

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS**

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Paul Cohn )  
Challenger, )  
 )  
v. )  
 )  
One Fair Wage DC )  
Respondent. )  

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Administrative Hearing  
Docket No. 17-009

**MEMORANDUM OPINION AND ORDER**

This matter came before the District of Columbia Board of Elections (hereinafter referred to as “the Board”) on August 10, 2017. It involves a challenge made by Paul Cohn (hereinafter referred to as “the Challenge”) to the initiative petition filed in support of Initiative #77, the “District of Columbia Minimum Wage Amendment Act of 2017” (hereinafter referred to as “the Petition”). The presiding Board Members were Chairman D. Michael Bennett and Mike Gill. Mr. Cohn was represented by Andrew Kline, Esq. and Christopher LaFon, Esq. of the Veritas Law Firm. One Fair Wage DC was represented by Dara Lindenbaum, Esq. of Sandler Reiff Lamb Rosenstein & Birkenstock. This Memorandum Opinion constitutes the Board’s findings of fact and conclusions of law.

**I. FINDINGS OF FACT**

**A. Relevant Procedural History**

1. On September 7, 2016, the Board approved the District of Columbia Minimum Wage Amendment Act of 2017, Initiative #77, as a proper subject for an initiative and adopted a short title and summary statement of purpose, pursuant to D.C. Official Code § 1-1001.16 (c) and (d). On October 8, 2016, the Board provided One Fair Wage DC, the Committee supporting

the Initiative (hereinafter referred to as “the Proposer”), with an approved petition form to be used to circulate the Petition for signatures, pursuant to D.C. Official Code § 1-1001.16 (g). The Petition was submitted to the Board on April 3, 2017.

2. On April 6, 2017, the Petition was posted for a 10-day public challenge period.<sup>1</sup> On April 18, 2017, Paul Cohn, a District of Columbia registered voter at 1325 21st St NW, filed this Challenge to Initiative #77.<sup>2</sup>

3. The Board’s Office of the General Counsel (OGC) contacted Mr. Cohn’s counsel on May 1, 2017, and indicated that the Challenge would be held in abeyance pending the Registrar’s line-by-line review to verify registrants.

4. On May 3, 2017, the Board accepted the Executive Director’s recommendation that the Petition was numerically insufficient for ballot access because it did not meet the distribution requirement in 5 of the 8 election wards. D.C. Official Code § 1-1001.16 (i).<sup>3</sup>

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<sup>1</sup> D.C. Official Code § 1-1001.16 (o)(1).

<sup>2</sup> The 10-day challenge period concluded on Saturday, April 15, 2017, but see D.C. Official Code § 1-1021.01, which extended the challenge period to the next business day, Tuesday, April 18, 2017. Monday, April 17, 2017 was a legal holiday in the District of Columbia (D.C. Emancipation Day).

<sup>3</sup> At the completion of the line-by-line review to verify registrants, the Registrar determined that there were 24,906 signatures of verified registrants on the Petition. While the total number of signatures met the District-wide threshold requirement for a minimum of 24,472 signatures, the Petition did not contain enough signatures of verified registrants in 5 of the 8 election wards. A summary report of the signatures of verified registrants on May 3, 2017 (by ward) is included below.

| Ward | 5% Requirement | Signatures of Verified Registrants on #77 Petition | Deficient or Surplus Signatures |
|------|----------------|--|---------------------------------|
| 1    | 3,095          | 4,180  | 1,085                           |
| 2    | 2,479          | 2,375  | -104                            |
| 3    | 2,917          | 1,970  | -947                            |
| 4    | 3,133          | 3,720  | 587                             |
| 5    | 3,273          | 2,946  | -327                            |
| 6    | 3,861          | 4,248  | 387                             |
| 7    | 2,906          | 2,887  | -19                             |
| 8    | 2,806          | 2,580  | -226                            |

5. On May 15, 2017, the Proposer filed a complaint in Superior Court seeking a writ in the nature of mandamus to compel the Board to accept the Petition as numerically sufficient. The OGC, as the Board’s representative in all civil actions in the courts of the District of Columbia with express authority to, *inter alia*, settle any and all litigation involving the Board, resolved several of the issues identified in the complaint. After resolving these issues, the number of verified registrants on the Petition now meets the ward distribution requirement (27,688 verified registrants total).<sup>4</sup> Accordingly, the Proposer and the Board entered into a joint stipulation to voluntarily dismiss the writ of mandamus complaint on August 14, 2017 and the Board continued processing the Petition.

6. The third and final step in determining whether the Petition is numerically sufficient for ballot access is the random sample of signatures.<sup>5</sup> Prior to advancing to the random sample, however, it is necessary for the Board to resolve any and all pending challenges to the Petition.

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<sup>4</sup> Ward Distribution on July, 10, 2017:

| Ward | 5% Requirement | Signatures of Verified Registrants on #77 Petition | Deficient or Surplus Signatures |
|------|----------------|--|---------------------------------|
| 1    | 3,095          | 4,653  | 1,558                           |
| 2    | 2,479          | 2,596  | 117                             |
| 3    | 2,917          | 2,092  | -825                            |
| 4    | 3,133          | 3,946  | 813                             |
| 5    | 3,273          | 3,290  | 17                              |
| 6    | 3,861          | 4,780  | 919                             |
| 7    | 2,906          | 3,469  | 563                             |
| 8    | 2,806          | 2,862  | 56                              |

<sup>5</sup> D.C. Official Code § 1-1001.16 (o)(1); 3 DCMR § 1009.

## **B. The Challenge**

7. As filed on April 18, 2017, the Challenge included two parts: (1) the Complaint, which briefly explains the reasons for challenge; and (2) Exhibit A, a 363 page spreadsheet of the challenged signatures. On the date of filing, a total of approximately 16,285 signatures were at issue in the Challenge.

8. The Challenge lists nine (9) different defect reasons to support the challenges to various signatures on the Petition. For each signature challenged (enumerated by Petition page and line in Exhibit A), Mr. Cohn used his own one- or two-letter code to distinguish the reason to support the challenge. Those defect codes are: IC (Improper circulator); ND (Not dated); NA (No address); NW (No ward noted); BD (Out of circulator noted date range); NR (Not a registered out of DC circulator); DA (Different address than in the voter registry); D (Duplicate); and IL (Illegible name).

9. A pre-hearing conference was held on Monday, July 10, 2017. All parties were in attendance and were represented by counsel. At the prehearing conference, Mr. Cohn, by and through his legal counsel, explained that the defect code IC (improper circulator) denotes a sheet of signatures circulated by individuals who were not qualified District of Columbia resident petition circulators. Mr. Cohn explained that all of these challenged circulators (1) put a District address as his or her address in the circulator affidavit; (2) were not registered to vote in the District; (3) do not in fact reside in the District of Columbia, based upon evidence obtained by Mr. Cohn; and (4) had not filed a Non-Resident Circulator Registration Form with the Board. In total, 59 circulators were initially challenged on this basis.

10. In his brief submitted on July 21, 2017, Mr. Cohn, for the first time, alleged that an additional 249 Petition sheets should be rejected by the Board on the grounds that they did not

have a properly completed circulator affidavit. Mr. Cohn argues that the affidavits on these Petition sheets are incomplete because they are missing a city, state, and/or zip code and therefore the entire Petition sheet should be rejected.

11. At the hearing on August 10, 2017, Mr. Cohn, by and through his legal counsel, conceded all but two issues of this Challenge. Accordingly, the only issues that remain in contention are: (1) the issue of incomplete circulator affidavits;<sup>6</sup> and (2) the challenge to the qualifications of eight (8) District resident circulators (Francisco Pedro, Arthur Nelson, Corey Reidy, Emma Fivek, Eric Suter-Bull, Jason Charter, Matthew Melton, and Nelly Ngadie).

12. To support the challenge to the qualifications of the eight (8) District resident circulators, Mr. Cohn submitted evidence in his brief filed on July 21, 2017 and response brief filed on August 2, 2017 that he believes demonstrates that these circulators are not residents of the District of Columbia.

13. On the Petition, Circulator Arthur Nelson affirmed his District address as 3003 Van Ness St NW. Mr. Nelson circulated the Petition on April 2, 2017. Mr. Cohn asserts that Mr. Nelson is not a District resident and submitted two (2) Intelius reports<sup>7 8</sup> (the first, dated July 13, 2017, and the second, dated April 11, 2017) to substantiate that claim. The Intelius reports list various addresses in Georgia, Maryland, as well as one District of Columbia address (216 4th St SE).

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<sup>6</sup> As explained at paragraph 10, the issue of incomplete circulator affidavits was first raised by Mr. Cohn in his brief filed on July 21, 2017. The nine (9) defect codes used in the Challenge did not include incomplete circulator affidavits as a basis for challenge.

<sup>7</sup> Intelius and PeopleSmart are online services that collect address information from public records such as cable and electric bills.

<sup>8</sup> The evidence submitted with respect to the residency of Arthur Nelson was included in the Challenger's Brief, Exhibit D, pp. 7-10 (submitted July 21, 2017).

14. On the Petition, Circulator Corey Reidy affirmed her District address as 1148 Morse St NE. Ms. Reidy circulated the Petition from November 8, 2016 to April 2, 2017. Mr. Cohn asserts that Ms. Reidy is not a District resident and submitted the following three (3) pieces of evidence to substantiate that claim: (1) a PeopleSmart Report (dated July 25, 2017), which lists several Baltimore, Maryland addresses as current and prior addresses; (2) a Twitter profile (accessed on July 27, 2017), which lists Baltimore, Maryland as a location; and (3) a Facebook page for Grassroots Campaigns (accessed on July 27, 2017), which describes Ms. Reidy as the DC Canvass Director.<sup>9 10</sup>

15. On the Petition, Circulator Emma Fivek affirmed her District address as 617 Keefer Pl. Ms. Fivek circulated the Petition on April 2, 2017. Mr. Cohn asserts that Ms. Fivek is not a District resident and submitted the following three (3) pieces of evidence to substantiate that claim: (1) a PeopleSmart Report (dated July 25, 2017), listing no address information other than “State College, PA”; (2) a LinkedIn Resume (accessed on July 27, 2017), which lists Emma Fivek’s current employment location in State College, Pennsylvania; and (3) a Facebook webpage for Opportunity Finance Network (accessed on July 27, 2017), which provides information about Emma Fivek, an intern during the summer of 2015.<sup>11</sup>

16. On the Petition, Circulator Eric Suter-Bull affirmed his District address as 1920 S St NW Apt 504. Mr. Suter-Bull circulated the Petition from March 19 to April 2, 2017. Mr. Cohn asserts that Mr. Suter-Bull is not a District resident and submitted the following three (3)

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<sup>9</sup> Grassroots Campaigns is a company providing services in the areas of petition circulation, fundraising, and group organizing.

<sup>10</sup> The evidence submitted with respect to residency of Corey Reidy was included in the Challenger’s Reply Brief, Exhibits A, B and C (submitted August 2, 2017).

<sup>11</sup> The evidence submitted with respect to residency of Emma Fivek was included in the Challenger’s Reply Brief, Exhibits D, E and F (submitted August 2, 2017).

pieces of evidence to substantiate that claim: (1) a PeopleSmart Report (dated August 2, 2017), listing no address information other than “Bethesda, MD”; (2) an Intelius Report (dated July 27, 2017), which provides two Bethesda, Maryland address and one, Hanover, Maryland address; and (3) a Facebook webpage for Eric Suter-Bull (accessed on July 27, 2017), which states that he lives in Bethesda, Maryland.<sup>12</sup>

17. On the Petition, Circulator Francisco Pedro affirmed his District address as 1148 Morse St NE. Mr. Pedro circulated the Petition from March 23 to March 24, 2017. Mr. Cohn asserts that Mr. Pedro is not a District resident and submitted the following two (2) pieces of evidence to substantiate that claim: (1) a PeopleSmart Report (dated July 27, 2017), listing no address information other than “New York, NY”; and (2) a Grassroots Campaigns webpage providing a professional biography, stating that Mr. Pedro runs the Manhattan fundraising office and also directs field projects around the country.<sup>13</sup>

18. On the Petition, Circulator Jason Charter affirmed his District address as 601 21st St NW. Mr. Charter circulated the Petition from March 19 to April 1, 2017. Mr. Cohn asserts that Mr. Charter is not a District resident and submitted the following two (2) pieces of evidence to substantiate that claim: (1) a Facebook webpage for Jason Charter (accessed on July 27, 2017), which states that he lives in Gaithersburg, Maryland and is the National Organizing Director for Americans Take Action, a liberal issue advocacy group; and (2) an article (accessed on July 27, 2017) from Democratic Underground, an online discussion forum, which gives credit

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<sup>12</sup> The evidence submitted with respect to residency of Eric Suter-Bull was included in the Challenger’s Reply Brief, Exhibits G, H and I (submitted August 2, 2017).

<sup>13</sup> The evidence submitted with respect to residency of Francisco Pedro was included in the Challenger’s Reply Brief, Exhibits J and K (submitted August 2, 2017).

to Jason Charter for conducting a prank at the 2017 Conservative Political Action Conference (CPAC).<sup>14</sup>

19. On the Petition, Circulator Matthew Melton affirmed his District address as 601 21st St NW. Mr. Melton circulated the Petition on April 2, 2017. Mr. Cohn asserts that Mr. Melton is not a District resident and submitted a PeopleSmart Report (dated July 27, 2017) for a “Mathew R Milton,” listing no address information other than “Gaithersburg, MD.”<sup>15</sup>

20. On the Petition, Circulator Nelly Ngadie affirmed her District address as 84 Galveston St SW #202. Ms. Ngadie circulated the Petition from March 30 to April 2, 2017. Mr. Cohn asserts that Ms. Ngadie is not a District resident and submitted the following two (2) pieces of evidence to substantiate that claim: (1) a Facebook webpage for Nelly “Gadie” (accessed on July 27, 2017), which provides no address information but that she is employed at “Southwick’s Zoo”; and (2) a Blackstone-Milville Regional High School Newspaper (February 2014)(Blackstone, Massachusetts), which describes Nelly “Gadie” as a refugee from (citizen of) the Ivory Coast, Africa.<sup>16</sup> At the August 10th hearing, the Proposers submitted employment records for Nelly Ngadie. The employment documents showed the same District address that Ms. Ngadie listed on the circulator affidavit.

## **II. CONCLUSIONS OF LAW**

### **A. Incomplete Circulator Affidavits**

21. Any qualified elector may, within the statutorily-prescribed 10-day period, challenge the validity of an initiative petition, by a written statement which specifically and

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<sup>14</sup> The evidence submitted with respect to residency of Jason Charter was included in the Challenger’s Reply Brief, Exhibits L and M (submitted August 2, 2017).

<sup>15</sup> The evidence submitted with respect to residency of Matthew Melton was included in the Challenger’s Reply Brief, Exhibit N (submitted August 2, 2017).

<sup>16</sup> The evidence submitted with respect to residency of Nelly Ngadie was included in the Challenger’s Reply Brief, Exhibits O and P (submitted August 2, 2017).

concisely describes the alleged defects in such petition. D.C. Official Code § 1-1001.16 (o)(1). The challenge must contain “the name(s), if legible, sheet and line number(s) of any challenged signature(s) and the basis for the challenge(s); and a clear and concise statement of any other facts which are alleged to constitute a petition defect.” 3 DCMR § 410.3(c),(d).

22. A valid basis for challenging a petition signature includes, *inter alia*, that the circulator of the petition failed to complete all required information in the circulator’s affidavit. 3 DCMR § 1007.1 (h). The minimum statutory requirements for a completed circulator affidavit are the following: (1) the printed name of the circulator; (2) the residence address of the circulator, giving the street number; (3) the dates between which the signatures to the petition were obtained; and (4) the signature and date of the circulator (affirming the requirements contained in the circulator’s oath). D.C. Official Code 1-1001.16 (h).

23. “The Board can only address those alleged defects in an initiative petition that are timely challenged by a complainant pursuant to the statutorily mandated administrative procedure for challenging.” *French v. Puente*, Administrative Hearing No. 08-05 (July 24, 2008)(citing *Davies v. District of Columbia Board of Elections and Ethics.*, 596 A2d 992 (D.C. App. 1991)).

24. Here, Mr. Cohn failed to include incomplete circulator affidavits as basis for challenging signatures in the Challenge filed on April 18, 2017. Mr. Cohn first raised the incomplete circulator address defect and submitted the list of challenged Petition sheets in his brief filed on July 21, 2017 – three months after the challenge period ended. The Board’s administrative precedent on this issue is that the Board is without authority to grant a petition challenger permission to amend a challenge outside of the statutorily-prescribed 10-day challenge period and allowing a challenger to raise new issues outside of the initially filed

challenge is unfair and violates fundamental principles of notice. *See French v. Puente*, Administrative Hearing No. 08-05 (July 24, 2008). The Board sees no reason to diverge from this precedent.

25. Even if Mr. Cohn had included this basis for challenge in the Challenge filed on April 18, with respect to the 249 Petition pages he identifies as having incomplete circulator affidavits because they are missing a city, state or zip code, Mr. Cohn is incorrect as a matter of law. The only requirement under law with respect to address is that the circulator provide “the residence address, giving the street number.” D.C. Official Code § 1-1001.16 (h)(2). In this instance, the 249 Petition sheets that Mr. Cohn had attempted to put in issue in his brief filed on July 21, 2017 all contain the minimum amount of information, including address, to be considered complete. That the circulator affidavit on the Petition denotes a field for the circulator to record the “circulator’s residence address (including zip code)” is inapposite; neither District law nor Board of Elections regulations require city, state or zip code in the circulator affidavit. Including a city, state, and zip code certainly provides the Board with helpful information, but including that information is not a requirement under District law for a validly executed affidavit on an initiative petition. Accordingly, even if this basis for challenge had been raised timely, the Registrar’s review of signatures on these 249 Petitions pages was appropriate and required under law.

26. Mr. Cohn’s argument that city, state and zip code information in the circulator affidavit are in fact required for the Board to properly issue a subpoena is also incorrect. Mailing any letter or parcel, including a subpoena, certainly requires the inclusion of a city, state, and zip code. But that same information is not necessary to serve an individual a subpoena in-person, which is the manner in which the Board typically serves subpoenas, should the need arise.

27. For the foregoing reasons, the Board rejects Mr. Cohn's challenge to the 249 Petition pages identified in his July 21, 2017 brief as having incomplete circulator affidavits.

**B. Challenge to Qualifications of Eight (8) District Resident Circulators**

28. In the District of Columbia, a qualified petition circulator is defined as an individual who is 18 years of age or older and either (1) a District resident; or (2) a resident of another jurisdiction who has registered with the Board as a petition circulator. D.C. Official Code § 1-1001.02 (26). District residents who are at least 18 years of age have no obligation under law to submit proof of residency to the Board in order to qualify as a petition circulator, nor do they need to meet any of the requirements to be a qualified elector.

29. In the District's election code, residence means: "the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which the person's habitation is fixed and to which a person, whenever he or she is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of the absence." D.C. Official Code § 1-1001.02 (16)(A). Although residence is based upon individual intent, a court or agency may look at the following circumstances to determine residence of a person: (1) Business pursuits; (2) Employment; (3) Income sources; (4) Residence for income or other tax purposes; (5) Residence of parents, spouse, and children; (6) Leaseholds; (7) Situs of personal and real property; and (8) Motor vehicle registration. D.C. Official Code § 1-1001.02 (16)(B).

30. There is no residency test that the Board conducts to determine residency of circulators claiming District residency other than an affidavit signed under penalty of perjury attesting to the circulator's residency. If the veracity of that affidavit is called into question, the Board may receive evidence and examine the validity of the affidavit. D.C. Official Code § 1-

1001.5 (a)(14). Since Mr. Cohn has challenged several circulators' claims of residency, it is Mr. Cohn's burden to demonstrate that the circulator resided somewhere other than the District of Columbia during the time that the circulator collected signatures on the Petition.<sup>17</sup>

31. The Board is not persuaded that the evidence submitted by Mr. Cohn shows that Arthur Nelson was not a resident of the District of Columbia at the time he circulated the Petition. Even assuming that these Intelius Reports show address information for the same Arthur Nelson who circulated the Petition, the law directs the Board to look to specific sources of information when questions of residency arise – primarily employment, income, tax, property or other government records. The Board is not persuaded that internet-generated address history reports carry the same level of accuracy and authenticity as these types of records described in law. The Board finds that the evidence submitted is insufficient to demonstrate that Mr. Nelson was not a resident at the time he circulated the Petition. Accordingly, the Board concludes that Mr. Cohn has not met the burden to demonstrate that Mr. Nelson was not a District resident when he circulated the Petition.

32. The Board is not persuaded that the evidence submitted by Mr. Cohn shows that Corey Reidy was not a resident of the District of Columbia at the time she circulated the Petition. Like the Intelius Reports, the PeopleSmart Reports do not carry the level of accuracy and authenticity of the kinds of documents that the Board would typically examine when the question of residency arises. The Board similarly finds that social media profiles are not accurate and reliable sources of information concerning residency. The employment information for Corey Reidy as the DC Canvass Director for Grassroots Campaigns, an organization with an office in the District, is informative, but was also collected from a social media account. Assuming it was

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<sup>17</sup> See D.C. Official Code § 1-1001.02 (26). See also 3 DCMR § 424.1 (“The party who asserts the claim bears the affirmative duty of establishing the truth of the assertion.”).

accurate information, Ms. Reidy's employment as the DC Canvass Director may act to rebut Mr. Cohn's assertion that Ms. Reidy was not a District resident because this office location and job responsibilities give Ms. Reidy a nexus to the District of Columbia. The Board finds that the evidence submitted is insufficient to demonstrate that Ms. Reidy was not a resident at the time she circulated the Petition. Accordingly, the Board concludes that Mr. Cohn has not met the burden to demonstrate that Ms. Reidy was not a District resident when she circulated the Petition.

33. The Board is not persuaded that the evidence submitted by Mr. Cohn shows that Emma Fivek was not a resident of the District of Columbia at the time she circulated the Petition. For the reasons already discussed, the evidentiary weight of internet-generated address history reports is very slight, especially in the case of the PeopleSmart Report submitted for Emma Fivek which contains almost no address information. Although the employment information for Emma Fivek in the other two pieces of submitted evidence is informative, that information was gathered from social media accounts, which the Board ascribes little evidentiary weight. In particular, the Facebook page for Opportunity Finance Network, an organization based in Philadelphia, provides information about Emma Fivek's internship in the summer of 2015 -- hardly relevant to the time period at issue in this Challenge. Additionally, the online resume from LinkedIn states that Ms. Fivek was a fellow at the Partnership for Public Service, an organization located in the District, between January and May, 2017. Ms. Fivek's employment with an organization located in the District during the Petition circulation period rather discredits Mr. Cohn's assertion that Ms. Fivek was not a District resident during the time period she circulated the Petition. The Board finds that the evidence submitted is insufficient to demonstrate that Ms. Fivek was not a resident at the time she circulated the Petition. Accordingly, the Board

concludes that Mr. Cohn has not met the burden to demonstrate that Ms. Fivek was not a District resident when she circulated the Petition.

34. The Board is not persuaded that the evidence submitted by Mr. Cohn shows that Eric Suter-Bull was not a resident of the District of Columbia at the time he circulated the Petition. The PeopleSmart and Intelius Reports submitted for Eric Suter-Bull either give residence information of “Bethesda, MD” or provide three addresses in Maryland, but for the reasons already discussed, the Board finds these types of internet-generated reports unreliable and accordingly ascribe them very little evidentiary weight. Similarly, the Facebook profile page for Eric Suter-Bull which states that he lives in Bethesda, Maryland, and appears to have been last updated in February, 2014 does not persuade the Board that Mr. Suter-Bull was not a resident of the District of Columbia at the time he circulated the Petition. The Board finds that the evidence submitted is insufficient to demonstrate that Mr. Suter-Bull was not a resident at the time he circulated the Petition. Accordingly, the Board concludes that Mr. Cohn has not met the burden to demonstrate that Mr. Suter-Bull was not a resident when he circulated the Petition.

35. The Board is not persuaded that the evidence submitted by Mr. Cohn shows that Francisco Pedro was not a resident of the District of Columbia at the time he circulated the Petition. For the reasons already discussed, the Board finds that the PeopleSmart Report submitted for Francisco Pedro, which gives current address information of “New York, NY,” to be unreliable, carry very little evidentiary weight, and fails to demonstrate that Mr. Pedro did not reside in the District at the time he circulated the Petition. The Board also finds that the Grassroots Campaigns webpage which describes Francisco Pedro’s employment role and responsibilities insufficient to demonstrate that Mr. Pedro was not a resident of the District of Columbia when he circulated the Petition. Accordingly, the Board concludes that Mr. Cohn has

not met the burden to demonstrate that Mr. Pedro was not a resident when he circulated the Petition.

36. The Board is not persuaded that the evidence submitted by Mr. Cohn shows that Jason Charter was not a resident of the District of Columbia at the time he circulated the Petition. For the reasons already discussed, the Board finds that the Facebook page which states that Jason Charter lives in Gaithersburg, Maryland to be an unreliable source of residence information and fails to demonstrate that Mr. Charter did not reside in the District at the time the Petition was circulated. The Board also finds that the Democratic Underground discussion thread giving credit to Mr. Charter for conducting a political prank fails to demonstrate that Mr. Charter did not reside in the District at the time he circulated the Petition. Accordingly, the Board concludes that Mr. Cohn has not met the burden to demonstrate that Mr. Charter was not a resident when he circulated the Petition.

37. The Board is not persuaded that the evidence submitted by Mr. Cohn shows that Matthew Melton was not a resident of the District of Columbia at the time he circulated the Petition. The Board finds that the PeopleSmart Report that was purportedly submitted for “Matthew Melton” was for another individual – “Mathew R Milton” – who is not a circulator at issue in this Challenge. The Board finds that the evidence submitted is insufficient to demonstrate that Mr. Melton was not a resident at the time he circulated the Petition. Accordingly, the Board concludes that Mr. Cohn has not met the burden to demonstrate that Mr. Melton was not a resident when he circulated the Petition.

38. The Board is not persuaded that the evidence submitted by Mr. Cohn shows that Nelly Ngadie was not a resident of the District of Columbia at the time she circulated the Petition. The Board finds that the Facebook profile page and the high school newspaper article

purportedly submitted for “Nelly Ngadie” was for another individual – “Nelly Gadie” – who is not a circulator at issue in this Challenge. The Board finds that the evidence submitted is insufficient to demonstrate that Ms. Ngadie was not a resident at the time she circulated the Petition. Accordingly, the Board concludes that Mr. Cohn has not met the burden to demonstrate that Ms. Ngadie was not a resident when she circulated the Petition.

39. Because the Board has determined that Mr. Cohn has failed to demonstrate that these eight (8) circulators were not residents of the District when they circulated the Petition, the Board rejects Mr. Cohn’s challenge to the qualifications of Circulators Francisco Pedro, Arthur Nelson, Corey Reidy, Emma Fivek, Eric Suter-Bull, Jason Charter, Matthew Melton, and Nelly Ngadie.

**ORDER**

Based on the findings of fact and conclusions of law contained in the Board's Memorandum Opinion, it is hereby **ORDERED** that the Challenge filed by Mr. Cohn is rejected; and further **ORDERED** that the Petition shall proceed to the random sample of signatures.

A handwritten signature in blue ink, appearing to read "D. Michael Bennett", written over a horizontal line.

September 19, 2017

D. Michael Bennett  
Chairman, Board of Elections