

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ELECTIONS

+ + + + +

REGULAR BOARD MEETING

+ + + + +

FRIDAY

APRIL 5, 2024

+ + + + +

The District of Columbia Board of Elections convened via Video/Teleconference, 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
- WILLIAM SANFORD, General Counsel
- MARISSA CORRENTE, Registrar of Voters

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Adjourn

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

2 (9:35 a.m.)

3 CHAIR THOMPSON: Okay. Good morning.

4 Happy Friday, happy Spring, a beautiful day out

5 there. Thanks for being with us today. My name

6 is Gary Thompson, the Chair of the Board of

7 Elections. I see the court reporter is here as

8 well as the Zoom meeting itself being recorded.

9 And with us online is my fellow Board Member,

10 J.C. Boggs. So we have a quorum between the two

11 of us. I don't think our third Board Member,

12 Karen Greenfield, is present. She may be able to

13 appear during this meeting, but we have quorum

14 for purposes of commencing.

15 And the first thing we do is adopt our

16 agenda which has been circulated in advance to

17 the Board members. It's a combination of both

18 certain challenges that might be the subject of a

19 special meeting with our general monthly meeting.

20 So with that, I move we adopt our agenda.

21 MEMBER BOGGS: Second.

22 CHAIR THOMPSON: All right. All in

1 favor, between the both of us. Aye.

2 (Ayes.)

3 CHAIR THOMPSON: Okay. The agenda is  
4 adopted. We've also circulated the minutes from  
5 your prior meeting, March 6, 2024. We've had a  
6 chance to review those and at this time, I would  
7 move we adopt those minutes.

8 MEMBER BOGGS: Second.

9 CHAIR THOMPSON: Aye.

10 MEMBER BOGGS: Aye.

11 MEMBER BOGGS: So moving then to our  
12 general counsel's report from General Counsel  
13 Terri Stroud.

14 MS. STROUD: Good morning, everyone.  
15 The first item in my report is the issuance of a  
16 recall petition. This -- as by way of  
17 background, on March 8, 2024, Diana Alvarez filed  
18 a notice of intent to recall Brianne Nadeau, Ward  
19 1 Member of the Council of the District of  
20 Columbia. And I first would ascertain whether or  
21 not Ms. Alvarez is present. Okay, unmute her,  
22 yes.

1 MS. ALVAREZ: Hello. Yes, I'm here.

2 MS. STROUD: Good morning, Ms.

3 Alvarez.

4 MS. ALVAREZ: Good morning. Sorry.

5 I had issues with the mute button.

6 MS. STROUD: No worries.

7 MS. ALVAREZ: Okay.

8 MS. STROUD: March 8th, Ms. Alvarez  
9 filed a notice of intent to recall Brianne  
10 Nadeau, Ward 1 Member of the Council of the  
11 District of Columbia. Ms. Alvarez is a qualified  
12 registered elector who resides in Ward 1. Ms.  
13 Alvarez's filings did include a copy of a  
14 verified statement of contributions that had been  
15 filed with the Office of Campaign Finance.

16 Ms. Nadeau was served with notice of  
17 the recall on March 8th and was informed at that  
18 time that she could file a response to the  
19 statement submitted in support of the recall by  
20 March 18th, and that such response would be  
21 included on the recall petition -- Council Member  
22 Nadeau timely filed a response on March 18th.

1 The Board staff prepared -- then is prepared to  
2 issue to Ms. Alvarez an original petition form.

3 And I want to note for the record that  
4 this is the sole purpose of this process. The  
5 only purpose of this process is for the Board to  
6 ascertain whether or not the proposer adopts the  
7 petition form prepared by the Board for purposes  
8 of circulating the recall petition as the  
9 proposers own. And when we're asking whether or  
10 not the petition form is adopted, we're only  
11 asking whether or not the information that  
12 appears on the form, specifically the name, the  
13 statement of reasons to recall, the proposers  
14 address, etcetera is correctly and accurately  
15 reflected on the petition form that was prepared.

16 The inquiry is not whether or not the  
17 proposer approves the elected official's response  
18 if one has been provided. And so, Mr. Chair.

19 CHAIR THOMPSON: All right. Ms.  
20 Alvarez, thanks for being with us. Quick  
21 question or two. Have you had a chance to review  
22 the petition that's been prepared by the Board of

1 Elections?

2 MS. ALVAREZ: Yes, I have.

3 CHAIR THOMPSON: Thank you so much.

4 And you also approved the petition form and adopt  
5 it as your own?

6 MS. ALVAREZ: Yes.

7 CHAIR THOMPSON: So in light of that,  
8 the petition will be available for circulation.  
9 And with that, I would ask our Registrar, Ms.  
10 Corrente, to outline the remainder of the recall  
11 process.

12 MS. CORRENTE: Thank you, Chair  
13 Thompson. So pursuant to DC Official Code  
14 1-204.112, a petition for the recall of an  
15 elected official from a ward seat shall include  
16 the valid number, the valid signatures of 10  
17 percent of the registered qualified electors of  
18 the affected ward, the number of registered  
19 voters used to compute these requirements, quote,  
20 The latest official count of registered electors  
21 by the Board of Elections which was issued 30 or  
22 more days prior to submission of the signatures



1 for the recall petition. While the signature  
2 requirement cannot be determined yet, the current  
3 calculations using the published February 29,  
4 2024 monthly voter registration statistics report  
5 are as follows. So in Ward 1, there were 54,476,  
6 so that would mean 10 percent would be 5,448  
7 signatures. And again, this will change as the  
8 period moves forward.

9 Both the proposer of the recall  
10 measure and the elected official who is the  
11 subject of the recall are advised to check with  
12 the Board on a monthly basis of new statistics  
13 are issued to get up to date estimates of the  
14 signature requirement. In addition, assuming  
15 that the proposer of the recall formally, which  
16 obviously you did, adopts the original petition  
17 form today, the 180-day period for circulating  
18 the petition expires on Tuesday, October 1, 2024,  
19 at 5:00 p.m. And so I will be following up after  
20 this meeting to email you a copy of the petition  
21 and some supporting documents that will help with  
22 your circulation.

1 CHAIR THOMPSON: Okay. And did you  
2 say how many -- what's the current signature  
3 requirement based on today's registered voters?

4 MS. CORRENTE: Five thousand four  
5 hundred forty-eight.

6 CHAIR THOMPSON: All right. Okay.  
7 And I also wanted to repeat for everybody that's  
8 listening, our Board is only issuing this form of  
9 petition for Ms. Alvarez to circulate and perhaps  
10 gather the requisite number of valid signatures.  
11 We don't, in any way, shape, or form support or  
12 endorse this, so this is just the process of  
13 issuing the petition for Ms. Alvarez to take for  
14 signatures.

15 With that, Ms. Alvarez, do you have  
16 any questions?

17 MS. ALVAREZ: No, I do not.

18 CHAIR THOMPSON: Thank you very much  
19 for being here.

20 MS. STROUD: Okay. And with that, the  
21 proposer has adopted -- has officially adopted  
22 the form, and it will be made available as

1 pursuant to Ms. Corrente's instructions, and you  
2 will be getting the official form, which should  
3 be copied two-sided, but I'm sure those  
4 instructions will be included, and so you will  
5 have it today.

6 And that -- with that, the next item  
7 on my agenda is the nominating petition challenge  
8 hearings. On the agenda that was posted, it  
9 indicates that the first item is Joseph Henchman  
10 v. Franklin Garcia, but Franklin Garcia has  
11 officially withdrawn his ballot access candidacy  
12 for the Office of Candidate for US Senator for  
13 the Democratic Party, so we will move to the next  
14 matter, which is James Harnett v. Wendy Hamilton,  
15 Candidate for US Senator in the democratic  
16 primary.

17 And we just want to ensure that the  
18 parties in this matter are present. I see Mr.  
19 Harnett and we just need to see Ms. Hamilton.

20 CHAIR THOMPSON: Let's go ahead and  
21 unmute both of them.

22 MS. STROUD: Mr. Harnett, if you could

1 unmute.

2 MR. HARNETT: Hi. James Harnett.

3 MS. STROUD: Okay. And Ms. Hamilton?

4 MS. HAMILTON: Yes. Reverend Wendy  
5 Hamilton.

6 MS. STROUD: Okay.

7 MS. HAMILTON: I've brought a  
8 representative along with me today as well.

9 CHAIR THOMPSON: And who would that  
10 be?

11 MS. HAMILTON: That would be Professor  
12 -- Dr. Jonathan Scriven, Professor of Politics  
13 and Political Science.

14 CHAIR THOMPSON: Great. If we could  
15 unmute.

16 MR. SCRIVEN: Thank you. I'm unmuted.

17 CHAIR THOMPSON: Professor Scriven,  
18 all right. Well, thanks everybody for being  
19 here.

20 MS. STROUD: Okay. Thank you. Mr.  
21 Harnett, if you could state your name and address  
22 for the record?

1 MR. HARNETT: James Harnett, 2221 I  
2 Street NW, 321, Washington, DC 20037.

3 MS. STROUD: Okay. Thank you. And  
4 Reverend Hamilton, if you could state your name  
5 and address for the record?

6 MS. HAMILTON: Sure. Reverend Wendy  
7 Hamilton. I live at 85 Danbury Street SW,  
8 Washington, DC 20032.

9 MS. STROUD: Okay. And Mr. Scriven,  
10 just your professional address for the record?

11 MR. SCRIVEN: My professional address  
12 is 7600 Flower Avenue in Tacoma Park.

13 MS. STROUD: Okay. And so how we'll  
14 proceed is as follows. We will have the  
15 Registrar read a summary of her report detailing  
16 her findings with respect to this challenge into  
17 the record. And then we're going to have a staff  
18 attorney from the Office of the General Counsel  
19 discuss what happened at the prehearing  
20 conference to outline the issues that remain for  
21 the Board to decide. And then we'll have the  
22 parties address the Board and if there are any

1 questions, then they'll be asked at that time.

2 And so we have -- Ms. Corrente, if you  
3 could state your name and professional address  
4 for the record?

5 MS. CORRENTE: Sure. Good morning.  
6 My name is Marissa Corrente, and my professional  
7 address here at the Board is 1015 Half Street  
8 SW, 750, Washington, DC.

9 So I reissued a memorandum after the  
10 prehearing conference. That was issued yesterday  
11 to all parties, so I will be reading -- or  
12 summarizing that one. On March 6, 2024, Wendy  
13 Hamilton submitted a nominating petition to  
14 appear on the ballot as a candidate in the June  
15 4, 2024 primary election for the Office of US  
16 Senator for the Democratic Party. The minimum  
17 requirement to obtain ballot access for this  
18 office is 2,000 signatures. Petition contained  
19 2,595 signatures. Petition was posted for public  
20 inspection for 10 days as required by law.

21 Petition was challenged on March 18,  
22 2024 by James Harnett, a registered voter in the

1 District of Columbia. Challenger Harnett filed  
2 challenges to 856 of the 2,595 signatures  
3 enumerated by line and page number on individual  
4 challenge sheets filed for each petition page.  
5 The signatures were challenged pursuant to the  
6 Board's regulations in Title 3, Chapter 16 of the  
7 DC Municipal Regulation, and there were multiple  
8 grounds that they were challenged on.

9 My initial review of the challenges  
10 indicated that 776 of the 866 challenges were  
11 valid. On April 2, 2024, the Office of General  
12 Counsel convened a prehearing conference  
13 involving all parties wherein these findings were  
14 discussed. Both candidate Hamilton and  
15 challenger Harnett contested some of the findings  
16 but ultimately, only candidate Hamilton asked for  
17 further review of specific signers enumerated by  
18 their specific sheets and page number.

19 Candidate Hamilton also shared a list  
20 of signers who she believed may have timely filed  
21 address change forms. In total, the candidate  
22 asked for the Board to review 144 signers

1 enumerated by their specific sheet and page  
2 number. Of these 144 signers, 14 were credited  
3 back to the candidate.

4 My updated review of the challenges  
5 indicates that 762 of the 866 challenges are  
6 valid, and there's a breakdown of all the  
7 different findings. Ultimately, this leaves the  
8 candidate's nominating petition with 1,833  
9 signatures, 167 signatures below the number  
10 required for ballot access.

11 MS. PEMBROKE: And this is --

12 PARTICIPANT: Okay.

13 MS. PEMBROKE: -- Ms. Pembroke for the  
14 Office of General Counsel.

15 MR. HARNETT: We -- we can't hear you.

16 CHAIR THOMPSON: Can you just turn the  
17 mic on and hold the mic a little closer.

18 MS. PEMBROKE: Apologies -- apologies.  
19 My name is Christine Pembroke. I'm with the  
20 office of General Counsel, and I was the attorney  
21 assigned to this matter. With the Board's  
22 indulgence, I'll just go over a little bit of the



1 history before we to the prehearing conference.  
2 So when the candidate picked up her petition  
3 form, she was provided with instructions about  
4 how to circulate nominating petitions that  
5 included the fact that if a signers address did  
6 not match the address on the Board's records, she  
7 would have 10 days to obtain a change of address  
8 form from the signer to cure that potential  
9 defect. In addition, that instruction is stated  
10 at the bottom of every single petition page.

11 So she picked up her petition. She  
12 says -- the Registrar has indicated she turned in  
13 a petition that had 2,595 signatures on it. It  
14 was challenged by Mr. Harnett. Mr. Harnett  
15 turned in his challenge using a form that is  
16 provided by the Board of Elections, and the form  
17 specifies across the top that the line number for  
18 each page be included, the name and address of  
19 the signer be included. And then there's a  
20 series of blanks in which the challenger can  
21 identify the reason for the challenge. And  
22 across the top, there is a field to be filled in

1 that associates that particular sheet of  
2 challenges with the page of the petition.

3 So Mr. Harnett filed his challenge on  
4 that form specifying the line on each page that  
5 he was challenging and the name of the person he  
6 was challenging. And then in the blanks, he  
7 indicated what the basis for his challenge was.  
8 For example, with respect to one particular voter  
9 on the first page, he designated line 6. He  
10 typed the name of the voter, their address, and  
11 he put in voter is not registered in the same  
12 party as the candidate at the time the petition  
13 is signed. So he turned in that and he  
14 challenged more than enough signatures to render  
15 the petition numerically insufficient.

16 The candidate was notified the next  
17 day of the challenge and informed in that notice  
18 that she had 10 days from that date in order to  
19 submit address updates. We held the initial  
20 prehearing and the candidate appeared, and her  
21 concerns were that she believed she had submitted  
22 a sufficient number, or she knew of a sufficient

1 number of address changes to render the petition  
2 numerically sufficient; in other words, to  
3 counter challenges that were by Mr. Harnett. But  
4 she had not provided the names of those  
5 individuals at the time of the prehearing to the  
6 Board so that we could verify whether or not  
7 address cures had been made.

8 She also, through Mr. Scriven, who is  
9 here today, argued that Mr. Harnett's challenge  
10 should be disregarded in its totality because it  
11 hadn't -- did not comply with the Board's  
12 regulations regarding the specificity with which  
13 challenges should be pled. And she also  
14 indicated that she had several other signatures  
15 that had been challenged which she believed were  
16 improperly challenged. But she again did not  
17 provide any of that information prior to the  
18 prehearing.

19 She was concerned that she didn't have  
20 time to review the registrar's report because it  
21 was not provided to her until the morning of the  
22 prehearing. And although, you know, I explained

1 to her that she had the challenge and she could  
2 be working on the challenge to address these  
3 issues, we did understand that she did not have  
4 very much time to review the registrar's report.  
5 So we continued the prehearing to the following  
6 day to give her some more time to go over the  
7 challenges that had been made against her and the  
8 Registrar's finding with respect to those  
9 challenges.

10 The next day at the continued  
11 prehearing, the candidate acknowledged that she  
12 had not identified enough challenges that could  
13 be cured to make her petition numerically  
14 sufficient, but she stated she wanted to go  
15 before the Board to make a policy argument that  
16 she felt the requirement for having the address  
17 of the signer match the address on the Board's  
18 roll was unfair because she's running for  
19 citywide office, and so the mere fact that the  
20 signer is a registered voter should be  
21 sufficient.

22 She was informed that that requirement

1 comes from the statute and that the Board really  
2 didn't have any discretion with regard to  
3 enforcing the requirement, but she still  
4 indicated she wanted to come before the Board to  
5 present it.

6 Mr. Scriven reiterated his theory that  
7 he had espoused at the initial prehearing that  
8 the entire challenge should be thrown out. He  
9 was advised that even if the challenges were  
10 improperly made, once they've been reviewed by  
11 the Registrar, we can't unsee what we've seen.  
12 And he was also advised that that position was  
13 contrary to a number of Board rulings. But  
14 nevertheless, he indicated that he wanted to go  
15 forward on it.

16 So based on the fact that the  
17 candidate was not willing to withdraw, the only  
18 way, really, to resolve this matter was -- would  
19 be for the Board to rule on it, and that's why we  
20 are here today.

21 CHAIR THOMPSON: All right. I just  
22 have two questions. One, can you speak a little

1 bit more to your determination that Mr. Harnett  
2 complied with our procedures for initiating a  
3 ballot challenge?

4 MS. PEMBROKE: Yes. So the standard  
5 essentially that's been enunciated in earlier  
6 Board cases is that as long as the challenge is  
7 decipherable by the registrar and the candidate  
8 could understand it, the Board will apply its  
9 regulation regarding the acceptance of pleadings  
10 under a liberal reading rule and will accept  
11 those challenges. So that's a very liberal and  
12 accommodating standard. And in this case,  
13 obviously, the Registrar was able to decipher  
14 what the challenges were because she ruled on  
15 them all. So it met that very liberal standard.  
16 But aside from that, I mean Mr. Harnett has used  
17 our form. It's very clear what line and page  
18 he's referring to, and his -- the nature of his  
19 challenges is very clearly spelled out.

20 CHAIR THOMPSON: Okay. And my other  
21 question, cause we might hear about this in a  
22 moment, can you remind us the statutory basis for

1 our standard that the address has to match from  
2 --

3 MS. PEMBROKE: Yes.

4 CHAIR THOMPSON: -- the person signs  
5 at the registration on file.

6 MS. PEMBROKE: Yes. That is under DC  
7 Code 1-1001.0803, and the statute provides that  
8 if they're -- in the case of an address mismatch,  
9 the address on the petition will be deemed valid  
10 if first, the address is within the political  
11 jurisdiction of the race that's involved. And in  
12 this case, it's a citywide race so that really  
13 wasn't the problem.

14 And secondly, and I'll quote, "The  
15 signer files a change of address form with the  
16 Board no later than 5:00 p.m. on the 10th day  
17 after the day the candidate receives notice of  
18 the challenge," close quote.

19 CHAIR THOMPSON: We obviously can't  
20 change that. We can't make exceptions to that.  
21 That's the law as our council has passed it?

22 MS. PEMBROKE: Correct.

1 CHAIR THOMPSON: All right. Those are  
2 my questions. Before we turn to Reverend  
3 Hamilton, anything else from the BOE?

4 MS. STROUD: No.

5 CHAIR THOMPSON: Okay.

6 MS. STROUD: I would actually just  
7 say, Mr. Chair, that the statutory provision that  
8 Christine read from -- Ms. Pembroke read from was  
9 an amendment to the statute. Previously, matches  
10 were not allowed to be considered but they did  
11 say allow for this 10-day period wherein which  
12 voters can submit changes of address.  
13 Previously, you were not able to correct  
14 mismatches.

15 CHAIR THOMPSON: Okay.

16 MS. STROUD: And, you know, there are  
17 some administrative concerns with this process,  
18 because the whole purpose of the signature  
19 matching the one that is on the Board's files is  
20 to allow the Board to identify in cases where  
21 individuals have the same names --

22 CHAIR THOMPSON: Yes.



1 MS. STROUD: -- the precise voter that  
2 signed the petition.

3 CHAIR THOMPSON: Right.

4 MS. STROUD: So this was a concession.

5 CHAIR THOMPSON: Okay. It certainly  
6 speaks to the importance of voters, if you move,  
7 to update your registration, which you can do  
8 online through our website. It doesn't take very  
9 long to do. So know we always remind our  
10 citizens to please do that, but if there's a  
11 mismatch, it's -- according to the statute, it's  
12 an invalid signature unless there's this cure  
13 that is made. And that's the state of the law, I  
14 think, as we sit her today.

15 So with that, Reverend Hamilton or  
16 Professor Scrivin, I don't -- maybe you both  
17 would like to speak, or who wants to go first,  
18 but please give us your thoughts?

19 MS. HAMILTON: I will go first and I  
20 thank you very much, Board of Elections, for  
21 hearing us today. We do, between myself and  
22 Professor Scriven, plan to offer three arguments

1 that we feel brings us within the needed amount  
2 of 2,000 signatures to get on the primary ballot.

3 I just wanted to reference something  
4 that Attorney Pembroke mentioned in her reading  
5 when she was talking about the time that I picked  
6 up the petitions and what it outlined in terms of  
7 the challenge period and what options we had.  
8 And she mentioned that the 10-day period allows  
9 us an opportunity to review the Board's findings  
10 in terms of what was challenged.

11 So I just want to reiterate that we  
12 received the registrar's report, the Board's  
13 findings, and what is in the database, we  
14 received that the morning of the pre-conference  
15 hearing. We were awaiting that. All we had to  
16 operate on at that time up until the  
17 pre-conference hearing were the challenges that  
18 Mr. Harnett outlined. And we were not given an  
19 opportunity to know which of those were valid  
20 challenges versus, you know, which ones were  
21 accepted by the Board, which ones were rejected  
22 by the Board. So we just had to assume that all

1 of the challenged ones needed to be addressed,  
2 and we set out to do that. So I just want to put  
3 that on record that the process in and of itself  
4 made it very difficult for us to begin to  
5 reconcile what the Board had on file without  
6 having the convenience of the registrar's report  
7 to do that calculation.

8 That being said, I would like to ask  
9 Professor Scriven now to address two of the  
10 arguments that we'd like to bring today regarding  
11 the action of being able to achieve 2,000  
12 signatures, valid signatures that we believe that  
13 we have at this time. I am asking for some grace  
14 today. My school has suffered the loss of two  
15 teenagers in the last 48 hours to gun violence,  
16 and this is going to be a struggle, so I will ask  
17 Dr. Scriven to jump in when I'm unable. Thank  
18 you.

19 CHAIR THOMPSON: Okay. I'm very sorry  
20 to hear that. Our condolences, Reverend.  
21 Professor Scriven, I think you're unmuted if  
22 you'd like to go ahead.

1 MR. SCRIVEN: Okay. Yes. Thank you.  
2 I'm sorry. Just thank you very much. I  
3 appreciate the opportunity to be here. Just a  
4 quick addition to what Reverend Hamilton said.  
5 It is also the case that when we did the  
6 registrar's report, we received that not only on  
7 the morning of the -- our hearing, but it was  
8 actually after the 10-day window for when we  
9 could cure some of the address change issues. So  
10 we were in a little bit of a bind on that disuse.

11 But what I would like to address very  
12 quickly -- I'll do this in about one minute -- is  
13 one of our other challenges. Our first challenge  
14 is a technical one involving what constitutes a  
15 valid challenge, and we are basing it on the  
16 challenge -- we're basing this challenge on the  
17 DC Board of Elections nominating petition cover  
18 sheet on the individual nominating petition  
19 challenge form. So on the cover sheet, there's a  
20 number of items that are listed, and it says in  
21 one please, in order for your challenge to be  
22 accepted, you must -- there are a couple of

1 things -- the third thing says -- third item says  
2 that it must specify the date -- I'm quoting now  
3 -- "It must specify the basis for the challenges  
4 by citing the regulation that describes the  
5 defect in the petition and providing a clear and  
6 concise explanation of the alleged petition or  
7 signature feedback.

8 On the top of each actual petition  
9 challenge form, the following instructions are  
10 given. It is -- it says that the challenger  
11 must, quote, "provide the basis for the challenge  
12 including the relevant citation in the right  
13 column of this form." Despite two instructions  
14 to include both the citation and the description,  
15 our contention is that Mr. Harnett's challenges  
16 do not do this. We recognize this is a challenge  
17 based on technicality, but we also recognize that  
18 technicalities exist for a reason, often as a way  
19 to protect the integrity of an important process  
20 such as this.

21 Rule 1606.4 outlines that when the  
22 Board can, quote, "search the permanent

1 registrar's records to prepare a recommendation  
2 to the board as to the validity of the  
3 challenge," and that same rule says that only do  
4 this, quote, "after receipt of a properly filed  
5 challenge." The Board of Elections has strict  
6 standards for the collection of signatures by a  
7 candidate, and we believe the same standards to  
8 apply to a challenger when challenging those  
9 signatures.

10 We anticipate that the challenger may  
11 argue that challenges of this nature without,  
12 quote, "citation and explanation have been  
13 accepted in the past," but we argue that that is  
14 not relevant, because just because challenges  
15 have been wrongly accepted in the past, that does  
16 not mean they should be accepted now. So based  
17 on the guidelines and instructions explicitly  
18 stated by the Board of Elections and on the very  
19 petition form that challengers must fill out, our  
20 contention is that any specific challenge that  
21 does not follow those guidelines should not be  
22 accepted.

1                   So anytime we have a challenge on the  
2 line that does not include what is specifically  
3 asked for, our contention is that those should  
4 not -- or should not have been accepted. With  
5 that, I'll pass over to Reverend Hamilton who, I  
6 think, will make another -- I'm sorry -- unless  
7 you have questions for me now. I'm happy to  
8 answer questions now.

9                   CHAIR THOMPSON: No. Reverend  
10 Hamilton --

11                  MR. SCRIVEN: Okay. Thank you.

12                  CHAIR THOMPSON: -- go ahead. Thank  
13 you so much, sir.

14                  MR. SCRIVEN: You're welcome. Thank  
15 you.

16                  CHAIR THOMPSON: Hold on a sec, got to  
17 get you unmuted. All right. Go ahead.

18                  MS. HAMILTON: Am I unmuted?

19                  CHAIR THOMPSON: Yes, please.

20                  MS. HAMILTON: My apologies. And in  
21 regard to the issue of a citywide race, I would  
22 just like to submit this consideration, this

1 argument and this concern that we have. The  
2 Shadow Senator election is a citywide election so  
3 any registered voter, regardless of address, can  
4 vote in the election and can have a chance to  
5 vote for the candidate that they signed the  
6 petition for. While yes, the burden is upon the  
7 voter to rectify any address discrepancy before  
8 they vote if there is, you know, more than one  
9 Jane Doe, voter must prove residence before they  
10 vote. We talked about that.

11 But before voting day, during early  
12 voting, during any time leading up to election  
13 day, their address does not matter in terms of  
14 whether or not they are a registered voter in the  
15 District of Columbia. It removes due process.

16 According to 1603.1, candidate must  
17 collect 2,000 signatures from registered  
18 qualified voters. The registered requirement is  
19 met. Qualified may be open to interpretation.  
20 It could mean that the voter meets the standard  
21 expression of 1076.1, but it could also just mean  
22 registered active voter, and we interpret



1 qualified to mean the latter.

2 By signing the petition, registered DC  
3 voter is authorizing and expressing their desire  
4 to see the candidate on the ballot. Throwing out  
5 or rejecting signatures because the information  
6 they provide on good faith is inconsistent with  
7 the Board's records denies them of that  
8 opportunity and removes due process. The  
9 expectation for the candidate to file change of  
10 address forms does not constitute a reasonable  
11 requirement for ballot access.

12 That being said, we made every effort,  
13 and I'll finish with this, we made every effort  
14 to achieve getting change of address cards from  
15 voters. We started out -- even absent the  
16 Registrar's report, we went to homes that were  
17 outlined in the challenge. We knocked on doors.  
18 Some voters refused. Others compromised what I  
19 feel is the safety of my team.

20 I had a gentleman send me a picture in  
21 Instagram that he took of one of my team members  
22 who went to try to get a change of address card

1 from him, and he said, you know, is this man a  
2 part of your team, I did not engage him, I did  
3 not open the door. We have a safety concern with  
4 our family, a situation with a foster child so I  
5 do not open my door to people that I don't know,  
6 but if you say he's with your team, then I just  
7 need to know that.

8 I did write that person back and  
9 assured him that the gentleman on that -- on the  
10 porch that he took a picture of and sent to me on  
11 Instagram and private message was indeed my team  
12 member. That made me nervous for my team because  
13 while a number of signatures we collected were at  
14 farmer's markets, we did go to some doors, but we  
15 met people out in the public.

16 But what that doesn't do, when you're  
17 signing a petition for a candidate, it is not  
18 necessarily authorizing us to then follow-up  
19 later on and come to their home and ask them to  
20 provide additional information. It is one thing  
21 to sign a petition real quickly. As you're out  
22 there, you want to participate in the democratic

1 process. But then to show up at a door later on  
2 and say, I'm sorry, your signature has been  
3 marked invalid and in order for me to remain on  
4 the ballot, we need you to update this card.  
5 Could you please fill out all of this change of  
6 address information which includes an ask of if  
7 you don't have your voter number available, the  
8 last four digits of your Social Security number.  
9 Could you add that to this and then we'll turn  
10 that in for you? We had people absolutely decide  
11 they were not going to do that, and I can't say  
12 that I blame them.

13 So what we did was we mailed out over  
14 120 voter registration cards, change of address  
15 cards with a letter, and we asked voters if you  
16 wouldn't mind, this is the situation that we're  
17 facing and this is the time crunch that we have,  
18 could you please either return this card or go  
19 onto the Board of Elections' website and update  
20 your registration so that we can make sure that  
21 your voice and your signature is counted. We  
22 didn't have as many as we, you know, would like

1 to have return that, but we do believe that we  
2 made a good faith effort to at least make contact  
3 with these folks. And this is still absent the  
4 registrar's report, so we -- you know, some of  
5 those folks ultimately may have wound up being  
6 validated by the registrar, but we had not -- no  
7 access to that information, so we were just going  
8 based on what had been alleged in the challenges,  
9 and that is not reasonable.

10 So I just ask with this argument, that  
11 if you take that into consideration, that  
12 registered DC voters are in the jurisdiction of a  
13 citywide candidate and, therefore, their  
14 signature should be counted. There are over 200  
15 of those in the Harnett challenge that if  
16 accepted back and not rejected by the registrar  
17 would put us well over the 2,000 ballot  
18 signatures -- valid ballot signatures that we  
19 need to appear on the primary ballot.

20 And so that is my ask today, that you  
21 please take all of ramifications into  
22 consideration and know that we did our best, and

1 we tried, and we got more than we needed. We got  
2 2,595 signatures just to try to prepare in case  
3 we were challenged. And I would like for my  
4 team's efforts to be honored today in  
5 acknowledging that we did what we were asked to  
6 do. Thank you.

7 CHAIR THOMPSON: Yes. Thank you so  
8 much. I really appreciate your words I know  
9 it's very hard to gather signatures from people.  
10 I've only had to do a little bit of myself as an  
11 ANC commissioner. I can only imagine how  
12 difficult it is to get 2,000 signatures. If I  
13 were on the DC Council, I certainly would be  
14 interested in making the process easier and more  
15 liberal for candidates. I really like your  
16 suggestion that if it's a citywide race, it  
17 should be instantly curable if the person -- we  
18 can validate that the person is otherwise a  
19 registered voter in DC regardless of the address  
20 change -- if I were a Council member. But I am  
21 here today in my capacity as Chair of the BOE and  
22 the statute and the regulations that are in place

1 are important for us to operate within. But, you  
2 know, I certainly hear you on the difficulties in  
3 the process.

4 You raised a couple of points about  
5 the notice period here and the -- your  
6 opportunity to understand the nature of the  
7 challenge being made by Mr. Harnett. And I just  
8 want to give the General Counsel or the Registrar  
9 or Ms. Pembroke a chance to comment if they'd  
10 like.

11 MS. STROUD: Thank you, Reverend  
12 Hamilton. I just have a couple of questions.  
13 When you were circulating petitions, did you have  
14 the opportunity to, as you were collecting, come  
15 in and check what you were getting in terms of  
16 like voters' addresses against the Board's  
17 records to determine whether or not the voters  
18 were the -- the voters whose signatures you were  
19 collecting, whether their addresses comported  
20 with what the Board's records indicated?

21 MS. HAMILTON: I wish but we were a  
22 small but might crew, so we didn't have access to

1 -- or the capacity, I should say, to sort of  
2 check or review signatures realtime nor did we,  
3 you know, consider that we would need to do that.  
4 We were so fixed, as the Board has just pointed  
5 -- Board Chair just pointed out, it is hard to  
6 collect 2,000 signatures. And we wanted to go  
7 above and beyond, so we were out in snow, in  
8 rain, and MLK parade in Ward 8, you know, farmers  
9 markets, homes.

10 We went wherever we could, but we did  
11 not have -- and we were under resourced. I also  
12 want to mention that for just people's knowledge.  
13 Remember the federal positions, US Senator and  
14 the delegate, we do not -- we're not eligible for  
15 the fair elections program, so we don't receive  
16 the matching funds that other candidates are, you  
17 know, blessed to receive. So we have to operate  
18 out of pocket. So we didn't even have the  
19 monetary resources to maybe even hire someone to  
20 do that.

21 So the answer is no, we were not  
22 checking realtime as we were working to collect

1 the signatures by the March 6th deadline.

2 MS. STROUD: Had you requested a copy  
3 of the Board's voter file?

4 MS. HAMILTON: Yes.

5 MS. STROUD: Okay. So you did do  
6 that.

7 MS. HAMILTON: Yes.

8 MS. STROUD: And then I have a  
9 question. And so you received -- when did you  
10 receive notification of the challenge?

11 MS. HAMILTON: So --

12 MS. STROUD: And maybe Ms. Corrente  
13 can answer that question if you don't have the  
14 date right --

15 MS. HAMILTON: No. I actually do.

16 MS. STROUD: Okay.

17 MS. HAMILTON: I am -- I received  
18 notification of the Harnett challenge on March  
19 the 19th, which was the day after the deadline,  
20 but it demonstrated that Mr. Harnett filed his  
21 challenge, it indicated at 4:57, on March the  
22 18th, which would have been three minutes prior



1 to the deadline of March 18th for filing a  
2 challenge. I don't know the process in terms of  
3 how many challenges can be filed against a  
4 candidate, but you will see that I have another  
5 challenge hearing following this one that was  
6 submitted the day before Mr. Harnett. So I'm not  
7 fully sure why Mr. Harnett submitted a second  
8 challenge three minutes before the deadline on  
9 the following day that an initial had already  
10 been lodged, but that certainly is his right to  
11 do. But I did not find out about his challenge  
12 until the 19th. That's when I was notified.

13 MS. STROUD: Okay. So you did get it.  
14 And so when you received the challenge -- do you  
15 have a copy of the challenge with you to look at  
16 to discuss?

17 MS. HAMILTON: I can probably pull it  
18 up. It may be buried in some of my emails but I  
19 can --

20 MS. STROUD: Okay.

21 MS. HAMILTON: Professor Scrivin, do  
22 you have it accessible? If not --

1 MR. SCRIVEN: I can pull it up, yes.

2 MS. HAMILTON: Let me see.

3 MS. STROUD: And if you could let me  
4 know when you have it once you pull it up?

5 MS. HAMILTON: Yes, sure.

6 MR. SCRIVEN: Okay. I have it up.

7 MS. STROUD: Okay. So just wanted to  
8 just go through some of the information that Mr.  
9 Harnett provided with respect to his challenge.  
10 If we could go to the nominating petition  
11 challenge form with respect to sheet 1 of 262?

12 MR. SCRIVEN: Yes.

13 MS. STROUD: And the information that  
14 is provided next to line 6 for --

15 MR. SCRIVEN: Yes.

16 MS. STROUD: -- voter at that line  
17 where it indicates that the voter is not  
18 registered in the same party as the candidate at  
19 the time the petition was signed?

20 MR. SCRIVEN: Correct, yes.

21 MS. STROUD: Okay. So is it your  
22 assertion that that does not provide an

1       indication of what was being challenged with  
2       respect to the signature?

3               MR. SCRIVEN:  So my -- our contention  
4       is that that does not follow the rule stipulated  
5       in both the cover sheet and at the very top of  
6       this form.  So at the very top of that very form  
7       we're on, it does say -- it talks about put the  
8       name and the address, etcetera, and it says  
9       provide the basis for the challenge including the  
10      relevant citation as well as on the cover sheet  
11      where it also explicitly says that both must be  
12      present.

13              MS. STROUD:  Just so -- just to -- I  
14      just want to get some understanding about what  
15      you -- were you aware what was being challenged  
16      or the substance of that challenge, that it is --

17              MR. SCRIVEN:  Yes.  It is clear on  
18      line 6 what the challenger is challenging.  That  
19      is not our contention.  Our contention is -- and  
20      we recognize this is a technicality but our  
21      challenge is that the challenger did not do what  
22      is explicitly required, which is to both provide

1 the explanation and to list the citation.

2 MS. STROUD: Okay. And this question  
3 is for Ms. Corrente. With that information, were  
4 you able to understand what the challenge was  
5 that was being made with respect to that  
6 signature such that you could assess the  
7 challenge?

8 MS. CORRENTE: Yes.

9 MS. STROUD: Okay. Thank you. And  
10 that's all I have.

11 CHAIR THOMPSON: Okay.

12 MS. CORRENTE: Can I make a -- just a  
13 --

14 CHAIR THOMPSON: Yes.

15 MS. CORRENTE: -- quick clarifying --

16 CHAIR THOMPSON: Please.

17 MS. CORRENTE: -- point for the  
18 record? I think -- so both the challenges were  
19 filed on the same day. They were both filed on  
20 March 18th, the challenges of Reverend Hamilton,  
21 and I think the Harnett one was they were  
22 notified the next day because of the time, it

1 coming close to the deadline. The other one came  
2 in earlier in the day. And so I think it was  
3 notified that same day, on the 18th, but just to  
4 be clear that it was a different date in the  
5 notification at each challenge, but they were  
6 both received to the office on the same day.

7 CHAIR THOMPSON: Okay. And my  
8 understanding is the 10-day cure period starts to  
9 run from the date of notice --

10 MS. STROUD: Correct.

11 CHAIR THOMPSON: -- in this case,  
12 March 19th --

13 MS. STROUD: Yes.

14 CHAIR THOMPSON: -- plus 10 days.

15 MS. STROUD: Correct.

16 CHAIR THOMPSON: And the date of the  
17 prehearing conference is a different matter,  
18 correct? It's not -- it's supposed to run 10  
19 days from the prehearing conference, correct?

20 MS. STROUD: Correct.

21 CHAIR THOMPSON: Yes. Okay. Ms.  
22 Pembroke, want to add something?

1 MS. PEMBROKE: Yes. If I could just  
2 get some clarification for the record, I believe  
3 when Reverend Hamilton began to speak, she  
4 indicated she had three issues to raise, and I  
5 think I'm only hearing two. So just to be clear  
6 as to what your points are --

7 MR. SCRIVEN: Thank you, Ms. Pembroke.  
8 Thank you. I appreciate that. We did think  
9 about three, but we've decided to focus on just  
10 two for this hearing.

11 CHAIR THOMPSON: Okay. All right.  
12 Thank you. I think we'll turn now to the  
13 challenger, Mr. Harnett.

14 MS. STROUD: Yes.

15 MR. HARNETT: All right. So agree  
16 with the finding of the registrar. There are, I  
17 think, a number of points that the Reverend  
18 brought up that are worthy of discussion by this  
19 Board and consideration by the Council, the first  
20 being recognizing, obviously, the tremendous  
21 amount of work, that challenges -- multiple  
22 challenges that are all for candidates that are

1 required to receive at least 2,000 signatures is  
2 a tremendous burden for the registrar's staff to  
3 go through in such a compressed timeline.

4 I do recognize that while the Reverend  
5 did have the challenged review and the publicly  
6 accessible Board data about candidate -- or about  
7 voter information, it is helpful to see the  
8 registrar's report at least 24 hours before the  
9 prehearing conference. I'm not sure if that  
10 would be a policy decision for the Board to  
11 manage moving forward, but I think it is helpful  
12 to ensure that the candidate and the challenger  
13 have at least some amount of time to review the  
14 registrar's preliminary findings. Obviously,  
15 those can change after the prehearing conference,  
16 as they did in this case, when either the  
17 candidate or the challenger identifies signatures  
18 that they disagree with the registrar's findings  
19 on. But I do think that it would be helpful in  
20 the future to have that, not to say that the  
21 tremendous work that the registrar does in this  
22 and other matters is not a Herculean effort on

1 her part and her team's part. But whatever  
2 resources are needed for that team to have the  
3 resources to get through these as quickly as  
4 possible would encourage the Board to consider  
5 what that would look like in future elections.

6 With regard to this challenge, I  
7 appreciate that the registrar, that the Board  
8 attorney talked about the specific examples of  
9 the challenge that I made on the challenge sheet.  
10 What I did when I identified a signature that  
11 matched one of the deficiencies in the Board's  
12 regulation, is I would go to the Board's website  
13 and from the petition challenge page, I would  
14 copy and paste the 12 or so challenge  
15 considerations and then paste that into the pdf.  
16 So I wasn't necessarily referencing the DCMR  
17 directly, but I was referencing the Board's  
18 materials.

19 If the Board's website was updated  
20 with -- for each petition, for each reason that a  
21 signature could be found invalid to include the  
22 DCMR for each signature, then I would have copied



1 and pasted that into the document as well. But  
2 obviously, the document, for the most part, is  
3 typed up. It was clear to the registrar what I  
4 was trying to get across, which is more than I  
5 can say for a number of challenges that I know  
6 the Board receives on a regular basis. So I do  
7 believe that that is not enough of a material  
8 difference to merit the wholesale rejection of  
9 this challenge.

10 And obviously -- and the  
11 recommendation that I know the Board has made to  
12 candidates informant he past where at the end of  
13 the day, there just are not enough signatures to  
14 merit inclusion on the ballot, that -- to  
15 highlight the importance of collecting, you know,  
16 1-1/2 times, twice as many signatures as are  
17 actually required, because while everyone I know  
18 is operating in good faith and collecting  
19 signatures from folks at public events, at the  
20 end of the day, you know, a number of voters are  
21 not checking the Board's website on a regular  
22 basis to ensure their registration remains up to

1 date, active, and that their address is correct.  
2 So want to make sure that -- you know, at the end  
3 of the day, this is just a very straightforward  
4 case of just not enough ballot signatures were  
5 collected to merit inclusion of the candidate on  
6 the ballot.

7 CHAIR THOMPSON: Okay. Thank you.  
8 Just a quick question. The prehearing conference  
9 was, you said, continued for a day?

10  
11 MS. PEMBROKE: It was continued, yes.  
12 It was continued for just about 24 hours, so we  
13 had it. No, it was -- no, I'm sorry. We had the  
14 prehearing conference, the first prehearing  
15 conference, at 1:00 in the afternoon, and we  
16 continued it for 9:00 the next morning. So the  
17 continued prehearing was about 24 hours after  
18 registrar's report had been sent out.

19 CHAIR THOMPSON: Okay. Go ahead, yes,  
20 please.

21 MS. PEMBROKE: There was one other  
22 procedural issue that Mr. Harnett raised.

1       Because we did hear both of these matters  
2       together, this matter and the other challenge, in  
3       the prehearing proceedings, he did ask that the  
4       cases not be consolidated. His feeling was that  
5       the Board should follow a practice it had  
6       followed before where it considered the charge  
7       which raised the most valid challenges first and  
8       depending on the outcome of that would rule  
9       whether or not the second challenge matter was  
10      moot. So I -- you know, I would -- I don't have  
11      an opinion on that. I would, of course, defer to  
12      whatever the Board would prefer to do.

13                 I would note that there is a  
14      highly-remote possibility that if the Board were  
15      to rule on one way in the first matter, say, and  
16      that were appealed and the second matter were not  
17      appealed and would become final, and the court of  
18      appeals were to disagree with the Board's finding  
19      on the first matter, there is a very remote  
20      potential in unconsolidated matters of  
21      conflicting decisions.

22                 CHAIR THOMPSON: Well, yes, thank you

1 for that. Just so everybody understands, there's  
2 a second challenge against Reverend Hamilton's  
3 petitions by Trezell Ragas and in that matter,  
4 the registrar found candidate was 119 signatures  
5 shy of the requirement. The challenges  
6 challenged different signatures, so you get  
7 different numerical outcomes, some overlap. It's  
8 like an overlapping Venn diagram and so that, it  
9 certainly does raise interesting issues. But I  
10 think we'll proceed with this first matter, see  
11 how we rule. It might moot need to address the  
12 second matter.

13 And barring any other comments, I'd  
14 like to go ahead and get the General Counsel's  
15 recommendation at this point.

16 MS. STROUD: My recommendation is that  
17 -- that --

18 MEMBER BOGGS: Can you put your mic on?

19 MS. STROUD: Yes.

20 MEMBER BOGGS: Thank you.

21 MS. STROUD: You're welcome. My  
22 recommendation with respect to this matter would

1 be that candidate Hamilton be denied ballot  
2 access in the contest at issue as a result of  
3 having 167 signatures below the minimum  
4 requirement necessary for ballot access.

5 CHAIR THOMPSON: Okay. With that, I'm  
6 just going to go ahead and make a motion, and  
7 I'll --

8 MEMBER BOGGS: Gary, maybe before you  
9 do that, I'm just maybe make an observation and  
10 potentially a question, cause I'm just -- I  
11 recognize your earlier comment. You know, I  
12 think we're bound by statute and we're not policy  
13 makers here. We implement it and we understand  
14 that. It's just troubling to me you had -- and  
15 I'll use the word "inconsistency" on two points.

16 Candidate Hamilton mentioned the Fair  
17 Election Law. I know it doesn't apply here, but  
18 that's in 2018, I think, and it was passed for a  
19 very good reason by policy makers that said, you  
20 know, try to incentivize more candidates to  
21 compete in the electoral process, engage with the  
22 average everyday citizen, and encourage greater

1 participation in the electoral process. So we do  
2 have on hand we're actually incentivizing through  
3 financial support new candidates, again, in  
4 different races, but get involved which is  
5 commendable.

6 On the other hand, we're making -- we  
7 -- not we but the statutes have a very high bar  
8 for many candidates to want to run and contribute  
9 money to get involved. And maybe 2,000 or 2,500  
10 doesn't sound like a lot but it's, we've heard  
11 today on both sides, a lot of work to get those  
12 signatures and then to get ballot signatures.  
13 And you don't know if the addresses are up to  
14 date and so forth, and this is citywide.

15 And then there's a lot of work, Mr.  
16 Harnett, on your side, too, to go through these  
17 signatures to make sure they're valid. I don't  
18 know, is that a public service, election  
19 integrity service you provide or -- as a citizen,  
20 or just something that you're engaged or retained  
21 to do by a party?

22 MR. HARNETT: I'm not paid by anybody

1 to do what I do.

2 MEMBER BOGGS: Okay. That's a lot of  
3 work, too, so commend you for that. It's  
4 important.

5 So the consistent piece, you know, I  
6 just wonder if this is consistent with the more  
7 recent Fair Election Law. It's something that  
8 perhaps the City Council will take another look  
9 at in the future. And on the one hand, we  
10 provide a very liberal interpretation of the  
11 technical requirements to Mr. Harnett's  
12 challenges and said, okay, that -- it didn't --  
13 maybe didn't check all the boxes, but it's okay.  
14 And on the other hand with Ms. Hamilton, we --  
15 Reverend Hamilton we notice there were some  
16 technical glitches. We say, well, that's not  
17 okay.

18 So it's a consistency issue and, you  
19 know, I always like Ralph Waldo Emerson, his  
20 quote on consistency, which is a foolish  
21 consistency is the hobgoblin of little minds and  
22 adored by little statesmen and philosophers and

1 minds, but with consistency -- simply nothing you  
2 can do. So I like that quote. I'm actually  
3 arguing maybe the opposite here, I'm inconsistent  
4 so that the consistency in some cases is  
5 important.

6 So I just wanted to make those  
7 observations and before, Gary, you, Mr. Chairman,  
8 had made your might be final comment here.

9 CHAIR THOMPSON: All right. Yes.  
10 Thank you for that Board Member. Go ahead.

11 MS. STROUD: You have made a motion  
12 and I would just want to establish that we take a  
13 roll call vote, with respect to that.

14 CHAIR THOMPSON: Well, let me finish  
15 the motion. But, yeah, Board Member Boggs, thank  
16 you so much for those comments. I wholeheartedly  
17 agree. My experience on this Board has shown me  
18 that our, maybe our Council needs to revisit some  
19 of the details of petition challenges and clear  
20 some things up.

21 And, you know, I sympathize greatly  
22 with candidates like Reverend Hamilton who are in



1 this position. You know, that said, the statute  
2 is pretty specific here with respect to the  
3 requirement that the signer be registered at the  
4 address listed. There's a window of time to cure  
5 that, but that particular requirement is in the  
6 statute at, I think you cited it, 1-1001.0803,  
7 something like that. It's quite clear.

8 When you turn to the form for the  
9 petition challenge, it does state at the top that  
10 the challenger should list the basis and cite the  
11 statute. That is not specifically required in a  
12 statute or regulation, that the listing, the  
13 reference to the regulation. It's really, it's  
14 substance over form and it's of a liberal nature.

15 And in this particular case, it's  
16 really clear when you go down the petition  
17 challenge sheet, you know, starting at line six,  
18 et cetera, where the challenger has stated the  
19 substantive basis. It's pretty straightforward,  
20 you know, voter not registered, registration at a  
21 different address. Each one of those does have a  
22 particular DCMR reference, if you want to drill

1 down on the regulation.

2 But my understand is, it's the point  
3 of the instruction on the sheet is to assist the  
4 Registrar to make sure that she understands the  
5 nature of the challenge. And, you know, taking  
6 substance over form in this case, it certainly  
7 was quite clear, and also clear to the candidate,  
8 what the substance of the challenge was. So,  
9 that particular point to reference the regulation  
10 is not -- it's a guideline, not a statutory  
11 requirement. So I'm just -- that's, at least,  
12 that's my reading, so --

13 MS. STROUD: And Mr. Chair, to your  
14 point, with respect to that, what the statute  
15 provides specifically in Section Eight of the  
16 statute 1-1001.0801 is that any registered  
17 qualified elector may, within the ten-day  
18 challenge period, challenge the validity of a  
19 petition by written statement, signed by the  
20 challenger and filed with the Board, and  
21 specifying concisely the alleged defects in the  
22 petition. So that is what the statute requires.

1           And then, through rulemaking, in order  
2 for us to assist challengers and candidates and  
3 our team, with respect to how to effectuate that,  
4 we added, we promulgated that regulation. But  
5 the statute requires precisely what was done in  
6 this instance, which is the precise specification  
7 of concisely the alleged defects in the petition.  
8 And so that was, that occurred in this matter, in  
9 this instance.

10           CHAIR THOMPSON: Yeah. It's -- this  
11 is the most painful part of being on the Board,  
12 we have to follow the letter of the statutes and  
13 regulations here, so I very reluctantly move to  
14 adopt the General Counsel's recommendation and  
15 deny the candidate ballot access, based on Mr.  
16 Harnett's challenge.

17           MS. STROUD: Okay. And the Chair  
18 having made the motion, we'll just take a roll  
19 call vote. Mr. Chair?

20           CHAIR THOMPSON: Aye.

21           MS. STROUD: Mr. Boggs, Member Boggs?

22           MEMBER BOGGS: Reluctantly, aye.

1 MR. HARNETT: Sorry, just a procedural  
2 question. Does that motion need to be seconded?

3 CHAIR THOMPSON: Well --

4 (Simultaneous speaking.)

5 CHAIR THOMPSON: Yeah, I guess. The  
6 motion's made. J.C., do you second it?

7 MEMBER BOGGS: I second it, yes.

8 CHAIR THOMPSON: Okay. For the  
9 record, the Chair votes aye.

10 (Simultaneous speaking.)

11 MS. STROUD: And the vote -- and Mr.  
12 Boggs?

13 MEMBER BOGGS: Aye.

14 CHAIR THOMPSON: Okay.

15 MR. HARNETT: Sorry. Your microphone  
16 is off.

17 MS. STROUD: My apologies. With that  
18 the Board has unanimously ruled that Reverend  
19 Hamilton be denied ballot access in the contest  
20 for U.S. Senator in the June 4, 2024 Democratic  
21 Primary Election.

22 CHAIR THOMPSON: Okay. Thank you,

1 everybody. Reverend Hamilton, again, our  
2 condolences for what you're dealing with today.  
3 I'm very sorry to hear that, and you hang in  
4 there and keep the faith. And we were really  
5 fortunate that, for your candidacy and I hope you  
6 return in that regard in another day, another  
7 capacity. You want to have some final words,  
8 Reverend, please go ahead.

9 MS. HAMILTON: Thank you all, and  
10 thank you for being willing to be sensitive to  
11 the state of my emotions right now, while also  
12 giving me an opportunity to articulate what we  
13 feel is, you know, two worthy challenges, if you  
14 will, to this. The next steps after being denied  
15 by the Board are, could you articulate those for  
16 me?

17 MS. STROUD: Well, you have the  
18 ability to appeal the Board's decision, which was  
19 announced today, within three days. And so the  
20 appeal would be due on Monday --

21 MS. HAMILTON: Okay.

22 MS. STROUD: -- File an appeal with

1 the D.C. Court of Appeals.

2 MS. HAMILTON: Okay. Just for the  
3 record, we do plan to do that. Thank you.

4 CHAIR THOMPSON: Thank you for that.  
5 And as I've said before, I'm very happy that  
6 there is an appellate process above us. I think,  
7 you know, everybody's work, everybody's  
8 determination should be reviewed by somebody  
9 else. So we welcome the appeal, for sure.

10 So, with that we will turn to -- the  
11 next matter is Trezell Ragas versus Hamilton,  
12 which challenges the same candidate. And in  
13 light of the determination we just made, I was  
14 going to move that we declare the matter moot.  
15 But I see Mr. Quintana is here, do you want to  
16 comment on this, or?

17 MR. QUINTANA: On the mootness of it?

18 CHAIR THOMPSON: Yeah.

19 MR. QUINTANA: Yes, Mr. Chair. The  
20 challenger in this case had a smaller number of  
21 challenges. In the end the candidate came up 119  
22 valid signatures short, so it's a smaller

1 universe than the previous challenge. But, with  
2 the Registrar's report I feel very comfortable  
3 with it, so if it's moot then it's moot.

4 CHAIR THOMPSON: Okay. Well, let me  
5 ask the General Counsel's opinion. Should we  
6 nevertheless proceed with this and make a  
7 separate determination, or should we --

8 MS. STROUD: I think, yes, for the  
9 benefit of the parties, or to allow candidate,  
10 Challenger Ragas to just state for the record --  
11 I mean, I don't think it's necessary but I just  
12 want to provide the opportunity for Ms. Ragas,  
13 should she wish to proceed with this matter.

14 CHAIR THOMPSON: Okay. So thank you.  
15 I withdraw my motion, that was just my instinct,  
16 more looking at the clock than anything else. So  
17 we should certainly go through this process and  
18 hear from the challenger here, and also Reverend  
19 Hamilton if she would like to speak to this  
20 challenge. So I'll --

21 MS. STROUD: Yes. So, Ms. Ragas, if  
22 you could just state your name and address for

1 the record?

2 MS. RAGAS: Yes. Good morning,  
3 everyone. Trezell Ragas, address is 3504 7  
4 Street Southeast, Washington, D.C. 20032. And I  
5 have my attorney, James Abely, on and I was  
6 wondering if you all could unmute him so he can  
7 speak on my behalf, please?

8 MS. STROUD: Thank you.

9 MR. ABELY: Thank you, Members of the  
10 Board and staff. I'm James Abely, I'm here on  
11 behalf of Ms. Ragas, my D.C. bar number is  
12 443585. We really need to preserve our right to  
13 appeal, so on the record I would like to preserve  
14 our right to appeal, please.

15 MS. STROUD: If you could, both of  
16 you, state your -- if you could state your  
17 professional address for the record, Mr. Abely?

18 MR. ABELY: Yes, ma'am. My mailing  
19 address is Post Office Box 30010 in Sea Island,  
20 Georgia -- that's S-E-A, Island, Georgia -- and  
21 the zip code is 31561. I have a mailing address  
22 in the District of Columbia but I'm not very --



1 the mail there is slow.

2 MS. STROUD: Okay, so what we'll do  
3 is, we'll have the Registrar read her report and  
4 then have Mr. Quintana outline what the issues  
5 are, and then proceed in the manner as we did in  
6 the hearing before this one.

7 MS. CORRENTE: Thank you. So  
8 similarly, because these were similar challenges,  
9 the reports were, or the challenges were kind of  
10 reviewed together, to make sure that they were  
11 consistent. And so the reports were issued in  
12 the same time period. So, an initial report was  
13 issued and then, this was a follow-up report that  
14 was issued April 4 following the pre-hearing  
15 conference.

16 So, on March 6 Wendy Hamilton  
17 submitted a nominating petition to appear on the  
18 ballot as a candidate for the primary election  
19 for U.S. Senator for the Democratic Party. The  
20 requirement is 2,000 signatures, the petition  
21 contained 2,595 signatures. During the ten-day  
22 challenge period, the petition was challenged on

1 March 18, 2024 by Trezell Ragas, a registered  
2 voter in the District of Columbia.

3 Challenger Ragas filed challenges to  
4 1,119 of the signatures submitted, enumerated by  
5 line and page number on individual challenge  
6 sheets. The signatures were challenged pursuant  
7 to the Board's regulations in Title 3 Chapter 16  
8 of the D.C. Municipal Regulations. There were a  
9 number of different challenges made of the  
10 signatures, which are outlined in my report.

11 My initial review of the challenges  
12 indicated that 725 of the 1,119 challenges were  
13 valid. Then, on April 2, 2024 the Office of  
14 General Counsel convened a pre-hearing conference  
15 involving all parties, wherein these findings  
16 were discussed. At the pre-hearing conference,  
17 Candidate Hamilton contested some of the findings  
18 and ultimately asked for further review of  
19 specific signers, enumerated by their specific  
20 sheet and page number. Candidate Hamilton also  
21 shared a list of signers who she believed may  
22 have timely filed address change forms.

1                   So the scope of that, of those  
2 additional names, was 144 signers, and of those,  
3 in this instance, 11 were credited back to the  
4 candidate. My updated review of the challenge  
5 indicates that 714 of the 1,119 challenges are  
6 valid, again for specific regulatory defects.  
7 This leaves the candidate's nominating petition  
8 at 1,881 signatures which is 119 signatures below  
9 the number required for ballot access.

10                   CHAIR THOMPSON: And I just note for  
11 the record, looking at the report, I mean, some  
12 of those reasons are beyond dispute. Like 203,  
13 the signer is not registered to vote at all, 146  
14 not registered to vote in the same party as the  
15 candidate, and other examples like that. In this  
16 particular case, 240 is the mismatch on the  
17 address and, which we've talked about, so.

18                   MS. CORRENTE: And a note about that,  
19 as well. So, if we see somebody who has the same  
20 name as the signer, we see that they're a  
21 registered voter, we code it as an address  
22 change. But in the instance of some of the forms

1 that Candidate Hamilton submitted, it ended up  
2 being that the voter was actually a new  
3 registration. So that wouldn't, that's not an  
4 address update, and if we had just given that,  
5 it's actually a voter who's not registered.

6 Or, there was another instance where  
7 an address change form was given and it turned  
8 out it was a voter who was actually inactive at  
9 the time. But, again, because there's a list of  
10 names, we give -- we can't determine exactly who  
11 it is, we give them the option to try to correct  
12 it. So it's not always the case that it turns  
13 out to be credited back, it sometimes turns out  
14 to be still a valid challenge.

15 CHAIR THOMPSON: Right. So, in other  
16 words, if we, D.C. Council did pass this new law  
17 that all, as long as you're registered to vote  
18 somewhere in the District in a city-wide race, it  
19 counts as a signature. And then you did drill  
20 down on the 240 that were identified as having  
21 this address mismatched, it wouldn't all  
22 necessarily pass. There might be all kinds of

1 other reasons why that particular challenge is  
2 nevertheless valid, because of, they're not  
3 registered or they're inactive or, in fact, it is  
4 a different person with the same name. Am I  
5 correct?

6 MS. CORRENTE: Correct.

7 CHAIR THOMPSON: Yeah. So we just  
8 don't know whether, in this particular case,  
9 among those 240 we would find 119 or more to  
10 credit. It's an unknown. So it's not an  
11 assumption. Okay. All right, Mr. Quintana,  
12 would you want to take us through the pre-hearing  
13 conference in this regard?

14 MR. QUINTANA: Thank you, Mr. Chair,  
15 Members of the Board. First of all, as the  
16 previous, counsel Christine mentioned, these two  
17 pre-trial -- pre-hearing conferences were held at  
18 the same time, so it's a lot of repetition. I  
19 would ask that the Board incorporate by reference  
20 the previous description of the pre-hearing  
21 conference, and I'll just add a little bit more  
22 to that --

1 CHAIR THOMPSON: So noted.

2 MR. QUINTANA: The most important  
3 thing is that the candidate, at the continuation  
4 of the conference, of the pre-hearing conference,  
5 acknowledged that she had not identified a  
6 sufficient number of address cures to get her to  
7 the required 2,000 required signatures.

8 Her issues, the lack of the  
9 Registrar's report, and while, yes, it is nice to  
10 have someone else limit your work, the purpose of  
11 that statute is not to establish the residency  
12 requirements of the signers of the petition but  
13 to help the Registrar identify the voter, if  
14 they're a valid voter. It's the only way to  
15 ensure that the signer is that signer, can only  
16 be conclusively proven with some other  
17 information. We're not going to ask for last  
18 four or other things like that, we ask for the  
19 address so we can verify. It's not a residency  
20 requirement, it's, the purpose of the statute is  
21 to assist the Registrar.

22 The lack of the -- the notice, as you

1 heard, did say that it was ten days from the  
2 notice of the challenge, it repeats the statutory  
3 law. The statutory scheme basically outsources  
4 the review of signatures to the voters of the  
5 District of Columbia, and that's what happened in  
6 this case. She had the challenges and she could  
7 have gone through all of them to see which ones  
8 were valid on her own. The need for the ten days  
9 is severe, we have to do the lottery after this,  
10 there's a whole schedule, and that's why the  
11 ten-day requirement is there.

12 With respect to the one she did submit  
13 a change of address, the register dealt with  
14 those, the Registrar. Her second issue was a,  
15 just a general bad faith argument. But there  
16 weren't any specific signatures that were  
17 addressed, and counsel for the challenger  
18 vehemently opposed the idea that any of this was  
19 done in bad faith.

20 And then, finally, the technical  
21 requirements that you already dealt with. But  
22 besides that, at the end of the day there just

1 aren't enough valid signatures.

2 CHAIR THOMPSON: Okay, thank you for  
3 that. I think we'll turn now to Reverend  
4 Hamilton or Professor Scriven, if you'd like to  
5 comment at this time with respect to this  
6 challenge?

7 MS. HAMILTON: I'll go first and just  
8 make a couple of observations, then I will defer  
9 to Dr. Scriven. But let me just say, the  
10 Registrar, you all just had a discussion about  
11 even if the 240 with, or within those there could  
12 be some additional things that, you know, may  
13 become revealed that invalidate that signature  
14 but there's just no way of knowing. If it's that  
15 difficult, or if all of that could happen to the  
16 Registrar, in terms of deciphering the validity  
17 of the signature, how in the world can a  
18 candidate, without the access to the same  
19 information and techniques that a Registrar has,  
20 be expected to validate in the same manner and in  
21 the same way?

22 I think it's unrealistic. This is



1 just me putting that on the record. Based on  
2 that conversation, you all just talked about even  
3 how difficult it can be and that there may be one  
4 or two things wrong. We don't have access to  
5 that kind of knowledge to know that, so we have  
6 to go on the good faith of what the signers are,  
7 you know, giving us at the time that they're  
8 giving us. I just wanted to say that.

9 And then, secondly, Attorney Quintana  
10 just mentioned that we had the time to go through  
11 the challenge, the challenges, and rectify them.  
12 Let it be clear, Ms. Ragas challenged 1,119 of  
13 our signatures. Out of the 2,595 signatures that  
14 we submitted, she challenged 1,119 signatures.  
15 To suggest that we would have time or a ten-day  
16 window to go through, review, and rectify 1,119  
17 signatures, before even having the Registrar's  
18 report available to us to know if the Registrar  
19 had found that same number of challenges valid,  
20 is, it's very difficult to do.

21 So I just want to go on record about  
22 what is being expected of the candidate, in terms

1 of this challenge process. Now, yes, we had an  
2 argument, Mr. Quintana brought it up, regarding  
3 good faith and bad faith. And I will let him  
4 make that argument as it pertains to the Ragas  
5 challenge.

6 CHAIR THOMPSON: Okay. Yes, so, Dr.  
7 Scriven, please go ahead.

8 MR. SCRIVEN: Yes. Thank you very  
9 much, Reverend, I appreciate it. So we'll just  
10 be brief. This will be less than one minute.

11 Yes, so we do have a concern with the  
12 nature of the challenges in the Ragas challenge,  
13 and we're basing this challenge on Regulation  
14 1606.2(d) which states that a petition is  
15 properly filed "if it appears on its face to be  
16 based on good faith review of each signature and  
17 circulator affidavit."

18 So our concern is that in the Ragas  
19 challenge, more than one in three of the  
20 challenges were overturned by the registry. And  
21 we think we have some reasons that might explain  
22 this. And I'll just give one or two examples and

1 I'll be finished.

2 First of all, several pages on this  
3 challenge include a regulation. The same  
4 regulation listed for every page. For example,  
5 on Sheet 13 every single line says that the  
6 challenge is being made because the signature is  
7 illegible.

8 Well the registrar found, as we did  
9 when we checked it, that actually seven of those  
10 are perfectly legible. And when you have entire  
11 sheets saying the same thing that's an example of  
12 what we consider to be not in good faith. But  
13 what it also does is put some undue burden on the  
14 candidate to do a bunch of work that shouldn't  
15 really need to be done.

16 Another example. Sheet 71 to 73  
17 frequently cite regulations that don't exist.  
18 1607.3, 1607.4, 1607.5. But we're not aware of  
19 any of those things existing so we're spending  
20 time looking, what are these regulations.

21 So beyond that we found examples, and  
22 this is backed up by the registrar, there are

1 more than a hundred examples of challenges that  
2 were later tossed and found to be valid based on  
3 what can be called simple mistakes. For example,  
4 the challenger wrote the name White as a surname  
5 rather than Wright. Or Horbert rather than  
6 Hurbert. Or McCan rather than McCarn. Or Honter  
7 rather than Hunter. Or in one case claiming  
8 someone's name was Petal's when it was actually  
9 Peter.

10 Now these errors are indeed quite  
11 simple and they're expected in a challenge like  
12 this. However, they are not expected at the  
13 frequency in which they occur in this particular  
14 challenge. It is very easy to reconcile with a  
15 quick look at the voter records that the name  
16 that is Hunter, but you are identifying as  
17 Honter, is probably one that should be allowed.

18 Finally, in providing the grounds for  
19 their challenge this form includes a key. It's  
20 up at the top of the challenge. A key that  
21 includes at the beginning, a key where they  
22 describe their challenge based on a key they are

1 using. And that key, I believe, is in reference  
2 to the codes that are provided by the Board of  
3 Education in 1607.

4 And the code says things like 1607(a)  
5 equals inactive, (b) equals wrong address, et  
6 cetera. Those are all fine. And there's one  
7 code, it says 1607, I'm quoting here, "1607.1(g)  
8 equals (f)." So we're trying to figure out what  
9 does that mean.

10 And then when they say what code it  
11 corresponds to, they say that anytime they  
12 mention 1607.1(f), that means unqualified  
13 circulator. Well that's not quite, that's  
14 confusing because in fact Code f is what should  
15 correspond to illegible signature.

16 But as we're going through this form  
17 we're very confused and saying to ourselves, well  
18 wait, are they saying the unqualified, the  
19 circulator's signature is incorrect or is it the  
20 signature itself? So that was very confusing.

21 So my last point is, to summarize  
22 this, we contend therefore that there is

1 sufficient evidence to suggest that this  
2 challenge was made not in good faith. Creating  
3 an unnecessary burden on the candidate to do work  
4 that should not have been needed, and should not  
5 have been needed to be done. So we're asking the  
6 Board to consider whether this challenge should  
7 be accepted as valid at all. Thank you.

8 CHAIR THOMPSON: Okay, thank you so  
9 much. Let me ask the registrar, or Mr. Quintana,  
10 if they have any comment on this?

11 MS. CORRENTE: So we have some  
12 conflicting pre-hearing conferences. I wasn't in  
13 all of this one. I'll defer to Mr. Quintana to  
14 speak to, the conversation from the pre-hearing  
15 conference just because I wasn't in all of it.

16 MS. STROUD: So as an initial  
17 question, was this argument raised at the  
18 pre-hearing conference because of course issues  
19 that were going to be brought before the Board  
20 had to be raised at that level in order to be  
21 presented to the Board. So to the extent that  
22 this was, this argument was raised they're not,

1 is something that we need to --

2 MR. QUINTANA: At the Board hearing it  
3 was vaguely alleged. It was not alleged with the  
4 specificity as it was here. And honestly, most  
5 of it dealt with Mr. Harnett's challenge. And  
6 they seemed to have dropped the faith argument on  
7 that. So it was briefly alluded to. And like I  
8 said, Counsel strenuously objected to the idea of  
9 bad faith.

10 I will say in response to those  
11 comments, while it may be difficult to collect  
12 these signatures that the statutory scheme places  
13 the burden on the person seeking access to  
14 provide 2,000 ballot addresses, not 2,000 ballot  
15 addresses if it's easy.

16 I would also add that as someone who,  
17 like yourself has collected signatures, you can  
18 go on our website as you collect the signatures  
19 and verify the voter status simultaneous, you  
20 can't do that anymore?

21 MS. CORRENTE: No.

22 MR. QUINTANA: I'm sorry. I was

1 trying to do it before the hearing, it seemed to  
2 work. Never mind.

3 (Off microphone comment.)

4 MR. QUINTANA: What's that?

5 (Off microphone comment.)

6 MR. QUINTANA: Oh.

7 CHAIR THOMPSON: Each individual can.

8 (Off microphone comment.)

9 MR. QUINTANA: -- on our website.

10 Okay, never mind. But they do have access to it.

11 CHAIR THOMPSON: Yes.

12 MR. QUINTANA: And I will say in terms  
13 of bad faith, there were 719 ballot challenges  
14 here. So the counsel mentioned, or  
15 representative mentioned that a third of them  
16 were overturned. In my experience you try to get  
17 50 to 100 percent signatures than you need to  
18 (audio interference) So it's hard to argue bad  
19 faith when there were 719 ballot --

20 CHAIR THOMPSON: Yes.

21 MR. QUINTANA: -- challenges.

22 CHAIR THOMPSON: It strikes me that



1 two-thirds of the challenges are upheld and the  
2 overall challenge is upheld is pretty hard to say  
3 that the challenger has acted in bad faith.

4 MR. QUINTANA: And if anything, and I  
5 understand what he was saying about 1606, 1607  
6 and what they put, but it's easy to tell that  
7 they meant 1606, not 1607.

8 MS. HAMILTON: Can I add something  
9 here. And, Mr. Harnett --

10 CHAIR THOMPSON: Briefly.

11 MS. HAMILTON: Mr. Harnett did put in  
12 the chat, we did raise this issue. One thing  
13 I'll say is that the pre-hearing conference, we  
14 were encouraged at the time to, that they were  
15 going to pretty much focus on the Harnett  
16 challenge because it had more, a higher number of  
17 invalid signatures. A 181 at the, originally,  
18 to, I believe it was 130, for the Ragas  
19 challenge.

20 And so the bulk of the pre-conference  
21 hearing focused on the Harnett challenge. So we  
22 did raise this particular issue about the bad

1 faith, or excuse me, good faith. But it was  
2 really talked about as the decision was made  
3 early on in the pre-conference hearing to focus  
4 on the Harnett challenge due to the fact that it  
5 had found that more invalid signatures had been  
6 found on that challenge than on the Ragas  
7 challenge at the time.

8 MR. SCRIVEN: If I may just briefly,  
9 I thank you. I appreciate that. Also, thank  
10 you, Mr. Harnett, for confirming.

11 We did bring up this. We absolutely  
12 did bring this up. We did not go into the  
13 details because we were told that we needed to  
14 just bring up the issues we wanted to discuss.  
15 So I did not go into the detail that I went  
16 through today, but we did certainly bring it up.

17 MS. HAMILTON: And I want to say one  
18 more thing. There's a lot of signatures. I work  
19 full-time, I want to put that out, as does my  
20 team. At the beginning of the pre-hearing  
21 conference when we expressed concern about not  
22 having received the registrar's report until the

1 day of the hearing, so therefore we had not had  
2 the time, as a team, to kind of look over and  
3 review it.

4 You know, we were instructed that that  
5 was not, you know, that was not a good enough  
6 reason and that we needed to prioritize this  
7 report when we received it. And that's not an  
8 option for working people.

9 So I want that on the record, that  
10 whatever comes of these hearings, that we take  
11 these things into consideration if we really want  
12 the regular every day person to be able to  
13 participate in the political process. The  
14 discouraging that but suggesting somehow that we  
15 compromise what we do every day in an effort to  
16 participate I think is counterproductive.

17 CHAIR THOMPSON: Thank you. Here's  
18 how we're going to proceed. I just want to make  
19 sure, see if Mr. Quintana has a comment, and then  
20 we're going to hear from Mr. Abely on behalf of  
21 the --

22 MR. QUINTANA: That's what I was going

1 to say.

2 CHAIR THOMPSON: -- the challenger.

3 MR. QUINTANA: Yes. My only comment  
4 is that the statutory scheme is clear, we don't  
5 have enough numbers.

6 CHAIR THOMPSON: Okay. So let's hear  
7 from the challenger, I think Mr. Albany you're  
8 going to speak, Abely, sorry, on behalf of the  
9 challenger from your seaside location in Georgia.

10 MR. ABELY: Thank you, Mr. Chairman.  
11 And thank you Staff, we appreciate everything  
12 that, sometimes the unsung people behind the  
13 scene at the Board of Elections do. Thank you so  
14 much, Staff.

15 Very important. Mr. Harnett, I'm  
16 sorry, Ms. Ragas did cite DCMR in her challenges.  
17 That is different from what Mr. Harnett  
18 apparently did. I'm impressed with the work that  
19 Mr. Harnett did. But I want to point out that  
20 Ms. Ragas went further. She actually did cite  
21 the DCMR.

22 We are going to incorporate please,

1 and if we can have this on the record, we'd like  
2 to incorporate by reference all of Mr. Harnett's  
3 arguments. We need to preserve our right to  
4 appeal. I think we are going to have to go  
5 forward with this hearing because I don't know  
6 what's going to happen with the Harnett case.

7 I don't, I'm concerned that Mr.  
8 Harnett might, for some reason, withdraw his  
9 challenge. We need to continue ours. We need to  
10 preserve our right to seek review at the D.C.  
11 Court of Appeals if necessary.

12 With respect to the comment I've heard  
13 here today about difficulty, I'm probably the  
14 oldest person in this room who's been involved  
15 with D.C. politics. My first, I worked on my  
16 first collection of signatures in 1994.

17 It is a lot of work. And what used to  
18 happen back in the day is, as you collected  
19 signatures you verified them as you went. You  
20 don't have to wait till the end of the process to  
21 check your signatures and make sure they're  
22 valid.

1           So the argument that there is this,  
2           oh, it may be, maybe the number 2,000 is too  
3           heavy. Maybe it is too much. And it is a lot of  
4           work to collect 2,000 signatures. I've done more  
5           signature collecting on so many D.C. campaigns I  
6           can't remember them all.

7           And it is a lot of work. Your  
8           Saturdays are gone, you're at Easter Market,  
9           you're at the Safeways, you're at ANC meetings.  
10          And it's work. But that's an argument for the  
11          D.C. Council. Maybe they need to reduce the  
12          number to 2,000.

13          But what you can do is check them as  
14          you collect them. And that's what we used to do.  
15          Didn't always, you knew -- if you did that  
16          properly you could get to 2,000 by the end of the  
17          day, the time. If you checked as you went you  
18          actually knew, you don't have to wait until the  
19          end.

20          With regard to legibility, I want to  
21          get into the good faith issue. Obviously, Ms.  
22          Ragas should be commended. She's doing a civic

1 duty as a citizen. This is her participation in  
2 the process.

3 And I have to tell you, I'm a little  
4 offended that somebody who is not a D.C. resident  
5 comes in and criticizes the work and the, of a  
6 D.C. citizen to participate in the political  
7 process. I don't know how things are done out in  
8 Maryland, but here we recognize our citizens who  
9 engage in the process positively as Ms. Ragas  
10 did.

11 With respect to, you know, legibility,  
12 legibility is a subjected matter. What may be  
13 legible to some is not legible to others.

14 Again, I want to incorporate Mr.  
15 Harnett's arguments by reference. I'd like to  
16 point out that Ms. Ragas did cite the DCMR and  
17 we're preserving, please, all of our rights to  
18 seek review at the D.C. Court of Appeals. Thank  
19 you.

20 MR. QUINTANA: If I may?

21 CHAIR THOMPSON: Okay. Yes, Mr.  
22 Quintana.

1 MR. QUINTANA: And, Counsel, when you  
2 say you want to incorporate all of his arguments,  
3 do you also mean you want to incorporate all of  
4 his signature challenges?

5 MR. ABELY: Yes, sir. Please.

6 MR. QUINTANA: Is that --

7 CHAIR THOMPSON: I think each  
8 challenge will stand on its own based on the,  
9 because there's a process for identifying what is  
10 being challenged that's incorporated into this  
11 particular challenge. And I was just, I'm just  
12 thinking out loud. I don't see how you can adopt  
13 challenges from a different challenge that  
14 weren't made here.

15 MS. STROUD: Right. Yes, the  
16 challenge period is closed and so the challenges  
17 have to stand on their own.

18 CHAIR THOMPSON: Yes.

19 MS. STROUD: So challenges that were  
20 not made with respect to one petition cannot be  
21 made, you know --

22 CHAIR THOMPSON: Yes.



1 MS. STROUD: -- to that petition at  
2 this point, so.

3 CHAIR THOMPSON: Yes.

4 MR. QUINTANA: And I wanted to make  
5 sure I understood --

6 CHAIR THOMPSON: Okay.

7 MR. QUINTANA: -- his comment now.

8 CHAIR THOMPSON: I took the comment to  
9 mean, I adopt his arguments or contentions --

10 MS. STROUD: Correct.

11 CHAIR THOMPSON: -- but I -- okay.

12 MR. SCRIVEN: May I ask a question?  
13 Just one question of the Counsel?

14 CHAIR THOMPSON: Yes. Like just a,  
15 Board you mean. Real quick because I want to get  
16 the general --

17 MR. SCRIVEN: Okay, very quickly. So  
18 I just want to, so for the future, because the  
19 statutes does say that something is not  
20 considered in good faith if "a substantial amount  
21 of challenges are found to be, to not reasonably  
22 apply."

1           Is there a precedent for what would,  
2           like, you know, if I'm claiming one out of three  
3           is there a precedent that would establish what  
4           would be considered a substantial amount?

5           CHAIR THOMPSON: I'll turn to the  
6           General Counsel for that, and then we'll hear her  
7           recommendation.

8           MS. STROUD: So --

9           CHAIR THOMPSON: Your mic.

10          MS. STROUD: -- I just want to make  
11          sure I'm clear on your question. You're asking  
12          about the regulation pertaining to what  
13          constitutes a good faith, a challenge --

14          MR. SCRIVEN: Yes. Correct.

15          MS. STROUD: -- that's not --

16          MR. SCRIVEN: Yes.

17          MS. STROUD: What's your particular  
18          question again?

19          MR. SCRIVEN: So the wording is that  
20          it can be considered that if a substantial amount  
21          of the challenges are found to not reasonably  
22          apply. So I'm just wondering if there is some

1 number or a rough number where the Board would  
2 say, yes, actually this is too many challenges  
3 that have been overturned. So one-third  
4 apparently is not enough so what would be the  
5 number? Is it half, is it three-quarters?

6 MS. STROUD: Well, so the registrar,  
7 in her review of the challenges, would (audio  
8 interference) that her review has revealed, I  
9 mean, substantial I would suspect, we have not,  
10 the Board has not ruled on what that number would  
11 be specifically.

12 But in the review, when you're looking  
13 at, when the registrar is looking at the  
14 challenges, if she determines that a large volume  
15 of challenges are alleged to have defects that  
16 they could reasonably be construed to have, then  
17 a determination would be made. And on that basis  
18 either just that portion of signatures could be  
19 stricken or challenges could be, you know, rules  
20 could be not valid challenges, or the whole  
21 petition could be determined to be, that we need  
22 to like reject in its entirety.

1 MR. SCRIVEN: Okay, thank you.

2 Because I noticed Mr. Harnett's overturn rate, I  
3 don't know if that's the correct phrase, was  
4 about 10.2 percent. And for Ms. Ragas it was  
5 more than 35 percent.

6 CHAIR THOMPSON: All right, so noted.  
7 Yes.

8 MS. STROUD: Yes.

9 CHAIR THOMPSON: So at this time let  
10 me ask General Counsel Stroud if she has a  
11 recommendation.

12 MS. STROUD: My recommendation would  
13 be that Reverend Hamilton be denied valid access  
14 in this matter for the reason of not having a  
15 sufficient amount of valid signatures to, or the  
16 200, 2,000 signatures needed to gain ballot  
17 access in this contest.

18 CHAIR THOMPSON: Okay. And before I  
19 make a motion, Board Members Boggs, do you have  
20 any comment?

21 MEMBER BOGGS: I do not.

22 CHAIR THOMPSON: So I will make the

1 motion as recommended by the General Counsel that  
2 on the basis of this separate challenge by Ms.  
3 Ragas that the candidate be denied valid access.  
4 And I do want to say specifically in my motion  
5 that I find Ms. Ragas' challenge to be in good  
6 faith. It's something that goes to character  
7 really, and so I want to be clear on the record  
8 that I do believe the challenge was made in good  
9 faith, as Mr. Abely argued. Is there a second?

10 MEMBER BOGGS: I second.

11 MS. STROUD: Okay. And the roll call  
12 vote, the Chair has made the motion. Mr. Chair?

13 CHAIR THOMPSON: The Chair votes aye.

14 MS. STROUD: Member Boggs?

15 MEMBER BOGGS: Aye.

16 MS. STROUD: And with that, in this  
17 matter, the Board has unanimously ruled that  
18 Candidate Hamilton is denied ballot access on the  
19 grounds that she does not have a sufficient  
20 amount of signatures on her petition to gain  
21 ballot access in the contest of U.S. Senator in  
22 the June 4th, 2024, democratic primary election.

1                   CHAIR THOMPSON: All right. And also,  
2 I stand well corrected on the, my initial comment  
3 about mootness. I think it is important. I very  
4 clearly see now that these challenges be handled  
5 separately, ruled upon separately. The point was  
6 made Mr. Harnett might withdraw his challenge,  
7 and so this challenge would still stand  
8 separately.

9                   It also can be appealed in the same  
10 manner. And maybe those appeals will be  
11 consolidated, but --

12                   MS. HAMILTON: Chair, I'd like to  
13 state that I would, first and foremost, let me  
14 say that our suggestion of good faith is not a  
15 testament to Ms. Ragas' character. I don't know  
16 Ms. Ragas, I've never met her, I am not in a  
17 place to make any judgment regarding her  
18 character or motivation. We are utilizing  
19 specifically the good faith description that is  
20 in the code and the statute speaking to the  
21 validity of the signatures, not to the challenger  
22 herself. So please put that on record that it's

1 not any type of indictment on her character. And  
2 also that we do plan to appeal the Board's  
3 decision in this matter as well. Thank you.

4 CHAIR THOMPSON: Thank you. And I  
5 didn't, thank you for your additional comment.  
6 Having made it I want to make sure the other  
7 side, if they, Mr. Abely wants to comment for the  
8 last word here on that point?

9 MR. ABELY: I just want to thank you,  
10 Mr. Chairman, for recognizing the good faith of  
11 Ms. Ragas. And I thank you, Ms. Hamilton, for  
12 recognizing that as well. Thank you.

13 CHAIR THOMPSON: Okay. All right,  
14 thank you, everybody. I know that was not easy.

15 MR. SCRIVEN: Thank you so much.  
16 Appreciate you hearing our case.

17 CHAIR THOMPSON: Never easy. And I  
18 certainly share in the comments, thanking the  
19 registrar in particular, and everybody on the BOE  
20 staff that had to do, has done so much work on  
21 these challenges. It's really a tremendous  
22 amount of very detailed work. So it's very much

1 appreciate, I think by everybody recognizes that  
2 regardless of the outcomes and determinations.  
3 So thank you.

4 We're not done. We have one more  
5 challenge. Ms. Ragas has also challenged Ankit  
6 Jain's candidacy. And I'll turn to the General  
7 Counsel for that.

8 MS. STROUD: Thank you. And we just  
9 want, I just want to be an, I think, I know Ms.  
10 Ragas is here.

11 (Off microphone comments.)

12 MS. STROUD: Ms. Ragas?

13 MS. RAGAS: Yes, ma'am, I am here.

14 MS. STROUD: Okay, thank you. And if  
15 you could just state your name and address for  
16 the record?

17 MS. RAGAS: Sorry, it accidentally  
18 muted me again. Trezell Ragas, address, 3504 7th  
19 Street, Southeast, Washington, D.C. 20032. And I  
20 would love for my Attorney, James Abely, to speak  
21 on my behalf during this hearing. Thank you so  
22 much.



1 MS. STROUD: Okay. And, Mr. Jain, if  
2 you can state your name and address for the  
3 record?

4 MR. JAIN: Yes. My name is Ankit Jain  
5 and I'm at 1117 10th Street, Northwest, Number  
6 109, Washington, D.C. 20001.

7 MS. STROUD: Okay. So we will hear  
8 first from the registrar, and then we will hear  
9 from the State Attorney, LaKetha Walker. And  
10 then the parties will have the opportunity to  
11 respond to the reports given.

12 MS. CORRENTE: Thank you. So an  
13 initial report was provided to the parties, and  
14 then after the pre-hearing conference an updated  
15 report was provided dated yesterday, April 4th,  
16 2024.

17 On March 6, 2024, Ankit Jain submitted  
18 a nominating petition to appear on the ballot as  
19 a candidate in the June 4th, 2024, primary  
20 election for the Office of U.S. Senator for the  
21 Democratic Party. The minimum requirement to  
22 obtain ballot access for the office is 2,000

1 signatures. The petition contained 3,201  
2 signatures.

3 The petition was posted for the  
4 Republican inspection for the ten day challenge  
5 period. And it was challenged on March 18th,  
6 2024, by Trezell Ragas, a registered voter in the  
7 District of Columbia. Challenger Ragas filed  
8 challenges to 100 and, sorry, 1,556 of the 3,201  
9 signatures submitted, numerated by line and page  
10 number on individual challenge sheets pertaining  
11 to Title 3, Chapter 16 of the DCMR, D.C.  
12 Municipal Regulations, on many different grounds.

13 I will also note that additionally  
14 signatures that were, appeared to be written and  
15 collected digitally through a commercial software  
16 program were also challenged.

17 On March 29th, 2024, Candidate Jain  
18 alerted the Board to six potential address update  
19 forms timely submitted. Two of these forms, one  
20 is for Sheet 40, and 220 resulted in addressed  
21 updates and were applied accordingly.

22 By initial review of the challenges

1 with these ballot address updated incorporated  
2 indicated that 813 of the 1,556 challenges were  
3 valid, which left the candidates nominated  
4 petition with 2,288 signatures, 388 signatures  
5 above the number required for ballot access.

6 Should be noted, in the absence of  
7 this challenge -- sorry. It should be noted as  
8 well that this challenge did not fully appear on  
9 its face due to a good faith review of each  
10 signature, pursuant to Title 3 of the DCMR,  
11 1606.2(d).

12 There were multiple challenge sheets  
13 that alleged defects versus a substantial number  
14 of signatures that were not reasonably found to  
15 apply to such signatures. So on Sheet 342, ten  
16 lines were challenged. The last eight lines that  
17 were challenged on the grounds that the signer  
18 was not a registered voter were actually blank.  
19 On sheet 322, all ten signatures were challenged,  
20 either as illegible or inactive signature not  
21 matching wrong party respectively, yet none of  
22 these defects applied to any of those signatures.

1                   These are just two examples from  
2 multiple challenge sheets in which defects were  
3 alleged that could not reasonably be found to  
4 apply to the signatures challenged. Due to this  
5 finding, all sheets that exhibited this pattern  
6 could have been dismissed from the review  
7 process. Ultimately though, the challenge with  
8 or without these pages did not bring the  
9 candidate below the threshold for ballot access.

10                   On April 2nd, 2024, the Office of  
11 General Counsel convened a pre-hearing conference  
12 involving all parties wherein these findings were  
13 discussed. Both Candidate Jain and Challenger  
14 Ragas raised their opposition to the validity of  
15 either the challenge or the petition respectfully  
16 in its totality.

17                   Each party also contested specific  
18 points regarding the findings. Ultimately, only  
19 Challenger Ragas asked for an additional review  
20 of the findings.

21                   Any items referenced in the narrative  
22 portion of the challenge that Challenger Ragas

1 submitted did not, and that did not correspond  
2 entirely with the page and line number of the  
3 portion of the challenge were not given a  
4 secondary review. In addition, any contested  
5 findings that were not directly identified by  
6 their page and line number at the pre-hearing  
7 conference were not given a secondary review.

8 Challenger Ragas also shared a  
9 document the day, that day in advance of the  
10 pre-hearing conference contested the initial  
11 findings and sheets, 276, 277 and 292, connected  
12 to circulator Ashish Kanswal. That itemized list  
13 contained a university of 30 signatures across  
14 the three sheets. Six were not originally  
15 itemized on the nominating petition form sheet by  
16 line number so were not reconsidered. Of the  
17 remaining 24 signatures, 19 were already credited  
18 as valid challenges. The remaining five  
19 signatures were reviewed and determined to be  
20 valid challenges.

21 As such, my secondary review indicates  
22 that 818 of the 1,556 challenges are valid.

1           Ultimately this leaves the candidates nominating  
2           petition with 2,383 signatures, 383 signatures  
3           above the number required for ballot access.

4                       CHAIR THOMPSON:   Okay.

5                       MS. WALKER:   Good morning, Mr. Chair,  
6           and to the Board.

7                       CHAIR THOMPSON:   Good morning.

8                       MS. WALKER:   As stated previously, we  
9           did convene the pre-hearing conference.  I will  
10          advise, the challenge itself was filed on March  
11          18th, the notice was sent to the parties on March  
12          the 19th of the hearing conference.

13                      At the conference the challenger did  
14          ask that her Counsel, Mr. Abely, speak on her  
15          behalf.  At which time the majority of their  
16          argument lay in the issues dealing with fraud or  
17          forgery pertaining to two specific signatures  
18          that were found within pages that were circulated  
19          by Mr. Ashish Kanswal as stated by the registrar.

20                      And beyond that, there was also a  
21          concern by the challenger with digital signatures  
22          that were collected.  And also with circulator

1 affidavits that predated voter signatures.

2 I will note that within the challenge  
3 itself, aside from the individually marked pages  
4 that list valid line and page number of  
5 challenges, that there was also a four-page  
6 multi-page narrative that was filed along with  
7 their challenge that described other issues that  
8 the challenger took issue with. Within that they  
9 specifically cited 14 pages that were enunciated  
10 by, or excuse me, that were circulated by Mr.  
11 Kanswal and ask that there be a review of the  
12 entirety of the 14 pages that were filed in the  
13 petition for him.

14 Aside from that, the other issues that  
15 were raised by the candidate, specifically were  
16 to the fact they disagreed by the findings,  
17 particularly by the registrar, as they felt that  
18 the entire math of the challenge should be found  
19 out because it was not made in good faith.

20 As mentioned by the registrar, she  
21 cites to two specific examples within her report  
22 where she did feel like on the face of those

1 particular pages, as well as maybe some others  
2 within the actual petition, they may not have had  
3 the potential for good faith.

4 Mr. Abely did argue also during the  
5 pre-hearing conference that because he felt that  
6 there was fraud within the body of the petition,  
7 as in as much as they were articulating, that the  
8 entirety of the candidate's petition should be  
9 thrown out. And he cited to a case, in fact  
10 naming Williams v. Brazil, which the Board  
11 previously dealt with an issue of fraud. We did  
12 not go into an expanse of that, but those were  
13 the solitaire confides of what we discussed.

14 And so, with that, knowing that there  
15 was going to be such a separate agreement, and if  
16 the parties were very far aligned from one  
17 another, this matter was turned over for Board  
18 hearing on today's date.

19 CHAIR THOMPSON: All right, thank you  
20 for that. Given that the finding is that the  
21 candidate is 383 signatures above the number  
22 required and therefore would qualify for ballot



1 access, we'll turn first to the challenging side.  
2 And Mr. Abely will speak to that.

3 MR. ABELY: Thank you, Mr. Chairman.  
4 Make sure I'm unmuted.

5 CHAIR THOMPSON: Okay.

6 MR. ABELY: Thank you, Mr. Chairman.

7 Preliminarily I'd like to go, mention  
8 three things. We have a witness today, who's  
9 made great efforts to join us and who has studied  
10 this issue. Dr. Fenoff. Dr. Roy Fenoff. And  
11 I'm hoping he can testify soon. I think the  
12 Board is going to find his testimony to be  
13 compelling.

14 I also want to point out that we  
15 requested that one circulator, a non-D.C.  
16 resident circulator, be subpoenaed to appear  
17 today. That would be, and I may mispronounce his  
18 name for which I apologize, I hope I won't, Mr.  
19 Ashish Kanswal. Who circulated, as Counsel has  
20 indicated, a large number of petitions. I argue  
21 that all of his sheets should be excluded. And I  
22 think there was massive fraud.

1                   And I think this is really important.  
2           The case that we are hearing today is unique, is  
3           sui generis. I think it's unprecedented in the  
4           District of Columbia.

5                   As I indicated earlier, I've been  
6           involved with challenging petitions and  
7           collecting signatures for 30 years in D.C. I  
8           have never, in all of that time, ever even heard  
9           of the case in which deceased persons signed  
10          petitions. In 2002 of course there was the Tony  
11          Williams case, Mayor Williams was kicked off the  
12          ballot.

13                   But even in that case, Scotty Bishop  
14          did not put dead people's name on the mayor's  
15          pages. Engaged in fraud, but he didn't use dead  
16          people's names.

17                   But in the Jain petition there are two  
18          deceased people signing the petitions that I know  
19          of. And I'm going to argue there's a lot more  
20          fraud.

21                   I think they're all, and I'm asking  
22          this bard to throw out all of Mr. Jain's

1 petitions. He should be removed from the ballot.  
2 He can run as a write-in candidate just as Mayor  
3 Williams did. This Board removed Mayor Williams  
4 from the ballot in 2002. I was a volunteer for  
5 Mayor Williams at that time. We had to order  
6 30,000 pencils with his name on it so that the  
7 Mayor could run as an incumbent as a write-in  
8 candidate.

9 I think that Mr. Jain should be  
10 removed from the ballot, he can run as a write-in  
11 candidate. But this Board has to send a message  
12 today. And the message has to be, you cannot  
13 commit fraud in the District of Columbia, that  
14 the Board will take it seriously. Thank you.

15 CHAIR THOMPSON: Okay. Yes, thank  
16 you. You mentioned a witness, Roy Fenoff?

17 MR. ABELY: Dr. Roy Fenoff. Yes, sir.

18 CHAIR THOMPSON: And is this somebody  
19 with personal knowledge of these facts?

20 MR. ABELY: He's an expert. A  
21 handwriting expert. He is a renowned nationally  
22 recognized handwriting expert. I hope he is on

1 with us now. He's a professor of this, he has a  
2 PhD in handwriting analysis of all things.

3 CHAIR THOMPSON: What's the purpose --

4 MR. ABELY: And I think his testimony  
5 will be compelling. And I'm asking for the Board  
6 to consider it.

7 MS. WALKER: Mr. Chair, before we of  
8 that I want to add, if it's all right?

9 CHAIR THOMPSON: Yes.

10 MS. WALKER: The names that are being  
11 mentioned specifically here, and the two names  
12 that were brought up at the pre-hearing  
13 conference, while they were names that were  
14 within the petition, I will add that these were  
15 not part of a challenge that were enunciated for  
16 the grounds in which were brought up during the  
17 pre-hearing. So the fraud that was alleged for  
18 those particular signatures, those were not the  
19 challenge reasons that were brought up within the  
20 challenge that Ms. Ragas filed.

21 So upon the registrar's review of that  
22 sheet in particular, those were not a basis or a

1 reason to, for consideration, am I correct? The  
2 reference to the two names?

3 MS. CORRENTE: I'm sorry, you're --

4 CHAIR THOMPSON: The two "deceased"  
5 people.

6 MS. WALKER: They were found to be not  
7 registered.

8 MS. CORRENTE: Not registered.

9 MS. WALKER: Right.

10 CHAIR THOMPSON: Okay.

11 MS. WALKER: So, as in as much as  
12 there is an argument today with referenced to  
13 these are deceased persons and we need to verify  
14 the validity of those signatures, I don't know if  
15 that's so much at play today --

16 CHAIR THOMPSON: Yes.

17 MS. WALKER: -- because those were not  
18 issues that were challenged by Ms. Ragas when it  
19 was presented. That was not the basis for which  
20 they asked for a review.

21 CHAIR THOMPSON: Okay.

22 MR. ABELY: And that's --

1 CHAIR THOMPSON: Thank you for using,  
2 hold on. Thank you for using the word alleged  
3 because I don't know if there was fraud or  
4 somebody intentionally meant to write down a  
5 person they knew to be deceased. I just don't  
6 know.

7 But I also wanted to clarify, if all  
8 of the signatures collected by the circulator,  
9 Mr. Kanswal, were thrown out, how many signatures  
10 are we talking about? Is it more than 383?

11 MS. CORRENTE: No. So Mr. Kanswal  
12 circulated 14 petition sheets, and that's a total  
13 of 133 signatures. And in my initial review, 51  
14 of them were thrown out. And then in the review  
15 of the three pages that were asked at the  
16 pre-hearing conference, which was Page 276, 277  
17 and 291, I removed five more signatures.

18 CHAIR THOMPSON: Okay.

19 MS. CORRENTE: Now I'll note that on  
20 these pages that not each line was challenged.  
21 So we only looked at, we only reviewed the lines  
22 that were challenged. Reconsidered those. And

1 so ultimately the number of signatures that we  
2 invalidated from Circulator Kanswal was 56. And  
3 so I believe, if my math is correct, that leaves  
4 77 --

5 CHAIR THOMPSON: Oh.

6 MS. CORRENTE: -- in place.

7 CHAIR THOMPSON: I got 87, but.

8 MS. CORRENTE: Oh, is it 80, maybe it  
9 is. But 133, no, I think it's 77.

10 CHAIR THOMPSON: Okay, thank you.

11 (Laughter.)

12 CHAIR THOMPSON: Seventy-seven. So  
13 we're talking this idea that we should throw out  
14 all of Mr. Kanswal's signatures if we, even if we  
15 said yes to that we're talking about 77 more, I'm  
16 not saying we're doing that --

17 MS. CORRENTE: Yes.

18 CHAIR THOMPSON: -- but it would only  
19 be 77 more.

20 MS. WALKER: And if I could add one  
21 other point, Mr. Chair? I do want to also just  
22 talk about, there is, I think patently mistake in

1 understanding what the Williams v. Brazil matter  
2 response was from the Board at that time.

3           There was indeed an issue with fraud  
4 dealing with a number of circulators in that  
5 particular case. And in that instance the Board  
6 said, if we throw out the particular sheets  
7 affecting that circulator that would be  
8 appropriate, not to throw out the entirety of the  
9 petition itself.

10           So I think there is a difference  
11 between what is being stated by Mr. Abely as  
12 opposed to what he's asking the Board to do  
13 today.

14           CHAIR THOMPSON: Okay, thank you.  
15 Thank you. But even in the William's case we  
16 didn't throw out the entire --

17           MS. WALKER: Correct.

18           CHAIR THOMPSON: -- candidate, on that  
19 case.

20           MS. WALKER: That's correct.

21           CHAIR THOMPSON: All right. I do want  
22 to hear from the witness. Any other comments?



1 MR. ABELY: May I? May I address  
2 those issues briefly?

3 CHAIR THOMPSON: Mr. Abely, yes,  
4 briefly. And then if you could just present your  
5 witness and maybe voir dire --

6 MR. ABELY: Yes, sir. And, you know,  
7 the point by Counsel is well taken, ma'am. What  
8 I do want to point out is that the court of  
9 appeals stated in its opinion in the Williams  
10 case, that the Board had authority to throw out  
11 all petitions, a candidate off the ballot, if,  
12 and I'm quoting from the decision, "if the  
13 nominating petitions were so tainted by fraud, a  
14 strong appearance of fraud, they may be  
15 discounted in their entirety by the election  
16 board."

17 And I also point out, and if you look  
18 at Footnote 3 of the Williams decision, the court  
19 of appeals stated that they understood that Mayor  
20 Williams himself did not authorize the fraud.  
21 Was not aware of the fraud.

22 I argue that this is a different case.

1 That Mr. Ashish Kanswal is an agent of the  
2 candidate Mr. Jain. Thank you.

3 CHAIR THOMPSON: Okay. So we'll turn  
4 next to your witness, Dr. Fenoff. We'll unmute  
5 you, sir. And if you could just introduce  
6 yourself, tell us your qualifications real quick,  
7 and I'm sure we'll recognize you as an expert.

8 MR. FENOFF: Yes, sir. Good morning.  
9 My name is Roy Fenoff. My business address is  
10 1969 Jefferson Street, Laramie, Wyoming 82070.

11 I do a couple of different things.  
12 I'm an associate professor at the Citadel in the  
13 Department of Criminal Justice. And I'm also  
14 forensic document examiner and handwriting expert  
15 in private practice. I've been doing that, the  
16 handwriting work, for 16, 17 years now. And I do  
17 a lot of handwriting related cases.

18 And I do work all across United  
19 States. Testified in multiple courts in  
20 different jurisdictions. And if you would like  
21 me to go any further on my experience and stuff  
22 I'd be happy to do so.

1 CHAIR THOMPSON: No. And I assumed  
2 those courts recognized you as an expert?

3 MR. FENOFF: Yes, sir.

4 CHAIR THOMPSON: Well that's very  
5 sufficient. So the Board recognizes your  
6 expertise, and we appreciate you being here to  
7 provide your testimony. I don't know if Mr.  
8 Abely wants to lead you through a direct  
9 examination or if you just want to, you can  
10 proceed with your findings if you like. We don't  
11 have too much procedure here in that regard. Up  
12 to you.

13 Sorry. Apologize, we have to  
14 continually unmute people. Go ahead, Mr. Abely.

15 MR. ABELY: Yes. I want to make  
16 things easier for the Board. I'm more than happy  
17 to do a direct with Mr. Fenoff but if, I, you  
18 know, if you all are willing to dispense with  
19 where you went to college and all that we can go  
20 right into his testimony?

21 CHAIR THOMPSON: Please. Yes, tell us  
22 what you left out, Mr. Fenoff, and what you found

1 and what your opinions are.

2 MR. FENOFF: Okay. I submitted some  
3 exhibits. I don't know if you have those. I  
4 guess my question for you is, do you want me just  
5 to state what my opinion was and what I did or do  
6 you want me to show you anything, because the  
7 exhibits. But I could do it either way.

8 MR. ABELY: The exhibits were  
9 submitted. We got them this morning, and I  
10 thank, Dr. Fenoff, for working probably overnight  
11 to do them. And I think he pulled an all  
12 nighter. They were emailed in this morning. And  
13 I don't know if the Board has had a chance to  
14 look at them.

15 CHAIR THOMPSON: I have not. I'm  
16 seeing them now on the screen. But --

17 MS. STROUD: I guess my question first  
18 is, are you going to be testifying with respect  
19 to the signatures that were circulated by Mr.  
20 Kanswal or are there others that you're going to  
21 be testifying to?

22 MR. ABELY: Just Kanswal.

1 CHAIR THOMPSON: All right. So why  
2 don't you just go ahead and summarize what you  
3 left out and what you found with respect to Mr.  
4 Kanswal's signatures that he obtained.

5 MR. FENOFF: So I, normally when you,  
6 when you see pages, you know, for petitions like  
7 this, what we normally see are signatures with a  
8 lot of uniqueness and variation in them. Because  
9 they're purportedly authored by individuals, and  
10 handwriting is identifiable because your  
11 signature is unique to you. No one has the same  
12 handwriting features and characteristics.

13 But what we saw, what I saw in this  
14 petition, was that there were a lot of clusters  
15 of signatures with similar characteristics and  
16 features. For examine like, for example, like  
17 the placement of the signature on the signature  
18 line, the upward sloping of some signatures.  
19 You also had this underscoring of the signatures.

20 And I can tell you, after doing this  
21 for more than 15 years I'm looking at literally  
22 thousands or tens of thousands of signatures that

1 people that sign their name and underscore their  
2 signature isn't as common. I'm sure there are  
3 people that do that, but when you have a petition  
4 with ten signatures on it and several of them on  
5 the same page have the same placement and the  
6 same slopping and the same underscoring and the  
7 same, what we call line quality which is like the  
8 rhythm and the smoothness of the signature, then  
9 that raises a flag that those things are, you  
10 know, not actually varying or actually similar in  
11 a way.

12 So then what I did was, is I took the  
13 four pages of petitions, which each had ten  
14 signatures, so a total of 40, and I started  
15 grouping them. And that's what that exhibit  
16 shows, is like I put in a group one, a group two,  
17 and a group three and a group four, and I just  
18 grouped them based on, you know, commonality.

19 So for example, some of them was only  
20 like the first name was written, no last name was  
21 signed. And then they were sloping up with the  
22 underscore. And then others were less legible.

1 And so then, I grouped them in that way. And  
2 then after I grouped them, meaning like, you  
3 know, all of the ones in group one were authored  
4 by the same person, all of the ones in group two  
5 were authored by the same person, and so on.

6 And then when I finished that then you  
7 can start comparing the groups to each other.  
8 Are there features within one group that you're  
9 finding in another group. And then, so you just  
10 keep narrowing it down until you get to a point  
11 where, all right, how many different writers are  
12 potentially there.

13 And what I found, and what I think is,  
14 is that more likely than not all of the  
15 signatures on the document were probably authored  
16 by one person.

17 And the second thing was, when I  
18 looked at the circulator, at the bottom of the  
19 petition there is a bunch of printing of the  
20 address and information, then a signature. And  
21 what you notice with the signature is it, the  
22 line quality is very similar to all the

1 signatures on the document. The upward slope is  
2 similar to a lot of those signatures on the  
3 document. You have the underscoring. There's a  
4 lot of letter forms that are consistent.

5 But then if when you go to the  
6 petition and you look at the address side of it,  
7 not the signature side but the address side of  
8 each individual, there is variation in there.  
9 There is some variation, but there is a lot of  
10 letter forms and things that are consistent with  
11 spacing and letter forms, line quality.

12 There was definitely features that I  
13 think were intentionally maybe incorporated into  
14 it to make some things look different. Disguise,  
15 intentional alterations is something that we tend  
16 to see. You know, if you have one or two authors  
17 trying to sign a bunch of names they don't want  
18 them to look alike so they're trying to make  
19 these signatures look as different as they can to  
20 get pass the guardian and be accepted as  
21 authentic.

22 But what they focus on when they do



1 this really is more of the pictorial quality of  
2 it. So they're trying to make them look  
3 different or look the same, but they're not  
4 necessarily focusing on like arrangement,  
5 placement on the signature line, some of the  
6 connecting strokes, the beginning and ending  
7 strokes, size and proportions. Those are things  
8 like experts, like myself, that's what we look  
9 at. People, you know, signing other people's  
10 name or trying to simulate, they don't think  
11 about those things, they're just thinking about,  
12 how does it look in the end.

13 So I found a lot of similarities to  
14 the circulator, in both the printed addresses.  
15 And then when you look at the writing of the  
16 printed address and then you compare it to the  
17 signature, what you notice is, in a lot of the  
18 signatures there's a lot of similarity to the  
19 printed address.

20 And if the printed address has  
21 handwriting features and similarities that are  
22 consistent with the circulator, then you conclude

1 that the circulator signed the printed portion of  
2 the address. And then the printed portion of the  
3 address has handwriting features and  
4 characteristics that are found within some of the  
5 signatures, then the conclusion is, is that the  
6 circulator filled out that part and they signed  
7 the name.

8 Now some of the other signatures it's  
9 not so clear, necessarily, who the author is  
10 because it's either not really legible, like in  
11 some of the signatures you'll get what we call a  
12 thready writing where you'll have like, maybe you  
13 can make out the first letter, the capital letter  
14 of the first name, and then all of the letters,  
15 the lower case letters in the middle, they're  
16 just really like a thready stroke, you can't  
17 really make them out. And then there is like  
18 some printing and other things, and there is  
19 nothing really to compare back to the circulator  
20 to determine whether or not they did that.

21 But when you compare the line quality  
22 and other things you can start combining groups,

1 then it becomes pretty clear that, you know, all  
2 of the signatures on there are most likely not  
3 authored by the person's name that is associated  
4 with them.

5 And then on that exhibit, one more  
6 thing, there was on Page 2, there were a few  
7 signatures, and you can look at that, that I  
8 received from Mr. Abely, that were pulled from  
9 the voter record. And so there was one, two,  
10 three, four, five, six, seven of them I had. And  
11 then I pulled the name off the sheet to match  
12 that. And you can see none of those are  
13 consistent at all. In fact, they're not even  
14 close. So that's a red flag in and of itself.

15 When you see that immediately a red  
16 flag should fly up and you should say, all right,  
17 pull that signature out, we need to take another  
18 look at that because that's a red flag. In fact  
19 two of them, from my understanding the two at the  
20 top, Ethel Spencer and John Tisdale, were both,  
21 are both deceased from my understanding.

22 But one thing you'll also notice on

1 that Page 2, is if you look at all of the  
2 comparison signatures, the petition signatures,  
3 notice how similar they all appear in line  
4 quality placement within the box. And what that  
5 is telling you is that all of those signatures  
6 there were authored by the same individual. And  
7 that individual was not any of the individuals  
8 identified in that voter record.

9 And so that's what I found throughout  
10 all four of those pages. They were all  
11 relatively consistent with each other, so my  
12 conclusion on that is more likely than not all of  
13 the signatures on there are fraudulent.

14 CHAIR THOMPSON: And you say those  
15 four pages, how many signatures are we talking  
16 about on those four pages?

17 MR. FENOFF: Each page had ten.

18 CHAIR THOMPSON: Okay.

19 MR. FENOFF: And I had sheet 276, 277,  
20 278 and 291. And each had ten, so a total of 40  
21 that I looked at.

22 CHAIR THOMPSON: Okay. And is it your

1 opinion that those 40 signatures on those four  
2 sheets were more likely than not fraudulently  
3 created by the circulator?

4 MR. FENOFF: Yes.

5 CHAIR THOMPSON: And if you look  
6 beyond those four sheets, at all of the sheets  
7 that the circulator signed or just those four?

8 MR. FENOFF: Sir, those were the only  
9 four I looked at so I can't testify to any other  
10 sheets. Just those four.

11 CHAIR THOMPSON: Okay. I don't have  
12 any other questions. Let me just ask Ms. Walker,  
13 anybody else --

14 MS. WALKER: No, I do not.

15 CHAIR THOMPSON: -- on our team?

16 MS. WALKER: No, sir.

17 CHAIR THOMPSON: All right, well thank  
18 you very much, Dr. Fenoff, that was fascinating.

19 MR. ABELY: Could we, could I ask Dr.  
20 Fenoff a couple questions?

21 CHAIR THOMPSON: Oh yes, sure. Keep  
22 going. He's your witness.

1                   MR. ABELY: I'll keep it brief because  
2 I know the Board is busy. And I don't know if  
3 the Board Members can take a look at Sheet 276.  
4 And, Dr. Fenoff, if you happen to have 276  
5 available, please sir.

6                   MR. FENOFF: I do.

7                   MR. ABELY: I'm just going to, you've  
8 done such a great narrative, thank you. But I  
9 think it might help the Board to just go through  
10 an example of some of the things you discussed.

11                   Could you take a look at 276, and I'll  
12 come back to two signatures on that page in just  
13 a moment. But could you perhaps provide the  
14 Board with some examples of some of the things  
15 you just discussed?

16                   MR. FENOFF: Yes. So if you look at,  
17 on Sheet 276, Lines 6, 7 and 8. You'll notice  
18 the signatures, as how they all are located in  
19 the exact same location in each one of those  
20 boxes. Where you had, if you consider the four  
21 sides of a box, and as you're looking at that box  
22 you look to the far left-hand side where it says,

1 sign here, there's a certain distance from that  
2 edge of the box to where the beginning stroke of  
3 each signature begins. And you'll notice that  
4 they all are very consistent, not only where they  
5 start but how they rise, and how the underscore  
6 is similar in all of those.

7 You'll also notice that even if you  
8 just look at them, and you're not a handwriting  
9 expert you don't know, but you look at those, you  
10 go, they just look similar to me. And the reason  
11 for that is, is because the size and proportion  
12 in what we call the line quality is consistent.  
13 They were all done by the same person. And so,  
14 although they're different names you can see what  
15 the line quality, the letter forms, the spacing,  
16 the arrangement, the sloping and stuff that  
17 they're all the same.

18 Now if you go over to six, seven and  
19 eight again, but go to the address side of the  
20 page, and what you'll notice, is if you start  
21 looking at those letters and numbers, like the  
22 number two and so one, that even though there is

1 some variation in how those letters might be  
2 made, like there might be bigger or smaller, the  
3 spacing may be a little different. But you'll  
4 notice that a lot of the letters and numbers,  
5 like the number 2, the letters S come to mind,  
6 they're similar in a sense because those  
7 addresses were filled out by the same person.

8 And so then, when you start comparing,  
9 what I was talking about earlier, that printed  
10 script down to the bottom of the page when you  
11 look at the circulator, look at the number 2,  
12 look at the S's, you start looking at that in the  
13 spacing and what you see is those are consistent.

14 In some of the signatures where there  
15 is printing and things you'll see some of these  
16 letters are very clear. And then if you compare  
17 the address side back to the signature you go,  
18 okay, yes, the address and the signature were  
19 authored by the same person, and the address line  
20 was authored by the circulator, therefore logic,  
21 right, the circulator is the one who authored  
22 that signature. And that's how I came to some of



1 my conclusions that way.

2 But throughout these pages you can see  
3 that. You'll find signatures that are very  
4 consistent with each other in their arrangement  
5 spacing, and then there is some variations with  
6 some too. But --

7 (Simultaneous speaking.)

8 MR. FENOFF: Go ahead --

9 MR. ABELY: Go ahead, Board, I'm  
10 sorry.

11 CHAIR THOMPSON: No, no, I'm --

12 MR. ABELY: Okay.

13 CHAIR THOMPSON: -- I --

14 (Simultaneous speaking.)

15 MR. ABELY: If I could ask you, Dr.  
16 Fenoff, you just mentioned Line 8 on Sheet 276,  
17 could you please describe, just tell us a little  
18 about that if you could? If everyone could  
19 please look at Line 8 because it's the heat of  
20 our argument.

21 CHAIR THOMPSON: Yes.

22 MR. ABELY: On 276 please.

1 MR. FENOFF: Yes. So if you look at  
2 the John Tisdale written out, look at the J in  
3 the John, and then look at the J in the  
4 signature. Those are done by the same  
5 individual, right? So just that one stroke  
6 along.

7 Even how the J connects to the O.  
8 Look on the side with the address, look how the J  
9 connects to the O, and then look how the J  
10 connects to the O in the signature. The distance  
11 between the O and the J, and the arrangement and  
12 all of that is very similar there. Even the  
13 ending strokes to the end, and then moving in the  
14 same movement and moving in the same direction.

15 So that's another example of how that  
16 individual, who signed it, is the one who  
17 authored the address. So then if you take that  
18 address and go, well, you know, there is some  
19 differences there, that looks a little different  
20 than say, Line 10 down below. Oh I absolutely  
21 agree with that, it does. But when you go  
22 through the whole petition and you do that to all

1 the addresses and things and you start comparing  
2 them back, what you're seeing there is  
3 signatures, in my opinion, being intentionally  
4 altered in ways to make them look different to  
5 you.

6 But a lot of the connecting strokes,  
7 the placement, the spacing, the size and  
8 proportion, the line quality, they're very  
9 consistent throughout. Those are things that a  
10 forger or someone trying to simulate or disguise  
11 don't think about. They're focused more on, I  
12 need to make it look different.

13 But as you go through all four pages  
14 and you start comparing those, that's why you  
15 have to group things first to get  
16 similar-to-similar. And then once you get them  
17 in those groups then you can start comparing  
18 back. And then it kind of completes a story of  
19 what was going on.

20 MR. ABELY: Dr. Fenoff, can you tell,  
21 compare some of these signatures to the  
22 circulator's signature? You made a conclusion, I

1 think I heard you say that you thought that the  
2 circulator signed some of these signatures.

3 Could you please describe that please?

4 MR. FENOFF: Yes. So if you look at  
5 the circulator's signature down at the bottom of  
6 the page, notice how it rises from left to the  
7 right. So it has an upward sloping. You also  
8 have that underscore.

9 Now keep in mind, the underscore is  
10 not as common as you might think within the  
11 general population. Yes, there are people who do  
12 this, but I can go weeks and months looking at  
13 hundreds of thousands of signatures and not see  
14 someone underscore their name.

15 The fact that he does that, and then  
16 you look up above and you have numerous examples  
17 of signatures all signed by the same person, you  
18 have an underscore, you have an upward slanting  
19 signature, and then on top of that you have a  
20 very similar line quality, size and proportion  
21 measurements with it.

22 The key here is, is that no two people

1 have the exact same handwriting. You can't sign  
2 your name the exact same way twice.

3 So what I'm describing to you are  
4 identifying features within the body of  
5 handwriting. And so when you identify those key  
6 features that are unique to you, and you find  
7 them multiple times throughout the petition  
8 signature, and then you look at the circulator  
9 and that person has those same key identifying  
10 characteristics, there's only one conclusion you  
11 can make there is that, well, you found yourself  
12 your author of a lot of those signatures.

13 MR. ABELY: And you think that author  
14 is Mr. Kanswal?

15 MR. FENOFF: Yes.

16 MR. ABELY: Thank you. Going back to  
17 Mr. Tisdale, who I believe died, you compared Mr.  
18 Tisdale's signature as it appears in the  
19 petitions, to what you found in the Board of  
20 Election's exemplar. Could you please describe  
21 that?

22 MR. FENOFF: Yes. So on that Page 2

1 of my exhibits, I was given some voter record  
2 signatures. Not the best quality, but, you know,  
3 if you look at the John Tisdale signature as it  
4 was in the voter record and you look at the one  
5 here, first off, you just the first name John.  
6 By the way, which is unusual in and of itself.  
7 You know, most people sign their first and last  
8 name, and you have a document here where you have  
9 half, I don't know what the total number is I  
10 had, but you had, I don't know, 15 or more  
11 signatures where there is only the first name  
12 signed or the last name signed. And same line  
13 quality, same, again.

14 But when you look at the John Tisdale  
15 signature as it is in the voter record compared  
16 to that one they're not even close. It's not  
17 even there. They're just not even close. He  
18 doesn't underscore. He doesn't, you know, his  
19 signature doesn't slant up.

20 And by the way, handwriting is habit  
21 form, this is not something we consciously think  
22 about. So anytime you sign your name you don't

1 think about how you're going to sign your name  
2 you just sign it. And if you signed it five  
3 times in a row it would remain relatively  
4 consistent not exactly the same, but you're not  
5 thinking about it.

6 And so if you have a signature that  
7 you don't underscore your name, you don't just  
8 one day just change it and start underscoring it  
9 and leaving out the last part of your name. That  
10 isn't something you do because it's a habit form.  
11 So that, in and of itself, is a pretty  
12 significant indicator that these are different  
13 authors.

14 CHAIR THOMPSON: If --

15 MR. FENOFF: Let alone in fact that  
16 Mr. Tisdale was deceased.

17 CHAIR THOMPSON: If I could interject  
18 in the interest of time? I mean, we haven't used  
19 time limits but I think, I for one have heard  
20 some very convincing expert testimony with  
21 respect to these 40 signatures, and I don't know  
22 if we need to go through other examples to kind

1 of drive the point home. I think we've heard it.

2 I'm not saying I'm cutting you off,  
3 but I was going to suggest that if we could  
4 conclude with the expert, and then Mr. Abely, if  
5 you could summarize your argument? Because I  
6 think you're going to make some inferences from  
7 this about the remainder of the circulator --

8 MR. ABELY: Yes. I --

9 (Simultaneous speaking.)

10 MR. JAIN: Am I allowed to --

11 CHAIR THOMPSON: Okay.

12 MR. JAIN: Am I allowed to ask him  
13 three yes or no questions? I don't know how the  
14 process works here.

15 CHAIR THOMPSON: I was going to  
16 suggest that we conclude with the expert, Mr.  
17 Abely summarize, and then, oh, and then I'll ask,  
18 Mr. Jain, you can cross examine the witness, and  
19 then we'll turn to Mr. Jain's side of this  
20 challenge.

21 At some point we're going to need a  
22 break. We've been going for more than, almost



1 two and a half ways and I for one could use a  
2 little break. And so why don't we see if we can  
3 conclude with the witness for starters and then  
4 take a break.

5 MR. JAIN: May I ask one question? I  
6 have one witness who needs to leave by 12:45. I  
7 don't know if it's possible to just go out of  
8 order and have, he's like a five minute witness,  
9 three minute witness maybe.

10 CHAIR THOMPSON: Hold on, let me make  
11 sure that Mr. Abely, do you have anything?

12 MR. ABELY: I'd like to just, if I  
13 may, just, I really want to just, if I can ask  
14 one more question of Dr. Fenoff and then I'll  
15 just go into injecting in on cross?

16 CHAIR THOMPSON: Okay, one more  
17 question. Go ahead.

18 MR. ABELY: Okay. So, Dr. Fenoff, one  
19 more. Looking at the pages you got in front of  
20 you, could you just help the Board understand why  
21 you believe Ashish Kanswal signed these  
22 signatures? And you don't have to stick to Page

1 276.

2 MR. FENOFF: Well, the consistency and  
3 line quality, the underscoring, letter form  
4 similarities.

5 MR. ABELY: Could you provide an  
6 example? That you haven't provided yet. Is  
7 there an example you can provide?

8 MR. FENOFF: Well, there are many.  
9 I'll try to find another one. A different one  
10 maybe that might be helpful to you.

11 (Pause.)

12 MR. FENOFF: I thought I had one  
13 written down here. If you look at 278.

14 MR. ABELY: 278.

15 MR. FENOFF: Go to Line 8. Isaiah  
16 James.

17 MR. ABELY: Yes, sir.

18 MR. FENOFF: If you look at the M, and  
19 how the M is written, not only in James, but if  
20 you look at that James and the, J-A-M-E-S, on the  
21 printed side you'll see those M's are consistent  
22 and the same. The J, again. But you have many

1 of those in there. If you go down to the  
2 circulator name part of that you see the same  
3 kind of M's form there.

4 So that's just another example of, not  
5 only is there a line quality similarity, not only  
6 is that signature consistent with those other  
7 signatures I pointed out earlier from that first  
8 page, 276 I think it was, where it's the  
9 arrangement in the box, the sloping up, the  
10 underscoring and stuff, but you also have those  
11 letter forms. And what you'll notice too on the  
12 circulator, if you take the four address parts of  
13 each page, there is variation between them for  
14 that circulator as well.

15 So you have to take all of that into  
16 common, but that's just another example of it.  
17 But really it comes down to the arrangement, the  
18 line quality, the size and proportions, the  
19 underscoring and legibility and things like that.  
20 It's a combination of many things. It's not just  
21 one thing I can really just point at and say,  
22 that's the key, you know. It's a multiple of

1 many things.

2 And you have to factor in that you  
3 have an individual here that is writing things  
4 and making things, trying to make things look  
5 different and incorporating what I would call  
6 some disguise or distorted writing to get it past  
7 a guardian.

8 MR. ABELY: Thank you.

9 CHAIR THOMPSON: Okay. So just to be  
10 clear, Mr. Jain, you can now cross examine the  
11 witness. I mean, just you can ask him questions.

12 MR. JAIN: Yes.

13 CHAIR THOMPSON: But you can ask him  
14 questions. And then we will get to your case,  
15 and then you also can present your witness as  
16 well.

17 MR. JAIN: Yes.

18 CHAIR THOMPSON: So --

19 MR. JAIN: I just have three very  
20 short questions. So, Mr. Fenoff, you looked at  
21 four pages, correct?

22 MR. FENOFF: Yes.

1 MR. JAIN: That's 40 signatures,  
2 correct?

3 MR. FENOFF: Yes.

4 MR. JAIN: And every single page you  
5 looked at was from Circulator Ashish Kanswal,  
6 correct?

7 MR. FENOFF: Yes.

8 MR. JAIN: Okay, no further questions.

9 CHAIR THOMPSON: So with that, and  
10 I'll ask Mr. Abely to, I guess before you rest  
11 your case so to speak, do you have any, like a  
12 concluding, you know, summary argument to make  
13 here?

14 MR. ABELY: Yes, sir. Please.

15 CHAIR THOMPSON: Okay, go ahead.

16 MR. ABELY: I think we've heard today,  
17 one of the things I will point out is that I have  
18 here, we didn't get into Ms. Ethel Hope Spencer,  
19 who is one of the signatures, but Dr. Fenoff  
20 looked at her signature as well. I know his  
21 testimony is concluded, but I think he's  
22 testified that Ms. Ethel Hope Spencer's signature

1 was fraudulent.

2 I have here her obituary. Ms. Ethel  
3 Hope Spencer died on July 5th of 2022. Mr.  
4 Tisdale died in January of 2022. But somehow  
5 they both signed these petitions for Mr. Jain.

6 Having a dead person sign nominating  
7 petitions is, I believe, unprecedented in the  
8 District of Columbia. I have never heard of a  
9 case like that before. Maybe it has happened and  
10 I didn't hear about it. It makes the Scotty  
11 Bishop fraud and the Williams case look minor.

12 And I want to point out that I did  
13 request during the pre-hearing that Mr. Kanswal  
14 be available today to testify. I made a request  
15 to the Board that he be subpoenaed. I asked Mr.  
16 Jain specifically to have him here. And he's not  
17 here. My guess is if he were here he'd have to  
18 plead the Fifth Amendment. Just as Scotty Bishop  
19 did in the Williams case.

20 I think this is very, very serious.  
21 I think the Board has to send a message that it  
22 will not tolerate election fraud like this in the

1 District of Columbia. We're not going to allow,  
2 Mr. Kanswal lives in Virginia, we're not going to  
3 allow people to come in from out of state and  
4 sign dead people's name to a U.S. Senate  
5 position. We're not going to allow it.

6 And I think the Board needs to stand  
7 firm and say, Mr. Jain, you're not going to be on  
8 the ballot. If you want to run as a write-in  
9 candidate you can, but you're off. This is  
10 unprecedented. This case is sui generis. It is  
11 egregious.

12 Mr. Jain could have come in and said,  
13 you know what, I'm sorry, it was wrong, we  
14 encourage the Board to take action. You could  
15 have had your witness here. Your circulator  
16 here. This is very, very serious.

17 And I think the Board has to kick Mr.  
18 Jain off the ballot. And it is authorized to do  
19 so. The Williams case makes that clear. It says  
20 that an election board can remove a candidate  
21 from the ballot when there is a strong indicia of  
22 fraud for the purpose of protecting election

1 integrity.

2 And if this, if that's not the case  
3 here then I don't know what the case is. Thank  
4 you.

5 CHAIR THOMPSON: All right. Thank you  
6 so much. I tell you what, before we hear before  
7 Mr. Jain, and Mr. Jain, you can take just as much  
8 time to tell us your view of things and present  
9 your witnesses, I'm just going to move for a five  
10 minute recess so we can stretch our legs, you  
11 know, use the facilities.

12 I'll say "five minutes," but I'll make  
13 sure everybody is back. But let's try to be  
14 efficient in our break and resume in five  
15 minutes.

16 PARTICIPANT: If it's the Chair's  
17 prerogative then --

18 MEMBER GREENFIELD: Yes.

19 CHAIR THOMPSON: Yes, I'll call for a  
20 recess. And I think J.C. is still out there  
21 somewhere. There he is.

22 MEMBER BOGGS: Yes.



1 CHAIR THOMPSON: So, and Karyn has  
2 joined us. Karyn Greenfield.

3 MEMBER GREENFIELD: Yes, Chair.

4 CHAIR THOMPSON: Our Board Members are  
5 here, I'll note for the record. I think because  
6 she hasn't heard all this evidence she won't  
7 participate in the determination on this  
8 particular matter, but when we get to the next  
9 item she will. So I'll see everybody, it's  
10 12:04, how about at 12:10 we'll resume. Thank  
11 you.

12 (Whereupon, the above-entitled matter  
13 went off the record at 12:05 p.m. and resumed at  
14 12:10 p.m.)

15 CHAIR THOMPSON: Thank you. It's time  
16 to hear from Mr. Jain. And before you proceed,  
17 I'll just put this in perspective. I do want to  
18 repeat that if we invalidate all 133 of the  
19 signatures on Mr. Kanswal's sheets, the candidate  
20 would still be 306 by my count above the required  
21 amount. So you know, I don't know if that  
22 impacts the scope of what you want to talk about,

1 Mr. Jain, but I think -- And I think maybe the  
2 sort of big question I have anyway before you  
3 start is did you have any involvement with Mr.  
4 Kanswal as he went about filling out his sheets.  
5 Go ahead, Mr. Jain.

6 MR. JAIN: Yeah, thank you. I'm going  
7 to try not to belabor my points. I think we can  
8 keep this relatively brief, although I do want to  
9 make sure I get, you know, everything we need in  
10 the record in case Challenger pursues this to the  
11 bitter end.

12 So by my count, I had 307, could be  
13 306 signatures above the limit if every single  
14 one of Circular Kanswal's signatures are removed.  
15 And I think just like getting to the heart of the  
16 point, they would have to prove a massive -- I  
17 think the phrase they use is "massive fraud" to  
18 knock this campaign off the ballot. They pointed  
19 to four sheets from one circulator, 40 signatures  
20 out of 3,300 signatures that they claimed were  
21 fraudulent. And they did not point to a single  
22 signature -- not a single signature by any other

1       circulator other than Mr. Kanswal that they  
2       allege are fraudulent. And yet they are alleging  
3       this campaign committed a massive fraud upon the  
4       people of D.C. So I think that is the heart of  
5       the matter. They didn't show any sort of massive  
6       fraud.

7                        So I want to go through three things.  
8       I just want to start by explaining why the Board  
9       should dismiss the challenge on its face without  
10      any consideration of its specifics as made in bad  
11      faith. Then I'm going to talk about how the case  
12      law and the Williams case among other cases, cuts  
13      against the argument that the Challenger is  
14      making. And finally, while it is not our burden  
15      to prove -- to disprove fraud, it is the  
16      Challenger's burden to prove fraud, we will still  
17      call several witnesses.

18                      I'm sorry. I am in a hotel room and  
19      there was an earthquake and so I'm wondering if  
20      it's related to that. Give me a second. Maybe  
21      this is going to stop. Okay, I think I'm going  
22      to go ahead and go forward and I'll let you know

1 if I have to stop for some reason.

2 CHAIR THOMPSON: Okay. No worries.

3 MR. JAIN: Yeah. Okay, so the third  
4 thing I'm going to do is we're going to call  
5 several witnesses who will testify about the  
6 campaign's process and who will make sure that  
7 the Board knows that there was no massive fraud  
8 committed by this campaign, including our field  
9 director and deputy field director. And they can  
10 speak more to interactions with Mr. Kanswal. I'm  
11 happy to add on if there's any questions you have  
12 for me, but maybe I'll start with them and then  
13 we can have me add on as necessary.

14 And so I'm going to go a little bit  
15 out of order though because we have one witness  
16 who has a 12:45 stop and so I'm wondering -- I'm  
17 going to start with calling a witness who was a  
18 circulator for this campaign who will discuss his  
19 process for circulating and that he did not  
20 commit fraud if I may.

21 CHAIR THOMPSON: You may and I'm not  
22 going to call on you, Mr. Abely, but you will get

1 a chance to cross examine the witness with each  
2 round. So go ahead and present your witness, Mr.  
3 Jain.

4 MR. JAIN: Okay. Mr. Rothman --  
5 Harris Rothman, can you -- can we unmute him?

6 CHAIR THOMPSON: And we're going to  
7 swear the witness in as well.

8 MR. ROTHMAN: Good afternoon.

9 CHAIR THOMPSON: Good afternoon. You  
10 want to swear -- We're just going to swear you in  
11 real quick, Mr. Rothman.

12 MS. STROUD: Hi, Mr. Rothman. Do you  
13 swear to tell the truth, the whole truth, and  
14 nothing but the truth with respect to -- swear or  
15 affirm to do so with respect to the testimony  
16 you're about to give?

17 MR. ROTHMAN: I so swear.

18 CHAIR THOMPSON: So go ahead, Mr.  
19 Jain. You can ask -- You can key it up with  
20 questions or we can just hear directly from the  
21 witness.

22 MR. JAIN: Yeah. Mr. Rothman, do you

1 just want to talk about your involvement in  
2 circulating petitions and how you went about it  
3 in your interaction with the campaign in doing  
4 so?

5 MR. ROTHMAN: Sure. So to begin with,  
6 I circulated petitions on three days, very  
7 briefly on one of those days and I don't think I  
8 collected any signatures. But I went to bat with  
9 a clip board seeking to collect signatures on  
10 February 3rd, February 13th very briefly, and  
11 February 24th.

12 My process generally was that I had a  
13 clip board and I had some of Mr. Jain's campaign  
14 literature and that I would stand in public and  
15 flag down people that I thought weren't walking  
16 too quickly by me and ask them if they would be  
17 willing to sign a petition for Mr. Jain if they  
18 were registered Democrats in D.C.

19 MR. JAIN: Mr. Rothman, did you ever  
20 fraudulently sign a petition for anybody?

21 MR. ROTHMAN: No.

22 MR. JAIN: Okay. And when you had

1 your -- (audio interference), who was the one who  
2 signed their signature on any petition you did?

3 MR. ROTHMAN: The people that I  
4 flagged down.

5 MR. JAIN: Okay. And how many -- how  
6 many sheets would you say you turned in about?

7 MR. ROTHMAN: I believe I had two on  
8 the first day. I didn't get any signatures on  
9 the second day as far as I recall. And I think  
10 it was just one on the third day. Outside of  
11 that, I did collect a signature from -- now that  
12 I'm thinking, outside of those three dates where  
13 I was collecting publically, it was just from my  
14 girlfriend when she was in my residence. I don't  
15 know if that was on a separate sheet, so if so,  
16 that would have been a fourth sheet, but it would  
17 have been, I suppose, either three or four then.

18 MR. JAIN: Okay. Did you interact or  
19 witness any other volunteer circulators?

20 MR. ROTHMAN: Well, I actually at one  
21 point volunteered alongside you, Mr. Jain, so I  
22 suppose I witnessed you collecting signatures.

1                   MR. JAIN: Did you see any other --  
2 any circulators you volunteered with in this  
3 campaign committing fraud?

4                   MR. ROTHMAN: No.

5                   MR. JAIN: Okay. I have no further  
6 questions. I don't know if anybody else would  
7 like to ask any questions.

8                   CHAIR THOMPSON: Okay. I'm going to  
9 turn to Mr. Abely. It's not an episode of law  
10 and order. If you've got a legitimate cross  
11 examination question, please go ahead.

12                   MR. ABELY: Yes, sir. I'm sorry.  
13 Really, I have an administrative matter. Can we  
14 please excuse Dr. Fenoff?

15                   CHAIR THOMPSON: Oh, yeah. Sorry, I  
16 didn't mention that. Yes. Dr. Fenoff, you're  
17 excused. We thank you for being here. And so  
18 with that, do you have a question for this  
19 witness?

20                   MR. ABELY: No, I don't. I just  
21 wanted to excuse Dr. Fenoff. Thank you.

22                   CHAIR THOMPSON: Thank you. And Mr.



1 Rothman, you're also excused. We have -- I guess  
2 we have kind of a time crunch. We have a board  
3 member that needs to leave by 12:30. You know,  
4 I'm tempted to make a motion before then so as  
5 not to lose his participation. But let's go  
6 ahead, Mr. Jain, maybe to see how much --

7 (Simultaneous speaking.)

8 MR. JAIN: Yeah. Maybe what I'll do  
9 is I'll shorten it to just talk about, you know,  
10 the precedent and then I'll call my field  
11 director so that she can talk about her  
12 interactions with Mr. Kanswal.

13 CHAIR THOMPSON: Okay, that would be  
14 great. Go ahead.

15 MR. JAIN: Yeah, okay. So the  
16 Challenger continually cites the Williams case as  
17 a reason to disqualify every single petition  
18 collected by any circulator in this campaign due  
19 to alleged fraud by one circulator. The Williams  
20 case said nothing of that -- of the sort as I  
21 think the Council for this Board has pointed out.  
22 I think the phrase was patently mistaken

1       misunderstanding of the Williams case.

2                       So the Challenger argues that there  
3 was -- argues that alleged forgeries by one  
4 petition circulator who collected less than 3  
5 percent of all signatures collected in this  
6 campaign to disqualify every circulator's  
7 petition signatures. You know, the Board Chair  
8 has already reconsidered this argument in the  
9 motion for a subpoena and rejected it. And we  
10 agree with the Board Chair and the case law  
11 supports that view. What case law shows is that  
12 only the signatures collected by a circulator who  
13 committed fraud are to be disqualified. And it  
14 argues against signatures by other circulators  
15 not accused of fraud from being disqualified.

16                       In the Williams case, as the Board  
17 attorney mentioned, this Board and the DC Court  
18 of Appeals explicitly only considered invalidating  
19 signatures on sheets circulated by the circulator  
20 the Board found had committed fraud. And I'm  
21 just going to give you one quote. This Board  
22 wrote, "The Board was prepared to review the

1 entire nominating petition signature by signature  
2 and rule on the validity of each individual  
3 challenge. However, it became perfectly clear  
4 that even if the Board accepted all of the  
5 Mayor's legal arguments, there was still no  
6 scenario possible in which the Mayor could obtain  
7 2,000 signatures without including signatures  
8 attributable to the --" So you can see there,  
9 they're only considering invalidating the  
10 signatures collected by the circulators who  
11 committed fraud.

12 One more quote from the DC Court of  
13 Appeals. They wrote that, "We hold it was within  
14 the Board's authority to disallow all of the  
15 signatures affected by the wrongdoing." Affected  
16 by the wrongdoing, which is only the signatures  
17 collected by the circulators who were alleged to  
18 have committed fraud.

19 I will note that this case is not sui  
20 generis as Mr. Abely keeps on saying. And in  
21 fact, in that case there was a dead person who  
22 the Williams campaign put on. The Williams

1 campaign signed for St. Paul I in that case who I  
2 believe is a historical figure who is now dead.  
3 And so there's at least one example of a dead  
4 person being signed for in a fraud case. And in  
5 that case, the Board only threw out the  
6 signatures by the circulators who committed  
7 fraud.

8 I mean just as an example of some  
9 other people who were signed in this case.  
10 Jehovah's Witness, Robert DeNiro, Rosa Parks,  
11 Tony Blair. Someone signed June 31st -- One of  
12 the circulars wrote June 31st as a date that the  
13 signature happened, which is a date that does not  
14 exist. And one circulator reportedly collected  
15 540 signatures in that case in one 24-hour  
16 period, which would be one signature every two  
17 minutes for 24 hours straight.

18 So I don't think that this case is  
19 actually sui generis. And one of the main  
20 reasons I think that it's actually not sui  
21 generis or I'll say Mr. Abely says that this case  
22 is worse than the Williams case. In the Williams

1 case, over 78 percent of all signatures collected  
2 by the campaign were collected by the three  
3 circulators who had committed forgeries. And the  
4 person who was in charge of the signature  
5 collection process was himself someone who had  
6 committed forgeries.

7  
8 In our case as our field director will  
9 testify, the person who is accused of forgery,  
10 Asheesh Kanswal was one of two paid petition  
11 circulators who collected 3 percent of all  
12 signatures collected by the campaign. And the  
13 campaign actually had no connection with Mr.  
14 Kanswal before the need came up to have a paid  
15 signature collector. So if we're talking about  
16 the facts of the situation, the facts were much,  
17 much more egregious in the Williams case. And  
18 even in that case, the Board decided not to toss  
19 every single signature collected by every  
20 circulator.

21 This case is -- I'm just going to cite  
22 one more case for the record, I won't go into it,

1 that supports our allegations. It's the case of  
2 Citizens against Legalized Gaming v. District of  
3 Columbia 501 Federal Supplement 786, District of  
4 DC 1980. That case also supports our arguments.

5 Now this case is more akin to the case  
6 -- the Board of Elections case of Henderson v.  
7 Ryan by Ms. Kathy Henderson than it is to the  
8 Williams case. There as here, the Challenger,  
9 Ms. Kathy Henderson asked that the entire  
10 petition be rejected for alleged forgeries. And  
11 the Board pointed out in that case that Ms.  
12 Henderson produced no voter who signed Ms. Ryan's  
13 petition and denied having done so, nor did she  
14 offer credible forensic evidence calling into  
15 question the validity of the signatures such as  
16 testimony from a handwriting expert. Moreover,  
17 Ms. Henderson subjected opinion as the  
18 authenticity of the petition signatures was  
19 rebutted by the signature authentication  
20 conducted by the Board's Registrar, as well as by  
21 Mr. Ryan's contrary testimony.

22 So just as in that case, here, the

1 Challenger has produced no voter who denied  
2 having any signature or having any -- who denied  
3 having signed any petition circulated by anyone  
4 other than Mr. Kanswal. They have not offered  
5 any evidence contesting the validity of the  
6 signatures of the 40+ circulators who are not Mr.  
7 Kanswal. In fact, they only contested four pages  
8 from Mr. Kanswal out of the 12 total. And so  
9 they obviously had the ability to look through  
10 all of them and didn't seem to think that the  
11 others were problematic.

12 And the Board has looked at numerous  
13 allegations of signature forgery by other  
14 circulators alleged during this challenge and  
15 rejected those challenges. I'll repeat. The  
16 Board has already looked through several  
17 signatures and found that they matched the ones  
18 the Board has on file.

19 Now I just want to point out that  
20 electronic signatures are perfectly valid as long  
21 as it's actually physically signed by the -- by  
22 the person signing it, which is the case here.

1 And if the Board would like, we do have a witness  
2 who signed an electronic signature petition who's  
3 welcome to testify. But I don't -- I'm looking  
4 at the clock and I don't want to take too long.  
5 So I just want to call my field director, Ali  
6 Lenk and see if she can testify to her  
7 relationship with Mr. Kanswal.

8 CHAIR THOMPSON: And before we hear  
9 from her also, don't worry about the time. If  
10 Board Member Boggs needs to go, that's fine. We  
11 can finish hearing the evidence. I can make a  
12 motion on the record. We would then, you know,  
13 table that and since Board Member Greenfield is  
14 here, she can review the evidence -- the  
15 transcript and the recording. And then we'll  
16 come back on the record at like 4 o'clock today  
17 and do, you know, a quick vote -- roll call vote.  
18 So we can -- We have a way under our regulations  
19 to go ahead and finish off with the evidence  
20 here, notwithstanding that Mr. Boggs has to go.

21 MEMBER BOGGS: I'll try to hang in to  
22 get this one done if possible.



1 CHAIR THOMPSON: Okay. Okay, that  
2 would help. So let's hear from your field  
3 director then.

4 MR. JAIN: I believe she's unmuted.

5 MS. LENK: I'm unmuted. Can you hear  
6 me?

7 CHAIR THOMPSON: Yes. And if you  
8 could state your name and then we'll swear you in  
9 please.

10 MS. LENK: Great. My name is  
11 Alexandria Lenk. Do you need my address as well?

12 CHAIR THOMPSON: Sure. Okay. I live  
13 at 3601 38th Street NW, Apartment 304, Washington  
14 DC 20016.

15 MS. STROUD: Okay, thank you. Do you  
16 promise -- swear or affirm to tell the whole  
17 truth -- the truth, the whole truth, and nothing  
18 but the truth with respect to the testimony that  
19 you're about to give in this matter?

20 MS. LENK: I do. I so swear.

21 MR. JAIN: Okay. Ali, could you just  
22 describe the process the campaign took in

1 training circulators and assigning circulators to  
2 locations? And then your relationship with Mr.  
3 Kanswal?

4 MS. LENK: Yes. So as you mentioned,  
5 we had nearly 50 people collecting signatures  
6 over the course of our campaign throughout the  
7 signature collection period. I came on about  
8 mid-February. So prior to me coming on, Zemzem  
9 Lemma was acting as field director. When I came  
10 on, those responsibilities were transferred over  
11 to me. I would reach out to volunteers, get them  
12 scheduled for shifts. We would try to have  
13 volunteers scheduling with another person,  
14 usually myself or Zemzem or another person who  
15 had collected signatures with us before.

16 Prior to their shift, we would reach  
17 out to them, kind of give them a breakdown of how  
18 the signature collection process would go. We  
19 would inform them that we were only collecting  
20 signatures from registered democratic voters in  
21 D.C. And then we would provide them with the  
22 materials, the literature, the petition forms,

1 and a clip board. And then I would provide them  
2 with a location, usually farmer's markets,  
3 sometimes like outside metro stations, or at  
4 other events in D.C. where we expected there  
5 would be a large number of extra voters. And  
6 then we had them collect those signatures and  
7 return those forms back to us.

8           Then as far as my relationship with  
9 Asheesh, he was already collecting signatures for  
10 the campaign when I came on in February. The  
11 extent of my communications with him were via  
12 WhatsApp message. I would send him locations as  
13 I did with our other signature collectors for him  
14 to collect those signatures. And then I would  
15 check in with him at the end of his shift, asking  
16 how many signatures he had collected. And then  
17 he would turn in those -- the copies of those  
18 sheets. I never -- He never turned any of those  
19 sheets into me.

20           Were there any other questions? Oh,  
21 he also -- he quit. He quit, I think about two  
22 weeks before the end of the signature collection

1 period abruptly without notice.

2 MR. JAIN: Also paid?

3 MS. LENK: Yes, he was a paid  
4 signature collector -- one of two.

5 MR. JAIN: And was he paid -- how was  
6 he paid, Ali?

7 MS. LENK: How was he paid? Per  
8 signature.

9 MR. JAIN: Okay. Who did he turn  
10 signatures into -- the sheets into when he  
11 completed a circulator sheet?

12 MS. LENK: I believe he either  
13 uploaded a copy to a shared platform or turned in  
14 those copies physically to another volunteer who  
15 turned them into you or turned into you  
16 indirectly to the best of my knowledge.

17 MR. JAIN: Yeah. Yeah, I think he  
18 turned in the vast majority of the sheets  
19 directly to me. Let me ask you, did you ever  
20 tell any circulators to commit fraud -- to  
21 fraudulently collect signatures?

22 MS. LENK: Absolutely not.

1 MR. JAIN: Did you tell Mr. Kanswal to  
2 fraudulently collect signatures?

3 MS. LENK: Absolutely not.

4 MR. JAIN: And did you yourself  
5 collect signatures?

6 MS. LENK: I did collect signatures,  
7 yes.

8 MR. JAIN: Did you yourself  
9 fraudulently collect any signatures?

10 MS. LENK: Absolutely not.

11 MR. JAIN: Did you observe other  
12 people -- other volunteers collecting signatures?

13 MS. LENK: No. I did observe other  
14 volunteers collecting signatures, but none of  
15 them were fraudulent.

16 MR. JAIN: Okay, yes. Still let me  
17 just ask the question. Did you observe any  
18 circulators fraudulently collecting signatures?

19 MS. LENK: Absolutely not.

20 MR. JAIN: Did you observe volunteer  
21 circulators collecting signatures from actual  
22 registered voters?

1 MS. LENK: Yes, many.

2 MR. JAIN: Let me see if I have any  
3 other questions. I think that those are all my  
4 questions for you, Ali. If the Board has any  
5 questions, they're welcome to ask. We also have  
6 our deputy field director, Zemzem Lemma on who  
7 can also speak to her relationship with Mr.  
8 Kanswal.

9 CHAIR THOMPSON: No questions from the  
10 Board. So now yes, Ms. Lenk, some possible cross  
11 examination from Mr. Abely.

12 MR. ABELY: I'll keep it brief. Thank  
13 you, ma'am. How much was Mr. Kanswal paid per  
14 signature?

15 MS. LENK: I was not in charge of  
16 negotiating the per signature amount that he was  
17 paid. I believe it was either \$2 -- I think it  
18 was \$2 or \$3, or \$5, but that is not -- that  
19 would be a question for Ankit. I do not know off  
20 the top of my head.

21 MR. ABELY: Thank you, ma'am.

22 CHAIR THOMPSON: Okay. Yeah, Mr.

1 Jain, it's your case. Do you want to call  
2 another witness or --

3 MR. JAIN: Yeah, I'll call Zemzem  
4 Lemma, my deputy field director.

5 CHAIR THOMPSON: Okay.

6 MS. LEMMA: Hello.

7 CHAIR THOMPSON: Welcome. Could you  
8 state your name and address please?

9 MS. LEMMA: Yeah. My name is Zemzem  
10 Lemma. My address is 11700 Decade Court Reston,  
11 Virginia 20191.

12 MS. STROUD: Thank you, Ms. Lemma and  
13 if you could swear or affirm that the testimony  
14 you're about to give is the truth, the whole  
15 truth, and nothing but the truth?

16 MS. LEMMA: I do so swear.

17 MR. JAIN: Thank you. Zemzem, can you  
18 just describe your process of interacting with  
19 volunteers and asking them -- assigning them  
20 roles to collect signatures and your relationship  
21 with Mr. Kanswal?

22 MS. LEMMA: Yeah. So like Ali

1 mentioned, she came in, in February. So I was  
2 kind of in charge of training the volunteers  
3 before that. And similar to what Ali said, it  
4 was a pretty simple process. We just told them  
5 what you had to do to collect the signatures on  
6 the sheet. And then we also just gave them the  
7 material to collect the signatures. So we had a  
8 Zoom call with all the signature collectors at  
9 the time, which also included Asheesh -- Mr.  
10 Kanswal. And that was the first time I had  
11 interacted with him and also trained him on that  
12 call. So we went through the protocol of how to  
13 collect signatures. And then from there, he was  
14 able to go out in the field and do it on his own.

15 MR. JAIN: And could you describe like  
16 more specifically your interactions with Mr.  
17 Kanswal like over the course of like when you  
18 were field director?

19 MS. LEMMA: Yeah. I personally didn't  
20 interact with him one on one too much. If we did  
21 interact it was like in a group setting with all  
22 of the volunteers. Just would tell me where to



1 go, which locations to go to on which date. But  
2 aside from that, there wasn't too much of a  
3 relationship.

4 MR. JAIN: Mmm hmm. Do you know, Ms.  
5 Lemma, how many paid circulators the campaign  
6 had?

7 MS. LEMMA: Two.

8 MR. JAIN: And do you know about how  
9 many volunteer circulators the campaign had?

10 MS. LEMMA: I think it was like about  
11 50.

12 MR. JAIN: Okay. Do you know -- If  
13 you had to estimate, what percentage of the  
14 signatures were collected by Mr. Kanswal?

15 MS. LEMMA: Definitely less than 5  
16 percent.

17 MR. JAIN: Did you ever encourage or  
18 suggest to any volunteer circulator they  
19 fraudulently collect signatures?

20 MS. LEMMA: Absolutely not.

21 MR. JAIN: Did you yourself collect  
22 signatures?

1 MS. LEMMA: I did.

2 MR. JAIN: Did you ever fraudulently  
3 collect signatures?

4 MS. LEMMA: No.

5 MR. JAIN: Did you witness other  
6 circulators collecting signatures?

7 MS. LEMMA: I did.

8 MR. JAIN: Did you ever witness any or  
9 hear -- Did you ever witness any circulator  
10 fraudulently signing for people?

11 MS. LEMMA: No, I did not.

12 MR. JAIN: Did you witness circulators  
13 collecting signatures from registered voters?

14 MS. LEMMA: I did.

15 MR. JAIN: Who signed those circulator  
16 sheets when they collected the signatures from  
17 registered voters?

18 MS. LEMMA: The registered voters.

19 MR. JAIN: Okay. I think I have no  
20 further questions for Ms. Lemma.

21 MS. LEMMA: Thank you.

22 CHAIR THOMPSON: Thank you so much for

1 being here. Mr. Jain, what I'm going to suggest  
2 is you take up to three minutes to conclude your  
3 case. And then I'll give up to three minutes to  
4 Mr. Abely for a rebuttal comment. And then we'll  
5 ask the General Counsel for her opinion, and then  
6 I'll make a motion.

7 MR. JAIN: Okay, that sounds good. So  
8 what Mr. Abely is suggesting here is a massive  
9 fraud committed by this campaign to the degree  
10 where every single signature collected by any  
11 circulator for the campaign should be  
12 invalidated. As you just heard, no such fraud  
13 occurred. And again, it is Mr. -- I'm going to  
14 quote the regulation. Under 3 DCMR Section  
15 424.1, "The party who asserts the claims bears  
16 affirmative duty of establishing the truth of the  
17 assertion." Therefore, it's Challenger's  
18 obligation to prove that fraud occurred through  
19 the campaign's petition process, not just fraud,  
20 but massive fraud that invalidates every  
21 signature. The Challenger has provided no such  
22 evidence.

1           You just heard evidence from our  
2 witnesses that no such fraud occurred. The  
3 Registrar has already gone through and  
4 adjudicated many challenges of signatures not  
5 matching from the campaign and found that  
6 signatures do in fact match. So the Registrar  
7 already has evidence that no such fraud occurred.

8           And Mr. Abely tries to cite the  
9 Williams case to argue that because of alleged  
10 fraud by one circulator, every single circulator  
11 affidavit should be -- should be thrown out by  
12 this Board. But the Williams case says no such  
13 thing. The Williams case specifically stated  
14 that only fraud committed -- only circulator  
15 petition sheets collected by circulators who are  
16 alleged to have committed fraud are the ones that  
17 should be thrown out.

18           And this Court considered a case very  
19 similar to the one that Mr. Abely's making just  
20 two years ago when Ms. Kathy Henderson tried to  
21 throw out every single petition sheet from three  
22 different challengers -- from three different

1 candidates for ANC. The Board rejected those  
2 challenges in every single case and in fact, Ms.  
3 Henderson cited the Williams case in arguing that  
4 the petition should be thrown out. The Board  
5 rejected that argument saying that those cases  
6 had nothing to do with the Williams case, just as  
7 this case does not.

8 And finally, I just want to note again  
9 that Mr. Abely is alleging that the entire  
10 campaign committed a massive fraud, but did not  
11 cite a single signature collected by any  
12 circulator other than Mr. Kanswal that he is  
13 alleging is fraudulent. And to accept Mr.  
14 Abely's contention, would have to go against  
15 years of Board case law and against basic common  
16 sense. And so I ask the Board, one, not to  
17 accept his claim.

18 And two, I would ask that the Board  
19 dismiss the challenge completely as in bad faith  
20 because it was not properly filed as it did not  
21 adhere on its face to be based on a good faith  
22 review of each signature and circulator

1 affidavit. In the interest of time, I didn't  
2 really make that argument today, but you heard  
3 the Registrar point that out. And there are  
4 numerous instances of the challenger just making  
5 bad faith challenges and as a result, the entire  
6 challenge should be thrown out.

7 So we ask that the entire challenge be  
8 thrown out. If not, we ask that the Board follow  
9 precedent, listen to the evidence that it heard  
10 today, follow basic common sense, and reject this  
11 argument that every single signature collected by  
12 any circulator in this campaign should be thrown  
13 out. Thank you very much.

14 CHAIR THOMPSON: Thank you so much.  
15 And thank you to all the witness that appeared on  
16 your behalf. We'll turn now to Mr. Abely for  
17 three minutes of rebuttal.

18 MR. ABELY: Thank you, sir. I do want  
19 to refer quickly to the Williams case. So the  
20 Williams decision by the Court of Appeals -- The  
21 Court of Appeals stated in the Williams case that  
22 the Board did have authority to throw out a

1 candidate -- throw a candidate off the ballot,  
2 even if there was sufficient number of  
3 signatures. I'll read directly from the case.  
4 "Other courts have generally concluded that  
5 nominating petitions tainted by fraud or the  
6 strong appearance of fraud may be discounted in  
7 their entirety by an election board." And it  
8 cites an example of an Arizona case where a  
9 mayoral candidate was thrown off the ballot  
10 because of fraud in some of the petitions, even  
11 though there was a minimum number required in the  
12 remaining petitions.

13 I think this is that case. If you  
14 look at footnote 3 of the Williams case, the  
15 Court of Appeals suggests that Mayor Williams  
16 knew nothing about the fraud. And frankly as  
17 somebody who was involved with that, I can tell  
18 you that's true. He didn't know. In this case,  
19 I'm making the argument that this is a smaller  
20 campaign. That's it's being run by a candidate  
21 who was more involved. He was collecting the  
22 signatures himself, he said that. Mayor

1 Williams, nobody was turning in the petitions to  
2 Mayor Williams who was running the city. I argue  
3 that Mr. Jain was the principal of his agent,  
4 Asheesh Kanswal.

5 I think the Board has to send a  
6 message. And it's that we're not going to  
7 tolerate fraud in the petition process. Sure,  
8 maybe we're asking for too many signatures and  
9 that's an issue for the Council. But the Board  
10 has to send a message today, we're not going to  
11 tolerate it. Remove Mr. Jain from the ballot.  
12 Let him run as a write-in candidate. He can do  
13 that. And send a message and maybe this will  
14 never happen again. Thank you.

15 CHAIR THOMPSON: All right. Thank you  
16 again for the excellent presentation. I am going  
17 to -- unless the Registrar or Ms. Walker has any  
18 comment, I will ask the General Council to make a  
19 recommendation.

20 MS. STROUD: Thank you, Mr. Chair. I  
21 would recommend in light of the evidence in the  
22 record, including the testimony that we've heard



1 today that the Board grant Mr. Jain ballot access  
2 in the context, but that he not be credited with  
3 the 77 signatures that were circulated by Mr.  
4 Kanswal that were not already invalidated by the  
5 Registrar voters and her findings. So he  
6 circulated 133 signatures, I believe 56 of those  
7 were found to be invalid already as a result of  
8 her review of the sheets at issue. And so I  
9 would recommend that the other remaining  
10 signatures that were not invalidated not be  
11 credited to the petition, which would still leave  
12 him with a number of signatures sufficient for  
13 ballot access, I think 2,306 over, I believe.  
14 That would be my recommendation.

15 CHAIR THOMPSON: Thank you. I will  
16 adopt that recommendation and so move consistent  
17 with everything the General Council just said.  
18 I'll just comment briefly that, you know, the  
19 expert, Dr. Fenoff presented a compelling case  
20 that the circulator, Mr. Kanswal forged  
21 signatures. And that's a very serious matter as  
22 Mr. Abely has noted. And it's something we do

1 take seriously. We're taking it seriously by  
2 this motion to strike all the signatures he  
3 collected. And we of course have the authority  
4 to pursue that matter in a separate proceeding  
5 involving Mr. Kanswal. So you know, to be  
6 continued with respect to Mr. Kanswal.

7 But meantime with respect to the  
8 candidate, Mr. Jain, I fully credit the testimony  
9 of his three witnesses that they, you know,  
10 witnessed valid signatures in the field by  
11 registered voters. That they had no knowledge or  
12 involvement whatsoever in Mr. Kanswal's  
13 circulator activity. In other words, this has  
14 every appearance of Mr. Kanswal being a rogue  
15 circulator. And I don't -- I just don't accept  
16 any inference that this impugns the candidate,  
17 Mr. Jain or his campaign in any way.

18 So I want to make it clear that this  
19 is a rogue circulator. So those signatures are  
20 out. The rest of the signatures remain and the  
21 candidate is still 306 valid signatures above the  
22 required amount, so I agree that he should be

1 granted ballot access. So that explains my  
2 rationale. And I'll see if there's a motion. I  
3 think Board member Boggs is still here.

4 MEMBER BOGGS: I second.

5 CHAIR THOMPSON: We have to unmute  
6 J.C. Boggs.

7 MEMBER BOGGS: There we go. Thank  
8 you. Yes, second.

9 MS. STROUD: Okay. So purposes of the  
10 roll call vote. Mr. Chair.

11 CHAIR THOMPSON: The Chair votes aye.

12 MS. STROUD: Member Boggs.

13 MEMBER BOGGS: Aye.

14 MS. STROUD: And with that, Candidate  
15 Jain is allowed ballot access in the context at  
16 issue for the June 4th, 2024 ballot -- primary  
17 election ballot. And again, this matter may be  
18 appealed to the D.C. Court of Appeals within 3  
19 days of today as the Board has announced its  
20 decision on the record.

21 CHAIR THOMPSON: Yeah. And I also  
22 want to thank again, the challenger, Ms. Ragas

1 for bringing this -- and Council, Mr. Abely.  
2 These are important issues. We've learned a lot  
3 about this. You brought something very important  
4 to our attention. And as I mentioned, we'll look  
5 into further proceedings in that regard. So  
6 thank you so much for your time and your effort  
7 in this challenge.

8 Okay, that concludes our nominating  
9 petition challenges. We've got some other items  
10 on our agenda -- I guess the regular part of our  
11 meeting agenda. And I'll turn to Terri Stroud  
12 for that.

13 MS. STROUD: Yes. So the next item on  
14 the agenda is the poll matters. There were  
15 initially two, but one has been -- Oh, I'm sorry.  
16 My apologies. The next matter on the agenda is  
17 the matter of referrals concerning the double  
18 voting matters that the Board has been  
19 investigating with respect to the 2020 general  
20 election. And we had two matters that were going  
21 before the Board, but one, Duncan is being  
22 continued to the next board meeting, which will

1 take place in May. And so we only have today,  
2 the matter of in re Ahaghotu. And our senior  
3 staff attorney, Christine Pembroke will be  
4 presenting with respect to the Board -- to the  
5 Board with respect to this matter.

6 CHAIR THOMPSON: I just want to note  
7 for the record, I believe Board member Boggs  
8 needs to go, which is fine. Board member  
9 Greenfield is here, so we continue to have a  
10 quorum with respect to these remaining matters.

11 MS. PEMBROKE: Thank you, Mr. Chair.  
12 So as the General Council mentioned, this matter  
13 involves a suspected double voting or illegal  
14 voting. It came to our attention through a  
15 report that was generated as a result of the  
16 Board of Elections participation in an  
17 organization called ERIC in which states share  
18 information about voting activity. And ERIC  
19 produced a report as part of its voter  
20 participation project regarding the 2020 general  
21 election.

22 And that report indicated that an

1 individual named Kelechi Ahaghotu voted in D.C.  
2 and also voted in Texas. And as a result of  
3 that, we began to investigate how it came about  
4 that an individual had voted twice in the same  
5 election. That was a presidential election. So  
6 what we found was that Kelechi Ahaghotu -- and I  
7 interviewed her during a pre-hearing conference  
8 was living in Texas at the time and she denied  
9 voting in D.C. -- in the D.C. election, but she  
10 admitted voting in Texas. She stated that it  
11 would have been impossible for her to have voted  
12 in D.C. because she could not have traveled for  
13 various reasons to the District at that time.

14 I obtained the voting records from  
15 Fort Bend County, Texas, which is where she had  
16 voted and compared her signature there. She  
17 voted in-person, so she signed what we call a  
18 poll pad here. There was an electronic signature  
19 for her on file. I compared that signature to  
20 the signature for Kelechi Ahaghotu of the same  
21 date of birth in the D.C. records and the  
22 signatures did not match. Now I'm not a

1 handwriting expert, but it seemed on the face of  
2 them that the signatures were not a good match.

3 So the question then was who had voted  
4 in the District? And to discount the possibility  
5 of some mistake, I also looked for other  
6 Ahaghtou's who were living in D.C. and found that  
7 there were several Ahaghtou's living at the  
8 address for Ms. Kelechi Ahaghotu. She had lived  
9 here for a while and then moved to Texas. And  
10 there were also several Ahaghotu's living in a  
11 residence just around the corner from her  
12 residence. And so I looked at the signatures for  
13 those individuals and there were none that were a  
14 good match, but there was one that was somewhat  
15 close.

16 It turned out that, that individual  
17 was a sibling of Ms. Ahaghotu's. I spoke to him  
18 and he stated that he did not vote in the D.C.  
19 general election in 2020, that he was in Maryland  
20 at the time. He did note that the vote center  
21 where the ballot was cast in Ms. Ahaghotu's name  
22 was just around the corner from the residence,

1 which is also around the corner from the other  
2 residence where a number of Ahaghotu's lived.  
3 And he had some theories about how a ballot might  
4 have been erroneously cast in his sister's name,  
5 but we really at that point didn't have the  
6 capacity to pursue any of those leads.

7           So the issue before the Board at this  
8 point is whether or not based on these  
9 circumstances, the Board wants to refer the case  
10 to a prosecutorial authority for further  
11 investigation. And in connection with that, I  
12 would just note there have been a couple of cases  
13 the Board recently decided with similar types of  
14 situations. There was the Lynfield case where it  
15 appeared somebody had erroneously or fraudulently  
16 cast a ballot in Mr. Lynfield's name. And the  
17 pool of individuals that might have had access to  
18 that ballot was the pool of individuals who might  
19 have gotten into the mail room for a multi-unit  
20 apartment complex. And the Chair commented on  
21 the record that it would be really futile to  
22 refer the case because trying to find out who



1 cast that ballot four years ago would really be  
2 impossible. There were no cameras. It would be  
3 really impossible to find out who was involved in  
4 that.

5 And then there was another case where  
6 a ballot was cast in the name of a voter who was  
7 living in Florida and she denied having cast it.  
8 And the residence at which she had lived in D.C.  
9 previously and where the ballot was sent could  
10 have been accessed by her family members or a  
11 smaller group of individuals that her family  
12 members might have been aware of, so there was  
13 some prospect there that the culprit could be  
14 identified. And in that case, the Board did  
15 refer the matter to prosecutorial authorities.

16 This case has maybe a broader pool of  
17 possible culprits involved than the second  
18 matter, but certainly nowhere near the number  
19 that might have been involved with the Lynfield  
20 case, which involved an apartment building. So  
21 just to provide context to where in the past  
22 you've made the decision to refer or not to

1 refer, I would just point that out.

2 I would also ask if Ms. Ahaghotu or  
3 any of her family members are here. I know they  
4 did try and get on -- they did try and join this  
5 morning and they waited a long time for the case  
6 to be called, but they may have had to leave. So  
7 I don't know if we can see if they can maybe  
8 raise their hand. It looks like they were --  
9 they were not able to stay on the call. Ms.  
10 Ahaghotu did contact me the other day to say she  
11 was having some health issues and didn't think  
12 she could attend. And her brother was here  
13 apparently at the meeting earlier this morning  
14 and I just don't know if he could wait through  
15 all of these matters.

16 But depending on what the Board  
17 decides, one option would be to leave the record  
18 open if she wanted to make comments, depending on  
19 what your decision is today.

20 CHAIR THOMPSON: Well, it certainly  
21 sounds like there's zero suspicion of Ms.  
22 Ahaghotu and little to no suspicion of the

1 brother. You know, who else could have  
2 intercepted this mail ballot -- filled it out?

3 MS. STROUD: It wasn't a mail ballot.  
4 It was somebody who voted in-person.

5 CHAIR THOMPSON: Oh, in-person.

6 MS. STROUD: And that's partly why I  
7 was so concerned about the possibility of an  
8 innocent mistake because there were so many  
9 Ahaghotu's from that house that could have  
10 checked in. It was the Turkey Thicket vote  
11 center right around the corner from the house.  
12 So there might have been a mistake at check-in at  
13 the voting place.

14 CHAIR THOMPSON: They walk in, they  
15 give their name and address, and this is --

16 (Simultaneous speaking.)

17 MS. STROUD: Exactly.

18 CHAIR THOMPSON: So I mean personally  
19 I wouldn't take up DOJ resources on this, so my  
20 gut is to not refer it and let it rest. I mean,  
21 any other views on that?

22 MS. STROUD: No, that was going to be

1 my recommendation --

2 CHAIR THOMPSON: Okay.

3 MS. STROUD: -- in this regard with  
4 respect to this matter, Mr. Chair. And we've  
5 seen in other matters that may come before the  
6 Board that, that has been the case. Well, they  
7 actually won't come before the Board, but we've  
8 seen that, that has been the case with error at  
9 the site.

10 CHAIR THOMPSON: I'll just say no  
11 referral at this time. You know, maybe there  
12 will be additional information that would bring  
13 this back before the Board, but I don't know -- I  
14 don't know if I need to make a motion to not  
15 refer it --

16 MS. STROUD: I wouldn't.

17 CHAIR THOMPSON: -- but I'm just not.  
18 No motion to refer.

19 MS. STROUD: Yeah. I guess the motion  
20 would be to not.

21 CHAIR THOMPSON: Okay. I move that we  
22 don't refer this at this time.

1 MS. STROUD: Is there a second?

2 CHAIR THOMPSON: Is there a second  
3 from Board member Greenfield? Sorry, we've got  
4 to unmute you.

5 MEMBER GREENFIELD: Yes, I second.

6 MS. STROUD: Okay. And so the roll  
7 call vote would be the Chair has voted --

8 CHAIR THOMPSON: Chair votes aye.

9 MS. STROUD: Member Greenfield?

10 MEMBER GREENFIELD: Aye.

11 MS. STROUD: And thus the Board will  
12 not refer the matter to prosecutorial authorities  
13 at this time.

14 CHAIR THOMPSON: Thank you very much.

15 MS. STROUD: The next item on my  
16 agenda is rulemaking to Title 3 of the DCMR,  
17 titled "Elections and Ethics". The first  
18 rulemaking is a final rulemaking, the purpose of  
19 which is to conform the Board's regulations to  
20 the Elections Modernization Amendment Act of  
21 2022, provide for consistency between Board  
22 regulations, provide clarity regarding the

1 commencement of the appeal period for Board  
2 decisions, adopt rules of conduct for attendees  
3 at board meetings, and make other nonsubstantive  
4 housekeeping updates and corrections of  
5 typographical errors.

6 A second notice of proposed rulemaking  
7 with respect to this rulemaking was published in  
8 the DC Register on March 15th, 2024 at 71 DCR  
9 002912 for a 7-day comment and review period in  
10 accordance with 1 DCMR Section 309.5. The Board  
11 did receive comments from the public concerning  
12 the rulemaking that expressed concerns about its  
13 validity. And if the Board has any comments with  
14 respect to the comments that we received from two  
15 individuals, then we can -- Do you want to  
16 discuss them?

17 CHAIR THOMPSON: Yeah. When this  
18 rulemaking was originally proposed, it included a  
19 proposed Section 106 called "barring procedures".  
20 We certainly studied all of the comments that  
21 were submitted at that time. We heard from  
22 additional witnesses in our last meeting on this

1 subject -- three witnesses. And we then decided  
2 to exclude Section 106.

3 MS. STROUD: Yes.

4 CHAIR THOMPSON: It was for public  
5 notice. I have also studied very closely  
6 additional comments that have been submitted  
7 either through that public notice process or we  
8 also received some emails directly. I have been  
9 through them and carefully, you know, considered  
10 them. And at this time, I would move that we  
11 adopt the final rulemaking as we proposed and  
12 republish.

13 MS. STROUD: So with respect -- Is  
14 there a second?

15 MEMBER GREENFIELD: Yes, I'm sorry.  
16 There is a second.

17 MS. STROUD: And so with the roll call  
18 vote, the Chair votes --

19 CHAIR THOMPSON: The Chair votes aye.

20 MS. STROUD: And Member Greenfield?

21 MEMBER GREENFIELD: Aye.

22 MS. STROUD: And so with that, this

1 notice of final rulemaking will be sent to the DC  
2 Register for publication in upcoming edition of  
3 the DC Register. And we will submit that today  
4 for publication.

5 And the next rulemaking is a proposed  
6 rulemaking that will impact the District's voter  
7 registration agencies. One moment. The purpose  
8 of these amendment to Chapter 5 of the DCMR --  
9 titled through the DCMR is to clarify the  
10 obligations of the District's voter registration  
11 agencies under the National Voter Registration  
12 Act of 1993 or the NVRA and the enforcement  
13 process that applies in the event of  
14 noncompliance with the Act.

15 And so what the intention of these  
16 rules are is to ensure that not only the Board,  
17 but also the District's voter registration  
18 agencies who are either designated under the NVRA  
19 as voter registration agencies or have been  
20 designated by the mayor and the Council as voter  
21 registration agencies comply with monitoring  
22 requirements that have been set up too, so that



1 we are aware of the activity with respect to the  
2 voter registration at these various agencies  
3 around the District.

4 We have training -- a training program  
5 where site coordinators, agency heads come to  
6 training at our offices to become familiar with  
7 how to comply with the NVRA. And we ask that the  
8 agencies provide us with data on these activities  
9 in terms of how many voters vote, how many voters  
10 declined to register. And we also want to ensure  
11 that they are complying with all rules regarding  
12 the NVRA.

13 And so this just allows us to have  
14 some teeth with which to get, you know, the  
15 agencies to do their part. And it also makes  
16 clear that the Board's Executive Director who is  
17 the Chief Administrative Officer with respect to  
18 the NVRA for the District of Columbia, it allows  
19 her to bring civil action to Superior Court for  
20 declaratory or injunctive relief with respect to  
21 any noncompliance. And I mean that is something  
22 that is set forth in the statute. But we are

1 just promulgating regulations to ensure that  
2 everybody is meeting their obligations under the  
3 NVRA in terms of the voter registration agencies.  
4

5 And so as with every rulemaking, we'll  
6 publish this on the dedicated page on our website  
7 that pertains to rulemaking so that individuals  
8 can review the text of the rulemaking and review  
9 it so that they can provide comments. And so  
10 once this is published in the DC Register, there  
11 will be a 30-day review period during which  
12 people can review and provide comments. And so  
13 before the rulemaking is published in the DC  
14 Register, it will appear on our website. In  
15 fact, that will happen today.

16 And so with that, I ask for a motion  
17 to submit this proposed rulemaking to the DC  
18 Register for publication to begin that 30-day  
19 review period that we can hear from the public in  
20 terms of their opinions with respect to this  
21 rulemaking.

22 CHAIR THOMPSON: The Chair so moves.

1 MS. STROUD: Is there a second?

2 MEMBER GREENFIELD: Yes. I second.

3 MS. STROUD: Okay and we'll take the  
4 roll call vote. Mr. Chair?

5 CHAIR THOMPSON: The Chair votes aye.

6 MS. STROUD: Member Greenfield?

7 MEMBER GREENFIELD: Aye.

8 MS. STROUD: Thank you. And so this  
9 will be submitted for publication in the DC  
10 Register for a 30-day review and submit period.

11 MS. STROUD: Okay. And I think the  
12 final item in my report is litigation status. So  
13 we are actually reporting today that we're  
14 closing out three matters. The first one is  
15 Public Interest Legal Foundation v Monica Evans  
16 in her official capacity. This matter was filed  
17 in U.S. District Court for the District of  
18 Columbia under the NVRA. The suit alleged that  
19 the Board was out of compliance with NVRA's  
20 public records provision. PILF requested records  
21 from the Board that were denied due to the  
22 requested records not being subject to the public

1 disclosure. On February 20th, 2024, the parties  
2 filed a joint proposed order to settle the  
3 matter. And that settlement was accepted by the  
4 Court. And so this matter is closed for purposes  
5 of reporting.

6 Stacia Hall v the Board is another  
7 case that has been resolved at the U.S. District  
8 Court level. This was a challenge to legislation  
9 that allowed non-citizens to vote in local  
10 elections. On March 20th, the Court granted the  
11 Board's motion to dismiss, finding that  
12 Plaintiff's lack standing to assert their claims.  
13 This matter is subject to appeal, so we'll see  
14 what happens, but for now it's closed in terms of  
15 the District Court.

16 The third matter that's being closed  
17 out is DC Democratic Party , et al., v. Muriel  
18 Bowser. This was a challenge -- And this is in  
19 the DC Superior Court. This is a challenge to  
20 the Board's acceptance of Initiative Measure 83.  
21 On March 28th, the DC Superior Court granted the  
22 Board's motion to dismiss ruling that the

1 challenge was not timely filed.

2           The fourth matter, which is ongoing is  
3 Dr. Shiva Ayyaurai v Merrick Garland and the  
4 Board. The Plaintiff in this matter sought a  
5 declaration that he was eligible to serve as  
6 President -- that he is eligible to serve  
7 notwithstanding the Constitution's Natural Borne  
8 Citizens Clause. The Plaintiff was born in  
9 India. Or alternatively that this qualification  
10 matter presents a nonjusticible political issue  
11 for voters.

12           The most recent activity in this case  
13 is that motions to dismiss were filed by the  
14 District and the Board and Defendant Garland.  
15 The District Court Judge ordered that the  
16 Plaintiff respond to the motions to dismiss by  
17 March 22nd. The Plaintiff's response was filed  
18 on March 21st. On March 27th, the Justice  
19 Department on behalf of Defendant Garland sought  
20 an extension of time in which to reply.

21           The fifth matter is a matter having to  
22 do with an election worker who filed a matter

1 that was previously dismissed in DC Superior  
2 Court without prejudice. This Plaintiff is  
3 seeking \$10,000 in damages based on a claim  
4 concerning an overdraft cost to his bank account  
5 when a stop payment was imposed on a \$500 check  
6 issued for his service as an election worker.  
7 The complaint was dismissed -- all claims in this  
8 complaint were dismissed except for the claim  
9 dealing with liquidated damages for breach of  
10 contract. An answer is due this coming Monday  
11 with respect to that claim. And the Court has  
12 set a status conference for May 31st, 2024.

13 And the final matter is John Page v  
14 Monica Evans and that is in the U.S. District  
15 Court. On March 8th, the Plaintiff filed a  
16 complaint that seeks to prevent Donald Trump from  
17 appearing on the ballot. The complaint alleges  
18 that the Supreme Court's recent decision in Trump  
19 v Anderson does not apply to the District of  
20 Columbia because that decision pertains to the  
21 State's rights under the 14th Amendment and the  
22 Plaintiff is saying that D.C. is not a state. So

1 that opinion, which basically said that the  
2 states could not take action to prevent the  
3 President from ballot access with respect to any  
4 role he might have played on January 6th. That  
5 it's not within the State's purview to deny  
6 ballot access to the President. That, that is a  
7 matter that is left to Congress. And the OAG is  
8 filing a motion to dismiss on the Board's behalf  
9 in this matter.

10 And that concludes litigation status  
11 and that concludes my entire report.

12 CHAIR THOMPSON: Thank you. I don't  
13 know if that's a new record for the length of  
14 General Council's report. We'll turn then to the  
15 Executive Director's report. Thank you for  
16 sitting patiently through all this, Monica Evans.

17 MS. EVANS: Thank you and good  
18 afternoon. Executive Director's report for March  
19 2024. March engagements: On March 6th, the  
20 Journal of National Security, Law, and Policy  
21 held a symposium at Georgetown University Law  
22 Center. I was asked to be a panelist. We

1 discussed lessons learned and challenges to  
2 election integrity as a result of the 2020  
3 election cycle.

4 On March 18th, the Council's Committee  
5 on Executive Administration and Labor convened a  
6 public round table with DC BOE to discuss 2024  
7 election cycle readiness. Specifically, we  
8 talked about communications, election worker  
9 recruitment and training, equipment purchases,  
10 and staff vacancies. We were able to convey key  
11 dates and timelines leading up to the June  
12 primary.

13 Precinct mapping: As required by our  
14 regulations, DC BOE looked at our current  
15 precinct boundaries to divide the District into  
16 appropriate voting precincts based on our  
17 election boards. During the 2024 election cycle,  
18 we will keep the current precinct assignments  
19 with modifications to address precincts that  
20 cross ward boundaries.

21 ANC vacancies: We currently have 14  
22 ANC vacancies for the 2023-2025 term. These



1 positions are in different stages of being filled  
2 after candidate filing requirements are met in  
3 open vote of registered voters of the affected  
4 SMD will be held during regularly scheduled ANC  
5 meetings.

6 LIS maintenance: We are now in the  
7 90-day blackout window before the June primary.  
8 Therefore we will not be removing any additional  
9 voters from our registry as a result of LIS  
10 maintenance. During the 2023 LIS maintenance  
11 process, we removed 108,698 individuals from our  
12 voter registry and moved another 95,220 active  
13 voters to an inactive status. As of March 31, we  
14 have 451,499 active voters. We are still in the  
15 process of updating addresses and validating new  
16 addresses within D.C. Our communications and  
17 outreach divisions are continuing their work to  
18 establish partnerships with local universities to  
19 aid and maintain the accuracy of our voter roll.  
20 We have developed a flyer that the Voter  
21 Education and Outreach Division is using during  
22 their outreach efforts.

1                   Voter registration rolls: In March,  
2 we registered 2,884 new voters and process 2,010  
3 registration changes. In total, we prepared  
4 4,894 voter registration cards to be mailed.  
5 Additionally, 50 registered voters moved out of  
6 D.C., 209 voters cancelled their D.C.  
7 registrations and registered with other  
8 jurisdictions, and 1,175 voters registered in  
9 D.C. after cancelling their registrations in  
10 other states. We are continuing to register  
11 voters using our website portal. To date, we  
12 have processed 44,898 applications using the  
13 portal. These include new voter registrations  
14 and updates to existing registrations.

15                   Under the Local Resident Voting Rights  
16 Amendment Act, we are also registering  
17 non-citizens to vote in local elections using the  
18 database solution developed by VR Systems. We  
19 have deployed online registration. And  
20 non-citizens may also register to vote in our  
21 office using paper registration form.  
22 Translations are available in Spanish,

1 Vietnamese, Chinese, Korean, Amharic, and French.  
2 We have developed a flyer to assist with our  
3 outreach efforts and we are planning a town hall.  
4 In March, we registered 122 non-citizens to vote  
5 in local elections. Total non-citizen  
6 registration is at 208.

7 Media information requests: As  
8 mentioned last month, we have developed a policy  
9 regarding media and information requests that we  
10 receive. This is in effort to provide  
11 transparency and convey the process to the  
12 public. Essentially, we prefer that public  
13 information requests and media questions be  
14 submitted in writing. Requests are most often  
15 answered in the order in which they are received.  
16 And those with immediate deadlines from official  
17 media publications may be considered higher  
18 priority. Response time and answers available  
19 for public release may vary upon competing  
20 deadlines, external and internal factors, and  
21 readily available information. Opinions or  
22 comments that require information from DC BOE

1 leadership may require additional time.

2 In addition, inquiries may be  
3 converted to a FOYA request as needed or as  
4 determined by the FOYA officer and/or  
5 communications director. The requester will be  
6 notified if such need arises and FOYA deadlines  
7 will apply.

8 2024 election cycle year planning:  
9 Our draft primary and general election calendars  
10 for the 2024 election cycle are posted on our  
11 website. Our vote center and mail ballot drop  
12 box locations are also posted. The last day to  
13 submit candidate nominating petitions was March  
14 6th. And as we have heard, we are currently in  
15 the nominating petition challenge period.

16 2024 voting options: During the 2024  
17 election cycle, all registered DC voters will  
18 receive a mail-in ballot. Voters may vote by  
19 mail, in-person, or by depositing a ballot in a  
20 drop box. BOE will have 55 mail ballot drop  
21 boxes that will be placed throughout the city.  
22 We will also operate 25 early vote centers and a

1 total of 75 election day vote centers. We are  
2 working with MPD to provide security and the  
3 Department of Public Works to place the mail  
4 ballot drop boxes. We are working with our mail  
5 house to begin mailing ballots during the week of  
6 April 29th.

7           Accessibility: We are conducting an  
8 accessibility survey of all 2024 vote centers  
9 before the primary election to ensure they are  
10 accessible. We have partnered with Disability  
11 Rights at University of Legal Services and the  
12 Office of Disability Rights to conduct surveys.  
13 As is our practice, we will also work with DGS to  
14 ensure vote centers are structurally accessible.  
15 Our accessibility coordinator has started  
16 conducting these visits.

17           Democracy Live: We have a meeting with  
18 Democracy Live to discuss the implementation of  
19 the electronic OmniBallot returns for ADA and --  
20 voters. This portal will enable qualified voters  
21 to submit their ballots electronically. These  
22 voters will receive a unique pin code for portal

1 access, safeguarding the integrity of the voting  
2 process. The system is slated to go live no later  
3 than April 19th. We are also working with OCTO  
4 GIS to update the ARC GIS platform with the most  
5 recent data on vote center and mail ballot drop  
6 box locations. The where can I vote locator tool  
7 provides a user friendly interface where  
8 individuals can input any address and immediately  
9 find information regarding the closest vote  
10 center or mail ballot drop box location within  
11 the city. This information is available on our  
12 website under the voter section.

13 Election Worker Division: The  
14 Election Worker Training Division is actively  
15 recruiting and training election workers. During  
16 the 2024 election cycle, our goal is to recruit  
17 and train between 2,000 and 2,500 election  
18 workers. We will deploy approximately 1,700  
19 election workers to serve at both center.  
20 Election worker training began on Tuesday, March  
21 12th, 2024. As of March 30, we have trained 841  
22 election workers.

1                   Voter education and outreach: During  
2 the month of March, the Voter Education and  
3 Outreach Division conducted 41 outreach events on  
4 behalf of the Agency. Events included outreach  
5 to the DC Department of Employment Services,  
6 George Washington University's GW Latina Voice,  
7 the DC Bar Pro Bono Center, and American  
8 University Athletics.

9                   DC BOE also celebrated Civic Learning  
10 Week from March 11th through March 15th. The  
11 purpose of Civic Learning Week is to focus on the  
12 importance of becoming active in civic engagement  
13 and democracy. DC BOE had an opportunity to  
14 visit schools in Wards 5 and 6. Students  
15 completed election worker applications and tested  
16 their voter registration knowledge.

17                   Restore The Vote: The Restore the  
18 Vote Division held five outreach events in March.  
19 DC BOE partnered with Court Services and Offender  
20 Supervision Agency or CSOSA for three of the  
21 events as we addressed re-entering citizens. We  
22 participated in events with the Federal Pre-trial

1 Services Agency and the Federal Correction  
2 Institution in Hazleton, West Virginia. The even  
3 in Hazleton was the second event of its kind that  
4 tested the viability of future WebEx meetings  
5 with those incarcerated in the Federal Bureau of  
6 Prisons. Discussions have begun regarding adding  
7 additional events.

8 On March 25th, 2024, DC BOE met with  
9 DataNet to discuss a home page redesign. DataNet  
10 presented a visual design and shared a PDF file  
11 containing the proposed layout, which is  
12 currently under review by our Communications  
13 Team. And that concludes my report.

14 CHAIR THOMPSON: All right. Thank you  
15 very much. Next, we'll hear the campaign finance  
16 report. I think General Counsel, William Sanford  
17 is going to deliver that in lieu of Director  
18 Collier Montgomery and then also give us his own  
19 report. Welcome.

20 MR. SANFORD: Good afternoon. Good  
21 afternoon. Is it on? I believe so. Good  
22 afternoon. Good afternoon, Mr. Chairman and



1 distinguished Boardmember Greenfield. William  
2 Sanford representing the Office of Campaign  
3 Finance today.

4 CHAIR THOMPSON: Pull the mic a little  
5 closer.

6 MR. SANFORD: How's this, sir?

7 CHAIR THOMPSON: Yeah.

8 MR. SANFORD: Okay. I will present  
9 the Director's Report. I will summarize the  
10 report. The entire report will be posted at the  
11 Office of Campaign Finance website.

12 On March 14th, 2024, the Office of  
13 Campaign Finance partnered with the District of  
14 Columbia Public Library and joined other District  
15 agencies to participate in the Civic Fair. On  
16 March 27, 2024, the Office of Campaign Finance  
17 presented at a meeting of Advisory Neighborhood  
18 Commission Single Member District 1E07 and shared  
19 information regarding campaign finance programs.

20 In the Fair Elections Division, as of  
21 today's date, there are 14 certified  
22 participating candidates in the Fair Elections

1 Program. And the Office of Campaign Finance has  
2 authorized the disbursement of a total sum of  
3 \$1,782,253.95 from the Fair Elections fund in  
4 base amounts and matching payments. During the  
5 month of March 2024, the Fair Elections Division  
6 completed 32 desk reviews and issued 11 requests  
7 for additional information letters.

8 As of March 2024, the total sum of  
9 871,502.58 has been remitted for deposit in the  
10 Fair Elections fund. During the month of March,  
11 the Office of Campaign Finance received  
12 remissions from the following former candidates:  
13 Erin for DC principal campaign committee remitted  
14 \$68,215.85 on March 22nd, 2024. Carisa Stanley  
15 Beatty, principal campaign committee remitted  
16 \$79.53 on March 25th, 2024.

17 During the month of March 2024, the  
18 Office of Campaign Finance issued 42  
19 post-election forwarded letters for the June '22  
20 primary election and on November 8th, 2022  
21 general election. Orders were initiated on March  
22 13, 2023 and March 24, 2023. Today, Fair

1 Elections has issued 21 preliminary statements of  
2 all the findings and 21 final audit reports for  
3 the 2022 election cycle.

4 In the Public Information and Records  
5 Management Division, March 10th was required  
6 filing day. And in the traditional candidates  
7 committee area, there was a total of 17 required  
8 filers, 14 timely filed, 3 failed to file, and 3  
9 were referred to the Office of the General  
10 Counsel.

11 In the area of Political Actions  
12 Committee, there was a total of 43 required  
13 filers, 33 timely filed, 1 requested an  
14 extension, which was granted, and 9 failed to  
15 file and were referred to the Office of General  
16 Counsel.

17 And now with regard to Independent  
18 Expenditure Committees, the total number of  
19 required filers filed timely. Regarding the Fair  
20 Elections Committee for March 10 required report,  
21 a total number of 22 filers were required to file  
22 reports, 19 timely filed, 3 failed to file their

1 reports and were referred to the Office of the  
2 General Counsel.

3           During the month of March 8th, new  
4 candidates registered for the 2024 primary  
5 election and they included the following:  
6 Yolanda Fields registered on March 3rd, 2024.  
7 David Gatling registered on March 11th, 2024.  
8 Vilareal Johnson registered on March 14th, 2024.  
9 And they all registered for the Ward 7 primary  
10 election.

11           Michael Reese registered on March 7th,  
12 2024. Nathan Derenge registered on March 7th,  
13 2024. Trayon White registered on March 28th,  
14 2024. And they all registered for the Ward 8  
15 primary election.

16           On March 6th, 2024, Quinn Nii  
17 registered for the Office of U.S. Shadow Senator  
18 primary election. And on March 4th, Joanne Young  
19 registered for the Republican National Committee  
20 primary election.

21           During the month of March 2024, two  
22 new candidates registered for the general

1 election and they were the following: Sherice  
2 Muhammad registered on March 24th, 2024 for DC  
3 State Board of Education Ward 7 general election.  
4 And LaJoy Johnson registered on March 6th, 2024  
5 for the Office of State Board of Education Ward  
6 8.

7 In the Report's Analysis and Audit  
8 Division, that division conducted 36 desk reviews  
9 of political action committees. One desk review  
10 of Constituents Services fund, 28 desk reviews of  
11 principal campaign committees, 8 desk reviews of  
12 Independent Expenditure Committees, 8 desk  
13 reviews of Initiative Recall Committees, issued  
14 11 audit letters and requests for additional  
15 information and referred 3 cases to the Office of  
16 the General Counsel.

17 During the month of March 2024, the  
18 Report Analysis Division issued periodic random  
19 letters to the following committees: Ward 3  
20 Democratic Committee and the documents were  
21 received on March 25th. Metro Washington DC PAC  
22 and the documents were received on the 22nd of

1 March 2024.

2           During the month of March the Report's  
3 Analysis and Audit Division also issued random  
4 audit letters to the following committees:

5 Friends of Ebbon Allen Ward 7. The notification  
6 letter was issued on the 18th of March 2024. And  
7 the Committee to Elect Roscoe Grant Ward 7, audit  
8 notification letter was issued on March 18, 2024.

9           In the General Counsel's Division,  
10 during the month of March 2024, the Office of the  
11 General Counsel received 16 referrals, completed  
12 16 informal hearings, and issued 19 orders, which  
13 included the following: Two orders to vacate were  
14 issued. Two orders in which a total of \$18,550  
15 in fines was imposed were issued. And 15 orders  
16 in which no fines were imposed -- were issued.

17           During the month of March 2024, the  
18 Office of the General Counsel imposed fines  
19 against the following respondents: A fine of  
20 \$450 was imposed against the Service Employees  
21 International Union PAC and a fine of \$18,100 was  
22 imposed against the Trayon for Mayor principal

1 campaign committee.

2           During the month of March 2024, the  
3 Office of the General Counsel had maintained to  
4 open investigations and they include the  
5 following: Docket No. OCFPI-2023-004. It was  
6 docketed on the 29th of December. Complainant  
7 was Edward Hanlon. The respondent was Brooke  
8 Pinto and the Committee to Elect Brooke Pinto  
9 2024. The allegation was use of Government  
10 resources for campaign-related purposes. The  
11 order in this matter was issued on March 22nd,  
12 2024.

13           The second matter was OCFPI-2023-005,  
14 docketed on the 29th of December 2023.  
15 Complainant again was Edward Hanlon, respondent  
16 again Brooke Pinto and the Committee to Reelect  
17 Brooke Pinto 2024. The allegation again was use  
18 of Government resources for campaign-related  
19 purposes. The order in this matter was issued on  
20 March 25th, 2024.

21           During the month of March 2024, there  
22 were no requests for interpretive opinions and no

1 show cause proceedings were conducted. And that  
2 should conclude both the Director's report and  
3 the Office of the General Report. The contents  
4 of both reports will be posted at the Office of  
5 Campaign Finance website by the close of business  
6 on today's date, the 5th of April 2024. And that  
7 concludes our report.

8 CHAIR THOMPSON: Thank you so much and  
9 a continued thank you to the OCF staff, as well  
10 as the BOE staff as we head towards the final two  
11 months before the primary. Much appreciated.

12 With that, our meeting will conclude  
13 with some open public comment. And we'll ask  
14 people to raise their hand by -- with their Zoom  
15 hands. When I call on folks, if you could start  
16 by stating your name and your address. And we'll  
17 go by a three minute clock if you could make all  
18 your comments within those three minutes. And  
19 then I'll see if anybody would like to respond.  
20 And so we're looking now to see if any hands are  
21 up and I'm not seeing any. I'll just give it a  
22 second.



1           We did get some emails requesting to  
2 speak and I see them present. I think Ms. Brazil  
3 sent us an email requesting to speak, so I want  
4 to be clear on the record that I'm giving her  
5 that opportunity. I don't see a hand raised.  
6 Yeah, so it's been a long meeting. So I don't  
7 know, you know, maybe folks didn't get a chance  
8 to stick around, but we'll be back next month for  
9 public comment as well.

10           So with that, I will move that we  
11 adjourn.

12           MEMBER GREENFIELD: I will second.

13           CHAIR THOMPSON: All right. Chair  
14 votes aye. All in favor?

15           MS. STROUD: Member Greenfield?

16           CHAIR THOMPSON: All in favor?

17           MEMBER GREENFIELD: Aye.

18           CHAIR THOMPSON: Thank you everybody  
19 for all your patience today. We really  
20 appreciate it.

21           (Whereupon, the above-entitled matter  
22 went off the record at 1:34 p.m.)

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This is to certify that the foregoing transcript

In the matter of: Board Meeting

Before: DC BOE

Date: 04-05-24

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.



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