

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS

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SPECIAL BOARD MEETING

+ + + + +

FRIDAY

MARCH 29, 2024

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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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1 P-R-O-C-E-E-D-I-N-G-S

2 (9:33 a.m.)

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

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

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

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21 withdrawn, so just reversing the order a little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

1 agenda.

2 MEMBER BOGGS: Second.

3 CHAIR THOMPSON: All right. All in
4 favor?

5 MEMBER GREENFIELD: Aye.

6 MEMBER BOGGS: Aye.

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

12 CHAIR THOMPSON: Thank you.

13 MEMBER BOGGS: Thank you.

14 (Simultaneous speaking.)

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

20 And the first thing we'll do is have
21 the parties state their names and address for the
22 record, starting with the challenger James

1 Harnett. We'll make sure and unmute you if you
2 could just introduce yourself. State your name
3 and address for the record.

4 MR. HARNETT: Good morning. James
5 Harnett, 2221 I Street Northwest, 321,
6 Washington, D.C. 20037.

7 CHAIR THOMPSON: All right. Thank you
8 so much. We'll hear from you in just a moment.

9 And on behalf of Yolanda Fields, is
10 there an appearance?

11 MS. FIELDS: Yes.

12 CHAIR THOMPSON: Oh, is this Ms.
13 Fields?

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

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

18 MS. FIELDS: My name is Yolanda
19 Fields, 5344 Ames Street Northeast, Washington
20 D.C., Ward 7.

21 CHAIR THOMPSON: All right. Thank you
22 so much.

1 Next, we'll hear from the Board of
2 Elections Registrar to address the matter.

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

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

13 MS. CORRENTE: Yes. So, on March 6th,
14 2024, Yolanda Fields, Candidate for Ward 7 Member
15 of the Council for the Democratic Party for the
16 June 4th, 2024, Primary Election, submitted a
17 nominating petition to appear on the ballot as a
18 candidate. The minimum requirement for ballot
19 access is 250 signatures. The petition contained
20 283.

21 During the challenge period, on March
22 13th, 2024, James Harnett, a registered voter in

1 the District of Columbia, challenged the
2 petition. challenger Harnett filed challenges to
3 69 of the 283 signatures on various grounds
4 connected to the D.C. Municipal Regulations.

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

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

14 MS. FIELDS: I can't hear her.

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

22 In particular, she was not in

1 agreement with the 18 inactive challenges that
2 were listed for voters that were listed within
3 her petition. And specifically, she brought up
4 an issue pertaining to an address where she
5 collected signatures where there were several
6 issues with those. The total of those was five.
7 In total, that would be 23 signatures that she
8 was hoping to have credited back to her.

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

17 During our discussion, Ms. Fields was
18 advised that even if there was a reason for the
19 Board to otherwise grant her credit towards those
20 that were listed as excuse me not inactive but
21 with regards to an affidavit circulator issue,
22 the 18 signatures, and those 5 address issues,

1 that would still only allow her 23 more
2 signatures, still bringing her to a point to
3 where she would be underneath the 250
4 requirement.

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

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

15 CHAIR THOMPSON: Okay. So the initial
16 determination that 63 of the challenges are valid
17 brings the signature total down to 220, which is
18 30 shy of the requirement.

19 And it sounds like what you're saying
20 is that 23 are being rechallenged or the
21 candidate is asking us to recredit those, so to
22 even if we do, that still only gets the candidate

1 to 243, which is not enough.

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

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

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

19 And it's you know, these 23 or yeah,
20 23 that are in question there, you know, we could
21 talk about it maybe just for future edification
22 so people understand what they should be doing,

1 but I mean, I'm just making sure I'm making this
2 all correctly. And I'm

3 MS. WALKER: That's correct, sir.

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

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

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

21 MS. WALKER: Correct.

22 CHAIR THOMPSON: And for this case, it

1 was the opposite.

2 MS. WALKER: That's correct.

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

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

15 CHAIR THOMPSON: Right.

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

20 CHAIR THOMPSON: Okay.

21 MS. CORRENTE: So

22 CHAIR THOMPSON: Well, that's good to

1 clarify. I mean, we're willing to credit the 18
2 back if the circulators so testify.

3 MS. WALKER: Right.

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

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

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

20 CHAIR THOMPSON: And is

21 MS. CORRENTE: And I think correct me
22 if I'm wrong, but I think the candidate, who I

1 guess we could ask because she's here, but the
2 candidate, I believe, it had to do with a
3 specific address if that's correct?

4 MS. WALKER: Right.

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

9 MS. WALKER: Right.

10 MS. CORRENTE: So they're not curable.

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

14 MS. WALKER: Right.

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

17 MS. WALKER: That's correct.

18 MS. CORRENTE: Yeah.

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

22 MS. CORRENTE: Correct.

1 CHAIR THOMPSON: All right. All
2 right. Thank you for your for walking us through
3 that. I guess, we'll hear now from the
4 candidate, Ms. Fields.

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

7 CHAIR THOMPSON: Yeah, please go
8 ahead.

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

19 So, one individual by the name of Ms.
20 Witherspoon, thank God, she copied it for me.
21 And she you know, she said she would mail her
22 original off.

1 The other individuals, I asked them,
2 you know, can I just, you know, take their
3 registration card with me, but they was like, no,
4 I'll fill it out, and I'll mail it you know, mail
5 it back in themselves. And I was like, well, let
6 me show you your name on the document that I
7 have.

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

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

19 The other fact was, at this apartment
20 building where I was getting signatures from, I
21 asked them were they a Ward 7 resident. They
22 stated yes. Are you registered to vote in the

1 District of Columbia? They said yes. So they
2 put they names down.

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

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

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

17 And I think if the person says they're
18 registered, that's obviously good to hear and
19 something that you might reasonably rely upon.
20 But they do, in fact, have to be registered,
21 which I think goes to the wisdom of collecting a
22 lot more signatures than are required just in

1 case there's things that. But I appreciate your
2 explanation on the address issue. I there's 18
3 signatures that

4 MS. FIELDS: So

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

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

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

22 And even on page 17 no, not 17. I'm

1 sorry. Yeah, some of them are 17. Well, that's
2 well, yeah. So the 24th, which did I start it on
3 the 24th? I see on they finished signing on the
4 24th and then ended up on the 29th. You know,
5 and again, you know, that was you know, that was
6 my that was my error.

7 CHAIR THOMPSON: Well, that's okay.
8 I did I guess the question is did regardless of
9 what date you wrote down, did you, in fact,
10 witness those signatures?

11 MS. FIELDS: Yes, sir. Yes, I did.

12 CHAIR THOMPSON: Okay. Well, thank
13 you.

14 MS. FIELDS: And one of the
15 individuals was Ms. anyway. Yeah. I did, sir.
16 It was one it was one person saying that she it
17 was a fraud, and I know it wasn't a fraud because
18 she the mother of my church, and I know her
19 signature wasn't a fraud because she signed it.
20 But at the end of the day, I did, sir. I
21 witnessed everybody that signed the documents in
22 front of me, yes.

1 CHAIR THOMPSON: Okay. Let me just
2 ask you or the registrar how many signatures
3 would that credit back on the circulator sheets
4 that Ms. Fields witnessed?

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

7 MS. WALKER: That's correct.

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

10 CHAIR THOMPSON: Okay. That's it.

11 MS. STROUD: That's correct.

12 MS. CORRENTE: Okay. Thank you.

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

17 MS. WALKER: Correct.

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

22 MS. WALKER: And that if I could

1 CHAIR THOMPSON: Go ahead.

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

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

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

17 CHAIR THOMPSON: Well, thank you for
18 that. I mean, he's not present. You're probably
19 right. I'm going to say it's 99 percent chance
20 you're correct, but that would still that would
21 add three more and bring the total to 238. So
22 we're still we're still a fair number short.

1 Anything else you would like to say,
2 Ms. Fields, before we hear from the challenger?

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

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

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

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

22 During the prehearing conference, by

1 the candidate's own admission, she said, in
2 reference to the enumerated attestations she
3 signed in the circulator's affidavit, and I
4 quote, I didn't read the whole instructions; I
5 just glanced through it.

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

22 While I disagree with permitting the

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

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

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

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

20 I don't know what decision that you
21 all may make, but I am going to say this is that,
22 again, Board of Elections, I appreciate you all

1 meeting with me, and to Ms. Walker and her
2 coworker as well.

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

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

19 There was nothing that I could do
20 about the individuals who didn't live there.
21 There was nothing I could do far as with the
22 individuals who I submitted the voter

1 registration forms to. I did what I was supposed
2 to do. I felt just I didn't do no wrong, but I
3 did what I did what I was supposed to do. You
4 know, yeah. I did what I was supposed to do.
5 And yeah.

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

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

17 If you go through this again, you
18 know, obviously the lesson is try to obtain as
19 many signatures as you can to leave some room for
20 situations where maybe somebody didn't write down
21 the correct address or is not, in fact,
22 registered to vote. And if you can't run this

1 time, well, you can put yourself out there as a
2 write-in candidate as well. So please don't lose
3 heart.

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

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

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

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

1 required for ballot access.

2 CHAIR THOMPSON: Okay. Thank you.
3 And I will make that motion to my fellow Board
4 members that we credit the candidate with 15
5 ballot signatures based on Ms. Fields's testimony
6 that she personally witnessed those signatures
7 and recrediting her those 15 brings the total to
8 235, which is, unfortunately, not enough. So,
9 unfortunately, and with regret, I have to move
10 that we uphold the challenge and deny the
11 candidate ballot access.

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

15 CHAIR THOMPSON: When do we need a
16 second first?

17 MS. STROUD: Okay. Yes. Sorry.

18 CHAIR THOMPSON: Is there a second?
19 Hold on. Hold on a second.

20 MEMBER GREENFIELD: I second.

21 CHAIR THOMPSON: Okay. All right.

22 MS. STROUD: Okay.

1 CHAIR THOMPSON: So a roll call is -
2 aye. The Chair votes aye.

3 MS. STROUD: Member Greenfield?

4 MEMBER GREENFIELD: Aye.

5 MS. STROUD: And Member Boggs?

6 MEMBER BOGGS: Aye.

7 MS. STROUD: Okay. With that, Ms.
8 Fields is denied ballot access, and an order will
9 issue today, a written order supporting okay.
10 Yes. And a written order will issue today, but
11 you can, of course, appeal the order within three
12 days from today. I think the deadline for that
13 would be on Monday, and the appeal would be to
14 the D.C. Court of Appeals.

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

17 CHAIR THOMPSON: Okay. Yeah. Thank
18 you, again, everybody, especially Ms. Fields.
19 Again, please don't lose heart, don't lose faith,
20 hang in there, and keep doing your great work.

21 So, with that, we will move on to the
22 next challenge, which is James Harnett vs. Jill

1 Stein. And I would ask the parties or the
2 representatives to state their names and
3 addresses, starting with Mr. Harnett.

4 MR. HARNETT: James Harnett, 2221 I
5 Street Northwest, 321, Washington, D.C. 20037.

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

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

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

16 Mr. Lass?

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

21 CHAIR THOMPSON: Okay. Just to
22 clarify, are you an attorney, Mr. Lass?

1 MR. LASS: No, sir.

2 CHAIR THOMPSON: Okay. No worries.

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

4 (Laughter.)

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

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

16 On March 5th, 2024, an authorized
17 agent submitted a nominating petition on behalf
18 of Jill Stein to appear on the ballot as a
19 candidate in the June 4th, 2024, primary election
20 for the Office of President of the United States.
21 On March 6th, 2024, the authorized agent
22 submitted a supplemental filing.

1 The minimum requirement to obtain
2 ballot access for this office is 38 signatures.
3 With the initial and supplemental filings, the
4 petition contained 53 signatures.

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

10 Challenger Harnett filed challenges to
11 21 of the 53 signatures and specified on
12 different grounds for those reasons, all from
13 Title 3, Chapter 14, of the D.C. Municipal
14 Regulations.

15 Ultimately, my initial review of the
16 challenges indicated that 16 of the 21 challenges
17 were valid. A valid change of address form was
18 timely submitted after my initial report was
19 issued, which changed the findings, so it became
20 15 of the 21 signatures became valid. I'm sorry.
21 15 of the challenges became valid.

22 So one is valid because the signer's

1 voter registration was designated as inactive on
2 the voter roll at the time the petition was
3 signed.

4 CHAIR THOMPSON: Inactive, you said.

5 MS. CORRENTE: Sorry. Inactive, yes.
6 One is valid because the signature is a duplicate
7 of a valid signature. And 11 are valid because
8 the circulator of the petition did not personally
9 witness the voters' signing of the petition. And
10 then, finally, two were valid because the signer
11 is not registered to vote in the same party as
12 the candidate at the time the petition was
13 signed.

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

20 I made the subsequent determinations
21 regarding the circulator challenges by seeing
22 which petition sheets with handwritten signatures

1 appeared to be copies with the circulator's
2 signature affixed directly to the page. The
3 determinative factor in deciding the validity of
4 these challenges was whether I could feel the
5 raised indentation of handwritten pen marks on
6 the back of the page.

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

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

21 With a valid and timely address
22 update, this leaves the candidate's nominating

1 petition at 38 signatures, which is the number
2 required for ballot access.

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

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

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

1 evidence to decide one way or another?

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

4 CHAIR THOMPSON: Yeah.

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

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

10 MS. CORRENTE: Right.

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

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

17 CHAIR THOMPSON: Bring the mic a
18 little closer.

19 MS. PEMBROKE: Is that better?

20 CHAIR THOMPSON: Yeah. Is it on?

21 MS. PEMBROKE: Yeah, it's on.

22 CHAIR THOMPSON: Okay. Go ahead.

1 MS. PEMBROKE: Okay. So I'm going to
2 back up a little bit before the conference
3 because there are some things that happened in
4 the record that I think are relevant in this
5 case.

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

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

17 Just for the record, the circulator
18 affidavit on each petition sheet requires the
19 circulator to attest to the fact that he or she
20 personally witnessed the signer signing the
21 petition. And that requirement comes out of the
22 D.C. Code, which provides that the circulators

1 have to personally witness the signing of a
2 petition.

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

16 One of them being that, in the cases
17 of the challenges where he had made that claim,
18 the only signer on the petition sheet was there
19 was only one signer on the petition sheet. In
20 one case, there was there were two signers, but
21 they were at the same address. So Mr. Harnett
22 provided that information.

1 In addition, in light of that fact,
2 the registrar shared with me an email exchange
3 that occurred between her and the circulator at
4 about the time the petition sheets were turned
5 in, in which the circulator made the following
6 statement. He stated that he believed that a
7 petition sheet would be accepted as valid, quote,
8 if transmitted as files by email to the signer,
9 returned signed and dated, with the circulator
10 being the one who sent the email and being the
11 recipient of the petition in question by email
12 return, who then fills out the affidavit at the
13 end of the petition.

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

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

21 MS. PEMBROKE: So, there is, as Ms.
22 Corrente noted, one sheet where there was only

1 one signer on the sheet, consistent with the
2 other 11 signatures, the 12th signature.

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

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

18 CHAIR THOMPSON: Okay.

19 MS. PEMBROKE: But it's not like in a
20 preset font. It is an actual signature if that
21 makes sense. And so, it's hard to articulate
22 these things, but

1 CHAIR THOMPSON: And just to clarify,
2 witnessing a signature entails either seeing it
3 in person or, if you're going to use email I
4 don't think there's any regulation on this, but
5 witnessing it through Zoom, perhaps.

6 MS. CORRENTE: Yeah.

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

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

19 CHAIR THOMPSON: Yeah.

20 MS. PEMBROKE: The voter could have
21 printed it out, filled in the portion at the top
22 with where they were signing as a voter, and the

1 bottom as a circulator, and then sent it back.

2 That would've been correct.

3 CHAIR THOMPSON: Yeah. Well, that's
4 another way we use email to do this.

5 MS. PEMBROKE: And yes.

6 CHAIR THOMPSON: You can use email
7 that way if the signer is also their own
8 circulator.

9 MS. PEMBROKE: Yes.

10 CHAIR THOMPSON: They can sign it all
11 and then scan it and send it back.

12 MS. PEMBROKE: Right.

13 CHAIR THOMPSON: But the thing you
14 can't do is the circulator can't email it to
15 someone. They sign it outside of the
16 circulator's presence, scan it, and email it back
17 to the circulator who has not witnessed the
18 signature in any way, not even by Zoom, and
19 subsequently signs it, that that is not
20 permitted.

21 MS. CORRENTE: And just to interject,
22 if I could, I don't we don't have any way to

1 confirm this, but there was a signature that was
2 the challenge was upheld because it was a
3 duplicate, and it does follow that pattern. So
4 it's it doesn't matter because that particular
5 signer signed earlier on another petition sheet,
6 but it does follow that format of the signer
7 signed it as the signer and then signed it as the
8 circulator.

9 CHAIR THOMPSON: Okay.

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

15 (Simultaneous speaking.)

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

18 MS. CORRENTE: Yeah.

19 MS. STROUD: And the statute, Mr.
20 Chair, specifically allows for that circumstance
21 that they're describing. The statute provides
22 that no signature on a petition sheet shall be

1 invalidated because the signer was also the
2 circulator of the same petition sheet on which
3 the signature appears.

4 CHAIR THOMPSON: Okay.

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

16 So when the prehearing conference was
17 held on March 25th, of course, I was present.
18 The registrar was present. Mr. Harnett was
19 present. He was Mr. Harnett was promptly
20 informed that we had received one address update
21 to cure one of the signatures. Going into the
22 hearing, the candidate was one signature short of

1 ballot access. And so, Mr. Harnett was informed
2 of that, and the registrar put her findings on
3 the record.

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

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

18 CHAIR THOMPSON: All right. Yeah.
19 Thank you. That really helps me understand now
20 what it all comes down to. This because, in the
21 case of this one sheet where it's typed in with a
22 digital signature, we have to make an inference.

1 And you can infer reasonably one way or the
2 other, it sounds like.

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

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

16 CHAIR THOMPSON: Right.

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

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

22 MS. CORRENTE: I'm not sure. And Mr.

1 Harnett did have what am I trying to say an
2 explanation. We've been spending many hours
3 reviewing these petitions, so my brain is very
4 tired.

5 CHAIR THOMPSON: Thank you.

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

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

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

22 MR. HARNETT: Good morning, members of

1 the Board. As I stated in the prehearing
2 conference with Board staff, I agree with the
3 registrar's findings with one exception. I
4 believe that the signature on sheet 4 of the
5 candidate's initial submission should be
6 discarded by the Board.

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

17 While I can appreciate the new ground
18 the Board may have to address in a case where a
19 circulator is alleged to have not physically
20 witnessed the signatures of a signer for, quote,
21 unquote, digitally collected signatures. Given
22 the unique facts of this challenge, there is

1 greater complexity, that I doubt would reappear
2 in other such cases, that I would like to draw
3 your attention to.

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

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

22 On a case involving a challenge of

1 whether or not signatures were actually collected
2 in the presence of the circulator, as pointed out
3 by the Board staff, the burden of proof is on the
4 challenger. At recommendation of the Board
5 attorney assigned to this matter, I attempted to
6 solicit sworn statements from the signers on this
7 petition as to the facts of how this petition was
8 signed.

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

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

1 1 on sheet 4.

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

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

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

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

17 The petition sheet appears to have
18 been emailed to the signer, Mr. John Tharakan,
19 who then used digital software to type in his
20 name, address, date, and add a digital signature.
21 The petition then appears to have been emailed or
22 scanned back to the person circulating the

1 petition, Mr. Schwartzman, who printed out the
2 petition and completed the circulator's
3 affidavit.

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

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

20 And that leads me to the reasonable
21 conclusion the petition sheet was received by Mr.
22 Schwartzman, printed and signed by Mr.

1 Schwartzman, and by his own admission, without
2 him physically witnessing the signer's signature.

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

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

20 And you can also see this printing
21 patchiness that I referenced on sheet 4, where,
22 in the same instance, that sheet 4 was printed by

1 or excuse me sheet 13 was printed by the
2 circulator, Mr. Schwartzman, who attested added
3 his name to the sheet.

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

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

1 problem with.

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

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

18 The error here is not that Mr.
19 Tharakan used a digital signature to sign his
20 name; it's that this sheet matches the pattern of
21 practice of Mr. Schwartzman of accepting petition
22 sheets and then adding his name to the

1 circulator's affidavit in violation of the
2 affidavit. So it's a distinction without a
3 difference.

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

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

19 While I do not personally advocate for
20 this course of action, I do recognize the Board's
21 authority to refer individuals for violation of
22 the circulator's affidavit for making false

1 statements under D.C. Code 22-2405(b), as is
2 noted on each petition sheet that the circulator
3 signed in open admission that that had not been
4 the actual conditions by which the signatures
5 were witnessed.

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

18 I do, however, believe it is
19 reasonable for this Board to find that this
20 signature on sheet 4 was also collected while the
21 circulator was making false statements given the
22 evidence available for review at the time the

1 petition was signed - submitted and the evidence
2 presented at the prehearing conference and the
3 evidence admitted by the registrar from the
4 primary circulator. Such a reasonable conclusion
5 would necessarily require that the candidate be
6 denied ballot access.

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

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

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

17 To my mind, and what I heard from Mr.
18 Schwartzman was that he was asking for
19 clarification. And receiving none from the
20 Board, he felt like he had to make his own
21 decision on what to do, and that's why some of
22 these were transmitted over email and signed and

1 scanned back, and he didn't witness them. So
2 that's one point.

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

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

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

15 (Simultaneous speaking.)

16 MR. LASS: I didn't see him when I
17 looked through the Zoom. I've had some email
18 exchanges back and forth with him, asking him to
19 please go, tell me petition sheet by petition
20 sheet how everything worked, and he was not able
21 or willing to comply with my request to do that.
22 So I can't say specifically about this sheet. I

1 believe Mr. Call was on a phone discussion with
2 him last night.

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

5 CHAIR THOMPSON: Yes.

6 (Simultaneous speaking.)

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

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

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

1 specific information.

2 CHAIR THOMPSON: Okay. Well,
3 obviously, Mr. Schwartzman can be here, whether
4 he's an attorney or not. That's not a

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

10 (Simultaneous speaking.)

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

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

17 MR. CALL: Okay.

18 CHAIR THOMPSON: So

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

22 CHAIR THOMPSON: I appreciate that.

1 I'm going to call on Mr. Harnett, but Ms.
2 Corrente, did you want to add something?

3 MS. CORRENTE: I can speak to, a
4 little bit, I think, maybe, the point, I think,
5 the a February 8th email was mentioned. And so,
6 I believe it was February 8th, after hours, after
7 9:00 p.m. Mr. Schwartzman, the circulator,
8 emailed our candidate email asking for
9 clarification on this issue.

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

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

19 And again, the fact that another
20 petition in this another sheet within this
21 petition was done correctly, other people were
22 getting the correct information. So I'm you

1 know, I'm just not sure where the disconnect
2 happened.

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

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

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

19 MS. STROUD: To that point, Ms.
20 Corrente, could you please describe the materials
21 that candidates pick up when they come to the
22 office to pick up ballot access documentation

1 for, you know, that have to do with petition
2 circulation? What information are the
3 circulators and the candidates provided with
4 respect to petition circulation?

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

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

18 MS. STROUD: But does it discuss
19 personally witnessing?

20 MS. CORRENTE: Oh, yes. Sorry. Yes.
21 Yes, it does. It's on the petition itself. It's
22 in multiple materials that we give out, whether

1 it's the Board regulations or again, that
2 overview on circulating petitions. Yes, that is
3 in multiple places.

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

14 CHAIR THOMPSON: Yeah.

15 MR. HARNETT: If I may

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

21 And not just just for the record,
22 we've got I don't think we've ever ruled on this,

1 but to me, if you witnessing could include seeing
2 them through Zoom, through a digital format like
3 Zoom. That's just my own I'm just putting that
4 out there as my own opinion.

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

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

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

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

1 as part of notary services.

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

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

19 The light I think I can provide to the
20 reason that he may not be here and this is just
21 my opinion or conjecture would be that the reason
22 that Mr. Schwartzman believes he couldn't be

1 here, even though he certainly can, would be
2 that, in an email Ms. Pembroke sent to Mr.
3 Schwartzman and to the other parties in this case
4 because Mr. Schwartzman and I'll just I'll read
5 from the email, which may provide more color for
6 this situation.

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

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

20 Therefore, please note that should Mr.
21 Schwartzman appear as a representative of the
22 candidate and/or as a witness, the first order of

1 business at any prehearing conference or Board
2 hearing would be to ascertain whether he wishes
3 to waive his right against self-incrimination.

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

11 Obviously, what we're left with is the
12 evidence that has been presented to the Board, as
13 submitted in his petition sheets, and as
14 submitted in his testimony up to this point. And
15 based on all of that evidence, I do believe,
16 again, it is reasonable to ascertain that to what
17 the registrar noted, she couldn't decide one way
18 or the other whether it was because it didn't
19 match the physical indentation notations that she
20 noted on the other sheets, would necessarily
21 require your action to flip that, sort of, that
22 antenna one way or the other.

1 And I do believe, based on the
2 evidence that I've presented today, that there is
3 enough evidence that is available of the only
4 evidence that's available that points towards
5 this being a fraudulently collected signature
6 under false pretenses or excuse me under false
7 statements.

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

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

18 But I want to thank everybody,
19 including the registrar and Ms. Pembroke for
20 taking us through all this. There's a lot of
21 detail, a lot of time spent on this. I think we
22 really we really get it now. I wasn't sure I got

1 it a few days ago when I first read all this, but
2 I think, now, it's crystal clear.

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

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

11 Notwithstanding the report of the
12 registrar voters indicating that Candidate Stein
13 did meet ballot access requirements just exactly,
14 I would, in light of the information that was
15 presented today, as well as the information in
16 the record, including the email from Mr.
17 Schwartzman indicating that, with respect to
18 signatures that were submitted and sheets that
19 were submitted, that he did not actually witness
20 the all of the signatures that he attested to
21 personally witnessing. And that was conveyed via
22 email.

1 And although we don't know whether
2 sheet 4 or 14 was one such sheet with respect to
3 which he did not witness personally witness,
4 notwithstanding him signing the circulator's
5 affidavit indicating that he did, looking at the
6 petition sheets, particularly 4 and 13, and
7 noticing some similarities between the print
8 marks or the way that the printer printed the
9 sheets leads me to believe that this signature
10 should not be treated differently from the other
11 ones that were discounted on the basis of not
12 having been personally circulated by the
13 circulator.

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

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

22 Okay. Thank you again, everybody. So

1 I'll make a motion at this time that our Board go
2 into executive session to deliberate.

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

9 So I think we just need I don't know
10 how long we need. Maybe half an hour to talk
11 about this and privately come up with a ruling
12 and then come back on the record. I'll just it's
13 10:51, so I guess I'll say 11:30 for good
14 measure. We'll come back on the record and let
15 everybody know how we'll rule.

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

18 MEMBER BOGGS: Second.

19 MEMBER GREENFIELD: I second.

20 CHAIR THOMPSON: All in favor?

21 (Chorus of ayes.)

22 MS. STROUD: Take a roll call vote.

1 CHAIR THOMPSON: Okay.

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

4 CHAIR THOMPSON: Aye.

5 MS. STROUD: Member Greenfield?

6 MEMBER GREENFIELD: Aye.

7 MS. STROUD: Member Boggs?

8 MEMBER BOGGS: Aye.

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

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

13 (Whereupon, the above-entitled matter
14 went off the record at 10:51 a.m. and resumed at
15 11:30 a.m.)

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

20 MEMBER BOGGS: Second.

21 MEMBER GREENFIELD: Second.

22 CHAIR THOMPSON: All right. All in

1 favor? Aye.

2 MEMBER GREENFIELD: Aye.

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

5 CHAIR THOMPSON: Chair votes aye.

6 MS. STROUD: Yes. Member Greenfield?

7 MEMBER GREENFIELD: Aye.

8 MS. STROUD: Member Boggs?

9 MEMBER BOGGS: Aye.

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

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

17 At this time, I'll make a motion to
18 accept our General Counsel's recommendation to
19 invalidate the signature on sheet 4 of 14 based
20 on the circulator's having not personally
21 witnessed the signature. That puts it into the
22 same bucket as the other 11 that were already

1 found invalid on this basis and would take the
2 valid signatures down to 37.

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

6 MEMBER BOGGS: Second.

7 MEMBER GREENFIELD: Second.

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

10 Chair chairman Thompson?

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

13 It is it is not easy to deny ballot
14 access to a candidate. In fact, it's painful.
15 We want to grant ballot access. We favor ballot
16 access, but these signature requirements are
17 important. And there's a very clearly laid out
18 process for how you obtain a sufficient number of
19 valid signatures. And it simply wasn't followed
20 here. And clearly, Mr. Schwartzman did not
21 correctly complete his circulator affidavit with
22 respect to 12 of these signatures. And that's

1 unfortunate because it's quite clear how that
2 could've been remedied in other ways, by having
3 the person sign their own sheet, or just getting
4 more signatures. So it's not easy for us to rule
5 this way. It's unfortunate.

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

14 MS. STROUD: Okay. Member Greenfield?

15 MEMBER GREENFIELD: Aye.

16 MS. STROUD: Member Boggs?

17 MEMBER BOGGS: Aye.

18 MS. STROUD: And with that, the Board
19 has moved to deny ballot access to D.C. Statehood
20 Green Party Candidate for presidential nominee
21 Jill Stein from the ballot. This ruling can be
22 appealed to the D.C. Court of Appeals by the -

1 since the decision was announced today, that the
2 decision must be appealed within three days, not
3 business days, but three days. So I believe that
4 would be Monday, the deadline to appeal to the
5 D.C. Court of Appeals. And with that

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

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

10 CHAIR THOMPSON: Okay.

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

13 MR. LASS: May I say something?

14 CHAIR THOMPSON: Sure.

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

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

22 MS. STROUD: Correct.

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

8 CHAIR THOMPSON: All right. Thank
9 you, sir.

10 Okay. With that, I move to adjourn.

11 MEMBER GREENFIELD: I second.

12 MEMBER BOGGS: Second.

13 CHAIR THOMPSON: Okay. All in favor?
14 Aye.

15 MEMBER GREENFIELD: Aye.

16 MEMBER BOGGS: Aye.

17 CHAIR THOMPSON: Thank you, everybody.
18 Have a great day.

19 MEMBER BOGGS: Have a good one.

20 MEMBER GREENFIELD: Okay.

21 (Whereupon, the above-entitled matter
22 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

NEAL R. GROSS

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