allowed for irregularities in the listed election date where it can be determined that electors understood the nomination papers were for the fall election event. This recommendation has been approved in prior cases.

c. Candidate Address

Challenge: The candidate has not specified a municipality for voting purposes.

Analysis: Challenges to petitions where the candidate has not specified a municipality for voting purposes have been rejected in the past. Wis. Stat. §§ 8.10(2)(c) and 8.15(5)(b) provide that “[e]ach candidate shall include his or her mailing address on the candidate’s nomination papers,” but is silent with regards to inclusion of municipality for voting purposes. The established policy of the Commission in reviewing nomination papers has been to find substantial compliance with Wis. Stat. §§ 8.10 and 8.15 by presuming the validity of the information listed unless evidence to the contrary is presented. Absent such evidence, the municipality listed for voting purposes is presumed to be the same as the municipality listed for mailing purposes.

Challenge: The space in the header for candidate street number, fire number, rural route number, box number if a rural route and street name is blank.

Analysis: When the candidate’s basic address information (number and name of street) is blank in the header, staff has recommended approving the challenge and striking the signatures on those pages. Wis. Stat. §§ 8.10(2)(b) and (c), 8.15(5)(a) and (b) clearly indicate that a candidate’s address must appear on the nomination paper to provide signers the opportunity to evaluate the candidate prior to supporting their nomination. Similar to a blank date of election in the header, the Commission has found that papers must contain a minimum amount of information about the candidate and the election for which they are asking to be nominated, for the paper to substantially comply with the law. This recommendation has been approved in prior cases.

d. Candidate Certification

Challenge: The candidate has not completed the gender identification checkbox in the candidate certification statement.

Analysis: Staff has considered such an omission to be an oversight of a technical requirement and have considered papers that are otherwise correct to be in substantial compliance with statutory requirements. This recommendation has been approved in prior cases.

e. Candidate Dates of Circulation

Challenge: The candidate circulated nomination papers prior to the date he or she filed a campaign registration statement or declaration of candidacy.

Analysis: Staff has recommended dismissing these challenges. Wis. Stat. §§ 8.10(5), 8.15(4)(b) provide that if a candidate has not filed a campaign registration statement prior to the time of filing nomination papers, “the candidate shall file the statement with the papers.” Wis. Stat. § 8.21(1) provides that each candidate shall file a declaration of candidacy “no later than the latest time provided for filing nomination papers.” This recommendation has been approved in prior cases.

2. Circulator Information

a. Circulator Address

Challenge: The circulator's address, required by Wis. Stat. §§ 8.10(3)(a) or 8.15(4)(a), is insufficient because the circulator has not indicated type of municipality of residence (e.g., "Town of" or "City of").

Analysis: Staff has recommended dismissing these challenges. Wis. Stat. §8.15(4)(a) (Wis. Stat. § 8.10(3) incorporates the standard in § 8.15(4)(a)) states in the relevant portion that "the certification of a qualified circulator stating his or her residence with street and number, if any, shall appear at the bottom of each nomination paper, stating he or she personally circulated the nomination paper and personally obtained each of the signatures." There is no separate requirement that the circulator indicate the type of municipality of residence. This recommendation has been approved in prior cases.

Challenge: The circulator's address, required by Wis. Stat. §§ 8.10(3), 8.15(4)(a), is insufficient because the circulator has not indicated the municipality of residence.

Analysis: Staff has recommended finding substantial compliance for papers missing the municipality in the circulator's address where the circulator is the candidate and where the missing information is supplied by reference to other information on the same page (e.g., the candidate's address in the nomination paper heading). Staff has typically struck signatures on pages in which the circulator was someone other than the candidate, and the certification of circulator did not include the circulator's municipality. Staff has determined that the circulator's 'residence' should include the name of their municipality for it to substantially comply with the statutory requirement. This recommendation has been approved in prior cases.

b. Circulator Date and Signature

Challenge: The date of certification is incomplete or incorrect, as required by Wis. Stat. §§ 8.10(3), 8.15(4)(a).

Analysis: The circulator may correct errors in the certificate of the circulator, such as the circulator failed to sign or otherwise complete the certificate, or entered inadvertently erroneous data (for instance: the circulator dated the certificate before circulation, not after). If the circulator has not corrected these errors by affidavit by the correction deadline, the challenge must be approved and the signatures on those pages struck. Recommendations to this effect have been approved in prior cases.

3. Elector Signatures

Only one signature per person for the same office is valid. In addition to his or her signature, in order for the signature to be valid, each signer of a nomination paper shall legibly print his or her name in a space provided next to his or her signature and shall list his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing. Wis. Stat. §§ 8.10(4)(b), 8.15(2).

a. Multiple Signatures

Challenge: The elector has signed nomination papers for more than one candidate for the same office.

Analysis: Where the elector has signed another candidate's papers prior to the signature on the challenged papers, the later signatures should be struck. This recommendation has been approved in prior cases.

b. Signature

Challenge: The elector has "signed" with a printed name.

Analysis: Staff has allowed signatures where the name has been printed. Wis. Admn. Code EL § 2.05(8) requires that the elector "sign his or her own name;" the rule does not require that the signature be made in cursive. The dictionary definition of "signature" simply states that it is "the name of a person written with his own hand." Staff recommendations that signatures be permitted where both the "printed name" and "signature" have been printed have been approved in prior cases.

Challenge: The elector's signature is illegible.

Analysis: Staff has recommended denying challenges that alleged that signatures are illegible. Wis. Stat. §§ 8.10(4)(b), 8.15(2) require each signer of a nomination paper to provide a signature and address. There is no requirement that a signature must be legible, and individual signers mark their signatures in a wide variety of ways (e.g., by marking an "X"). This recommendation has been approved in prior cases.

c. Printed Name

Challenge: The elector's printed name is illegible or in cursive.

Analysis: Challenges to printed names were first considered and decided by the former Government Accountability Board in 2014. The statutory requirement is that "... in order for the signature to be valid, each signer of a nomination paper shall legibly print his or her name in a space provided next to his or her signature" Wis. Stat. §§ 8.10(4)(b) and 8.15(2).

There are some practical difficulties in determining an objective standard for a legibly printed name. For example, some signatures are clearly legible but the "printed name" may have been written in cursive, or included some letters that were not separated, as a dictionary definition of "printed" might require.

Based upon the WEC's experience in evaluating printed names on nomination papers, as well as the stated legislative intent of 2013 Act 160 and related administrative rules, the WEC has developed standards and guidance for local election officials charged with reviewing nomination papers and other election petitions. The legislative record

emphasized that the purpose of Act 160 was to preserve the ability of opposing candidates to identify petition signers in order to consider filing challenges, and not to reject signatures that were legible. At its meeting of October 28, 2014, the Government Accountability Board directed its staff and local filing officers to apply the following standards to determine the sufficiency of signatures and printed names on nomination papers and other election petitions:

1. The filing officer shall confirm that the signer has completed information in both the “Signature” box and the “Printed Name” box of the nomination paper or other election petition. The signature may be marked as the signer customarily marks his or her signature, including by using an “X” or by using either traditional printed letters or a handwritten signature. Similarly, the signer’s printed name is not required to include only letters that are separated from one another.
2. If the filing officer can discern no part of the signer’s name, after reviewing both the signature and the printed name, it should be deemed illegible and the signature should not be counted.
3. After reviewing both the signature and printed name of a signer, if the filing officer can discern a possible name, but may not be certain of the exact spelling of the name, the printed name is deemed legible and the signature shall be counted if otherwise valid.
4. The filing officer is not required to consult extrinsic sources of information (voter registration records, telephone directories, etc.), but may do so if it assists the filing officer in discerning a possible name.
5. The signer must print his or her name, and the signer must execute a correcting affidavit if the printed name is missing or insufficient for the signature to be counted. However, a circulator may print the name of a signer with a disability who requests such assistance.

While requiring some subjective judgment by filing officers, these standards accurately capture the intent of 2013 Act 160 and do not require a hyper-technical application of the phrase “legibly print.” In reviewing nomination papers and other election petitions, WEC staff and local filing officers will be able to apply a common-sense approach which does not eliminate legible names simply because letters in a printed name are connected or cross over one another. In essence, the printed name requirement is used to clarify or complete a signature which may not be legible or readable, not to invalidate signatures on the basis of a name failing to meet a literal definition of “printed.”

d. Signature Address

Wis. Stat. §§ 8.10(4)(b), 8.15(2) require that a signer of a nomination paper “shall list his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides.” Errors in which the elector used an address or listed a municipality which does not reflect

his or her actual residence or wrote an incomplete address may be corrected by the elector or by the circulator in a correcting affidavit filed by the correction deadline.

Challenge: The elector's address is missing an apartment number.

Analysis: Staff has recommended that signatures be found in substantial compliance where the insufficiency is a missing apartment number. This recommendation has been approved in prior cases.

Challenge: The elector's address is missing the municipality designation or the elector has checked a box in error.

Analysis: The Commission and its staff have advised candidates and challengers that a signatory's failure to check the correct box to indicate "Town, Village or City" is not a basis for disqualifying a signature unless a challenger can show that the given address is outside the subject jurisdiction or district. For instance, the challenger needs to show that a given address has to be in the Village of X, not in the Town of X and, therefore is outside District Y. The signatory's error or omission in checking a box on a form is not sufficient evidence for a challenge.

Challenge: The elector's address is incomplete because the elector has abbreviated the name of the municipality.

Analysis: Challenges to signatures alleged not to include the proper municipality of residence, where the municipality can be determined by other information contained on the nomination papers, pursuant to Wis. Admn. Code EL § 2.05(15)(c) have been rejected in the past. For instance, the municipality of "WFB" was determined by the mailing address to indicate "Whitefish Bay," or "Gtown" was determined by the zip code to indicate "Germantown."

Challenge: The elector has used a P.O. Box as his or her address.

Analysis: Commission policy has been to accept signatures with a P.O. Box rather than a residential address if the entire municipality in which the P.O. Box is located is within the candidate's District.

Challenge: The elector lives outside the district.

Analysis: A complaint challenging the eligibility of a signatory to a nomination paper based on the signer's non-residency must be accompanied by reference to MyVote Wisconsin or "Who is My Legislator?" web searches, by a map of the district demonstrating that the address is outside the district, or by a signed statement from the election official, (municipal clerk or deputy clerk), whose responsibility it is to determine the residency of electors of the district. Without such references, the complainant challenger's bare assertion of the signer's non-residency is not sufficient to sustain the challenger's burden of proof. Time permitting, Commission staff may attempt to verify the location of the address via MyVote Wisconsin and WisVote. This policy has been approved in prior cases.

e. Signature Date

Challenge: The date of the elector's signature, as required by Wis. Stat. §§ 8.10(4)(a), 8.15(2), is incomplete or missing.

Analysis: 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." In the past, the Board policy has required that signatures on the first and last line of a nomination paper contain the complete date information, and not allowed missing date information on those lines to be determined by reference to the dates of other signatures on the page. However, in the context of a court case challenging the Board's application of Wis. Admn. Code EL § 2.05(15)(a), the WI Department of Justice (DOJ) has advised that the Board's interpretation of that rule was too restrictive in that it required incomplete dates to be "bracketed" by complete dates. The DOJ recommended that the Board equally apply the principle of determining missing date information by reference to other information on the page, even if the incomplete date appeared on the first or last signature line. This recommendation has been approved in prior cases.

Challenge: The elector's signature is dated after the date of the circulator's certification.

Analysis: Staff has struck these signatures pursuant to the Commission's administrative rules that provide that a signature may not be counted if it is dated after the date of the certificate of the circulator. Wis. Admn. Code EL § 2.05(15)(b).

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Elections Commission

Special Teleconference-Only Meeting
Thursday, August 20, 2020
3:00 P.M.

Due to the COVID-19 pandemic, this meeting is being held via video teleconference only. Members of the public and media may attend online or by telephone. Please visit <https://elections.wi.gov/node/7024> for login/call-in information. All public participants' phones/microphones will be muted during the meeting. Members of the public wishing to communicate to the Commissioners should email electioncomments@wi.gov with "Message to Commissioners" in the subject line.

AGENDA

- A. Call to Order**
- B. Administrator's Report of Appropriate Meeting Notice**
- C. Consideration of Challenges and Approval/Denial of Ballot Access for Independent Candidates for President** 1 and 34
- D. Consideration and Approval/Denial of County HAVA Security Subgrants** 38
- E. Closed Session**
 - 1. Election Complaints**
 - 2. Litigation Update**

§19.851 - The Commission's discussions concerning violations of election law shall be in closed session.

§19.85(1)(g) – The Commission may confer with legal counsel concerning litigation strategy.

- F. Adjourn**



Wisconsin Elections Commission

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MEMORANDUM

DATE: For the August 20, 2020 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe
Administrator

Prepared by:
Nathan W. Judnic, Staff Attorney

SUBJECT: **Ballot Access Challenges – Independent Candidates for President/Vice-President**

This Memorandum summarizes Commission staff's review of challenges that have been filed to nomination papers of independent candidates for President/Vice-President for the 2020 General Election. Three challenges were filed against two sets of candidates.

The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence. Wis. Admin. Code EL § 2.07(4). Below, staff has summarized the challenges and responses, and provided analyses and recommendations for the Commission's consideration.

1. Joseph R. Santeler Complaint against Kanye West
Case No. EL 20-30

Signatures required for office: 2000
Signatures challenged: All Signatures

This complaint alleges that all nomination papers filed by Candidate West failed to state his residence, Candidate West failed to file his nomination papers timely with the Commission, and the circulators of 24 pages of Candidate West's nomination papers failed to state their full residence address.

The Challenger's Complaint and Candidate's Response, can all be found at:
<https://elections.wi.gov/node/7024>

Correcting Affidavits:

The deadline for candidates to file affidavits to correct errors on their nomination papers that were committed by either the circulator or the signer was August 7, 2020. Wis. Admin. Code EL § 2.05(4).

Wisconsin Elections Commissioners

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Candidate West did not submit any correcting affidavits.

Supplemental Signatures:

Candidate West did not file any supplemental signatures by the August 4, 2020 deadline.

Challenge to all nomination papers: Nomination papers fail to state Respondent's residence

The complainant alleges that Candidate West did not list his "residence and post-office address" as required by statute when he listed 3202 Big Horn Ave., Cody, WY 82414 in the header of all nomination papers filed with the Commission. The complainant alleges that a 'stricter' requirement in the statute for address information of presidential candidates exists and is mandatory.

The complainant alleges that 3202 Big Horn Ave in Cody, WY is zoned as a commercial property. To support this allegation, the complainant provides a "true and correct copy" of data obtained from the Park County Wyoming MapServer service (August 7, 2020), which is described as a local governmental service that provides tax, zoning and assessment data on Park County real estate. The information provided "indicates that 3202 Big Horn Ave., Cody, WY is classified as a 'Commercial' property." Additionally, the complainant provides a media article published in the Cody Enterprise which provides various descriptions of the 3202 Big Horn Ave. property that was purchased by Candidate West that leads the complainant to believe that Candidate West does not reside at 3202 Big Horn Ave. and therefore the address listed on the nomination papers is not his "residence and post office address" as required by statute.

The complainant requests that the Commission determine that the nomination papers be declared insufficient, declared not in conformance with the statute, be stricken, or any other relief the Commission deems warranted.

Candidate Response:

Respondent states that the complainant mistakenly argues that Wis. Stat. § 8.20(2)(c) requires two different addresses to be listed, one for residence and another for the post-office address and that a clear reading of the statute and supporting caselaw shows that this information is typically achieved by a single address. To support this assertion, the response states that 3202 Big Horn Ave., Cody, WY 82414 is the address where the campaign, Kanye 2020 is incorporated, the Articles of Incorporation were attached to the response, which contain this address. The response asserts that this address "is where Mr. West receives mail" and therefore this is his post-office address as required by Wis. Stat. § 8.20(2)(c).

Respondent states that 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. Respondent argues that 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. The response uses examples to demonstrate this: Mr. West is a Wyoming resident, or, Mr. West is a resident of Cody, Wyoming. Candidate West cites several Wisconsin Supreme Court cases that discuss "residence" in the general sense of the word. Candidate West also cites to the Commission's sample nomination paper form that provides a single line for the

candidates to provide an address. Respondent also states that it is important to note that the term “address” as used in Wis. Stat. § 8.20(2)(c) is singular, not plural which would imply two addresses. Respondent cites the Commission’s “Common Nomination Paper Challenges” manual to support the argument that when a municipality is listed for a candidate for mailing purposes, it is presumed that the municipality is the same for other required purposes.

Finally, Respondent argues that in the event the Commission determines that two addresses are required, the information provided substantially complies with the law under Wis. Admin. Code EL § 2.05(5).

Commission Staff Analysis and Recommendations

The statutory requirements for nomination papers filed by independent candidates are contained in Wis. Stat. § 8.20. Wis. Stat. 8.20(2)(a) states that each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of (insert candidate's last name plus first name, nickname or initial, and middle name, former legal surname, nickname or middle initial or initials if desired, but no other abbreviations or titles), residing at (insert candidate's street address) be placed on the ballot at the (general or special) election to be held on (date of election) as a candidate [(representing the (name of party)) or (representing the principle(s) of (statement of principles))] so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in the (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

“Each candidate shall include his or her mailing address on the candidate’s nomination papers.” Wis. Stat. § 8.20(2)(b). “In the case of candidates for the offices of president and vice president, the nomination papers shall contain both candidates’ names; the office for which each is nominated; the residence and post-office address of each; and the party or principle they represent, if any, in 5 words or less.” Wis. Stat. § 8.20(2)(c).

“The burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency.” Wis. Admin. Code EL § 2.07(3)(a). The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.” Wis. Admin. Code EL § 2.07(4).

Commission staff recommends the Commission reject this challenge because the complainant has not established by clear and convincing evidence that 3202 Big Horn Ave., Cody, WY 82414 is not Candidate West’s “residence and post-office address” as required by the statute. At best, the complainant has provided some evidence that the address listed is on property that is zoned commercial and has provided a news article that describes aspects of the property. The Commission staff does not believe that establishes that the information provided on the nomination paper is not Candidate West’s “residence and post-office address.”

Challenge to all nomination papers: Respondent failed to meet statutory deadline

The complaint alleges that Candidate West failed to meet the statutory deadline for filing nomination papers with the Commission to obtain ballot access as an independent candidate for President. The complaint cites Wis. Stat. § 8.20(8)(am) and Wis. Admin. Code § EL 2.05(2) as the applicable statutory and administrative code provisions that provide the deadline and procedure for filing the nomination papers.

Wis. Stat. § 8.20(8)(am) provides that “[n]omination papers for independent candidates for president and vice president ... may be filed not later than 5 p.m. on the first Tuesday in August preceding a presidential election.” Wis. Admin. Code § 2.05(2) states: “In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline.” The complaint states that the language from these sections are mandatory, in that the nomination papers “may not” be filed later than 5 p.m. on the first Tuesday in August, and that the nomination papers “shall” be filed by the statutory deadline.

The complainant states that it “has been widely publicized that Respondent’s attorney delivered Nomination Papers to the Commission shortly after 5:00 p.m. on August 4, 2020.” The complainant attaches an August 7, 2020 article from Wisconsin Public Radio which states that a representative of Candidate West “delivered the petitions shortly after 5:00.”

The complainant states that he is mindful that the COVID-19 pandemic has created temporal and logistical obstacles to virtually every facet of public and private life, but states that such changes have existed for months and states that Candidate West and his counsel have had adequate time to adjust their behavior and find a way to comply with Wisconsin’s election laws, especially in a matter as significant as a presidential race.

The complainant cites to *State ex rel. Stearns v. Zimmerman*, a 1950 Wisconsin Supreme Court case to support the argument that nomination papers must be tendered to the filing officer not later than 5 p.m. or else the tender comes too late. In this case, the candidate was not allowed on the ballot because he attempted to file his papers at 5:02 p.m. on the deadline day.

The complainant requests that the Commission determine that the nomination papers be declared late filed, declared not filed in conformance with the statute, be stricken, or any other relief the Commission deems warranted.

Candidate Response:

[Candidate West filed a joint response to Mr. Santeler’s complaint and the complaint of Brent, et al. v. West and Tidball (EL 20-31) on this issue. A summary of Mr. West’s response to allegations that the nomination papers were not filed timely is contained in the “Candidate Response” section of the Brent, et al., v. West and Tidball matter contained in this memorandum. To the extent it is applicable to the challenge filed by Mr. Santeler, that summary is incorporated herein.]

Specifically, in response to Mr. Santeler’s complaint, the respondent argues that the evidence presented regarding the proposition that the nomination paperwork was filed late is hearsay and therefore insufficient.

Commission Staff Analysis and Recommendations

Wis. Stat. § 8.20(8)(am) provides that “[n]omination papers for independent candidates for president and vice president ... may be filed not later than 5 p.m. on the first Tuesday in August preceding a presidential election.” Wis. Admin. Code § 2.05(2) states: “In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline.” “Nomination papers ... shall not be considered filed with the filing officer until the signed original of each nomination paper ... [is] received in the offices of the filing officer.” Wis. Admin. Code § EL 6.04(2).

For a challenge to be successful, Mr. Santeler must establish that Mr. West did not timely file his nomination papers with the Commission by the statutory deadline. Mr. Santeler provided a news article that reported Mr. West’s representative “delivered the petitions shortly after 5:00.” A news article, stating that a candidate’s papers were not timely filed, simply does not meet the burden of proof here to sustain the challenge filed by Mr. Santeler on this issue.

As such, Commission staff recommends the Commission reject this challenge because the complainant has not established with the evidence provided, by clear and convincing evidence, that Mr. West did not timely file his nomination papers with the Commission.

Challenge to individual nomination papers due to a failure of circulators to state full residence address

The complaint alleges that 24 of Mr. West’s nomination papers contain a certification of circulator that does not state a residential address that complies with Wis. Stat. s. 8.40, and therefore the signatures contained on those pages should be stricken. The complaint alleges that Pages 1, 2, 5, 6, 7, 8, 19, 20, 23, 24, 25, 26, 27, 28, 33, 34, 161, 162, 220, 225, 233, 236, 292, and 334 contain this defect. The complaint also makes the general allegation that to “the extent any other pages not listed herein fail to state an address that does not comply with the statute, those pages and all signatures contained thereon should be stricken.

The complainant requests that the nomination papers identified above be stricken and any other relief the Commission deems warranted.

Candidate Response:

Candidate West responded directly to the address challenges set forth by Mr. Santeler’s complaint (starting on Page 15 of the joint response). Respondent asserts that Mr. Santeler does not meet his burden of clear and convincing evidence that the circulator information was incomplete. Respondent asserts that Mr. Santeler fails to properly raise the issue, “let alone prove the noncompliance by clear and convincing evidence.”

Alternatively, Respondent states that Mr. Santeler references the wrong statutory section and that even if the proper statutory section was referenced and applied, the statute only requires their residence to include “street and number.” Additionally, Candidate West asserts that the nomination papers should be accepted as complete “if there has been substantial compliance with the law.” Wis. Admin. Code EL § 2.05(5). Candidate West argues that since the street and number are listed for each of the challenged papers, the Commission should find substantial compliance.

Finally, Respondent argues that information on additional pages circulated by the same circulators should be able to be consulted as it is readily ascertainable. He also argues that some of the challenged papers contain a zip code, which he states should be more than sufficient to indicate the residence of the circulator.

Commission Staff Analysis and Recommendations

“The certification of a qualified circulator stating his or her residence with street and number, if any, shall appear at the bottom of each nomination paper ...” Wis. Stat. § 8.15(4)(a). Mr. Santeler incorrectly identified Wis. Stat. § 8.40 as the statute which sets forth the circulator certification requirements (§ 8.40 is titled “Petition requirement”) for a nomination paper. Practically speaking, in the Commission staff’s opinion, despite the large number of pages “challenged” by Mr. Santeler, only seven signatures on Page 233 are in question, as all other signatures contained on the other pages were previously struck for failure of the circulator to include the name of their municipality in the certification.

Respondent asserts that the complaint does not properly raise the issue and fails to meet the burden of proof required to sustain the challenges to the referenced pages. Commission staff agrees with this assessment, as Mr. Santeler makes no attempt to assert what information is missing from the certification. The fact that he does not provide the proper statutory citation to support his assertion also supports the recommendation that he has not met his burden of proof.

Commission staff recommends rejecting the challenges to the signatures contained on Pages 1, 2, 5, 6, 7, 8, 19, 20, 23, 24, 25, 26, 27, 28, 33, 34, 161, 162, 220, 223, 225, 236, 292, and 334, because Mr. Santeler did not properly raise the issue and failed to indicate the reason why such papers should be struck – however no changes to the original signature total are required because signatures on all pages, with the exception of Page 233, were previously struck because the circulator failed to include their residence with their street and number. Respondent incorrectly reads the statute to only require a street and number. Commission staff have previously determined that the circulator’s “residence” should include the name of their municipality for it to substantially comply with the statutory requirement, and the Commission has approved this recommendation in previous cases. See Nomination Paper Challenge Manual (dated January 2018), accessed here: <https://elections.wi.gov/publications/manuals/common-nomination-paper-challenges> Additionally, information about a circulator on one nomination paper cannot be transferred or referenced or used to rehabilitate other pages for which that same circulator was used.

Recommended Motions:

- 1) The Commission rejects the challenge to Mr. West’s nomination papers because the complainant has not established by clear and convincing evidence that 3202 Big Horn Ave., Cody, WY 82414 is not Candidate West’s “residence and post-office address” as required by the statute.**
- 2) The Commission rejects the timeliness of filing challenge because the Complainant has not established by clear and convincing evidence, that Mr. West failed to timely file his nomination papers with the Commission by the statutory deadline.**

- 3) **The Commission rejects the challenges to the signatures contained on Pages 1, 2, 5, 6, 7, 8, 19, 20, 23, 24, 25, 26, 27, 28, 33, 34, 161, 162, 220, 223, 225, 236, 292, and 334, because the Complainant did not indicate the reason why such papers and signatures were insufficient.**
- 4) **The Commission directs staff to draft Findings and an Order consistent with these motions.**

2. **William Brent, III, Richard C. Hughes, Keith Smith, Lauren Steven Complaint against Kanye West and Michelle Tidball**
Case No. EL 20-31

Signatures required for office: 2,000
Signatures challenged: All Signatures

This complaint alleges that Candidate West and Candidate Tidball (collectively referred to as the “Candidates”) failed to timely file nomination papers and declarations of candidacy with the Commission; multiple circulators misrepresented the nature, meaning, and purpose of the nomination papers when presented to signers; multiple circulators did not provide their correct residential address as part of the certification signed on those papers; signers of the nomination papers provided an address different than the address at which they are registered to vote; 187 signatures are not accompanied by a printed name, 65 signatures are not accompanied by the signer’s municipality and 47 signatures are not accompanied by a full date; several signatures are “patently invalid” which include signatures of individuals that signed the nomination papers more than once and individuals that used fake names.

The Challenger’s Complaint, Candidate’s Response can all be found at:
<https://elections.wi.gov/node/7024>

Correcting Affidavits:

The deadline for candidates to file affidavits to correct errors contained on their nomination papers that were committed by either the circulator or the signer was August 7, 2020. Wis. Admin. Code EL § 2.05(4).

The Candidates did not submit any correcting affidavits.

Supplemental Signatures:

The Candidates did not file any supplemental signatures by the August 4, 2020 deadline.

Challenge to all nomination papers: Candidates failed to timely file nomination papers and declarations of candidacy with the Commission

The complaint states that the Commission cannot place a candidate’s name on the ballot if the candidate fails to timely file a declaration of candidacy and/or fails to file the required number of valid elector signatures nominating that candidate for the office he or she seeks. Wis. Stat. § 8.30(1), 4; Wis. Admin. Code § EL 2.05(6). The complaint cites the statutory deadline for

independent candidates for president which is “not later than 5:00 p.m. on the first Tuesday in August preceding the presidential election and that declarations of candidacy must be filed no later than the latest time provided for filing nomination papers. Wis. Stat. §§ 8.20(8)(am), 8.21(1). The complaint sets forth the Commission’s Administrative Code provisions that address timely filing of nomination papers, which provides that, “[i]n order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline.” Wis. Admin. Code § EL 2.05(2). “Nomination papers ... shall not be considered filed with the filing officer until the signed original of each nomination paper ... [is] received in the offices of the filing officer.” Wis. Admin. Code § EL 6.04(2).

The complaint cites to three Wisconsin Supreme Court cases for which the complainant asserts are still good law and “require that these filing deadlines be strictly observed.” The complaint cites to:

State ex rel. Conlin v. Zimmerman, 245 Wis. 475, 478, 15 N.W.2d 32 (1944) involved a prospective gubernatorial candidate who tendered his nomination papers for filing two hours after the filing deadline and the Wisconsin Supreme Court denied him a place on the ballot. Because the candidate “failed to tender his nomination papers for filing before 5 P.M. on” the deadline date, “his tender came too late and the Secretary of State correctly refused to accept them.”

State ex rel. Stearns v. Zimmerman, 257 Wis. 443, 444-46, 43 N.W.2d 681 (1950) involved a prospective candidate for the United States Senate. The candidate entered the filing office after 5:01 and presented his nomination papers to the secretary before 5:02. The Wisconsin Supreme Court held that the candidate failed to meet the statutory deadline and was, therefore, properly denied a place on the ballot. The Court noted that “the time limit set by the legislature for the filing of nomination papers must be strictly observed” and that “if a candidate or his representative fails, as here, to reach the office until later than the time specified the tender comes too late.” The Court held that in this situation, the “nomination papers were corrected ejected as not being filed within the time designated by the statute.”

Ahlgrimm v. State Elections Board, 82 Wis. 2d 585, 592, 263 N.W.2d 152 (1978) (per curiam) involved a judicial candidate that initially filed his nomination papers in the wrong place, submitting them to the county clerk rather than the State Elections Board. This error was not discovered until 17 days after the filing deadline had passed. The Wisconsin Supreme Court held that, where “nomination papers are not timely filed, the proposed candidate is not entitled to have his name on the ballot.” The candidate argued that he had substantially complied with the requirement and should be on the ballot, but the Court disagreed, finding the statutes governing the time and place of filing nomination papers “to be mandatory,” such that “[f]ailure to timely file the papers in the proper place prevents the candidate’s name from being placed on the ballot.” The Court noted that the statutory scheme “does not...permit the [Elections] Board to ignore untimely or improper filing of [nomination] papers.” The Court held that “regulations governing the time and place of filing nomination papers must be strictly enforced,” and, where a candidate fails to meet those regulations, “his name cannot appear on the ballot” no matter how “unfortunate and regrettable [] this result might be.”

Based on these cases, the complaint states that any candidate who misses the statutory filing deadline-by minutes, hours, or days-must be excluded from the ballot.

To support the allegation that the Candidates' nomination papers and declarations of candidacy were not timely filed, complainants included a sworn affidavit from Devin Remiker which included an exhibit. The exhibit is an iPhone video that Mr. Remiker states he recorded on August 4, 2020 just outside the front door of the building that houses the Commission. Mr. Remiker indicated that due to the closeness of the approaching 5:00 p.m. deadline, he felt it important to record what he was witnessing.

Mr. Remiker's affidavit states that while he waited outside of the WEC building, at approximately 4:55 p.m., a car approached and parked on the street in the front of the building, where a woman got out of the car and approached the building, where she approached the door and then returned to her vehicle. The affidavit states that the woman remained in her car until after 5:00 p.m., and states that he knows this to be true as he brought his Apple Watch into the frame of the video to show that she was still in the car at 5:00 p.m. The affidavit notes that this occurred at the 3:00 minute mark, and at the 3:03 mark on the video, a TV station cameraman (WISN) says "it is 5 o'clock." The affidavit states that at least several seconds after 5:00 p.m., the woman exited the car and walked into the building. A second woman exited the driver's side of the car carrying papers in a folder and entered the building after the first woman. The affidavit states that after the women entered the building, he stopped recording, but stated that the women appearing to go into an elevator as they had crossed the lobby and gone down a short hallway to the elevators. Mr. Remiker believed the two women he observed and recorded were the individuals that submitted the nomination papers in question.

Candidate Response:

In addition to the arguments set forth below, the Candidates provided: 1) an affidavit from Ms. Lane Ruhland who indicates that she was one of the individuals who delivered the Candidates' nomination papers to the Commission on August 4, 2020, and 2) a copy of the nomination paper receipt provided by the Commission staff.

Respondents' nomination paperwork was timely filed.

The Nomination Paperwork was filed "not later" than 5 p.m. The response cites the applicable statute, Wis. Stat. § 8.20(8)(am), which states that the nomination papers in question may be filed not later than 5 p.m. on the first Tuesday in August preceding the presidential election. Citing Ms. Ruhland's affidavit, the response states that the "Commission alleged that the nomination paperwork was filed at 5:00:14 p.m." The response then asserts that "[e]ven if this is true, the nomination papers were filed "not later" than 5 p.m."

The response states that the statutory provision does not distinguish between minutes and seconds, and that "[f]or the average observer, arriving before 5:01 p.m. is arriving "not later" than 5 p.m." The response states that 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. Finally, the respondent argues that the Legislature could have made a law that stated the nomination paperwork should be filed not later than 5:00:00, or similarly, the Legislature could have stated that the paperwork must be filed "by" 5 p.m. The respondent argues that 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 p.m., it is filed at 5 p.m.

The Complainants' evidence is insufficient to overcome their burden of proof. The response asserts that there is no official timekeeping mechanism for the filing of nomination papers with the Commission and there is no official paperwork or timestamp demonstrating that the nomination paperwork was filed late. Again citing Ms. Ruhland's affidavit, the response states that the Commission staff indicated that "it was 14 seconds after 5 p.m." but there was nothing provided by the Commission staff to verify that information and that given that seconds were "obviously critical in this situation," it is vital to know and evaluate the precise timepiece used by Commission staff in accepting the filing.

The nomination paperwork was present in the Commission's office before 5 p.m., which is sufficient under Wisconsin law. Respondent states that 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, citing *State ex rel. Stearns v. Zimmerman*. The response quotes directly from that case: "If the candidate or someone in his behalf [is] **present in the office** where the 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." (emphasis added).

The response asserts, citing Ms. Ruhland's affidavit, that the individuals who delivered the nomination paperwork to the office, reached the office before 5 p.m. Ms. Ruhland's affidavit states that "[w]hen I left the car with the paperwork, it was 4:59. I believe I was in the Commission's offices before 5 p.m." ¶ 7. The response further asserts that "[i]f 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." Additionally, citing Ms. Ruhland's affidavit, the delivery of the nomination paperwork was obstructed by multiple individuals while in the office, which resulted in a delay by obstructing the person carrying the remainder of the nomination papers to the elevator. ¶¶ 12-13.

The Commission ratified the filing as timely once it was accepted for filing. The response states, "[e]ven assuming arguendo, that the nomination paperwork was actually filed at 5:00:14 – 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." The response cites several sections of the Commission's Administrative Code related to nomination paper filing: Wis. Admin. Code EL § 2.05(3) which states that the filing officer shall review all nomination papers filed with it ... to determine the facial sufficiency of the papers filed and Wis. Admin Code EL § 2.05(4) which states that papers filed with the Commission are given the presumption of validity. The response cites to three cases¹ in which he states "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)."

Timely delivery was prevented by Commission procedure and other outside actors.

¹ *State ex rel. Conlin v. Zimmerman*, 245 Wis. 475, 476 (1944), *State ex rel. Stearns v. Zimmerman*, 257 Wis. 443, 443-44 (1950), *Ahlgrimm v. State Elections Board*, 82 Wis. 2d 585, 587 (1978).

The response states that while the general rule is that time limits set by the legislature “are strictly observed,” citing the *Stearns* case and *Manning v. Young*, 210 Wis. 588 (1933), the Wisconsin Supreme Court will, if necessary, “construe [the statute] to discover the intent of the legislature in the situation presented.” Candidate West attempts to analogize the current fact situation with the situation that occurred in *Manning*, which was that a filing deadline fell on a legal holiday, and the Court allowed filing to occur the next day because the statute did not account for filing on legal holidays.

Ms. Ruhland’s affidavit describes her recollection of arriving at the Commission’s building at or near 4:57, getting out of the car to view the phone number to call, calling the Commission to notify staff that she was there, gathering the petitions in her car, checking the clock in her car which said 4:59, walking to the door, entering the building, and meeting a Commission staff member who opened the interior door to the building. ¶¶ 3-9. Based on Ms. Ruhland’s description of events, the response asserts that “[b]ut for the locked doors, the nominating paperwork would have arrived before the 5 p.m. deadline.”

The response also asserts, based upon Ms. Ruhland’s affidavit, that once the Campaign staff delivering the papers entered the building, “they were immediately delayed by an overly aggressive media as well as a Democratic operative.” ¶12. The interference of which “likely resulted in the loss of time-depending on when the timekeeper stopped the clock.” The response asserts that 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.”

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

The response asserts that if the Commission does not place the Candidates’ names 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).

The response premises part of these claims on information and belief, that the two major party candidates had already filed their nomination paperwork before the deadline. The response claims that failing to have the door of the building open on a filing deadline so that representatives of his campaign could “make it quickly through the doors and into the office” and the lack of security or crowd management could contribute to a violation of the right to free association and equal protection against Mr. West and his supporters. The response also claims the Commission’s lack of “an official timekeeping device, timekeeping strategy, and/or timekeeper” also violated Mr. West and his campaign’s rights under those provisions as well. The response asserts that a lack of a common clock or common timekeeper violates the Equal Protection Clause, because without it, the Commission can use one clock for favored candidates and a different clock for disfavored candidates.

Commission Staff Analysis and Recommendations

Wis. Stat. § 8.20(8)(am) provides that “[n]omination papers for independent candidates for president and vice president ... may be filed not later than 5 p.m. on the first Tuesday in August preceding a presidential election.” The declaration of candidacy shall be filed with the officer or agency with which nomination papers are filed no later than the latest time provided for the filing of nomination papers. Wis. Stat. § 8.21(1).

“Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements.” Wis. Admin. Code § EL 2.05(1).

Wis. Admin. Code § EL 2.05(2) states: “In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline.” “Nomination papers...shall not be considered filed with the filing officer until the signed original of each nomination paper ... [is] received in the offices of the filing officer.” Wis. Admin. Code § EL 6.04(2). “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).

The Commission has the statutory authority to refuse to place a candidate’s name on the ballot if the “nomination papers are not prepared, signed, and executed as required under this chapter.” Wis. Stat. § 8.30(1)(a).

Commission staff recommends that the Commission find that the nomination papers submitted by Mr. West and Ms. Tidball were not filed timely in accordance with Wis. Stat. § 8.20(8)(am), therefore their names should not appear on the November General Election ballot as Independent candidates for President and Vice-President.

- 1) Commission staff does not believe the statutory language permits the filing of nomination papers after 5:00 p.m., and anything filed after 5:00 p.m. does not comply with the “not later than 5 p.m.” language of the statute.

In Commission staff’s opinion, the arguments presented for reading Wis. Stat. § 8.20(8)(am) to mean that a filer of nomination papers really has until 5:01 to submit their nomination papers are unpersuasive, not backed by any cited caselaw, and the Commission and its predecessor agencies have never interpreted the statute to allow filing beyond 5:00 p.m. The respondent argues that the Legislature could have distinguished between minutes and seconds or used different language than “not later than” and substitute it with “by” which in the respondent’s opinion would have been clearer or more instructive on when the papers had to be filed. Commission staff do not believe such a tortured interpretation of the statutory language here is necessary, and have always applied the statute to mean that if the clock has struck 5:00 p.m. on the filing deadline day, and nomination papers have not yet been “tendered” to the Commission by the candidate or their representative, those nomination papers are not timely filed. Commission staff would argue that this is the more common and common sense reading of the statute. Nothing presented by the parties persuade the Commission staff to recommend a different reading of this statute and allow candidates to file nomination papers up until the clock strikes 5:01.

- 2) The evidence presented is clear and convincing that the nomination papers were not filed timely.

The “time of filing” cited throughout the response and within Ms. Ruhland’s sworn affidavit of 5:00:14 is the approximate time that Ms. Ruhland proceeded through the interior glass entry door on the first floor of the building. That time was noted by the Commission staff member assigned to wait by the glass interior door to allow any individual into the building wishing to file nomination papers on the deadline day and escort them to the Commission’s office on the 3rd floor. The time was noted by the Commission staff member looking at the clock on his Apple iPhone. Such timing is corroborated by Exhibit A to the Devin Remiker affidavit filed with the complaint, which shows Ms. Ruhland leaving her car seconds after the Apple iWatch that was in frame turned to 5:00 and another individual in the video audibly stated that it was 5 o’clock, which a person would reasonably conclude that they were also viewing a clock that had turned to 5:00. The recorded video shows it taking approximately 14-20 seconds from the time Ms. Ruhland exits the car until she enters the building, which explains the 5:00:14 time that is cited. However, as discussed below, simply reaching the front door of the building that houses the Commission does not mean nomination papers have been filed, and also discussed below, there is clear and convincing evidence that Ms. Ruhland was not even in the building prior to 5:00, which makes it impossible to be in the Commission’s office on the 3rd floor prior to 5:00.

Ms. Ruhland was provided a “nomination paper receipt” that indicates who the candidate is, the election for which the individual is running, the election date, the office, party (if applicable) the dates upon which certain ballot access documents have been received, and the approximate number of signatures and pages that have been turned in (estimated by the candidate at the time of check in). The nomination paper receipt is a document generated from the Commission’s election administration system that tracks candidate filings and is not a document that is issued instantly when a person arrives at the counter. The information that appears on that document must be entered into the system, checked for accuracy, printed, and then presented or emailed to the candidate.

Under the Commission’s procedures, the nomination paper receipt is not a document that would receive any sort of time stamp or other indication of the precise time something was received, so it is not unusual that such a document was issued the way it was. Candidates traditionally do not wait to file nomination papers where documentation of seconds is necessitated, and in this instance, Commission staff believed the filing was not timely because the papers were not in their possession prior to not later than 5:00 p.m. as the statute required. Clear and convincing evidence exists that the nomination papers were not timely filed, even if a timestamped document (which is not normally provided as part of this procedure) was not provided to the Ms. Ruhland. “Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements.” Wis. Admin. Code § EL 2.05(1).

3) The nomination paperwork was not present in the Commission’s office before 5 p.m.

Respondent states that 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, citing *State el rel. Stearns v. Zimmerman*. Candidate West quotes directly from that case: “If the candidate or someone in his behalf [is] **present in the office** where the 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.” (emphasis added). Commission staff agrees that this is a proper reading of the *Stearns* case, and that is why the nomination papers were filed late. While the response definitively asserts that the nomination paperwork was “in the office of the Commission” before 5 p.m., Ms. Ruhland’s affidavit, which is cited to support this assertion is not quite as certain: “[w]hen I left the car with the paperwork, it was 4:59. I believe I was in the Commission’s offices before 5 p.m.” Clear and convincing evidence to the contrary of that statement establish that Ms. Ruhland entered the building that houses the Commission after 5:00, therefore it was not possible to reach the Commission’s office before 5 p.m. as her affidavit suggests.

Respondents attempt to provide reasons why they were unable to file the nomination papers times, by vaguely asserting that two members of the media and another individual that works for the Democratic Party “followed us into the building and, some combination of those individuals, physically separated me and the person carrying the remainder of the petitions.” Ruhland Aff. ¶ 12. Clear and convincing evidence establishes that Ms. Ruhland and the other individual carrying the nomination papers were already late. It is unclear what sort of procedures or rules the Respondents believe should have been implemented by the Commission to ensure that timely filing of the petitions could have occurred for the Candidates. Commission staff have no control over what happens on public sidewalks outside of the building, but in any case, Commission staff monitoring the door near the deadline did not report any access to the building being impeded. Commission staff was in contact with Campaign representatives throughout the afternoon of August 4 and explained the process for accessing the Commission’s office to file nomination papers. Commission staff were waiting at the front entrance door of the building to allow candidates to enter the building after they arrived. Commission staff escorted Ms. Ruhland and the other individual to the elevator, which staff had ensured was at the ground floor for the quickest access possible. Commission staff enforced the social distancing rule related to elevators in the Commission’s building and did not allow other individuals onto the elevator other than Ms. Ruhland, the other individual and the Commission staff member.

Commission staff believes accepting the argument that the Commission should somehow be responsible for providing security protection for filers or the building security policy regarding door access should be suspended when access is substantially the same as an unlocked door is not a policy that should be set. “Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements.” Wis. Admin. Code EL § 2.05(1). If such arguments are accepted, what would stop future candidates from claiming they were late because of a high number of red traffic signals slowed delivery, an unexpected detour because of road construction caused the trip to take a couple minutes longer, a slow or maximum capacity elevator, or the plan to park in the front of the building had to be modified because all available spots were filled and they had to park a block away. Candidates need to plan ahead and arrive in time to get into the building and file the papers in the office of the Commission prior to the deadline, there are no exceptions under the statute or the relevant case law.² Commission staff did receive a call from Ms. Ruhland at 4:57 indicating she was on her way to the office to file. Commission staff received that call on an office cell phone while on the first floor of the building waiting to let potential filers in the building if they arrived.

² Respondents cite to *Manning v. Young*, 210 Wis. 588, 247 N.W. 61 (1933) which Commission staff believe is not relevant to the facts in this case. The statutory deadline did not fall on a legal holiday and enforcement of the statute at issue here is mandatory.

- 4) The nomination papers were not in possession of the filing officer by 5:01 p.m. on the filing deadline either.

Even if the Commission accepts the argument that a candidate has until 5:01 to file nomination papers, the papers were not in the possession of the Commission by 5:01. Filing of nomination papers is not accomplished by stepping through the front door of the office building that houses the Commission. The Commission's office is located on the third floor of the building. To reach the Commission's office, an individual needs to walk down the first floor hallway, access the elevator, ride the elevator to the third floor, get out of the elevator, approach the Commission staff at the front desk and present the nomination papers for filing and when the Commission takes physical possession of the papers, they are considered filed. These steps to access the Commission's office and transfer possession of the papers all occurred after the "5:00:14" time cited throughout the response and corroborated by the Remiker video and the time contained on the Commission staff member's Apple iPhone. It is virtually impossible to accomplish these steps in the approximate 46 seconds that would have been needed to present the papers for filing by 5:01, as argued in the response.

Finally, Ms. Ruhland and the other individual that accompanied her with additional nomination papers were unable to transfer control of the nomination papers to the Commission staff for several minutes after they stepped off of the elevator, because the papers were not numbered as required by Wis. Admin. Code EL § 2.05(2). "Each of the nomination papers **shall be numbered, before they are filed**, and the numbers shall be assigned sequentially, beginning with the number "1". Notwithstanding any other provision of this chapter, the absence of a page number will not invalidate the signatures on that page." (emphasis added). Ms. Ruhland and the other individual that accompanied her were organizing and number nomination papers in the Commission's office which did not allow for a transfer of the papers after they reached the Commission's office.

- 5) Commission staff's acceptance of the nomination papers after the filing deadline does not "ratify the filing as timing."

Only filing nomination papers prior to the deadline can result in the papers being ratified as timely. There is no dispute that the Commission staff allowed Ms. Ruhland to transfer the nomination papers into the possession of the Commission, but Commission staff believe this has no bearing on whether the papers were timely filed or not. If the nomination papers were not "in the physical possession" of the Commission by the statutory deadline of "not later than 5 p.m." – the papers were not timely filed. See Wis. Admin Code EL §§ 2.05(2), 6.04(2). Due to the frantic filing of the respondents so close to the filing deadline, out of an abundance of caution, and to promote access to the ballot, and not denial of access if the papers were later determined to be timely, Commission staff were advised to accept transfer of the papers and conduct a facial review of the signatures notwithstanding the timeliness issue. Commission staff was aware that the full Commission (not the Commission staff) would be ultimately tasked with deciding whether the papers were in fact timely. Commission staff took possession of the papers and conducted a facial review of the content of those papers under Wis. Admin. Code § EL 2.05(3).

While Respondents argue that the three leading court cases on the timeliness of nomination paper filing could potentially be interpreted to require rejection of the papers for their holdings to apply, Commission staff believe that is a fundamental misreading of those cases. Those cases

clearly espouse the holding that if a candidate's nomination papers were not filed or "tendered" on time with the filing officer in the office of the filing officer, the candidate's name shall not appear on the ballot. The Commission, not the Commission staff, is tasked with making this determination. See Wis. Stat. § 8.30(1)(a). The fact that the papers were transferred to the Commission after the filing deadline, is the fact that informs the Commission's ballot access decision.

Respondents argue that because the nomination papers were transferred to the Commission, a presumption of validity under the Commission's administrative code should apply. The presumption of validity cited by the Respondent applies to "any information which appears on a nomination paper." The response "summarizes" that code provision to attach a presumption of timeliness to papers which is found nowhere in the Commission's administrative code. To the contrary, Candidate West fails to cite to the administrative code section that is directly on point related to when nomination papers are considered timely. Wis. Admin. Code § 2.05(2) states: **"In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline."** (emphasis added).

- 6) The Commission has not violated Mr. West or his Campaign's rights to free association under the First Amendment and to equal protection under the Fourteenth Amendment.

As a preliminary matter, the two major party candidates have not already filed nomination paperwork to obtain ballot status for the November election. Political organizations that have obtained ballot status certify the names of candidate nominated at the nominating convention to the Commission by September 1, 2020. Those candidates must also file a Declaration of Candidacy by that same date. The process for candidates to obtain ballot access for President and Vice-President is statutory and the Commission grants access to candidates that have complied with those requirements and denies access to candidate that do not.

Without citing to any evidence or caselaw, Respondents assert that the Commission's timekeeping and security procedures could equate to serious violations of Mr. West's Constitutional rights if ballot access is not granted.

The Commission staff has already described the timekeeping used to ensure that candidates who file valid nomination papers timely and meet all other requirements are granted access, and those that do not meet those standards are denied. All individuals that file nomination papers in the Commission's office are required to follow the same security protocols for obtaining access to the building and the Commission's office. The doors to the building that houses the Commission's office, along with another state agency and a private company are accessed by keycard of the employees. Respondents expressed they felt burdened by the security procedure for the building that houses the Commission's offices, that requires a visitor to contact the agency for which they had business with to authorize entry and escort them to the office from the front door. The building that houses the Commission's offices also has several other tenants and is not a state-owned facility. The Commission's landlord has established security procedures for the benefit of all tenants in the building and staff mitigated these access issues by stationing staff at the entrance of the building as the 5 pm deadline approached.

The Commission does not have “favored” or “disfavored” candidates, it treats all candidates the same, and determine on a case by case basis whether a candidate has met the statutory requirements to appear on the ballot or not.

Commission staff recommends that the Commission reject the challenge to the timeliness of the declaration candidacy documents filed by Mr. West and Ms. Tidball as they were filed timely in accordance with Wis. Stat. § 8.21(1).

The declaration of candidacy shall be filed with the officer or agency with which nomination papers are filed no later than the latest time provided for the filing of nomination papers. Wis. Stat. § 8.21(1), which was August 4, 2020 by not later than 5 p.m. The Commission received in the mail on the morning of August 4, 2020, executed declaration of candidacy forms for both Candidate West and Candidate Tidball.

Since those documents were timely filed, Commission staff recommend rejecting the challenge to those documents.

Challenge to signatures on nomination papers: Circulators misrepresented the nature, meaning, and purpose of the nomination papers when presented to signers

The complaint alleges that multiple circulators of Respondent’s nomination papers misrepresented to signatories the nature, meaning, and purpose of the nomination papers.

The complaint includes sworn affidavits from individuals that signed the nomination papers who state that they signed the nomination paper under a variety of false pretenses, and but for being misled, they would not have signed the Respondent’s nomination papers. The complaint includes an example of Trais Haire who signed a nomination paper for the Respondent circulated by Kim Shanklin. Haire’s affidavit states that he was approached to sign the petition that was about increasing minority representation and did not receive any additional information about the petition. Haire states he would not have signed the petition had he been aware that the petition was to get Kanye West on the ballot.

The complainant argues the affidavit filed by Haire demonstrates that Kim Shanklin affirmatively misrepresented the contents of the nomination papers in collecting nomination signatures which violates Wis. Stat. § 8.15(4)(a) and Wis. Admin. Code § 2.05(4) which requires a signed certification of circulator to appear on each page. The complainant alleges that Kim Shanklin’s violation of law by providing an improper certification should render all pages she circulated (22) and the signatures contained on those pages (205) invalid.

The complaint alleges that similar signers experienced the same sort of misrepresentation from other circulators and therefore those pages and the signatures contained on those pages all be struck as invalid. See Affidavits of Derek A. Jeter, Ora Brown, Virginia McCorty, Jerry Lewis, Hazel Lindsey and Tobisha Lyones and nomination papers circulated by Mario Coleman, Chawana H, Micah Marshbanks, Darius Fletcher, Ernest Buggest, Jermain Crouch, Ernest Johnson, S.H. Brinkman, Keith Young, Jake Thomas and Benjamin Rush, Jr. The complaint alleges that 103 pages, containing 880 signatures circulated by these individuals should all be struck. Cumulatively, the complaint alleges that the false certifications of circulators invalidate

1517 signatures, the removal of which, would leave the Respondent short of the 2000 signatures required.

Candidate Response:

Respondent states that the allegations of misrepresentation fall short of the required “clear and convincing evidence” burden of proof to successfully challenge and strike nomination signatures. Respondent states that while the complainant provides some evidence to support the allegation, the evidence falls short of the evidentiary standard. Additionally, the Respondent cites Wis. Admin. Code EL § 2.05(5) which states that “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.”

Respondent states that without referencing any specific pages or line numbers, the Complainant alleges that entire pages of 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 have not understood what they signed.” The Respondent states that the Complainant cite no cases or legal authorities to support this unique proposition – because there is none. The Respondent argues that one cannot meet the clear and convincing evidentiary burden to strike ten signatures per page by providing an 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 signatures might be stricken, assuming clear and convincing evidence, but not the entire page.

Respondent attached affidavits of the petition circulators identified in the complaint which describe the process of circulating the petitions, the information they provided to signers while obtaining signatures on the papers, their knowledge that none of their colleagues were covering the header portion of the page, and that they did not mislead any of the signers on the pages they circulated.

Respondent states that given the nature in which the affidavits (from signers in the complaint) were obtained, and that any information on a nomination paper is entitled to a presumption of validity, the allegations of misrepresentation on the part of several circulators falls short of the required clear and convincing burden, and no signatures should be stricken.

Commission Staff Analysis and Recommendations

“The burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency.” Wis. Admin. Code EL § 2.07(3)(a). The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.” Wis. Admin. Code EL § 2.07(4).

When a signer applies their signature to a nomination paper, and the circulator of that page completes the certification, the circulator stating that the individuals have “signed the paper with full knowledge of its content.” See Wis. Stat. § 8.15(4). “Any information which appears on a nomination paper is entitled to a presumption of validity.” Wis. Admin. Code EL § 2.05(4).

Commission staff agree with the Respondent's argument that the Complainant has not met its burden of proof to establish that all signatures collected by 12 circulators should be stricken because the signer did not have full knowledge of what they were signing and that the circulators misrepresented the purpose of the petition in order to get individuals to sign. Additionally, the complainants do not specifically identify which pages and signatories they believe were deceived by the various circulators. Without such identification, and the counter affidavits filed by the circulators, the presumption of validity to information contained on those pages is not overcome by the challenge.

Commission staff recommends rejecting the challenges to 1,517 signatures that the complainant alleges were obtained on pages in which the circulator misrepresented the purpose of the petition to the signer.

Challenge to signatures on nomination papers: Circulators did not provide correct residential address in their certification

The complaint alleges that three of the Respondent's circulators provided an improper address when they executed the certification of circulator. The complaint includes a sworn affidavit from Charles Myers and several exhibits to the affidavit to support the claim that the addresses provided by circulators Kenneth Linares, Benjamin Rush, Jr., and Joseph Durrell were improper.

The complaint cites Wis. Stat. § 8.15(4) (as incorporated here by Wis. Stat. § 8.20(3)) as the requirement for a circulator to provide "his or her residence with street and number at the bottom of each nomination paper" as part of the required circulator certification.

Linares: The Myers Affidavit states that Mr. Linares certified he lives at 15 Morgan Street, in Crystal Lake, IL, that address is not a residential address, the property is zoned commercial for industrial use, cannot lawfully be used as a residence and a visit to the property demonstrates that no one currently resides there or has resided there in the recent past. Mr. Myers used Google Streetview and saw what appeared to be a business called "Bebe's Doggie Daycare and Grooming Spa"; used the City of Crystal Lake, IL website to obtain a city zoning map, City of Crystal Lake's GIS data for the property and the McHenry County, IL property tax inquiry – all of which were attached as Exhibits A-C of the affidavit – and he concluded that the property was zoned for industrial use (M-L) and was owned by "Cerniglia, Dominic"; he spoke with an Assistant City Planner of Crystal Lake, IL and inquired whether properly zone M-L could be used for residential purposes and he obtained verbal and written confirmation that residential uses were not listed as an allowable use for properties in that class; video footage (Exhibit E) of the property was taken, and in his opinion as an "experienced real estate investor" the presence of a For Lease sign and a realtor's lockbox that these were indications of a vacancy in commercial property; video footage of a conversation of a man identified as Bob Kelley who lived in the neighborhood who stated that the property had hosted numerous businesses in the past but that no one lived there or to his knowledge no one had ever lived there; search of McHenry County tax records indicated that a Robert Kelley lives at 345 E. Crystal Lake Avenue which is directly across E. Crystal Avenue from the parcel at 15 Morgan Street.

Rush: The Myers Affidavit states that Mr. Rush certified he lives at 17922 Gothard Street in Huntington Beach, CA, but that address is not a residence. Mr. Myers used Google Streetview and observed that it appeared to host a number of automotive repair garages (Exhibit H); used

Yelp! and other online business listings that listed numerous automotive repair garages including but not limited to Ken's Automotive, Corona Autowerks, and Pacific Coast Automotive (Exhibit I); called Ken's Automotive and "Ken" informed him that there were no residences or residents of his building as it is an automotive garage in Huntington Beach, CA, he had never heard the name Benjamin Rush before and had never employed any individual by that name, and that Ken would consider texting him something to that effect; notes of the conversation with Ken were taken immediately after the conversation the description was derived from those notes.

Durrell: The Myers Affidavit states that Mr. Durrell certified he lives at 13142 Chrissy Way in Lakeside, CA, a review of publicly available materials demonstrates that Mr. Durrell does not reside in California and has not resided there recently. Mr. Myers investigated Mr. Durrell online and reviewed a Facebook profile and posts for "Joey Durrell" (Exhibit J) which indicated that he is a paid petition circulator; Facebook posts suggested he does not currently reside in CA and lives in various locations all around the country; a July 5, 2020 Facebook post stated that "we have decided to save money by living in Florida."; Facebook post expresses support for Kanye West; a response to a Facebook friend inquiry regarding moving to Jacksonville, and not having plans to move back to CA; Mid-July Facebook comments that said he was in Michigan for the next 6 months for work and then heading to Florida for 6 months; no longer in California; great money working in Michigan; stating he was in Michigan and his girlfriend and dog were on the way to join him. Based on the Facebook review, Mr. Myers concludes that Mr. Durrell is no longer a resident of the State of California, and therefore the circulator certification address is incorrect.

The complaint alleges that due to the improper addresses in the circulator certifications of Mr. Linares, Mr. Rush, and Mr. Durrell, the Commission should invalidate the 637 elector signatures contained on the pages that were submitted with those circulators.

Candidate Response:

Respondent states that the allegations against the three circulators of providing an improper address are false and states that "Mr. Myers was grossly incorrect." To counter the claims, the response includes an affidavit from each of the three circulators as well as supporting evidence such as copies of utility bills, pictures of driver licenses, and even a picture with the individual in front of the residence. Respondent asserts that the attempt to challenge the residences of the three circulators in this instance using the affidavit of Mr. Myers (which they assert is misleading and false) should "cast a cloud over the credibility of the other supporting affidavits provided by Complainants."

Linares: Mr. Linares filed a sworn affidavit that states he resides at 15 North Morgan Street, Crystal Lake, Illinois, 60014; he includes with his affidavit a picture of mail he received in May 2020 from ComEd, his electric company that is address to him at 15 North Morgan Street; he states that it is true that Bebe's Doggie Daycare and Grooming Spa used to be a store at 15 North Morgan Street but he understands that business to now be closed; he indicates that the business referenced and his residence are located in a residential neighborhood; there are several individual units that comprise 15 North Morgan street behind where the dog grooming business was located.

Rush: Mr. Rush filed a sworn affidavit that states he resides at 17922 Gothard Street, Suite B8, Huntington Beach, California, 92647; he includes with his affidavit a picture of his driver's license bearing the same address above (license number redacted); he states that he lives in an RV on the lot of the autoshop; he receives his mail at the shop; he often travels for work but "unquestionably consider 17922 Gothard Street, Suite B8, Huntington Beach, California, 92647 to be my residence" and that is where he resides when he is home.

Durrell: Mr. Durrell filed a sworn affidavit that states he resides at 13142 Chrissy Way, Lakeside, California, 92040; he includes with his affidavit a picture of his most recent utilities bill from San Diego Gas and Electric which contains his residential address; he includes his current California driver's license that lists his residential address as 13142 Chrissy Way, Lakeside, California, 92042; he states that he has not abandoned his California residence; he is currently subleasing his Lakeside, California residence to friend who are watching the residence and his pets, but that he intends to return to his Lakeside, California residence once the 2020 election campaign is complete; he states that due to his work as a petition circulator, he travels to various states to help candidates get on the ballot; he is currently visiting family in another state before he begins circulating petitions there; he not purchased or rented another home to replace his Lakeside, California residence; he explains his Facebook post that states he "Just moved into Ann Arbor" Michigan, he did not mean that he signed a lease on a property or purchased a home in Ann Arbor, Michigan to replace his residence in Lakeside, California, but that he was in Michigan to circulate petitions for another campaign.

Commission Staff Analysis and Recommendations

"The burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency." Wis. Admin. Code EL § 2.07(3)(a). The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence." Wis. Admin. Code EL § 2.07(4).

Nomination papers must include an executed certificate of circulator and the circulator is required to provide "his or her residence with street and number at the bottom of each nomination paper." Wis. Stat. §§ 8.20(3); 8.15(4)(a). "Any information which appears on a nomination paper is entitled to a presumption of validity." Wis. Admin. Code EL § 2.05(4).

The Myers Affidavit certainly provides explicit details of the process used by Mr. Myers to try and establish that the addresses provided by the three circulators were somehow incorrect or otherwise invalid. Mr. Myers uses publicly available data as well as personal observation, with video footage, to provide an opinion as to whether the address listed is in fact where the circulator resides. In Commission staff's opinion however, the sworn affidavits provided by Mr. Linares, Mr. Rush and Mr. Durrell contain sufficient explanations and actual evidence (utility bills, driver license) that the individuals listed their "residence with street and number at the bottom of each nomination paper" as required by the statute. Individuals that travel extensively for work or have lodging arrangements that may not be traditional do not restrict an individual's ability to circulate a petition, as long as the requirement is met. Information that appears on a nomination papers is entitled to a presumption of validity under the Commission's administrative code, and Commission staff believes the evidence provided does not overcome that presumption.

Commission staff recommends rejecting the challenge to the 637 signatures collected on Respondent's nomination papers by Mr. Linares, Mr. Rush and Mr. Durrell.

Challenge to signatures on nomination papers: Signers provided an address different than the address at which they are registered to vote

The complaint alleges that multiple signers of the Respondent's nomination papers provided an address other than the address at which they are registered to vote. The complaint alleges that "[i]n order for a signature to be valid, an elector must provide his or her municipality of residence for voting purposes and the street and number, if any, on which the signer resides." Wis. Stat. § 8.20(5). The complaint alleges that the information provided by the signer "must match" the signer's residence for voting purposes. The complaint alleges that where there is a disparity between the address listed on the nomination papers and the address at which an elector is registered to vote, the signature should be stricken. The complaint alleges that cumulatively, the number of elector signatures submitted by Respondents with an address disparity that should be stricken is 188. To support this claim, Complainants attach an affidavit from Devin Remiker and Exhibit B in the appendix.

The Remiker Affidavit provides the details of the address matching that was conducted, which states he purchased an update to the Commission's voter file on July 24, 2020 and the file was uploaded into the Democratic Party's "Votebuilder" software. He describes the voter file information being operational in Votebuilder on Tuesday, August 4, 2020. He stated that the voter file information was used to "verify the validity of the residences of signatories on the nomination papers submitted to the WEC on behalf of The Birthday Party" and that the verification effort indicated that 188 of the signatories are registered to vote at an address other than the one shown next to their signatures on the nomination papers at issue here. ¶¶ 19-21.

Candidate Response:

The response cites to Wis. Stat. § 8.20(5) which requires that each elector signing nomination papers must include "their municipality of residence for voting purposes" and the "street and number, if any, on which the signer resides." Respondent asserts that the Complainant incorrectly suggest that if the address where the signer resides differs from the address where they are registered to vote, that the signature must be stricken. Respondent argues that this simply cannot be the case because a signer is only required to include their municipality for voting purposes, not their entire registered voting address. Respondent cites the presumption of validity that is attached to information submitted on nomination papers. Wis. Admin. Code EL § 2.05(4). Respondent asserts that the vast majority of the signatures challenged include the municipality for voting purposes and the street and number at which they resident – but notes that the street and number are not required, due to the "if any" language. Respondent claims that the Complainant has set up a strawman argument (that the full registered voting address must be included) and then proceeded the attack based on that flawed strawman argument. Respondent argues that "[a]ll that is required for inclusion is the "municipality for voting purposes" – nothing more, nothing less." Respondent also argues that the matching process used is ripe for error and that a careful review of the challenged addresses show that several address which were allegedly incorrect appear to be substantially similar, suggesting that the database used by the Complainant has the incorrect address, or the software misread the entered address from the papers. Respondent cites several Pages and Line Numbers that were challenged that he argues are

substantially similar, and acknowledges this is not an exhaustive list, but argues that it shows the analysis done by the Complainant is “flawed, suspect, and simply does not meet the high clear and convincing standard.”

Commission Staff Analysis and Recommendations

“The burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency.” Wis. Admin. Code EL § 2.07(3)(a). The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.” Wis. Admin. Code EL § 2.07(4). “Any information which appears on a nomination paper is entitled to a presumption of validity.” Wis. Admin. Code EL § 2.05(4).

In Commission staff’s opinion, Exhibit B provided by the Complainant makes it nearly impossible to validate the information they are claiming, because the document does not contain the voter’s name or what information that was compared or searched to generate the Exhibit that purports to show the comparison results. Additionally, without further explanation, Commission staff is unable to assess the reliability of the “Votebuilder” data cross referenced against information contained on the nomination papers.

Additionally, the Complainant asserts that the information provided by the signer “must match” the signer’s residence for voting purposes or the signature must be struck. Such a strict standard has never been applied to nomination paper signatures because there could be any number of legitimate reasons why the information on the nomination paper and information contained in the database maintained by the Democratic Party does not match. For example, a person’s address could have changed, and they did not update their voter registration yet which could certainly cause a mismatch between two data sets.

Commission staff do not believe the Complainants have provided enough evidence here to meet their burden of clear and convincing evidence to show that the signers identified have provided an incorrect address. Additionally, the strict matching standard set forth by the Complainants, is not the proper test. Information contained on nomination papers is entitled to a presumption of validity. Without clear and convincing evidence to demonstrate an insufficiency in the information, that presumption is not overcome, and the signatures are accepted as valid. Finally, Exhibit B falls short of providing enough information for the Commission staff to even attempt to determine if there is some discrepancy between the nomination paper information and the “Votebuilder” database.

Commission staff recommend rejecting the challenge to the 188 signatures alleged by the Complainant to not include the signer’s municipality of residence for voting purposes and the street and number.

Challenge to signatures on nomination papers: Incomplete signatures

The complaint alleges that various signatures contained on the Respondent’s nomination papers are incomplete, and therefore should be struck.

Printed Name Legibility

The complaint cites Wis. Stat. § 8.20(5) which states that for a signature to be valid, an elector must legibly print his or her name in a space provided next to his or her signature. The complaint cites to the review standards used by the Commission to determine whether a printed name meets the legibility standard and that if a filing officer can discern no part of a printed name, it should be deemed illegible and the signature should not be counted. The complaint attaches an affidavit from Linton Mohammed, Ph.D. to support the claim that some signatures did not contain a legibly printed name. Dr. Mohammed identifies himself as a “U.S.-certified and internationally recognized Forensic Document Examiner, and the focus of my research and professional experience is on handwriting and signature identification and the scientific approach to analyzing questioned signatures.” Dr. Mohammed was engaged by the Complainant to review and analyze elector and circulator signatures and other handwritten information included on the nomination papers in question. Dr. Mohammed asserts that in his opinion, 187 entries are illegible. Dr. Mohammed attaches a table identifying the entries. (Exhibit A to affidavit).

No municipality listed

The complaint cites Wis. Stat. § 8.20(5) which states that in order for a signature to be valid, an elector must provide his or her municipality of residence for voting purposes. The complaint alleges that 65 signatures are not accompanied by the signer’s municipality (Exhibit B).

Incomplete signature date

The complaint cites Wis. Stat. § 8.20(5) which states in order for a signature to be valid, and elector must include the date of signing. The complaint alleges there are 47 signatures for which there is not a proper date (and for whom the date is not bracketed) (Exhibit B).

The complaint generally asserts that only Wisconsin electors, not all individuals present in Wisconsin, are eligible to sign a nomination paper, and, in some circumstances, electors are barred from signing a nomination paper for a candidate based on the elector’s residence. Wis. Stat. §§ 8.10(4), 8.15(3). Therefore, submission of accurate identifying information is necessary in order to validate elector signatures, and consequently, signatures without complete and accurate identifying information must be stricken.

Candidate Response:

Respondent states that a quick review of the affidavit of the Complainant’s handwriting expert shows that many of the “supposed illegible” names, are indeed legible, and they assert that “Nos. 6, 10, 16, 18, 41, 51 and many, many others are clearly legible, even to the untrained eye.” Respondent asserts that in situations where only part of the name can be discerned, but does not have the exact spelling, that signature should be counted. Respondent cites to the Commission’s Nomination Paper Challenges manual that sets forth the test for legibility used by filing officers to determine whether a signature meets the statutory standard or not. Additionally, Respondent asserts that there is no requirement that the signed name be legible, or that the signed name not be printed.

Respondent cites to the Commission’s Common Nomination Paper Challenges manual which references Wis. Admin. Code EL § 2.05(15)(a) that allows for a signature to survive an incomplete date challenge ‘if the date can be determined by referenced to other dates of other signatures on the paper.’ As such, Respondent argues that if the date can be determined by other dates on the form, following the advice of the Wisconsin Department of Justice, all dates should

be counted. Respondent alleges that here, the majority of the alleged defective dates can be determined by other dates on the page, as such, they should not be stricken.

Respondent describes the burden of proof and burden shifting process outlined in Wis. Admin. Code EL § 2.07(3)(a). Respondent asserts that 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 with the signature challenges. The burden to rebut challenges does not shift to the challenged candidate to prove sufficiency *until and if* the challenger first meets their clear and convincing burden. As such, Respondent states that challenges with little or no supporting evidence should be dismissed.

Commission Staff Analysis and Recommendations

For signatures to be valid, an elector must legibly print his or her name in a space provided next to his or her signature, include his or her municipality of residence for voting purposes and provide the date of signing. Wis. Stat. § 8.20(5), Wis. Admin. Code EL § 2.05(12), (15).

Where any 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).

Printed Name Legibility

In 2014, the Government Accountability Board (G.A.B.) adopted staff recommendations regarding nomination paper standards and review relating to 2013 Wisconsin Act 160. This Act amended Wis. Stat. § 8.15(2) to state that for a signature to be valid, “each signer of a nomination paper shall legibly print his or her name in a space provided next to his or her signature.” The G.A.B. adopted a guidance document that set forth the standard for reviewing the legibility of printed names. Commission staff continues to consult the same guidance when reviewing printed names for legibility under the requirements of Wis. Stat. § 8.15(2):

- 1. The filing officer shall confirm that the signer has completed information in both the “Signature” box and the “Printed name” box of the nomination paper or other election petition. The signature may be marked as the signer customarily marks his or her signature, including by using an “X” or by using either traditional printed letters or a handwritten signature. Similarly, the signer’s printed name is not required to include only letters that are separated from one another.*
- 2. If the filing officer can discern no part of the printed name, it should be deemed illegible and the signature should not be counted.*
- 3. If the filing officer can discern a possible name, but may not be certain of the exact spelling of the name, the printed name is deemed legible and the signature may be counted if otherwise valid.*
- 4. The filing officer is not required to consult extrinsic sources of information (voter registration records, telephone directories, etc.), but may do so if it assists the filing officer in discerning a possible name.*

5. *The signer must print his or her name, and the signer must execute a correcting affidavit if the printed name is missing or insufficient for the signature to be counted. However, a circulator may print the name of a signer with a disability who requests such assistance.*

The guidance further states:

The above standards are intended to preserve the presumption of validity for the information contained on the petition, but also ensure that invalid signatures are not counted when there is absolutely no readable information to determine the name of the signer. This standard for legibility requires more than an unintelligible mark, but also provides filing officers with the flexibility to find a printed name to be legible even when 100% of the letters in that name cannot be determined.

The review standards described in this memorandum will govern only the filing officer's review. If signatures are subsequently challenged based on the legibility of the printed name, then the filing officer must consider all the evidence presented by both parties, and reject signatures where the challenger has met their burden of providing clear and convincing evidence that overcomes the presumption of validity. Wis. Adm. Code EL § 2.07(4).

Commission staff reviewed the challenged signatures provided by the Complainant and provide the following recommendations:

Accept the challenge, and strike the following 16 signatures from the total: Page 149, Line 2; Page 185, Line 4, Page 196, Line 1; Page 238, Line 3; Page 251, Line 6; Page 252, Lines 3 and 4; Page 259, Line 4; Page 267, Line 6, Page 293, Line 4; Page 308, Line 10; Page 312, Line 8; Page 349, Line 1; Page 350, Line 6; Page 354, Line 1, Page 370, Line 10 – for failure to provide a legibly printed name.

Reject the remaining challenge because the signatures were legible, the signatures challenged were unable to be determined based on the Page and Line number described, or they were previously struck for legibility issues or other issues on the page.

No municipality listed and incomplete signature date

Commission staff reviewed the Exhibit provided by the Complainant and is unable to determine what signatures are being alleged to have no municipality listed. The first section of the exhibit contains 4 columns – referencing pages and lines and notes, some of which are cut off that indicate the potential signer's name – it is unclear what this first section is identifying or challenging. The next section lists information about addresses, municipality, and dates of signing from signatures, but there is no Page or Line number to associate with that information, so it is unclear what is being challenged. The remaining sections of the Exhibit contain column headings that are mostly cutoff, so it is difficult to understand what the data actually represents, and again, what is actually being challenged. It appears to document completeness of information and who the circulator was for certain pages, but again, there is no Page or Line number to associate with any of the information presented.

The Complaint does provide four examples that contain a Page and Line number (citing the Bates Number provided by Complainant) – 2 of which were already struck by staff during its initial review for failure to include a municipality (Page 404, Line 2; Page 388, Line 8), 1 was struck already because it did not contain a proper date (Page 166, Line 10, and 1 was bracketed and counted (Page 219, Line 8).

Commission staff recommends rejecting the challenge to these signatures because the Complainant has not met the burden of proof of clear and convincing evidence that signatures were incomplete. The main reason, however, is that staff was unable to identify and research the signatures due to the deficiencies contained in the Exhibit. The burden is on the Complainant and not on the Commission to try and decipher the contents of the evidence provided to determine whether a signature should be struck during a challenge.

Challenge to signatures on nomination papers: Duplicate and fake names

The complaint alleges that two individuals signed the nomination papers purporting to be Kanye West, who is not a Wisconsin elector (Page 11, Line 8 and Page 281, Line 6) and one person signed the nomination paper purporting to be Bernie Sanders, who is also not a Wisconsin elector (Page 314, Line 3).

Candidate Response:

Respondent did not provide a specific response to the challenge of these signatures.

Commission Staff Analysis and Recommendations

“The burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency.” Wis. Admin. Code EL § 2.07(3)(a). The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.” Wis. Admin. Code EL § 2.07(4). “Any information which appears on a nomination paper is entitled to a presumption of validity.” Wis. Admin. Code EL § 2.05(4). Only individuals eligible to vote in the State of Wisconsin may sign a nomination paper of a candidate running for President and Vice President. See Wis. Stat. § 8.20(2)(a).

The signatures on Page 11, Line 8 and Page 281, Line 6 (Kanye West) were accepted by during the initial review. Complainants assert that Kanye West is not a Wisconsin elector and is therefore not qualified to sign the nomination papers. Commission staff reviewed the information provided by the individuals purporting to be Kanye West on the pages described. Commission staff determined that no elector with the name of Kanye West is currently or previously registered to vote in Wisconsin. Commission staff researched the two addresses provided by the electors: 7841 W. Center Street, Milwaukee, WI and 2460 N. 22nd Street, Milwaukee, WI and found no evidence that an individual with that name resides at either of those addresses. The 7841 W. Center Street address is a four-unit apartment building. Commission staff reviewed the registration history of all four units, as well as the address without a specific unit number, and found no registration records of any electors with the name Kanye West, active or otherwise. Additionally, per additional research using publicly available

records contained in the Milwaukee County GIS system, the address listed on Page 281, Line 6, 3460 N. 22nd St., does not exist.

Commission staff recommends sustaining the challenge to these two signatures.

The signature on Page 314, Line 3 (Bernie Sanders), has already been struck for failure to include a municipality of residence.

The complaint alleges that the nomination papers contain a signature for Mickey Mouse, who the Complainant states is an obviously fake name, and therefore should be struck. The signature on Page 285, Line 8 (Mickey Mouse), has already been struck for failure to include an address and municipality.

Recommended Motions:

- 1) The Commission sustains the challenge to all nomination papers submitted by Mr. West and Ms. Tidball because they were not filed timely in accordance with Wis. Stat. § 8.20(8)(am), therefore their names shall not appear on the 2020 November General Election ballot as Independent candidates for President and Vice-President respectively, in Wisconsin.**
- 2) The Commission rejects the challenges to 1517 signatures that the Complainant alleges were obtained on pages in which the circulator misrepresented the purpose of the petition to the signer.**
- 3) The Commission rejects the challenge to the 637 signatures collected on Respondent's nomination papers by Mr. Linares, Mr. Rush and Mr. Durrell, as the Complainant has not met the burden of proof showing that the named circulators provided an incorrect address when completing the certification of circulator.**
- 4) The Commission staff rejects the challenge to the 188 signatures alleged by the Complainant to not include the signer's correct municipality of residence for voting purposes and the street and number.**
- 5) A. The Commission sustains the challenge, and strikes the following 16 signatures from the Candidate's total for failure to provide a legibly printed name as required by statute : Page 149, Line 2; Page 185, Line 4, Page 196, Line 1; Page 238, Line 3; Page 251, Line 6; Page 252, Lines 3 and 4; Page 259, Line 4; Page 267, Line 6, Page 293, Line 4; Page 308, Line 10; Page 312, Line 8; Page 349, Line 1; Page 350, Line 6; Page 354, Line 1, Page 370, Line 10.**

B. The Commission rejects the remaining challenges because the signatures were legible, the signatures challenged were unable to be determined based on the Page and Line number described by the Complainants, or they were previously struck for legibility issues or other issues on the page.

- 6) **The Commission rejects the challenges to signatures alleged to be missing a municipality or contain an incomplete signing date because the Complainant has not met the burden of proof of clear and convincing evidence that signatures were incomplete.**
- 7) **The Commission sustains the challenge to the two signatures on Page 11, Line 8 and Page 281, Line 6, as the signer has provided an improper name information when signing the nomination paper. The remaining 2 signatures are already struck for other reasons and not included in the total.**
- 8) **The Commission directs staff to draft Findings and an Order consistent with these motions.**

3. **Allen Arntsen Complaint against The Wisconsin Green Party, Howie Hawkins, Angela Walker**
Case No. EL 20-32

Signatures required for office: 2000

Signatures challenged: 2046

This complaint alleges that 2,046 signatures should not be counted because the nomination papers contained an incorrect address for Vice President Candidate Walker; 1,834 signatures appear on nomination papers where the incorrect address for Vice President Candidate Walker was not corrected; 48 pages of nomination papers were printed with an incorrect address for Vice President Candidate Walker but the incorrect address was crossed out and the correct address was handwritten on the nomination paper without an initial or date; 57 pages were printed with an incorrect address for Vice President Candidate Walker but the incorrect address was crossed out, correct address was handwritten in after the date on which the electors signed the pages.

The Challenger's Complaint can be found at: <https://elections.wi.gov/node/7024>

Correcting Affidavits:

The deadline for candidates to file affidavits to correct errors contained on their nomination papers that were committed by either the circulator or the signer was August 7, 2020. Wis. Admin. Code EL § 2.05(4).

The Candidate did not submit any correcting affidavits.

Supplemental Signatures:

The Candidate did not file any supplemental signatures by the August 4, 2020 deadline.

Challenge to signatures on nomination papers: Nomination papers contained incorrect address for Vice President Candidate Walker, or the pages were not corrected, or the incorrect address was crossed out with the correct address handwritten without an initial or date, or the incorrect address was crossed out and correct address was handwritten in after the date on which the electors signed the pages.

The complaint alleges that a total of 2,046 of the signatures submitted are on nomination papers that were printed with an incorrect address for Candidate Walker – address of 3204 TV Road, Room 231, Florence SC. The complaint alleges that “this is not a correct address for Ms. Walker; Ms. Walker’s correct address is 315 Royal Street, Apt A, Florence, SC 29506. Complainant alleges that the nomination papers containing the “TV Road” address are legally insufficient, such that Mr. Hawkins and Ms. Walker should not be included on the ballot in Wisconsin for the November 3, 2020 election.

The complaint sets forth two separate arguments and analyses on why signatures should be stricken: 1) incorrect address printed, do not count signatures on those pages, 2) incorrect address printed, either no attempt to correct the address present or attempts to correct address are present on the page, but do not count the signatures on those pages.

Complaint argues that under either argument or analysis, Mr. Hawkins and Ms. Walker did not submit the minimum number of signatures required to appear on the ballot as independent candidates for President and Vice President.

Candidate Response:

No written response to the challenge was received from the Respondents.

Commission Staff Analysis and Recommendations

The statutory requirements for nomination papers filed by independent candidates are contained in Wis. Stat. § 8.20. Wis. Stat. 8.20(2)(a) states that each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of (insert candidate's last name plus first name, nickname or initial, and middle name, former legal surname, nickname or middle initial or initials if desired, but no other abbreviations or titles), residing at (insert candidate's street address) be placed on the ballot at the (general or special) election to be held on (date of election) as a candidate [(representing the (name of party)) or (representing the principle(s) of (statement of principles))] so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in the (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

“Each candidate shall include his or her mailing address on the candidate’s nomination papers.” Wis. Stat. § 8.20(2)(b). “In the case of candidates for the offices of president and vice president, the nomination papers shall contain both candidates’ names; the office for which each is nominated; the residence and post-office address of each; and the party or principle they represent, if any, in 5 words or less.” Wis. Stat. § 8.20(2)(c).

“The burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency.” Wis. Admin. Code EL § 2.07(3)(a). The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.” Wis. Admin. Code EL

§ 2.07(4). “[W]here any 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). “Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements.” Wis. Admin. Code EL § 2.05(1).

The Commission has the statutory authority to refuse to place a candidate’s name on the ballot if the “nomination papers are not prepared, signed, and executed as required under this chapter.” Wis. Stat. § 8.30(1)(a).

The complaint states that the address of 3204 TV Road, Room 231, Florence SC is incorrect, and the 315 Royal Street address is correct, however the complaint does not provide great detail as to why one address is correct, and the other is incorrect but does provide a detailed analysis of the papers that list each location. The Declaration of Candidacy form filed by Candidate Walker states that her address is 315 Royal Street., Apt. A, Florence, South Carolina, 29506. There are instances in which signatures were obtained on papers with both addresses signed on the same day – meaning one of those pages must be incorrect, as a candidate cannot claim to reside at two different locations on the same date.

During the review of nomination papers, Commission staff also examine the Declaration of Candidacy documents to ensure they have been filed timely, are complete and the information is substantially similar to the information provided by the candidate on their nomination papers. Amendments to a Candidate’s Declaration of Candidacy are allowed to account for changes in a candidate’s information, like address or how they want their name to appear on the ballot. No amendments to Ms. Walker’s Declaration of Candidacy indicating a change in address are on file with the Commission.

While no written response to the challenge was received from the Candidate, Commission staff was contacted by the Hawkins campaign in late July who stated that one of the candidates moved during the circulation of papers. In response to questions, Commission staff provided the following information:

Your candidate would need to amend their declaration of candidacy with the updated address if it has been submitted. If it has not been submitted, the DOC should contain current information at the time it is submitted. Ideally, the candidate would have updated their address on nomination paper petitions to reflect the address change in real time beginning on the day that the candidate began residing at a new address. If the move and address change occurred after all of the petitions had been circulated, they will reflect correct information at the time of circulation. (Via email, July 27, 2020)

Once the petition has been signed, no alterations may be made to the information in the header. When a candidate moved during the circulation period, we normally advise that they simply change the address on any nomination paper sheets to be used going forward. Candidates should not alter the information in the header, candidate section, once signatures have been collected on that page. (Via email, July 28, 2020)

Commission staff provide this information to the Commission to give context as to why nomination papers were likely submitted with two addresses, which is unusual, but not unprecedented.

No written response: The key piece of information that should have been provided in a sworn response from the Candidate, was the date upon which the Candidate moved. This could have easily cleared up confusion on why multiple addresses appear on the nomination papers, why some addresses were corrected and why some papers were initialed and dated and others were not. Had this information been provided, nomination papers signed up until the move date would have properly contained one of the addresses, and then nomination papers signed after the move would have properly contained the other address. Without a sworn response, the Commission is left with the complaint that raises legitimate arguments as to what address was supposed to be on what papers, and when.

In Commission staff's opinion, the decision not to file a written response and explain the address discrepancy raised in the complaint proves fatal to the signatures contained on pages that are inconsistent with the address contained on the sworn Declaration of Candidacy of the Candidate. Once the burden shifts to the Candidate, they must provide clear and convincing evidence to rebut the insufficiency established by the evidence. The process for rebutting an insufficiency is providing a sworn response, which is before the Commission to then weigh and decide whether the papers are sufficient or not.

Commission staff recommend sustaining the challenge to the 1,891 signatures identified in Complainant's Exhibit B which it attached to the Complaint, which contain:

- 1834 signatures identified with a code of 3042 that represent nomination papers that were printed with the 3204 TV Road address.
- 57 signatures identified with a code of 315** which represent nomination papers that were corrected to include the 315 Royal Street, but the corrections were dated after the electors had signed the nomination papers, which would indicate that the 3204 TV Road address was present when they were signed.

Commission staff recommend dismissing the challenge to the 48 signatures identified in Complainant's Exhibit B which is attached to the Complaint that are identified with a code of 315*. Those signatures are contained on nomination papers that contain a handwritten 315 Royal Street address. There is no indication when the address was changed on the page. In this instance, the address matches the Candidate's Declaration of Candidacy and it is presumed that the address was on the nomination paper prior to it being circulated and signed.

Recommended Motions:

- 1) The Commission sustains the challenge to the 1834 signatures identified in the Complainant's Exhibit B identified with a code of 3042 which represent nomination papers that were printed and circulated with an address of 3204 TV Road, Room 231, Florence SC address.**

- 2) The Commission sustains the challenge to the 57 signatures identified in the Complainant's Exhibit B identified with a code of 315** which represent nomination papers that were corrected to include the 315 Royal Street, but the corrections were dated after the electors had signed the nomination papers, which would indicate that the 3204 TV Road address was present when they were signed.**
- 3) The Commission rejects the challenge to the 48 signatures identified in the Complainant's Exhibit B identified with a code of 315* which represent nomination papers that include the 315 Royal Street address, and there was no indication when the address was written on the page, but it is presumed to have been prior to circulation and signing on the page.**
- 4) The Commission certifies 1846 valid signatures, which is below the minimum of 2,000 required for ballot access.**
- 5) The Commission denies ballot access to Candidate Howie Hawkins and Candidate Angela Walker for the 2020 November General Election as independent candidates for President and Vice President and their names shall not appear on the ballot.**
- 6) The Commission directs staff to draft Findings and an Order consistent with these motions.**



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: For the August 20, 2020 Meeting of the Wisconsin Elections Commission

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe
Administrator

SUBJECT: Ballot Access for Independent Candidates for President and Vice President

Independent candidates for the offices of President and Vice President are required to file Declarations of Candidacy and nomination papers containing a minimum of 2,000 signatures of Wisconsin electors. Wis. Stat. §§ 8.20(8)(am), 8.21. The nomination papers must also contain the names and addresses of electors from each of Wisconsin's eight congressional districts and two electors from the state at large. Wis. Stat. § 8.20(2)(d). The nomination papers may be filed "not later than 5 p.m. on the first Tuesday in August preceding the election." Wis. Stat. § 8.20(8)(b). "In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline." Wis. Admin. Code EL § 2.05(2).

In total, five slates of independent candidates for the offices of President and Vice President filed ballot access documents with our office. A summary of those filings is as follows:

- 1) On August 3, 2020, Jo Jorgensen and Jeremy Cohen filed nomination papers with the WEC for the offices of President and Vice President as independent candidates representing the Libertarian Party.
- 2) On August 4, 2020, Howie Hawkins and Angela Walker filed nomination papers with the WEC for the offices of President and Vice President as independent candidates representing the Green Party.
- 3) On August 4, 2020, Brian Carroll and Amar Patel filed nomination papers with the WEC for the offices of President and Vice President as independent candidates representing the American Solidarity Party.
- 4) On August 4, 2020, Kyle Kealey Kopitke and Taja Yvonne filed nomination papers with the WEC for the offices of President and Vice President as independent candidates representing the American Independent Party.
- 5) On August 4, 2020, after the 5 p.m. deadline, Kanye West and Michelle Tidball filed nomination papers with the WEC for the offices of President and Vice President as independent candidates representing the BDY Birthday Party.

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Administrator
Meagan Wolfe

Staff Review

Jorgensen/Cohen: Staff completed its review of the Jorgensen/Cohen nomination papers on August 4, 2020. Staff found 2,916 valid signatures. Both candidates filed Declarations of Candidacy. Staff also verified the addresses of each elector to ensure the eight congressional districts were represented.

Hawkins/Walker: Staff completed its review of the Hawkins/Walker nomination papers on August 5, 2020. Staff found 3,737 valid signatures. Both candidates filed Declarations of Candidacy. Staff also verified the addresses of each elector to ensure the eight congressional districts were represented.

Commission staff determined after facial review that the nomination papers filed by Candidates Hawkins and Walker contained a sufficient number of signatures. Staff also identified an address discrepancy between the address Angela Walker provided on the Declaration of Candidacy and the address listed in the header on a significant number of petition pages. The address discrepancy was also raised in the challenge complaint filed against these candidates and staff determined the signatures contained on pages that are inconsistent with the address contained on the sworn Declaration of Candidacy of the Candidate should not be counted. The challenge complaint which has been filed against these candidates' ballot access documents will be considered as part of Agenda Item C.

Carroll/Patel: Staff completed its review of the Carroll/Patel nomination papers on August 5, 2020. Staff found 2,508 valid signatures. Both candidates filed Declarations of Candidacy. Staff also verified the addresses of each elector to ensure the eight congressional districts were represented.

Kopitke/Yvonne: Staff completed its review of the Kopitke/Yvonne nomination papers on August 5, 2020. Staff found 0 valid signatures. Both candidates filed Declarations of Candidacy.

West/Tidball: Despite receiving the nomination papers after the 5 p.m. deadline, staff completed its review of the West/Tidball nomination papers on August 5, 2020. Staff found 2,422 valid signatures based on that substantive review. Both candidates filed timely Declarations of Candidacy. Staff also verified the addresses of each elector to ensure the eight congressional districts were represented. Out of an abundance of caution, and consistent with past practice of the Commission to promote access to the ballot, not denial of access if the papers were later determined to be timely, Commission staff accepted transfer of the papers and conducted a facial review of the signatures, notwithstanding the timeliness issue. The full Commission (not the Commission staff) is ultimately tasked with deciding whether the papers were in fact filed timely based on the facts provided. Commission staff took possession of the papers and conducted a facial review of the content of those papers under Wis. Admin. Code § EL 2.05(3). Two challenge complaints have been filed against these candidates' ballot access documents that will be considered as part of Agenda Item C.

Recommendations

1. Staff recommends that the Commission find that the following candidates should be certified for ballot access as independent candidates for President and Vice President at the November 3, 2020 General Election:
 - a. Jo Jorgensen and Jeremy Cohen as independent candidates representing the Libertarian Party.
 - b. Brian Carroll and Amar Patel as independent candidates representing the American Solidarity Party

2. Staff recommends that the Commission find that Kyle Kealey Kopitke and Taja Yvonne submitted insufficient nomination paper signatures and be denied ballot access as independent candidates representing the American Independent Party.
3. Ballot access for Howie Hawkins and Angela Walker representing the Green Party be denied for failure to file sufficient nomination paper signatures based on the results of the challenge filed.
4. Ballot access for Kanye West and Michelle Tidball representing the BDY Birthday Party be denied for failure to file the nomination papers by the statutory deadline regardless of the results of the two challenges filed.

Proposed Motions:

1. **MOTION:** The Commission approves ballot access for Jo Jorgensen and Jeremy Cohen representing the Libertarian Party and Brian Carroll and Amar Patel representing the American Solidarity Party as independent candidates for the offices of President and Vice President at the 2020 General Election.
2. **MOTION:** The Commission denies ballot access for Kyle Kealey Kopitke and Taja Yvonne as independent candidates representing the American Independent Party for the offices of President and Vice President at the 2020 General Election.
3. **MOTION:** The Commission denies ballot access for Kanye West and Michelle Tidball as independent candidates representing the BDY Birthday Party for the offices of President and Vice President at the 2020 General Election.
4. **MOTION:** The Commission denies ballot access for Howie Hawkins and Angela Walker as independent candidates representing the Green Party for the offices of President and Vice President at the 2020 General Election.



Wisconsin Elections Commission

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DATE: For the August 20, 2020 meeting of the Commission

TO: Wisconsin Elections Commission

FROM: Meagan Wolfe
Administrator

SUBJECT: County HAVA Election Security Sub-Grant Update

Purpose

This memorandum describes the status of County HAVA Election Security subgrant applications and offers three revised applications for the Commission's consideration. This subgrant program was created at the Commission's June 10, 2020 meeting and the initial round of subgrant applications was assessed at the Commission's July 30, 2020 meeting.

Overall Summary

Status	# of Counties	Notes
Approved Subgrants	56	Approved 7/30/2020
Needs Commission Review	3	Iron, Milwaukee, Waushara
Considering Submission	7	Adams, Ashland, Grant, Iowa, Langlade, Menominee, Pepin
Will Not Apply	4	Forest, Monroe, Pierce, Richland
Unknown	2	Burnett, Crawford

New & Revised Applications (See attachment D.1)

1. Iron County

Commission staff asked Iron County to provide supplemental information regarding encryption of the county website. The terms of the Election Security Subgrant require counties to either possess, or commit to obtain, an encrypted (HTTPS) website. Iron County submitted a revised application stating their intent to transition to an encrypted website and stating that they can complete the transition within 30 days of receiving funding. With this new information, Commission staff recommend approval of the revised Iron County application.

2. Milwaukee County

After discussions with WEC staff, Milwaukee County elected to submit a revised subgrant application with an exclusive focus on cybersecurity. Their new application is specifically targeted to address specific cybersecurity needs identified through external assessments. In addition, Milwaukee plans to conduct

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additional external evaluations to assess areas not previously studied. Commission staff recommend approval of the revised Milwaukee County application.

3. Waushara County

Waushara County submitted a revised application after determining that their original requests for physical security improvements extended beyond the scope of the subgrant. Their revised request instead requests funds for an Albert network sensor. Commission staff recommend approval of the revised Waushara County application.

Pending Applicants

Seven counties expressed an intent to apply for the subgrant but did not provide an application in time for this meeting. Several of these counties requested assistance from Commission staff and one county recently completed transition to a new clerk. Staff therefore suggest permitting these counties to submit applications for future review by the Commission no later than September 15, 2020.

Non-Applicants

Six counties did not apply for the subgrant and did not express interest in applying. Four of the six counties affirmatively stated that they did not believe subgrant funds were needed in their jurisdiction.

Recommended Motions

Motion #1

The WEC approves the grant applications for Iron, Milwaukee, and Waushara counties. WEC further directs staff to allocate the funds requested (up to \$35,000 base and \$.30/eligible voter) to these three counties.

Motion #2

WEC directs staff to continue working with counties interested in the subgrant to help them complete applications. County proposals will be considered by the Commission at a future meeting.

County: Iron	Maximum Allocation:	\$ 36,494.60
	Amount Requested:	\$ 35,000.00

Required Documents	
1. Completed Agreement Submitted?	YES
2. Subgrant Narrative Submitted?	YES

Required Certifications	
3. County uses HTTPS protocol for its website or certifies it will transition?	YES
4. County uses a secure e-mail host or certifies it will transition?	YES
5. County completed a risk and vulnerability assessment or plans to with funds?	YES

Requested Funds	Amount	Recommend Approval?	Comments
6. SIEM or Endpoint Security	\$ -		
7. IDS	\$ -		
8. E-Mail Security	\$ -		
9. Backups	\$ -		
10. Firewall	\$ 10,000.00	Yes	
11. Servers & Network Devices	\$ -		
12. MFA	\$ -		
13. Hardware	\$ 5,000.00	Yes	
14. Voting Equipment	\$ -		
15. Voting Software	\$ -		
16. Physical Security	\$ 5,000.00	Yes	if necessary
17. Security Assessment or Pen Tests	\$ 10,000.00	Yes	Plan completion by August 2020.
18. Security Training	\$ 5,000.00	Yes	
19. Other	\$ -		
20. Mitigation	\$ -		

Supplemental Information:

Iron County is willing to create our own hosted secure site with our own SSL certificate, so that we meet the guidelines. If we should proceed in this manner, we can have the site operational and accessible to the public within 30 days of the start date, or no later than September 15th, if a firm date is required in the response.

County: Milwaukee	Maximum Allocation:	\$ 250,893.50
	Amount Requested:	\$ 248,400.00

Required Documents

1. Completed Agreement Submitted?	YES
2. Subgrant Narrative Submitted?	YES

Required Certifications

3. County uses HTTPS protocol for its website or certifies it will transition?	YES
4. County uses a secure e-mail host or certifies it will transition?	YES
5. County completed a risk and vulnerability assessment or plans to with funds?	YES

Requested Funds	Amount	Recommend Approval?	Comments
6. SIEM or Endpoint Security	\$ 20,000.00	Yes	Expand SIEM and endpoint protection
7. IDS	\$ 140,000.00	Yes	Albert & Darktrace monitoring
8. E-Mail Security	\$ -		
9. Backups	\$ -		
10. Firewall	\$ -		
11. Servers & Network Devices	\$ -		
12. MFA	\$ -		
13. Hardware	\$ -		
14. Voting Equipment	\$ -		
15. Voting Software	\$ -		
16. Physical Security	\$ -		
17. Security Assessment or Pen Tests	\$ 16,400.00	Yes	Focused external security assessment
18. Security Training	\$ -		
19. Other	\$ -		
20. Mitigation	\$ 72,000.00	Yes	Services for previously identified needs

Supplemental Information:

Milwaukee County has made significant investments in cyber security for the entire enterprise over the past 3.5 years including the investment in a team, enterprise tools, and the development of a formal Security Operations Center (SOC). Additionally, in preparation for the 2020 Democratic National Convention, Milwaukee County engaged CDW Corporation to perform a security assessment for Milwaukee County during the first quarter of 2020. This assessment not only helped the County close security gaps in an effort to improve the County's security posture, it also validated the effort the County has made the last several years towards being more secure. Thank you for your consideration and please advise should we be able to provide any additional information or clarification.

County: Waushara	Maximum Allocation:	\$ 40,979.60
	Amount Requested:	\$ 46,321.20

Required Documents

1. Completed Agreement Submitted?	YES
2. Subgrant Narrative Submitted?	YES

Required Certifications

3. County uses HTTPS protocol for its website or certifies it will transition?	YES
4. County uses a secure e-mail host or certifies it will transition?	YES
5. County completed a risk and vulnerability assessment or plans to with funds?	YES

Requested Funds	Amount	Recommend Approval?	Comments
6. SIEM or Endpoint Security	\$ -		
7. IDS	\$ 14,700.00	Yes	Albert network sensor
8. E-Mail Security	\$ -		
9. Backups	\$ -		
10. Firewall	\$ -		
11. Servers & Network Devices	\$ -		
12. MFA	\$ -		
13. Hardware	\$ -		
14. Voting Equipment	\$ -		
15. Voting Software	\$ -		
16. Physical Security	\$ -		
17. Security Assessment or Pen Tests	\$ 15,000.00	Yes	External provider
18. Security Training	\$ 16,621.20	Yes	3 year subscription
19. Other	\$ -		
20. Mitigation	\$ -		

Supplemental Information:

Revised application and replaced security camera system for county building with an Albert Network Sensor. Thank you for your time and consideration.



Wisconsin Elections Commission

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August 21, 2020

Howie Hawkins
410 West Beard Ave.
Syracuse, NY 13205
Sent via US Mail

Angela Walker
315 Royal St., Apt. A
Florence, SC 29506
Sent via US Mail

Andrea Merida
andrea@howiehawkins.us
Sent via Email

David Schwab
David.c.schwab@gmail.com
Sent via Email

Re: Wisconsin Elections Commission Action – Ballot Access for 2020 General Election

Mr. Hawkins, Ms. Walker, Ms. Merida, Mr. Schwab:

This correspondence is to inform you of the motions passed by the Wisconsin Elections Commission at its August 20, 2020 hearing regarding the nomination paper challenge filed against the nomination papers of Mr. Hawkins and Ms. Walker (Case: EL 20-32, Arntsen v. Hawkins, et al.).

The Commission unanimously passed the following motions:

Motion: The Commission sustains the challenge to the 57 signatures identified in the Complainant's Exhibit B identified with a code of 315** which represent nomination papers that were corrected to include the 315 Royal Street, but the corrections were dated after the electors had signed the nomination papers, which would indicate that the 3204 TV Road address was present when they were signed.

Motion: The Commission rejects the challenge to the 48 signatures identified in the Complainant's Exhibit B identified with a code of 315* which represent nomination papers that include the 315 Royal Street address, and there was no indication when the address was written on the page, but it is presumed to have been prior to circulation and signing on the page.

Wisconsin Elections Commissioners

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Exhibit D

Motion: The Wisconsin Elections Commission certifies 1789 valid signatures for Howie Hawkins and Angela Walker that show an address of 315 Royal Street, Apt. A, Florence SC, 29506 and that the Commission stipulates that it has deadlocked 3-3 as to the validity of an additional 1834 signatures based upon insufficient evidence as to where the candidate lived at the time of circulation of the nomination papers.

Independent candidates for the offices of President and Vice President are required to file Declarations of Candidacy and nomination papers containing a minimum of 2,000 signatures of Wisconsin electors. Wis. Stat. §§ 8.20(8)(am), 8.21. With a certified total of 1789 valid signatures, the names of Howie Hawkins, Candidate for President and Angela Walker, Candidate for Vice-President, will not appear on the 2020 General Election Ballot in Wisconsin.

Sincerely,

WISCONSIN ELECTIONS COMMISSION

A handwritten signature in black ink that reads "Meagan M. Wolfe". The signature is written in a cursive style with a large, stylized "M" and "W".

Meagan Wolfe
Administrator

Cc: Wisconsin Elections Commission
Attorney Jeffrey Mandell, Stafford Rosenbaum, LLP (via email to: jmandell@staffordlaw.com)

Declaration of Candidacy

(See instructions for preparation on back)

FOR OFFICE USE ONLY

Is this an amendment?

☐ **Yes** (if you have already filed a DOC for this election)

☐ **No** (if this is the first DOC you have filed for this election)

I, _____, being duly sworn, state that

Candidate's name

I am a candidate for the office of _____

Official name of office - Include district, branch or seat number

representing _____

If partisan election, name of political party or statement of principle - five words or less (Candidates for nonpartisan office may leave blank.)

and I meet or will meet at the time I assume office the applicable age, citizenship, residency and voting qualification requirements, if any, prescribed by the constitutions and laws of the United States and the State of Wisconsin, and that I will otherwise qualify for office, if nominated and elected.

I have not been convicted of a felony in any court within the United States for which I have not been pardoned.¹

My present address, including my municipality of residence for voting purposes is:

				Town of <input type="checkbox"/>	
				Village of <input type="checkbox"/>	
				City of <input type="checkbox"/>	

House or fire no.

Street Name

Mailing Municipality and State

Zip code

Municipality of Residence for Voting

My name as I wish it to appear on the official ballot is as follows:

(Any combination of first name, middle name or initials with surname. A nickname may replace a legal name.)

STATE OF WISCONSIN

County of _____

(County where oath administered)

}

ss.

(Signature of candidate)

Subscribed and sworn to before me this _____ day of _____, _____.

(Signature of person authorized to administer oaths)

**NOTARY SEAL
REQUIRED, IF OATH
ADMINISTERED BY
NOTARY PUBLIC**

☐ Notary Public or ☐ other official _____

(Official title, if not a notary)

If Notary Public: My commission expires _____ or ☐ is permanent.

The information on this form is required by Wis. Stat. § 8.21, Art. XIII, Sec. 3, Wis. Const., and must be filed with the filing officer in order to have a candidate's name placed on the ballot. Wis. Stats. §§ 8.05 (1)(j), 8.10 (5), 8.15 (4)(b), 8.20 (6), 120.06 (6)(b), 887.01.

EL-162 | Rev. 2019-08 | Wisconsin Elections Commission, P.O. Box 7984, Madison, WI 53707-7984
608-266-8005 | web: elections.wi.gov | email: elections@wi.gov

¹ A 1996 constitutional amendment bars any candidate convicted of a misdemeanor which violates the public trust from running for or holding a public office. However, the legislature has not defined which misdemeanors violate the public trust. A candidate convicted of any misdemeanor is not barred from running for or holding a public office until the legislature defines which misdemeanors apply.

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, former legal surname, or any combination of first name, middle name, and initials, surname or nickname with last name.

Note: The Wisconsin Elections Commission 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), 887.01(1).

Information to be provided by the person administering the oath:

- The county where the oath was administered.
- 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 notary seal is required and the date the notary's commission expires must be listed.

All candidates for offices using the nomination paper process must file this form (*and all school district candidates must file the EL-162sd*) with the appropriate filing officer no later than the deadline for filing nomination papers. Wis. Stats. §§ 8.10 (5), 8.15 (4)(b), 8.20 (6), 8.21, 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 (l)(j).