

BOARD OF ELECTIONS
IN THE CITY OF NEW YORK

COMMISSIONERS' MEETING

42 Broadway - 6th floor
Commissioners' Hearing Room
New York, NY 10004
April 28, 2020

April 28, 2020

PRESENT:

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

ALSO PRESENT:

Alexander Rabb, Esquire

Ali Najmi, Esquire

Meagan Molina, Witness

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2 (The meeting commenced.)

3 MR. RYAN: Good afternoon. Commissioner
4 Taylor, I have conferred with Mr. Richman and it
5 has been determined that since this is a
6 continued hearing, that the formal introduction
7 that has been read prior to the others is not
8 necessary and is part of the record and with your
9 permission, I would like to proceed.

10 PRESIDENT TAYLOR: Yes, thank you.

11 MR. RYAN: Thank you. So, first what we
12 will do is today is, what is today's date? I
13 don't even know.

14 MR. RICHMAN: April 28th.

15 MR. RYAN: April 28th, I got a brain
16 cramp for a second, I apologize. April 28th and
17 today is Tuesday, April 28th and we're convening
18 some remotely and some here at the general
19 office. In any event, I will commence with the
20 roll call. President Taylor?

21 PRESIDENT TAYLOR: I am present.

22 MR. RYAN: Commissioner Umane?

23 SECRETARY UMANE: Here.

24 MR. RYAN: Commissioner Araujo?

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2 COMMISSIONER ARAUJO: Present.

3 MR. RYAN: Commissioner Camilo?

4 COMMISSIONER CAMILO: Here.

5 MR. RYAN: Commissioner Marmorato?

6 COMMISSIONER MARMORATO: Present.

7 MR. RYAN: Commissioner Michel?

8 COMMISSIONER MICHEL: Present.

9 MR. RYAN: Commissioner Shamoun?

10 COMMISSIONER SHAMOUN: Present.

11 MR. RYAN: Commissioner Townsend?

12 COMMISSIONER TOWNSEND: Present.

13 MR. RYAN: And Commissioner Zaccone?

14 COMMISSIONER ZACCONE: Present.

15 MR. RYAN: Okay. So we have --

16 MR. RICHMAN: Staff?

17 MR. RYAN: -- oh, yes, I'm sorry. Staff,
18 myself, Michael Ryan, I'm the executive director.
19 To my left is deputy executive director, Dawn
20 Sandow, Pam Perkins, the administrative manager
21 and Georgia Kontazmanis, the operations manager
22 are here in the building and are appearing
23 remotely. We also have general counsel, Steven
24 Richman, deputy general counsel, Rafael Savino,

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2 David Fuchs from the legal department. I see Mr.
3 Denkberg and Mr. Moltner, counsels to the
4 commissioner are both present as well, and there
5 is other staff here to assist with these hearings
6 if necessary.

7 That having been said, I would like to
8 proceed with the hearing calendar on prima facie
9 matters relating to designating petitions for the
10 June 23, 2020 primary election, and there is one
11 specification that needs to be addressed as well,
12 and there are appearances for that matter, and
13 that will be called last. So, we have one
14 enrollment issue. The name on the ballot is
15 Richard A. Segal, and the issue is, it's Richard
16 A. Segal in the 69th Assembly District and the
17 reinstatement error made in entering the address,
18 correct address was on the petition, 533 West
19 110th Street. Mr. Richman do you have anything to
20 add to this?

21 MR. RICHMAN: Commissioners, we, again,
22 this was a data entry error. It was brought to
23 our attention, we corrected it. We're submitting
24 it to you to determine that the prima facie

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2 enrollment issue report for this candidate should
3 be vacated and restored to the ballot.

4 SECRETARY UMANE: So moved.

5 COMMISSIONER CAMILO: Second.

6 MR. RYAN: Any objections? Hearing none,
7 the motion carries.

8 MR. RICHMAN: The candidate is restored
9 to the ballot.

10 MR. RYAN: There is a CRU prima facie
11 matter related to a county committee position of
12 Christian E. Williams, petition was filed on
13 3/23, was late and the due date was 3/20/2020.
14 Mr. Richman, do you have anything to add to this?

15 MR. RICHMAN: It's both. The other one -
16 -

17 MR. RYAN: I'm sorry, and Carol Hassell,
18 H-A-S-S-E-L-L.

19 MR. RICHMAN: These are both candidates
20 who filed late for the 62nd ED of the 77th
21 Assembly District in the Bronx, and
22 commissioners, the Board lacks the authority to
23 extend the time to file. We would recommend you
24 adopt this addition to the prima facie report.

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2 COMMISSIONER CAMILO: So moved.

3 COMMISSIONER ARAUJO: Second.

4 MR. RYAN: Are there any objections?

5 Hearing none, the motion carries.

6 MR. RICHMAN: Candidates will not appear
7 on the ballot.

8 MR. RYAN: And there is, now that brings
9 us to Queens 6-1?

10 MR. RICHMAN: No. That brings the e-
11 mail, the judicial delegates for the 70th AD, the
12 error that was reported because it was not
13 entered into the ledger. Cleveland K. Manley and
14 Yvonne D. Hudson.

15 MR. RYAN: Okay. Mr. Richman, would you
16 mind making that presentation please?

17 MR. RICHMAN: Commissioners, in the, on
18 the alternate delegates and delegates running for
19 the Democratic Judicial Convention in the 70th
20 AD. Petitions were filed for Cleveland K. Manley,
21 and Yvonne D. Hudson. They were not, the cover
22 sheet was not noted on the petition ledger. They
23 received a prima facie defect notice of no cover
24 sheet filed.

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2 Following your hearing, it was brought
3 to our attention and CRU confirmed that a cover
4 sheet was filed for the entire slate including
5 those two candidates, so those were timely filed,
6 prior to midnight on Friday, March 20th, a cover
7 sheet was filed, so therefore we recommend the
8 commissioners remove the two from the prima facie
9 list and restore the candidates to the ballot.

10 COMMISSIONER TOWNSEND: So moved.

11 SECRETARY UMANE: Second.

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

14 MR. RICHMAN: Candidates will be
15 restored to the ballot for delegate and alternate
16 in the 70th AD Democratic Primary. Now it's 6-1.

17 MR. RYAN: There is an addition to the
18 calendar as well, Queens specification 6-1,
19 involving a candidate by the name of Kenneth
20 Chiu, C-H-I-U, a candidate for member of the
21 Assembly in the 25th Assembly District. Staff,
22 please invite Alex Rabb, counsel for the
23 objector, Ali Najmi, counsel for the candidate
24 and witness Meagan Molina from the waiting room

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2 to the active meeting.

3 MS. KONTAZMANIS: Mr. Rabb, Mr. Najmi
4 and Ms. Molina have all been invited into the
5 meeting.

6 MR. ALI NAJMI: Yes, Najmi's on.

7 MR. RYAN: So thank you all for joining
8 us. I would like to remind you before we get
9 started to make sure that your live stream is
10 muted so that we can avoid interference, and we
11 will hear you all clearly under those
12 circumstances. First, I will ask Mr. Richman to
13 make a brief presentation. I will then call on
14 Alex Rabb, the counsel for the objector to make
15 his presentation. Thereafter will be heard by Mr.
16 Najmi.

17 MR. RICHMAN: Commissioners, this matter
18 appeared on the CRU prima facie report on your
19 hearings for Queens on last Thursday. Following a
20 concern expressed by Mr. Rabb, we checked our
21 records, and it was determined that in sending
22 out the notices for the prima facie defect, this
23 related to whether or not the proof of service
24 for the specifications were properly filed. In

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2 error, CRU sent a notice to the candidate's
3 objector, not to the objector's contact person. I
4 should say candidate's contact person, not to the
5 objectors contact person. So that's, who is Mr.
6 Rabb. He didn't have notice of the prima facie
7 defect and he didn't file a notice of appearance.
8 And so when we began the -- we conducted a
9 hearing last week, it was without notice to the
10 affected party.

11 Following receipt of that communication,
12 the executive committee directed that we restore
13 it to the calendar and be considered today.
14 Again, the basic report from the CRU was that the
15 spec should be dismissed for noncompliance with
16 rule H-12, that the proof of service was not
17 properly filed. And that's the brief summary. I
18 think Mr. Rabb has now, is ready to appear on
19 behalf of the objectors and present his case in
20 response to that preliminary staff finding.

21 MR. RYAN: Mr. Rabb, do yo wish to be
22 heard on this matter?

23 MR. RABB: Yes, please.

24 MR. RYAN: Please proceed.

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2 MR. RABB: Commissioners, the ledger for
3 this matter suggests that the specifications were
4 filed with the proof of service attached. As I
5 described on Thursday, the person who filed the,
6 the specifications, who is on the line with us
7 today recalled clearly acting under my
8 instructions that she separated the proof of
9 service from the specifications before filing.

10 The proof of service consists of a copy
11 of the first page of the specifications with two
12 certified mail receipts attached. The
13 specifications are a six page document. Now, I
14 know that most or all of you are not in person,
15 but I know that there are people in person who
16 can look at these documents in the executive
17 office, something that wasn't available last
18 Thursday when we discussed this.

19 So I'd ask you to review two documents.
20 The first is a six-page document with a heading
21 that says general objection. As you'll see,
22 looking at the document, that the text of the
23 document says objector submits the following
24 specifications in support of the general

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2 objection. This is the specification document. As
3 you look at the six page document, my
4 understanding is that you will see that the
5 signature on that document appears to be an
6 original ink signature. Also, you'll see that
7 there are no certified mail receipts attached, no
8 copies of certified mail receipts attached, and
9 no staple holes where the certified mail receipts
10 would have been attached and subsequently
11 removed. So I submit to you that this is the
12 complete specification document as filed with the
13 Board on March 30th.

14 Second, you'll see a proof of service
15 document. That document consists of a copy of the
16 first page of the specifications, and as you look
17 at the signature, I think, or, as whoever is
18 reviewing, I think they'll be able to tell that
19 that document has a copy of the signature that
20 appears on the six page specifications document.

21 It also has two certified mail receipts,
22 original stapled to it. Then that page with the
23 certified mail receipts is the separately filed
24 specification, sorry, separately filed proof of

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2 service.

3 Now, some of the confusion when we
4 discussed this last week when we discussed this
5 arose from the staff's recollection that the
6 cover sheet or the first page of the six page
7 document was not an original, but a copy of the
8 what I'm describing as the proof of service. The
9 staff recalled that the whole document was
10 stapled together, they removed the proof of
11 service to keep in the executive office and sent
12 a copy of that document to Queens, which was then
13 subsequently attached to the, to pages two
14 through six of the specification.

15 That's clearly not the case. As you'll
16 see, the first page of that six page document is
17 not a copy of the proof of service. Like I said,
18 there are no copies of certified mail receipts,
19 no copies of staple holes, no partial copies of
20 certified male receipts. It is a separate and
21 complete document.

22 Now, I understand that there are staple
23 holes at the top of the certified, of the proof
24 of service document, and that that was the basis

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2 for Mr. Richman's recommendation that you find
3 that the, the proof of service was stapled to the
4 rest of the document at the time it was filed.

5 First, let's say, there's circle holes.
6 It does not mean that they were stapled together.
7 If you wish to hear from the person who filed it,
8 to have evidence on the record, direct, direct
9 evidence that that was not the case, I've brought
10 her here today. And Meagan Molina is prepared to
11 testify. I'm not sure that that's necessary, but
12 I, I leave that up to you.

13 MR. RYAN: Mr. Richman, before we
14 recognize any other parties, do you have any
15 further information that should be brought to the
16 commissioners' attention for their consideration?

17 MR. RICHMAN: Commissioners, we asked
18 the Queens office to send the original
19 specification that was sent to them to be worked.
20 What they provided this morning is a six page
21 document, again, and examining it, it looks like
22 it's the original format because the original
23 staple is there, there's no other holes in there,
24 and [unintelligible] [00:20:28] removed. The

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2 first page is the, if you will, the spec cover
3 sheet, misheaded general objection, but the only,
4 would defeat the fact that it says
5 specifications. The first page of the line by
6 line is checked in, clocked in I should say, at
7 11:25 and the last page of the line by line is
8 clocked in and that's at 11:23. So again, this is
9 somewhat confusing. It's not the normal
10 procedures we have but they were all clocked in
11 the front counter at 32 Broadway. And the proof
12 of service was clocked in also on March 30th at
13 11:23 a.m. And again, the cover sheet of this
14 specifications that was sent to Queens has no
15 staple holes on the side of it where the receipts
16 are attached and I personally can't tell which
17 one is the original and which one is the copy
18 because it's in black ink and it really, you
19 can't tell from this point.

20 But the key element, commissioners is
21 that the spec that was sent to Queens looks like
22 a single document and past experience, as I said,
23 it doesn't look like it's been stapled more than
24 once. And normally, we'll have the first page and

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2 the last page clocked in. In this one, it's the
3 second page and the last page clocked on. What
4 happened on that, on March 30th, I cannot
5 explain.

6 MR. RYAN: Commissioner Michel would
7 like to be recognized.

8 COMMISSIONER MICHEL: Mr. Richman, would
9 you like, do you have a recommendation or would
10 you like to hear the witness or do you think you
11 have it sounds like --

12 MR. RICHMAN: I think commissioners, the
13 record at this point is, is less clear than it
14 was last week when we only had this copy with the
15 staple hole in it. I think it's up to you. I
16 think in my mind, if the witness is the one who
17 filed it, we may get some testimony because we
18 don't know who received it at the Board. That's
19 not recorded.

20 SECRETARY UMANE: Yeah, but we, we --

21 MR. RICHMAN: The first time we have
22 knowledge is when it got brought back to CRU.

23 SECRETARY UMANE: We generally don't
24 take witnesses and witness testimony at these

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2 hearings and I don't know if it's appropriate to
3 start now.

4 COMMISSIONER MICHEL: That's why I'm
5 asking that.

6 SECRETARY UMANE: And we should go --

7 COMMISSIONER That's why I'm asking the
8 counsel about if we have a recommendation without
9 the witness's information because we never take
10 it.

11 MR. RICHMAN: Commissioners, in this
12 point, my recommendation would be there at least
13 appears to be a credible argument that the spec
14 was properly filed since none of the documentary
15 evidence shows anything separate. Why there's a
16 staple at the top of the proof of service, I
17 can't explain it.

18 MR. RYAN: We do have Mr. Najmi, the
19 counsel for the candidate as well.

20 MR. NAJMI: Yes.

21 COMMISSIONER MICHEL: But we don't have
22 -- if we'll --

23 MR. RYAN: Okay.

24 MR. RICHMAN: We wouldn't

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2 [unintelligible] [00:23:12] him unless the
3 commissioners dismissed the prima facie findings
4 and then we go to the clerks' report on 6-1,
5 which commissioners was attached in the package
6 sent to you.

7 MR. RYAN: Okay. So it appears as if
8 Commissioner Michel is prepared to make a motion.

9 COMMISSIONER MICHEL: Right. I make a
10 motion that --

11 MR. RICHMAN: To reject the CRU prima
12 facie report.

13 MR. NAJMI: This is Najmi. Can I just be
14 clear on what the motion is? Is it to accept the
15 staff or to reject the staff?

16 MR. RYAN: It's to reject the CRU
17 report.

18 MR. RICHMAN: And therefore the spec
19 would validly be before the Board.

20 MR. NAJMI: Okay. Can I make an argument
21 please now on this prima facie?

22 MR. RYAN: There's right now, there's a
23 motion.

24 SECRETARY UMANE: Yeah, but we haven't

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2 given him an opportunity to speak.

3 MR. RICHMAN: Okay.

4 MR. RYAN: Okay.

5 MR. NAJMI: Right.

6 MR. RYAN: I understand. I'm just simply
7 pointing out that procedurally there's a motion.

8 If the motion is withdrawn, then --

9 COMMISSIONER MICHEL: I'll withdraw.

10 MR. RYAN: -- Mr. Najmi can speak.

11 COMMISSIONER MICHEL: I'll withdraw it.

12 I just wanted to move it on.

13 MR. RYAN: The motion has been

14 withdrawn, Mr. Najmi you may be heard.

15 MR. NAJMI: Thank you. I would like to
16 highlight another prima facie issue with this
17 document. The fact is that the page, the first
18 page is labeled general objection. And that is an
19 error. That is an error that should lead to the
20 dismissal of this specification. It should have
21 been labeled specifications of objection. Now the
22 first page, the top of the page says general
23 objection. That's very confusing. In fact, if had
24 filed a general objection and labeled it

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2 specifications, it would not be accepted by the
3 Board. Mislabeled is a huge error. You cannot
4 just write whatever you want. In fact, this Board
5 routinely scrutinizes cover sheets and small
6 errors are often fatal. And in this instance,
7 there's a standard of this Board that the
8 objectors must be held to the highest standard.
9 In fact, their specifications of objections
10 [unintelligible] [00:25:03] disqualify signatures
11 based on errors on [unintelligible] [00:25:08],
12 on handwriting, on alterations.

13 So how is it that this error, which
14 mislabels the front page, mislabels the general
15 objection, should have been specifications
16 objection, can be held to a lower standard? It
17 cannot be. It cannot stand that we can allow this
18 spec to continue. Objectives have to be perfect,
19 especially in the age of the coronavirus where
20 you're going to try to an objection, you should
21 get it all right. It cannot stand an objector can
22 file a mislabeled document with objections that
23 highlights what's been incorrectly written by
24 signers in the petition and I know Judge, I know

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2 that this cannot stand, and I'd ask that the
3 commissioner reject this spec.

4 COMMISSIONER ARAUJO: This is
5 Commissioner Araujo. I have a question. Is this,
6 does this document say specification of objection
7 anywhere on the first page or the second page of
8 the spec?

9 MR. RICHMAN: Yes, commissioners, in the
10 body, below the objector's name and the
11 objector's contact person, it reads as follows,
12 quote, objector submits the following
13 specifications in support of the general
14 objection to the designating petition bearing ID
15 number QN200600, which purports to name Kenneth
16 Chiu, residing etc. for member of Assembly in the
17 25th Assembly District in the primary election to
18 be held on June 23, 2020.

19 So the substance of the form
20 [unintelligible] [00:26:29] the language that is
21 in prepared in the sample form. The only thing is
22 the heading on the top of the page is incorrect.
23 But substantively, it meets all the requirements
24 of our rules including the total number of

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2 signatures on the petition as set forth as 260,
3 total number of invalid signatures claimed is
4 190, the line by line and other specification of
5 objections are attached and each page of,
6 commissioners, of the, of the attachment is
7 headed specification of objections --
8 specifications of objection.

9 COMMISSIONER ARAUJO: This is
10 Commissioner Araujo again. Let me just ask this
11 question or make this statement. I do agree with
12 the fact that the objector should be held to a
13 higher standard, but based on what Mr. Richman is
14 stating and what my recollection of the
15 documentation, the information is there to verify
16 that it is a specification of objection. So if
17 the motion is made by Commissioner Michel, I
18 would second it.

19 MR. NAJMI: I would just ask one -- I
20 just want to put in one more argument please,
21 which is that in the practice of this Board, if I
22 was to file a cover sheet, that say had missing,
23 had the number of volumes in a petition on it,
24 but didn't list the number of volumes, that

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2 petition would be disqualified, as -- that cover
3 sheet would be disqualified. In view of the rest
4 of the document has [unintelligible] [00:27:48]
5 these documents have to be perfect.

6 MR. RICHMAN: Mr. Najmi --

7 MR. NAJMI: It's not consistent --

8 MR. RICHMAN: -- but you're not, don't
9 use a cover sheet because a cover sheet is
10 subject to the three day cure when you make an
11 error like that and you do file a cover sheet.

12 MR. NAJMI: I'm making an analogy of how
13 these documents are supposed to be perfect and if
14 a cover sheet in another instance will be
15 rejected, it should be rejected here. It's an
16 analogy. And it's, I don't know how the Board on
17 the principal basis can maintain consistency by
18 accepting this and other rulings it has.

19 MR. RABB: Commissioners, if I may. I
20 don't know if it's necessary but I have a
21 response.

22 MR. RYAN: Yes, Mr. Rabb, please make
23 your response, and then I will poll the
24 commissioners to see if there's a motion.

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2 MR. RABB: Yeah, the law and the Board's
3 regulations set forth the requirements for the
4 content and form of cover sheets and general
5 objections and specifications, Mr. Najmi is
6 comparing apples to oranges. If the cover sheet
7 omitted the number of volumes, it would not
8 comply with the regulations and the law. Here,
9 the specifications comply perfectly with the
10 Board's regulations as to content and form.

11 The Board's regs are silent as to
12 heading of the document. There's clearly no
13 confusion here about what the document contains
14 and again, the Board requirements that the
15 specifications include the name of the objector,
16 the name of the candidate and content
17 information, the contact person, the number of
18 signatures contained in the petition, the number
19 objected to are all, are all followed to the
20 letter. So you could be perfectly consistent
21 accepting this document and rejecting or calling
22 for a three day cure on a cover sheet. I again
23 speak to the question of principle and I think
24 this is a perfectly principled stance you can

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2 take.

3 MR. RYAN: Thank you, Mr. Rabb. Mr.
4 Richman, is there anything further to add before
5 the commissioners --

6 MR. RICHMAN: Yes, commissioners --

7 MR. RYAN: -- vote?

8 MR. RICHMAN: -- if you look Rule --

9 MR. NAJMI: I have one inquiry, I just
10 have one inquiry.

11 MR. RICHMAN: -- if you look at Rule H-1
12 --

13 MR. RYAN: Mr. Najmi, you're not
14 recognized presently, Mr. Richman is.

15 MR. RICHMAN: -- it sets forth what the
16 specification has to contain. It doesn't talk
17 about the heading at all. The only place where
18 the heading appears is on the sample form which
19 we include as an exemplar to the candidates and
20 the objectors. It's specification of objection
21 form. But the rule specifically applies and sets
22 the elements what the specs has to set forth, the
23 name and address of the objector, the name and
24 address of the candidate, the public office or

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2 party position as set forth on the election
3 document and it shall be signed by the objector.
4 And it also shall be securely fastened one or
5 more volumes. And so those are the requirements
6 of Rule H-1, which is complied with on the form.
7 They just created their own form, they didn't use
8 our sample. But as I said, the sample is only as
9 an exemplar, it's not required to be used.

10 MR. RYAN: Mr. Najmi, briefly please.

11 MR. NAJMI: Thank you. I just have two
12 questions. Is there a timestamp on this first
13 page of this incorrectly labeled general
14 objection?

15 MR. RICHMAN: No. It's on the second
16 page.

17 MR. NAJMI: It's on the second page.

18 MR. RICHMAN: Which is attached by the
19 single staple through the same holes in the first
20 one, and the last page of the spec is clocked in
21 as well, which is the normal practice of the
22 Board to do the front and the back.

23 MR. NAJMI: And did Mr. Rabb file a
24 notice of appearance for this matter today?

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2 MR. RICHMAN: He did but in the form of
3 a letter yesterday and that's what we entertained
4 and gave notice to both you and to him to appear
5 at this time.

6 MR. NAJMI: But has a notice of
7 appearance been filed? The formal notice of
8 appearance that we're all supposed to be subject
9 to? The one that everyone's supposed to fill out
10 and e-mail in, official board form? Was that
11 filed here by Mr. Rabb for this appearance?

12 MR. RICHMAN: In this case, he sent it,
13 he substantially complied with by sending in the
14 letter, which asked for the hearing. Pointing out
15 that --

16 MR. NAJMI: [unintelligible] [00:31:49]
17 -- today --

18 MR. RICHMAN: -- because he still has
19 not --

20 MR. NAJMI: [unintelligible] [00:31:51]
21 to keep track.

22 MR. RICHMAN: -- Mr. Rabb has not
23 received yet the candidate and the objector never
24 received notice of the defect initially other

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2 than the e-mail communication I sent to both of
3 you last night following Mr. Rabb's letter and
4 our investigation based on that letter.

5 COMMISSIONER ARAUJO: Well, the defect,
6 Commissioner Araujo, so the defect notice would
7 have prompted a notice of appearance, no?

8 MR. RICHMAN: Well, the defect notice,
9 the prima facie defect notice was sent to Mr.
10 Najmi on behalf of the candidate. It was never
11 sent to Mr. Rabb, [unintelligible] [00:32:19] is
12 the one that is being challenged by the staff. We
13 made the error by not sending it out and Mr. Rabb
14 called that to our attention yesterday in the
15 form of the letters that have been circulated to
16 you, commissioners.

17 MR. RYAN: So, commissioners --

18 COMMISSIONER ARAUJO: So we're trying to
19 correct our error?

20 MR. RYAN: So to be clear commissioners,
21 the reason that we are here today is that Mr.
22 Rabb and his client were prejudiced by the fact
23 that the Board sent the notice to the candidate
24 for the objections. So we thought as a matter of

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2 fundamental fairness and it was put to the
3 commissioners that this matter should be reheard
4 since Mr. Rabb and his client did not have an
5 opportunity to be heard in the first instance
6 because of Board error vis-à-vis the mailing.
7 That having been said, is there a motion?

8 COMMISSIONER MICHEL: Shall I restate my
9 motion?

10 COMMISSIONER ARAUJO: Second.

11 MR. RYAN: Please restate -- uh, does
12 that, does the motion need to be restated for the
13 record, or is the record clear?

14 COMMISSIONER SHAMOUN: No, the record's
15 clear. I'll second it.

16 MR. RYAN: Okay. Thank you. There's a
17 motion and a second, are there any seconds?
18 Hearing none, the motion carries, please remove
19 the remaining parties to the waiting area, thank
20 you.

21 MR. RICHMAN: Well, no, you need --

22 MR. RYAN: Oh --

23 MR. RICHMAN: -- you need Mr. Rabb and
24 Mr. Najmi, because now, commissioners, the

1 April 28, 2020

2 clerks' report --

3 MR. RYAN: Oh, I apologize.

4 MR. RICHMAN: -- because before you
5 thought it was dismissed as moot last week.

6 MR. RYAN: So.

7 MS. KONTAZMANIS: Mr. Richman, who
8 should I leave?

9 MR. RYAN: Just Mr. Najmi and Mr. Rabb.

10 MR. RICHMAN: Mr. Najmi and Mr. Rabb.

11 The witness can be excused. In my memo,
12 commissioners, in the e-mail that went out at
13 6:03 last, no 6:00, at 5:49. Commissioners, the
14 clerks', the amended clerks' report is attached
15 to my, to the e-mail that Mr. Sattie I believe
16 circulated to you. Does everyone have a copy or
17 do we need to resend it?

18 COMMISSIONER ARAUJO: We, I have the
19 attachment.

20 MR. RICHMAN: Okay. Commissioners, this
21 is the amended clerks' report on Queens spec 6-1,
22 objections of Isabel Pulgarin to the petition of
23 Kenneth, Democratic Party petition of Kenneth
24 Chiu for member of the Assembly in the 25th AD.

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2 The clerks in Queens report 251 signatures
3 submitted, 134 found invalid, 117 found valid,
4 150 is required under the Election Law as
5 modified by the governor's executive order.

6 COMMISSIONER ARAUJO: Are we taking
7 appearances on the clerks' reports?

8 MR. RICHMAN: We should. Who's here for
9 the objector?

10 MR. RABB: Alex Rabb.

11 MR. RICHMAN: For the candidate?

12 MR. NAJMI: Ali Najmi.

13 MR. RICHMAN: Mr. Najmi, the clerks show
14 it with only 117 valid signatures. The only
15 exception report we got was relating to this
16 clerks' report originally was submitted by the
17 objector and that was considered by the clerks
18 preparing the amended clerks' report.

19 MR. NAJMI: I have no list of exceptions
20 to provide.

21 MR. RICHMAN: Excuse me?

22 MR. NAJMI: I have no, I have no
23 additional.

24 COMMISSIONER ARAUJO: Move the clerks'

1 April 28, 2020

2 report, Commissioner Araujo.

3 COMMISSIONER MICHEL: Commissioner
4 Michel, second.

5 MR. RYAN: Are there any objections?
6 Hearing none, the motion carries.

7 MR. RICHMAN: Clerks' report on Queens
8 spec 6-1 is adopted, the candidate will not
9 appear on the ballot for failing to submit a
10 sufficient number of valid signatures.

11 MR. RYAN: That concludes this matter.
12 Please remove Mr. Rabb and Mr. Najmi to the
13 waiting area.

14 MR. NAJMI: Thank you commissioners.

15 MR. RABB: Thanks, everyone.

16 MR. RYAN: Thank you. And we have a
17 matter of executive session involving litigation
18 and I suggest that --

19 MR. RICHMAN: Do you want to do the
20 motion on the ballot and the --

21 MR. RYAN: We got to come back anyway to
22 go out, but we can do that. You know what, we can
23 do that first, before we go into executive
24 session. This way we just have to come back to

1 April 28, 2020

2 the date.

3 MR. RICHMAN: Right.

4 MR. RYAN: We need a, resolution to
5 certify the ballot, so Mr. Richman, please put
6 that information in the record.

7 MR. RICHMAN: Commissioner Taylor, do
8 you have a motion also regarding the
9 certification of the ballot and the printing of
10 the papers?

11 PRESIDENT TAYLOR: I do. I move to
12 direct staff to immediately commence the
13 preparation of the distribution of the military,
14 absentee, federal and special ballots for the
15 June 23, 2020 primary election, based upon the
16 actions taken by the commissioners, both in a
17 duly constituted commissioners committee and the
18 full Board. Is there a second?

19 MR. RICHMAN: Commissioner, before you
20 do that --

21 SECRETARY UMANE: Second.

22 MR. RICHMAN: -- commissioner, before, I
23 also would ask that based on that motion you
24 would also, in accordance with Section 4-114, you

1 April 28, 2020

2 certify the primary ballot on the same basis of
3 the commissioners' actions. We have to take that
4 action by April 30th. Could you add that to your
5 motion?

6 PRESIDENT TAYLOR: Amended. Amendment
7 accepted.

8 SECRETARY UMANE: And seconded with the
9 amendment.

10 MR. RYAN: Are there any objections?
11 Hearing none, the motion --

12 PRESIDENT TAYLOR: Or discussion.

13 MR. RYAN: Any objections or
14 discussions. Hearing --

15 PRESIDENT TAYLOR: Hearing no further
16 discussion, I ask the Executive Director Ryan to
17 conduct a roll call vote.

18 MR. RYAN: Okay. Commissioner Taylor?

19 PRESIDENT TAYLOR: Yes.

20 MR. RYAN: Commissioner Umane?

21 SECRETARY UMANE: Aye.

22 MR. RYAN: Commissioner Araujo?

23 COMMISSIONER ARAUJO: Yes.

24 MR. RYAN: Commissioner Camilo?

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2 COMMISSIONER CAMILO: Yes.

3 MR. RYAN: Commissioner Marmorato?

4 COMMISSIONER MARMORATO: Yes.

5 MR. RYAN: Commissioner Michel?

6 COMMISSIONER MICHEL: Yes.

7 MR. RYAN: Commissioner Shamoun?

8 COMMISSIONER SHAMOUN: Yes.

9 MR. RYAN: Commissioner Townsend?

10 COMMISSIONER TOWNSEND: Yes.

11 MR. RYAN: Commissioner Zaccone?

12 COMMISSIONER ZACCONE: Aye.

13 MR. RYAN: Okay. So we have one more
14 matter. I'm going to ask for a motion to
15 designate the borough committees --

16 PRESIDENT TAYLOR: Before we move to
17 that --

18 MR. RYAN: Sure, go ahead.

19 PRESIDENT TAYLOR: We state that the
20 motion that we just finished voting on is adopted
21 unanimously.

22 MR. RYAN: Okay, yes. It was adopted
23 unanimously.

24 PRESIDENT TAYLOR: Thank you.

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2 MR. RYAN: Thank you very much. In any
3 event, we have certain poll site designations
4 that are required to be made by May 1st, which is
5 the end of this week, and we're asking -- for
6 early voting, and we're asking that the full
7 Board of Commissioners designate the borough
8 committees to approve such designations upon
9 submission by borough staff to the commissioners,
10 subject to the ratification of the full Board at
11 the next meeting thereafter.

12 PRESIDENT TAYLOR: This is Commissioner
13 Taylor. So moved.

14 MR. RYAN: Is there a second?

15 SECRETARY UMANE: Second.

16 COMMISSIONER SHAMOUN: Second.

17 SECRETARY UMANE: But I have a question.

18 MR. RYAN: Yes, Commissioner Umane?

19 SECRETARY UMANE: We have worked on a
20 list of early voting sites, in Manhattan. And we
21 have alternatives in the event that the schools
22 remained closed. And so in terms of what we need
23 to sort of select and designate, we wouldn't want
24 to designate double the number of sites, because

1 April 28, 2020

2 then we would have too many sites, particularly
3 in the event that we have the affidavit ballots
4 being mailed out and all of those things, the
5 concept of early voting is going to be maybe a
6 little bit superfluous and we may have
7 significant issues getting people to work for all
8 those nine days in addition to Election Day. But,
9 but it would, and a number of the sites that we
10 have at least preliminarily agreed upon are
11 currently closed because of the virus and the
12 current state of affairs.

13 So I'm just wondering when we, when as a
14 subcommittee, we designate the appropriate sites
15 in Manhattan and I presume each of the other
16 commissioners are going to be dealing with a
17 similar issue, if the schools are closed that's a
18 perfect place for us to do this. If the schools,
19 and especially to the extent that our designated
20 alternative sites are closed because of the
21 virus.

22 So we're operating really in somewhat of
23 an information vacuum at this point. The
24 distinguished governor has said one thing. Our

1 April 28, 2020

2 distinguished mayor has said something else as to
3 the schools. So we don't really know, you know,
4 whether what's up and what's down. So I'm just
5 curious if it's a recommendation of staff that we
6 should do both with an alternative marking or how
7 to handle that.

8 MR. RYAN: I think --

9 SECRETARY UMANE: [unintelligible]

10 [00:41:37] interfere with this motion because the
11 motion should be unanimously approved.

12 MR. RYAN: Right.

13 SECRETARY UMANE: But I just have a
14 question as to once it's passed, how do we handle
15 this designation process, given the problems that
16 we face.

17 MR. RYAN: Right. So I think the simple
18 solution is to have sites and alternatives if, if
19 such exists. And then we're not going to use more
20 than one site in any event, right. You're not
21 going to double up in a particular subdivision,
22 so that point if the site is designated, all
23 we're doing for this exercise is to maintain our
24 legal authority to use and keep ourselves with

1 April 28, 2020

2 options open. So for, if there are locations in a
3 particular borough that have already objected to
4 being used, and there are a handful that have at
5 least bubbled to my attention, about two or
6 three. Or there's concern that they might not be
7 available and there's a viable alternative, then
8 that viable alternative should be so designated,
9 but just clearly delineated that it's an either
10 or proposition for those two sites. And I think
11 if it's handled that way and the full board
12 confers upon the borough committees the authority
13 to act, and then we can come back next week and
14 make those sites available. But in the meantime,
15 we will have met our statutory obligation of May
16 1st, as we have met every statutory obligation
17 during this pandemic up to this point.

18 SECRETARY UMANE: Okay. Thank you. I
19 call the question.

20 PRESIDENT TAYLOR: Can I just clarify?
21 This is Commissioner Taylor. Am I understanding
22 you to say that we should over designate to some
23 degree, certainly. I mean I wouldn't say it for
24 the sake of just doing it, but if you have sites

1 April 28, 2020

2 that you're anticipating potential problems based
3 on, you know, borough communication with
4 locations, or simply that the sites have been
5 unavailable for communication and you have then a
6 suitable alternative, then that should be
7 designated in that way.

8 PRESIDENT TAYLOR: Designate, thank you.

9 MR. RYAN: Yeah. And Commissioner Umame
10 started this whole conversation and then he
11 called the question. So is somebody willing to
12 second his calling of the question?

13 COMMISSIONER SHAMOUN: Second.

14 MR. RYAN: Are there any objections?
15 Hearing none, the motion carries. And we will go
16 upstairs for executive session. I'll then return
17 back to announce the next meeting date, which
18 they took the calendar down for me, so today's
19 April 28th, I can't do the math that quick.

20 MR. RICHMAN: May 4th, Tuesday May 4th.

21 MR. RYAN: Tuesday May 4th? Okay. So,
22 well I guess we can agree on that.

23 MR. RICHMAN: May 5th.

24 MR. RYAN: Tuesday, May 5th.

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2 MR. RICHMAN: Friday is the 1st.

3 MR. RYAN: Cinco de Mayo is the next
4 meeting, and I got a smile, I got one smile out
5 of a commissioner. So, that having been said,
6 we'll go upstairs. We will go upstairs and
7 conduct executive session. We have one matter of
8 litigation that needs to be discussed.

9 SECRETARY UMANE: Do we stay on
10 theoretically?

11 MR. RYAN: Yes, and then we can shut the
12 meeting off down here.

13 SECRETARY UMANE: Where we are?

14 MR. RYAN: And we can continue the
15 executive session over the, over the Webex, but
16 we won't be on the live stream. Alright. Thank
17 you.

18 [OFF THE RECORD]

19 [ON THE RECORD]

20 MR. RYAN: Okay. So we're back in, in
21 session. As previously stated, the next meeting
22 of the Board of Elections will be May 5, 2020 at
23 the normal time of 1:30 in the afternoon, using
24 similar setup as we've been doing. And as well,

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there is nothing to report from executive session. That concludes today's meeting, April 28, 2020. Thank you for your attendance.

(The meeting concluded.)

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Board of Elections in The City of New York on April 28, 2020 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: February 23, 2021

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