

January 8, 2024

TO: Milwaukee Election Commissioners

FROM: Claire Woodall, Executive Director

RE: Burgelis vs. Zepnick

1. Mr. Burgelis filed a challenge to Mr. Zepnick's nomination papers on Friday, January 5, 2024 at 4:51pm. This challenge falls within the allowable statutory time frame, conforms to the verified complaint standards, and alleges specific challenges to Mr. Zepnick's nomination papers under Wisconsin Statutes in Chapter 8.
2. To be considered by the Commission, a complaint/challenge must establish probable cause to believe that a violation of election law has occurred. The "probable cause" requirement means that a complaint must allege facts, which, if true, would constitute a violation of Wisconsin's elections (not campaign finance) statutes. In the case of challenges to nomination papers, the complaint must allege a violation of Wis. Stats. ch.8, the statutory chapter governing nominations for the Spring ballot.
3. Staff believe that while Burgelis asserts violations of election law, he does not provide any clear and convincing evidence or probable cause to support his assertions.
4. Burgelis purports that Zepnick does not live at 4702B W Cleveland Avenue. However, in his own statement, he has seen Zepnick in front of the apartment carrying mail in the early morning hours. Staff believe this assertion supports that Zepnick does actually reside at the Cleveland address and is receiving mail at that address.
5. Zepnick amended his Campaign Finance Registration Statement on November 10, 2023, indicating a change in his address from 3038 S 38<sup>th</sup> St to 4702B W. Cleveland Avenue.
6. Nomination papers were circulated beginning December 1, 2023, after Zepnick had filed the change of address for his campaign committee and his candidate address.
7. On December 7, 2023, Zepnick filed his Declaration of Candidacy where he also listed his municipality for voting purposes as 4702B W Cleveland Avenue. While he did not update his voter registration record at that time, there are no voter registration requirements associated with filing candidate paperwork.
8. On December 27, 2023, the Wisconsin Election Commission flagged Zepnick's voter registration as being on the ERIC – Movers List. This list is generated from USPS and WI DMV records and identifies the voter registration records that are likely out-of-date due to changes in address. These lists are generated quarterly and notices are mailed to voters flagging that we believe they have moved and they should update their voter registration if they no longer live at the address. The flagging of Zepnick's address in the 4<sup>th</sup> Quarter ERIC Mailing, but not in the 3<sup>rd</sup> quarter mailing, further suggests a recent change of address consistent with Zepnick's candidate paperwork.

9. Burgelis provided a tax bill for 4703 W Jackson Park Dr, which appears to be part of the property that Zepnick resides at. It is a multi-unit building and the tax bill only proves that someone other than Zepnick owns the property.
10. On page 22, Burgelis provides a comprehensive report that appears to have been generated by an investigation company. The first address listed for Zepnick on this report is 4702B W Cleveland Ave. It shows dates where he was associated with this address as 05/2023-01/01/2024. It shows his associated with 3038 S 38<sup>th</sup> St was from 12/2019 – 10/2023. Again, the dates of association with the 38<sup>th</sup> St address are consistent with Zepnick's paperwork filings.
11. Zepnick filed a verified response via email on Saturday, January 6, 2024. In this response, Zepnick provided an affidavit of a neighbor, redacted bank statement, letter from a banking institution, USPS change of address confirmation, and a signed lease that was effective 10/1/2023.
12. No evidence has been presented that creates probable cause under the clear and convincing standard that Josh Zepnick has provided a false or fraudulent address on his nomination paper headers, his circulator certifications, or his declaration of candidacy.

Respectfully submitted,

Claire Woodall  
Executive Director