

BOARD OF ELECTIONS
IN THE CITY OF NEW YORK

COMMISSIONERS' MEETING

42 Broadway - 6th floor
Commissioners' Hearing Room

New York, NY 10004

April 23, 2020

10:00 a.m. - 12:15 p.m.

April 23, 2020

President Patricia Anne Taylor

Secretary Frederic Umane

Commissioner Jose Araujo

Commissioner Miguelina Camilo

Commissioner Gino Marmorato

Commissioner Michael Michel

Commissioner Simon Shamoun

Commissioner Tiffany Townsend

Commissioner John Wm. Zaccone

Michael J. Ryan, Executive Director

Dawn Sandow, Deputy Executive Director

Pamela Perkins, Administrative Manager

Georgea Kontzamanis, Operations Manager

Steven Richman, General Counsel

Rafael Savino, Deputy General Counsel

David Fuchs, Legal Clerk

Kenneth Moltner, Counsel to Commissioners

Steven Denkberg, Counsel to Commissioners

Amanda Berinato, Chief Clerk, Queens

Bart Haggerty, Deputy Chief Clerk, Queens

Ms. Torres, CRU

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ALSO PRESENT:

Alexander Rabb, Esquire

Ali Najmi, Esquire

Arthur Schwartz, Esquire

Gian Jones, Esquire,

Michael Arcati, Candidate

Bernard M. Alter, Esquire

Michael Scala, Esquire

Mr. Martinez, Esquire

Lorenzo Brea, Candidate

John Haggerty, Esquire

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2 (The meeting commenced at 10:06 a.m.)

3 MR. MICHAEL J. RYAN: Over to
4 Commissioner Taylor for an opening statement.
5 First, to all the participants who are in the
6 waiting room, we will call you into the active
7 meeting from the waiting room when your matter is
8 called and that applies to all the individuals
9 who have filed notices of appearance in
10 accordance with the rules. Once you're in the
11 hearing room, we're going to ask you to mute your
12 live stream transmission, because if you don't
13 mute your live stream transmission, we will not
14 be able to hear you and you will not be able to
15 hear us because there is a transmission delay.

16 The order of calling the calendar will
17 be enrollment issues, followed by candidate
18 records prima facie calendar, the legal prima
19 facie calendar and then the specifications. I
20 already indicated about the notice of appearance
21 so we have that covered. Also, for the
22 participants, we will be calling one speaker at a
23 time. I will recognize the speaker and then I'll
24 recognize the second speaker. Everyone will have

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2 an opportunity to be heard. However, if there are
3 excessive interruptions of the proceedings, we
4 will be forced to move people back to the waiting
5 room and perhaps call the matter. We haven't had
6 a problem in that regard, but I just want to make
7 that statement.

8 The other thing as well, we'd like to
9 remind the commissioners, because it is a
10 departure from how we normally do things, but for
11 the benefit of the record, and for the benefit of
12 the external participants and your fellow
13 commissioners, when you're to make a statement,
14 if you could please just simply state your name
15 and then move forward.

16 MR. RICHMAN: Call the roll.

17 MR. RYAN: Oh, yes, and then Mr. Richman
18 reminded me, if there is a motion, I will ask for
19 a motion and then a second, and then I will state
20 are there any objections. If there are none, the
21 motion will be carried as unanimous. If there are
22 objections, we will then have to go to a roll
23 call vote and which I will call it in the order
24 that's printed on the sheet. So, that having been

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2 said, I will proceed with calling the roll,
3 starting with President Taylor.

4 PRESIDENT TAYLOR: I am present.

5 MR. RYAN: Secretary Umame? Please
6 unmute Secretary Umame.

7 SECRETARY UMANE: Here.

8 MR. RYAN: Commissioner Araujo?

9 COMMISSIONER ARAUJO: Present.

10 MR. RYAN: Commissioner Camilo?

11 COMMISSIONER CAMILO: Yes, good morning,
12 present.

13 MR. RYAN: Commissioner Marmorato?

14 COMMISSIONER MARMORATO: Present.

15 MR. RYAN: Commissioner Michel?

16 COMMISSIONER MICHEL: Present.

17 MR. RYAN: Commissioner Shamoun?

18 Commissioner Shamoun, there you are.

19 COMMISSIONER SHAMOUN: Present, thank
20 you.

21 MR. RYAN: Okay. Commissioner Townsend?

22 MS. AMANDA BERINATO: She's present,
23 sir.

24 MR. RYAN: Okay, Commissioner Zacccone?

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2 COMMISSIONER ZACCONE: Present.

3 MR. RYAN: Alright.

4 MR. RICHMAN: Do you want to call staff
5 and the counsels?

6 MR. RYAN: Yes. And I am Michael Ryan, I
7 am the executive director. To my left is Dawn
8 Sandow, the deputy executive director. Upstairs
9 in another undisclosed location on the seventh
10 floor is Ms. Kontazmanis, the operations manager
11 and Ms. Perkins, the administrative manager, as
12 well as other staff that are assisting us in this
13 process. Present here as well in the room is
14 general counsel, Steven Richman, deputy general
15 counsel Rafael Savino, and David Fuchs from our
16 legal staff, as well as some other CRU staff
17 members in the room. We also have with us this
18 morning, Mr. Moltner, Kenneth Moltner and Steven
19 Denkberg, counsels to the commissioners who are
20 appearing as well. Today, we have no individuals
21 who are, have come to the 42 Broadway to appear
22 in person. So all of the appearances will be
23 remote.

24 MS. KONTAZMANIS: Mr. Ryan?

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2 MR. RYAN: Yes?

3 MS. KONTAZMANIS: Friendly reminder, we
4 also have our Queens staff.

5 MR. RYAN: Oh, yes. I'm sorry. Ms.
6 Berinato. There you are, upper left hand corner,
7 I apologize, and then Mr. Haggerty as well, Bart
8 Haggerty, and Amanda Berinato. Sorry, guys. Thank
9 you for that reminder, Georgea. Okay. Does that
10 round it out now? Did I forget anybody else?
11 Alright, yesterday, I forgot counsel to the
12 commissioners. Today, I forgot the borough staff.
13 I apologize. So that said, I will turn the
14 proceedings over to Commissioner Taylor for the
15 opening statement.

16 PRESIDENT TAYLOR: Thank you, Mr. Ryan.
17 My name is Patricia Anne Taylor, and I am the
18 president of the Board of Elections in the City
19 of New York for calendar year 2020. And I am the
20 Democratic commissioner for Richmond County. And
21 I'm also the acting commissioner for Kings
22 County. Today is April 23rd, the third day of our
23 hearings relating to designating petitions and
24 related matters for the June 23, 2020 primary

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2 elections for public offices and party positions
3 throughout the City of New York.

4 I now call this hearing of the Board of
5 Elections in the City of New York to order. We
6 convene today under some of the most
7 extraordinary circumstances in our memory. The
8 COVID-19 virus has changed the way we live and
9 work here in the city of New York. That is why I
10 and my colleagues appear today via a
11 videoconference link, as will most of the
12 candidates, objectors or their representatives.

13 I commend the members of the staff of
14 the Board of Elections for carrying out this
15 effort. The commissioners and staff of the Board
16 of Elections in the City of New York are most
17 mindful of our responsibility to ensure that a
18 fair, honest, open and lawful electoral process
19 continues within our city. With a severely
20 reduced number of staff members, we have
21 successfully fulfilled our constitutional and
22 statutory duties with respect to the June 2020
23 primary election process. Those efforts continue
24 today.

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2 These meetings will be conducted in
3 accordance with the provisions of the New York
4 State Election Law, the Board's designating
5 petition and opportunity to ballot petition rules
6 adopted on February 12, 2019, the emergency
7 procedures which modified those rules and were
8 adopted on April 14, 2020, and the executive
9 orders issued by the governor of the State of New
10 York modified provisions of the open meetings law
11 as well as the New York State Election Law.

12 The most significant modification for
13 this hearing is the way that it is being
14 conducted, largely remotely, using Webex. Each of
15 the commissioners are participating through that
16 system, along with our key staff members and the
17 candidates, objectors and their representatives
18 who have registered to appear at the hearing.

19 A schedule of these hearings were posted
20 last week on the Board's website and the
21 information shared on various social media, as
22 well as being posting at all Board of Elections
23 offices.

24 Under the Board's emergency procedures,

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2 each candidate, objector or their designated
3 representative had to file a notice of appearance
4 for these hearings by Monday, April 20, 2020.
5 That information was used to send directions on
6 how to participate in this Webex video conference
7 meeting.

8 In addition, persons who wished to
9 appear in person for this hearing at the Board
10 executive office were required to communicate
11 that request to the Board no later than 3:00 p.m.
12 on Monday, April 20, 2020.

13 Please note that these emergency
14 procedures were prominently posted on the Board's
15 website, included in the many notices send by the
16 Board and communicated to each candidate and
17 objector in the same manner as their respective
18 clerks and courts.

19 In addition, each of the various
20 calendars listing the matters that the
21 commissioners will consider were posted on the
22 Board's website, as well as at the Board's
23 hearing room.

24 I have asked that the Board's executive

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2 director, Michael J. Ryan, coordinate our
3 activities today, that we use for the third time,
4 this new technology. This will ensure that our
5 hearing are conducted in an orderly fashion. I
6 now refer you to Mr. Ryan.

7 MR. RYAN: Yes, commissioners and
8 participants, there are four matters on the
9 enrollment issues that I will call into the
10 record and allow Mr. Richman to address them. For
11 this purpose, I need Mr. Rabb brought into the
12 active meeting from the waiting room and then
13 I'll call the four names and Mr. Richman will
14 give his presentation.

15 [OFF-MIC CONVERSATION]

16 MR. RYAN: Alright. So, is Mr. Rabb in
17 the room?

18 MR. ALEXANDER RABB: Yes.

19 MR. RYAN: Okay. Very well. Mr. Rabb,
20 we're going forward with the enrollment calendar
21 and there's an issue that you put a notice of
22 representation on, and we'll get to it.

23 MR. RABB: Okay.

24 MR. RYAN: And I think it will be

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2 ultimately resolved perhaps. But if you can just
3 standby while I read the names, and then Mr.
4 Richman will make his presentation.

5 MR. RABB: Sure.

6 MR. RYAN: Gina X. Aristippo, Sr., it's
7 probably Gino. John J. Shanks, Silvana
8 Chiappelloni and James Hong and James Hong is the
9 individual who's represented by Mr. Rabb. Mr.
10 Richman.

11 MR. RICHMAN: Commissioners, since your
12 last cover sheet and review committee meeting
13 over a week ago, we have received several
14 printers' error letters, so in the absence of a
15 committee meeting, I'm going to be presenting
16 them to the full board, and we're recommending
17 that you accept them. In the event that you
18 accept these printers' error letters, the
19 candidates name who Mr. Ryan called, will be
20 removed from the enrollment list as its being
21 corrected.

22 The Conservative Party of Queens County,
23 by its chair Tom Long, sent us a signed letter
24 saying that he prepared the petitions and for the

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2 following three candidates, there were a minor
3 typographical error either in the omission or
4 insertion of an incorrect digit in the address of
5 two candidates or the incorrect letter in the
6 name of one.

7 For Gina X. Aristippo, the correction
8 is, which now matches the voter registration
9 record, it was 150-20 20th Road. It should be
10 150-24. For John J. Shanks, it was 89-25 155th
11 Avenue. It should be 89-35, the two should be a
12 three. And for Silvana Chiappenelloni, the Y in
13 her name should be the letter I as in Ida.

14 With respect to the Working Families
15 Party, we have two. Oh, and I should say the
16 first two candidates for county committee,
17 Silvana is a candidate for state committee on the
18 Conservative Party. For the Working Families
19 Party, the first relates to the delegate to the
20 Judicial Convention in the 30th AD, the
21 candidate's full name is Jung, J-U-N-G, Ho, H-O,
22 Hong, H-O-N-G. It appears as James, which is the
23 way he goes by and commonly known, but they're
24 asking that the petition be corrected to match

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2 the legal name. And that's Mr. Rabb's appearance.
3 And lastly, in the 36th AD for judicial delegate
4 Working Families, there was a one letter error,
5 the name Mohammad was spelled with an E at the
6 end, M-O-H-A-M-M-E-D instead of M-O-H-A-M-M-A-D.
7 Everything else was correct. So for these five
8 candidates and errors, typographical errors, I
9 recommend that the commissioners accept these
10 printers' error letters to cure the potential
11 defects.

12 COMMISSIONER ARAUJO: This is Araujo.
13 I've seen copies of the printers' error letters
14 and I move that we accept them and then remove
15 them from the candidate record enrollment issue.

16 MR. RYAN: Is there a second?

17 PRESIDENT TAYLOR: Taylor, second.

18 MR. RYAN: Any objections? Hearing none,
19 the motion carries.

20 MR. RICHMAN: Five candidates listed,
21 the corrections will be entered into the, into
22 the ledger of petitions filed, and for the name
23 changes correctly appearing on the ballot and we
24 will remove those candidates' names from the

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2 enrollment issues list. Now, I believe there are
3 no other appearances on the list.

4 MR. RYAN: No, there are, there are
5 appearances on the list.

6 MR. RICHMAN: Oh, okay.

7 MR. RYAN: Now --

8 MR. RICHMAN: So you want to call those
9 separate?

10 MR. RYAN: We'll do them I suppose one
11 at a time. Okay.

12 MR. RICHMAN: Okay.

13 MR. RYAN: Alright. So, the next matter
14 is Burton Wall, and for that matter, we need
15 Angel Cruz to be brought to the active meeting.

16 MS. KONTAZMANIS: Mr. Cruz has not
17 joined us this morning.

18 MR. RYAN: Okay. We will second call
19 that matter and we'll call it with the group.
20 Alright, next is Mary Jobaida and we need Mr. Ali
21 Najmi. Let me, hold on one second. We also, yeah,
22 we have Moumita Ahmed is also Mr. Najmi, and that
23 would conclude those two, so we'll do those two.

24 MR. ALI NAJMI: Yes, good morning,

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2 everybody.

3 MR. RYAN: Okay. So, Mr. Richman,
4 proceed with the Ms. Jobaida and Mr. Ahmed.

5 MR. RICHMAN: Commissioners, the
6 affidavit submitted to the --

7 MR. NAJMI: Okay. Thank you. I'll start
8 with --

9 MR. RICHMAN: -- Mr. Najmi, will you
10 wait a second.

11 MR. RYAN: No, I'm sorry. Mr. Najmi, I
12 was asking Mr. Richman to proceed, I apologize.
13 I'll recognize you shortly.

14 MR. NAJMI: Oh, I'm sorry.

15 MR. RYAN: No, no problem.

16 MR. NAJMI: Thank you.

17 MR. RICHMAN: Commissioners, attached to
18 your packets for this list are the affidavits
19 submitted with the information for those
20 candidates, Ahmed and Jobaida. And so if you want
21 to review those first, then this way when Mr.
22 Najmi goes forward then we can advise you what
23 the findings were by the Board.

24 MR. RYAN: Well, Mr. Richman, why don't

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2 you state what the issue is?

3 MR. RICHMAN: Well, again, the issue
4 here is that the candidate filed name and
5 address, in this case, the names are not found in
6 the registration lists. If you look at the
7 affidavits, the candidates say that they used
8 names other than which they were registered under
9 on their petitions and that's why this appears.
10 Because when we attempted to match the material
11 that was presented to the voter with the voter
12 registration records, we could not mach it.

13 MR. RYAN: Mr. Najmi, do you wish to be
14 heard?

15 MR. NAJMI: Yes, thank you. With respect
16 to both candidates, Jobaida and Ahmed, I would
17 like to just point out that there -- an affidavit
18 was submitted. In both cases, both of these
19 candidates are widely known and recognized under
20 the nicknames that they wish to run under. With
21 Respect to Jobaida, it's Mary and with respect to
22 Ahmed, it's Moumita. They are held out, as they
23 hold themselves out as Mary and Moumita
24 respectively on all their correspondences and

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2 their social media. I would point out that
3 Candidate Ahmed is actually on the ballot as a
4 Bernie Sanders presidential delegate under the
5 name Moumita Ahmed. And the notice was sent by
6 the Board that I've attached to Ahmed's affidavit
7 in which the Board sends it, the notice to her
8 under her real name, Atia Ahmed and asking her to
9 confirm the translate of the name Moumita Ahmed,
10 which is on the ballot. So Ms. Ahmed is already
11 on the ballot for another position for
12 presidential delegate as Moumita Ahmed, is widely
13 known as Moumita Ahmed, holds herself out as
14 Moumita Ahmed, there's zero confusion to voters
15 and signers.

16 The same with Ms. Jobaida. Although Ms.
17 Jobaida is not a presidential delegate, in this
18 instance, all her campaign materials, her
19 website, everything is held out as Mary. I
20 personally have known Ms. Jobaida for over ten
21 years, I didn't even know her name wasn't Mary
22 until she, I became her election lawyer.

23 So with respect to both of these, the
24 fact that an affidavit has been submitted and

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2 corresponding papers and records have been
3 submitted, I ask that the Board respectfully
4 allow both candidates to appear on the ballot
5 under the names on their petition as there is
6 absolutely zero confusion to signers and voters
7 and no intent to mislead. Thank you.

8 MR. RICHMAN: Commissioners, just to
9 point with respect to the candidate who is --

10 COMMISSIONER ARAUJO: This is
11 Commissioner Araujo. I just have a quick --

12 MR. RICHMAN: -- respect to the
13 candidate who is --

14 MR. RYAN: Commissioner Araujo would
15 like to speak. Go ahead.

16 MR. RICHMAN: Oh. I just wanted to point
17 out that the petitions --

18 MR. RYAN: No.

19 MR. RICHMAN: -- for delegate wasn't
20 filed with the Board.

21 MR. RYAN: Commissioner Araujo --

22 MR. RICHMAN: Okay.

23 MR. RYAN: -- would like to speak. Thank
24 you, Commissioner.

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2 COMMISSIONER ARAUJO: Yeah, Steve, I
3 just had a question. Isn't the proper procedure
4 to go, circulate the petitions under your
5 registered name and then after you appear on the
6 ballot, then make the requirement that we submit
7 a name also known as to appear on the ballot that
8 way. That's the first question.

9 And then the second question is, is it
10 accurate? The copy that I see here for the
11 presidential delegate, I really can't read it
12 that well. Is it, is this statement correct that
13 she is appearing on the ballot with the also
14 known as name?

15 MR. RICHMAN: Commissioners, two things.
16 First, commissioner, you're absolutely correct.
17 The candidate should be running under the name
18 they're registered with, and then we entertain,
19 you entertain the request to be, appear on the
20 ballot under the common, common name or name in
21 which they're known within the community.

22 Secondly, what I was trying to say
23 before commissioner, is that the delegate
24 petition for the 5th Congressional District for

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2 the candidate was filed with the State Board of
3 Elections because that district consists of
4 Nassau County and Queens County. So I don't know
5 what judgments the State Board made. We were just
6 given a certified list of delegates and that's
7 why the letter for translation went to the
8 candidate as certified by the State Board. This
9 is the first time we're considering this
10 candidate during this cycle for that procedures.
11 And again, I can only tell you what we received
12 for the Congressional District. We had no review
13 and you had made no determinations on that.
14 That's a State Board matter.

15 This matter is before you because in
16 this case they are seeking election for party
17 positions or public office within wholly within
18 the City of New York.

19 MR. RYAN: And that would apply to
20 Ahmed, Moumita Ahmed?

21 MR. RICHMAN: Yes.

22 COMMISSIONER ZACCONE: Alright. This is
23 Commissioner Zacccone, I just have one other
24 question regarding Ahmed, the copy that was

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2 provided said late filed April 22nd. Is it
3 correct that that affidavit was filed after
4 Monday?

5 MR. RICHMAN: Yes, commissioners, that
6 was noted and I believe it's noted on the copy.
7 Both affidavits were filed on April 22nd, one day
8 after the request from the Board for the
9 submission, that was set by the Board for the
10 submission of data.

11 COMMISSIONER ZACCONE: Thank you.

12 MR. NAJMI: Can I be heard?

13 MR. RYAN: Mr. Najmi, please proceed.

14 MR. NAJMI: Okay. Thank you, I would
15 like to just respond to both of those
16 commissioners' inquiries. With respect to Mr.
17 Araujo's question, and Mr. Richman's response, I
18 would just like to indicate that it's been well
19 settled in case law, and I've litigated this
20 matter, and I would like to establish, just let
21 the Board know and I'm sure the Board understands
22 this, that it's well established in case law that
23 a candidate's name may appear on the designating
24 petition and the ballot differently than it

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2 appears on the candidate's voter registration as
3 long as you don't attempt to mislead potential
4 signatories and voters and there's no showing
5 that any of the voters or signers are misled. And
6 I'm citing from the Board of Elections Second
7 Department case Eisenburg v. Strasser, which is a
8 Court of Appeals case from 2003. And in both of
9 these instances, this applies to both candidates.

10 And with respect to the timing of the
11 submission of our affidavits to the Board, I
12 would just like to point out that the reason the
13 affidavit was late was because nobody knew this
14 was actually an issue until late Monday night,
15 and then we worked very quickly to get everything
16 submitted to the Board immediately.

17 There was I believe no letter sent to
18 Ms. Ahmed about this enrollment issue. With
19 respect to Candidate Jobaida, a letter was
20 received, but we did, she did not receive the
21 letter until Monday night. I'm not sure when the
22 enrollment list was posted to the Board, but my
23 own review of the Board's ledgers throughout the
24 process did not notify me of this issue and I did

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2 not see the enrollment issue until after Monday
3 at 3:00 o'clock. I believe I saw it Monday
4 evening.

5 With that said, I would like the
6 commissioners to consider these affidavits
7 because, unlike say yesterday, where I know we
8 discussed the issue of must and please and the
9 drafting of the rules, I understand yesterday it
10 was an issue with a long list of exceptions for
11 line by line and the commissioners stated that
12 any potential health risk to board employees and
13 staff was a major concern in reviewing those, and
14 that's why having them submitted earlier was
15 important.

16 Here, respectfully, there is no health
17 risk to the employees. The only thing to be
18 reviewed are these affidavits. We can do it
19 virtually. And given this, and given the timing,
20 which we found out about this issue and how
21 quickly we responded to it, and what is before
22 you commissioners, I ask that you consider these
23 and understand that there is absolutely no intent
24 to mislead or fraud here and that both candidates

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2 should be allowed to appear on the ballot with
3 those names.

4 COMMISSIONER ARAUJO: Commissioner, this
5 is Araujo, Commissioner Araujo. Steve, how do we
6 deal with the lateness issue? No, I think the
7 issue is we have on the last two days not allowed
8 people to submit. We would be treating this case
9 different than we treated other people.

10 COMMISSIONER MICHEL: Steve.

11 MR. RICHMAN: Yeah, commissioners, we
12 have, we have not -- you have been rather, you
13 have been consistent in observing the emergency
14 procedure guidelines that you adopted a week ago
15 Tuesday. If my recollection serves me correct,
16 then I would ask either Ms. Kontazmanis or MIS to
17 correct me. I believe the lists were posted by
18 Friday, I believe before we left the office on
19 Friday at least.

20 And the only other thing I would reply
21 commissioners is that the two cases cited by Mr.
22 Najmi, the specific facts in that, you can make
23 your own judgments related to whether Marty and
24 Martin, the candidate was registered under

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2 Martin, ran as Marty, the candidate was
3 registered as Anatoli and they ran as Tony. And
4 you can see the names involved here and what they
5 filed as and what they're registered as in terms
6 of having the Board being able to locate the
7 candidates using the addresses.

8 COMMISSIONER ARAUJO: Alright. This is
9 Commissioner --

10 MR. NAJMI: When it's appropriate, I
11 would like to be heard again.

12 MR. RICHMAN: Pardon? Ali wants to speak
13 again.

14 MR. RYAN: Yes, Mr. Najmi, go ahead.

15 MR. NAJMI: Thank you. I just wanted to
16 point out that here, I mean there's also a notice
17 issue and as soon as both candidates and myself
18 were made aware of this, we did not delay in any
19 way. And affidavits were signed, the records were
20 submitted and I would reiterate also respectfully
21 again, my argument that in the drafting of this
22 rule, it does not say must be submitted no later
23 than 3:00 p.m., it says please. And given this
24 issue, I'd ask that the Board consider these

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2 affidavits. The notice is just fairness issue
3 here, and also what the outcome is. I mean these
4 people have always held themselves out under
5 these names. There's never been an instance when
6 they have not publicly and as candidates, all
7 their materials. And here, all the requisite
8 proof I think that the Board would need to make
9 the decision is before them. Thank you.

10 Oh, I'm sorry, what cite was that, I
11 litigated this issue in, in 2017. There was a
12 candidate named Julius Tajiddin, who was removed
13 by the Board, retained me after the hearing. His
14 last name was completely different because he
15 changed his last name than what the board file is
16 and I was able to get him back on
17 [unintelligible] [00:33:17]. It would be really a
18 waste of everyone's resources, including the
19 Board's for me to pursue, to be forced to pursue
20 that litigation in this instance and it would
21 really put everybody's health at risk if we were
22 to do that, for an outcome that I feel very
23 confident a judge would allow both of these to be
24 put on.

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2 MR. RYAN: Any further inquiry from the
3 commissioners?

4 MR. SAVINO: Commissioners, in terms of
5 the notice argument, I spoke to CRU and they said
6 all of the letters were mailed out on April 14th
7 notifying the individuals of this hearing.

8 MR. RICHMAN: And of the defects.

9 MR. SAVINO: Correct.

10 MR. RYAN: Any --

11 COMMISSIONER ARAUJO: This is
12 Commissioner Araujo. I would make a motion that
13 we not accept the affidavits in lieu of the
14 lateness of the submission.

15 COMMISSIONER MICHEL: Commissioner
16 Michel, I second that.

17 MR. RYAN: Any objections? Hearing none,
18 the motion carries. Mr. Richman?

19 MR. RICHMAN: Anybody else have any
20 other appearance? You have any other appearances?

21 MR. FUCHS: I don't think so.

22 MR. RYAN: There are no other
23 appearances on the prima facie -- I mean on the
24 enrollment calendar.

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2 MR. RICHMAN: So then, with the
3 exceptions of the matters addressed by the
4 printers' error letters and just concluded by the
5 commissioners, I'm going to ask Mr. Fuchs to
6 proceed, just announcing the party involved and
7 then reading all the candidate for the party for
8 the similar defect. If it's a different one,
9 he'll say that and keep going just by calling
10 names with the commissioners' permission.

11 MR. RYAN: Yeah.

12 MR. FUCHS: Thank you, commissioners,
13 thank you Mr. Richman. For the Conservative
14 Party, Hantalin DuBois [phonetic], Daniel F.
15 Donovan, Geraldine DeAngelo, Jeannie N. Young,
16 Pamela M. Arcuri, Tom Harry, Vincent Chiarella
17 [phonetic], Yolanda Stevanelo [phonetic], Abraham
18 Feld, Ada Rodamas [phonetic], Adina.

19 MR. RYAN: Democrat now.

20 MR. RICHMAN: Yeah, those are Democrats.

21 MR. FUCHS: Apologies. For the
22 Democratic Party, Abraham Feld, Ada Rodamas,
23 Adina Lisker [phonetic], Ajoya Singha [phonetic],
24 Alan S. Nomias [phonetic], Albert Lapel, Albert

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2 Lipton, Andrea Dorsenville [phonetic], Andre
3 Harrison, Arita Espoinal [phonetic], Ashley Meza,
4 Barbara Shallick [phonetic], Benvenita Vasquez
5 [phonetic], Bonnie Isabel.

6 MR. RYAN: One second, Bernard Burton
7 Wall was, was originally on the appearance list,
8 however, we had no appearance from Mr. Cruz, so
9 that name will be continued in this motion.

10 MR. RICHMAN: Okay.

11 MR. FUCHS: Continuing with the
12 Democratic Party, Bernard Burton Wall, Benvenita
13 Vasquez, Bonnie Isler, Brian Ellis Gibbs, Carmen
14 Torres, Chia Burger, Chiladari Albert [phonetic],
15 Christine Wilshire, Christian Smitherman, David
16 Chavez, Denise Hodges, Dixon Wan, Edu Hermelyn,
17 Ella Johnson, Elvin Valdez, Erachi Brown
18 [phonetic], Fahim Machoutery [phonetic], Fannie
19 Burke, Francis LaPresto, Grace Cruz, Grace
20 Maldonado, Hamilton Bush, Hazel Hinton, Hector
21 Reyes, Henry Yim, Iliana Martinez, Jacqueline
22 Burton Wall, Jansen Poi, Jevon Martin, James C.
23 Leesa, James Daniels, Jay Sarkar, Jennifer Pink,
24 Joanna Caramonte [phonetic], John Glenn, John

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2 Snipe, John McGillick, Jose Rodriguez, Joseph
3 McLaughlin, Joyce Franceschina, Keith Bellis,
4 Lorena Hooks, Lauren Wilshire, Leonard Gia
5 [phonetic] Leroy Comrie, Leanna Wilkinson
6 [phonetic], Linda Correa, Loretta Pialino
7 [phonetic], Lucy Caliste [phonetic], Maseo H.
8 Kareem [phonetic], Maria Fernanda Giraldo, Maria
9 McLaughlin, Mary Ann Evangelo [phonetic], Mira
10 Vega, Min Yun Yu [phonetic], Meredith Whitman,
11 Michael Chin, Mohammed Saiful Islam, Mohammad
12 Azad, Nikita Camille [phonetic], Nella Ziani
13 [phonetic], Netty Kevinson [phonetic] Nicholas A.
14 Widzowski, Oh Sun Lee [phonetic], Pamala
15 Blueford, Paul Gotlialduto [phonetic], Peter
16 Mcgree [phonetic], Robio Widzowski [phonetic],
17 Randy Brown, Rashid Amad [phonetic], Raymond
18 Gant, Renee Huntly, Rosio Karim Chowdhury,
19 Richard Mazlonnier [phonetic], Rista Hanson,
20 Robert Anzalone, Robert Humber, Rachelle Nichen
21 [phonetic], Roy Stewart, Sandra Best, Sciro
22 Withanchichary [phonetic] Sebastian Callisto
23 [phonetic], Shy Huagge [phonetic] Sean Gooden,
24 Sheryl Khan, Sheif Daus [phonetic], Soon San Lee

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2 [phonetic], Stacie N.C. Grant, Steven Lee, Sylvia
3 Minors, Taji Tate, Tristan Goods, Tremilia Stone
4 [phonetic], Tyrone Bridley, Venus Noble, Wendy
5 Goldberg, William Johnson.

6 For the Independence Party, Michelle
7 Caruso-Cabrera, Stacy G. Pheffer Amado. For the
8 Libertarian Party Mark Weinblatt. For the
9 Republican Party, Jineea Butler. For the Working
10 Families Party, Andrew D. Havesi, Catalina Cruz,
11 Regina Hodge, Ron Kim, Stanley Johnson, William
12 Daily. Mr. Richman.

13 MR. RICHMAN: Commissioners, that
14 concludes the call of the candidate enrollment
15 issues report. And again, as Mr. Ryan reported,
16 no appearances for any of those candidates, so a
17 motion would be in order.

18 COMMISSIONER ARAUJO: Araujo, I make the
19 motion to adopt the enrollment issue as amended.

20 COMMISSIONER MICHEL: Commissioner
21 Michel, I send.

22 MR. RYAN: Any objections? Hearing none,
23 the motion carries.

24 MR. RICHMAN: Commissioners, we'll next

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2 move to the materials in the CRU prima facie
3 calendar. You have got, been distributed the
4 calendar together with the supporting materials
5 for that calendar. Mr. Ryan, are there any
6 appearances on the CRU prima facie issues?

7 MR. RYAN: There is one and for Kenneth
8 Chiu, Ali Najmi, please restore Mr. Najmi to the
9 active meeting.

10 MR. RICHMAN: Mr. Hsu is only -- there's
11 a candidate for which the objection is going to
12 be dismissed. Okay. We'll call it when he's on.

13 MS. KONTAZMANIS: Mr. Najmi is back in
14 the meeting, sir.

15 MR. NAJMI: Hi.

16 MR. RICHMAN: Mr. Najmi, you're
17 representing Kenneth Chiu, correct?

18 MR. NAJMI: Correct.

19 MR. RICHMAN: Okay. The prima facie
20 issue is that the proof of service attached to
21 the specs for the objections filed by Isabel N.
22 Pulgarin were attached to the spec in violation
23 of Rule H-12. The recommendation is that the
24 specification be dismissed. I'm assuming you have

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2 no objection to that.

3 MR. NAJMI: No, I move to, I would like
4 the board to dismiss the spec and I would ask the
5 Board to move to dismiss the spec.

6 MR. RYAN: Well that --

7 COMMISSIONER ARAUJO: This is
8 Commissioner Araujo. I make the application to
9 dismiss the spec for the reasons laid out by our
10 legal staff.

11 COMMISSIONER MICHEL: I second it,
12 Commissioner Michel.

13 MR. RYAN: Are there any objections?
14 Hearing none, the motion carries.

15 MR. RICHMAN: The specification Queens
16 6-1 is dismissed for failing to comply with the
17 provisions of Rule H-12. Commissioners, there are
18 no other appearances, so I will be calling --

19 MR. RYAN: I'm sorry, I just was
20 informed, I don't have it, but a John Jones also
21 has a notice of appearance for CRU. On what
22 matter?

23 MR. FUCHS: G-I-A-N Jones.

24 MR. RICHMAN: I don't see his name up

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2 there.

3 MR. RYAN: Is Jones the candidate, or is
4 Jones --

5 MS. KONTAZMANIS: That's number 25, for
6 spec number 29.

7 MR. RYAN: Oh, on specification 29, not
8 --

9 MR. RICHMAN: Oh, it's over here, okay,
10 yeah, that's the second item on the calendar,
11 third item on the calendar. Does he represent the
12 candidate or the objector?

13 MS. KONTAZMANIS: There is no Gian Jones
14 in the lobby.

15 MR. RICHMAN: Oh.

16 MR. RYAN: Okay. Alright, then we'll
17 proceed with the balance of the CRU prima facie
18 calendar in the order in which it appears.

19 MR. RICHMAN: Commissioners, the first
20 item on the calendar relates to Queens
21 designating petition QN15, member of the
22 Democratic County Committee in the 49th ED, the
23 24th AD, Silandry Albin [phonetic] is the
24 candidate, the candidate's address incorrect or

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2 omitted on the petition. Democratic Party
3 certificate of declination filed by Nick Habi
4 [phonetic] as the candidate for the male district
5 leader 36th AD Part A, declination filed on March
6 27th, it was due on 3/24.

7 MS. KONTAZMANIS: Mr. Richman?

8 MR. RICHMAN: Yes?

9 MS. KONTAZMANIS: We have located Mr.
10 Gian Jones, whenever you guys are ready for him,
11 please let us know.

12 MR. RICHMAN: You can bring him now,
13 that's the next item up.

14 MS. KONTAZMANIS: Okay. He's now in the
15 meeting.

16 MR. RICHMAN: Mr. Jones, on this spec,
17 who are you representing in this proceeding, the
18 candidate or the objector?

19 MR. SAVINO: Mr. Jones?

20 MR. RYAN: If your microphone is muted,
21 Mr. Jones, please unmute.

22 COMMISSIONER ARAUJO: This is Araujo,
23 according to the spec, it says Gian Jones
24 represents the objector.

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2 MR. RICHMAN: Okay. Then he may want to
3 be heard since this prima facie would dismiss the
4 spec. Mr. Jones, can you hear us?

5 MS. DAWN SANDOW: He's down on the
6 bottom.

7 MR. RICHMAN: Yeah, I know, but -- Mr.
8 Gian Jones, please we're calling your matter,
9 please acknowledge that you hear us.

10 MS. KONTAZMANIS: On our end, he's
11 logged in. I'm not sure --

12 MR. RYAN: Yeah, we, we see him, we just
13 don't hear him. Alright. So why don't we move on
14 to another matter and see if we can get the
15 technical issues with Mr. Jones resolved.

16 MS. KONTAZMANIS: Okay. He's on a spec
17 issue as well, so we'll move him back to the
18 lobby.

19 MR. RYAN: Alright. Thank you.

20 MR. RICHMAN: Commissioners, we're going
21 to second call this when we call the spec itself?
22 Okay.

23 COMMISSIONER ARAUJO: Yes.

24 COMMISSIONER SHAMOUN: Yes.

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2 MR. RICHMAN: Okay. So we'll hold it.
3 Okay. Male district leader, the objections by
4 Nicholas Falco to the petition of Nick Habi for
5 male district leader AD 36 Part A, the incorrect
6 objection number on the proof of service, in
7 violation of rule H-12.

8 Cover sheet amended filed late, this is
9 for representative in Congress for the Democratic
10 Party for Badrun N. Khan is the candidate.
11 Commissioners, in this instance, the candidate
12 filed a valid cover sheet on March 19th, no
13 notice of noncompliance was sent. There was no
14 basis to file it. However, for whatever reason,
15 the candidate filed on April 1st an amended cover
16 sheet. The amended cover sheet should be ruled as
17 being filed late. It was due on March 20th, not
18 April 1st. However the net effect of this is we
19 only declare the document invalid, the candidate
20 will remain on the ballot.

21 COMMISSIONER ARAUJO: Do you need a
22 separate motion for that? This is Commissioner
23 Araujo.

24 MR. RICHMAN: No, but that's the report.

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2 COMMISSIONER ARAUJO: Alright.

3 MR. RICHMAN: The valid cover sheet
4 filed on 3/19 remains valid.

5 COMMISSIONER ARAUJO: Understood.

6 MR. RICHMAN: Designating petition for
7 the male state committee, the Working Families
8 Party in the 5th Congressional District for
9 candidates Bailey, Johnson, Lim, Tolbert and
10 Sussein, the petitions were filed with the City
11 Board, however, we lack the authority under the
12 Election Law to receive them since the district
13 covers Nassau, parts of Nassau County and Queens
14 County. These had to be filed with the State
15 Board, filing with the City Board is a nullity.

16 Similarly, for the designating petition
17 for female state committee 5th Congressional
18 District, for Candidate Wadado [phonetic], same
19 issue.

20 The certificate of authorization filed
21 Andrew D. Hevesi for the Working Families Party
22 line, he filed a certification of authorization,
23 however no petitions were filed for the
24 candidate.

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2 Similarly, in the 39th Assembly
3 District, Working Families Party Catalina Cruz,
4 she filed a, a certificate of authorization was
5 filed, no petitions filed.

6 Member of the Assembly Libertarian
7 Party, 28th Assembly District, certificate of
8 acceptance filed by Michael Arcati, certificate
9 was filed on March 27th. It's late, due date was
10 March 24th. I believe he was in the meeting. Do
11 we have an appearance? On the spec, or do we have
12 him on the prima facie Ms. Kontazmanis? Or was it
13 only on the spec?

14 MS. KONTAZMANIS: Mr. Richman?

15 MR. RICHMAN: Yes?

16 MS. KONTAZMANIS: Alexander Rabb is
17 attached to Queens spec 6-1.

18 COMMISSIONER SHAMOUN: And he wasn't
19 called in.

20 MS. KONTAZMANIS: And he was not called
21 into the room. Alexander Rabb?

22 MR. RICHMAN: That, Queens 6-1
23 Democratic? Okay.

24 MS. KONTAZMANIS: Yes, there is a notice

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2 of appearance, we have a notice of appearance up
3 here. Is he still in the meeting? Commissioners,
4 if we didn't hear from him?

5 MR. RYAN: Well, we would then need to
6 bring back Mr. Najmi as well.

7 MR. RICHMAN: Yes.

8 MS. KONTAZMANIS: Correct.

9 MR. RYAN: So let's, let's pull off to
10 the side, we'll deal with the balance of the
11 calendar. We have a second call on one matter,
12 and we have a second call now on this matter,
13 which I will address with the commissioners. So
14 Mr. Richman, if you can continue, and we'll take
15 the motion on the remaining matters.

16 MR. RICHMAN: Yeah, Mr. Arcati I know
17 has filed an appearance with a spec involving the
18 same petition, or office. That's why I didn't
19 know if he has to participate, because
20 commissioners, if we --

21 MR. RYAN: Who, what, what's the name of
22 the individual?

23 MR. RICHMAN: Michael Arcati, A-R-C-A-T-
24 I.

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2 MR. RYAN: Right. No, who has filed a
3 notice of appearance?

4 MR. RICHMAN: He did. He's the candidate
5 and he represents himself.

6 MR. RYAN: He's the candidate? Alright.
7 So can we have Michael Arcati in, in the room as
8 well?

9 MR. RICHMAN: I, I don't know if he
10 filed for the prima facie or just the spec.

11 COMMISSIONER ARAUJO: Can't we just
12 finish up. There's one other, this is Araujo.
13 There's only one other name on the list. Let's
14 just finish the list.

15 MR. RICHMAN: Okay.

16 COMMISSIONER ARAUJO: And then go back
17 to the people who are here.

18 MR. RYAN: Alright. So then --

19 MR. RICHMAN: Certificate of
20 authorization, Independence Party for the member
21 of the Assembly, 23rd Assembly District, Stacie
22 G. Pheffer Amato, again, the certificate of
23 authorization was filed, no petitions filed.

24 MR. RYAN: Okay. So a motion is in order

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2 to accept the CRU prima facie report with the
3 exceptions of QN29, QN6-1 and the certificate of
4 acceptance for Michael Arcati for the 28th
5 Assembly District. Is there a motion?

6 COMMISSIONER ARAUJO: Commissioner
7 Araujo, so moved.

8 MR. RYAN: Is there a second?

9 COMMISSIONER MICHEL: I, Commissioner
10 Michel, second.

11 MR. RYAN: Are there any objections?
12 Hearing none, the motion carries. Mr., we would
13 need then Mr. Najmi, and Mr. Rabb back in the
14 room to hear QN6-1.

15 MS. KONTAZMANIS: They've both been
16 admitted back in.

17 MR. RYAN: Okay. Mr. Richman, please
18 proceed with QN6-1.

19 MR. NAJMI: Ali Najmi.

20 MR. RICHMAN: Commissioners, on
21 specification QN6-1, the Board's finding, staff
22 finding was the prima facie defect is that the
23 proof of service was attached to the actual
24 specification of objections filed by Isabel N.

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2 Pulgarin, to the petition of Kenneth Chiu, that
3 violates Board Rule H-12, which says that you
4 have to file the proof of service separately by
5 either, and indicating which matter it relates to
6 by either attaching it to a copy of the first
7 page of the specifications of objection, or by
8 inscribing the general objection number on the
9 proof of service. This did not happen. In this
10 instance, they filed the specification and to the
11 actual specification, they attached the proof of
12 service in violation of rule H-12.

13 MR. RYAN: Mr. Najmi, do you wish to be
14 heard?

15 MR. NAJMI: No.

16 MR. RYAN: Mr. Rabb, do you wish to be
17 heard?

18 MR. RABB: Yes, please. My, my client
19 assured me that the specs were filed separately,
20 that the certified mail receipts were stapled to
21 a copy of the first page, and provided me with,
22 with photos of those. I, I didn't submit them
23 because I wasn't aware of any notice being sent
24 to the objector about this prima facie issue. I'm

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2 not sure if there was a notice. So I did not
3 submit them by Monday. I do have them, but I ask
4 that the Board staff just check one more time to
5 see if perhaps this is an error, because they
6 assured me that the, that they attached the, the
7 certificated mail receipts to a copy of the first
8 page of the specs.

9 COMMISSIONER ARAUJO: This is Araujo. Is
10 that something that we can check readily
11 available?

12 MR. RICHMAN: Yes, yes, commissioner,
13 the staff of the CRU is bringing us to there, and
14 I'll ask them to stay here to identify what they
15 have. Ms. Torres, can you tell us what these are?
16 This is a copy -- oh, the actual spec. Oh, this
17 is general objection.

18 MS. TORRES: It was stapled to the
19 general objection.

20 MR. NAJMI: Right. Can I just be heard
21 on one matter while you check that? I mean
22 [unintelligible] [00:50:23].

23 MR. RICHMAN: Commissioners, we have it
24 here. Attached to a form entitled actually

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2 general objection were two proofs of service,
3 dated March 30th, to Kenneth Chiu and Ali Najmi,
4 uh, and so in this, it looks, appears to have
5 been stapled, and I believe Ms. Torres will tell
6 us this was stapled to the actual specifications
7 of objection. But even on its face of it, it's
8 supposed to be attached to a copy of a spec cover
9 sheet, not a general objection cover sheet.

10 MR. RABB: And if I may, if you look at
11 the specifications, that you said general
12 objections at the top. There's specifications
13 supporting the general objection. If you read
14 down on the copy of it you see --

15 MR. RICHMAN: But this is the --

16 MR. RABB: -- the first line of --

17 MR. RICHMAN: -- yes, Mr. Rabb, if you -

18 -

19 MR. RYAN: Mr. Richman, please allow Mr.
20 Rabb to finish his argument before you respond.
21 Thank you.

22 MR. RABB: -- the first paragraph says
23 objector submits the following specifications in
24 support of the general objection. So the document

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2 header notwithstanding, this does comply with the
3 rules of the Board.

4 MR. RICHMAN: Except it was attached to
5 the specifications. The staff of the CRU removed
6 the original page of the first page of the
7 specifications. And the original one, it was
8 stapled to the rest of the specs. The staple
9 holes are obvious and can be seen. We'll pass it
10 up to the commissioners and they send a copy of
11 this page with the spec to Queens to work. And --

12 MR. RABB: But you said -- no, I'm
13 sorry, go ahead.

14 MR. RICHMAN: -- therefore, again, it
15 would violate rule H-12. I think the staff's
16 finding is correct based on the evidence we have.
17 But we should pass this up for the commissioner
18 to look.

19 COMMISSIONER ARAUJO: And it's attached,
20 it's actually attached to one of the e-mail
21 attachments, so I do have it.

22 MR. RICHMAN: Yeah, but commissioners, I
23 don't know if the staple holes come through, from
24 on the scanned copy.

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2 COMMISSIONER MICHEL: Yes, it is.

3 MR. RICHMAN: But Commissioner Michel,
4 you want to report on what you examined?

5 COMMISSIONER MICHEL: Well, I examined
6 it is stapled to the general objection sheet.

7 MR. RABB: But, but again, that's not
8 the general objection sheet. It's, it's the
9 specifications first page.

10 MR. RICHMAN: That was the cover page.
11 The cover page of the specs.

12 MR. RABB: Well, I, but my question, if
13 I may, just one question. Do you also have the
14 specifications and do they not have that same
15 page at the front?

16 MR. RICHMAN: That would be in Queens,
17 we can ask the Queens, but Ms. Torres will be
18 prepared to tell to the record that what you did
19 with the specs before you sent them to Queens.

20 MS. TORRES: Alright, before we submit
21 the original specs to Queens, we didn't send the
22 original PO, POS, we sent a copy with the specs
23 to Queens. The original is here in its same form,
24 one staple hole, you can see it was not altered.

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2 POS' have one staple, it's an original staple.

3 MR. RYAN: Are there any document review
4 that we need from Queens staff before this matter
5 concludes?

6 MR. RICHMAN: No, I don't, because all
7 they would have is they would have the Xerox
8 copy. This actually --

9 MS. TORRES: Is the original.

10 MR. RICHMAN: -- is the original copy
11 with the Board's original clock in stamp on it,
12 11:23 a.m. on March 30th.

13 COMMISSIONER ARAUJO: And the
14 specifications that you have separately do not
15 have a first page on them?

16 MR. RICHMAN: They have, as Ms. Torres
17 just said, she provided them with a copy to go
18 with the specs.

19 COMMISSIONER MICHEL: That was the first
20 page, right?

21 MR. RICHMAN: This was the first page,
22 so the copy in Queens, they will have a Xerox
23 copy, not an original clocked in copy of the
24 first page.

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2 COMMISSIONER ARAUJO: I understand.

3 MR. RICHMAN: And if you want, you can,
4 I guess we can ask the Queens staff to pull that
5 spec and we can --

6 MR. HAGGERTY: I have the copy right
7 here. It's right in front of me.

8 MR. SAVINO: Okay.

9 MR. HAGGERTY: The one I have is --

10 MR. RYAN: Hold on one second. That is
11 Mr. Bart Haggerty addressing the meeting. Thank
12 you Mr. Haggerty, please proceed.

13 MR. HAGGERTY: So I have a copy of the
14 general objection, which is marked in red pencil
15 QN6-1, which has a, has copies of certified mail
16 receipts, but not the original certified mail
17 receipts here.

18 COMMISSIONER MICHEL: What's the first
19 page [unintelligible] [00:54:20]?

20 MR. RICHMAN: And Mr. Haggerty, on the
21 specifications of objection, the cover page of
22 the specs, does that contain the original bluish-
23 purple Board's timestamp or it is just a copy of
24 this timestamp?

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2 MR. HAGGERTY: This is the first page of
3 the general objection. It has no timestamp on it.
4 The second page has the original timestamp on it.

5 MR. RYAN: Okay.

6 MR. RICHMAN: But this, the form is
7 captioned general objection, but the paragraph
8 reads objectors submits the following
9 specifications. Is that correct?

10 MR. HAGGERTY: Yes.

11 MR. RICHMAN: Okay. So then you have a
12 copy. Queens only has a copy. We have the
13 original here.

14 MR. RYAN: Okay.

15 MR. NAJMI: This is Najmi.

16 COMMISSIONER ARAUJO: Commissioner, Mr.
17 Richman, did this change anything based on what
18 our initial determination was?

19 MR. RICHMAN: This confirms our initial
20 determination, which required the proof of
21 service not to be attached to the spec that was
22 filed with the Board.

23 COMMISSIONER ARAUJO: No, no, I
24 understand that. I'm just saying based on the

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2 proof that Queens and CRU has presented, is that
3 enough to change our initial determination?

4 MR. RYAN: No.

5 MR. RICHMAN: No, it's not. It's in
6 support. That's why CRU included it on this
7 report.

8 COMMISSIONER ARAUJO: Right. And that's
9 my point. That's my point. I want to make sure
10 that nothing that's been presented is changing
11 the initial determination.

12 MR. RYAN: Okay. It would seem, it would
13 seem then that a motion is in order to accept the
14 CRU report with respect to this matter.

15 MR. NAJMI: This is Najmi. That motion
16 was already passed isn't it? I mean it's already
17 been dismissed.

18 MR. RYAN: Oh, it's already been
19 dismissed, okay. You're correct.

20 MR. RICHMAN: Commissioners, the motion
21 is to adopt the CRU prima facie report which
22 results in the dismissal.

23 MR. RYAN: Again, that is --

24 MR. NAJMI: This is Najmi.

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2 MR. RYAN: -- I think, no I think that
3 procedurally, the commissioners are correct. We
4 voted on it. We brought Mr. Rabb back into the
5 room to hear his side of the argument, but the
6 vote is undisturbed. Therefore, there is no
7 requirement for a second vote.

8 MR. RICHMAN: No, yes that motion was
9 adopted.

10 MR. RYAN: That motion was previously
11 adopted.

12 MR. NAJMI: Thank you.

13 MR. RYAN: And thank you for that
14 clarification.

15 MR. NAJMI: Thank you everybody.

16 MR. RICHMAN: Have we confirmed I guess
17 next is Mr. Arcati, if he's appearing on the
18 prima facie or only on the spec?

19 MR. RYAN: I think we'd have to -- Ms.
20 Kontazmanis, Mr. Arcati on the 28th Assembly
21 District, did he file a notice of appearance for
22 the prima facie and for the specification or, or
23 both? I mean one or both?

24 MS. KONTAZMANIS: Just one second, we're

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2 checking.

3 MR. RYAN: Thank you.

4 MS. KONTAZMANIS: There are three
5 separate notices of appearances and they all say
6 County of Queens.

7 MR. HAGGERTY: They don't say for legal
8 prima facie, they don't say for exactly what.

9 MR. RYAN: Alright. So --

10 MS. KONTAZMANIS: It does not indicate
11 an exact issue.

12 MR. RYAN: -- since he's in the waiting
13 room --

14 MS. KONTAZMANIS: Yes.

15 MR. RYAN: -- it would be respectful to
16 invite him into the proper, into the meeting.

17 MS. KONTAZMANIS: You're inviting --

18 COMMISSIONER ARAUJO: But only to this
19 particular issue?

20 MR. RYAN: Pardon? Yes. Just for --

21 COMMISSIONER ARAUJO: And only deal with
22 this issue.

23 MR. RYAN: Just for the CRU.

24 MR. RICHMAN: Only for [unintelligible]

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2 [00:57:42].

3 MR. RYAN: And then he'll have to go, be
4 returned to the waiting room for the remainder of
5 the calendar call.

6 COMMISSIONER ARAUJO: Correct.

7 MS. KONTAZMANIS: Mr. Arcati has joined
8 the meeting.

9 MR. RYAN: Okay. Mr. Arcati, I would
10 remind you to please to mute your live stream, as
11 we got a little feedback. And you're not in the
12 meeting, so when I address you, if you would be
13 so kind as to unmute your microphone. I'm not
14 doing that just yet. We are hearing the prima
15 facie report for the CRU calendar, a single issue
16 now. My understanding is you have other issues on
17 other matters that will be called later, so we'll
18 conclude this matter, return you back to the
19 waiting room and then call those other matters in
20 turn, okay. Mr. Richman, please proceed.

21 MR. RICHMAN: The CRU prima facie defect
22 for Michael Arcati as the Libertarian Party
23 candidate for member of the Assembly in the 28th
24 Assembly District, is that the certificate of

1 April 23, 2020

2 acceptance was filed late, it was filed on March
3 27, 2020, by pursuant to the Election Law, it was
4 required to be filed on March 24, 2020.

5 MR. RYAN: Mr. Arcati, did you provide
6 any documents to the Board that would allow the
7 commissioners to conclude that you, that this
8 certificate of acceptance was filed on or before
9 March 24, 2020?

10 MR. ARCATI: Good morning, thank you for
11 the opportunity to be heard. My first argument is
12 that the, that the letter and the defect is in
13 error. My understanding per Section 6-146 of the
14 New York Election Law, members of a candidate of
15 his own party do not need to file letters of
16 acceptance, of acceptance for a primary.

17 MR. RICHMAN: Is he enrolled?

18 MR. RYAN: Mr. Arcati, is it your
19 ascertain that you are an enrolled member of the
20 Libertarian Party?

21 MR. ARCATI: I am.

22 MR. RYAN: Alright. We're going -- we
23 will, we will need a second call on this to do
24 that research, see what the AVID system, our

1 April 23, 2020

2 voter registration system finds, and we'll second
3 call it and call you back.

4 MR. ARCATI: Thank you.

5 MR. RYAN: Alright. Ms. Kontazmanis,
6 that other matter involving James Sanders, QN29,
7 do you have a notice of appearance for someone on
8 that matter?

9 MS. KONTAZMANIS: No, there is not.

10 MR. RICHMAN: Mm-hmm.

11 MR. RYAN: Do we have a notice of
12 appearance?

13 MR. RICHMAN: No, I thought --

14 [CROSSTALK]

15 MS. KONTAZMANIS: I'm sorry, I thought
16 you heard me, I said no, there is not.

17 MR. RYAN: Right, no, I asked, I'm
18 sorry, I was asking down here as well, because
19 there was a reason why we second called this.

20 MR. RICHMAN: James Sanders Jr. and Dan
21 Newell, I don't know if either one has filed a
22 representative notification.

23 MR. RYAN: Is there anybody by either of
24 those names in the waiting room?

1 April 23, 2020

2 SECRETARY UMANE: There was somebody
3 named Jordan, wasn't there? There was somebody
4 named Jordan?

5 [CROSSTALK]

6 MS. KONTAZMANIS: There's a Gian Jones
7 that's representing another candidate. We have no
8 notices of appearance for any of the names that
9 you guys are talking about now.

10 MR. RYAN: Alright. Can you --

11 MR. RICHMAN: No, no. Mr. Jordan was the
12 contact person for Dan Newell. He filed a spe-
13 I'm looking at the specification. The objector
14 was Dan Newell, the objector's contact person is
15 Gian A. Jones. And since this would result in the
16 dismissal of the spec, Mr. Jones, if he filed a
17 notice of appearance, he's the representative of
18 Newell.

19 MS. KONTAZMANIS: And Mr. Jones was
20 logged in, we couldn't hear him. He's logged out,
21 and now he's been locked out of the meeting.

22 MR. RYAN: Oh, no. Do we have a contact
23 number for Mr. Jones?

24 MR. RICHMAN: There are phone numbers

1 April 23, 2020

2 here on the specification of objection.

3 MR. RYAN: Alright, we'll second call
4 this again, we'll attempt to reach him by
5 telephone, and we'll take it up later in the
6 process.

7 MR. RICHMAN: I don't know how we get
8 him back in here.

9 MR. RYAN: We might have to get him by
10 phone. Okay. So that would otherwise conclude the
11 prima facie calendar.

12 MR. RICHMAN: Except for the Arcati.

13 MR. RYAN: Except for Arcati and, and
14 Sanders. So we have two second calls on prima
15 facie. I suppose then --

16 MR. RICHMAN: We adopted the rest of the
17 calendar.

18 MR. RYAN: -- we adopted the rest of it,
19 no, I'm aware of that, thank you.

20 MR. RICHMAN: We'll move on.

21 MR. RYAN: So I suppose then we can move
22 to the legal prima facie calendar. And there are
23 one, two, three, four, five matters that are on
24 the legal prima facie that involve

1 April 23, 2020

2 representatives and Mr. Arcati has four of them.
3 I will call the legal prima facie calendar matter
4 of Maria D. Kaufer and ask that Mr. Arthur
5 Schwartz join the meeting to be heard on that
6 matter.

7 MS. KONTAZMANIS: Mr. Schwartz has been
8 invited into the meeting.

9 MR. RYAN: Okay. Thank you, Mr.
10 Schwartz, as yesterday, I will call on you when
11 it is time for you to be recognized and heard.
12 Mr. Richman, please proceed.

13 MR. RICHMAN: Item number six on the
14 legal prima facie calendar, Marie D. Kaufer for
15 Democratic Party delegate to the Judicial
16 Convention for the 28th Assembly District, the
17 defect is --

18 MR. RYAN: Hold on for a second, Mr.
19 Richman. Mr. Schwartz, please mute your live
20 stream.

21 [CROSSTALK]

22 MR. RYAN: Alright. There's a lot of
23 background noise, folks. I don't know where it's
24 coming from.

1 April 23, 2020

2 MR. RICHMAN: Schwartz, but I don't see
3 him.

4 MR. SAVINO: He's invisible.

5 MR. RICHMAN: He's muted.

6 MR. SAVINO: Oh, here he comes, there he
7 is.

8 MS. KONTAZMANIS: Mr. Schwartz, can you
9 hear us, Mr. Schwartz?

10 MR. SCHWARTZ: Yes.

11 MR. RYAN: Okay, Mr. Schwartz, Mr.
12 Richman is about to make his presentation and
13 thereafter you will be heard. In the meantime,
14 can you please mute your microphone. Go ahead,
15 please proceed, Mr. Richman on Marie D. Kaufer.

16 MR. RICHMAN: Calendar 6 on the legal
17 prima facie issues calendar for Queens County
18 involving candidate Marie D. Kaufer, delegate
19 overtime Judicial Convention for the Democratic
20 Party for the 28th Assembly District. The
21 candidate failed to timely file a cover sheet as
22 required by the Board rules and the Election Law.
23 And pursuant to the decision of *Armwood v.*
24 *McCloy*, that's a fatal defect not subject to

1 April 23, 2020

2 cure. Commissioners, you have a submission marked
3 Ms. Kaufer calendar number 6, which we e-mailed
4 to you, which is Mr. Schwartz' e-mail dated April
5 20, 2020, and submitted by e-mail on 12:38 a.m.
6 on April 21, 2020.

7 MR. RYAN: Mr. Schwartz, do you wish to
8 be heard? Please unmute. Please unmute your
9 microphone, Mr. Schwartz.

10 MR. SCHWARTZ: Do you hear me now?

11 MR. RYAN: Yes, we do. Thank you.

12 MR. SCHWARTZ: Okay. Sorry.

13 MR. RYAN: No problem.

14 MR. SCHWARTZ: With respect to Ms.
15 Kaufer, I want to just go back to something that
16 was said during one of Mr. Najmi's appearances.
17 The, Ms. Kaufer got a letter on the 21st that,
18 from the Board about this hearing. It was dated
19 the 16th, the postmark on it said the 17th, so
20 whoever represented that the letters went out on
21 the 14th is not being straightforward with the
22 board.

23 MR. RICHMAN: Different letter,
24 different unit.

1 April 23, 2020

2 MR. RYAN: It's a different letter Mr.
3 Schwartz and please confine your arguments to
4 this particular matter, as there are other facts
5 that relate to other matters.

6 MR. SCHWARTZ: Right. So we did, I did
7 submit a letter, it was submitted after 3:00
8 o'clock on the 20th. I can explain the argument.
9 However, Ms. Kaufer was, was included on a group
10 petition and the cover sheet for that group of
11 candidates did not have her name on it. She did
12 not get any notice from the Board. The ledger,
13 which I was able to follow sporadically during
14 the period after March 20th, had after her name,
15 cover sheet submitted separately, after her name.
16 She had no notice, nor did I as her contact
17 person that she was not included on the, on the
18 cover sheet until the Board issued the, this
19 calendar. We then went looking to try to figure
20 out what happened and realized that her name was
21 not on the cover sheet that included all the
22 other candidates that she was on the petition
23 with. But there was no notice to her, there was
24 no confusion at the Board, they actually put

1 April 23, 2020

2 cover sheet after her name, if you look at the
3 ledger, I'm not sure it's, I -- the ledger is not
4 easy to find on the Board's website if it's even
5 available, but it said cover sheet submitted
6 separately. It's my position that the case that
7 the counsel is relying on does not involve facts
8 that are similar to this because Ms. Kaufer, we
9 did then on, on Monday, the 20th, filed an
10 amended cover sheet for Ms., that included Ms.
11 Kaufer's name on it along with the other
12 candidates. It's my position that Armwood doesn't
13 apply, there was no confusion, there was no, no
14 potential for deception or fraud, which is what
15 the Armwood case talks about. The Board's records
16 actually had indicated that she was on a cover
17 sheet and therefore, this being taking off the
18 ballot should not be counted.

19 MR. RYAN: Mr. Richman do you have
20 anything further for the commissioners'
21 consideration?

22 MR. RICHMAN: Yes. Well, first, the fact
23 that the Board had a data entry error actually
24 did prejudice anyone, because if they relied on

1 April 23, 2020

2 the ledger, they would look for the cover sheet,
3 and they would have found that it was not filed.
4 Mr. Schwartz admitted that prior to midnight on
5 March 20th, a cover sheet was filed that did not
6 include the candidate. That defect is not subject
7 to cure under Armwood. It's a prima facie matter,
8 the candidate is fatal. That was the whole issue
9 of Armwood. If you do not file a cover sheet for
10 a candidate, can you file an amended to cure
11 that, the Appellate Division said no, and the
12 Court of Appeals exercised its discretion and
13 declined to leave to appeal. That's the settled
14 law in the state. In the Second Department
15 clearly, this is Queens County, which is part of
16 the Second Department. Commissioners, I believe
17 you're constrained to remove her from the ballot
18 pursuant to the law, and if someone wants to
19 litigate it, maybe the Appellate Division will
20 change its mind.

21 MR. RYAN: That having been said, it
22 appears that a motion is in order to adopted the
23 legal prima facie determination. Is there a
24 motion?

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2 COMMISSIONER ARAUJO: So moved.

3 MR. RYAN: Is there a second?

4 COMMISSIONER MICHEL: Second.

5 MR. RYAN: Are there any objections?

6 Hearing none, the motion carries. Mr. Richman.

7 MR. RICHMAN: The candidate will not
8 appear on the ballot.

9 MR. RYAN: Okay. The next --

10 MR. FUCHS: We have Mr. Jones on the
11 phone.

12 MR. RICHMAN: On the phone.

13 MR. RYAN: Okay. You have Mr. Jones on
14 the phone? Alright.

15 MR. RICHMAN: And then when we get Mr.
16 Arcati back --

17 MR. RYAN: We will go back to the CRU
18 prima facie calendar. Can, Mr. Jones, can you
19 hear me?

20 MR. FUCHS: Mr. Jones?

21 MR. GIAN JONES: Yes?

22 MR. RYAN: Can you put that phone on
23 speaker, please. Alright. Mr. Jones, do you
24 represent Dan Newell on Queens specification 29

1 April 23, 2020

2 in the 10th Senatorial District?

3 MR. JONES: I mean I represent Felicia
4 Johnson. Daniel was the objector. The notice of
5 appearance was as authorized agent for the
6 candidate.

7 MR. RYAN: Okay. So this involves James
8 Sanders.

9 MR. RICHMAN: No, does he represent Mr.
10 Newell? He doesn't represent Sanders.

11 MR. RYAN: Right. Do you represent Mr.
12 Newell as the objector?

13 MR. RICHMAN: Does he have
14 authorization?

15 MR. RYAN: Do you have authorization to
16 --

17 MR. JONES: Yes.

18 MR. RYAN: -- to proceed on his behalf?

19 MS. KONTAZMANIS: Put the telephone
20 closer to the mic. He cannot be heard.

21 MR. RYAN: I know. I can't, I don't know
22 where the speaker is.

23 MR. FUCHS: I'm sorry, I have a Google
24 phone. Go ahead, Mr. Jones.

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2 MR. RYAN: Alright. Mr. Jones, can you
3 just say something so we can make sure the
4 microphone is capturing you?

5 MR. JONES: Testing, one, two, three.

6 MR. RYAN: Alright. Better, thank you.
7 Alright, so my question to you is, do you
8 represent, do you have authorization to proceed
9 on behalf of Dan Newell as the objector to the
10 candidacy of James Sanders Jr. in the 10th
11 Senatorial District in Queens?

12 MR. JONES: Yes, a notice of
13 authorization was filed with the Board.

14 MR. RYAN: Okay. So, on the CRU prima
15 facie calendar, Mr. Richman, please proceed with
16 the presentation to the commissioners regarding
17 this matter.

18 MR. RICHMAN: Commissioners, it's
19 relatively simple. The specifications required
20 for general objection Queens 29 were required to
21 be filed by March 30, 2020. The actual
22 specifications were filed on March 31, 2020, one
23 day beyond the period prescribed by the Election
24 Law for the filing of specifications in support

1 April 23, 2020

2 of general objection Queens 29. Therefore, CRU
3 recommends that the prima facie report be adopted
4 and the specification be dismissed as being filed
5 late.

6 MR. RYAN: Yes, Mr. Jones, do you have
7 any, have you presented to the Board any
8 information that would prove that the
9 specifications were filed on or before March 30,
10 2020?

11 MR. JONES: No, I don't. In fact, when I
12 tried and the Board may or may not consider this,
13 considering the crisis we're in, but while
14 attempting to get to the Board on March 30th, we
15 were move, we were traveling by ferry and the
16 ferry was not, the ferry stopped working at a
17 certain time, so we couldn't get to the Board in
18 enough time due to this crisis we're dealing
19 with. So, no, it's, the CRU is accurate, but we
20 filed it anyway because we just, you know, we
21 just took a chance because we were trying to get
22 to the Board before it closed.

23 MR. RYAN: Okay. Thank you. At this
24 point, it appears that a motion is in order to

1 April 23, 2020

2 accept the CRU prima facie report with respect to
3 this matter. Is there a motion?

4 COMMISSIONER ARAUJO: Araujo, so moved.

5 COMMISSIONER MICHEL: Michel, second.

6 MR. RYAN: Are there any objections?

7 MR. RICHMAN: Arcati, we should bring
8 him back in.

9 MR. RYAN: Pardon?

10 MR. RICHMAN: The CRU prima facie, we
11 should bring Mr. Arcati back in and his specs,
12 he's correct.

13 MR. RYAN: Alright. We didn't get to
14 that yet. We have a motion on the floor.

15 MR. RICHMAN: I thought they voted.

16 MR. RYAN: And it's seconded. I was
17 getting to the are there any objections. Are
18 there any objections? Hearing none, the motion
19 carries.

20 MR. RICHMAN: CRU prima facie report is
21 adopted, the specification is, is dismissed as
22 not being timely filed.

23 COMMISSIONER ARAUJO: Do we have Mr.
24 Arcati's information?

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2 MR. RICHMAN: Yeah, well, he also is
3 representing on the legal prima facie, so once we
4 bring him in, if you want, we could deal with the
5 prima facie issue calendar, the CRU calendar and
6 then continue him for the other matters.

7 MR. RYAN: Right. So we have one more
8 matter on the CRU calendar and that would be Mr.
9 Arcati, so please bring Michael Arcati back into
10 the room, provided that we have the
11 documentation.

12 MR. RICHMAN: We do.

13 MR. RYAN: We do. Okay. Ms. Kontazmanis,
14 please return him to the active meeting.

15 MS. KONTAZMANIS: Mr. Arcati has been
16 invited back into the meeting.

17 MR. RYAN: Okay. Mr. Arcati, while
18 you're appearing on several matters, the only
19 matter we're discussing right this minute is the
20 certificate of acceptance on the 28th Assembly
21 District and we have reviewed the voter
22 registration information and Mr. Richman, please
23 proceed and make your presentation.

24 MR. RICHMAN: Commissioners, according

1 April 23, 2020

2 to the Board's records, Mr. Arcati executed a
3 change of enrollment on January 22, 2018.

4 MS. KONTAZMANIS: Mr. Richman, hold on
5 just one second. Mr. Arcati can you confirm you
6 can hear us please, sir.

7 MR. ARCATI: I do hear you, thank you.

8 MS. KONTAZMANIS: I apologize, Mr.
9 Richman.

10 MR. RICHMAN: Filed that change of
11 enrollment and then under the then existing law,
12 that took effect seven days after the November
13 2018 general election. He's an enrollment member
14 of the Libertarian Party and in acceptance
15 accordingly for candidate for public office who
16 files petitions from within his enrolled party is
17 not required. Commissioners, you should dismiss
18 the CRU prima facie report.

19 MR. RYAN: Based on the presen- --

20 COMMISSIONER ARAUJO: This is
21 Commissioner Araujo. I'll dismiss, make a motion
22 to dismiss this list, this individual from this
23 list.

24 COMMISSIONER MICHEL: Commissioner

1 April 23, 2020

2 Michel, I second it.

3 MR. RYAN: Any objections? Hearing none,
4 the motion carries. Mr. Arcati, please stay and
5 staff, please have Mr. Arcati remain in the
6 active room and we'll proceed with the legal
7 prima facie calendar involving four matters in
8 which, no, I'm sorry, three matters in which Mr.
9 Arcati is involved. That concludes the CRU prima
10 facie calendar for today, for the borough of
11 Queens.

12 Moving forward with the legal prima
13 facie calendar, the first matter is Michael
14 Arcati in the Libertarian Party involving, and
15 that will be item 11 on the calendar, petition
16 does not correctly specify / identify public
17 office party position, etc. Mr. Richman, please
18 make the presentation.

19 MR. RICHMAN: Commissioners, this
20 relates to, it's the same issue for calendar
21 items 11, 14, and 15, candidate number 11 is
22 Michael Arcati, in 14, it's Gabrielle Cordova and
23 in 15 it's Irwin Mark Weinblatt. The prima facie
24 finding in this point, commissioner is that the

1 April 23, 2020

2 petition does not identify correctly the office
3 for which the candidates sought election. The
4 candidates circulated petitions within Queens
5 County and stated for Queens County. However,
6 they sought election to the Judicial Convention
7 from the 2nd Judicial District, which is Kings
8 County.

9 Under the New York State Election Law,
10 to be eligible for election as a judicial
11 delegate, you must be a member of the enrolled, a
12 member of the party, an enrolled member of the
13 party for which you see convention to attend. And
14 you must be a resident of the judicial district.
15 Each of the three candidates named resides within
16 Queens County as set forth on the petitions which
17 you have there, and therefore, they are
18 ineligible to seek election to the party
19 positions as member of the New York State
20 Libertarian state committee -- sorry, member of
21 the New York State Libertarian Party for the
22 judicial district. And the same thing for the
23 state committee rules, the Libertarian Party
24 requires you to be a resident of the district

1 April 23, 2020

2 you're elected. So these apply to those positions
3 for the Judicial District. Again, they all reside
4 in Queens and they were seeking election for the
5 2nd Judicial District in Kings County.

6 You have a submission from Mr. Arcati as
7 well, which was submitted on April 17th, in which
8 he seeks to file amended cover sheet and correct
9 the petitions. Staff recommendation is a petition
10 as circulate cannot be amended with a material
11 error or omission. The incorrect judicial
12 district is a material area. As you know, the
13 correct title of a public office or party
14 position has two elements, the title and the
15 geographic area. This is, based on these
16 petitions, they sought election to the Brooklyn
17 Judicial Convention for the Libertarian Party
18 from enrolled Libertarian Party members residing
19 in Queens County. Mr. Arcati.

20 MR. RYAN: Mr. Arcati, do you have
21 anything that you wish to advise the
22 commissioners?

23 MR. ARCATI: Yes, thank you. And I
24 apologize, this was a printer error on my behalf.

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2 On March 27th, I filed a printers' error
3 amendment, which was accepted and filed in person
4 at your office on March 27th. I did recognize and
5 tried to amend that we, the three candidates,
6 myself, Gabrielle Cordova, Irwin Mark Weinblatt,
7 seek to be a member of the New York State
8 Libertarian State Committee and in 11th Judicial
9 District. All signers of the petitions are
10 residents in the 11th district.

11 Also, I'd like to point out all three of
12 us, myself, Gabriella Cordova and Irwin Mark
13 Weinblatt, did receive a letter from the Board of
14 Elections dated April 7, 2020, stating correctly
15 that we are on the ballot for the State Committee
16 in the 11th District. I do now move that this
17 defect is rendered moot in effect, that it is no
18 longer prima facie error, because the Board of
19 Elections has correctly identified us as
20 candidates for the State Committee for the
21 Libertarian Party in 11th District.

22 MR. RYAN: Mr. Richman do you wish to be

23 --

24 MR. RICHMAN: Yes.

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2 MR. RYAN: Oh, sorry, Commissioner
3 Michel has a --

4 COMMISSIONER MICHEL: The voters?

5 MR. RICHMAN: Yeah, commissioners, what
6 was presented to the voters during the
7 circulation period described the office as the
8 delegates to the 2nd, or State Committee members
9 from the 2nd Judicial District. The whole purpose
10 of this, of the requirement is that you
11 accurately state the party position title and the
12 scope of the geographic territory covered,
13 whether it's an Assembly District, Congressional
14 District, in this case a Judicial District, so
15 that the voters have a clear indication.

16 A printers' error letter has
17 traditionally been used to correct minor
18 typographical errors, such as you did this
19 morning where somebody for in their first name,
20 they printed Y instead of I, not something
21 significant as the wrong district. We have never
22 entertained that as a printers' error letter that
23 I'm running for member of the Assembly in the
24 49th Assembly District, but I printed the 59th or

1 April 23, 2020

2 the 69th.

3 MR. RYAN: Is there a motion to accept
4 the legal prima facie on Arcati, Cordova and
5 Weinblatt?

6 COMMISSIONER ARAUJO: So moved, Araujo.

7 COMMISSIONER MICHEL: Michel, second.

8 MR. RYAN: Are there any objections?
9 Hearing none, the motion carries, Mr. Richman.

10 MR. RICHMAN: The three candidates will
11 not appear on the ballot.

12 MR. RYAN: That leaves us with one more
13 matter on the legal prima facie involving
14 representation. And that is the matter of Derrick
15 DeFlorimonte, represented by Bernard M. Alter.
16 Please have Mr. Alter join the meeting.

17 MS. KONTAZMANIS: Mr. Alter, can you
18 hear us? Bernard Alter, can you hear us? Mr.
19 Alter, you might have to unmute your mic, sir.

20 MR. BERNARD H. ALTER: [unintelligible]
21 [01:23:02].

22 MS. KONTAZMANIS: There he is.

23 MR. RYAN: Mr. Alter?

24 MR. ALTER: Can you hear me?

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2 MR. RYAN: Yes, we can. Now, we can. Mr.
3 Alter, Mr. Richman will proceed with the Board's
4 presentation and thereafter I will recognize you
5 to be heard for the commissioners, and in the
6 interim if you could please mute your microphone,
7 and then unmute it when I call you.

8 MR. ALTER: Okay. [unintelligible]
9 [01:23:26] okay.

10 MR. RICHMAN: Commissioners, the prima
11 facie defect is that the petition does not
12 correctly identify or specify the public office
13 or party position for which the candidate is
14 seeking to be designated for. You have attached
15 to the prima facie calendar a copy of the
16 petitions filed on behalf of Mr. DeFlorimonte.
17 It's under the heading that was presented to the
18 voters, on the petition, it says public office or
19 party position, it just says New York State
20 Assembly District 31.

21 As you know, for the Democratic Party
22 this year, multiple positions and offices are
23 being sought within an Assembly District, that
24 includes member of the Assembly, male and female

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2 members of the State Committee, in Queens, as
3 well as delegates and alternate delegates to the
4 Judicial Convention. As we discussed before, the
5 public office or party position to be described
6 has to reasonably describe both the office and
7 the, and the geographic territory covered. Case
8 law has held that both of those are essential
9 elements and accordingly have to be accurately
10 stated, particularly where there's the potential
11 for confusion and multiple positions are being
12 held, being contested in the same election.

13 And there's several, as it was cited in
14 the Board's submissions to the Supreme Court,
15 which we circulated to you this morning, that's
16 support. And when the geographic territory that
17 was set forth but the title or office of the
18 position has been omitted, if there's more than
19 one title or public office or party position that
20 may be elected from that territory, the petition
21 is invalid, and we offer the citation to the
22 Appellate Division decision in Lifshitz v.
23 Polmeda [phonetic] 112 AD2d 1101.

24 Commissioners, similarly, in Hayes v.

1 April 23, 2020

2 Board of Elections determined that because both a
3 member of the Assembly and Judicial Convention
4 delegates were elected from an Assembly District
5 describing the title sought as just the New York
6 State Assembly District number of the number
7 first following by the district mandated a
8 finding of invalidity and that's the Third
9 Department in 2006, 32 AD3d 660.

10 And consistent with your prior
11 determinations during this process and in prior
12 years, recommend the prima facie finding be
13 upheld with respect to the designating petition.

14 MR. RYAN: Mr. Alter, do you wish to be
15 heard?

16 MR. RICHMAN: Before -- Mr. Alter's
17 submissions, Mr. Alter to your submissions to the
18 commissioners were circulated yesterday. Mr.
19 Alter made a series of submissions, two dated and
20 received April 19th and April 20th, others
21 received and dated April 21 and April 21, two,
22 twice, it should be, two submissions on April 21.

23 MR. ALTER: There were two, okay.

24 MR. RYAN: I'm sorry, Mr. Alter, one

1 April 23, 2020

2 second. Were those --

3 MR. ALTER: When you're ready for me.

4 MR. RYAN: Were those deemed to be
5 timely submitted?

6 MR. RICHMAN: The April 19h and April 20
7 is timely submitted in accordance with your
8 procedures, the two different submissions on
9 April 21, commissioners, were filed after your
10 deadline for submission. But I believe Mr. Alter
11 claims those are supplemental. You may be, you
12 should consider the ones dated the 19th and the
13 20th.

14 MR. RYAN: Mr. Richman, do you have a
15 recommendation with respect to whether or not the
16 subsequent submission should be considered
17 supplemental or de novo?

18 MR. RICHMAN: I think they're late. I
19 think Mr. Alter's submissions on the 19th and the
20 20th, and he'll be able to articulate it, has
21 enough information for you to make an intelligent
22 decision, commissioners.

23 MR. RYAN: Okay. So, Mr. Alter, we're
24 going to proceed and the documents that are

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2 before the commissioners that will be considered
3 are the documents submitted on April 19th and
4 April 20th. With that backdrop, please proceed
5 and address the commissioners.

6 MR. ALTER: Sure, on the April 21st
7 submission, those were additional cases that were
8 in support of my position, that's all. It did not
9 add new material, just additional legal research
10 that I've done that supplement the April 19th and
11 the April 20th submissions. So I'd like the court
12 to, the Board to consider those legal ar- those
13 are legal arguments, those are not, you know, any
14 new material. That's case, that's case law that's
15 been submitted to support April 19th and April
16 20th letters.

17 MR. RYAN: So, Mr. Alter, you're going
18 to be able to make your presentation. I was just
19 simply referencing the documents. So, please,
20 please proceed. Thank you.

21 MR. ALTER: Alright. Very good. Alright.
22 On April 20th, I submitted, or 21st, there are
23 two Appellate Division Third Department cases,
24 the matter of -- I will give them to you in a

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2 second. They basically clarified the issue with
3 respect to the candidacy. You have the office of
4 New York State Assembly, and then you have the
5 geographical district. That is good. The
6 Appellate Division Third Department has held that
7 in two cases. And I can tell you which cases
8 those are, and they basically clarified it. In
9 the matter of Hicks v. Walsh, 76 Ad3d 7773, the
10 candidate said member of the Assembly, it said
11 Assembly 31st and the district.

12 The other, the other, Lifshitz and the
13 other cases talk about a geographical
14 designation. That would say 147th Assembly
15 District. That's no good because that's a
16 geographical territory. Here you have the office
17 and then you have the district. There's no
18 question about what's going on here. The
19 Appellate Division, the Third Department made
20 that distinction in the Hicks case, which I cited
21 in my April 20th letter.

22 And in the, and in the -- I'll tell you
23 the other case [unintelligible] [01:29:11] a
24 second, let me just get it out. And that is in

1 April 23, 2020

2 the, I'll tell you what case that is in, hold on
3 one second. And that is in the Odette case, okay.
4 Those are two cases that were decided after the
5 Hayes case that Mr. Richman cited, okay. These
6 are newer cases.

7 And then after that, another case,
8 matter Sears v. Kimmel and they had said the
9 following. You state the office and you state the
10 district. There's no confusion. It says New York
11 State Assembly and you have the district. You
12 have the public office and you have the district.
13 Now, if the petition said 147 New York State
14 Assembly District, you're identifying the
15 territory, not the office.

16 This petition is good under those two
17 cases I cited. And also, this is a Second
18 Department case that came right -- that I cited
19 also, and that's the matter of Faukman against
20 Paul [phonetic] and that basically said 15th
21 Nassau County Legislative District was good
22 enough because it had the district and it had the
23 office. There's no confusion here. The Appellate
24 Divisions of both departments, the Second

1 April 23, 2020

2 Department and the Third Department have made
3 that very, very clear, okay.

4 And actually, after that, there was a
5 case called Sears v. Kimmel that brought the
6 distinction home. If it was said in the petition
7 147th Assembly District, it'd be no good because
8 you're describing the geographical territory.
9 Here, you have the candidate and you have the
10 district. There's no question at all what this
11 problem is here. Moreover, you were able to
12 figure out what the office was, because you put
13 it on the ledger sheet. Okay. It's in the ledger
14 sheet. The ledger sheet clearly indicates that my
15 candidate is running for the office of New York
16 State Assembly and the district.

17 And those cases that I cited support my
18 position. There are three of them, two of them in
19 the -- they're later cases. Mr. Richman cited
20 earlier cases. These are later case. And they
21 both, and I submitted them in my April 21st
22 letter along with Sears with makes the
23 distinction.

24 Now, let me just throw it out one more

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2 time. You have the office and you have the
3 district. That's good. If you would have said
4 147th New York State Assembly District that's no
5 good, because you're talking about a geographical
6 territory, here you have the office and you have
7 the district. That is a good petition, solid on
8 the wall, okay.

9 Now, I gotta tell you something else. My
10 clients for office, is right now on active duty,
11 he couldn't be, participate in this hearing
12 because he is a serviceman. There is a second
13 issue in my April 20th letter, dealing with a
14 candidate record unit disqualifying my candidate
15 because of the cover sheet error and I wanted --

16 MR. RYAN: Alright. Mr. --

17 MR. ALTER: -- that [unintelligible]
18 [01:31:30].

19 MR. RICHMAN: The cover sheet is not
20 before the commissioners.

21 MR. RYAN: So, Mr. --

22 MR. ALTER: Well, somebody's got to
23 consider it. My man is in the service right now.
24 He's been ordered on by Governor Cuomo. He's

1 April 23, 2020

2 sitting, he's sitting right now --

3 MR. RICHMAN: Mr., Mr. --

4 MR. RYAN: Steve.

5 MR. ALTER: -- in Jones [unintelligible]
6 [01:31:41] let me finish. You've got a military
7 serviceman, a first responder who's sitting in
8 Jones Beach right now doing coronavirus testing
9 and, and also risking his life out there doing
10 these tests. He's a medic.

11 MR. RYAN: So --

12 MR. ALTER: So the Board pulled him off
13 the ballot.

14 MR. RYAN: Mr., Mr., Mr. Alter, I would
15 like to make a couple of statements to you.
16 First, all of us here at the Board of Elections,
17 the commissioners, the executive staff and, and
18 every employee here respects Mr. DiFlorimonte's
19 service to the state and to this country,
20 particularly under these circumstances. What we
21 have here is not a question of his service or his
22 dedication to his country. What we have here is a
23 question of the law. So we're going to stick with
24 the questions of the law, and we will ask Mr.

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2 Richman for some clarification as to what the
3 documents demonstrate, now that you've made your
4 presentation to the commissioners.

5 MR. ALTER: Oh, I'm not done yet, okay.

6 MR. RICHMAN: Commissioners --

7 MR. ALTER: Let me look at, let's look
8 at the petition. It says New York Assembly.

9 MR. RYAN: Mr., Mr., Mr. Alter, I am not
10 recognizing Mr. Richman. Please allow this --

11 MR. ALTER: Alright. Andy you're
12 [unintelligible] [01:32:48].

13 MR. RYAN: -- proceeding to proceed
14 orderly.

15 MR. ALTER: You're allowing --

16 MR. RYAN: Thank you.

17 MR. ALTER: -- you allow me to respond
18 after Mr. Richman?

19 MR. RYAN: Absolutely. We're, we're not
20 going to --

21 MR. ALTER: Alright, very good.

22 MR. RYAN: -- we're not going to cut you
23 off. We're going to, we're going to give you an
24 opportunity, but we're trying to maintain a

1 April 23, 2020

2 little order here, that's all.

3 MR. ALTER: [unintelligible] [01:33:00].

4 MR. RICHMAN: Commissioners, if you look
5 at the actual petition, it only describes the
6 geography. It describes New York State Assembly
7 District 31. Mr. Alter seems to see there's a
8 hyphen or kind -- it's not there. He's saying if
9 you put the number first, and it's the 131st New
10 York State Assembly District, it's no good, if
11 you put it together this way. The office or the
12 title is either member of the Assembly,
13 assemblyman, assemblywoman. This is only
14 describing the New York State Assembly District
15 31. It's a geographic description, and as I
16 stated, multiple party -- and it's headed under
17 the heading of public office or party position.
18 You have, as the cases demonstrate, the
19 confusion. Alright, what office or position are
20 you running for within the New York State
21 Assembly District 31? That's a description of the
22 geographic term, uh, the geographic scope of the
23 district. It does not properly describe the
24 office.

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2 With respect to the other arguments,
3 let's put it this way. Mr. Alter cannot have the
4 claim the benefit of the military law exemption
5 when right now he is actively pursuing a
6 proceeding against the Board on behalf of the
7 candidate. The governor did not toll the statute
8 of limitations or the Election Law proceedings.
9 These are going forward. He can't use --

10 MR. RYAN: Mr., Mr. Richman, as I
11 indicated to Mr. Alter, those issues are
12 extraneous to these proceedings.

13 MR. RICHMAN: Okay.

14 MR. RYAN: So we're going to confine
15 these proceedings to the parameters of what we're
16 dealing of. And what we're dealing with here is a
17 description, a proper or improper description of
18 the office that this individual seeks to pursue.
19 Mr. Alter, now that you heard the clarification
20 of Mr. Richman with respect to what actually
21 appears on the petition, do you have anything
22 else you wish to offer in addition to what you've
23 already stated.

24 MR. ALTER: In [unintelligible]

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2 [01:34:49] Hicks v. Walsh case, it said there,
3 New York State Assembly, district, was it, that
4 was 115, the Appellate Division, Third Department
5 said that's good, okay. That's a good petition.
6 Okay. And that's the one I cited, 7678 AD 76 AD
7 [unintelligible] [01:35:05] 773, okay.

8 MR. RYAN: Okay.

9 MR. ALTER: You also have the matter of
10 Odett v. Walsh, which are later cases than the
11 one Mr. Richman has, by the way. Which is in 76
12 AD3d 771 and that's the Third Department also in
13 2010. Those are later cases than the ones Mr.
14 Richman said. And then he said basically you
15 state the position and you state the district,
16 there's no confusion. New York State Assembly,
17 District number, good enough. Okay. And that --

18 MR. RYAN: Mr. Richman, can you remind
19 the commissioners what department Queens is in.

20 MR. RICHMAN: Commissioners, the Second
21 --

22 MR. ALTER: Well, it's a Second
23 Department case too sir --

24 MR. RICHMAN: -- Department.

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2 MR. ALTER: There's a Second Department
3 Case too, which I cited. There's another one
4 called Faukman [phonetic] v. Cole which makes the
5 same point, okay.

6 MR. RYAN: There is a commissioner --

7 MR. ALTER: And that's cited at, and
8 that's cited at --

9 MR. RYAN: Mr. --

10 MR. ALTER: -- I'll tell you what case
11 that's cited. Faukman v. Cole is 153 AD3d Wall
12 14, Second Department 2017.

13 MR. RYAN: Mr., Mr. --

14 MR. ALTER: [unintelligible] [01:35:55].

15 MR. RYAN: -- Mr. Alter, a commissioner
16 wishes to be heard. Commissioner Michel.

17 COMMISSIONER MICHEL: Mr., uh, Steve?

18 MR. RICHMAN: Yes, sir.

19 COMMISSIONER MICHEL: Didn't we just
20 have a case like this on Tuesday?

21 MR. RICHMAN: We, yes, commissioners,
22 that's what I'm saying. Consistent with your
23 prior rulings, you have to have a more, something
24 more than just describing the geographic term.

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2 New York State Assembly District 31 describes a
3 district. We had that involving, one was an
4 Assembly District and I believe one was a Senate
5 District.

6 COMMISSIONER MICHEL: So we should, it's
7 the same rule?

8 MR. RYAN: Please, at this juncture, I
9 believe it is appropriate to call the question.
10 Is there a motion to accept the legal prima facie
11 ruling?

12 COMMISSIONER ARAUJO: So moved,
13 Commissioner Araujo.

14 MR. RYAN: Is there a second?

15 COMMISSIONER MICHEL: Michel, second.

16 MR. RYAN: Any objections? Hearing none,
17 the motion carries.

18 MR. RICHMAN: Prima facie, legal prima
19 facie report is adopted, candidate will not
20 appear on the ballot.

21 MR. ALTER: There will be a
22 [unintelligible] [01:36:56]. I can tell you that,
23 gentlemen and the Board will be playing.

24 MR. RYAN: Okay. Thank you. We can now

1 April 23, 2020

2 proceed with the balance of the legal prima facie
3 calendar. Mr. Richman.

4 MR. RICHMAN: Okay. Commissioners, going
5 back we're getting this first series all relate
6 to the failure, the candidates' failure to timely
7 file a cover sheet, and pursuant to the decision
8 in Armwood v. McCloy, we recommend they be
9 removed from the ballot. Libertarian Party State
10 Committee 11th Judicial District candidates
11 Antonia Penapinto, Amit Maal [phonetic], Sandeep
12 Chak [phonetic].

13 Democratic Party, Shah Haque, delegate
14 to the convention, Judicial Convention, from the
15 24th AD and Afroza Begum, delegate in the 24th
16 AD, Ashim Dean [phonetic], Democratic male member
17 of the 29th AD, Mohammed Saiful Islam, Democratic
18 male district leader in the 29th Assembly
19 District Part A, Pamela Hazel, Democratic female
20 district leader in the 29th Assembly District
21 Part A., Jeloni S. Wassey [phonetic] Democratic
22 male district leader in Assembly District 40 Part
23 B.

24 MR. RYAN: No, Mr. Richman, it seems

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2 that those are all Armwoods. Why doesn't we
3 perhaps --

4 MR. RICHMAN: Yes. You want to just stop
5 --

6 MR. RYAN: -- do that as one motion and
7 then we'll do the others.

8 MR. RICHMAN: Is there a motion?

9 MR. RYAN: Yeah.

10 COMMISSIONER ARAUJO: So moved,
11 Commissioner Araujo.

12 COMMISSIONER MICHEL: Second, Michel.

13 MR. RYAN: Any objections? Hearing none,
14 the motion carries.

15 MR. RICHMAN: Those candidates will not
16 appear on the ballot. Calendar item 12 Kiota Hoyt
17 [phonetic], the petition does not correctly
18 identify, specify or identify the public office
19 or party position that is being sought. And
20 that's the only one remaining in that category.

21 MR. RYAN: And there's only one other
22 the matter, so.

23 MR. RICHMAN: Republican Party, Daniel
24 Kogan and Michael A. O'Reilly, Republican judge

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2 of the civil court. Mr. Kogan in vacancy three in
3 the 4th District and Mr. O'Reilly in vacancy four
4 in the 6th District, pursuant to Section 6-134 of
5 the Election Law, petitioner for the same public
6 office in different petition, in different
7 political subdivision may not be combined in the
8 same petition. For those commissioners who are
9 old enough to remember, these are what was called
10 a Popkin [phonetic] petition.

11 MR. RYAN: Is there a motion to accept
12 the legal prima facie as to those two matters?

13 COMMISSIONER ARAUJO: So moved, Araujo.

14 COMMISSIONER MICHEL: Second, Michel.

15 MR. RYAN: Any objections? Hearing none,
16 the motion carries. And that concludes the legal
17 prima facie calendar for Queens County.

18 MR. RICHMAN: Can we have one moment to
19 get ready for the clerks' reports?

20 MR. RYAN: Yes, how about a ten minute
21 recess, Mr. Richman?

22 MR. SAVINO: Well, we've got two people
23 that were kicked out of the lobby on the phone
24 right now.

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2 MR. RICHMAN: Who?

3 MR. FUCHS: Both counsels for spec 5-1
4 Mr. Ryan have to appear by telephone.

5 MR. RICHMAN: That's fine. We didn't get
6 to the specs.

7 MR. RYAN: Okay. We didn't get to the
8 specs yet, but that's okay. Thank you. That would
9 be the next --

10 MR. RICHMAN: At least five minutes, I
11 want to make one stop.

12 MR. RYAN: Alright. So, why don't we do
13 this. Why don't we take a ten minute break,
14 recess the matter for ten minutes and then we'll
15 come back here at five minutes to 12:00.

16 MS. KONTAZMANIS: Okay. When you're
17 ready to go back on, let me know.

18 MR. RYAN: Alright. Thank you.

19 [OFF THE RECORD]

20 [ON THE RECORD]

21 MR. RYAN: Okay. We are, we are back on.
22 The first matter that we're going to call --

23 MR. RICHMAN: [unintelligible]

24 [01:56:50] rule for this gets done first.

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2 MR. RYAN: Okay. Go ahead.

3 MR. RICHMAN: Commissioners, the first
4 matter to consider and part of the clerks' report
5 is that your Queens' Commissioners Committee,
6 under Rule H-13 reviewed the findings of their
7 Queens staff, and with respect to the following
8 three specifications, were directed not to be
9 worked. Queens spec 3-1 for improper proof of
10 service under Rule H-12, Queens spec 18-1, the
11 objector lacked standing pursuant to Rule H-13,
12 and Queens spec 29-1, which was filed late and
13 not to be worked. In accordance with Rule H-13 of
14 the designating petition rules, the Queens
15 Commissioners' Committee report has to be
16 confirmed by the full board and I would ask that
17 someone make that motion to confirm the Queens
18 Commissioners' Committee report.

19 COMMISSIONER ZACCONE: This is Zaccone,
20 I'll make that motion.

21 MR. RYAN: Is there a second?

22 COMMISSIONER MICHEL: Second, Michel.

23 MR. RYAN: Any objections? Hearing none,
24 the motion carries.

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2 MR. RICHMAN: Queens Committee,
3 Commissioners' Committee report is confirmed,
4 those specs were not worked and accordingly, no
5 action taken.

6 MR. RYAN: Okay. Proceeding next with
7 Queens specification 5-1, counsel for candidate
8 Felicia Johnson, Michael G. Scala and counsel for
9 the objector, Dan Newell, Gian Jones are
10 appearing via telephone and not via Webex. Mr.
11 Richman, we are ready to proceed with that
12 matter.

13 MR. RICHMAN: That's not the name of the
14 objector on the clerks' report. Could the Queen's
15 staff confirm what the names of the objectors are
16 on that, on the clerks' report 5-1? Your report
17 submitted has an objector of Ralph Charles, who
18 isn't the name of the candidate Brian said.

19 MR. RYAN: Well, Mr. Mr. Jones submitted
20 the name Dan Newell, oh, Dan Newell is the
21 objector. I think I have it in the reverse.

22 MR. RICHMAN: No, but the objector on
23 the report is Ralph Charles, so that's the
24 question, who represents Ralph Charles.

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2 MR. RYAN: I apologize. I have it in
3 reverse. Mr. Jones is representing the candidate
4 and we have a signed notice of appearance from
5 the candidate with her authorization.

6 MR. RICHMAN: Johnson?

7 MR. RYAN: Ms. Johnson.

8 MR. RICHMAN: Okay.

9 MR. RYAN: And Mr. Scala is presenting
10 the objector, Mr. Newell.

11 MR. RICHMAN: No, Mr. Newell is not the
12 object.

13 MR. RYAN: Oh, I'm sorry. Mr. Charles, I
14 apologize. I got this all screwed up.

15 MR. RICHMAN: Okay.

16 MR. RYAN: So let's, let's try that
17 again, shall we?

18 MR. RICHMAN: Yeah.

19 MR. RYAN: We have an objector. The
20 objector's name is Ralph Charles, the objector is
21 represented by Michael Scala who is on the
22 telephone. We have a candidate. The candidate is
23 Felicia Johnson. Felicia Johnson is represented
24 by Gian Jones who is also on the telephone. Mr.

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2 Richman, please proceed and I apologize for that
3 little foul up.

4 MR. RICHMAN: Queens clerks' report on
5 specification of objection 5-1, the objections of
6 Ralph Charles to the Democratic Party petitions
7 of Felicia Johnson for member of the New York
8 State Senate from the 10th Senate District. The
9 clerks' report, 373 signatures submitted for the
10 candidate, the clerks found 334 invalid, leaving
11 39 valid signatures, 300 signatures are required
12 to qualify for the primary ballot under the New
13 York State Election Law as modified by the
14 governor's executive order 202.8.

15 MR. RYAN: So --

16 MR. RICHMAN: The clerk just asked the
17 candidate what -- can they come back.

18 MR. RYAN: Yes, Mr. Jones, do you wish
19 to be heard?

20 MR. RICHMAN: Mr. Jones?

21 MR. JONES: I can't hear you guys.

22 MR. RICHMAN: Mr. Jones, the clerks'
23 report shows with you with only 39 valid
24 signatures for your candidate, 300 are required

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2 to qualify. No exception report has been
3 submitted. Do you have -- what do you have
4 comment with respect to the clerks' report
5 showing you with only 39 valid signatures.

6 MR. JONES: I don't, yeah, I don't know
7 how the clerks' report could possibly show 38
8 valid signatures. We collected signatures from
9 registered voters within the district by and
10 large, certainly enough to meet the 300 signature
11 threshold.

12 MR. RICHMAN: Mr. Jones, the clerks'
13 report was furnished to either the candidate or
14 the designated contact person more than a week
15 ago. Have you reviewed the report?

16 MR. JONES: No, I haven't.

17 MR. RICHMAN: So you have no, no
18 findings other -- no specific findings that the
19 clerks' report is inaccurate?

20 MR. RYAN: That having been said --

21 MR. JONES: I also, no one
22 [unintelligible] [02:02:03] had, no.

23 MR. RYAN: Okay. Mr. Scala, do you wish
24 to be heard?

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2 MR. SCALA: Mr. Jones had not submitted
3 any caption to the clerks' report, we ask that
4 the clerks' report be --

5 MR. RYAN: At this point, a motion is in
6 order to accept the clerks' report. Is there a
7 motion?

8 COMMISSIONER ARAUJO: Move to accept the
9 clerks' report.

10 MR. RICHMAN: Commissioner Araujo.

11 COMMISSIONER MICHEL: Second,
12 Commissioner Michel.

13 MR. RYAN: Are there any objections?
14 Hearing none, the motion carries.

15 MR. RICHMAN: Clerks' report on spec
16 Queens 5-1 is adopted, the candidate will not
17 appear on the ballot. Commissioners,
18 specification 6-1 was dismissed on the CRU prima
19 facie report. Accordingly, no action is required
20 on this clerks' report. We'll now have to get
21 the parties in for Queens spec reports, Queens
22 17, and is this a phone call as well?

23 MR. RYAN: Hold on. On 6-1 --

24 MR. RICHMAN: Dismissed.

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2 MR. RYAN: -- it's previously dismissed.

3 MR. RICHMAN: On the prima facie report.

4 MR. RYAN: So this matter, this matter
5 is moot, correct?

6 MR. RICHMAN: Yes.

7 MR. RYAN: Is there any motion that's
8 required for that?

9 MR. RICHMAN: No.

10 MR. RYAN: Okay.

11 MR. RICHMAN: The commissioners already
12 dismissed the spec as part of the CRU prima facie
13 report.

14 MR. RYAN: Okay. So yes, we need to get
15 the representatives for the next Queens 17 on the
16 phone as well. So we're going to locate them and
17 proceed accordingly thereafter. Maybe I can get
18 this one right.

19 MR. RICHMAN: Doyle is the objector.

20 MR. RYAN: I know.

21 MS. KONTAZMANIS: Mr. Martinez has been
22 invited into the meeting.

23 MR. RYAN: Okay.

24 MS. KONTAZMANIS: Are you calling Mr.

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2 Schwartz?

3 MR. RYAN: Yes.

4 MR. RICHMAN: I believe staff is.

5 Schwartz represents which side?

6 MR. RYAN: Schwartz, Mr. Schwartz
7 represents the candidate.

8 MR. RICHMAN: Okay.

9 MR. RYAN: Do you have Mr. Schwartz on
10 the phone?

11 MR. SAVINO: I have the candidate on the
12 phone I think it is.

13 MR. RYAN: Okay.

14 MR. RICHMAN: Lorenzo Brea? Okay.

15 MR. RYAN: We had a, also had a notice
16 of appearance for Mr. Schwartz.

17 MR. SAVINO: Yeah, Dave is trying to get
18 Schwartz.

19 MR. RYAN: Okay. Please standby while we
20 attempt to locate Mr. Schwartz.

21 MR. FUCHS: Okay. Schwartz said he's not
22 appearing for Brea, Brea's the candidate.

23 MR. RYAN: Okay. Apparently, Mr.
24 Schwartz is no longer representing Mr. Brea and

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2 has advised us via telephone --

3 MR. LORENZO BREA: Hello?

4 MR. RYAN: -- in that event.

5 MR. SAVINO: Yes, one second.

6 MR. RYAN: We will proceed with Mr. Brea
7 by telephone for himself as the candidate and Mr.
8 Martinez via Webex for the objector, Mr. Doyle.
9 And this is Queens 17.

10 MR. MARTINEZ: In that event --

11 MR. RICHMAN: Clerks', this is the
12 clerks' report on specification of objection
13 Queens 17, the objections of James E. Doyle to
14 the Democratic Party petitions of Lorenzo Brea
15 for male Assembly district leader in the 30th
16 Assembly District Part A. The clerks' report, 189
17 signatures submitted, 73 found invalid, leaving
18 116 valid. To qualify for the ballot for this
19 primary election under the Election Law as
20 modified by the governor's executive order, 150
21 signatures are required. The candidate is short -
22 -

23 MR. MARTINEZ: Twenty-four.

24 MR. RICHMAN: -- 24. And there are no,

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2 no exception report was timely filed for the
3 clerks' report. Does the candidate want to say
4 anything?

5 MR. RYAN: Okay. Mr. Brea --

6 MR. BREA: Yes?

7 MR. RYAN: -- this report finds you
8 short by 24 signatures, no 34 --

9 MR. MARTINEZ: Thirty-four.

10 MR. RYAN: -- 34 signatures.

11 MR. BREA: Yes.

12 MR. RYAN: Have you offered any
13 documentation to the Board for the commissioners'
14 consideration that would indicate that you have a
15 sufficient number of signatures to remain on the
16 ballot?

17 MR. BREA: So, in short, no, there is no
18 documentation that I submitted, just because in
19 order to adequately defend the signatures that I
20 would need, I would most likely need an affidavit
21 from all of the people whose signatures I
22 submitted, and which were objected to and
23 verified by the Board of Elections. But I also
24 wanted to give context to the situation, which is

1 April 23, 2020

2 another part of my argument.

3 MR. RYAN: Proceed.

4 MR. BREA: Okay. So even before
5 petitioning was suspended, and the threshold was
6 decreased, people in my neighborhood were already
7 taking precautions for themselves and loved ones.
8 I mean they were afraid for their lives, rightly
9 so, which resulted in their telling me they could
10 not sign or speak to me due to the risk of
11 exposure to the virus.

12 Additionally almost every single member
13 of my family has a precondition except myself,
14 making COVID-19 exposure extremely dangerous even
15 before Cuomo came out with the executive order
16 suspending petitioning during, at a certain date.
17 Therefore, I had to scale back my campaign as an
18 attempt to protect my loved ones, as well as
19 myself, because each time I went to collect
20 signatures I was increasing the danger I was
21 putting my family in.

22 And I've worked on numerous campaigns
23 where I was able to get signatures and it was,
24 that, that have qualified candidates for the

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2 ballot. I grew up in this neighborhood. The
3 people know me, I know the people. And I'm sure
4 if not for these circumstances, there's no doubt
5 that would be on this ballot. It's just that
6 since COVID-19 was such a serious issue even
7 before the governor suspended petitioning early
8 as well as decrease the threshold, there were
9 already people taking increased precautions.

10 Also, while the dangers around COVID-19
11 was becoming ever present, candidates that did
12 not have, you know, backing by large political
13 organizations, or had several tens of people
14 going out for them, collecting those petitions,
15 small more local, I believe more hyper local
16 candidates like myself were pushed to see how far
17 we would go and how far we would go and how much
18 danger we would put ourselves in as well as our
19 families in order to be on the ballot.

20 So that's why I believe disqualifying my
21 candidacy would validify and expand these
22 inequalities during such extenuating
23 circumstances.

24 MR. RYAN: Thank you, Mr. Brea. Mr.

1 April 23, 2020

2 Martinez, do you wish to be heard?

3 MR. MARTINEZ: Yes, I just want to say
4 thank you to the Board for all you guys' work and
5 everything like that. It's [unintelligible]
6 [02:09:05] circumstances and you guys are doing a
7 good job and I would respectfully request that
8 the clerks' report be adopted.

9 MR. RYAN: Thank you. Is there a motion?

10 COMMISSIONER ARAUJO: Move to adopt the
11 clerks' report.

12 MR. RYAN: Is there a second?

13 COMMISSIONER MICHEL: Michel, second.

14 MR. RYAN: Are there any objections?
15 Hearing none, the motion carries. Mr. Richman.

16 MR. RICHMAN: Clerks' report on spec
17 number Queens 17 is adopted, the candidate
18 Lorenzo Brea will not appear on the ballot. We
19 have now --

20 MR. BREA: Thank you for letting me be
21 heard.

22 MR. RYAN: The matter is now concluded.
23 Thank you. We're moving on to Queens 25,
24 involving the candidacy of Edward Bronstein, and

1 April 23, 2020

2 we have Mr. John Haggerty for the objector.

3 MS. KONTAZMANIS: Mr. Haggerty's been
4 admitted into the meeting. Can you hear us sir?

5 MR. JOHN HAGGERTY: Yes.

6 MR. RICHMAN: Clerks' report, on Queens
7 specification number 25-1, the objections of
8 Amanda Ryan to the Independence Party petition of
9 Edward C. Bronstein for member of the New York
10 State Assembly from the 26th Assembly District.
11 Clerk reports 25 signatures submitted for the
12 candidate, 12 found invalid, leaving 13 valid,
13 the clerks determined that pursuant to the New
14 York State Election Law as modified by the
15 governor's executive order, 32 signatures are
16 required to qualify for the ballot.

17 MR. RYAN: Mr. Haggerty, do you wish to
18 be heard?

19 MR. HAGGERTY: Yes, I ask that the
20 clerks' report be adopted.

21 MR. RYAN: Is there a motion?

22 COMMISSIONER ARAUJO: So moved to adopt
23 the clerks' report, Araujo.

24 COMMISSIONER MICHEL: Second, Michel.

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2 MR. RYAN: Are there any objections?

3 Hearing none, the motion carries.

4 MR. RICHMAN: Clerks' report on spec 25-
5 1 is adopted, Candidate Edward C. Bronstein will
6 not appear on the Independence Party line for
7 member of the Assembly, 26th AD.

8 MR. RYAN: And I believe we have one
9 matter.

10 MR. RICHMAN: The final?

11 MR. RYAN: Mm-hmm.

12 MR. RICHMAN: Yeah, we have the final
13 clerks' report.

14 MR. RYAN: Okay. We have, on the
15 petition of Joseph P. Addabbo Jr. We have Queens
16 specification 26-1 and we have John F. Haggerty
17 for the objector.

18 MR. RICHMAN: With no appearance --

19 MR. HAGGERTY: Yes.

20 MR. RICHMAN: -- for the candidate.

21 MR. RYAN: Yeah, that's the only
22 appearance, only an appearance by the objector.

23 MR. RICHMAN: Clerks' report on
24 specification of objection, Queens 26-1, in the

1 April 23, 2020

2 matter of the objections of John F. Haggerty,
3 Jr., the Libertarian Party petition of Joseph P.
4 Addabbo, Jr. for member of the New York State
5 Senate from the 15th Senatorial District, the
6 clerks' report, 12 signatures submitted, 10
7 invalid, leaving two valid. Under the New York
8 State Election Law, as modified by the governor's
9 executive order three signatures are required to
10 qualify for the ballot.

11 MR. RYAN: Mr. Haggerty, would you like
12 to be heard?

13 MR. HAGGERTY: Yes, I would ask that the
14 clerks' report be adopted, but I also am aware
15 that the interim State Libertarian Party has sent
16 a letter to the Board of Elections concerning
17 authorizations and who has the authority to issue
18 those authorizations and I'm wondering what the
19 Board's position is on that.

20 MR. RYAN: Mr. Haggerty, it does not
21 appear that anyone here at this hearing is aware
22 of the circumstance to which you are addressing.

23 MR. HAGGERTY: The Board of Elections
24 did not receive a letter from the state's --

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2 MR. RICHMAN: We're not sure.

3 MR. HAGGERTY: -- interim, State
4 Libertarian Interim Committee?

5 MR. RYAN: Not that I or the legal
6 department is aware.

7 MR. RICHMAN: There's several e-mails I
8 haven't seen yet, but that's, Mr. Haggerty, I
9 don't know. If they could, if you want something
10 to be [unintelligible] [02:13:08], if they could
11 resubmit a copy to the legal department's
12 attention, we'll make sure it gets reviewed.

13 MR. HAGGERTY: Yeah, I figure it was
14 applicable to many candidates and I'm not saying
15 it's correct or wrong. I was just wondering what
16 the position is. So I'd ask that the clerks'
17 report be adopted and I'll forward whatever copy
18 of the letter I have on.

19 COMMISSIONER ARAUJO: Motion.

20 MR. RYAN: Okay. Is there a motion?

21 COMMISSIONER ARAUJO: Araujo.

22 MR. RICHMAN: Araujo.

23 COMMISSIONER ARAUJO: Motion to adopt
24 the clerks' report, Araujo.

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2 COMMISSIONER MICHEL: Second, Michel.

3 MR. RYAN: I'm sorry, Mr. Haggerty, I
4 did I cut you off, inadvertently?

5 MR. HAGGERTY: No, no, I'm fine, thank
6 you.

7 MR. RYAN: Alright. So we have a motion
8 and a second. Are there any objections? Hearing
9 none, the motion carries.

10 MR. RICHMAN: Clerks' report and
11 specification of objection 26-1 is adopted,
12 Joseph P. Addabbo, Jr. will not appear on the
13 Libertarian Party ballot for State Senator in the
14 15th Senate District. Mr. Ryan, that concludes
15 all of the scheduled matters that were calendared
16 for today. We have no other matters that are
17 properly before the commissioners.

18 MR. RYAN: So, ladies and gentlemen, we
19 are concluded and Mr. Haggerty had the honor of
20 being the last matter heard on our first week of
21 telehearings. So I would, I think a motion is,
22 should be entertained now to adjourn this meeting
23 and also to schedule hearings, there are some
24 additional hearings --

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2 MR. RICHMAN: The commissioners have
3 already voted to schedule the two prima facie
4 matters from Tuesday for next Tuesday at 1:30,
5 prior to the commencement of the commissioners'
6 stated meeting.

7 MR. RYAN: Okay So then only a motion to
8 adjourn is required.

9 SECRETARY UMANE: So moved.

10 COMMISSIONER ARAUJO: Before I make the
11 motion -- this is Commissioner Araujo. Can I just
12 thank the staff of the Queens borough office and
13 also the general office staff who put this whole
14 thing together. We appreciate it. It was a
15 difficult thing to do, but it was well done and
16 well deserved acclimation on behalf of our staff.

17 MR. RYAN: Thank you very much.

18 PRESIDENT TAYLOR: This is President
19 Taylor. I also thank the entire staff from the
20 five counties and especially [unintelligible]
21 [02:15:18] and the people in the MIS area, as
22 they are carrying a heavy load. So thank you.

23 MR. RYAN: Thank you.

24 COMMISSIONER ARAUJO: I second

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Commissioner Umane's motion.

MR. RYAN: Okay. Do any other commissioners wish to be heard prior to the vote on the motion? Hearing none, this meeting is adjourned.

COMMISSIONER CAMILO: Thank you all so much.

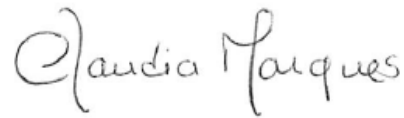
MR. RYAN: Thanks.

(The meeting concluded at 12:15 p.m.)

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Board of Elections in The City of New York on April 23, 2020 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Claudia Marques

Date: February 23, 2021

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