FILED
13th JUDICIAL DISTRICT COURT
Sandoval County
3/16/2022 5:34 PM
AUDREY GARCIA
CLERK OF THE COURT

STATE OF NEW MEXICO COUNTY OF SANDOVAL THIRTEENTH JUDICIAL DISTRICT COURT

JOHN BOTTER,

Plaintiff,

vs.

Case No. _ D-1329-CV-2022-00270 Eichwald, George P.

ANNE BRADY- ROMERO in her Capacity as the Sandoval County Clerk, and MICHELLE ELEANOR SANDOVAL, a real party in interest,

Defendants.

COMPLAINT CHALLENGING NOMINATING PETITIONS FOR MICHELLE ELEANOR SANDOVAL

Plaintiff John Botter, by and through his counsel Western Agriculture, Resource and Business Advocates, LLP (A. Blair Dunn, Esq. and Jared R. Vander Dussen, Esq.), pursuant to NMSA 1978, Sections 1-1-7.2, 1-8-33, 1-8-35(A), and Rule 1-096 NMRA, brings this action to challenge certain nominating petition signatures filed by Michelle Eleanor Sandoval for the office of New Mexico State Representative for the 57th District. Plaintiff seeks an Order of this Court declaring Michelle Eleanor Sandoval declaration of candidacy void and barring the name of Michelle Eleanor Sandoval from being placed on the Primary Election ballot of the Democrat Party for the office of New Mexico State Representative for the 57th District.

PARTIES AND PROCEDURE

- This action is filed timely in accordance with NMSA 1978, Section 1-8-35 and Rule
 1-096 NMRA.
 - 2. This action is proper in accordance with NMSA, Sections 1-1-7.2, 1-8-33, and 1-8-

35 as any voter may challenge the candidacy of any person seeking to appear on the ballot for noncompliance with nominating procedures.

- 3. Plaintiff John Botter is a registered voter in Sandoval County, New Mexico and a resident of the State of New Mexico.
- 4. Defendant Michelle Eleanor Sandoval resides at 656 Valley Meadows Dr. NE, Rio Rancho, New Mexico 87114 as shown by her Declaration of Candidacy. She is a resident of Sandoval County, New Mexico and seeks to be a candidate for the office of New Mexico State Representative for the 57th District for the Democrat Primary in June 2022.
- 5. County Clerk Anne Brady Romero is the duly elected and qualified Sandoval County Clerk with an office in Bernalillo, New Mexico. In this capacity, County Clerk Brady Romero serves as the filing officer for the office of New Mexico State Representative for the 57th District and serves as agent for service of process for nominating petition challenges and has the authority for placing names on the primary election ballot for the office of New Mexico State Representative for the 57th District candidates.
- 6. As prescribed by the 2022 Election Handbook of the State of New Mexico 1-5-5.9, County Clerk Anne Brady Romero is the "proper filing officer."
- 7. Venue is proper in Sandoval County because House District 57 is completely within Sandoval County and the County Clerk for Sandoval is located within the County.

NOMINATING PETITION REQUIREMENTS

8. NMSA 1978, Section 1-8-30 (2011) requires a candidate to file a nominating petition "on the form prescribed by law[,]" which requires the candidate to include (1) the party affiliation of the voters signing the petition; (2) the candidate's name; (3) the candidates

address;(4) the candidate's county of residence; (5) the office the candidate seeks; and (6) the date of the primary election.

- 9. The 2022 Candidate Information Guide issued by Secretary Toulouse Oliver to all candidates states: "Copied, reproduced, or electronically stored petitions are not counted by filing officer and signatures contained on those petitions are not counted toward the number of required signatures." (Page 32)
- 10. The Candidate Guide further states: "The total number of petition forms must contain enough valid signatures to qualify the candidate for the ballot." (Page 32).
- 11. NMSA 1978, Section 1-1-7.2(C) provides that a signature shall be counted on a nominating petition unless there is evidence presented that the person signing:
 - a. is not a voter of the state, district, county or area to be represented by the office for which the person seeking the nomination is a candidate;
 - b. has signed more than one petition for the same office, except as provided in Subsection A of this section, and if the person has signed more than one petition for the same office and in the same election cycle, none of the challenged signatures from that person shall count toward the total number of signatures required for any candidate for that office;
 - c. has signed one petition more than once, in which case only one signature from that person shall count toward the total number of signatures required for that candidate for office;
 - d. in a primary election, is not of the same political party as the candidate named in the nominating petition as shown by the signer's certificate of registration; or
 - e. is not the person whose name appears on the nominating petition.
- 12. Under NMSA 1978, Section 1-8-33 (2008) and the 2022 Candidate Information Guide, to appear as a candidate for the office of New Mexico State Representative for the 57th

District for the Democrat Primary Michelle Eleanor Sandoval was required to file a nominating petition containing the valid signatures of at least 39 qualified, Democrat registered voters within the 57th House District for the State of New Mexico.

13. Under the 2022 Candidate Information Guide:

"the candidate must assure that signatures are collected from qualified, registered voters in the appropriate district or county, belonging to the candidate's political party. Voters signing petitions must sign the petition with their usual signature, print their name as registered, print their address as registered, and provide their city and/or zip code. Signatures lacking any of these items are not counted. Voters may sign only one petition per eligible office. Petition signatures must be legible and completed in blue or black ink and cannot be completed electronically."

DEFENDANT SANDOVAL FAILS TO MEET THE NOMINATING PETITION REQUIREMENTS AS ONLY THIRTY-THREE OF THE REQUIED THIRTY-NINE SIGNATURES ARE VALID.

- 14. Defendant Sandoval submitted six nominating petition sheets to the Office of the New Mexico Secretary of State containing a total of fifty-four signatures. See 2022 Petition Receipt Exhibit A).
- 15. Twenty-two (22) of Defendant Sandoval's nominating petition signatures are not valid under Section 1-1-7.2(C) because these signatures: (1) are not from individuals who are registered to vote in the State of New Mexico in New Mexico House District 57; (2) are from registered voters who are not members of the Democrat party within House District 57; (3) are individuals who are not registered at the address as listed on Defendant Sandoval's petition sheets.

VOTER ELIGIBILITY PROCESS

16. Plaintiff, through his witness, Megan McMillan performed a search of the signatories on Defendant Sandoval's petitions. The search was conducted between March 11, 2022 and March 13, 2022 using information from the Secretary of State's database.

17. As required by Rule 1-096 NMRA, copies of Defendant Sandoval's nominating petitions are attached here to as Exhibit A.

INELIGIBLE SIGNATURES

- 18. As used in the New Mexico Election Code, "voter" is any qualified elector or federal qualified elector who is registered under the provisions of the Election Code. NMSA 1978, § 1-1-5 (2015).
- 19. Under Section 1-1-7.2(C)(1), a signature shall not be counted if there is evidence that the person signing "is not a voter of the state, district, county or area to be represented by the office for which the person seeking the nomination is a candidate."
- 20. Under Section 1-1-7.2(C)(4), a signature shall not be counted if there is evidence that the person signing "is not of the same political party as the candidate named in the nominating petition as shown by the signer's certificate of registration."
- 21. The searches resulted in a finding that twenty-two(22) of the signatures are not qualified voters in House District 57 The following twenty-two (22) signatures are invalid based upon the following:
 - A. Atsu Atitsogbui (page 1, line 4) is not a registered Democrat within New Mexico House District 57.
 - B. Samantha Baca (page 3, line 1) is not a registered voter in the State of New Mexico no in New Mexico House District 57.
 - C. Aaron Epstein (page 3, line 2) is not a registered Democrat within New Mexico House District 57.
 - D. Mariela Eribes (page 5, line 1) is not a registered voter in the State of New Mexico in New Mexico House District 57.
 - E. Louis Escobedo (page 1, line 1) is not a registered Democrat within New Mexico House District 57.

- F. Arlene Francisco (page 1, line 5) is not a registered Democrat within New Mexico House District 57.
- G. Stephen Garcia (page 5, line 4) is not a registered Democrat within New Mexico House District 57.
- H. Krystal Henderson (page 1, line 2) is not a registered voter in the State of New Mexico in New Mexico House District 57.
- I. Jared Kirtley (page 5, line 5) is not a registered voter at the address stated on Defendant's petition sheet.
- J. Ignacio Large (page 3, line 4) is not a registered voter in the State of New Mexico in New Mexico House District 57.
- K. Roger Lucero (page 3, line 10) is not a registered voter in the State of New Mexico in New Mexico House District 57.
- L. Lorayn Ortiz (page 1, line 7) is not a registered voter in the State of New Mexico in New Mexico House District 57.
- M. Tayler Peters (page 6, line 2) is not a registered voter in the State of New Mexico in New Mexico House District 57.
- N. Carlos Ruiz (page 1, line 20) is not registered at the address stated in the Defendant's petition.
- O. Steven Sandoval (page 1, line 15) is not a registered Democrat within New Mexico House District 57.
- P. Stephanie Sandoval (page 5, line 6) is not a registered Democrat within New Mexico House District 57.
- Q. Reese Sittogan (page 6, line 1) is not a registered voter in the State of New Mexico in New Mexico House District 57.
- R. Jeffery Smith (page 3, line 7) is not a registered Democrat within New Mexico House District 57.
- S. Nick Vainia (page 1, line 10) is not a registered voter in the State of New Mexico in New Mexico House District 57.
- T. Tifinie Van Eckhoutte (page 3, line 6) is not a registered voter in the State of New Mexico in New Mexico House District 57.
- U. Ericka Van Eckhoutte (page 3, line 5) is not a registered voter in the State of New

Mexico in New Mexico House District 57.

V. Angel Vanchaik (page 5, line 2) is not registered at the address stated in the Defendant's petition.

Conclusion

Twenty-two (22) of Defendant Sandoval total nominating petition signatures are not valid. Defendant Sandoval's nominating petitions contain Thirty- two (32) valid signatures, which is seven (7) less signatures than the number required by NMSA 1978, Section 1-8-33(C). 39. Pursuant to Rule 1-096 NMRA, NMSA 1978 Sections 1-1-7.2, 1-8-30, 1-8-33, and 1-8-35(A), Defendant Sandoval did not obtain the necessary number of valid signatures for his nominating petition.

WHEREFORE, Plaintiff requests that the Court invalidate the nominating petition signatures challenged herein and find that the declaration of candidacy filed by Defendant Sandoval is void, thereby preventing the Secretary of State, as chief election officer from placing Defendant Sandoval's name on the Democratic primary election ballot for the office of New Mexico State Representative for the 57th District and grant such further relief as the Court deems just and proper.

Respectfully submitted,

WESTERN AGRICULTURE, RESOURCE AND BUSINESS ADVOCATES, LLP By: /s/ A. Blair Dunn
A. Blair Dunn, Esq.
abdunn@ablairdunn-esq.com
Jared R. Vander Dussen
Warba.llp.jared@gmail.com
Western Agriculture, Resource
and Business Advocates, LLP
400 Gold Ave SW, Suite 1000
Albuquerque, NM 87102
(505)750-3060

CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing on March 16, 2022 via the New Mexico E-Filing System causing all parties of record to be served via electronic means.

/s/ A. Blair Dunn A. Blair Dunn, Esq.

MGR 8 22 PH 2:40

2:40 EXHIBIT A 2022 PRIMARY ELECTION NOMINATING PETITION FOR THE OFFICE OF NEW MEXICO STATE REPRESENTATIVE

	I, the undersigned, a registered voter	of New Mexico, and a member of	the Democratic	party, hereby nominate
	Michelie Eleanor Sandoval who resid	des at 656 Valley Meadows Dr NE,		ndoval
	(CANDIDATE NAME)	(CANDIDATE'S ADDE	RESS) (CANDI	DATE'S COUNTY OF RESIDENCE)
	New Mexico, for the party nominat	ion for the office of NM Repre	sentative District 57 SOUGHT; DISTRICT/DIVISION if applicable)	to be voted for at the
	primary election to be held on June			
	which the person being nominated is			
	more persons than the number of car	addates necessary to thi such office	at the next ensuing general election	
1.	(usual segretors)	(name printed as registered)	3512 Eller Michigan (address as registered)	9
2,	Kardy Lx	Kryslar Huyley	3575 8/d v (Voc ())	(city or zip code)
3;		TO ha Buck	7B planted wends	25 LR 8714
	(usual signature)	(history perinted as registered)	(addresslas registered)	(city or zip code)
4,	(usual segressions)	(name printed as registered)	117 Playby Meacu	(city or zip code)
5,	(teagestrones)	(noncy printed as registered)	C-721 Plana Discovity	(city or zip code)
6.	John Spring	John Garcia	3243 Enlovieta Mea	Jows Rio Ranches 874
1	(tratal arguantre)	Laray Othe	3038 Gluikta Neadle	we Resiliencine 8714
	(usual significant)	(name printed as registered)	(address as registered)	(city or zip code)
8.	1 (panel signydage)	John Conzoles (name printed as registered)	2098 Gloruta Miccos, (address as registered)	KY-KIO Kaneno 8711
9.	Belg (May) Signatures of	Berrica (Luz)	804 Dening Meal	OUS DINE TRATILY
10	(usual Schottors)	(name printed as registered)	SCADON MUNC	WEDERSON
11	Jeny Mied	James Marchano	817 Dening New	
	(nista) signature)	(nope: printed as registropes)	(address as registered)	(eity or zip code)
12	(usual signature)	(spasse prioted as regisspace)	(address as registered)	or My (city or sign code)
13	. <u>Josef 1/201/1 er</u>	January printed as registered)	5/2 (MAAN MOAN (address as registered)	(city or zip code)
14	sample or but	Lanielly Sandard	USW Valley Menchio	Gify or zip code)
15		Steven Sondare	1 USE Vally Men	m 87144
16	(usual signature)	(name printed as registered)	S 70 CVALLY (A)	City or zip sorde)
17	(usual signature)	CLOULTS Law	3 (3 (address as registered)	(city or zip sode)
18	Mar Hope der	Alle Mayor 6	- SUBEROLL	31/44
19	A A Marian Stranger	(name printed as registered)	C 725 How Wee	(city or zip code)
20	(found signature)	Spinos printed as registered)	765 Mill July Mill	ws 8 144
- 1	(usu:(I signature)	(Statistic printed as registered)	(address as registered)	(city or zip code.)

2022 PRIMARY ELECTION NOMINATING PETITION FOR THE OFFICE OF NEW MEXICO STATE REPRESENTATIVE

	I, the undersigned, a registered voter of	of New Mexico, and a member of th		arty, hereby nominate
Michelle Eleanor Sandoval , who resides at 656 Valley Meadows Dr NE, Rio Rancho in the county of Sandoval				
(CANDIDATE NAME), who resides at (CANDIDATE'S ADDRESS) in the county of (CANDIDATE'S COUNTY OF RESIDENCE.)				
	New Mexico, for the party nomination	on for the office of NM Repres	entative District 57 UGHT; DISTRICT/DIVISION (Fapplicable)	, to be voted for at the
	primary election to be held on <u>June 7</u> which the person being nominated is a more persons than the number of canon	a candidate. I also declare that I have	e not signed, and will not sign, any	nominating petition for
1,	Cushing Kulp	1040 Kildel (1800)	6800 Nagorially	Rio Carcho, NM 8
2.	Charron me fodda	CHARRON M'FADDEN (name printed as registered)	6804NAGOYA RD	87/44
3.	(usual signature)	Helene Arles	6641 AMAQUA PA	87144 - (city or zin code)
4.	Mary Lanner	DEBORAH BARAMAN	6625 KALGONINI NE	Rancho (city or zip code) 8744 (city or zip code)
5.	(usual signature)	John Zoneu m (name printed as registered)	4625 Kalgan RITE	87/44 (city or zio code)
6.	Herri Helay (usual signature)	Hanai Heavy	6608 KAGAN LAW	\$ 7 / 4 4 (city or zip code)
7.	Patrien Stu	P'atrica Stover	6 909 Oran Ar Al	87144 (city or zip code)
8.	J. M. J.	(name printed as registered)	GULL OF FARA	(city or zip code)
\$	Susanna B. Dey Jardien	Susanna & Des Jardie		. , , ,
10	Shelle Ix Genres	Stellie DiGenes	L8DE Nagyartik	
11	Marie Supplier	William J. JeGener	S 6825 Nagoya RANE	87/44 (city or zip code)
12	Julyu A Taylor	Junifor A Taylo	0 <u>r 6994 ClarK Hill</u> 6 (address as registered)	
13	(usual signature)	(name printed as registered)	(address as registered)	(eity or zip code)
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19	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)
20),(ususi zignature)	(name printed as registered)	(address as registered)	(city or zip code.)

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MAR 8 '22 PM 2:40 2022 PRIMARY ELECTION NOMINATING PETITION FOR THE OFFICE OF NEW MEXICO STATE REPRESENTATIVE

I, the undersigned, a registered vot	er of New Mexico, and a member of	the Democratic	party, hereby nominate
	sides at 656 Valley Meadows Dr NE,	(POLITICAL PARTY)	Sandoval
(CANDIDATE NAME)	(CANDIDATE'S ADD	RESS)	(CANDIDATE'S COUNTY OF RESIDENCE)
New Mexico, for the party nomin	ation for the office of NM Repre		to be voted for at the
which the person being nominated	ie 7, 2022, and I declare that I am a r is a candidate. I also declare that I h andidates necessary to fill such office	egistered voter of the state to ave not signed, and will not si	be represented by the office for ign, any nominating petition for
(assat signature)	Saman Was Lucked to	(address as registered)	(city or zip code)
ı, <u>2049 yı</u>	Aaron Louis 20 Shin	(address as registered)	(city or zip code)
(visual printing).	(nome printed as registered)	(address as registered)	0 -1 1 1
L WAY	Tanning or reported of reported)	(712 Automan M	6 (cify or zip to de)
(usual signatura)	(name printed as registered)	(address as registered)	(city or zip code)
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s. Lesser algebrailers July Court	Tibule Van Eck	(address as registered)	un Madour 87144 (city or zip code)
(copal signatura)	Jeffrey 5mf	724 Autum	Medous 8714
	Dona furus	1123 Judes Dr	vERiParchos716
(usual signification)	(name printed as registered) (name printed as registered)	3344 Coldress as registered) (address as registered)	- MWWS RK STIFF (city or zip code)
O. (usual signature)	ROGER LUCERO (name printed as registered)	3344 Campr Mac	LOUS CIRCLE RR 871441
1			
(total signature)	(name printed as registered)	(address as registered)	(city or zip code)
2. (usual signature)	(name printed as registered)	(address as registered)	(city or zip code)
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(esual signature)	(name printed as registered)	(address as registered)	(city or zip code)
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2022 PRIMARY ELECTION NOMINATING PETITION FOR THE OFFICE OF NEW MEXICO STATE REPRESENTATIVE

		er of New Mexico, and a member of t	(FOLLICAL FARIT)	arty, hereby nominate	
ىند	chelle Eleanor Sandoval who resides at 656 Valley Meadows Dr NE, Rio Rancho in the county of Sandoval (CANDIDATE'S ADDRESS) (CANDIDATE'S ADDRESS) (CANDIDATE'S ADDRESS)				
N	New Mexico, for the party nomina	ntion for the office of NM Repres	sentative District 57 GOUGHT; DISTRICT/DIVISION if applicable)	, to be voted for at the	
q W	rimary election to be held on <u>June</u> which the person being nominated i	2022, and I declare that I am a registered voter of the state to be represented by the office for candidate. I also declare that I have not signed, and will not sign, any nominating petition for idates necessary to fill such office at the next ensuing general election.			
16	Anta Mato a	Amenio Montoya 1	235 Desart Rintbrush Lp (address as registered)	Rio Rancho 871	
2	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)	
2. 3.	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)	
э. _{ж.} .	(nanal singulaxs)	(name printed as registered)	(address as registered)	(city or zip code)	
5.	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)	
6.	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)	
7.	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)	
8,	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)	
9	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)	
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Rev: December 2021 NMSA 1978, § 1-8-30

MAR 8 '22 P2 2022 PRIMARY ELECTION NOMINATING PETITION FOR THE OFFICE OF NEW MEXICO STATE REPRESENTATIVE

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	I, the undersigned, a registered voter	r of New Mexico, and a member of	the Democratic	party, hereby nominate
	Michelle Eleanor Sandoval	656 Valley Meadows Dr NF	(POLITICAL PARTY) Rio Rancho in the county of San	doval
	(CANDIDATE NAME)	(CANDIDATE'S ADDI	(CANDID	ATE'S COUNTY OF RESIDENCE)
New Mexico, for the party nomination for the office of NM Representative District 5				, to be voted for at the
	primary election to be held on <u>June 7, 2022</u> , and I declare that I am a registered voter of the state to be represented by the office for which the person being nominated is a candidate. I also declare that I have not signed, and will not sign, any nominating petition for more persons than the number of candidates necessary to fill such office at the next ensuing general election.			
1,,	(usual signature)	Manuala Empes	(address as registered)	Rio Kando Ning
2.	Const Signatures	Angel Tarchaik	605 a utum Meadows	** ** **
3.	Nagari J	Mexicales garcia	1173 Jacobs Dr NW	Zio Ranche NM &
4.	(controlling)	Stypes Garaia (name printed as registered)	1123 Tacobs Dr NW (address as registered)	Rio hauche NM 87
5.	(usual signatus)	Jarrodhitley	1724 Soffvey Rd N	E Lio Rancho, N/M
6.	(usual statistics)	Stephonic Sondow (water printed as registered)	le 56 Valley weadows	(city or zip code)
7.	Report signatures	(name printed as registered)	(address as registered)	(city or zip code)
8.	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)
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13.	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code)
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20.	(usual signature)	(name printed as registered)	(address as registered)	(city or zip code.)

Rev: December 2021 NMSA 1978, § 1-8-30

2022 PRIMARY ELECTION NOMINATING PETITION FOR THE OFFICE OF NEW MEXICO STATE REPRESENTATIVE

	I, the undersigned, a registered vote	r of New Mexico, and a member of the	he Democratic	party, hereby nominate
			(POLITICAL PARTY)	ndoval
	(CANDIDATE NAME)	ides at 656 Valley Meadows Dr NE, F	ESS) In the county of (CAND	IDATE'S COUNTY OF RESIDENCE)
	New Mexico, for the party nomina	tion for the office of NM Repres	sentative District 57 OUGHT; DISTRICT/DIVISION if applicable)	to be voted for at the
	primary election to be held on <u>June</u> which the person being nominated i	e 7, 2022, and I declare that I am a rest a candidate. I also declare that I handidates necessary to fill such office	gistered voter of the state to be re we not signed, and will not sign, a at the next ensuing general election	ny nominating petition for on.
1.	Distribution		32164 San Illefons	
2,	Husel aboves	(name printed as registered)	32645cn Florton y 5624 Shan Bible	4 RR N 17 8713
3.	Taged segment	FURLUCES (CANE)	Y 5624 Sun Buble Galdenia is constanced	RRNM SJ
4	Augustal signature)	(name printed as negistered)	5034 Sandas as registered) 5034 Sandas as registered) (address as registered)	- RP NW 8714
5.		S. Romaro	3225 Berkshire Rd	Yhis Rand NA (city or zip code) 9714
6	ssoil signature)	(name printed as registered)	Rio LENESENEN	(city or zip code) 🧣 🔰 ()
υ.	(fostal signature)	(name printed as registered)	(address as registered)	(city or zip code)
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