GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

BOARD OF ELECTIONS

SPECIAL BOARD MEETING

FRIDAY

MARCH 29, 2024

The District of Columbia Board of Elections convened a Special Board Meeting via videoteleconference, pursuant to notice, at 9:30 a.m. EDT, Gary Thompson, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

GARY THOMPSON, Chair
KARYN GREENFIELD, Member
J.C. BOGGS, Member

BOARD OF ELECTIONS STAFF PRESENT:

MONICA HOLMAN EVANS, Director
TERRI STROUD, General Counsel
MARISSA CORRENTE, Registrar of Voters
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(9:33 a.m.)

CHAIR THOMPSON: Good morning, everybody. Happy Friday. It's a gorgeous spring day out there, plenty of sunshine.

My name is Gary Thompson, the Chair of the D.C. Board of Elections. And with us today by Zoom are my fellow Board members, Karyn Greenfield and J.C. Boggs. We therefore, we have a quorum to proceed. Our court reporter is present I see, as well. And this meeting is being recorded.

The first thing we do is adopt our agenda. It's been distributed among us, and at this time, I'll just note, we're going to proceed first with the final matter listed, James Harnett vs. Yolanda Fields, and then address James Harnett vs. Jill Stein.

The other three matters involving Quinn Nii are moot since the candidate has withdrawn, so just reversing the order a little bit. But with that comment, I would move the
agenda.

MEMBER BOGGS: Second.

CHAIR THOMPSON: All right. All in favor?

MEMBER GREENFIELD: Aye.

MEMBER BOGGS: Aye.

MS. STROUD: And actually, the updated agenda was on the website. And so, it has been published. And so, it's not technically being amended because the complete version the final version was on the website. Thank you.

CHAIR THOMPSON: Thank you.

MEMBER BOGGS: Thank you.

(Simultaneous speaking.)

CHAIR THOMPSON: a few days ago. So with that, we will proceed with the challenge by Mr. James Harnett involving the candidacy for Yolanda Fields, a candidate for Ward 7 Member of the D.C. Council.

And the first thing we'll do is have the parties state their names and address for the record, starting with the challenger James
Harnett. We'll make sure and unmute you if you could just introduce yourself. State you name and address for the record.


CHAIR THOMPSON: All right. Thank you so much. We'll hear from you in just a moment. And on behalf of Yolanda Fields, is there an appearance?

MS. FIELDS: Yes.

CHAIR THOMPSON: Oh, is this Ms. Fields?

MS. FIELDS: Yes, sir. Good morning.

CHAIR THOMPSON: And if you could, state your name and address for the record, please.


CHAIR THOMPSON: All right. Thank you so much.
Next, we'll hear from the Board of Elections Registrar to address the matter.

MS. CORRENTE: Thank you, Chair. So I sent a report to all the parties on March 17th, a memo. The subject of it is challenge to the petition of Yolanda Fields Yolanda Y. Fields, Candidate for Ward 7, Member of the Council for the Democratic Party. I'm going to summarize it because it has been given to all the parties, and it was discussed at the prehearing conference.

MS. STROUD: And it will be submitted for the record as well.

MS. CORRENTE: Yes. So, on March 6th, 2024, Yolanda Fields, Candidate for Ward 7 Member of the Council for the Democratic Party for the June 4th, 2024, Primary Election, submitted a nominating petition to appear on the ballot as a candidate. The minimum requirement for ballot access is 250 signatures. The petition contained 283.

During the challenge period, on March 13th, 2024, James Harnett, a registered voter in
the District of Columbia, challenged the petition. Challenger Harnett filed challenges to 69 of the 283 signatures on various grounds connected to the D.C. Municipal Regulations.

My review of the challenges indicates that 63 of the 69 challenges are valid for various reasons. This, ultimately, leaves the candidate's nominating petition with 220 signatures, 30 signatures below the number required for ballot access.

CHAIR THOMPSON: Okay. Ms. Walker, with that, if you'd like to, address the prehearing conference.

MS. FIELDS: I can't hear her.

MS. WALKER: Okay. I apologize. On March 27th, 2024, a prehearing conference was conducted where both the challenger and the candidate appeared. At that time, the findings by Ms. Corrente were accepted by Mr. Harnett. However, Ms. Fields raised several points to which she contested.

In particular, she was not in
agreement with the 18 inactive challenges that were listed for voters that were listed within her petition. And specifically, she brought up an issue pertaining to an address where she collected signatures where there were several issues with those. The total of those was five. In total, that would be 23 signatures that she was hoping to have credited back to her.

Ms. Fields did raise the point that she did go back to this particular building in question because she realized that there were voters at that address that may not have been residents of the Ward in particular. She did drop of change of address forms at those particular residences, but none of such were received back here at the Board.

During our discussion, Ms. Fields was advised that even if there was a reason for the Board to otherwise grant her credit towards those that were listed as excuse me not inactive but with regards to an affidavit circulator issue, the 18 signatures, and those 5 address issues,
that would still only allow her 23 more
signatures, still bringing her to a point to
where she would be underneath the 250
requirement.

Ms. Fields still requested that she be
able to come forward to the Board despite our
conversation about her acknowledging that there
were issues with the affidavits for the
circulator and her open admission to the fact
that she did not read all of the instructions
about the circulator affidavit and how to
complete.

So, with that, that was the conclusion
of our prehearing conference.

CHAIR THOMPSON: Okay. So the initial
determination that 63 of the challenges are valid
brings the signature total down to 220, which is
30 shy of the requirement.

And it sounds like what you're saying
is that 23 are being rechallenged or the
candidate is asking us to recredit those, so to
even if we do, that still only gets the candidate
to 243, which is not enough.

And just to I guess, just to review
the other basis for upholding the challenges,
they all sound pretty straightforward. Eight
challenges were upheld because the signer is not
registered to vote. I mean, there's not much
there's not anything you can do about that.

Ten were upheld because the signer's
registration was inactive at the time of
signature, which is not a curable thing. One was
a duplicate. Two did not include an address.
Six were illegible. Eight, the signer was
registered in another party.

So, when you add up these challenges
that were upheld, seemingly without any ability
to cure them or dispute them, seems like the
candidate still is down to 243 potentially valid
signatures.

And it's you know, these 23 or yeah,
23 that are in question there, you know, we could
talk about it maybe just for future edification
so people understand what they should be doing,
but I mean, I'm just making sure I'm making this all correctly. And I'm

MS. WALKER: That's correct, sir.

CHAIR THOMPSON: I'm curious to know the answer on the 23 so we you know, we learn about this a little bit more each cycle. But, and on the 23, 18, the issue is the it looks like the circulator is signed.

MS. WALKER: Correct. Predated the circulator predated in which the actual signatures were collected, so that is in contravention to what our circulator affidavit requires, so

CHAIR THOMPSON: You're supposed to when you're a circulator, you're supposed to witness all the signatures. And when you're done with the sheet, however many signatures are on the sheet, having witnessing them all, you then sign the affidavit and date it. Obviously, the date would be after the dates of the signers.

MS. WALKER: Correct.

CHAIR THOMPSON: And for this case, it
was the opposite.

MS. WALKER: That's correct.

CHAIR THOMPSON: It looks like the circulator just was thinking let me get out ahead of this and sign first, but it's possible the circulator gave it somebody else and didn't, in fact, witness it. So I don't know if that's a curable thing, but

MS. CORRENTE: Well, if I could, to interject, I think, in the past, the Board has allowed it to be cured when the circulator appears under oath and swears or affirms that they did in fact, and it was just a clerical mistake. I've seen the Board do that before.

CHAIR THOMPSON: Right.

MS. CORRENTE: But again, even if that were the case here and I'm not sure that all of the circulators who this happened to are present today it still would only get back 18 signatures.

CHAIR THOMPSON: Okay.

MS. CORRENTE: So

CHAIR THOMPSON: Well, that's good to
clarify. I mean, we're willing to credit the 18
back if the circulators so testify.

    MS. WALKER: Right.

    CHAIR THOMPSON: I don't know if
they're here, or it's I mean, it sounds somewhat
academic to do so, but just so people understand,
other candidates that are and for future
reference, it's a curable problem. And that's 18
of them. What were the other five?

    MS. WALKER: The other five dealt with
issues that were pertaining to bear with me one
moment one was a person who was not registered,
an address change, inactive status, party change.
The person was identified in an incorrect party
to which the candidate was registered, and a
duplicate signature.

    So those were the consistency of the
five that were listed otherwise, aside from the
circulator issues.

    CHAIR THOMPSON: And is

    MS. CORRENTE: And I think correct me
if I'm wrong, but I think the candidate, who I
guess we could ask because she's here, but the
candidate, I believe, it had to do with a
specific address if that's correct?

MS. WALKER: Right.

MS. CORRENTE: And so, I was hoping to
maybe be able to cure those through the address
process, but they're they weren't actually
address change findings.

MS. WALKER: Right.

MS. CORRENTE: So they're not curable.

CHAIR THOMPSON: Right. Not being
registered, wrong party, and duplicate, those are
not curable.

MS. WALKER: Right.

MS. CORRENTE: But it was connected to
that specific address, I believe.

MS. WALKER: That's correct.

MS. CORRENTE: Yeah.

CHAIR THOMPSON: Okay. So, it sounds
like, if we got into the details of those five,
we would not recredit them.

MS. CORRENTE: Correct.
CHAIR THOMPSON: All right. All right. Thank you for walking us through that. I guess, we'll hear now from the candidate, Ms. Fields.

MS. FIELDS: Good morning again. Yes, sir.

CHAIR THOMPSON: Yeah, please go ahead.

MS. FIELDS: Okay. Like I was explaining on the other day is that I've the addresses that were submitted to me, I went to each individual home. On that particular Saturday, it was one of them great them good Saturday days. A lot of people wasn't home. The individual people that were home, I did submit the voter registration cards to them. And then I explained to them how important that the voter registration card was.

So, one individual by the name of Ms. Witherspoon, thank God, she copied it for me. And she you know, she said she would mail her original off.
The other individuals, I asked them, you know, can I just, you know, take their registration card with me, but they was like, no, I'll fill it out, and I'll mail it you know, mail it back in themselves. And I was like, well, let me show you your name on the document that I have.

But it's not my fault if they want to take and mail it in themselves. I can't, like, just take it from you know, but I did explain to them how important it was for them to for me to take it back. But they was like, well, no, I can read continue to read, and I'll send it off myself. So the only thing I could say, yes. You know, you just say, okay, then; thank you.

Other individuals' homes that I went to, they wasn't home, so I did leave the voter registration card in their door.

The other fact was, at this apartment building where I was getting signatures from, I asked them were they a Ward 7 resident. They stated yes. Are you registered to vote in the
District of Columbia? They said yes. So they put they names down.

So, again, their name was on the list, so when I went back to the building, I communicated with the resident manager that was there, and she indicated to me that, oh, these people don't live here. They're just visiting or they're just staying with a family member.

So, by her telling me that, and they're not on the lease or what have you, there was nothing that I could do about that. There was nothing that I could do about that at all.

CHAIR THOMPSON: Okay. Well, I appreciate that explanation on the address issue. It sounds like at least one of those individuals was not, in fact, registered.

And I think if the person says they're registered, that's obviously good to hear and something that you might reasonably rely upon. But they do, in fact, have to be registered, which I think goes to the wisdom of collecting a lot more signatures than are required just in
case there's things that. But I appreciate your explanation on the address issue. I there's 18 signatures that

MS. FIELDS: So

CHAIR THOMPSON: depend on whether the circulator witnessed the signatures, and I'm I don't know if any of the circulators are here or maybe you're one of the circulators. Maybe you could address that.

MS. FIELDS: I'm one of the circulators. So, on page 23, I was at I was at a church, and it was 3/5, and that was the last signature that I got on 3/5, that day, which was on a Tuesday.

And then, I went back again, which was on a Wednesday, 3/6, which was on Wednesday, 3/6. And what I did do, and I made a I'm going to be honest with you, I made a mistake that I continued to let the individuals sign on the page that I be I'm finished I finished on 3/5. And that was at the end of the sheet on 3/5.

And even on page 17 no, not 17. I'm
Sorry. Yeah, some of them are 17. Well, that's well, yeah. So the 24th, which did I start it on the 24th? I see on they finished signing on the 24th and then ended up on the 29th. You know, and again, you know, that was you know, that was my that was my error.

Chair Thompson: Well, that's okay. I did I guess the question is did regardless of what date you wrote down, did you, in fact, witness those signatures?

Ms. Fields: Yes, sir. Yes, I did.

Chair Thompson: Okay. Well, thank you.

Ms. Fields: And one of the individuals was Ms. anyway. Yeah. I did, sir. It was one it was one person saying that she it was a fraud, and I know it wasn't a fraud because she the mother of my church, and I know her signature wasn't a fraud because she signed it. But at the end of the day, I did, sir. I witnessed everybody that signed the documents in front of me, yes.
CHAIR THOMPSON: Okay. Let me just ask you or the registrar how many signatures would that credit back on the circulator sheets that Ms. Fields witnessed?

MS. CORRENTE: So I believe it would be sheets 17, 20, and 23.

MS. WALKER: That's correct.

MS. CORRENTE: And that would be 15. Is that math correct? Three, eight, and four?

CHAIR THOMPSON: Okay. That's it.

MS. STROUD: That's correct.

MS. CORRENTE: Okay. Thank you.

CHAIR THOMPSON: All right. So, thank you. We'll credit back 15 in addition to the 220, so that now we're at 235, and I guess there are five no three others.

MS. WALKER: Correct.

CHAIR THOMPSON: A different circulator misstated or predated the form. I don't know if that's circulator is present. Ms. Fields, do you know if that was

MS. WALKER: And that if I could
CHAIR THOMPSON: Go ahead.

MS. WALKER: The circulator in question would be Mr. Jamil Shoatz.

MS. FIELDS: Right. I wasn't able to reach out to communicate with Mr. Shoatz. I've called him numbers of times, and I wasn't able to communicate with him. But I do I've been knowing Mr. Shoatz for a long time, and I do know his abilities. And I do know that he would've been he would've been present to see the individuals sign the sheets.

And I gave him I even gave him a copy of what was sent to me of the individuals who needed to be registered to vote or what have you. Like I said, again, I haven't been able to reach him, but yes.

CHAIR THOMPSON: Well, thank you for that. I mean, he's not present. You're probably right. I'm going to say it's 99 percent chance you're correct, but that would still that would add three more and bring the total to 238. So we're still we're still a fair number short.
Anything else you would like to say, Ms. Fields, before we hear from the challenger?

MS. FIELDS: I'll wait to hear what he has to say.

CHAIR THOMPSON: Okay. Mr. Harnett, I think you're present, and we'll ask you to go ahead and speak.

MR. HARNETT: Thank you. Good morning, members of the Board. As noted by the registrar, I agree with the registrar's findings as presented in whole.

As stated in the registrar's report, during the prehearing conference, the candidate, Ms. Fields, objected to the challenge of some signatures on the basis that some of some signers of her petition she believed had submitted change of address forms and that no signature should be found to be invalid because of the circulator of the petition completing the circulator's affidavit before the signer's signature was added to the petition.

During the prehearing conference, by
the candidate's own admission, she said, in reference to the enumerated attestations she signed in the circulator's affidavit, and I quote, I didn't read the whole instructions; I just glanced through it.

While this Board has, on occasion, such as in 2023-006, in reference to Candidate Philip Newland, accepted the sworn oral testimony of a circulator to cure incidents involving the lack of or errors with the dates on the circulator's affidavit, such plainly stated disregard by the candidate for the affidavit she signed, knowing that it was a legal statement, when stated as plainly as she did, I believe is contrary to the spirit of this Board's findings in those prior cases, and to the plainly stated DCMR Regulations which permit the registrar to find, as she did in this case, that the candidate failed to properly complete the circulator's affidavit and that these signatures should be discounted.

While I disagree with permitting the
candidate to cure these 18 signatures given the specific facts and, I guess, 15, considering that the other circulator is not present the circumstances of this matter, the fact remains that even if they were admitted by this Board, Ms. Fields would remain below the minimum number of signatures required for ballot access.

CHAIR THOMPSON: Right. Thank you very much, Mr. Harnett.

Ms. Fields, did you want to reply to any of that or add anything else?

MS. FIELDS: Yes, I would. I hear what you're saying, Mr. James, and I want to thank the Board of Elections. But this some of these, the signatures, again, I'm going to say I was there while the individual persons signed the signatures. With Mr. Shoatz, I do I do know that he was in front of the individual people that signed off on his on his petition as well.

I don't know what decision that you all may make, but I am going to say this is that, again, Board of Elections, I appreciate you all
meeting with me, and to Ms. Walker and her
coworker as well.

    But this is this position that I have
applied for is a position that I've been working
towards my whole life. And that is working and
helping people in my community, not just the
young people but the senior citizens and the and
others as well, working persons, persons not
working. It didn't matter. I helped them. I
helped them.

    And Mr. James, you know, it's
politics, and I get it because I stood beside and
worked with a person, and he told me, basically,
everything that he knew. You all mayor for life.
I worked with him, close by him. So, with that
being said, you know, Board of Elections, I thank
you all for giving me this chance to present my
case.

    There was nothing that I could do
about the individuals who didn't live there.
There was nothing I could do far as with the
individuals who I submitted the voter
registration forms to. I did what I was supposed to do. I felt just I didn't do no wrong, but I did what I did what I was supposed to do. You know, yeah. I did what I was supposed to do. And yeah.

CHAIR THOMPSON: Well, thank you, Ms. Fields. And I want to thank you for submitting your nominations to run for this office. Our democracy depends on candidates stepping forward to participate in the process, and I want you to know your voice matters. And don't lose heart.

The process is not I guess, it's not easy gathering these signatures. I've done it myself several times as an ANC Candidate, and I know it's not easy, but you know, please don't lose heart.

If you go through this again, you know, obviously the lesson is try to obtain as many signatures as you can to leave some room for situations where maybe somebody didn't write down the correct address or is not, in fact, registered to vote. And if you can't run this
time, well, you can put yourself out there as a write-in candidate as well. So please don't lose heart.

And I will now ask the General Counsel Stroud to provide us any comments or her recommendation.

MS. STROUD: Thank you to the parties in this matter. You've, you know, been honest and engaged members of the community, resulting in this matter today.

And however, it's the recommendation of the Office of the General Counsel that Ms. Fields be denied ballot access in the contest for Ward 7 member of the Council of the District of Columbia in the Democratic primary election on the grounds that she has an insufficient number of signatures for ballot access.

Specifically, she does not meet the minimum number of 250 signatures required to attain ballot access. Rather, she has, including the amount that was credited to the Board, she would have 235 signatures, 15 short of the number
required for ballot access.

   CHAIR THOMPSON:  Okay. Thank you.

And I will make that motion to my fellow Board members that we credit the candidate with 15 ballot signatures based on Ms. Fields's testimony that she personally witnessed those signatures and recrediting her those 15 brings the total to 235, which is, unfortunately, not enough. So, unfortunately, and with regret, I have to move that we uphold the challenge and deny the candidate ballot access.

   MS. STROUD:  And we will take a roll call vote with respect to the motion that the Chair has made. Mr. Chair?

   CHAIR THOMPSON:  When do we need a second first?

   MS. STROUD:  Okay. Yes. Sorry.

   CHAIR THOMPSON:  Is there a second?

   Hold on. Hold on a second.

   MEMBER GREENFIELD:  I second.

   CHAIR THOMPSON:  Okay. All right.

   MS. STROUD:  Okay.
CHAIR THOMPSON: So a roll call is -
ayea. The Chair votes aye.

MS. STROUD: Member Greenfield?

MEMBER GREENFIELD: Aye.

MS. STROUD: And Member Boggs?

MEMBER BOGGS: Aye.

MS. STROUD: Okay. With that, Ms.

Fields is denied ballot access, and an order will issue today, a written order supporting okay.

Yes. And a written order will issue today, but you can, of course, appeal the order within three days from today. I think the deadline for that would be on Monday, and the appeal would be to the D.C. Court of Appeals.

And so, with that, I think this matter is closed.

CHAIR THOMPSON: Okay. Yeah. Thank you, again, everybody, especially Ms. Fields.

Again, please don't lose heart, don't lose faith, hang in there, and keep doing your great work.

So, with that, we will move on to the next challenge, which is James Harnett vs. Jill
Stein. And I would ask the parties or the representatives to state their names and addresses, starting with Mr. Harnett.


CHAIR THOMPSON: Okay. And I understand that, on behalf of Candidate Jill Stein, there are two representatives present to represent her: Rick Lass and Jason Call. I don't know if both of you would like to speak or who is the lead.

MR. CALL: I'll let Rick take the lead on this.

CHAIR THOMPSON: Okay. Thank you, Mr. Call.

Mr. Lass?

MR. LASS: Thank you, all. My name is Rick Lass. I live at 111 San Thomas in San Lorenzo, New Mexico, and I'm Jill Stein's ballot access director.

CHAIR THOMPSON: Okay. Just to clarify, are you an attorney, Mr. Lass?
MR. LASS: No, sir.

CHAIR THOMPSON: Okay. No worries.

That's a good thing to not be an attorney.

(Laughter.)

CHAIR THOMPSON: Well, thank you for being here. With that, we'll hear next from Ms. Pembroke, a BOE attorney. Oh, I'm sorry. From the registrar first and then Ms. Pembroke about her the registrar's findings on this matter.

MS. CORRENTE: Thank you, Chair. So, on March 26th, 2024, I issued an updated report, a memo to the parties. The title of it is Challenge to the Petition of Jill Stein, Candidate for the President of the United States for the D.C. Statehood Green Party, Updated.

On March 5th, 2024, an authorized agent submitted a nominating petition on behalf of Jill Stein to appear on the ballot as a candidate in the June 4th, 2024, primary election for the Office of President of the United States. On March 6th, 2024, the authorized agent submitted a supplemental filing.
The minimum requirement to obtain ballot access for this office is 38 signatures. With the initial and supplemental filings, the petition contained 53 signatures.

The petition was posted for public inspection for the ten days, as required by law, for the challenge period. On March 11th, 2024, James Harnett, a registered voter in the District of Columbia, challenged the petitions.

Challenger Harnett filed challenges to 21 of the 53 signatures and specified on different grounds for those reasons, all from Title 3, Chapter 14, of the D.C. Municipal Regulations.

Ultimately, my initial review of the challenges indicated that 16 of the 21 challenges were valid. A valid change of address form was timely submitted after my initial report was issued, which changed the findings, so it became 15 of the 21 signatures became valid. I'm sorry. 15 of the challenges became valid.

So one is valid because the signer's
voter registration was designated as inactive on
the voter roll at the time the petition was
signed.

CHAIR THOMPSON: Inactive, you said.

MS. CORRENTE: Sorry. Inactive, yes.

One is valid because the signature is a duplicate
of a valid signature. And 11 are valid because
the circulator of the petition did not personally
witness the voters' signing of the petition. And
then, finally, two were valid because the signer
is not registered to vote in the same party as
the candidate at the time the petition was
signed.

So it should be noted that for two of
those circulator-related challenges, the signer
is not registered to vote at the address listed
on the petition at the time the petition was
signed as well. So there's like an added layer
there.

I made the subsequent determinations
regarding the circulator challenges by seeing
which petition sheets with handwritten signatures
appeared to be copies with the circulator's signature affixed directly to the page. The determinative factor in deciding the validity of these challenges was whether I could feel the raised indentation of handwritten pen marks on the back of the page.

One of the challenged signatures which I did not find to be a valid challenge was on sheet 4 of 14. The signer appeared to complete the required information and signature digitally. I did not feel that I had enough information to find the challenge valid.

In regards to this finding in particular, Challenger Harnett shared at the prehearing conference on March 25th, 2024, that he believes sheet 4 was circulated in a similar manner to the other sheets and felt that the challenge should also be found to be valid. The candidate nor a representative was not present at the prehearing conference.

With a valid and timely address update, this leaves the candidate's nominating
petition at 38 signatures, which is the number
required for ballot access.

CHAIR THOMPSON: Okay. So just to
recap, we've got 53 signatures, and four of them,
there's no doubt are invalid because one is an
inactive voter, one is a duplicate, two, they're
not registered in the same party. So minus four
takes you to 49.

And then, there's another 11
challenges that are valid because the circulator
did not personally witness the signing. That's
something that is curable, as we've just talked
about, so I don't know if the circulator is here.
But if you subtract those 11, you're down to 38.

And then there's another one in that
category where it's hard to say whether the
circulator witnessed the signature or didn't. So
it's kind of if we're already at 38, that last
one, we're teetering on the brink here of
possibly going down to 37. And you, in fact,
initially determined it was a valid challenge,
but ultimately decided there wasn't enough
evidence to decide one way or another?

    MS. CORRENTE: I didn't find it to be a valid challenge in the findings.

    CHAIR THOMPSON: Yeah.

    MS. CORRENTE: I didn't feel like I had enough information either way to make a determinative decision.

    CHAIR THOMPSON: Okay. So it's kind of a toss-up.

    MS. CORRENTE: Right.

    CHAIR THOMPSON: Kind of need the circulator. But, with that, I think, Ms. Pembroke, do you want to talk about the prehearing conference and what you learned?

    MS. PEMBROKE: Good morning and thank you, Mr. Chair.

    CHAIR THOMPSON: Bring the mic a little closer.

    MS. PEMBROKE: Is that better?

    CHAIR THOMPSON: Yeah. Is it on?

    MS. PEMBROKE: Yeah, it's on.

    CHAIR THOMPSON: Okay. Go ahead.
MS. PEMBROKE: Okay. So I'm going to
back up a little bit before the conference
because there are some things that happened in
the record that I think are relevant in this
case.

So, when the challenge came in, the
parties were duly notified that there would be a
prehearing conference on March 25th. That notice
informed them that the issues that were raised at
the conference were the only issues that could be
presented to the Board.

But when the challenge came in and I
looked through it, it was immediately obvious
that the dispositive issue was going to be
whether or not these signatures had been
personally witnessed.

Just for the record, the circulator
affidavit on each petition sheet requires the
circulator to attest to the fact that he or she
personally witnessed the signer signing the
petition. And that requirement comes out of the
D.C. Code, which provides that the circulators
have to personally witness the signing of a petition.

So I reached out to all the parties. And I asked Mr. Harnett to explain why he had said that about these petition sheets. And he responded with information to support his conclusion that these sheets had been emailed by the circulator to the signer. The signer had printed them out, filled in their name and address, signed them, and scanned or took a picture of them, and sent them back to the circulator, and then the circulator had completed the circulator affidavit. That was his theory, and it was based on various indicia on the face of the sheets.

One of them being that, in the cases of the challenges where he had made that claim, the only signer on the petition sheet was there was only one signer on the petition sheet. In one case, there was there were two signers, but they were at the same address. So Mr. Harnett provided that information.
In addition, in light of that fact, the registrar shared with me an email exchange that occurred between her and the circulator at about the time the petition sheets were turned in, in which the circulator made the following statement. He stated that he believed that a petition sheet would be accepted as valid, quote, if transmitted as files by email to the signer, returned signed and dated, with the circulator being the one who sent the email and being the recipient of the petition in question by email return, who then fills out the affidavit at the end of the petition.

So it's a little hard to follow, but it's he seems to be acknowledging that what Mr. Harnett suspected was exactly how these sheets were witnessed by him.

CHAIR THOMPSON: Does that appear to be the case with all 12 of the signatures in question?

MS. PEMBROKE: So, there is, as Ms. Corrente noted, one sheet where there was only
one signer on the sheet, consistent with the
other 11 signatures, the 12th signature.

There was just one petition signer on
the sheet, but instead of being having the name
handwritten in and the address handwritten in and
the signing appearing to be an original a copy of
an original signature, the name and address of
the voter is typed in.

And it's fairly self-evident, from
looking at the sheet, that the signature is some
sort of digital signature. Either it was written
on with an iPad device with the person's hand, or
it was cut and paste of, say, of a Word generated
signature for the individual. And so, for the
purposes of conversation, I think myself and the
registrar referred to that as a digital
signature.

CHAIR THOMPSON: Okay.

MS. PEMBROKE: But it's not like in a
preset font. It is an actual signature if that
makes sense. And so, it's hard to articulate
these things, but
CHAIR THOMPSON: And just to clarify, witnessing a signature entails either seeing it in person or, if you're going to use email I don't think there's any regulation on this, but witnessing it through Zoom, perhaps.

MS. CORRENTE: Yeah.

CHAIR THOMPSON: Like you email it to someone. You get on a Zoom call. You see them sign it. They email it back to you. That's a witnessing.

MS. PEMBROKE: That has never been addressed by the Board. The way that the petition sheets can be circulated electronically, and this issue of personal witnessing is if the signer is also the circulator of their petition sheet. So, in this instance, the person who was the actual circulator could have sent digitally the copy of the petition sheet to the voter.

CHAIR THOMPSON: Yeah.

MS. PEMBROKE: The voter could have printed it out, filled in the potion at the top with where they were signing as a voter, and the
bottom as a circulator, and then sent it back.

That would've been correct.

CHAIR THOMPSON: Yeah. Well, that's

another way we use email to do this.

MS. PEMBROKE: And yes.

CHAIR THOMPSON: You can use email

that way if the signer is also their own
circulator.

MS. PEMBROKE: Yes.

CHAIR THOMPSON: They can sign it all

and then scan it and send it back.

MS. PEMBROKE: Right.

CHAIR THOMPSON: But the thing you
can't do is the circulator can't email it to

someone. They sign it outside of the
circulator's presence, scan it, and email it back
to the circulator who has not witnessed the
signature in any way, not even by Zoom, and
subsequently signs it, that that is not
permitted.

MS. CORRENTE: And just to interject,

if I could, I don't we don't have any way to
confirm this, but there was a signature that was
the challenge was upheld because it was a
duplicate, and it does follow that pattern. So
it's it doesn't matter because that particular
signer signed earlier on another petition sheet,
but it does follow that format of the signer
signed it as the signer and then signed it as the
circulator.

CHAIR THOMPSON: Okay.

MS. CORRENTE: So, within this
petition package, is something that follows and
again, it might not have been emailed. I have no
way of knowing, but just to flag that there is
one that follows that method appears to follow.

(Simultaneous speaking.)

CHAIR THOMPSON: We have an example of
somebody doing it correctly.

MS. CORRENTE: Yeah.

MS. STROUD: And the statute, Mr.
Chair, specifically allows for that circumstance
that they're describing. The statute provides
that no signature on a petition sheet shall be
invalidated because the signer was also the
circulator of the same petition sheet on which
the signature appears.

CHAIR THOMPSON:  Okay.

MS. PEMBROKE:  So, getting back to the
proceedings in this matter, the parties were
notified of the March 25th hearing. The
candidate reached out, or her representative
reached out, to see about having someone appear
on her behalf, and she was provided with the
Board regulations that would allow a
representative to be designated for her at the
prehearing conference. She did not get any sort
of designation to have anyone represent her at
the prehearing.

So when the prehearing conference was
held on March 25th, of course, I was present.
The registrar was present. Mr. Harnett was
present. He was Mr. Harnett was promptly
informed that we had received one address update
to cure one of the signatures. Going into the
hearing, the candidate was one signature short of
ballot access. And so, Mr. Harnett was informed of that, and the registrar put her findings on the record.

Mr. Harnett was given an opportunity to respond to the findings. He stated that he did not contest the address update, provided that it was timely received and otherwise valid, which it was, but he disagreed with the registrar as to this one circumstance where there was a single signer on the petition sheet, but the registrar had not felt comfortable crediting the challenge to that signature for the reason that it was this digital format.

And so, with that, since there was a disagreement between Mr. Harnett and the registrar, this matter was set for a Board hearing.

CHAIR THOMPSON: All right. Yeah. Thank you. That really helps me understand now what it all comes down to. This because, in the case of this one sheet where it's typed in with a digital signature, we have to make an inference.
And you can infer reasonably one way or the other, it sounds like.

And the registrar made the reasonable inference that the signature had been witnessed based on the nature the digital nature of the signature, and thus, upheld the signature and rejected the challenge with respect to that one particular signature. Is that right?

MS. CORRENTE: Yes. I didn't feel like I had enough information. And I think and maybe I'm wrong in this, but I think it's on the challenger to provide proof of their challenge if there isn't conclusive evidence. And so or for the candidate to explain, you know, and provide, you know, supporting –

CHAIR THOMPSON: Right.

MS. CORRENTE: So and in the absence of that, you know, my original findings stood.

CHAIR THOMPSON: Yeah. And I guess the most important evidence would be if the circulator himself were present. Is he?

MS. CORRENTE: I'm not sure. And Mr.
Harnett did have what am I trying to say an explanation. We've been spending many hours reviewing these petitions, so my brain is very tired.

CHAIR THOMPSON: Thank you.

MS. CORRENTE: But yes. So but I don't know that it was conclusive evidence, but I guess that's maybe for you all to hear and make a determination on.

CHAIR THOMPSON: Right. No, what you did is reasonable. It's about burden of proof and what's a reasonable inference, so the challenger does have a burden of proof here. And in light of the evidence, you could've reasonably inferred one way or the other. So, then, I think your ultimate determination was to grant ballot access based on the presence of 38 valid signatures.

So, that being the outcome, I think the party we'll hear from next is the challenger, Mr. Harnett.

MR. HARNETT: Good morning, members of
the Board. As I stated in the prehearing conference with Board staff, I agree with the registrar's findings with one exception. I believe that the signature on sheet 4 of the candidate's initial submission should be discarded by the Board.

Given that neither the candidate nor any of her authorized representatives attended the prehearing conference, they presented no arguments nor sworn statements. And as such, the only item admitted into evidence is an email available to you all where the primary circulator of this candidate's nominating petition, Mr. David Schwartzman, admitted to violating the circulator's affidavit on an undetermined number of petition sheets.

While I can appreciate the new ground the Board may have to address in a case where a circulator is alleged to have not physically witnessed the signatures of a signer for, quote, unquote, digitally collected signatures. Given the unique facts of this challenge, there is
greater complexity, that I doubt would reappear in other such cases, that I would like to draw your attention to.

We have an admission by the circulator of this petition sheet that he signed the circulator's affidavit in full awareness of the fact that doing so was contrary to the truth that he did not personally witness the signatures of signers as required by the circulator's affidavit, both admitting verbally to Board staff at the time of turning in his nominating petitions and in writing.

No sworn statement by the circulator at this hearing can change the fact that he admitted to violating the requirement that he personally witnessed the signing of each signature hereon. His written admission of this fact to the Board staff is both clear and convincing, and frankly, not likely to occur again in a different case from which this Board might try to draw precedent.

On a case involving a challenge of
whether or not signatures were actually collected in the presence of the circulator, as pointed out by the Board staff, the burden of proof is on the challenger. At recommendation of the Board attorney assigned to this matter, I attempted to solicit sworn statements from the signers on this petition as to the facts of how this petition was signed.

Unfortunately, due to the exceptionally small universe of signers on this petition and their apparent close relationships with both the circulator at issue and the candidate, the evidence I have to base my challenge off of is first, the petition as submitted, and second, the admission of the circulator of this petition as to their level-headed and clear-eyed violation of the circulator's affidavit.

If it's possible to view a signature on sheet 4 of the candidate's initial submission, I don't know if the Board has access to that or if I'm able to share my screen and show the line
1 on sheet 4.

CHAIR THOMPSON: Can we do a screen share? I have the original here, and we've looked at it carefully. But if we can do a screen share, then others can see.

MR. HARNETT: Great. Give me one moment, please. So I'm not able to share my screen because the host has disabled screensharing. But if that can be turned on, I can

CHAIR THOMPSON: Hold on one second. There. Now try it.

MR. HARNETT: Great. Thank you. I'm going to navigate to sheet 4. So, to draw technical attention to this sheet, quite a few things stand out to me.

The petition sheet appears to have been emailed to the signer, Mr. John Tharakan, who then used digital software to type in his name, address, date, and add a digital signature. The petition then appears to have been emailed or scanned back to the person circulating the
petition, Mr. Schwartzman, who printed out the
petition and completed the circulator's
affidavit.

The ink used to mark the sheet number
in the top right corner and to complete the
circulator's affidavit is the same. While the
printing patchiness that you see throughout the
page where the black ink printer used to print
the sheet likely, the printer didn't have enough
ink clearly shows that the signature of the
signer is printed by the printer onto the page.

So, as you look at the Jill Stein name
and the text at the top of the page, you can see
that there is a difference in the black ink used
throughout the page, which appears to be, again,
a printer that did not have enough ink to fully
print a standard page. It shows that signature
of the signer is printed by the printer onto the
page.

And that leads me to the reasonable
conclusion the petition sheet was received by Mr.
Schwartzman, printed and signed by Mr.
Schwartzman, and by his own admission, without him physically witnessing the signer's signature.

The pattern of practice by the circulator, as admitted in the registrar's evidence, was to accept petition sheets and then to, in violation of the circulator's affidavit, sign and date that he was personally witnessing the signing of each signature hereon.

On sheet 13, one of the signatures at issue, the signer went so far to as to attempt to obfuscate the fact that the signature sheet had been emailed back to him by scratching out, with an ink pen, the Gmail URL printed on the bottom left of the page. So, if I go to sheet 13, you can see that, in the bottom left corner, the circulator of the petition seemed to scratch out this mail.google.com link to obfuscate the fact that the signature that this sheet had been emailed back to him.

And you can also see this printing patchiness that I referenced on sheet 4, where, in the same instance, that sheet 4 was printed by
or excuse me sheet 13 was printed by the
circulator, Mr. Schwartzman, who attested added
his name to the sheet.

As testified to by the registrar,
sheet 13, this signature, Mr. William Merrifield,
was found to be not witnessed by the by Mr.
Schwartzman. The same printing patchiness is
evident on page 12, which was, again, found by
the registrar to be invalid on the basis that the
signature was not actually witnessed by Mr.
Schwartzman.

To me, looking at the comparisons
between the sheets upon which the voter signed
the petition, emailed or scanned it back to Mr.
Schwartzman, who then printed out the sheets and
then added his own name, address, and signature,
in violation of the circulator's affidavit, the
only difference, as noted by Ms. Pembroke, is the
fact that this voter digitally added their name
and address and signature, which if this if Mr.
Tharakan had just added his digital signature to
the circulator's affidavit, I would have no
problem with.

I mean, that is you know, we're all dealing with instances where people are not able to, because of COVID or because of the timeline for signature collection period or other illness or disability, it can be difficult to be physically present with every single person that you would like to have sign your petition, especially when you know someone who is registered to vote in your party, who is eligible to sign your petition, who lives on the other side of the city.

It's much easier to just print or excuse me to email a petition sheet to them, have them fill out the sheet as they should, send it back to the circulator, who could then submit that sheet to the Board.

The error here is not that Mr. Tharakan used a digital signature to sign his name; it's that this sheet matches the pattern of practice of Mr. Schwartzman of accepting petition sheets and then adding his name to the
circulator's affidavit in violation of the affidavit. So it's a distinction without a difference.

If Mr. Tharakan had just signed the circulator's affidavit, there would be, to me, no problem with this petition sheet, regardless of whether he signed with an ink pen or signed with, as Ms. Pembroke noted, an iPad or a digital signature pen and then emailed this the circulator sheet back to Mr. Schwartzman.

And now, as I've noted, anyone in the District of Columbia who was eligible to add their name as a signer to a petition is also eligible to sign the circulator's affidavit. So the remedy is clear. You want to share petition sheets with voters you know to be eligible, send them the petition sheet, and have them sign the circulator's affidavit.

While I do not personally advocate for this course of action, I do recognize the Board's authority to refer individuals for violation of the circulator's affidavit for making false
statements under D.C. Code 22-2405(b), as is
noted on each petition sheet that the circulator
signed in open admission that that had not been
the actual conditions by which the signatures
were witnessed.

By the registrar's description during
the prehearing conference, she physically
analyzed the petition sheets and found that some
were invalid due to the physical indentation that
an ink pen did or didn't leave on the page and
that in combination with the admission of the
primary circulator, found it clear and convincing
that at least 11 signatures were collected in
violation of the circulator's affidavit. Sheet 4
does not fit the mold of each of these other
sheets because at issue is the fact the signer
first typed their name, address, and date.

I do, however, believe it is
reasonable for this Board to find that this
signature on sheet 4 was also collected while the
circulator was making false statements given the
evidence available for review at the time the
petition was signed - submitted and the evidence presented at the prehearing conference and the evidence admitted by the registrar from the primary circulator. Such a reasonable conclusion would necessarily require that the candidate be denied ballot access.

CHAIR THOMPSON: All right. Thank you very much, Mr. Harnett. I appreciate you going through those details. I really I followed every word of it. I think I understand it pretty well.

And with that, we'll hear now from Mr. Lass on behalf of the Candidate Jill Stein.

MR. LASS: Thank you, members of the Board, for hearing this today. And I want to sort of change the dialogue about the email that came on was it February 8th, I believe.

To my mind, and what I heard from Mr. Schwartzman was that he was asking for clarification. And receiving none from the Board, he felt like he had to make his own decision on what to do, and that's why some of these were transmitted over email and signed and
scanned back, and he didn't witness them. So

that's one point.

And I think that the page 4 is a
difficult decision, and obviously, we agree with
the registrar's inference that it should be
counted as valid because it can't be proven that
it's not.

I don't have a whole lot more to say.
I don't know if my colleague, Mr. Call, has
anything he'd like to add or not.

CHAIR THOMPSON: If I could ask, have
you been in touch with Mr. Schwartzman, the
circulator, and had a chance to talk with him to
hear or could you

(Simultaneous speaking.)

MR. LASS: I didn't see him when I
looked through the Zoom. I've had some email
exchanges back and forth with him, asking him to
please go, tell me petition sheet by petition
sheet how everything worked, and he was not able
or willing to comply with my request to do that.
So I can't say specifically about this sheet. I
believe Mr. Call was on a phone discussion with him last night.

MR. CALL: So, just for the record, if you need my address as testimony there

CHAIR THOMPSON: Yes.

(Simultaneous speaking.)

MR. CALL: 5723 76th Avenue Northeast, Marysville, Washington 98270. My name is Jason Call. I'm Jill's campaign manager.

I did speak with Mr. Schwartzman yesterday. He said he was not able to be here because he is, in fact, an attorney. So I don't know what complications, specifically, that presents, but he said he wasn't able to be here himself.

And I'll just reiterate what Rick just said that he had requested some information about the signing, as far as the email transmissions, and he did not hear back from the Board of Elections, and that's why he proceeded in a way that was in violation of the D.C. Code. But as to this particular signature, we did not get any
specific information.

CHAIR THOMPSON: Okay. Well,

obviously, Mr. Schwartzman can be here, whether
he's an attorney or not. That's not a

MR. CALL: He seemed to think he
couldn't. He seemed to think that I mean, this
is the information we got from here. He says he
said, I can't go into it, but I'm not able to
represent the campaign here.

(Simultaneous speaking.)

MR. CALL: So that's the only
information I have. That's what he gave me.

CHAIR THOMPSON: Representing the
campaign is one thing, but as a circulator, he
could be here in his capacity as the circulator
to give us some insight on this.

MR. CALL: Okay.

CHAIR THOMPSON: So

MR. CALL: He seemed to think that he
couldn't, so that's as far as I can go with that.
That's what he told me.

CHAIR THOMPSON: I appreciate that.
I'm going to call on Mr. Harnett, but Ms. Corrente, did you want to add something?

MS. CORRENTE: I can speak to, a little bit, I think, maybe, the point, I think, the a February 8th email was mentioned. And so, I believe it was February 8th, after hours, after 9:00 p.m. Mr. Schwartzman, the circulator, emailed our candidate email asking for clarification on this issue.

We try to make sure that we respond to emails within 24 to 48 hours. That's our threshold. Especially during our busy times, 24 hours isn't always manageable. We do our best.

So, because he didn't get an answer immediately the next day, my understanding is he did call the office and spoke with members from my team. My team, I've spoken with them. They don't remember giving him wrong information.

And again, the fact that another petition in this another sheet within this petition was done correctly, other people were getting the correct information. So I'm you
know, I'm just not sure where the disconnect happened.

But because then the staff spoke to him on the phone, they did not, in fact, follow up on the email because they knew that they had, in their heads, clarified the issue. So just to clarify that piece of it. I think there's maybe a or just some confusion over the context of that phone call.

But in response to that February 8th email, that's why it wasn't responded to because they responded to him verbally.

CHAIR THOMPSON: Okay. Well, for the record, I don't credit Mr. Schwartzman's email comment that he was told by the staff that he could do it this way, email and email back without witnessing. I mean, I just don't find that credible.

MS. STROUD: To that point, Ms. Corrente, could you please describe the materials that candidates pick up when they come to the office to pick up ballot access documentation
for, you know, that have to do with petition
circulation? What information are the
circulators and the candidates provided with
respect to petition circulation?

MS. CORRENTE: So they're given
materials on how to circulate petitions,
including a handout that talks like, focuses
specifically on circulation. I know it talks
about emailing sheets to circulators and how that
works.

I don't know it doesn't specifically
say about if you're your own you know, if you
send a sheet digitally to someone, they need to
sign it themselves as both the circulator and the
but it does make clear that if you sign your own
petition sheet, you can be the you can then be
the circulator.

MS. STROUD: But does it discuss
personally witnessing?

MS. CORRENTE: Oh, yes. Sorry. Yes.
Yes, it does. It's on the petition itself. It's
in multiple materials that we give out, whether
it's the Board regulations or again, that
overview on circulating petitions. Yes, that is
in multiple places.

MS. PEMBROKE: And if I could just
comment for the record, Mr. Schwartzman has been
a petition circulator in other cases. The Board
had a case with him a couple of years ago
involving a situation of a candidate who was one
short because she didn't sign her own petition
sheet. And so, the central issue in that case in
which Mr. Schwartzman was a circulator, was the
fact that a voter can sign their own petition
sheet.

CHAIR THOMPSON: Yeah.

MR. HARNETT: If I may

CHAIR THOMPSON: Well, I'll just add,
before you speak, Mr. Harnett. I mean,
obviously, the petition circulator's affidavit
says I personally witnessed the signing of these
signatures hereon.

And not just just for the record,
we've got I don't think we've ever ruled on this,
but to me, if you witnessing could include seeing them through Zoom, through a digital format like Zoom. That's just my own I'm just putting that out there as my own opinion.

There's no evidence that that happened here, but if I heard a circulator swear under oath that I saw someone sign through Zoom, that I think that would satisfy me that they, quote, personally witnessed it.

That's kind of, I guess, a cutting-edge issue that we haven't really addressed, but what we're left with is this you know, obviously, this one sheet where we we just don't know. And we have to make an inference one way or another.

So go ahead, Mr. Harnett. You wanted to add something?

MR. HARNETT: So two things, Mr. Chair. And the first I'll speak to just because I am a notary public in the District of Columbia. And during COVID, they changed their procedures to allow for the remote witnessing of signatures
as part of notary services.

           I know that the District of Columbia, as an institution, has responded to the need to update and reflect, you know, what might be a personally witnessed thing. So I would accept that your inference, your opinion about the fact that if something were to be witnessed via a videoconferencing platform, that that would be an acceptable medium by which someone could physically review a signature. Obviously, we don't know that that happened here, and there's no evidence to suggest it did.

           I will speak to what Ms. Pembroke said as to the case from two years ago that Mr. Schwartzman was a party to and prior cases that I know Mr. Schwartzman is a party to been a party to before the Board, where he has come before the Board and provided testimony.

           The light I think I can provide to the reason that he may not be here and this is just my opinion or conjecture would be that the reason that Mr. Schwartzman believes he couldn't be
here, even though he certainly can, would be that, in an email Ms. Pembroke sent to Mr. Schwartzman and to the other parties in this case because Mr. Schwartzman and I'll just I'll read from the email, which may provide more color for this situation.

And this is a quote: if the plan is for the candidates to provide us let me see if we're getting the right place. Okay so if the plan is for the candidates to provide us with the required authorizations allowing Mr. Schwartzman to bind the candidates, I should point out that both cases present circulator affidavit challenges with respect to challenge sheets where Mr. Schwartzman was the circulator.

So he is also a potential witness in the matters and witness that swore, under penalty of law, that he would comply with the circulator requirements.

Therefore, please note that should Mr. Schwartzman appear as a representative of the candidate and/or as a witness, the first order of
business at any prehearing conference or Board hearing would be to ascertain whether he wishes to waive his right against self-incrimination.

I would believe that Mr. Schwartzman believes he can't waive his right against self-incrimination because he believes he self-incriminated himself in the affidavit as he signed these petition sheets, which may be why he's had such a he's decided to disengage from the rest of this process.

Obviously, what we're left with is the evidence that has been presented to the Board, as submitted in his petition sheets, and as submitted in his testimony up to this point. And based on all of that evidence, I do believe, again, it is reasonable to ascertain that to what the registrar noted, she couldn't decide one way or the other whether it was because it didn't match the physical indentation notations that she noted on the other sheets, would necessarily require your action to flip that, sort of, that antenna one way or the other.
And I do believe, based on the evidence that I've presented today, that there is enough evidence that is available of the only evidence that's available that points towards this being a fraudulently collected signature under false pretenses or excuse me under false statements.

CHAIR THOMPSON: Okay. Thank you, Mr. Harnett.

Just for the record, I'm not making any determinations or comments on whether Mr. Schwartzman misrepresented, you know, or inappropriately signed an affidavit or incriminated himself or anything like that. I think our job today is simply to determine whether this is a valid signature that could be counted toward the required 38.

But I want to thank everybody, including the registrar and Ms. Pembroke for taking us through all this. There's a lot of detail, a lot of time spent on this. I think we really we really get it now. I wasn't sure I got
it a few days ago when I first read all this, but
I think, now, it's crystal clear.

    I think we're going to have to go into
    an executive session so the three Board members
can talk about this among their selves. But
before I make that motion, I'll ask the General
Counsel if she'd like to state any recommendation
at this time.

    MS. STROUD: Yes. I do have a
recommendation with respect to this matter.

    Notwithstanding the report of the
registrar voters indicating that Candidate Stein
did meet ballot access requirements just exactly,
I would, in light of the information that was
presented today, as well as the information in
the record, including the email from Mr.
Schwartzman indicating that, with respect to
signatures that were submitted and sheets that
were submitted, that he did not actually witness
the all of the signatures that he attested to
personally witnessing. And that was conveyed via
email.
And although we don't know whether sheet 4 or 14 was one such sheet with respect to which he did not witness personally witness, notwithstanding him signing the circulator's affidavit indicating that he did, looking at the petition sheets, particularly 4 and 13, and noticing some similarities between the print marks or the way that the printer printed the sheets leads me to believe that this signature should not be treated differently from the other ones that were discounted on the basis of not having been personally circulated by the circulator.

So it would be my recommendation to find that Candidate Stein does not a sufficient number of signatures for ballot access, falling short by one. And so, I would recommend that she be denied ballot access. That would be my recommendation to the Board.

CHAIR THOMPSON: All right. Yep. Thank you so much for that.

Okay. Thank you again, everybody. So
I'll make a motion at this time that our Board go into executive session to deliberate.

And I'll reference D.C. Code 2-575(b) sub 13, which provides that a meeting or a portion of a meeting may be closed to deliberate upon a decision in an adjudication action or proceeding by a public body exercising quasi-judicial functions.

So I think we just need I don't know how long we need. Maybe half an hour to talk about this and privately come up with a ruling and then come back on the record. I'll just it's 10:51, so I guess I'll say 11:30 for good measure. We'll come back on the record and let everybody know how we'll rule.

So I'll just tee up my motion to go into executive session. Is there a second?

MEMBER BOGGS: Second.

MEMBER GREENFIELD: I second.

CHAIR THOMPSON: All in favor?

(Chorus of ayes.)

MS. STROUD: Take a roll call vote.
CHAIR THOMPSON: Okay.

MS. STROUD: Mr. Chair, your vote is clearly aye.

CHAIR THOMPSON: Aye.

MS. STROUD: Member Greenfield?

MEMBER GREENFIELD: Aye.

MS. STROUD: Member Boggs?

MEMBER BOGGS: Aye.

MS. STROUD: And with that, the Board is moving into closed session to deliberate.

CHAIR THOMPSON: You just hit the same link, and 11:30, you'll come back here.

(Whereupon, the above-entitled matter went off the record at 10:51 a.m. and resumed at 11:30 a.m.)

CHAIR THOMPSON: Okay. Welcome back, everybody. I'm going to move at this time that we exit our executive session. Do I have a second?

MEMBER BOGGS: Second.

MEMBER GREENFIELD: Second.

CHAIR THOMPSON: All right. All in
favor? Aye.

MEMBER GREENFIELD: Aye.

MS. STROUD: And we'll take a roll call vote, with respect to

CHAIR THOMPSON: Chair votes aye.

MS. STROUD: Yes. Member Greenfield?

MEMBER GREENFIELD: Aye.

MS. STROUD: Member Boggs?

MEMBER BOGGS: Aye.

MS. STROUD: Thank you. And with that, the Board is back into the public meeting and has exited closed session.

CHAIR THOMPSON: All right. Thank you, everybody, for bearing with us. We spent some time going through the evidence and talking about how to interpret especially sheet 4 of 14.

At this time, I'll make a motion to accept our General Counsel's recommendation to invalidate the signature on sheet 4 of 14 based on the circulator's having not personally witnessed the signature. That puts it into the same bucket as the other 11 that were already
found invalid on this basis and would take the
valid signatures down to 37.

So my motion my ultimate motion,
therefore, is to deny ballot access to the
candidate, Jill Stein. Is there a second?

MEMBER BOGGS: Second.

MEMBER GREENFIELD: Second.

MS. STROUD: Okay. And we'll take a
roll call vote with respect to that motion.

Chair chairman Thompson?

CHAIR THOMPSON: Yeah, the Chair votes
aye. I'll just make some quick comments.

It is it is not easy to deny ballot
access to a candidate. In fact, it's painful.
We want to grant ballot access. We favor ballot
access, but these signature requirements are
important. And there's a very clearly laid out
process for how you obtain a sufficient number of
valid signatures. And it simply wasn't followed
here. And clearly, Mr. Schwartzman did not
correctly complete his circulator affidavit with
respect to 12 of these signatures. And that's
unfortunate because it's quite clear how that
could've been remedied in other ways, by having
the person sign their own sheet, or just getting
more signatures. So it's not easy for us to rule
this way. It's unfortunate.

I will just say, for the record,

obviously, the voters in the D.C. Statehood Green
Party can write in Ms. Stein. And also,
ultimately, if she is the party's candidate, she
would reappear on the general ballot, I believe,
so there's probably no ultimate harm to our
ruling in this regard. But I just wanted to
share my thoughts and then why I vote aye.

MS. STROUD: Okay. Member Greenfield?
MEMBER GREENFIELD: Aye.

MS. STROUD: Member Boggs?
MEMBER BOGGS: Aye.

MS. STROUD: And with that, the Board
has moved to deny ballot access to D.C. Statehood
Green Party Candidate for presidential nominee
Jill Stein from the ballot. This ruling can be
appealed to the D.C. Court of Appeals by the -
since the decision was announced today, that the
decision must be appealed within three days, not
business days, but three days. So I believe that
would be Monday, the deadline to appeal to the
D.C. Court of Appeals. And with that

CHAIR THOMPSON: That assumes we get
the written opinion out today?

MS. STROUD: No, because the decision
was announced today.

CHAIR THOMPSON: Okay.

MS. STROUD: Yes. It's within three
days of the announcement of the Board's decision.

MR. LASS: May I say something?

CHAIR THOMPSON: Sure.

MR. LASS: I just could you be clear
in your written opinion, or whatever it's called,
you said deny ballot access. Could you make sure
you say for the primary election because that's
what we're talking about today?

CHAIR THOMPSON: Yeah. Yeah, we're
talking about

MS. STROUD: Correct.
MR. LASS: Okay. Thank you. And I also I don't even know Mr. Schwartzman, but I want to apologize if he was doing all those ex parte communications when he was specifically told not to, and the campaign doesn't approve of him having done that. And I thank you all for your time and all your work.

CHAIR THOMPSON: All right. Thank you, sir.

Okay. With that, I move to adjourn.

MEMBER GREENFIELD: I second.

MEMBER BOGGS: Second.

CHAIR THOMPSON: Okay. All in favor?

Aye.

MEMBER GREENFIELD: Aye.

MEMBER BOGGS: Aye.

CHAIR THOMPSON: Thank you, everybody.

Have a great day.

MEMBER BOGGS: Have a good one.

MEMBER GREENFIELD: Okay.

(Whereupon, the above-entitled matter went off the record at 11:36 a.m.)
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This is to certify that the foregoing transcript

In the matter of: Special Board Meeting

Before: DC BOE

Date: 03-29-24

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.

__________________________
Neal R. Gross
Court Reporter