

BOARD OF ELECTIONS
IN THE CITY OF NEW YORK

COMMISSIONERS' MEETING

42 Broadway - 6th floor
Commissioners' Hearing Room

New York, NY 10004

June 15, 2021

1:30 p.m. - 5:40 p.m.

June 15, 2021

PRESENT:

President Frederic Umane
Secretary Miguelina Camilo
Commissioner Jose Araujo
Commissioner Michael Michel
Commissioner Gino Marmorato
Commissioner Simon Shamoun
Commissioner Rodney L. Pepe-Souvenir
Commissioner Patricia Ann Taylor
Commissioner Tiffany Townsend
Commissioner John Wm. Zaccone

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Georgea Kontzamanis, Operations Manager
Kenneth Moltner, Counsel to the Commissioners
Steven Denkberg, Counsel to the Commissioners
Hemalee Patel, General Counsel
Raphael Savino, Deputy General Counsel
Rayvon Weaver, CRU
Michael Carmosino, CRU
Raquel Torres, CRU
Tom Sattie, Ballot Coordinator
Bart Haggerty, Deputy Chief Clerk, Queens
Amanda Berinato, Chief Clerk, Queens

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ALSO PRESENT:

Paul Grindle, Esq.

Abbey Laurel-Smith

Walter N. Iwachiw, Candidate

Curtis Brooks, Candidate

Suraj Jaswal, Candidate

Ruben D. Cruz, Candidate

Jason R. Price, Candidate

Robert Morgan

Frank Marano

Alexandra Sherer, Esq.

Aaron Foldenauer, Esq.

Michael Scala, Esq.

Raimondo Graziano, Representative

Danniel Maio, Esq.

Brendan Lantry, Esq.

Sal Ablanese, Candidate

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2 (The meeting commenced at 1:13 p.m.)

3 MS. DAWN SANDOW: Good afternoon, today
4 is Tuesday, June 15, 2021 and this is the
5 commissioners' meeting of the Board of Elections
6 in the city of New York. My name is Dawn Sandow
7 and I am the deputy executive director of the
8 Board of Elections. I will begin today's meeting
9 with the commissioners' roll call. President
10 Umane?

11 PRESIDENT FREDERIC UMANE: Here.

12 MS. SANDOW: Secretary Camilo?

13 SECRETARY MIGUELINA CAMILO: Here.

14 MS. SANDOW: Commissioner Araujo?

15 COMMISSIONER JOSE ARAUJO: Here, and
16 good afternoon, everyone.

17 MS. SANDOW: Commissioner Marmorato?

18 COMMISSIONER GINO MARMORATO: Good
19 afternoon, present.

20 MS. SANDOW: Commissioner Michel?

21 COMMISSIONER MICHAEL MICHEL: Good
22 afternoon, present.

23 MS. SANDOW: Commissioner Pepe-Souvenir?

24 COMMISSIONER RODNEY L. PEPE-SOUVENIR:

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2 Good afternoon, present.

3 MS. SANDOW: Commissioner Shamoun?

4 COMMISSIONER SIMON SHAMOUN: Present,
5 thank you.

6 MS. SANDOW: Commissioner Taylor?

7 COMMISSIONER PATRICIA ANNE TAYLOR: I am
8 present, good afternoon.

9 MS. SANDOW: Commissioner Townsend?

10 COMMISSIONER TIFFANY TOWNSEND: Good
11 afternoon, present.

12 MS. SANDOW: Commissioner Zaccone?

13 COMMISSIONER JOHN WM. ZACCONE: Good
14 afternoon, everybody, present.

15 MS. SANDOW: Also joining us today from
16 executive management in another location is
17 Georgea Kontzamanis, operations manager, general
18 counsel Hemalee Patel and deputy general counsel
19 Raphael Savino, as well as Ken Moltner and Steve
20 Denkberg, counsel to the commissioners. We also
21 have our candidate records unit team, Rayvon
22 Weaver, Michael Carmosino, Raquel Torres and Tom
23 Sattie.

24 MS. KONTZAMANIS: Ms. Sandow, can I

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2 interrupt you for a second?

3 MS. SANDOW: Sure.

4 MS. KONTZAMANIS: Calling user four, can
5 you kindly announce yourself? The person who just
6 joined our meeting, can you kindly unmute and
7 announce yourself or you will be expelled from
8 the meeting. Hello?

9 UNIDENTIFIED MALE: Yes,
10 [unintelligible] [00:08:49]

11 MS. KONTZAMANIS: Okay, we're going to
12 move you to the lobby.

13 UNIDENTIFIED MALE: Thank you.

14 MS. KONTZAMANIS: Thank you, Ms. Sandow.

15 MS. SANDOW: We will begin today's
16 meeting with the hearings on independent
17 nominating petitions for the November 2, 2021
18 general election. I'd like to turn the meeting
19 over to President Umane.

20 PRESIDENT UMANE: Okay, thank you. These
21 are the hearings on prima facie defects
22 specifications of objections and related matters
23 for the independent nominating petitions for the
24 November 2, 2021 general election. My name is

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2 Fred Umane, and I'm the president of the board
3 for the calendar year for 2021 and the Republican
4 commissioner for New York County. I call this
5 hearing by the commissioners of the Board of
6 Elections in the city of New York to order. My
7 colleagues and I appear today via video
8 conference link, as will the majority of the
9 candidates, objectors or their representatives in
10 light of the COVID pandemic and the continued
11 suspension of the related section of the open
12 meetings law by the governor.

13 The commissioners and staff of the Board
14 of Elections in the city of New York are mindful
15 of our responsibility to ensure that a fair,
16 honest, open and lawful election process
17 continues within our city.

18 Today's hearings concern specifications
19 of objection and any potential prima facie
20 defects with respect to some of the independent
21 nominating petitions filed for the November 2,
22 2021 general election and related matters. These
23 hearings will be conducted in accordance with the
24 provisions of the New York State Election law,

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2 the board's independent nominating petition rules
3 adopted on December 18, 2018. The executive
4 orders issued by the governor of the state of New
5 York which modified provisions of the open
6 meetings law as well as New York State election
7 law.

8 The schedule for today's hearings was
9 posted on the board's website at all BOE
10 locations and the information was shared on
11 various social media sites as well. Each of the
12 calendars listing the matters that the
13 commissioners will consider were also posted on
14 the board's website, as well as in the board's
15 hearing room.

16 Please note that the emergency
17 procedures for these hearings were prominently
18 posted on the board's website as well, and
19 referenced in many of the notices sent out by the
20 board communicated to each candidate and
21 objector. All of those participating by WebEx
22 video were sent directions on how to participate
23 in this WebEx video conference meeting. I will
24 ask that all participants in this proceeding put

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2 their microphones on silent until called upon to
3 speak and turn off the live stream of the
4 hearing. This will help us all hear what each
5 person is saying. I will waive the roll call of
6 the elections commissioners as such has already
7 been recently conducted.

8 A reminder, only one speaker at a time.
9 This is especially important with this video
10 proceeding. I want to remind all commissioners,
11 board staff, attorneys, candidates and objectors
12 that only one person should speak at any one
13 time, so that the audiovisual system can
14 accurately record the proceedings. As noticed
15 above, if you are not speaking, please ensure
16 that your microphone is on mute and turn off the
17 live stream of the hearing.

18 The procedure on voting on clerks'
19 reports and counsel reports, I want to also
20 advise all present that this board is required by
21 law to record how each commissioner votes on each
22 matter. In the event that the commissioners are
23 not unanimous in their determination on a given
24 matter, I will ask that our counsel conduct a

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2 roll call vote of the commissioners for the
3 record. I now call upon general counsel Hemalee
4 Patel and deputy general counsel Raphael Savino
5 to call the calendar for this hearing.

6 MS. HEMALEE PATEL: Good afternoon,
7 everyone. Today's hearings relate to the CRU
8 prima facie matters and specifications of
9 objections regarding the independent nominating
10 petitions filed for the November 2, 2021 general
11 election. I will now ask Raquel Torres, of our
12 CRU unit to call the prima facie calendar.

13 MS. RAQUEL TORRES: Good afternoon,
14 everyone. We're going to start with the
15 crossovers. Party, No Party for Peter Guimaraes,
16 Libertarian Party, Stacey Prussman, Devin W.
17 Balkind, Party for Socialism and Liberation,
18 Sasha Murphy, FBNT Party, Walter N. Iwachiw,
19 Callie Lou Kamara [phonetic], Black Women Lead
20 Party, Jocelyn Taylor, Theo Bruce Chino Tavares.
21 For the Patriot Party, Bill Morasky [phonetic],
22 Love Party Paperboy Prince, Paperboy Love Prince,
23 I'm sorry, and Theo Bruce Chino Tavares. Vitaly
24 for All, Vitaly Filipchenko, Rent is Too Damned

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2 High, James McMillan, The Pilgrims Alliance,
3 Abbey S. Laurel-Smith and Carmen Zimmerman,
4 Curtis Brooks Party, Curtis Brooks. For the
5 Libertarian Party, Michael Lewyn, David Casavis,
6 for the Independent Party, Luis Puliafito, for
7 the Animal Welfare Party, Nancy Beth Sliwa, for
8 the Liberal Party, Luis Puliafito.

9 In the borough of the Bronx, for the
10 Green Party, Carl Lundgren, Carl Lundgren again.
11 For the Bronx Peoples Party, Victor Hugo
12 Gutierrez.

13 In Kings County, Andrew Bodiford. For
14 the Green Party, Scott Hutchins. For the
15 Libertarian Party, Matthew I. Morgan., Matthew.
16 I. Morgan again. For the Community First Party,
17 Sharon R. Wedderburn, All Communities United
18 Party, Trisha N. Ocona, for the Black Women Lead
19 Party, Pearlene S. Fields. For the Love Party,
20 Harriet L. Hines. For Hopkins for City Council
21 Party, Gerry Hopkins.

22 In the borough of Queens, for the
23 Libertarian Party, Suraj Jaswal, Ruben D. Cruz,
24 for the One Nation Under God Party Anid H.

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2 Goldstein, Scherie S. Murray. For the FBNT Party,
3 Walter N. Iwachiw.

4 In the borough of Richmond, for the
5 Independent Party, Steven Matteo, David M. Carr
6 and Joseph C. Borelli, Brendan T. Lantry. For the
7 Ordinary People Party, Jason R. Price.

8 MR. THOMAS SATTIE: There are
9 appearances.

10 MS. PATEL: Okay.

11 MR. SATTIE: On the prima facie
12 calendar, the first appearance is by Paul
13 Grindle, who is representing multiple candidates.
14 He is appearing in person.

15 PRESIDENT UMANE: Okay, Mr. Grindle,
16 please state your appearance and which candidates
17 you're --

18 MR. PAUL GRINDLE: Hello. I am
19 representing several candidates. I am
20 representing Stacy Prussman, Devin W. Balkind,
21 Michael Lewyn, David Casavis and Matthew Morgan.

22 PRESIDENT UMANE: So there's, on the
23 calendar, there are specific reasons why each of
24 those candidates were put on the prima facie

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2 list. Could you please explain why they don't
3 belong there?

4 MR. GRINDLE: Sure. Who would you like
5 me to begin with?

6 MS. PATEL: Let's go in order?

7 PRESIDENT UMANE: It's up to you. You
8 can start with whomever you want.

9 MS. PATEL: Can we go in order?

10 MR. GRINDLE: Sure.

11 MS. PATEL: Can you start --

12 SECRETARY CAMILO: I would suggest the
13 order of the calendar, Stacey Prussman is first.

14 MS. PATEL: Let's start with Stacey
15 Prussman.

16 SECRETARY CAMILO: I believe that's his
17 first candidate.

18 PRESIDENT UMANE: Okay. That's fine.

19 SECRETARY CAMILO: If we could have some
20 order, yeah.

21 MR. GRINDLE: Sure. For Stacey Prussman,
22 the prima facie objection that you had was that
23 it was the incorrect petition filed for the
24 independent nominating election event. But the

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2 petitions cited in the explanations section of
3 the prima facie report referred to designating
4 petitions. I'm not here to make an argument about
5 the correctness of those designating petitions,
6 but they're clearly labeled designating. On the
7 petition itself, it references the section of
8 election law that described the form of
9 designating petition and other than the party
10 label on it being wrong, everything else on that
11 is the structure of a designating petition. So it
12 should not be considered as held against Ms.
13 Prussman for her independent nominating
14 petitions.

15 PRESIDENT UMANE: Is this the same
16 defect on all the people that you're
17 representing?

18 MR. GRINDLE: Everyone where it says
19 that there's a problem with an incorrect petition
20 event, yes.

21 PRESIDENT UMANE: Okay. But that's a
22 fatal defect, sir.

23 MR. GRINDLE: What I'm arguing is that
24 it is not an independent petition, that it's a

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2 designating petition, as seen by the fact that it
3 is clearly labeled as designating, it follows the
4 form of a designating petition and references on
5 it, the section of election law 6132 that is for
6 the form of a designating petition.

7 PRESIDENT UMANE: Okay. But it's
8 supposed to be a nominating petition, not a
9 designating petition is the problem.

10 MR. GRINDLE: There are other petitions
11 submitted for her that are independent petitions.
12 I can give you their volume numbers if you wish.

13 PRESIDENT UMANE: So based on the ones
14 that -- so there's some that are on designating
15 petitions and some that are on nominating
16 petitions? How many signatures are on the ones
17 that have -- that are on nominating petitions?

18 MR. GRINDLE: About 4,100 sir.

19 PRESIDENT UMANE: And what's the
20 requirement, 3,750?

21 MR. GRINDLE: Correct.

22 PRESIDENT UMANE: Well, uh, was there a
23 line by line filed with these?

24 MR. GRINDLE: There was a general

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2 objection but no specifications were filed.

3 COMMISSIONER ARAUJO: Commissioner
4 Umane, should we have CRU -- this is Commissioner
5 Araujo, should CRU or legal take a look at this?

6 PRESIDENT UMANE: Yes.

7 MS. PATEL: Yes.

8 COMMISSIONER ARAUJO: And maybe second
9 call it?

10 MS. PATEL: Yes.

11 PRESIDENT UMANE: Yes, I think so.

12 SECRETARY CAMILO: Can we be specific as
13 to, because some documents were forwarded to us.
14 I'm looking at Exhibit B. Is that the only
15 document that we're looking at for the candidate
16 Prussman? Or was he addressing all four
17 candidates and all four separate issues?

18 MS. PATEL: Commissioners, if I could
19 just clarify that there are separate independent
20 nominating petitions filed for Ms. Prussman.
21 Those were, as I understand from CRU, those are
22 valid. These are the designating petitions that
23 were filed back in March that now appear on our
24 prima facie calendar, if that clarifies it for

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2 you. And they have 4,100 signatures, counselor?

3 MR. GRINDLE: Yes.

4 MR. SAVINO: On the other --

5 MS. PATEL: On the nominating?

6 MR. GRINDLE: On the independent
7 nominating.

8 MS. SANDOW: They're not being
9 addressed?

10 MS. PATEL: No, no.

11 [CROSSTALK]

12 COMMISSIONER ARAUJO: Right, but we're
13 not talking about independent nominating, we're
14 talking about designating --

15 MS. PATEL: We're not.

16 COMMISSIONER ARAUJO: -- petitions.

17 MS. PATEL: Yeah, we're not.

18 MR. SAVINO: This is just to say that
19 the volumes that were submitted as designating
20 petitions will not be considered part of their
21 candidacy with their independent nominating
22 petitions, which were correctly filed, at least
23 in terms of the type of petition.

24 PRESIDENT UMANE: Were they included on

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2 the cover sheet?

3 MR. GRINDLE: They were not.

4 MR. SAVINO: No, it's separate cover
5 sheets.

6 PRESIDENT UMANE: Okay. Alright. So
7 we're going to second call this, and we're going
8 to ask CRU to take a look and see whether there
9 are -- at least a look to see whether there would
10 be sufficient signatures on proper nominating
11 petitions filed with a separate cover sheet.

12 MR. GRINDLE: Thank you.

13 PRESIDENT UMANE: Okay, who's next on
14 your hit parade, sir?

15 MR. GRINDLE: So, is that just for --

16 MS. PATEL: Devin Balkind is who we have
17 next on our calendar.

18 MR. GRINDLE: Sure, so for Devin
19 Balkind, his issue that you gave was that his
20 amended cover sheet was filed late. That is, I'm
21 not objecting to that ruling. He submitted a
22 timely cover sheet with sufficient petition
23 volumes. And so his candidacy should rest on the
24 validity of that cover sheet and its

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2 corresponding petitions.

3 PRESIDENT UMANE: Well was the late
4 amended cover sheet filed in connection with a
5 cover sheet hearing, or was it just with the
6 regular petitions?

7 MR. GRINDLE: Could you repeat the
8 question?

9 PRESIDENT UMANE: Well, in many cases,
10 people file amended cover sheets because an issue
11 was filed with the original cover sheets that
12 were submitted.

13 MR. GRINDLE: Uh-huh.

14 PRESIDENT UMANE: So my question was is
15 this late after a notice of non-compliance, or
16 was this just an additional cover sheet filed
17 with additional petition volumes?

18 MR. GRINDLE: This was just an
19 additional cover sheet filed with additional
20 petition volumes, sir. There was no NCNs sent out
21 for his original cover sheet.

22 PRESIDENT UMANE: Okay. Well, I guess we
23 ought to see whether the original petition was
24 sufficient.

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2 SECRETARY CAMILO: Well, I think Mr.
3 Grindle, you have no objection to this matter
4 remaining on our report. Is that correct? As to
5 the amended cover sheet?

6 MR. GRINDLE: Yes. This amended cover
7 sheet clearly was filed late.

8 SECRETARY CAMILO: Okay.

9 MR. GRINDLE: What I'm saying is that he
10 has an on time cover sheet with sufficient
11 volumes listed on it.

12 MS. PATEL: Yes, he does, commissioners.

13 [CROSSTALK]

14 MS. PATEL: Yeah, so commissioners, the
15 amended -- counsel is conceding that the amended
16 was late and he has no objection with this
17 remaining on the prima facie calendar?

18 MR. GRINDLE: Um, yes.

19 MS. PATEL: Yes.

20 PRESIDENT UMANE: Well, isn't the effect
21 of that then knocking his candidate off the
22 ballot?

23 MR. GRINDLE: No, because he has a
24 valid on-time cover sheet with sufficient

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2 petition volumes on it that was filed timely with
3 no NCN.

4 PRESIDENT UMANE: I understand. But if
5 you're, if the amended is knocked off, so is your
6 candidate and his candidacy. So, I guess we would
7 have to --

8 MS. PATEL: No, commissioners, the
9 amended was filed late.

10 PRESIDENT UMANE: -- again, ask CRU to
11 review, to review the initial petition with the
12 original cover sheet to see if it complies, and
13 then also bring this on for second call, so we
14 can just be sure that the initial cover sheet is
15 correct and that there are sufficient signatures.

16 MR. GRINDLE: Sounds fair to me.

17 PRESIDENT UMANE: Okay. So let's -- I
18 didn't want you to agree to something without
19 understanding that it might have sort of
20 draconian effect. That was what I was concerned
21 about.

22 MR. GRINDLE: No, I appreciate that. No,
23 I understand that his candidacy rests or falls
24 based off the validity of his original cover

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2 sheet and the petition volumes on that one.

3 PRESIDENT UMANE: Okay. That's fine.
4 Who's next?

5 MR. GRINDLE: The next on the calendar I
6 believe is a Michael Lewyn. At least next in
7 terms of the ones I'm representing.

8 COMMISSIONER ARAUJO: That's on page
9 five, commissioners.

10 PRESIDENT UMANE: Okay.

11 MS. PATEL: Commissioners, this is the
12 same issue as the candidate Stacey Prussman, is
13 that correct, counsel?

14 MR. GRINDLE: That would be correct.
15 There were actually two original prima facie
16 complaints for him. One was for the incorrect
17 petition event, other was late amended cover
18 sheet, but there was a letter sent out by the
19 commissioners apologizing for a clerical error
20 for that late cover sheet prima facie, which
21 leaves only the incorrect petition one, for which
22 the argument is precisely the same as it is for
23 Ms. Prussman.

24 PRESIDENT UMANE: Does he have enough

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2 signatures on the correct petition volume?

3 MR. GRINDLE: Yes.

4 PRESIDENT UMANE: I'm sorry, petition
5 cover sheet?

6 MR. GRINDLE: Yes, he does, sir.

7 PRESIDENT UMANE: Okay. So we're going
8 to have CRU check that as well.

9 MR. GRINDLE: Sounds good.

10 PRESIDENT UMANE: Next candidate is
11 David Casavis, who has a similar problem to Mr.
12 Balkind.

13 SECRETARY CAMILO: Also on page five,
14 commissioners.

15 MR. GRINDLE: And the defense is exactly
16 the same as it is with Mr. Balkind, that there is
17 no argument that the amended cover sheet was
18 filed late, but as there was no NCN put out on
19 the original cover sheet, the candidacy rests or
20 falls on the validity of that original cover
21 sheet, which contains sufficient petition numbers
22 in the listed petition volumes to sustain his
23 candidacy.

24 PRESIDENT UMANE: Okay. So we're --

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2 MR. SAVINO: Just to be --

3 PRESIDENT UMANE: -- being consistent,
4 we're going to ask CRU to review that and make
5 sure that there are enough signatures.

6 MR. GRINDLE: Yep.

7 MR. SAVINO: But just so it's clear,
8 commissioners, obviously no cover sheet issue
9 should be addressed today. That was addressed at
10 the hearings. And here we are for the objections.

11 PRESIDENT UMANE: Right. But there was
12 no independent determination as to whether or not
13 the petitions, since it went on prima facie, I
14 don't know whether there were any specs filed
15 against these people.

16 MR. GRINDLE: I can ans-- --

17 PRESIDENT UMANE: Or whether there was a
18 review done just on those petitions that
19 correctly denominating them as nominating as
20 opposed to designating petitions. So that's what
21 we're asking CRU to do.

22 MR. GRINDLE: So I can actually give a
23 little bit of clarity there. There were
24 absolutely no specs filed. Casavis didn't even

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2 have general objection to him. And then as for
3 the review of his original cover sheet, I believe
4 according to the independent nominating petition
5 rules, adopted as of December 18, 2018, Section
6 D-1, it was supposed to be within two business
7 days of the receipt of the election document that
8 the board was supposed to review the cover sheet
9 and then if they were to have found a defect with
10 that, which they were supposed to have given us,
11 you know, the three days response to the NCN.
12 And it is significantly past two days.

13 PRESIDENT UMANE: No argument, past two
14 days. What my point is, is whether the complying
15 petitions were sufficient, based upon our weight
16 test rule to see -- because I'm not clear that
17 any review was done by us if it went on to the
18 prima facie because of the -- because of the
19 using the incorrect form.

20 MR. GRINDLE: Understood.

21 MS. PATEL: Okay. Counsel, your next
22 candidate, please.

23 MR. GRINDLE: The next candidate is
24 Matthew Morgan. So --

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2 MS. PATEL: Page eight, commissioners.

3 MR. GRINDLE: -- so he has a late cover
4 sheet problem which is the same argument as for
5 both Mr. Balkind and Mr. Casavis. He has an
6 incorrect petition event problem, which is the
7 same argument as for Ms. Prussman and Mr. Lewyn.
8 And he has a cover sheet not signed problem, but
9 there are two things in relation to that. The
10 first is that there was supposed to be a review
11 of that within two days, as I substance abuse
12 disorder before, based on Section D-1, and then
13 we were supposed to be given three days to
14 respond to that review, as of Section D-4. And
15 the second is that if you look at Section C-2-F,
16 the only part that would require a signature is
17 the optional designation of a contact person and
18 all that would fall, if it is viewed that his
19 lack of signature is a problem is just who the
20 contact person is. The rest of the cover sheet is
21 still valid.

22 PRESIDENT UMANE: No, it's not, because
23 there's a statement on there that there are
24 sufficient number of signatures. And that, that

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2 requires the signature. Somebody has got to say
3 that and it doesn't. So it's more than just
4 designating a contact person.

5 MR. GRINDLE: The signature on it was in
6 reference to the contact person section, but I
7 hear what you're saying. If that were to be an
8 issue, we would still have to have it reviewed
9 within two days, and then sent the NCN out.

10 PRESIDENT UMANE: I get that. I
11 understand. So on this one also, we have to make
12 sure that the correct -- and as part of that
13 review, we have to make sure that the nominating
14 petitions were the ones that were filed first.
15 And it was only designating petitions that were
16 filed with the amended cover sheets and that the
17 ones that we're counting, that were filed with
18 the late cover sheet are not to be counted,
19 because they're discounted in the same way that
20 the cover sheet is discounted if they weren't
21 timely filed.

22 MR. GRINDLE: Sir, they --

23 PRESIDENT UMANE: The ones that we can
24 look at are the ones that were covered by the

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2 original cover sheet. And if they're the ones
3 that were the ones with designating rather than
4 nominating petitions, then that's not sufficient.

5 MR. GRINDLE: Sir, if I may clarify, the
6 designating petitions were --

7 MS. SANDOW: Excuse me, sir.

8 MR. GRINDLE: Sorry.

9 MS. SANDOW: [unintelligible]

10 [00:33:50], thank you.

11 MS. PATEL: Commissioners, there's two
12 separate issues with regard to Matthew Morgan.
13 There's the issue of the incorrect petition type
14 that was filed in March as designating petitions.
15 And then there was a second set of petitions
16 filed as nominating petitions, which had the
17 cover sheet issue. So there's two separate prima
18 facie issues. It's my understanding that Mr.
19 Morgan has more than enough signatures on his
20 independent nominating petitions to be on the
21 ballot. Is that correct? Yeah. And yes, we're
22 getting confirmation from our candidates record
23 unit. Does that clarify it, commissioners?

24 MS. TORRES: The designating petitions -

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2 -

3 PRESIDENT UMANE: I guess so, so that
4 the, there were two separate --

5 MS. TORRES: Yes.

6 PRESIDENT UMANE: -- petitions filed,
7 with two separate cover sheets?

8 MS. PATEL: Yes. The petitions filed in
9 March for these candidates are no good.

10 MS. SANDOW: Can you please tell the
11 commissioners who the candidates are?

12 MS. PATEL: Sorry.

13 MS. SANDOW: And what the situation is,
14 so --

15 MS. PATEL: For Michael, okay. So --

16 MS. SANDOW: -- that we don't
17 [unintelligible] [00:33:50].

18 MS. PATEL: -- commissioners, for, for
19 the candidates Stacey Prussman, hold on. Of the
20 candidates we've discussed, Stacey Prussman,
21 Michael Lewyn, and Matthew Morgan all filed
22 designating petitions in March, which were ruled
23 to be invalid by CRU because they were
24 designating petitions filed in March. All of

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2 these candidates have subsequently filed
3 independent nominating petitions and are on the
4 ballot.

5 MS. SANDOW: So the petition --

6 [CROSSTALK]

7 MR. SAVINO: If I could make a
8 suggestion.

9 PRESIDENT UMANE: They filed with a
10 timely cover sheet? A timely incorrect cover
11 sheet?

12 MS. SANDOW: For independent nom- he's
13 asking if they filed timely an incorrect cover
14 sheet for the independent nominating petition?
15 What's being addressed today is the designating
16 petition that was filed back in March, not the
17 independent nominating petition. Correct,
18 counsel?

19 MS. PATEL: Yes, yes.

20 MS. SANDOW: For all three candidates
21 that were --

22 COMMISSIONER ZACCONE: Okay, I'm going
23 to ask a question, to sort of clarify for my
24 sake. The designating -- what's on our prima

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2 facie report now is the designating petitions.

3 MS. PATEL: Yes, counsel, commissioner,
4 sorry.

5 COMMISSIONER ZACCONE: Thank you. I'm
6 both at various times, but thank you. The issue
7 of the independent nominating petitions and the
8 cover sheets are not on our prima facie calendar
9 now, because those have met their --

10 MS. PATEL: Already dealt with.

11 COMMISSIONER ZACCONE: -- burdens.

12 MS. PATEL: Yes.

13 COMMISSIONER ZACCONE: Is that correct?
14 For at least Stacey Prussman?

15 MS. SANDOW: For the first candidate,
16 Stacey Prussman?

17 COMMISSIONER ZACCONE: Is that a correct
18 presumption?

19 MS. SANDOW: The first candidate, Stacey
20 Prussman?

21 MS. PATEL: Go ahead.

22 MR. SAVINO: Right. They're just, CRU is
23 basically saying those would not be considered in
24 support of her candidacy for the refilled

1 June 15, 2021

2 independent nominating petitions. That's, those
3 particular petitions as I understand it are on
4 the prima facie calendar.

5 COMMISSIONER ZACCONE: Okay. So if we
6 were to vote to agree with the prima facie report
7 to remove the designating petitions, she, Ms.
8 Prussman would remain on the calendar --

9 MS. SANDOW: Correct.

10 COMMISSIONER ZACCONE: -- with her
11 independent nominating petitions?

12 MS. PATEL: Yes, commissioner, that is
13 correct.

14 COMMISSIONER ZACCONE: Then, I make, in
15 this individual case, for Ms. Prussman, I make
16 the motion that we agree with the prima facie
17 report and remove the designating petitions and
18 have no effect on her independent nominating
19 petitions.

20 PRESIDENT UMANE: Is there a second? Is
21 there a second?

22 COMMISSIONER PEPE-SOUVENIR: Second, I
23 second that.

24 PRESIDENT UMANE: All in favor? Aye.

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2 MULTIPLE: Aye.

3 PRESIDENT UMANE: All opposed? All
4 abstentions? Okay. So the candidate is on the
5 ballot.

6 COMMISSIONER ZACCONE: Okay. And maybe
7 we can do the same --

8 MS. PATEL: And the same?

9 COMMISSIONER ZACCONE: -- for the other
10 ones --

11 MS. PATEL: Yes.

12 COMMISSIONER ZACCONE: -- that we've
13 just been discussing and do it individually, so
14 that --

15 MS. PATEL: Okay. So --

16 MS. SANDOW: Okay. So the candidate is
17 on the ballot for the independent nominating
18 petition. The designating petition is off.

19 MS. PATEL: Yes.

20 COMMISSIONER TAYLOR: But that's only
21 for Stacey Prussman, is that correct?

22 MS. SANDOW: Correct.

23 MS. PATEL: And the next person is
24 Michael Lewyn with the same issue.

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2 COMMISSIONER ZACCONE: I'm just going to
3 that.

4 MS. PATEL: That's page five.

5 MS. SANDOW: Repeat the issue.

6 MS. PATEL: Again, the issue is that
7 designating petitions were filed in March. They
8 appear on the prima facie calendar, subsequently,
9 independent nominating petitions have been filed,
10 and Michael Lewyn is on the ballot.

11 COMMISSIONER ZACCONE: Okay. I will make
12 the same motion that --

13 MS. PATEL: Not --

14 COMMISSIONER ZACCONE: -- the
15 designating petitions for Mr. Lewyn be struck
16 pursuant to the prima facie report. But that the
17 independent nominating petitions remain. With the
18 independent nominating petitions, he remains on
19 the ballot.

20 PRESIDENT UMANE: Is there a second?

21 SECRETARY CAMILO: Second.

22 PRESIDENT UMANE: All in favor? Aye.

23 MULTIPLE: Aye.

24 PRESIDENT UMANE: All opposed, all

1 June 15, 2021

2 abstentions. Okay. That passes.

3 MS. PATEL: Okay.

4 PRESIDENT UMANE: The candidate is on
5 the ballot.

6 MS. PATEL: So, and commissioners, for
7 the third person with that same issue is Matthew
8 Morgan. It's on page eight. It's the first reason
9 he's on the prima facie calendar, incorrect
10 petition type filed. These petitions were
11 designating petitions filed in March. He has
12 subsequently filed independent nominating
13 petitions.

14 MS. SANDOW: His independent petitions
15 [unintelligible] [00:40:41]?

16 MS. PATEL: Yes.

17 MS. SANDOW: So it's just the
18 designating petition as, same case as the two
19 previous candidates?

20 MS. PATEL: Yes.

21 PRESIDENT UMANE: Okay. So we should
22 handle these separately. As to the first one,
23 Commissioner Zaccone, do you want to do your same
24 motion?

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2 MS. KONTZAMANIS: You're muted,
3 Commissioner Zaccone.

4 COMMISSIONER ZACCONE: Thank you, my
5 wife is -- keeps that button down all the time.
6 Um, I'll make the motion regarding Matthew
7 Morgan, that the designating petitions previously
8 filed will be stricken pursuant to the prima
9 facie report but that will not affect any
10 independent nominating petitions or cover sheet
11 he has filed thereafter.

12 COMMISSIONER PEPE-SOUVENIR: Second that
13 motion.

14 PRESIDENT UMANE: All in favor? All
15 opposed? All abstentions? Okay. Now, the second
16 issue --

17 MS. SANDOW: Matthew Morgan, designating
18 petitions are off. Independent nominating
19 petitions are on. Next one.

20 PRESIDENT UMANE: Now, there's a second
21 issue, that the initial cover sheet was not
22 signed and was incorrect and the candidate
23 corrected it, but corrected it late. So the
24 question is the fact that we apparently did not

1 June 15, 2021

2 send out an NCN notice and give him an
3 opportunity to fix it, and that he submitted his
4 own correction but submitted it late, should he
5 have had the opportunity that the notice would
6 have afforded him to correct it on a timely
7 basis. And do we want to essentially knock him
8 off the ballot for not doing the correct, I
9 should say, not doing a timely cure when we
10 didn't notify him that he needed to cure it at
11 all.

12 COMMISSIONER ARAUJO: President Umane,
13 can I ask legal whether or not there's any
14 precedent because I sort of remember that there's
15 some case law about people curing on their own,
16 not [unintelligible] [00:43:22] the statute, or
17 not extending the statute, if you can opine on
18 that.

19 MS. PATEL: Commissioners, we are not
20 allowed to extend any statutory deadlines.

21 PRESIDENT UMANE: But the issue here is
22 I think that we essentially had an obligation to
23 give them notice that the fact that he didn't
24 sign it was an error. And we didn't. And so we

1 June 15, 2021

2 wouldn't necessarily be extending it.

3 MS. PATEL: Okay. Yes.

4 PRESIDENT UMANE: [unintelligible]
5 [00:43:58] timelines, it's just because we never
6 sent a notice, the time period to cure never
7 started to run and so it's really
8 [unintelligible] [00:44:11] --

9 MS. PATEL: Commissioners, if we can --

10 PRESIDENT UMANE: -- of sending him an
11 NCN that, that, the candidate would be able to
12 rely on our obligation to send him something so
13 that he would possibly be able to cure.

14 MS. PATEL: Yes, commissioners.

15 PRESIDENT UMANE: So --

16 MS. PATEL: If we do a second call, we
17 will check our records.

18 PRESIDENT UMANE: -- what I
19 [unintelligible] [00:44:28] do is that --

20 MS. PATEL: Yeah.

21 PRESIDENT UMANE: -- as we still have
22 plenty of time until November, I suggest that we
23 send out an NCN and put this on a cover sheet
24 committee to hear this within the time period and

1 June 15, 2021

2 we give him a proper NCN notice to cure. And that
3 we hear it maybe next week or at a cover sheet
4 review hearing, to give him an opportunity to
5 cure the defect that's there, because we didn't
6 do it. And not use his own late thing against him
7 because we didn't do what we're supposed to do
8 and we're supposed to. So I would move that we
9 table this and send him an NCN notice with a
10 three-day right to cure.

11 MS. PATEL: Commissioners, I believe
12 that Delvin Balkind had the same issue. Right?

13 MR. GRINDLE: So Devin Balkind's issue
14 doesn't show on the explanation that it was, it
15 doesn't have a signature on it, and that is also
16 not a complaint about his cover sheet on the
17 prima facie report.

18 PRESIDENT UMANE: Right. So I would
19 treat him the same way, that the cover sheet is
20 incorrect. We give him an opportunity to cure it,
21 and absent anything else, that if he cures it
22 then he has a right to be on the ballot, if he
23 doesn't, then he doesn't.

24 MS. PATEL: Okay.

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2 PRESIDENT UMANE: But then we do what
3 we're supposed to do, there's still plenty of
4 time before November to be able to do this. And
5 that's what I suggest that we do. Is there a
6 second? Maybe?

7 MS. PATEL: Counsel, go ahead.

8 MR. GRINDLE: Would this also be the
9 case for David Casavis?

10 MS. PATEL: Oh, okay. So, commissioners
11 --

12 PRESIDENT UMANE: If that's the same
13 situation.

14 MS. PATEL: Yeah.

15 PRESIDENT UMANE: Yeah, and I think he
16 pronounces it Casavis. But yes.

17 MS. PATEL: Okay. So, commissioner your
18 motion would be to include Mr. Casavis in this
19 also?

20 PRESIDENT UMANE: Yes.

21 MS. PATEL: Thank you.

22 PRESIDENT UMANE: For all of these
23 candidate that fell within the same situation.

24 MS. SANDOW: Can you list the candidates

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2 [unintelligible] [00:46:57] please.

3 PRESIDENT UMANE: It was our error in
4 not sending the NCN so we have plenty of time to
5 do it and they have plenty of time to cure it.
6 And if they do, then there's no issue. If they
7 don't, then they don't. But the three-day time
8 period would start once we send the notice out.

9 COMMISSIONER ARAUJO: Again, this is
10 Commissioner Araujo. I just want to be clear that
11 legal, because I have a recollection that there
12 is some case law out there with respect to having
13 an additional bit at the apple, that if a
14 candidate who files a cover sheet realizes that
15 they made a mistake before the board sends out a
16 cure and that cure initially filed is incorrect,
17 I want to see that there's some case law to this
18 that prevents us from entertaining that cure even
19 though we had not sent out that notice. I just
20 want to verify that there is no case law that
21 says that, because this is sort of like the
22 situation that we're in right now.

23 COMMISSIONER PEPE-SOUVENIR: But my,
24 this is Commissioner Pepe-Souvenir, but my

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2 understanding from what Commissioner Umame is
3 saying is that they didn't realize that they had
4 an issue with their petition and that we, it was
5 incumbent upon us to have provided them notice
6 that they needed to cure it --

7 MS. PATEL: No, commissioners --

8 COMMISSIONER PEPE-SOUVENIR: -- and that
9 wasn't done.

10 COMMISSIONER ARAUJO: No, I understand
11 that.

12 MS. PATEL: Commissioners?

13 COMMISSIONER ARAUJO: I just want to
14 make sure that there's no contravening case law
15 on that issue and that's why I'm asking legal.

16 MS. SANDOW: Speak up.

17 MS. PATEL: Commissioners, I just want
18 to clarify, I'm sorry. I do want to clarify that
19 they did realize there was a problem and they
20 cured it. However, they cured it late. That was
21 the problem.

22 COMMISSIONER PEPE-SOUVENIR: Okay. Okay.
23 I didn't understand that. Thank you so much.

24 PRESIDENT UMANE: Okay. So then, let's

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2 put this on for second call and see if
3 Commissioner Araujo's memory is correct. And if
4 he is, then that's a different story. But I seem
5 to recall us having done what I'm suggesting in
6 the past. So that's why I suggested it. But let's
7 see if there is case law on it if we can't do it,
8 then we shouldn't do it, but seems to me in terms
9 of fairness that since we had an affirmative
10 obligation to send an NCN notice and we didn't do
11 it, it strikes me as potentially less than fair
12 not to be able to give them that opportunity to
13 cure, which they have as a matter of, I guess our
14 rules and the state Board of Elections rules and
15 the right to cure statute. Okay. So let's check
16 it out. We'll put this all on second call. Let's
17 finish up with the rest of the Libertarian
18 candidates and to the extend we have the
19 accommodating designating petition issues, we can
20 have Commissioner Zaccone make his motion again
21 and we'll deal with these issues after we've
22 checked the law. If that works for everybody.
23 Okay.

24 MS. SANDOW: Does that work for

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2 everybody.

3 MR. GRINDLE: It works for us.

4 MS. PATEL: Yes.

5 PRESIDENT UMANE: What's next.

6 MR. GRINDLE: Those were the five
7 candidates that I was representing.

8 PRESIDENT UMANE: Okay.

9 MR. GRINDLE: Suraj and Ruben are
10 representing themselves, and I'm not sure who is
11 representing Tobacco.

12 PRESIDENT UMANE: Okay. Thank you, sir.

13 MR. GRINDLE: Thank you.

14 MR. SWATTIE: The next appearance is
15 from Abbey S. Laurel-Smith, who is also appearing
16 in person.

17 MS. PATEL: Page four, commissioners.

18 MR. SWATTIE: Thank you.

19 MR. ABBEY LAUREL-SMITH. Good afternoon,
20 good afternoon, everyone. I am Abbey Laurel-
21 Smith, representing The Pilgrims Alliance Party,
22 and thank you very much for allowing me to come
23 in and represent myself in person. I'm here to
24 see if I could be allowed to finish up with what

1 June 15, 2021

2 I was doing, which is add numbers into each page.
3 I guess you call it cure the petition, which I
4 didn't do. And the reason why I didn't do it was
5 because two people that worked for me at the last
6 minute had COVID. And [unintelligible] [00:46:57]
7 went to retrieve, the signature had an accident
8 and died. And I had to go and get whatever I have
9 and bring it in. I have enough signatures to get
10 on the ballot. It's just I didn't have enough
11 time to number them and sign them. But I do want
12 to like hold on, which is why I came in and
13 submitted them at the last minute. And I have
14 been coming here almost every day since then
15 asking for permission to finish up and number all
16 the pages. I'll be very happy if you could please
17 give me the opportunity to do that.

18 PRESIDENT UMANE: Yeah, but sir, you're
19 woefully short in terms of the number of
20 signatures required that are shown. And we can't
21 extend, as Commissioner Araujo just mentioned,
22 and Attorney Patel, General Counsel Patel just
23 said we can't extend any time periods for
24 submission of petitions and you're just short.

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2 And there's really nothing you can do or nothing
3 we can do to extend those time periods. So,
4 unfortunately, sir, I think you're out of luck,
5 and I would move that we continue to leave this
6 on the prima facie calendar. Is there a second?

7 COMMISSIONER ARAUJO: Second.

8 PRESIDENT UMANE: All in favor? Aye. All
9 opposed? All abstentions. Sorry, sir.

10 MS. SANDOW: Thank you.

11 MR. SATTIE: The next appearances is by
12 Walter Iwachiw, who will be let into the meeting,
13 the WebEx meeting momentarily.

14 PRESIDENT UMANE: Okay. Commissioner
15 Araujo, do you have something you want to say?

16 COMMISSIONER ARAUJO: Yeah, with respect
17 to anything that has to do with Mr. Iwachiw, I
18 will abstaining and recusing myself from any
19 vote.

20 PRESIDENT UMANE: Okay. Thank you.

21 MS. KONTZAMANIS: Mr. Iwachiw is in the
22 meeting, commissioners.

23 PRESIDENT UMANE: Mr. Iwachiw,
24 Commissioner Araujo has recused himself from any

1 June 15, 2021

2 participation in this. Mr. Iwachiw --

3 MS. PATEL: Page, it's page two
4 commissioners, top of page two.

5 PRESIDENT UMANE: You don't have enough
6 signatures, sir.

7 MR. IWACHIW: Yes, but we were in court
8 on [unintelligible] [00:54:44] while everybody
9 else was having ex parte hearing. And the issue
10 is the requirement for signatures should be the
11 same as it was in 2020 during the COVID pandemic,
12 which is ongoing presently. In 2020, it was
13 eliminated altogether. So we'll be back in court
14 to settle the question on constitutionality.

15 PRESIDENT UMANE: Okay. So I move that
16 the candidate remain on the prima facie ballot.
17 Is there a second?

18 SECRETARY CAMILO: Second.

19 COMMISSIONER ZACCONE: Seconded.

20 MS. SANDOW: Commissioner, okay.

21 PRESIDENT UMANE: All in favor?

22 MULTIPLE: Aye.

23 PRESIDENT UMANE: All opposed? All
24 abstentions? So, Mr. Iwachiw, I'm sorry, but you

1 June 15, 2021

2 lack the number of signatures. Thank you.

3 MS. PATEL: Commissioners, Mr. Iwachiw,
4 hold on before you take him out of the meeting.
5 He appears on page 12.

6 COMMISSIONER ARAUJO: And, and
7 respectfully, there's also one recusal,
8 Commissioner Araujo on that last vote, please.

9 MS. PATEL: For no petitions --

10 COMMISSIONER ARAUJO: Just to reiterate
11 it.

12 MS. PATEL: And additionally,
13 commissioners, on page 12, Mr. Iwachiw's
14 candidacy for City Council, no petitions filed
15 for the candidate for the office district stated
16 on the certificate of acceptance, and certificate
17 of authorization is not a certificate of
18 substitution.

19 MS. SANDOW: The 26th Council District,
20 Walter N. Iwachiw.

21 PRESIDENT UMANE: Okay, Mr. Iwachiw, in
22 your certificate of acceptance in the City
23 Council Race, there were no petitions filed for
24 the office as stated in your certificate of

1 June 15, 2021

2 acceptance. Did you file petitions for that
3 office, sir?

4 MR. IWACHIW: So we'll have to take that
5 up in court as well.

6 PRESIDENT UMANE: Okay. So I would move
7 that we keep the candidate on the prima facie
8 list. Is there a second?

9 COMMISSIONER TOWNSEND: Second.

10 PRESIDENT UMANE: All in favor?

11 MULTIPLE: Aye.

12 PRESIDENT UMANE: All opposed? All
13 abstentions? So the candidate remains on the
14 prima facie and is off the ballot. Commissioner
15 Araujo not participating and recused himself from
16 this matter as well.

17 COMMISSIONER ARAUJO: Thank you.

18 PRESIDENT UMANE: Okay. Next?

19 MR. SATTIE: The next appearance is on
20 the Manhattan calendar by Curtis Brooks.

21 PRESIDENT UMANE: Which page?

22 SECRETARY CAMILO: Five, top of five.

23 MS. KONTZAMANIS: Curtis Brooks is in
24 the meeting.

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2 PRESIDENT UMANE: Mr. Brooks, your
3 petition was filed late, as well as the cover
4 sheet.

5 MS. KONTZAMANIS: Ms. Brooks, you need
6 to unmute your mic.

7 PRESIDENT UMANE: It's Ms. Brooks,
8 sorry.

9 MS. CURTIS BROOKS: Hello? Hello, hi,
10 can you hear me?

11 PRESIDENT UMANE: Yes.

12 MS. BROOKS: Okay.

13 MS. SANDOW: Curtis Brooks appears,
14 member of City Council, 9th Council District,
15 Curtis Brooks, petition filed on 5/26/21 is late,
16 due date was 5/25/21. Cover sheet filed
17 5/26/2021, due date is 5/21/2021.

18 PRESIDENT UMANE: Ms. Brooks, was your
19 petition filed on time? Apparently, it was not.

20 MS. BROOKS: Uh, well, there were a set
21 of circumstances that led to me not making it
22 into 42nd Broadway on time. I actually, I got an
23 Uber from my home, I made it to 42, I made it to
24 42 Broadway at 11:50 and I went into your 32

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2 Broadway office. And when I got into the office,
3 and I'm just going to -- I just want to show you
4 this right here quickly -- when I had the Uber
5 driver put the information in, when I had the
6 Uber driver put the information in, I don't know
7 if you can see right here, but your address
8 states that you're located at 3242 Broadway. It
9 says 32-42 Broadway is where you drop the
10 petition off at. So when the Uber driver picked
11 me up, I said to him, I said I'm going to 32-42
12 Broadway, and he said there's no address like
13 that. He said, he said, I said, well okay, well
14 take me to 32 Broadway, so the Uber driver took
15 me to 32 Broadway and I got out of the Uber at
16 11:50 and I went inside of your, inside of your
17 office that's located at 32 Broadway. And when I
18 got there, the security guard at the desk said to
19 me, he said to me, ma'am, this office is a 9:00
20 to 5:00 office, there's nobody here. And I said
21 to him, no, they're here tonight, because they're
22 going to be late because people are dropping in
23 their petitions, they're supposed to be open
24 until 12:00 o'clock midnight. And the gentleman

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2 said to me, he said, I don't know what you're
3 talking about, this is a 9:00 to 5:00 office, all
4 of the offices are closed and I showed him one of
5 your flyers, I said look, right here, it says
6 12:00 o'clock and that you're open until
7 midnight. And the gentleman said to me, well, I
8 don't know, he said do you have a number to call?
9 And I called the number that was on your thing,
10 and you know, the phone just rang, rang, and
11 nobody picked up. And he said to me, no, these
12 people left early today, usually by 6:00 o'clock
13 this office is cleared out, there's no one here,
14 is what the gentleman said to me at 32 Broadway.

15 So he and I we went back and forth for a
16 bit. Finally, I walked out of there and I said,
17 okay, where's 42? The guy said to me -- I'm
18 sorry? The gentleman said to me, he said to me,
19 he said, he said, I don't know where 42 is
20 located, but at 32, there is no one here in this
21 office right here is what he said to me.

22 So, I went, I walked out, and I walked
23 to 42, which was next door, and it was a young
24 lady sitting at the desk. But by the time I got

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2 in there, time had already passed, because I was
3 over doodling with this guy, who didn't -- this
4 guy who didn't -- this guy actually tried to even
5 send me over to Varick Street, said, well, I
6 don't know, maybe you have the wrong location,
7 maybe you, maybe it's over at Varick Street, but
8 there's nobody here, these people left early
9 today is what he said to me.

10 PRESIDENT UMANE: What time was the
11 petition clocked in? Do we know?

12 MS. BROOKS: I, you know what, let me
13 just tell, you, I should have got a witness
14 statement from the security guide. I was
15 basically there all night, sir. I spent the night
16 at your office.

17 MS. PATEL: Commissioners, we have a
18 cover sheet stamped in at May 26th, 9:29. It is
19 my understanding the petitions were clocked in at
20 the same time. We're checking right now.

21 PRESIDENT UMANE: So that's 9:00 -- so
22 people were at the board until after midnight
23 that night.

24 MS. BROOKS: Mm-hmm.

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2 PRESIDENT UMANE: So had you gone to the
3 42 Broadway, you would have been up there and it
4 would have been clocked in theoretically at say
5 12:00, you know, at, 12:00 a.m., 12:10 a.m.,
6 12:15 a.m. Instead, they were clocked in at 9:30
7 the next morning.

8 MS. BROOKS: Here's a --

9 PRESIDENT UMANE: I don't quite
10 understand.

11 MS. PATEL: Commissioner --

12 [CROSSTALK]

13 PRESIDENT UMANE: -- And
14 [unintelligible] [01:02:54] to extend the time.

15 MS. BROOKS: Here's a copy of your --
16 the young lady allowed me to take a copy of the
17 sign-in sheet downstairs. I was there, sir, I was
18 there. They threatened to call the police on me,
19 because finally at about 12:00 something, the
20 young, at about, I don't know, it was 12:00
21 something when the young lady decided that she
22 might let me -- I had to beg her to let me go
23 upstairs. And she let me go upstairs and I was
24 sitting in front of your door. There's cameras

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2 all around to show that I was sitting in front of
3 your door. And finally, the lady came up and she
4 said oh my god, you have to leave, we have to
5 leave, my boss, he told me I shouldn't have let
6 you up. They're going to call the police is what
7 she said to me. Though I have, I have your sign
8 in sheet from the lobby right here. I made a
9 photocopy of that.

10 MS. PATEL: Commissioners, I just --

11 MS. BROOKS: This is from the lobby
12 downstairs.

13 MS. PATEL: -- commissioners, to finish
14 answering your question, the petitions were also
15 filed on May 26th at 9:29 a.m.

16 COMMISSIONER ZACCONE: If I can just ask
17 a quick question of our staff. As I remember,
18 when we have midnight filings, we have people
19 designated to be down in the lobby to assist
20 people coming up and to direct them. Is that
21 correct?

22 MS. TORRES: Yes.

23 [CROSSTALK]

24 COMMISSIONER ZACCONE: If I could speak,

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2 and then I'll give you a chance to speak, Ms.
3 Brooks.

4 MS. TORRES: If I may intervene, our
5 staff lobby at 32 Broadway is always there.
6 Promptly until midnight. Ms. Brooks entered the
7 building at midnight, in which BOE staff was
8 already not in the lobby. Ms. Brooks was address
9 by the building security --

10 MS. BROOKS: Yes.

11 MS. TORRES: -- after midnight.

12 MS. BROOKS: Yes.

13 MS. SANDOW: After midnight?

14 MS. BROOKS: I was addressed by the
15 building security.

16 MS. SANDOW: Not our security?

17 MS. TORRES: Our staff people are
18 downstairs at 32 Broadway until midnight. I
19 myself am at CRU until midnight. The doors
20 upstairs on the 7th floor close at midnight
21 promptly. Ms. Brooks addressed the building
22 security after midnight, which is when she
23 entered the building.

24 MS. BROOKS: That's exactly true.

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2 MS. SANDOW: Okay.

3 PRESIDENT UMANE: Okay. Well,
4 unfortunately, we're not able to extend the time
5 periods, so I would move that we keep this
6 petition on the prima facie calendar. Is there a
7 second?

8 COMMISSIONER TOWNSEND: Second.

9 PRESIDENT UMANE: All in favor? Aye.

10 MULTIPLE: Aye.

11 PRESIDENT UMANE: All opposed? All
12 abstentions? I'm sorry, Ms. Brooks, it's just too
13 late, there's nothing we can do.

14 MS. BROOKS: Sir, but, okay, but sir,
15 listen. I, listen, can I say this right here,
16 listen, I screen shotted your building thing. It
17 was security of the building that did not let me
18 inside of the building. I went inside of 32. The
19 lights were out and there was nobody there at 32.
20 Finally, after --

21 PRESIDENT UMANE: Nobody, but you just
22 heard that somebody was there until midnight.

23 MS. BROOKS: No, no, sir.

24 PRESIDENT UMANE: You even said you got

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2 there after midnight, at 32 --

3 [CROSSTALK]

4 MS. BROOKS: I was in the building next
5 door. Sir, I was in the building next door, I was
6 in building 32. When finally the young lady --

7 PRESIDENT UMANE: Yeah, but what you
8 just missed I guess, was what the other lady just
9 said from our candidate records unit.

10 MS. BROOKS: Nobody, the dude said that
11 --

12 PRESIDENT UMANE: That there was
13 somebody in the lobby of 32 until midnight.

14 MS. BROOKS: Sir, the guy told me in
15 building 32 that nobody --

16 MS. SANDOW: Ms. Brooks, we're going to
17 be moving you to the lobby now. We need to move
18 the hearing along.

19 MS. BROOKS: No problem.

20 MS. SANDOW: Move Ms. Brooks to the
21 lobby, thank you. Call the next case.

22 MS. PATEL: The next appearance is Suraj
23 Jaswal.

24 MR. SATTIE: And the candidate appears

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2 on page 11 of the prima facie report.

3 MS. PATEL: Yeah, it's a member of the
4 City Council, the 25th Council District,
5 candidate Suraj Jaswal. The issue is the same as
6 the other candidates incorrect petition type
7 filed for independent nominating election event.
8 It was filed early in March. Petitions filed
9 before May 18th are to be excluded from
10 consideration. It is my understanding that Mr.
11 Jaswal filed valid independent nominating
12 petitions during this petition filing period.

13 MS. KONTZAMANIS: So Jaswal, you need to
14 unmute your mic.

15 MR. SURAJ JASWAL: Yeah, it's so weird.
16 Can you hear me?

17 PRESIDENT UMANE: Yes.

18 MR. JASWAL: Yeah, so I filed the
19 designating petitions in March and I believe
20 that's the prima facie was about. I did five
21 independent petitions on May 20th, volume number
22 QN2101164 and there is no fault or defect on
23 that, so I should be on ballot. Can you please
24 confirm that?

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2 MS. PATEL: Yes, Mr. Jaswal, there's no
3 finding against your independent nominating
4 petitions.

5 PRESIDENT UMANE: Commissioner Zaccone,
6 do you want to make a motion?

7 COMMISSIONER ZACCONE: Yes, I'll make
8 the same motion I made in the other matters, the
9 designating petitions indicated on the prima
10 facie report for Mr. Jaswal will remain and will
11 be stricken. Mr. Jaswal's independent nominating
12 petitions will not be affected by this
13 determination.

14 PRESIDENT UMANE: Is there a second?

15 COMMISSIONER ZACCONE: And he remains on
16 the ballot.

17 PRESIDENT UMANE: Is there a second?

18 SECRETARY CAMILO: Second.

19 PRESIDENT UMANE: All in favor?

20 MULTIPLE: Aye.

21 PRESIDENT UMANE: All opposed? All
22 abstentions? Okay, Mr. Jaswal, your nominating
23 petition will remain on the ballot. Next.

24 MR. JASWAL: Thank you.

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2 MS. PATEL: Next, we have Ruben D. Cruz,
3 candidate for member of the City Council, 32nd
4 Council District, I believe there's an
5 appearance. Commissioners, same issue, incorrect
6 petition type filed in March. Petitions filed
7 before May 18th were excluded. It is my
8 understanding that Mr. Cruz has valid independent
9 nominating petitions filed during this filing
10 period, independent nominating petition filing
11 period.

12 MR. SAVINO: That's correct. He did file
13 the proper form of petition, independent
14 nominating during this filing period.

15 PRESIDENT UMANE: Commissioner Zaccone,
16 you're on a roll.

17 COMMISSIONER ZACCONE: Thank you, as
18 with the others, I move that the designating
19 petitions indicated for Rev. Cruz on the prima
20 facie report remain, but that his independent
21 nominating petitions not be affected by this
22 determination.

23 PRESIDENT UMANE: Is there a second?

24 SECRETARY CAMILO: Second. Thank you,

1 June 15, 2021

2 commissioner.

3 PRESIDENT UMANE: All in favor?

4 MULTIPLE: Aye.

5 PRESIDENT UMANE: All opposed? All
6 abstentions? Okay. Mr. Cruz, you remain on the
7 ballot.

8 MR. RUBEN CRUZ: Thank you. May I make
9 one comment?

10 PRESIDENT UMANE: Yes, sir.

11 MR. CRUZ: At this moment, my mom is in
12 Elmhurst Hospital undergoing heart surgery and
13 just your thoughts and well wishes would be
14 appreciated. Thank you.

15 PRESIDENT UMANE: Thank you, sir. You
16 have them for all of us, and god willing, she'll
17 pull through.

18 MR. CRUZ: Thank you.

19 PRESIDENT UMANE: Okay. Next.

20 MS. PATEL: The last person I think
21 making an appearance on the prima facie calendar
22 is Jason R. Price. I don't know if he made it
23 into the meeting.

24 MS. KONTZAMANIS: Yes.

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2 PRESIDENT UMANE: Yes, he did.

3 MS. PATEL: Okay. So, that is on page
4 14, commissioners. And it is Ordinary People
5 Party, member of the City Council, 49th Council
6 District, Jason R. Price is the candidate. The
7 proof of service on the specs was not filed
8 correct.

9 MS. SANDOW: Rule H-1.

10 MS. PATEL: So Rule H-1, Mr. Price.

11 PRESIDENT UMANE: Mr. Price, you're
12 going to be on the ballot because the
13 specifications were not filed correctly. So do
14 you have anything you wanted to add?

15 MR. PRICE: No, sir.

16 PRESIDENT UMANE: Okay.

17 MR. PREZIOSI: Thank you very much. I
18 appreciate it.

19 PRESIDENT UMANE: So I move the
20 specifications of objections against Mr. Price be
21 sustained on the prima facie, that it remain on
22 there, and that the candidate would then remain
23 on the ballot. Is there a second?

24 COMMISSIONER ZACCONE: Second.

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2 PRESIDENT UMANE: All in favor?

3 MULTIPLE: Aye.

4 PRESIDENT UMANE: All opposed? All
5 abstentions? Okay. The specs are dismissed, the
6 candidate remains on the ballot.

7 MS. PATEL: Commissioners, I believe
8 that's the last appearance on the prima facie
9 calendar.

10 PRESIDENT UMANE: Okay. I would move
11 that we approve the prima facie calendar as
12 amended by the series of motions made by
13 Commissioner Zacccone, and --

14 MS. PATEL: Uh --

15 MR. SAVINO: With the exception --

16 MS. PATEL: With the exception,
17 commissioner of the, of the issues, the second
18 call matters on Balkind, Morgan and Casavis.

19 PRESIDENT UMANE: Casavis, yes, that's
20 correct.

21 COMMISSIONER ARAUJO: And also with the
22 exceptions of Mr. Iwichiw that have been voted on
23 as amended previously.

24 MS. PATEL: Okay. Yes.

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2 PRESIDENT UMANE: Okay. I move it, is
3 there a second?

4 COMMISSIONER ZACCONE: Second.

5 PRESIDENT UMANE: All in favor?

6 MULTIPLE: Aye.

7 PRESIDENT UMANE: All opposed? All
8 abstentions? Okay. It's carried. What's next on
9 the calendar? Give us a second to find it once
10 you tell us what it is.

11 MS. PATEL: Okay. Okay. Commissioners,
12 we'll be moving to clerks' report.

13 MS. SANDOW: We have appearances.

14 MS. PATEL: Yes.

15 MS. KONTZAMANIS: What county? What
16 county?

17 MS. PATEL: We're going to start with,
18 in the order that you've received it, we're going
19 to start with the citywide.

20 MR. SAVINO: Shall we begin?

21 MS. SANDOW: Yes.

22 MS. PATEL: Shall we begin? Okay.

23 MS. SANDOW: Go ahead.

24 MS. PATEL: Party --

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2 MS. SANDOW: Mr. Savino? Mr. Savino will
3 [unintelligible] [01:13:38].

4 MS. PATEL: So party is Save our City.
5 This is in the matter of objections by Lauren
6 Whalen Nelson to the petition of Fernando Mateo
7 for the Maior of the city of New York, it's spec
8 2-1, the number of signatures required --

9 MS. SANDOW: Can you get the appearance
10 first?

11 MS. PATEL: Oh, sorry, yes.

12 MS. KONTZAMANIS: We have appearances?

13 MS. PATEL: We have appearances.

14 MR. SAVINO: Can we let them in from the
15 lobby?

16 MR. SATTIE: There are appearances.
17 There are appearances by Frank Marano for the
18 objector and Robert Morgan for the candidate.

19 MS. KONTZAMANIS: They are both in the
20 meeting.

21 MS. PATEL: Commissioners, if I may, the
22 number of signatures required is 30 -- oh, sorry.

23 MS. SANDOW: The objector and the
24 candidate, Marano and Morgan, please.

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2 MS. KONTZAMANIS: Mr. Marano and Mr.
3 Morgan are both in the meeting.

4 MR. FRANK MARANO: Good afternoon,
5 commissioners, and good afternoon, Mr. Morgan,
6 how are you, everybody?

7 ROBERT MORGAN: I'm good, how are you?

8 PRESIDENT UMANE: Okay. So, if you could
9 read the recapitulation.

10 MS. PATEL: Commissioner, it is number
11 of signatures required is 3,750, total number of
12 valid signatures, 3,057.

13 PRESIDENT UMANE: Okay, Mr. Morgan, do
14 you have a number of signatures? Or is there any
15 other issues with the specifications?

16 MR. SAVINO: Can he hear us?

17 MS. KONTZAMANIS: I don't think he can
18 hear us.

19 MR. MORGAN: Sorry, I just lost audio
20 for a second. I'm back now.

21 PRESIDENT UMANE: Mr. Morgan, do you
22 have anything to add? Your candidate seems to be
23 short on signatures.

24 MR. MORGAN: Yes, there is a defect in

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2 the specifications. They're out of order in a
3 manner that violates Rule H-1 of the
4 Commissioners' Rules. So it goes, you know,
5 there's a sequence when you start to go into the
6 sections that should only contain volume number
7 NY2104070, it goes from 4070 pages number ten and
8 then it jumps to 4068 page number 11, 4068, page
9 number 12, and then it goes to 4070 page number
10 13.

11 And furthermore, as a result of this
12 sequencing error or misidentification of the
13 volume number that should have been in the
14 sequence, there's also multiple pages that are
15 filed for the same volume number and sheet
16 number. So, in other words, there are two sheets
17 in separate sections of the spec that say
18 NY2104068 page number 11.

19 PRESIDENT UMANE: Mr. Marano, you have
20 to get it right if you seek to knock somebody off
21 the ballot. Do you have an explanation for this
22 out of sequence of order on the specifications of
23 objection?

24 MR. MARANO: I would say that the

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2 candidate doesn't have enough valid signatures,
3 and that this is not even including the
4 signatures we believe were forged, which we hope
5 the board will refer to the relevant
6 prosecutorial authorities. But I don't believe
7 that it is a fatal defect in terms of the
8 specification of our objection and I think that
9 the -- we would move to adopt the clerks' report
10 as is.

11 PRESIDENT UMANE: Okay. Well, that's not
12 -- but --

13 MR. MARANO: Isn't this an argument that
14 was brought up at our last hearing?

15 PRESIDENT UMANE: -- if you do, if you
16 do file an objection, you have to do it right and
17 what you're objecting to are errors made in a
18 petition. In order to do that, you have to get it
19 right. You didn't. And I would, to the contrary,
20 I would move that we dismiss the objections as
21 for failing to properly number in accordance with
22 the requirements. Is there a second?

23 COMMISSIONER MICHEL: I second it. I
24 second it, Commissioner Michel.

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2 PRESIDENT UMANE: Okay.

3 COMMISSIONER SHAMOUN: Wasn't there an
4 issue in our last hearings of a similar nature,
5 where the argument was trying to be made about
6 the numbering of the spec versus the numbering of
7 the petition itself.

8 MS. PATEL: Yes.

9 COMMISSIONER SHAMOUN: This seems to be
10 a similar issue at hand. What changed?

11 MR. SAVINO: Commissioner, I believe
12 that the petition volume numbers were out of
13 order in this case, as opposed to page numbering.

14 COMMISSIONER SHAMOUN: Let me just
15 review this.

16 COMMISSIONER ZACCONE: Frederic, if I
17 may, from memory, I believe we had one where
18 there were no page numbers at all on the bottom
19 of the objections.

20 MS. PATEL: Yes.

21 COMMISSIONER ZACCONE: And the volumes
22 were out of order in the past and we accepted
23 that. I just want to clarify if that's correct,
24 because this is from memory.

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2 PRESIDENT UMANE: I don't believe so,
3 not that it was raised, because the general rule
4 is on specifications, that we are particularly
5 careful to make sure that they're done right. And
6 this is volume number and page number out of
7 order. It's not insignificant. So anybody looking
8 at it is going to be confused and it makes it
9 that much more difficult to defend or do anything
10 else with regard to that. So I think it's a
11 significant --

12 COMMISSIONER SHAMOUN: Can legal answer
13 my question about what happened last time versus
14 this time in our prior hearings when it seems
15 that a similar issue was raised without merit?

16 MR. SAVINO: I believe --

17 MS. PATEL: Just a second, commissioner.
18 Commissioner Shamoun, if I recall correctly, in
19 our last set of hearings, there were objections
20 that were filed with no page numbering on the
21 specifications and it was ruled as a defect at
22 the hearing. Is that what you're referring to?

23 COMMISSIONER SHAMOUN: No, no. There was
24 some -- there was an issue at the last hearing

1 June 15, 2021

2 that rings very similar to this one. And it seems
3 that --

4 MS. PATEL: Commissioners --

5 COMMISSIONER SHAMOUN: I'm pulling up my
6 research, just a minute.

7 MR. MARANO: While the commissioner is
8 looking for his research, I would just add that
9 clearly any defect in volume numbering or
10 sequential volume numbering didn't prohibit the
11 staff or the board of elections from reviewing
12 that specific objection to those specific
13 signatures. So my view is, is the board and their
14 staff was still able to identify what the
15 objection was. The candidate would have been able
16 to, in any attempt to rehabilitate them as well.

17 PRESIDENT UMANE: Simon, do you have
18 something? Because otherwise, we have to move the
19 calendar along.

20 COMMISSIONER SHAMOUN: I haven't heard
21 anything from -- I know this happened last time.
22 It seems that we had one definitive answer.

23 MS. PATEL: Commissioners it was--

24 SECRETARY CAMILO: [unintelligible]

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2 [01:21:42]

3 MS. PATEL: Sorry, sorry, Commissioner
4 Camilo, go ahead.

5 SECRETARY CAMILO: No, no, no. You have
6 a better answer. I was just going to give my
7 recollection that we did deal with this issue in
8 a former, in a past hearing and they were
9 sequential. The volumes were sequential, so it
10 wasn't an issue. That's why we accepted it.

11 MR. MORGAN: And then I guess I would
12 just say, you know, it specifically says in Rule
13 H-1 of the Commissioner Rules that the
14 specifications of objections in each and every
15 volume shall be numbered sequentially at the
16 bottom of each page of the specification. And it
17 also says in Rule H-5 that any specific objection
18 to an individual signature or witness statement
19 in a petition shall set forth the board assign
20 petition volume identification number, page
21 number, line number.

22 So, you have two different issues here.
23 You have misidentification of what volume number
24 and sheet number are being referred to, you have

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2 multiple sheets that, you know, purport to
3 address the same sheet of petitions and you also
4 have the issue of it not being sequential and I
5 agree with what Commissioner Umame said. It's
6 impossible to defend a spec if you're not sure of
7 what you're being accused of. And I just think
8 it's prejudicial toward Mr. Mateo's candidacy.

9 COMMISSIONER MARMORATO: This is
10 Commissioner Marmarato. A motion was made and I
11 know there was a second, so I don't know if a
12 roll call needs to be taken or --

13 PRESIDENT UMANE: Okay. So let's do a
14 roll call here. You want to call the roll?

15 MS. PATEL: Yes, I can do that,
16 commissioners. Motion on spec number 2-1,
17 Commissioner Umame?

18 MS. KONTZAMANIS: [unintelligible]
19 [01:23:26] you have to get closer to the mics.

20 MS. PATEL: Sorry. Sorry. The motion is
21 on spec number 2-1, for the citywide candidacy of
22 Fernando Mateo, objections by Lauren Whalen
23 Nelson.

24 PRESIDENT UMANE: Right. And my motion

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2 was, which was seconded, to dismiss the spec
3 because of improper form. And I'm in favor of the
4 motion.

5 MS. PATEL: Okay. So yes for
6 Commissioner Umane. Secretary Camilo?

7 SECRETARY CAMILO: Yes.

8 MS. PATEL: Commissioner Araumo?

9 COMMISSIONER ARAUJO: Yes.

10 MS. PATEL: Commissioner Marmorato?

11 COMMISSIONER MARMORATO: Yes.

12 MS. PATEL: Commissioner Michel?

13 COMMISSIONER MICHEL: Yes.

14 MS. PATEL: Commissioner Pepe-Souvenir?

15 COMMISSIONER PEPE-SOUVENIR: I vote yes.

16 MS. PATEL: Commissioner Shamoun?

17 COMMISSIONER SHAMOUN: I'm abstaining.

18 MS. PATEL: Commissioner Taylor?

19 COMMISSIONER TAYLOR: Yes.

20 MS. PATEL: Commissioner Townsend?

21 COMMISSIONER TOWNSEND: Yes.

22 MS. PATEL: Commissioner Zaccone?

23 COMMISSIONER ZACCONE: As the staff was
24 able to work the specifications without issue,

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2 I'll vote no.

3 MS. SANDOW: Motion passes.

4 MS. PATEL: Motion passes, I have one,
5 two, three, four, five, six, seven, eight yes.

6 MR. SAVINO: One abstention and one no.

7 PRESIDENT UMANE: Okay. So the spec is
8 dismissed and the candidate remains on the
9 ballot.

10 MS. SANDOW: Next?

11 MS. PATEL: Next, commissioners, we have
12 spec number NY-3 in the matter of the objections
13 by Alexandra Sherer to the petition of Curtis
14 Sliwa, for the Maior of the city of New York. Are
15 there appearances?

16 MR. SATTIE: We have [unintelligible]
17 [01:25:09] for the candidate.

18 MS. PATEL: Okay, commissioners, the
19 number of signatures required is 3,750, total
20 number of valid signatures is 2,669.

21 PRESIDENT UMANE: I'm sorry, who's here
22 for Mr. Sliwa?

23 MR. MARANO: Frank Marano.

24 MR. SATTIE: And Alexandra Sherer for

1 June 15, 2021

2 the objector.

3 MS. ALEXANDRA SHERER: Hi,
4 commissioners. How are you?

5 PRESIDENT UMANE: Okay. Mr. Marano, do
6 you have a list of errors made by the board? You
7 need more signatures here.

8 MR. MARANO: The only thing we would
9 add, I know that there was proof of service filed
10 with the board, however the certified mail
11 receipt that's attached to the spec that was
12 filed with the board has the tracking number cut
13 off. Now, we never received and the candidate was
14 never served and never received the
15 specifications of the objections. So we went to
16 the board to get the copy of the proof of service
17 to try and use the tracking number to see where
18 this was coming down, and the tracking number,
19 because it's cut off, we were never able to track
20 it and we would just argue that it's not
21 sufficient service and the candidate should
22 remain on the ballot for that reason.

23 PRESIDENT UMANE: Do you have the proof
24 of service?

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2 MS. SANDOW: They're pulling it now,
3 commissioner.

4 MS. PATEL: They're pulling it now
5 commissioners.

6 PRESIDENT UMANE: Okay.

7 MR. MARANO: And the tracking number, as
8 you'll see, on the left hand side, it's the
9 numbers, enough of the digits are cut off that
10 you can't sufficiently enter it in to any sort of
11 USPS tracking system to see where it is.

12 MS. PATEL: Commissioners, what I'm
13 looking at is a green certified mail receipt. The
14 entire tracking number is here. I'm not sure what
15 Mr. Marano is referring to.

16 MR. MARANO: So what is, what is the
17 tracking number, then if you can see it?

18 MS. PATEL: I can read it to you.
19 7021035000003819498.

20 PRESIDENT UMANE: And what's the -- and
21 it's dated?

22 MS. PATEL: It's dated, stamped here
23 commissioner on June 3rd.

24 PRESIDENT UMANE: Okay. So I move the

1 June 15, 2021

2 clerks' report.

3 SECRETARY CAMILO: Second.

4 COMMISSIONER TOWNSEND: Second.

5 PRESIDENT UMANE: All in favor?

6 MULTIPLE: Aye.

7 PRESIDENT UMANE: All opposed? All -- do
8 we need a roll call here?

9 MS. PATEL: Yes. So on spec number NY3-
10 1, for the candidacy of Curtis Sliwa for Maior,
11 Objections by Alexandra Sherer, roll call vote,
12 Commissioner Umane makes the motion to move the
13 clerks' report.

14 PRESIDENT UMANE: Yeah, is there anybody
15 who's objecting, so we don't need to do it unless
16 anybody is abstaining or objecting. So are there
17 -- all in favor?

18 MULTIPLE: Aye.

19 PRESIDENT UMANE: All opposed? All
20 abstentions? So we don't need to do the roll call
21 unless there's --

22 MS. PATEL: Okay. Alright.

23 PRESIDENT UMANE: -- somebody who has an
24 issue.

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2 MS. PATEL: Thank you, commissioners.

3 PRESIDENT UMANE: Okay.

4 MS. PATEL: Okay.

5 PRESIDENT UMANE: The candidate is off
6 the ballot.

7 MS. SHERER: Thank you.

8 MS. PATEL: Thank you.

9 MS. SHERER: Thank you, commissioners.

10 MS. PATEL: You going to do Queens?
11 These are all the same, yeah.

12 MR. SAVINO: Good afternoon,
13 commissioners. Clerks' report New York 9-1 --

14 SECRETARY CAMILO: We can't hear you. Or
15 I can't hear you, sorry.

16 MS. PATEL: Sorry, commissioners, can
17 you hear us?

18 SECRETARY CAMILO: Commissioner
19 Souvenir, mute yourself.

20 MS. PATEL: Can you hear us? Okay. Thank
21 you. Commissioners, this is New York 9-1, in the
22 matter of the objections by Alexandra Sherer to
23 the petition of Curtis Sliwa for Maior of the
24 city of New York, total number of signatures

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2 required is 3,750, the total number of valid
3 signatures is 5,199. Commissioners, there were
4 legal objections raised to this.

5 MS. SHERER: Yes, if I could be heard on
6 this. Thank you, commissioners.

7 MS. PATEL: And commissioners I can, I
8 can give you our counsel report orally if you
9 don't mind.

10 PRESIDENT UMANE: Okay.

11 MS. PATEL: So commissioners, the
12 objections, the specifications of objections
13 state two legal reasons that the petitions should
14 not be, the petitions should not be deemed valid.
15 The one, the first one is that the cover sheet
16 did not set forth the New York City Charter as a
17 standard for signature requirements. And
18 commissioners, as you will see in the other
19 counsel's reports, the issue of the cover sheet,
20 it has long been the practice of the Board of
21 Elections to accept this language on our cover
22 sheet, which is, quote, the petition contains the
23 number or in excess of the number of valid
24 signatures required by election law. Without

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2 requiring the citation to the City Charter, and
3 commissioners, throughout this process,
4 throughout COVID, where we've had the City
5 Charter amend the number of signatures required,
6 we have accepted hundreds of cover sheet as valid
7 in the form that has been prescribed by the
8 state. And commissioners, the sample cover sheet
9 that we used says election law, the form of the
10 cover sheet set forth in 9NYCRR section 6125.2 as
11 to the form of cover sheets also says election
12 law.

13 The second issue raised by the
14 specification is the issue of the name of the
15 independent body as Independent Party. The
16 objector states that this is not allowable
17 because Independence Party, which used to exist,
18 is too similar and is misleading and causes
19 possible confusion to the voters.

20 And it is counsel's opinion, both myself
21 and Mr. Savino, bipartisan, that independent
22 bodies are free to select the name of a former
23 political party as the name of their independent
24 body, that the claim that Independent conflicts

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2 with the name of the former independence party is
3 without merit and it is our recommendation that
4 that specification of objections be not as
5 stated.

6 And the last two issues raised by the
7 specifications with regard to the cover sheet
8 were dealt with all in cover sheet review,
9 commissioners and we believe that they cannot be
10 raised here as a review of what was already done
11 by bipartisan teams of commissioners.

12 PRESIDENT UMANE: Okay. Ms. Sherer, do
13 you have something to add that indicates the
14 incorrectness of the counsel report?

15 MS. SHERER: Yes, I do. Thank you,
16 commissioners, for hearing me. So I would like to
17 argue about the word independent in relation to
18 the party. First of all, the cover sheet does
19 just state independent. It doesn't state
20 Independent Party, which I believe causes some
21 confusion, as well as the fact that they are
22 calling themselves independent party causes
23 confusion for voters in the state of New York who
24 are registered blanks who would like to vote for

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2 a candidate who is an independent and they might
3 be confused by the fact that this independent
4 nominating petition is called Independent Party,
5 because if this were upheld that this petition
6 could be filed and that these candidates could be
7 on a party deemed Independent Party, it would be
8 similar to if a candidate filed a petition called
9 Democrat, which would confuse the voters of the
10 Democratic Party because they're confusingly
11 similar. So I would just argue that Independent
12 Party should not be deemed a valid name for an
13 independent body and that both this spec, New
14 York 9-1 and RH 9-2 shouldn't [unintelligible]
15 [01:34:26] that.

16 PRESIDENT UMANE: But that doesn't
17 invalidate the petition. If you're correct that
18 it is confusing, we would just accept the
19 petition and have them change their name.
20 However, since the party is no longer a party,
21 they're allowed to use it under the specific
22 section under the election law.

23 MS. SHERER: Okay. And, thank you for
24 that. There is just, there are a few cases that I

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2 found. One particularly is McCarthy v. Lawley and
3 that's 314 New York State 2D 626. And this is one
4 of the cases that I found wherein a petition for
5 the Conservation Party was filed and it was found
6 that that was too similar to the Conservative
7 Party. So that petition was deemed invalid for
8 that reason, so.

9 PRESIDENT UMANE: Yeah, but at the time,
10 the Conservative Party was a regular Party. The
11 Independence Party no longer exists. So that's
12 the distinguishing feature of that case and the
13 case that we have now.

14 MS. SHERER: I would just argue that
15 there are independent -- voters who consider
16 themselves to be independent who are registered
17 blanks and they might be confused as to the fact
18 that a party calling itself Independent Party is
19 not in fact independent. Obviously this candidate
20 is --

21 PRESIDENT UMANE: Okay.

22 MS. SHERER: -- is associated with the
23 Republican Party.

24 PRESIDENT UMANE: Okay. Anything else?

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2 MS. SHERER: Thank you.

3 PRESIDENT UMANE: Okay. Is there a
4 motion to support the counsel's view and that we
5 view, deal with it not as stated?

6 COMMISSIONER ZACCONE: I'm going to move
7 the counsel's report and the clerks' report,
8 finding sufficient numbers of signatures and the
9 claim's not as stated.

10 COMMISSIONER MICHEL: Second.

11 PRESIDENT UMANE: Is there a second?
12 Okay. All in favor?

13 MULTIPLE: Aye.

14 PRESIDENT UMANE: All opposed? All
15 abstentions?

16 MS. PATEL: Commissioners, we have one
17 more citywide spec that is a --

18 MS. SANDOW: Legal, your mic is off.

19 MS. PATEL: Oh, sorry.

20 MS. SANDOW: And the motion moved.
21 Please state that the motion moved.

22 MS. PATEL: Sorry. The motion moves and
23 counsels report is adopted, the candidate remains
24 on the ballot. Commissioners, we have, in the

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2 matter of the objections of Alexandra Sherer, to
3 the petition of John A. Tobacco, Jr. for the
4 comptroller of the city of New York, this is
5 NY11-1, total number of signatures required is
6 3,750, total number of valid signatures is 3,557.
7 I don't know if there are appearances. And
8 commissioners, there is a counsel's report on
9 this on NY11-1, if you'd like me to read it, but
10 I don't know whether anyone --

11 PRESIDENT UMANE: Isn't it the same
12 basic objections that we just dealt with?

13 MS. PATEL: It is, commissioners. But
14 additionally, in the specification of objections,
15 if you look at the counsel's report, there is an
16 error and it refers to Mr. Tobacco's candidacy as
17 candidate for Maior and claims that there are
18 insufficient signatures for office of Maior. And,
19 commissioner, as you like to say, if you're going
20 to knock somebody off the ballot, you should do
21 it correctly.

22 PRESIDENT UMANE: Okay. Are you
23 suggesting that there be a motion to --

24 MS. PATEL: Yes, commissioner.

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2 PRESIDENT UMANE: -- dismiss the specs
3 as nonconforming?

4 MS. PATEL: Yes, commissioner, we are
5 asking that the specs, yeah, not as stated.

6 PRESIDENT UMANE: Somebody want to make
7 that motion?

8 COMMISSIONER ZACCONE: I'll move that we
9 adopt the counsel's report, that the legal
10 objections are not as stated.

11 COMMISSIONER MICHEL: Second.

12 PRESIDENT UMANE: Okay. All in favor?

13 MULTIPLE: Aye.

14 PRESIDENT UMANE: All opposed? All
15 abstentions?

16 MS. SHERER: I don't know if I can just
17 add that I would move to adopt the clerks' report
18 that does state the total valid signatures is
19 3,557 with number of signatures required being
20 3,750, so he did file under the number of
21 signatures. I would just move that we would adopt
22 the clerks' report.

23 PRESIDENT UMANE: Well, the motion was
24 to --

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2 COMMISSIONER ZACCONE: Mr. Umane, before
3 we even get there, please, I am looking at the
4 reports that were provided to me by our office
5 and I don't see the specifications for 11-1. I
6 only see them for 9. So is this for 9 or 11 that
7 we're doing? I just want to be clear.

8 MS. PATEL: We're doing -- well, 11 is
9 NY11 commissioner, because that's a citywide race
10 for Tobacco.

11 COMMISSIONER ZACCONE: Right. And that's
12 what -- but I'm looking for the specs, the
13 clerks' report, the report of the signatures for
14 11 and I don't see it. So I'd like to see that,
15 because I see the one for 9 provided, Richmond 9.

16 MS. PATEL: We're going to look for
17 that, commissioner.

18 MS. SANDOW: It's right here.

19 COMMISSIONER ZACCONE: I understand. I
20 see, I don't, I see the counsel's report for spec
21 New York 11, I don't see the clerks' report --

22 MS. PATEL: Commissioners --

23 COMMISSIONER ZACCONE: -- for New York
24 11, and that's what I'm asking for.

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2 MS. PATEL: Commissioners, if you could
3 look behind RH9-1.

4 COMMISSIONER ZACCONE: Okay.

5 MS. PATEL: It's right behind that.

6 COMMISSIONER ZACCONE: Okay. So it's on
7 that one?

8 MS. PATEL: Yes.

9 COMMISSIONER ZACCONE: Okay. Thank you.
10 I'm looking here, I'm looking. Behind 9-1, I see
11 various --

12 MR. SAVINO: It appears that two clerks'
13 reports were stapled together. Is that correct?

14 COMMISSIONER TAYLOR: I do have NY11-1,
15 Commissioner Zacccone.

16 COMMISSIONER ZACCONE: Okay. I'm looking
17 at it. Maybe I, I don't. I just have 11-1 counsel
18 report. And that's what I'm looking for, I'm
19 trying to find the, the clerks' report.

20 COMMISSIONER MARMORATO: I don't think
21 it's attached. To Commissioner Zacccone's point,
22 it was not attached to the e-mail that was sent
23 to us or maybe it's in a separate attachment.

24 COMMISSIONER TAYLOR: Wasn't it attached

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2 to the Richmond? Because I have it printed out.

3 COMMISSIONER ZACCONE: Let me see. Maybe
4 it was in a separate Richmond clerks' report.
5 I'll look at that.

6 MS. PATEL: It might be attached to your
7 Richmond clerks' reports, commissioners.

8 COMMISSIONER ZACCONE: Thank you, let me
9 look.

10 MS. SANDOW: It is.

11 COMMISSIONER ZACCONE: I'm looking at
12 the Richmond clerks' report and I see Richmond 2,
13 Richmond 3, Richmond 4, 5 and 8, Richmond 6 and
14 7, so maybe we can have this sent out to us and
15 we'll second call it? Because I don't see the
16 clerks' report.

17 MS. PATEL: Certainly, commissioners.

18 MS. SANDOW: Does everyone need it? Do
19 all commissioners need this?

20 PRESIDENT UMANE: Yes.

21 SECRETARY CAMILO: Yes, please. We don't
22 have it.

23 MS. KONTZAMANIS: We'll send it out from
24 up here sixth floor.

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2 MS. SANDOW: Okay. Thank you.

3 MS. PATEL: Thank you. That's going to
4 be on for second call.

5 COMMISSIONER ZACCONE: Alright.

6 PRESIDENT UMANE: Okay.

7 COMMISSIONER ZACCONE: And the next --

8 PRESIDENT UMANE: That's it citywide, I
9 believe.

10 MS. PATEL: I think that, I think that's
11 it for the citywide, for the citywide clerks'
12 reports.

13 COMMISSIONER ZACCONE: Okay. Let me just
14 see. I have 9, I'm still looking for 11, so we'll
15 agree with that. But, just for formality's sake,
16 can we please move the clerks' report on Richmond
17 9-1, for the number of signatures, because I
18 don't think we've done that.

19 MS. PATEL: Well, commissioners, we're
20 doing Richmond County later, along with -- right
21 now, we're just doing the citywides.

22 COMMISSIONER ZACCONE: Correct. It's on
23 your citywide spec calendar.

24 MS. PATEL: Oh, yes, sorry, it was,

1 June 15, 2021

2 it's, yeah.

3 COMMISSIONER ZACCONE: Okay. We'll do
4 it, I don't care, as long as it gets done, we're
5 fine.

6 MS. PATEL: Okay. So commissioners,
7 other than that, except for RH9-1, everything
8 else is complete for the citywide clerks' report.

9 COMMISSIONER ZACCONE: No, 11 is still -
10 - 9 we have, 11 is still open for second call.

11 MS. PATEL: Yes.

12 COMMISSIONER ZACCONE: But other than
13 that, we agree.

14 PRESIDENT UMANE: That's correct. Nine
15 we did, 11 we didn't.

16 MS. PATEL: Commissioners, did you adopt
17 9?

18 MS. SANDOW: Yes.

19 PRESIDENT UMANE: Yes.

20 MS. PATEL: Thank you. Thank you,
21 commissioners. I believe that's all.

22 COMMISSIONER ZACCONE: And which one is
23 up next, folks?

24 MS. PATEL: Citywide, we're completed,

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2 we finished our citywide, commissioners.

3 MS. SANDOW: Okay. Can we move on,
4 please.

5 MR. SAVINO: Alright. Moving on to spec
6 1-1, Queens County, party Libertarian, objections
7 by Inzerillo to petition of Ruben D. Cruz, member
8 of City Council, 32nd District, number of
9 signatures submitted 683, total valid five, you
10 need 450.

11 PRESIDENT UMANE: Which one are we
12 doing? I'm sorry, I'm just not clear.

13 SECRETARY CAMILO: Queens.

14 MS. SANDOW: Clerks' report for Queens,
15 Libertarian, spec number 1-1, Queens, 2101221,
16 Queens 2101222.

17 MS. KONTZAMANIS: We have appearances by
18 John Champoli and Reverend Ruben Cruz.

19 MS. SANDOW: In the matter of objections
20 by Inzerillo for the petition of Ruben Cruz, II,
21 for member of New York City Council 32nd
22 District.

23 MS. KONTZAMANIS: Ms. Sandow, your mic
24 is off.

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2 MR. SAVINO: I can repeat it, if you
3 like, Ms. Sandow.

4 MS. SANDOW: Please do, thank you.

5 MR. SAVINO: Again, we're talking about
6 Queens, Libertarian Party, objections by
7 Inzerillo petition of Ruben D. Cruz for member of
8 the City Council 32nd District, number of
9 signatures submitted 683, the valid was only
10 five, the signatures required is 450.

11 COMMISSIONER ARAUJO: Move the clerks'
12 report.

13 MR. CRUZ: May I ask --

14 COMMISSIONER MICHEL: Second.

15 COMMISSIONER MARMORATO: Do we have any
16 appearances?

17 COMMISSIONER ZACCONE: Yes, we have an
18 appearance from Reverend Cruz.

19 MR. SAVINO: I thought they said
20 [unintelligible] [01:46:36]

21 PRESIDENT UMANE: Alright. We ought to
22 hear from Reverend Cruz if he's here. I think.

23 COMMISSIONER ARAUJO: No, absolutely. I
24 didn't realize he was here.

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2 MR. CRUZ: Thank you.

3 COMMISSIONER ARAUJO: Go ahead, Mr.
4 Cruz. You have something to add?

5 MR. CRUZ: Thank you so much. With
6 regard to the specifications of objections, like
7 Mr. Morgan before, these specifications were not
8 in sequential order according to H-1 and H-5 of
9 the independent nominating rules, and as far as I
10 could tell, not securely fastened, and just the
11 sheer volume of signatures that were dismissed
12 seemed capricious and obsessive to me. And I
13 would, I would move --

14 COMMISSIONER ARAUJO: Who has a copy of
15 the specifications to ensure the allegations he
16 made with respect to the numbering? Is that in
17 the borough office, or does legal have that in
18 front of them?

19 MS. PATEL: We have it in the borough
20 office, commissioner.

21 COMMISSIONER ARAUJO: Alright. Can you
22 take a look at it and let us know what it looks
23 like?

24 MR. CRUZ: Thank you.

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2 MS. TORRES: It appears to be
3 sequentially numbered.

4 COMMISSIONER ARAUJO: Thank you.

5 MS. TORRES: You're welcome.

6 COMMISSIONER ARAUJO: So, Mr. Cruz, it
7 appears to be sequentially that the
8 specifications as filed with the board, upon
9 review of the staff, is in its proper format.

10 MR. CRUZ: You have two volumes there.
11 So you have repeating numbers and according to
12 what I say in H-1 and H-5, they're supposed to be
13 numbered completely to the end of the volume that
14 I received together. Is that correct?

15 MR. CARMOSINO: The rules says that the
16 specification should be bound in one or more
17 volumes. These are bound in a single volume. The
18 first volume, 1221 are numbered sequentially and
19 are immediately followed by the second volume
20 1222, also numbered sequentially.

21 MR. CRUZ: So you have two separate
22 bound volumes, because I didn't receive a bound
23 volume?

24 MR. CARMOSINO: We have a bound volume

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2 which contains with it first volume 1221 and
3 immediately following 1222 and the pages of those
4 two volumes are numbered sequentially.

5 MR. CRUZ: Thank you. In addition to
6 that, I'd just like to bring up the fact that you
7 had nearly all of these signatures invalidated
8 and that just seems, like I said, capricious and
9 unreasonable fact checking, so --

10 COMMISSIONER ARAUJO: Mr. Cruz --

11 [CROSSTALK]

12 MR. CRUZ: If I may just request a roll
13 call for information on that.

14 COMMISSIONER ARAUJO: Sir, before we do
15 that --

16 MR. CRUZ: I appreciate it.

17 COMMISSIONER ARAUJO: -- if you have an
18 exception report where the board has made its
19 errors.

20 MR. CRUZ: I'm not sure I follow you and
21 I apologize for that, Mr. Araujo.

22 COMMISSIONER ARAUJO: Alright. You got
23 served with a copy of the clerks' report. You
24 were given the opportunity to appear today with a

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2 list of where you believe the board made its
3 errors in the calculation of this clerks' report.
4 Do you have -- have you submitted that to the
5 board, pursuant to our rules?

6 MR. CRUZ: I do not have that, and I do
7 submit to the board that this is just has an
8 error in function as, as being factually
9 inaccurate. It's just so impossible to consider
10 that I believe it was frivolous.

11 COMMISSIONER ARAUJO: Right. But that's
12 the point. You got a copy of the clerks' report,
13 you had an opportunity to provide us with a
14 detailed list of where you think we made errors,
15 so thereby giving you an opportunity to
16 rehabilitate some of these signatures. So you
17 don't have that, so our hands are tied, and
18 there's a motion now to accept the clerks' report
19 with a second, so I would call the roll call.

20 PRESIDENT UMANE: Okay. All in favor of
21 the clerks' report?

22 MULTIPLE: Aye.

23 PRESIDENT UMANE: All opposed? All
24 abstentions? I am sorry, Mr. Cruz, you are off

1 June 15, 2021

2 the ballot.

3 MR. CRUZ: Thank you.

4 PRESIDENT UMANE: Good luck to your mom.

5 MR. CRUZ: Thank you so much.

6 COMMISSIONER ARAUJO: Yes, by all means.

7 SECRETARY CAMILO: And just for
8 acknowledge, I think, Mr. Champoli, you were on
9 this matter?

10 MR. JOHN CHAMPOLI: I'm on this matter.

11 SECRETARY CAMILO: Okay.

12 PRESIDENT UMANE: Mr. Champoli, do you
13 have any issues?

14 MR. CHAMPOLI: I was going to ask you to
15 move the clerks' report, but you did it before I
16 asked for it.

17 PRESIDENT UMANE: Okay. Thank you, sir.

18 MR. SATTIE: Apologies, Mr. Champoli.

19 MS. SANDOW: Next one? Next clerks'
20 report, please.

21 MR. SAVINO: I'm wading through these
22 additional pages that are in there. Queens, the
23 matter of the objections by Whalen Nelson to the
24 petition of John-Alexander Sakelos, member of the

1 June 15, 2021

2 City Council of the 19th District under the party
3 name Save Our City, number of signatures
4 submitted 766, total valid signatures 452, number
5 required 450.

6 COMMISSIONER ARAUJO: Are there any
7 appearances?

8 SECRETARY CAMILO: And this is spec
9 number three, okay.

10 MR. CHAMPOLI: For the candidate, John
11 Champoli.

12 COMMISSIONER ARAUJO: Anyone else? Mr.
13 Champoli, is there anything you want to add?

14 MR. CHAMPOLI: We have, we have filed an
15 exception list in a timely fashion, so if you can
16 incorporate that into the clerks' report before
17 making a determination?

18 MR. SAVINO: Mr. Haggerty and Ms.
19 Berinato, do you have that?

20 MR. BART HAGGERTY: Yes, we do.

21 PRESIDENT UMANE: Have you had occasion
22 to review it and are any of them valid?

23 MR. HAGGERTY: Yes. We find upon review
24 of the exception report, an additional nine

1 June 15, 2021

2 signatures to be valid, which would bring the
3 total number of valid signatures submitted for
4 the candidate to 461, total number required 450.

5 COMMISSIONER ARAUJO: With that being
6 said, I would move that we adopt the amended
7 clerks' report with the new numbers based on the
8 exception report.

9 PRESIDENT UMANE: Is there a second?

10 COMMISSIONER MICHEL: Second,
11 Commissioner Michel.

12 PRESIDENT UMANE: All in favor?

13 MULTIPLE: Aye.

14 PRESIDENT UMANE: All opposed? All
15 abstentions? Okay. The amended report, and
16 please, for our permanent files, make the
17 adjustments on part one and part two of the
18 clerks' report.

19 MR. SAVINO: Next specification -- do we
20 have any appearances? We should probably bring
21 them in before we read the -- or, you'll just let
22 us know. Alright.

23 MS. SANDOW: Read it, please.

24 MR. SAVINO: Specification number 4-1,

1 June 15, 2021

2 objections by Torey Schnupp, petition of Kenichi
3 Wilson, council member 32nd District under the
4 Community First Party, total number of valid
5 signatures 1,364, number required 450.

6 COMMISSIONER ARAUJO: Are there any
7 appearances?

8 MR. SATTIE: There are appearances,
9 Michael Scala for the objector and Aaron
10 Foldenhauer for the candidate.

11 MR. AARON FOLDENHAUER: Good afternoon,
12 commissioners.

13 COMMISSIONER ARAUJO: Good afternoon.
14 Could I just have someone mute --

15 MR. SAVINO: You've got to turn off your
16 live stream.

17 MS. KONTZAMANIS: Excuse me, excuse me.
18 Excuse me, you have to turn off the livestream,
19 we're getting feedback.

20 MR. FOLDENHAUER: Great, so --

21 MS. KONTZAMANIS: And please announce
22 who's speaking first.

23 COMMISSIONER ARAUJO: So this is
24 Commissioner Araujo. There's a sufficient amount

1 June 15, 2021

2 of signatures. Is there an exception report by
3 Mr. Scala as to where the board made any errors
4 or on behalf of the candidate?

5 MR. MICHAEL SCALA: Yes, we submitted an
6 exception report. This is going to turn on
7 whether a subscribing witness, who signed a
8 designating petition can be a witness for another
9 candidate's independent petition. And there was
10 an original clerks' report that was filed which
11 we agree with, and then there was an amended one
12 that was subsequent to that, where the board
13 seemed to reverse itself without reason. And so
14 we have law cited in our exceptions report
15 standing for the notion that this particular
16 witness should be disqualified.

17 MS. PATEL: Commissioners --

18 COMMISSIONER ARAUJO: So you submitted
19 an exception report? Did the board, did the
20 borough office receive that exception report?
21 Amanda? Bart?

22 MR. HAGGERTY: Yes, but we referred it
23 back to the legal department.

24 MR. FOLDENHAUER: If I may,

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2 commissioners, if I may commissioners, this is
3 Aaron Foldenhauer, counsel for Kinichi Wilson. We
4 have not received a copy of this exceptions
5 report. We've been dealing with Mr. Scala for
6 months now in various disputes. He knows full
7 well how to send me and my client a copy of this
8 report. We have not received it, and this is the
9 first we're hearing about it right now.

10 COMMISSIONER ARAUJO: Thank you, Mr.
11 Foldenhauer. I'm sorry, Mr. Haggerty, I didn't
12 hear what you said. Can you repeat yourself?

13 MR. HAGGERTY: I said that what we
14 received is essentially a legal memorandum, so we
15 referred it back to the legal department.

16 MS. PATEL: Commissioners, if I may, the
17 issue with regard to some of these signatures
18 falls under Election Law 6-138, which says that
19 for an independent nominating petition, a voter's
20 prior signature on an invalid petition does not
21 preclude the voter later validly signing an
22 independent nominating petition. That's 6-138,
23 Sub 1, which is the rule for independent
24 nominating petitions. That's the guidance we've

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2 received from the state board and there are
3 various cases that so state that under 6-138 Sub
4 1, if the prior petition you signed was a
5 designating petition which was then invalidated,
6 you're allowed to sign a later independent
7 nominating petition. It is my understanding from
8 our borough office in Queens was that was what
9 happened and that was the reason for the recount.

10 COMMISSIONER ARAUJO: So that being
11 said, Ms. Patel, what is the recommendation of
12 the legal department with respect to this
13 exception? Is it good, or is it no good?

14 MS. PATEL: Well, commissioners, I would
15 find that these signatures, the report from
16 Queens be found, be moved, because it shows that
17 he has enough signatures.

18 COMMISSIONER ARAUJO: Okay, so --

19 MR. SCALA: May I respond to that
20 particular point of law?

21 COMMISSIONER ARAUJO: Yes, you may.

22 PRESIDENT UMANE: Yes.

23 MR. SCALA: That particular section of
24 the law, section 6-138 refers to signatories of

1 June 15, 2021

2 an independent nominating petition, not

3 subscribing witnesses. There's another section of

4 the law, 6-140.1B, which talks about the

5 requirements of subscribing witnesses of an

6 independent nominating petition. And notably,

7 that valid and effective language is missing from

8 6-140. The valid and effect requirement applies

9 to signatories of the petition. That's not the

10 case here. It's not that fellow who signed a

11 designating petition which is now invalid signed

12 this new independent petition, it's that someone

13 who signed the designating petition is now

14 subscribing witness to this new petition. Those

15 qualifications, as I said, are in 6-140, where it

16 says that a witness must be a duly qualified

17 voter of the state and who has not previously

18 signed a petition for another candidate for the

19 same office. That valid and effective language is

20 not in 6-140 and this was passed in 2017. The

21 legislature knew what it was doing and

22 particularly omitted the valid and effective

23 language. And this case law that I cited, matter

24 of Keenan v. Board of Elections, that's 43 A.D.3d

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2 623, Third Department 2007, which says that it
3 matters whether the relevant statute, or the
4 statutory provision mentioned valid and effective
5 or not. And this particular case has a footnote
6 where it talks about signing more than one
7 designating petition and it makes note that
8 unlike when it comes to signing more than one
9 independent, if you were to sign more than one
10 designating petition, the subsequent signatures
11 doesn't count whether or not the previous
12 decision was invalidated, because that valid and
13 effective language is not there. So the analogy
14 here is 6-140, there's no valid and effective
15 requirement. Therefore, it only matters that the
16 witness signed a prior petition in the same race,
17 which is the situation here.

18 COMMISSIONER ARAUJO: Ms. Patel, Mr.
19 Savino, do you have a response? Mr. Foldenhauer,
20 I know you're at a disadvantage, having not
21 received the exception report, so I am
22 understandable to that nature. That's why I'm
23 asking legal counsel on that, because they had an
24 opportunity to review it. But I am cautious of

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2 your predicament.

3 MS. PATEL: Commissioners --

4 PRESIDENT UMANE: Should we put this on
5 second call?

6 MS. PATEL: Commissioners, if you could
7 second call it, please, and we'll review Mr.
8 Scala's argument.

9 PRESIDENT UMANE: Yeah.

10 MR. FOLDENAUER: I don't, I don't --

11 [CROSSTALK]

12 MR. SCALA: And Mr. Foldenhauer I'm
13 happy to sent that to you as well.

14 MR. FOLDENAUER: It would be long
15 overdue, Mr. Scala, since you know full well how
16 to contact me, and I, I would suggest to the
17 chair that there is no need to put this on second
18 call. The research has been done. It's in the New
19 York State Board of Elections own election law
20 update, which I think is what the general counsel
21 was just referring to.

22 MS. PATEL: Yes.

23 MR. FOLDENAUER: And the critical point
24 here is that a witness is always allowed to

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2 witness multiple petitions. A witness is always
3 allowed to do that. The only question is if
4 there's been a signature on a previous valid and
5 effective petition, and here, here the prior
6 signature, that petition was invalidated. And in
7 fact, the petition was invalidated by Mr. Scala
8 himself, the prior petition that's at issue. So
9 of course that voter has the right as the general
10 counsel points out, to sign another petition. And
11 of course, therefore, since they have the right
12 to sign another petition, it follows that as it
13 the normal rule, they have the right to witness
14 another petition. The law is clear on this.

15 PRESIDENT UMANE: I think we need to put
16 it on second call and --

17 MR. SCALA: Yes, I'll contest that, but
18 I'll just conclude I have some more thoughts on
19 what Mr. Foldenauer said from legal's point of
20 view. Number one, in the case of Sinagra v.
21 Hogan, it clearly states that if you signed a
22 designating petition, you cannot be a witness for
23 an independent nominating petition. That's in the
24 case law. The other point I'll make on this is if

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2 you look at the amended clerks' report, and the
3 amended objection, and it seems like we have an
4 arbitrary result in that some of the witnesses
5 were invalidated, namely witnesses from a
6 particular candidate's designating petition,
7 which was invalidated. Those are still invalid
8 according to the clerks' report. However, a
9 different witness is now valid. So we have a
10 conflicting result here.

11 MR. FOLDENAUER: That case law totally
12 doesn't address this situations, commissioners,
13 where the previous petition is invalidated, and
14 that's exactly what happened here because Mr.
15 Scala invalidated it. And so the law is clear
16 that you're allowed to sign another petition,
17 which of course, if you're allowed to sign, then
18 you're allowed to be a witness as well.

19 COMMISSIONER ZACCONE: Gentlemen, if we
20 can just stop the banter.

21 PRESIDENT UMANE: We're going to put
22 this on second call.

23 COMMISSIONER ZACCONE: And at the second
24 call, we'll address the issues.

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2 PRESIDENT UMANE: Yeah, thank you.

3 COMMISSIONER ZACCONE: For counsel to
4 have the opportunity to review.

5 MR. SCALA: Thank you, commissioners.

6 MS. PATEL: Thank you.

7 MR. SAVINO: Spec number 5-1, objections
8 by Torey Schnupp, petition of Ms. Ariola, council
9 member 32nd District under the Save Our City
10 Party, signatures valid 499, signatures required
11 450.

12 COMMISSIONER ZACCONE: Mr. Savino, if
13 you can speak up, please.

14 MS. SANDOW: Your mic is off, Mr.
15 Savino.

16 MR. SAVINO: It was on, it was just
17 facing Hemalee, alright. Spec number 5-1,
18 objection by Torey Schnupp, petition of Jo Ann
19 Ariola, City Council, 32nd District, party name
20 Save Our City Party, signatures valid 499,
21 signatures required 450.

22 COMMISSIONER ARAUJO: Are there any
23 appearances?

24 MR. SATTIE: There is by John Champoli.

1 June 15, 2021

2 MR. CHAMPOLI: John Champoli for the
3 candidate.

4 COMMISSIONER ARAUJO: Alright, Mr.
5 Champoli, is there anything you want to add to
6 the clerks' report?

7 MR. CHAMPOLI: Move the clerks' report.

8 COMMISSIONER ARAUJO: Alright. I make an
9 application to move the clerks' report.

10 PRESIDENT UMANE: Is there a second?

11 COMMISSIONER MICHEL: Second,
12 Commissioner Michel.

13 PRESIDENT UMANE: All in favor?

14 MULTIPLE: Aye.

15 PRESIDENT UMANE: All opposed? All
16 abstentions? The clerks' report is passed, the
17 candidate is on the ballot. Next.

18 MR. SAVINO: 6-1, objections by Graziano
19 to the petition of Scala, party name Real
20 Solutions, City Council, 32nd District, valid
21 signatures 394, number required 450.

22 COMMISSIONER ARAUJO: Any appearances?

23 MR. SATTIE: There are by Raimondo
24 Graziano for the objector and Michael Scala for

1 June 15, 2021

2 the candidate.

3 MR. RAIMONDO GRAZIANO: Good afternoon,
4 commissioners.

5 MR. SCALA: Good afternoon.

6 PRESIDENT UMANE: Mr. Scala, you look
7 like you're short. Do you have a list of errors?

8 MR. SCALA: Yes, we provided that as
9 well. We provided a list of 114 exceptions, many
10 of the signatories on this petition have
11 evidently moved into the district recently and
12 have provided their current residence within the
13 districts [unintelligible] [02:05:29].

14 COMMISSIONER ARAUJO: Did you provide a
15 copy to your adversary of the exception report?

16 MR. SCALA: We did not know who that
17 would possibly be, but I can do that.

18 MR. GRAZIANO: That was myself and I did
19 not receive a copy of an exception report for my
20 [unintelligible] [02:05:42].

21 [CROSSTALK]

22 MR. SCALA: I would need
23 [unintelligible] [02:05:44].

24 MR. GRAZIANO: It was listed there at e-

1 June 15, 2021

2 mail contact.

3 COMMISSIONER ARAUJO: Mr. Haggerty and
4 Ms. Berinato, did you receive a copy of the
5 exception report?

6 MR. HAGGERTY: We received it this
7 morning, yes.

8 COMMISSIONER ARAUJO: And have you had
9 an opportunity to look at it?

10 MR. HAGGERTY: Yes.

11 COMMISSIONER ARAUJO: And what's your
12 findings or --

13 MR. HAGGERTY: Upon review of Mr.
14 Scala's [unintelligible] [02:06:09] submission,
15 we find additional signatures totaling 408 valid
16 signatures.

17 COMMISSIONER ARAUJO: Still short of the
18 number of valid signatures. Is that correct?

19 MR. HAGGERTY: That's correct.

20 COMMISSIONER ARAUJO: Mr.
21 [unintelligible] [02:06:33] he's still short. I
22 know you have an opportunity to have an exception
23 report provided to you. We could second call it
24 to give you an opportunity to look at it, or

1 June 15, 2021

2 allow a motion to be made to move the clerks',
3 adopt the amended clerks' report, thereby still
4 kicking the candidate off, because he's still
5 short.

6 MR. GRAZIANO: I ask that you move to
7 adopt the amended clerks' report.

8 COMMISSIONER ARAUJO: I would move that
9 we adopt the amended clerks' report. Is there a
10 second?

11 PRESIDENT UMANE: Is there a second?

12 COMMISSIONER MICHEL: I second.

13 PRESIDENT UMANE: All in favor?

14 MULTIPLE: Aye.

15 PRESIDENT UMANE: All opposed? All
16 abstentions? Okay. The candidate is off the
17 ballot.

18 MR. SCALA: Thank you.

19 MR. SAVINO: 7-1, objections by John
20 Kyriakides, anyway, petition of --

21 MS. SANDOW: Kyriakides.

22 MR. SAVINO: Thank you. Petition of
23 Vickie Paladino, City Council, 19th District,
24 under the body name Independent, signatures,

1 June 15, 2021

2 valid signatures 503, number required 450.

3 COMMISSIONER ARAUJO: Are there any
4 appearances?

5 MR. SATTIE: There are, John Champoli
6 for the objection and Mitch Alter for the
7 candidate.

8 COMMISSIONER ARAUJO: Mr. Champoli --

9 PRESIDENT UMANE: Mr. Alter, do you have
10 a list of exceptions?

11 MR. SAVINO: Yes.

12 MS. KONTZAMANIS: Just give us one
13 second, commissioner, to get everybody in the
14 room. Okay, Mr. Alter and Mr. Champoli are both
15 in the hearing room.

16 PRESIDENT UMANE: Mr. Alter, do you have
17 a list of exceptions?

18 MR. MITCHELL ALTER: Hello, is anyone
19 there?

20 MS. KONTZAMANIS: Mr. Alter, you have to
21 unmute your mic, sir, we can't hear you.

22 SECRETARY CAMILO: His audio is --

23 MS. KONTZAMANIS: Mr. Alter, we cannot
24 hear you, sir.

1 June 15, 2021

2 COMMISSIONER ZACCONE: While we're
3 waiting for Mr. Alter, I just want to note there
4 was a letter sent to the board from Mr. Alter,
5 and it was attached to the exhibit, the reports.
6 That letter consists of several cases but does
7 not appear to have any exceptions to the
8 signature report.

9 MR. SAVINO: Commissioners, I would also
10 point out that there is a counselor's report on
11 this matter.

12 MS. SANDOW: Could you read the
13 counselor's report?

14 MR. SAVINO: I think we're waiting for
15 one of the participants, or do we have everybody.

16 MS. TORRES: We have everybody.

17 PRESIDENT UMANE: Mr. Alter, are you
18 here?

19 MS. KONTZAMANIS: He's here, it just
20 seems like he's having an issue with his audio.

21 MR. SAVINO: Oh, I see the top of his
22 head.

23 MS. KONTZAMANIS: He's up in the right
24 hand corner.

1 June 15, 2021

2 MR. SAVINO: Yeah. Mr. Alter --

3 PRESIDENT UMANE: If anybody knows Mr.
4 Alter, has never had a problem hearing him in the
5 past. That I can tell you.

6 MR. SAVINO: Okay, I'm going to -- Mr.
7 Alter, can you hear us.

8 MS. KONTZAMANIS: Mr. Alter, can you
9 raise your hand if you can hear.

10 COMMISSIONER SHAMOUN: Alright, why
11 don't we continue and go second call until he
12 figures out his mic.

13 MR. SAVINO: Oh, okay.

14 PRESIDENT UMANE: Alright. Let's go
15 second call.

16 MS. SANDOW: Okay, next clerks' report.
17 Ramone K. Campbell to the petition of Martin
18 Hightower, for the member of New York City
19 Council 28th District, One Nation Under God.

20 MR. SAVINO: Alright, number of valid
21 signatures 166, and the number required 450.

22 MS. SANDOW: Any appearances?

23 MR. SATTIE: Yes.

24 [CROSSTALK]

1 June 15, 2021

2 MR. SATTIE: John Champoli for the
3 objector and Danniell Maio for the candidate.

4 COMMISSIONER ARAUJO: Can you let them
5 in?

6 MS. KONTZAMANIS: They're both in.

7 COMMISSIONER ARAUJO: Alright. Mr. Maio,
8 it appears that your candidate is short by 284.
9 Do you have a list of exceptions that was
10 provided to the board?

11 MR. DANNIEL MAIO: There is a defective
12 specification of objections. As Commissioner
13 Umane said in the very beginning, if you want to
14 knock someone off of the ballot, you need to do
15 it correctly.

16 COMMISSIONER ARAUJO: What's the defect
17 of the specification please?

18 MR. MAIO: Right. This specification was
19 not done correctly.

20 COMMISSIONER ARAUJO: That's what I'm
21 asking, what's the defect. Can you tell us what
22 the defect is?

23 MR. MAIO: The defect, as you have also
24 mentioned at the earlier part of the hearing,

1 June 15, 2021

2 there was no case number, there's no case
3 numbering, that's a defect. And this
4 specification has no page numbering.

5 COMMISSIONER ARAUJO: Okay. Wait a
6 second. Mr. Haggerty, Ms. Berinato, do you have
7 the specification there?

8 MS. AMANDA BERINATO: Yes, we do.

9 COMMISSIONER ARAUJO: Can you look it
10 over and tell us if the, if there's a page
11 numbering issue?

12 MR. HAGGERTY: There is no line by line
13 specification. It consists of the cover sheet and
14 a single page attached stating that the subject
15 petition does not contain the number of
16 signatures required by law for nomination to the
17 office of member of the City Council from the
18 28th Council District.

19 COMMISSIONER ARAUJO: So the
20 specification is alleging there's just not a
21 required number of signatures?

22 MR. HAGGERTY: That's correct.

23 COMMISSIONER ARAUJO: Nothing other than
24 that?

1 June 15, 2021

2 MR. HAGGERTY: Correct.

3 MR. SAVINO: And it's one page?

4 MR. MAIO: If they follow the rule H-1,
5 there should still be a page number.

6 MS. SANDOW: It's one page.

7 MR. MAIO: There should be a number
8 there.

9 MS. SANDOW: It's one page.

10 MR. SAVINO: It's only one page.

11 MR. MAIO: But at least like one, if you
12 want to do it correctly --

13 MS. SANDOW: Okay.

14 MR. MAIO: -- one, if you want to knock
15 someone off, please, do it correctly, just follow
16 the rules.

17 MR. SAVINO: I would disagree.

18 COMMISSIONER MICHEL: I move the clerks'
19 report.

20 PRESIDENT UMANE: Is there a second?

21 COMMISSIONER ARAUJO: Second.

22 PRESIDENT UMANE: All in favor?

23 MULTIPLE: Aye.

24 PRESIDENT UMANE: All opposed? All

1 June 15, 2021

2 abstentions? The clerks' report is moved, the
3 candidate is off the ballot.

4 MR. SAVINO: Next one, 9-1, objections
5 by Nunziato to petition of Maio, borough
6 president, Queens, One Nation Under God is the
7 name of the independent body. Total valid
8 signatures 1,031, number of signatures required
9 2,000.

10 MR. MAIO: It will be the same argument
11 there. I just want the commissioner to do this
12 fair and honest and lawful. If you want to knock
13 someone off, please put correctly. Even one is a
14 page number. Not running anything down is not
15 page numbering.

16 COMMISSIONER MICHEL: Move the clerks'
17 report.

18 COMMISSIONER ARAUJO: I second it.

19 PRESIDENT UMANE: All in favor?

20 MULTIPLE: Aye.

21 PRESIDENT UMANE: All opposed? All
22 abstentions?

23 MR. CHAMPOLI: Commissioner Umane, just
24 note my appearance for the record.

1 June 15, 2021

2 PRESIDENT UMANE: Yes, sorry, Mr.
3 Champoli.

4 MR. CHAMPOLI: It's okay.

5 MS. SANDOW: Next.

6 MR. SAVINO: The candidate will not
7 appear on the ballot.

8 MS. SANDOW: Next.

9 MR. SAVINO: 10-1, objections by
10 Nunziato, the petition of Kathy Parrino, judge of
11 the civil court, Third District, One Nation Under
12 God, total number of valid signatures, 1,031,
13 number of signatures required, 1,500.

14 COMMISSIONER ARAUJO: Any appearances?

15 MR. MAIO: Yes, Danniell Maio for
16 Katherine Parrino, similar argument, if you want
17 to knock someone off --

18 COMMISSIONER MICHEL: Move the clerks'
19 report.

20 MR. MAIO: -- do it correctly.

21 COMMISSIONER ARAUJO: Second.

22 MR. CHAMPOLI: And note my appearance,
23 for the record.

24 MS. SANDOW: Mr. Champoli is for the

1 June 15, 2021

2 objector.

3 PRESIDENT UMANE: Okay. Mr. Champoli,
4 are you here for the objector?

5 MR. CHAMPOLI: Yes.

6 PRESIDENT UMANE: So we get you on the
7 record?

8 MR. CHAMPOLI: Yeah.

9 PRESIDENT UMANE: Okay. A motion has
10 been made. All in favor?

11 MULTIPLE: Aye.

12 PRESIDENT UMANE: All opposed? All
13 abstentions? The candidate is off the ballot.

14 MR. SAVINO: 11-1, objections by
15 Inzerillo, petition Scala, City Council, 32nd
16 District, independent body Real Solutions, valid
17 signatures 394, number required 450.

18 COMMISSIONER ARAUJO: Any appearances? I
19 mean I --

20 MR. SATTIE: There are appearances by
21 John Champoli for the objector and Michael Scala
22 for the candidate. I would additionally note that
23 Mr. Scala --

24 MR. SCALA: [unintelligible] [02:15:45]

1 June 15, 2021

2 objection by Inzerillo.

3 MR. SATTIE: -- that Mr. Scala has
4 already been removed from the ballot on an
5 earlier specification.

6 COMMISSIONER ARAUJO: Okay.

7 PRESIDENT UMANE: Well, Mr. Champ- --
8 isn't Mr. Champoli, do you want us to rule on
9 this clerk's report?

10 MR. CHAMPOLI: I leave that to the
11 board's discretion. The only thing I'd note for
12 the record here are that there were exceptions
13 that were filed late and not served on my client.

14 COMMISSIONER ARAUJO: Alright. Move the
15 clerks' report.

16 PRESIDENT UMANE: Is there a second?

17 COMMISSIONER MICHEL: Second.

18 PRESIDENT UMANE: All in favor?

19 MR. CHAMPOLI: I would note that Q16 and
20 11 are [unintelligible] [02:16:23].

21 MULTIPLE: Aye.

22 PRESIDENT UMANE: All opposed? All
23 abstentions? The candidate is off the ballot.

24 MR. SAVINO: Spec number 12-1,

1 June 15, 2021

2 objections by Inzerillo, petition of Sirgiovanni,
3 substitute candidate was actually Ruben D. Cruz,
4 III, City Council, 32nd District, independent
5 body name One Nation Under God, number of valid
6 signatures 103, number required 450. Appearances?

7 MR. SATTIE: John Champoli for the
8 objector and Danniell Maio for the candidate.

9 MR. MAIO: Okay. In this case, it's a
10 little bit different from the others. There was a
11 line by line file. In the case of line by line,
12 then it goes back to basically the case that was
13 mentioned earlier to which the numbers was not in
14 order. [unintelligible] [02:17:16] that there was
15 in addition, to before page one, there was
16 another sheet of paper that's added, which makes
17 the entire order off. So, because it's off in
18 numbering, I basically said this particular
19 specification of objections should be dismissed
20 because it's not in the correct numbering order.
21 If you include all the sheets that he has filed.

22 COMMISSIONER ARAUJO: Mr. Haggerty and
23 Ms. Berinato, could you please -- do you have the
24 specification before you?

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MS. BERINATO: Yes, we do.

COMMISSIONER ARAUJO: Can you look them over, please and report back to us?

MR. MAIO: They are sheets before number one, so his numbering is off.

MR. HAGGERTY: So, commissioner, there is a spec cover sheet showing Mr. Sirgiovanni as the original candidate, there is the additional spec cover sheet showing the substituted candidate to be Mr. Cruz, there is a general specification which says that the petition does not contain the number of signatures required by law.

MR. MAIO: And then that's where the numbering starts.

MR. HAGGERTY: And if I may finish, Mr. Maio, and then there is a specification that is numbered with the volume number and sheet, the corresponding sheet number, which is sequentially numbered, so that we were able to prepare the line by line specification.

COMMISSIONER ARAUJO: Is that the only specification that was filed?

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2 MR. HAGGERTY: That's correct.

3 COMMISSIONER ARAUJO: And is that the
4 correct petition?

5 MR. HAGGERTY: Yes --

6 MS. PATEL: Yes.

7 MR. HAGGERTY: -- 1217, that's correct.

8 COMMISSIONER ARAUJO: Mr. Champoli, do
9 you wish to add anything?

10 MR. CHAMPOLI: Move the clerks' report,
11 please.

12 COMMISSIONER ARAUJO: Mr. Maio, you're
13 short 347 signatures. Have you submitted an
14 exception report?

15 MR. MAIO: No, I did not.

16 COMMISSIONER ARAUJO: I move that we
17 adopt the clerks' report.

18 PRESIDENT UMANE: There is --

19 COMMISSIONER MICHEL: Second. Second.

20 PRESIDENT UMANE: All in favor?

21 MULTIPLE: Aye.

22 PRESIDENT UMANE: All opposed? All
23 abstentions? The candidate is off the ballot.

24 MS. SANDOW: Okay.

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2 MR. SAVINO: 13-1, objector, Rivera,
3 petition of King, City Council, 24th District,
4 One Nation Under God is the independent body,
5 total valid number of signatures 281, the number
6 required is 450.

7 COMMISSIONER ARAUJO: Any appearances?

8 MR. MAIO: Yeah, Danniell Maio for Angelo
9 King.

10 MR. CHAMPOLI: John Champoli for
11 objector.

12 MR. MAIO: And again, I'll stress what
13 basically Commissioner Umame said at the
14 beginning, that this hearing be fair, honest and
15 lawful, and you have stated in the earlier part
16 of this no page numbering is also defect. If you
17 knock someone off, you should do it correctly.
18 Those are my statements.

19 COMMISSIONER ARAUJO: Mr. Haggerty and
20 Ms. Berinato, can you please look at the
21 specification and review it and report back,
22 please.

23 MR. HAGGERTY: It's the same as before,
24 commissioner, there is a cover sheet, and then

1 June 15, 2021

2 there is a single page, which states that the
3 subject petition does not contain the number of
4 signatures required by law for nominations of the
5 office of member of the City Council in the 24th
6 Council District.

7 MS. SANDOW: So it's not --

8 COMMISSIONER ARAUJO: Mr. Maio, do you
9 have an exception report?

10 MR. MAIO: I did not file an exception
11 report.

12 COMMISSIONER ARAUJO: Mr. Champoli, do
13 you wish to add anything?

14 MR. CHAMPOLI: No, move the clerks'
15 report, please.

16 COMMISSIONER ARAUJO: I will move, make
17 a motion to adopt the clerks' report.

18 PRESIDENT UMANE: Is there a second? All
19 in favor?

20 MULTIPLE: Aye.

21 PRESIDENT UMANE: All opposed? All
22 abstentions? Okay. The candidate is off the
23 ballot. And Mr. Maio, just for the record, the
24 fact that the numbering is supposed to be

1 June 15, 2021

2 corresponding to the petition sheets, which is
3 what was done. So the fact that it's the third
4 page doesn't mean that it's supposed to say page
5 three, it's supposed to refer to the first page
6 of the petition, which --

7 MS. SANDOW: Line by line.

8 PRESIDENT UMANE: -- apparently in fact
9 it does. And that's the correct numbering.

10 MR. MAIO: Thank you, President Umane
11 for the correction.

12 PRESIDENT UMANE: Okay. Next.

13 MR. SAVINO: The next one. Okay. 14-1,
14 objections by Cabiri, petition of Amoroso, One
15 Nation Under God is the independent body, New
16 York City Council, 23rd District. Valid
17 signatures 310, number required 450.

18 COMMISSIONER ARAUJO: Appearances?

19 MR. CHAMPOLI: For the objector, John
20 Champoli.

21 MR. MAIO: And for the candidate, Daniel
22 Maio. Basically, it's a similar situation. I
23 understand how you're going to rule, but since
24 this is the last candidate, if I may, let me just

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2 sort of give the commissioners quick update as to
3 where we are. If you may recall, on the
4 designating petition hearing on April 24th, we
5 submitted 31 candidates and all 31 candidates
6 were knocked off the ballots by the Board of
7 Elections. We were able to restore 18 on May 13th
8 at the Appellate Court. That's one of the reasons
9 obviously we weren't able to have enough time to
10 get enough candidate signatures to get our One
11 Nation Under God candidates on the ballot.

12 Since then, some of you, I'm the
13 commissioners also know, as of Friday, June 11th,
14 Mr. Champoli was successful of the 18 candidates,
15 knocked off 11 more.

16 MS. SANDOW: Mr. Maio, can we stick with
17 the spec number 14-1, because you're going off
18 onto another case. And we still have a hearing to
19 do.

20 COMMISSIONER ARAUJO: Right. We still
21 have other calendars to take care of.

22 MS. SANDOW: Yes.

23 MR. MAIO: So I'll wrap it up. So we
24 still --

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2 MR. SAVINO: And that's a pending legal
3 matter I believe.

4 COMMISSIONER ARAUJO: Let me just stop
5 you there. Let me just stop you there for a
6 second. Mr. Haggerty and Ms. Berinato, is it the
7 same issue with the specification as well?

8 MR. HAGGERTY: Yes.

9 MS. BERINATO: Yes, it is.

10 COMMISSIONER ARAUJO: Mr. Maio, do you
11 have a list of exceptions?

12 MR. MAIO: No, I do not, but I'd just
13 like to say that because of those 11 people that
14 were knocked off, we're on the printed ballot but
15 we don't how to tell the voters they cannot vote
16 for us.

17 MS. SANDOW: This has nothing to do with
18 --

19 MR. SAVINO: The court's decision has
20 nothing to do with the spec.

21 COMMISSIONER ARAUJO: Mr. Champoli, do
22 you have anything to add?

23 MR. CHAMPOLI: Move the clerks' report,
24 please.

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2 COMMISSIONER ARAUJO: I would move the
3 clerks' report.

4 MR. MAIO: I thank you very much.

5 PRESIDENT UMANE: Is there a second?

6 COMMISSIONER TOWNSEND: Second.

7 MS. SANDOW: Okay, let's go back for a
8 second call.

9 PRESIDENT UMANE: All in favor?

10 MULTIPLE: Aye.

11 PRESIDENT UMANE: All opposed? All
12 abstentions? The candidate is off the ballot.

13 COMMISSIONER ARAUJO: Mr. President,
14 there are two matters that are second call for
15 Queens County, I don't know if they're ready to
16 do them now or if they want to be done at a later
17 time.

18 MR. SAVINO: Which is the two, 7-1 --

19 MR. CHAMPOLI: If we could do them now,
20 I'd appreciate it.

21 MS. SANDOW: How many second calls are
22 there?

23 MR. CHAMPOLI: There's two.

24 PRESIDENT UMANE: There's two. And

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2 they're both [unintelligible] [02:23:30].

3 MS. SANDOW: So it's 4-1 --

4 COMMISSIONER ARAUJO: And 7-1.

5 MS. SANDOW: -- and 7-1. Is Queens
6 prepared to do it now or do --

7 COMMISSIONER ARAUJO: I think one had to
8 do with a legal issue and legal was just going to
9 do some research on that one.

10 MS. PATEL: Okay.

11 MS. SANDOW: 4-1.

12 MR. SATTIE: Ms. Sandow, I just want to
13 point out that we appear to have lost
14 Commissioner Michel.

15 MS. SANDOW: Oh, okay.

16 MS. KONTZAMANIS: I will try to get
17 Commissioner Michel back.

18 MR. SATTIE: Thank you.

19 COMMISSIONER ARAUJO: That being said
20 then, I would ask that we just second call it
21 later on after Commissioner Michel gets on and we
22 can just start with another borough, just to be -
23 -

24 PRESIDENT UMANE: Okay. Who, staff?

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2 MS. PATEL: Commissioners, we have
3 Richmond County and we, sorry, can I have that?

4 MR. SAVINO: Yeah, sure.

5 MS. PATEL: Commissioners, we now have
6 Richmond County clerks' reports. As you know, we
7 already did RH9-1 earlier, we are now on --

8 MS. KONTZAMANIS: Ms. Patel, can I just
9 ask you to hold just one second. Commissioner
10 Michel, are you back in? Commissioner Michel, can
11 you hear me, sir?

12 COMMISSIONER MICHEL: Hello.

13 MS. KONTZAMANIS: Can you hear us,
14 Commissioner Michel?

15 COMMISSIONER MICHEL: Yes, I can.

16 MS. KONTZAMANIS: Okay, great. I
17 apologize, Ms. Patel.

18 MS. PATEL: No, no, that's okay. Are we
19 ready?

20 MS. KONTZAMANIS: Yes.

21 MS. PATEL: Okay. So this is RH4, RH5
22 and RH8. It is, party of Staten Island First,
23 objections by Richard J. Hoffman, Fred P. Rassi,
24 Eugene I. DeWaters to the petition of Maria Novak

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2 for judge of the civil court in the Second in the
3 second district, judicial district, number of
4 signatures, total number of valid signatures is
5 956, number of signatures required is 1,500. And
6 commissioners, there's a counsel's report for
7 RH4, 6, sorry, 4, 5 and 8, which was sent to you
8 earlier. It was sent to the, also sent to the
9 parties.

10 MS. SANDOW: Read the counsel's report.

11 MS. PATEL: So commissioners --

12 MR. SATTIE: We do have an appearance.

13 MS. PATEL: Yes.

14 MR. SATTIE: We do have an appearance
15 from the objector, Brendan Lantry.

16 MR. BRENDAN LANTRY: Yes, good
17 afternoon, Mr. President, good afternoon, Madame
18 Secretary and commissioners. The clerks' report,
19 I believe, based off the clerks' report, the
20 candidate should be removed, so I request that
21 the clerks' report be moved.

22 PRESIDENT UMANE: Alright. So we don't
23 have to reach the issues raised in the counsel's
24 report?

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2 MR. LINCOLN: It's moot, it's moot.

3 COMMISSIONER ZACCONE: I'll move the
4 clerks' report.

5 PRESIDENT UMANE: Is there a second?

6 COMMISSIONER PEPE-SOUVENIR: Second.

7 PRESIDENT UMANE: All in favor?

8 MULTIPLE: Aye.

9 PRESIDENT UMANE: All opposed? All
10 abstentions? The clerks' report is approved.

11 MS. PATEL: Thank you, commissioners.
12 Party is Ordinary People, objection is by Vincent
13 --

14 MR. SAVINO: He's out, right?

15 MS. PATEL: I'm sorry?

16 MR. SAVINO: He's out, correct?

17 MS. SANDOW: Yes.

18 MS. PATEL: Yes, he's out. She.
19 Objections by Vincent Argenziano to the petition
20 of Jason Price for member of the City Council in
21 the 49th District, total number of valid
22 signatures required is 450, total number of valid
23 signatures is 437. Are there appearances?

24 MR. SATTIE: Commissioners, I'll remind

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2 you the spec got thrown out on the prima facie
3 calendar.

4 MS. PATEL: Are there appearances?

5 PRESIDENT UMANE: Oh, well, it's moot if
6 it's been thrown out. Unless some counsel would
7 like us to rule on the clerks' report.

8 MS. PATEL: I don't know --

9 PRESIDENT UMANE: I don't know if
10 there's anybody here representing either side.

11 MS. SANDOW: Are there any appearances?

12 MS. PATEL: Are there any appearances?
13 No?

14 COMMISSIONER ZACCONE: I believe Price
15 had appeared earlier. I don't know if he's still
16 available.

17 PRESIDENT UMANE: Okay, well --

18 MS. KONTZAMANIS: I'll try and get him
19 in.

20 PRESIDENT UMANE: Okay. Which, by the
21 way, which number is it?

22 COMMISSIONER TAYLOR: The spec was
23 thrown out, so he remains on the ballot, correct?

24 MS. PATEL: Correct.

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2 MS. SANDOW: Yes.

3 PRESIDENT UMANE: Yes.

4 MS. KONTZAMANIS: He is not in the
5 holding room.

6 PRESIDENT UMANE: Okay.

7 MS. PATEL: Okay.

8 PRESIDENT UMANE: Well, if the spec was
9 thrown out then it is now moot, it's on the
10 ballot, and let's move on.

11 MS. PATEL: Okay.

12 COMMISSIONER ZACCONE: No, no, no.
13 Commissioner, I just want to say the spec was
14 thrown out so we're, so therefore, fine, we don't
15 have to move it. There was no -- I just want to
16 make for the record, there was no proof of
17 service in this one.

18 MS. PATEL: Right.

19 PRESIDENT UMANE: Okay.

20 COMMISSIONER ZACCONE: Correct?

21 MS. PATEL: Yes.

22 COMMISSIONER ZACCONE: Okay, thank you,
23 I just wanted to clarify for my sake.

24 MS. PATEL: Okay.

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2 COMMISSIONER ZACCONE: So let's move on.

3 MS. PATEL: Okay. Commissioners, Spec
4 number 6, RH6 and RH7, the party is Staten Island
5 First in the matter of objections by Lisa Florio
6 and Eugene I. DeWaters to the petition of Sal
7 Albanese for the member of City Council in the
8 50th District. I believe there are appearances on
9 this. The total number of valid signatures is
10 517, signatures required is 450 and
11 commissioners, there is a counsel's report on
12 this that you were sent previously and I can read
13 it to you.

14 MS. SANDOW: Announce the appearances
15 first, please.

16 MS. PATEL: Yes.

17 MR. SATTIE: Sure. We do have Brendan
18 Lantry for the objector.

19 MR. LANTRY: Yes.

20 MR. SATTIE: And Sal Albanese for the
21 candidate.

22 MR. LANTRY: Brendan Lantry,
23 [unintelligible] [02:29:31] for the objector,
24 Lisa Florio.

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2 MR. SAL ALBANESE: Sal Albanese, I'm the
3 candidate and I'm an attorney representing
4 myself.

5 MS. PATEL: So, commissioners, if I may,
6 the --

7 MS. SANDOW: I have the clerks' report.
8 Do you want it? Is that what you are looking for?

9 MS. PATEL: No, no, no. I'm going to do
10 the counsel's report. So, commissioners if I may,
11 the first portion of the specifications alleges
12 that there's a deficit of unclaimed volumes
13 because it was unclear. The, it is the finding of
14 the counsel's office is that the claim of, the
15 defect is vague. The language of the
16 specification says that the cover sheet doesn't
17 claim the volumes. We can only assume that they
18 mean the volumes weren't claimed because they
19 weren't written out completely and if you will
20 see that the volumes are written as RH2100425,
21 426.

22 Commissioners, this was reviewed by a
23 bipartisan team at the board and no defect was
24 found and no notice of noncompliance was sent by

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2 the board. We can, as I said, we're guessing that
3 the specifications mean that RH2100456, somebody
4 has their live stream on, is unclaimed because
5 the complete number of the volume is not written
6 out. It is the finding of the counsel's office
7 that the objections, specification of objections
8 are vague and not supported by the documents,
9 violating our own board rules H8. And it has been
10 the longstanding policy of the board to deem
11 cover sheets on which the first volume
12 identification number is listed in full and a
13 subsequent volume number is abbreviated in the
14 manner described above in the specifications, we
15 always deem that to be valid, commissioners.
16 We've done it multiple times. The specification's
17 reliance on the issues raised on Tobacco v. the
18 Board of Elections is misplaced. The decision in
19 the trial court and in the appellate division
20 only discuss the finding that the amended cover
21 sheet was not timely filed. The decision is
22 attached for you, commissioners, to the counsel's
23 report. Additionally, the issue raised was to the
24 form of petitions. As you know, commissioners,

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2 election law, section 6-140 sets forth the
3 requirements of independent nominating petitions.
4 A copy of the sample form distributed by the
5 state board has been annexed for you, the issue
6 raised by the objections is that in each and
7 every petition sheet, there is a sample signature
8 and a sample name.

9 It is the finding of the office of
10 general counsel that while the petition must be
11 substantially in the form set forth in the
12 election law, which the petitions are, the
13 inconsequential errors are no grounds for
14 invalidation when the petition is sufficiently
15 informative to preclude the confusion or
16 deception of the signers or the BOE and I quote
17 that from Wagner v. Elasser, that you're familiar
18 with, commissioners, also attached for you,
19 decided by the appellate division Second
20 Department in May 2021.

21 And the sample signatures here,
22 commissioners, are clearly samples. They're meant
23 to guide the signers, not to mislead them.
24 There's no evidence submitted by the objectors

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2 that this was in fact misleading, as there are no
3 numbers next to the sample signature, making it
4 clear that the signature is not to be counted.
5 Additionally, none of the petition sheets used
6 the sample signature in the count, making it
7 clear to any potential objectors that the sample
8 signatures were in fact just samples. And I have
9 attached a copy of the petition to the counsel's
10 report.

11 Lastly, commissioners, the invalidity of
12 a single signature or even a number of signatures
13 in the absence of fraud does not render the
14 entire page invalid. The case is DiSanzo v.
15 Addabbo, 76 A.D.3d 665 from the Appellate
16 Division. At best, the specification of
17 objections would require the striking of the
18 sample signature, leaving the remaining
19 signatures valid.

20 It is the recommendation of the
21 counsel's office that the commissioners find that
22 the objections are not as stated.

23 MR. LANTRY: May I be heard,
24 commissioners? Mr. President, may I be heard?

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2 PRESIDENT UMANE: Yes, please.

3 MR. LANTRY: Okay. Just a few things.

4 First, up front, as to the counsel's report, the
5 language that it is vague, specification of
6 objection, there were 3,183 signatures alleged of
7 which 2,656 were deemed to have been found
8 invalid based off the specifications of
9 objection, the line by line. So to say that the
10 specifications have been vague I just think is
11 not accurate.

12 I will say that that first argument in
13 the legal argument as to unclaimed volumes, we're
14 withdrawing that, we're withdrawing that
15 allegation [unintelligible] [02:34:50] not
16 something that needs to be litigated here. 6215.2
17 of the New York State Board of Elections rules
18 says that identification numbers can be listed
19 individually or cumulatively and so therefore, I
20 do think that this is cumulatively, so we are
21 withdrawing that argument.

22 The remaining argument is to the form of
23 the petitions. And counsel has cited this
24 decision in the appellate division from earlier

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2 in the year, this matter of Margaret Wagner,
3 where there is a certain provision that is cited
4 in counsel's report, but what's not included is
5 the balance of that decision, which says when an
6 innocent and inconsequential violation of a
7 technical rule of the election law pertaining to
8 designating petitions is involved, by which a
9 candidate has nothing to gain and the violation
10 creates no difficulty in reviewing the
11 designating petition for its validity, accuracy
12 and presents no potential for fraud or prejudice,
13 said violation must be deemed inconsequential and
14 it continues.

15 That's not the case here. What the case
16 law is in that case, it was the inclusion of, in
17 the designating petition, certain election
18 numbers deemed to be inconsequential. That's not
19 what happened here. On every single page in these
20 petitions, was an extra signature line. It was
21 not numbered, it didn't say one, it said X. It
22 included a date, it included a signature of a
23 person, a printed signature of that person and an
24 address, of an address located on Staten Island,

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2 on Richmond Terrace, as well as the county. And
3 that gave the impression to the voters that
4 somebody had already signed this petition.
5 There's prescribed language in the election law
6 for designating petitions and independent
7 nominating petitions that says what needs to be
8 included. It has to be substantially similar.
9 This is not substantially similar. There's
10 nothing in the election law that allows a
11 candidate, allows a campaign to include sample
12 language, to include a sample signature as if
13 somebody else had already signed the petition
14 which did give the impression to the voters that
15 there was already support for this candidate and
16 it was fraudulent, and that is why we're asking
17 the commissioners to deem these petitions
18 invalid. Thank you.

19 MR. ALBANESE: May I be heard?

20 PRESIDENT UMANE: Yes, sure, sir.

21 MR. ALBANESE: Let me point out that
22 there's precedent here why these signatures are,
23 this petition is valid. I believe there was a
24 case involving Assemblyman Abbate where the

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2 objections related to the sample signature on the
3 petition sheet, and of course, it was ruled that
4 in fact it was not a fatal defect. And I think,
5 commissioners, that you had a bipartisan group of
6 folks, the legal department, the candidate unit,
7 the chief clerks of Staten Island
8 [unintelligible] [02:37:51] election with both
9 Democrats and Republicans that have validated
10 this petition. So I think the, to my colleague
11 respectfully, this is a frivolous attempt to
12 obstruct democracy here and I would urge the
13 commissioners to adopt, to adopt what the
14 bipartisan clerks who went through these
15 petitions and basically went through them with a
16 fine tooth comb and declared that there are no
17 fatal flaws, no fatal defects and I should be on
18 the Staten Island First ballot in November.

19 I want to thank the hardworking staff,
20 the bipartisan staff that went through this
21 carefully and I urge the commissioners to adopt
22 the clerks' report.

23 PRESIDENT UMANE: [unintelligible]

24 [02:38:45].

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2 MR. LANTRY: Just one quick note if I
3 may, Mr. President, just one quick note. The
4 legal objections, from what I understand, were
5 not decided by the clerks in the Board of
6 Elections, [unintelligible] [02:38:57] signatures
7 were knocked off by them.

8 PRESIDENT UMANE: Mr. Lantry, we
9 understand that.

10 MR. LANTRY: Thank you. Thank you, Mr.
11 President.

12 COMMISSIONER SHAMOUN: I think for --

13 COMMISSIONER TAYLOR: May I be heard?

14 PRESIDENT UMANE: Of course.

15 COMMISSIONER TAYLOR: I'd like to move
16 that we adopt the counsel's report and move on.

17 COMMISSIONER SHAMOUN: I will just want
18 to note that maybe for the future that our rules
19 be a little more clear, because we seem to be
20 throwing out a lot more petitions based on
21 lacking the requisite number of signatures on a
22 weight test. And so if somebody is going to
23 include these sample signatures in their volumes,
24 it can potentially throw off our staff. And a

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2 petition volume that may not have the necessary
3 number of signatures and might not pass the
4 weight test might look like it does. And so maybe
5 that is something to consider in the future.

6 PRESIDENT UMANE: I think that's a good
7 point, Commissioner Shamoun.

8 MS. PATEL: Noted, Commissioner Shamoun.

9 PRESIDENT UMANE: We've had people who
10 have just filed photocopies of the same signature
11 in an effort to get past that. So, we have a
12 motion to adopt the counsel's report. Is there a
13 second?

14 COMMISSIONER PEPE-SOUVENIR: I second
15 that motion, Commissioner Pepe-Souvenir.

16 PRESIDENT UMANE: Okay. All in favor?

17 MULTIPLE: Aye.

18 PRESIDENT UMANE: Is there any opposed?
19 Or abstentions? Okay. Counsel's report is
20 approved.

21 MS. PATEL: The candidate remains on the
22 ballot, commissioner?

23 PRESIDENT UMANE: Remains on, yes.

24 MS. PATEL: Okay.

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2 MR. ALBANESE: Thank you, commissioners.

3 MS. PATEL: Thank you, and the last one,
4 sorry, commissioners, this is out of order RH2-1,
5 it is party is Independent, in the matter of
6 objections by Eric Roman to the petition of David
7 M. Carr, for member of City Council in the 50th
8 District, total number of signatures required is
9 450, and total number of valid signatures is 144.
10 Are there appearances?

11 MR. SATTIE: There is, Nicholas Robinson
12 from the objector that we're looking for, but I
13 wanted to remind the commissioners Mr. Carr was
14 removed from the ballot on the prima facie
15 report.

16 MS. PATEL: Right.

17 PRESIDENT UMANE: Well, is Mr. Robinson
18 here?

19 MR. SATTIE: He appears to have left the
20 meeting.

21 PRESIDENT UMANE: Okay. So, I move that
22 it's moot since the candidate is off.

23 MS. PATEL: Okay.

24 PRESIDENT UMANE: So let's move on.

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2 MS. PATEL: I think that's it.
3 Commissioners, except for the second calls, I
4 believe that's it at this time.

5 SECRETARY CAMILO: Did we deal with spec
6 8 as part of the last matter, for Novak?

7 MS. PATEL: We did --

8 MS. SANDOW: Candidate Maria Novak.

9 COMMISSIONER ZACCONE: I believe that
10 was found as --

11 MS. PATEL: It was moot because there
12 wasn't enough signatures, commissioner.

13 COMMISSIONER ZACCONE: I think that was
14 called as 4, 5 and 8.

15 MS. SANDOW: Yes.

16 MS. PATEL: Yes.

17 SECRETARY CAMILO: Okay. Okay.

18 MS. SANDOW: Four, 5 and 8, yes.

19 MS. PATEL: Commissioners, we do have
20 the second call on the cover sheet issues and
21 then on 4-1 from Queens if we could get a few
22 minutes, and 7-1, if we could get a few minutes
23 to regroup.

24 MS. SANDOW: Do we want to break for ten

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2 minutes?

3 PRESIDENT UMANE: Okay. It's now 4:15.
4 Let's get back on promptly at 4:25.

5 MS. PATEL: Thank you, commissioners.

6 MS. KONTZAMANIS: Okay, just give us a
7 minute to pause the live stream.

8 [OFF THE RECORD]

9 [ON THE RECORD]

10 MS. SANDOW: Okay. We're live, legal,
11 are we ready to move on with spec number 4-1?

12 MS. PATEL: We are.

13 MS. SANDOW: Okay.

14 MS. PATEL: Are the attorneys back? Mr.
15 Foldenauer and Mr. Scala.

16 MS. KONTZAMANIS: They're both in the
17 meeting.

18 MS. PATEL: So, commissioners, if you
19 will recall, somebody's got their live stream on.
20 Okay. Commissioners, if you recall, the issue was
21 whether or not the witnesses that signed the
22 independent nominating petitions had previously
23 signed a designating petition. And as I said
24 before --

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2 COMMISSIONER ZACCONE: I'm sorry, but I
3 can't hear you.

4 MS. PATEL: Oh, sorry. As I said --

5 MR. FOLDENAUER: This is Aaron
6 Foldenauer. I can hear you fine.

7 MS. PATEL: Sorry, okay. So the issue is
8 whether or not the witnesses who had, and I
9 clarified this with our chief and deputy in
10 Queens, whether or not somebody who had signed
11 the designating petition, which was subsequently
12 thrown out, can then witness an independent
13 nominating petition. The election law, and Mr.
14 Scala cites, and I told you election law 6-138
15 when it talks about signing specifically states
16 that if your designating petition is thrown out
17 and the election law guidance from the state
18 board also says you can file an independent
19 nominating petition. Mr. Scala wants to make a,
20 he wants to make a, discern that if you signed as
21 a signer, you cannot then sign as a witness.

22 COMMISSIONER ZACCONE: I'm sorry, am I
23 the only person having problems hearing this?

24 SECRETARY CAMILO: Commissioner Zaccone,

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2 do you hear us at all? Anything?

3 COMMISSIONER ZACCONE: All I hear is a
4 vague whisper.

5 MS. KONTZAMANIS: No.

6 SECRETARY CAMILO: No. It's his audio,
7 I'm sorry, audio.

8 MS. KONTZAMANIS: Is he --

9 COMMISSIONER ZACCONE: Commissioner
10 Camilo, I can barely hear you.

11 MS. PATEL: Should we have him log back
12 out and log back in, or?

13 COMMISSIONER TAYLOR: John, do you have
14 earphones? I find that I need to wear mine
15 sometimes.

16 MS. PATEL: Should I wait for him to be
17 able to hear me or go on?

18 MS. SANDOW: Hold on one minute, hold
19 on. Georgea?

20 MS. KONTZAMANIS: Yep, I'm trying to
21 reach out to him.

22 MS. SANDOW: Okay.

23 MS. KONTZAMANIS: Just give me a second,
24 folks.

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2 MS. SANDOW: Let's hold off.

3 COMMISSIONER ZACCONE: Okay, I put in --
4 I can hear now with a headset.

5 MS. PATEL: Okay. So, commissioners as I
6 was saying, Mr. Scala wants to say that these
7 prior, the people who are prior signers of a
8 designating petition cannot witness an
9 independent nominating petition. And he cited a
10 case called Sinagra v. Hogan. Is that correct,
11 Mr. Scala, from the Third Department.

12 MR. SCALA: That is, that is one of
13 them, correct.

14 MS. PATEL: Okay, from 1983.
15 Commissioners, Mr. Savino and I reviewed the
16 section, the election law and the section of the
17 election law which he is citing, which is 6-140,
18 Sub B. The language is thus. There shall be
19 appended at the bottom of each sheet, a signed
20 statement of a witness who is a duly qualified
21 voter of the state and who has not previously
22 signed a petition for another candidate for the
23 same office. And he's saying that that exception
24 for petitions that were thrown out is not

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2 included in this section of the election law and
3 it is my understanding, along with Mr. Savino,
4 that the election law is vague enough. However,
5 it does not differentiate. It says sign. It does
6 not say someone who has not previously witnessed
7 the petition.

8 The rest of the law is clear, and in
9 fact, there's a Second Department case which
10 basically states that if you're a signer on a
11 petition that was disqualified, you can act as a
12 subscribing witness, or the converse of the case
13 is that a subscribing witness and a signer for
14 the purposes of the election law is just a
15 signer. So that we agree with the candidate that
16 these witness statements, witness signatures are
17 valid.

18 MR. FOLDENAUER: Thank you very much
19 counsel. I, I can add more detail to what I've
20 found, but I move, I would ask the commissioner
21 move to accept the amended clerks' report and
22 that the candidate remain on the ballot.

23 PRESIDENT UMANE: Mr. Scala --

24 COMMISSIONER ARAUJO: This is

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2 Commissioner Araujo. So your recommendation does
3 not change based on your additional research?

4 MS. PATEL: It does not, Commissioner
5 Araujo. We recommend that the candidate remains
6 on the ballot. With regard to the issue of the
7 signatures, the election law doesn't
8 differentiate between, or doesn't seem to specify
9 between witnesses and --

10 MR. SAVINO: Subscribing witnesses.

11 MS. PATEL: -- subscribing witnesses and
12 signers.

13 COMMISSIONER ARAUJO: Understood.

14 MS. PATEL: And there's case law in the
15 Second Department speaking to that specific
16 issues with regard to subscribing witnesses and
17 signers.

18 COMMISSIONER ARAUJO: Alright. So just,
19 just a quick clarification or a point of order,
20 is the application would be to adopt the clerks'
21 report or adopt the recommendation of counsel,
22 Mr. President?

23 PRESIDENT UMANE: I think it's to adopt
24 the clerks' report because the clerks' report --

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2 MS. PATEL: Has --

3 PRESIDENT UMANE: -- assumes what
4 counsel has advised.

5 MS. PATEL: Yes.

6 PRESIDENT UMANE: So, that would be --

7 COMMISSIONER ARAUJO: Okay.

8 MS. PATEL: Right.

9 PRESIDENT UMANE: -- consistent with
10 counsel's report and what we're doing, so that's
11 what I would do.

12 COMMISSIONER ARAUJO: Okay.

13 COMMISSIONER MICHEL: I move that we
14 adopt the clerks' report.

15 COMMISSIONER ARAUJO: I'll second that.

16 PRESIDENT UMANE: Is there a second?

17 SECRETARY CAMILO: Second.

18 PRESIDENT UMANE: All in favor?

19 MULTIPLE: Aye.

20 PRESIDENT UMANE: All opposed? All
21 abstentions? The clerks' report passes, the
22 candidate is on the ballot.

23 MS. PATEL: Okay.

24 MR. FOLDENAUER: Thank you,

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2 commissioners, good to see you again.

3 MS. PATEL: Thank you. Thank you, Mr.
4 Foldenauer.

5 MS. SANDOW: Spec number 7-1, John
6 Kyriakides to the petition of Vickie Paladino for
7 member of City Council, 19th District,
8 Independent Party.

9 MR. SAVINO: I think we second called
10 this --

11 MS. SANDOW: Yes.

12 MR. SAVINO: -- because we could only
13 see the top of Mr. Alter's head and not hear him.

14 MS. SANDOW: Yes.

15 MR. SAVINO: Is he available?

16 MS. SANDOW: Any appearances?

17 MR. SATTIE: That is correct.

18 MS. KONTZAMANIS: We're moving the
19 witnesses in, give us a second.

20 MR. SAVINO: Alright. Thank you.

21 MS. KONTZAMANIS: Mr. Alter, can you
22 hear us, sir? Mr. Alter, can you hear us, sir?

23 MR. ALTER: I can.

24 MS. KONTZAMANIS: Oh, great.

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2 MR. SAVINO: Fantastic, I'll begin.
3 Spect 7-1, objections by Kyriakides?

4 MS. SANDOW: John Kyriakides.

5 MR. SAVINO: Thank you. In the petition
6 of Vicki Paladino, City Council, 19th District
7 under Independent body name.

8 MR. ALTER: [unintelligible] [03:12:36]
9 got to leave the room.

10 MR. SAVINO: What?

11 SECRETARY CAMILO: Mr. Alter, just hold
12 on and let our counsel.

13 MR. SAVINO: Oh, is he still there?

14 SECRETARY CAMILO: Yeah. Keep going.

15 MR. SAVINO: Total valid signatures,
16 503, number required 450. I will note there's
17 also a counsel's report on this matter.

18 MS. SANDOW: Let's get the counsel's
19 report.

20 MR. SAVINO: Sure. Counsel's report,
21 prepared by the office of general counsel, the
22 first specification talks about the Independent
23 name interfering with Independence Party. There
24 are actually a lot of folks running around the

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2 state I'm told with Independent and there is no
3 longer an Independence Party. But we discussed
4 that earlier. There's also line by line, which
5 you have the clerks' report in front of you. But
6 there is a valid argument with respect to a
7 defect to the certificate of acceptance.

8 When you take a look at it, it shows
9 that it doesn't list the date of the general
10 election. It seems instead of using the
11 certificate of acceptance promulgated by New York
12 State Board of Elections, which is attached to
13 the counsel's report, or the one that's in the
14 orange book, they decided to type their own.
15 Unfortunately, while doing so, the drafter
16 omitted portions which specifically call for the
17 date of election. And when you look at the New
18 York State form and the form they submitted, you
19 can even see where it says election type and then
20 right to the right of it is general. And then
21 right underneath it is a line of date of election
22 on the form. And here's a blank for date of
23 election. They totally omitted that part that
24 said date of election and then fill in the blank

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2 date of election. So it's our recommendation is
3 that that is as stated, and the candidate should
4 be removed from the ballot.

5 COMMISSIONER ARAUJO: Mr. Savino, so the
6 date of election is obviously a material piece of
7 information. Is that correct?

8 MR. SAVINO: That's correct.

9 COMMISSIONER MICHEL: I move the legal
10 advice.

11 COMMISSIONER SHAMOUN: Counsel's
12 recommendation.

13 MR. SAVINO: Counsel's report.

14 MR. ALTER: I have objections to it, but
15 --

16 PRESIDENT UMANE: We have to let the
17 lawyers have their day here. Mr. Alter.

18 COMMISSIONER MICHEL: Okay. I didn't
19 realize they were there.

20 MR. ALTER: I'm here.

21 COMMISSIONER TAYLOR: Alright, we're
22 listening.

23 MR. ALTER: My name is Bernard Alter, I
24 represent the candidate. There's two specific --

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2 I sent the detail list to the board yesterday on
3 two issues. Sure, the date missing from the
4 certificate of acceptance, it is unnecessary to
5 have that date here according to the appellate
6 division Second Department on three occasions I
7 cited, and I gave the three cases. You can take a
8 look at them and it was sent to the board
9 yesterday. Are you ready for them? Here they are.

10 COMMISSIONER ARAUJO: Mr. Savino, did
11 you read --

12 MS. SANDOW: Did you receive any cases?

13 MR. SAVINO: We have not.

14 MS. PATEL: We have not received that.

15 MR. ALTER: There are three cases, two
16 in the Second Department, one in the Third
17 Department. It's not necessary. The only thing
18 that's required in a certificate of acceptance is
19 the name of the candidate, the office he's
20 running for, or she's running for, and it has to
21 be acknowledged. All those three things are
22 there. Everything else is not material according
23 to the court.

24 PRESIDENT UMANE: I think we need to put

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2 this again on another second call to give counsel
3 an opportunity to review those cases.

4 MR. ALTER: Okay.

5 MS. SANDOW: We did not receive -- we
6 did not receive those cases.

7 MR. ALTER: [unintelligible] [03:15:52]
8 three appellate division cases say that. All he
9 had have on the certificate of acceptance was the
10 name of the candidate, the office the candidate
11 is running for, and, and it has to be
12 [unintelligible] [03:16:03]. All three things are
13 there. Everything else is not material and not
14 relevant to the validity of the certificate
15 according to the appellate court.

16 [CROSSTALK]

17 PRESIDENT UMANE: [unintelligible]
18 [03:16:09].

19 MR. ALTER: And I got another objection
20 regarding the 150 signatures you took off because
21 a candidate [unintelligible] [03:16:17] petitions
22 [unintelligible] [03:16:20] candidate as a
23 Republican. I object to that too, the second
24 time, on the first report that I objected to

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2 [unintelligible] [03:16:28] and I sent that on
3 yesterday and Mr. Champoli has a copy of my
4 objections. So [unintelligible] [03:16:34] on
5 three cases, Finn against Sherwood, 87 A.D.3d
6 1044, not irrelevant.

7 MS. SANDOW: Could we stick to spec
8 number 7-1 please?

9 PRESIDENT UMANE: Alright.

10 MR. ALTER: [unintelligible] [03:16:44
11 Board of Elections, 120 [unintelligible]
12 [03:16:47] --

13 PRESIDENT UMANE: Mr. Alter, we --

14 [CROSSTALK]

15 MR. ALTER: [unintelligible] [03:16:47]

16 MR. SAVINO: I can't --

17 MS. SANDOW: Mr. Alter.

18 MR. ALTER: 120 A.D.3rd --

19 PRESIDENT UMANE: We have the --

20 MR. ALTER: [unintelligible] [03:16:51]
21 Third Department.

22 PRESIDENT UMANE: Mr. Alter.

23 MR. ALTER: And they're good
24 [unintelligible] [03:16:54].

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2 [CROSSTALK]

3 PRESIDENT UMANE: Mr. Alter.

4 MR. SAVINO: I can't --

5 MR. ALTER: [unintelligible] [03:16:56].

6 PRESIDENT UMANE: Mr. Alter --

7 MR. ALTER: And that's 154 A.D.2nd 598.

8 PRESIDENT UMANE: Mr. Alter.

9 MR. ALTER: [unintelligible] [03:17:02].

10 MR. SATTIE: Mr. Alter.

11 MR. ALTER: [unintelligible] [03:17:03]

12 candidate [unintelligible] [03:17:04] election it
13 was on.

14 PRESIDENT UMANE: Mr. Alter.

15 MR. ALTER: And the board

16 [unintelligible] [03:17:04] it's irrelevant.

17 PRESIDENT UMANE: Mr. Alter.

18 MS. SANDOW: That's it.

19 PRESIDENT UMANE: Mr. Alter --

20 MR. ALTER: And these are publications
21 on this issue.

22 PRESIDENT UMANE: -- we have heard you.

23 MR. ALTER: And I ask the board --

24 PRESIDENT UMANE: Mr. Alter.

1 June 15, 2021

2 MR. ALTER: -- [unintelligible]
3 [03:17:13] board because these cases are relevant
4 and right on point.

5 PRESIDENT UMANE: Okay, Mr. Alter, we
6 have heard you. Mr. Champoli.

7 MR. ALTER: [unintelligible] [03:17:22].

8 SECRETARY CAMILO: Mr. Alter, that's
9 enough.

10 MR. ALTER: [unintelligible] [03:17:25].

11 SECRETARY CAMILO: That's it.

12 MR. ALTER: And my letter is detailed.
13 It's a detailed letter.

14 MS. SANDOW: Okay. Let's go.

15 MR. ALTER: Before the [unintelligible]
16 [03:17:32].

17 COMMISSIONER ARAUJO: Can Mr. Alter be
18 muted?

19 MS. KONTZAMANIS: We may need to mute
20 Mr. --

21 MS. SANDOW: Yeah.

22 MR. SAVINO: So Mr. Champoli can make an
23 argument, if any.

24 PRESIDENT UMANE: Mr. Champoli, do you

1 June 15, 2021

2 wish to --

3 MR. ALTER: I attest to, I attest to all
4 the cases. They're all there.

5 PRESIDENT UMANE: We heard you. We heard
6 you so. Mr. Champoli?

7 [CROSSTALK]

8 MR. ALTER: I thank you, commissioners.
9 Thank you.

10 MR. SAVINO: Are you checking?

11 MR. CHAMPOLI: Thank you, commissioner.
12 The date of the election, the election and
13 acceptance it applies to is incredibly relevant,
14 because the law does not specify a first date to
15 file an acceptance. So therefore, if we're in a
16 local election cycle, if I file an acceptance for
17 a City Council petition this year, two years from
18 now I could claim that that acceptance is still
19 good because there's no first date and it doesn't
20 reference that election.

21 MR. SAVINO: That's true.

22 MR. CHAMPOLI: Similarly, a candidate
23 could come to this board and you could be in the
24 process of ruling a candidate off who did not

1 June 15, 2021

2 file an acceptance, wait a minute, two years ago,
3 I filed an acceptance, it didn't say what
4 election it applied to. Why? Because Mr. Alter
5 said it, the law doesn't require it, so if you
6 adopt his argument that this is not relevant info
7 and not required information, number one, it
8 defies me to say that the draftsman of all the
9 forms have provided that that information is to
10 be put in the form, and the only draftsman that
11 has not provided that is the draftsman who
12 drafted this one.

13 And as Mr. Savino said, he said that it
14 was unfortunate, well it's not unfortunate for my
15 objector, it's the basis of my objection. The
16 point here is if you adopt Mr. Alter's position,
17 you are introducing chaos into the process
18 because now I can file a petition, and let's keep
19 it to independent petitions. I can file an
20 independent petition each cycle, every other
21 year, and say that my acceptance filed in 1983
22 still applies because I didn't put the date of
23 the election. I think that's ludicrous. The date
24 of the election is part of the process. The

1 June 15, 2021

2 election that it applies to whether it's a
3 general or a primary election or a special
4 election. What happens if there's --

5 PRESIDENT UMANE: Okay, Mr. Champoli, we
6 understand.

7 MR. CHAMPOLI: -- a vacancy in this
8 office and there's a special next year. I think
9 you got my point.

10 PRESIDENT UMANE: Yeah, we got it.

11 MR. ALTER: Read Monkayo [phonetic],
12 Monkayo, the guy, the guy designated the wrong
13 election, the primary instead of the general. The
14 court said in reversing the board, they said the
15 following. It doesn't make any difference, the
16 guy filed a certificate of acceptance, and he's a
17 candidate and he's running for the office, the
18 office is designated, the name of the candidate
19 is designated and it was properly acknowledged.
20 And it says --

21 PRESIDENT UMANE: Mr. Alter, Mr. Alter,
22 we are going to check the cases and, and have
23 counsel --

24 MR. ALTER: I'm having a hard time

1 June 15, 2021

2 hearing you, mister.

3 PRESIDENT UMANE: We've now heard you
4 recite the cases four times and so that's enough.

5 MR. ALTER: I've got you.

6 PRESIDENT UMANE: So legal's going to
7 have to read them, to look at them to be able to
8 make a recommendation to us.

9 COMMISSIONER ZACCONE: Commissioner
10 Umane?

11 PRESIDENT UMANE: Mr. Champoli, we
12 understand your argument. And unless counsel is
13 prepared while we've been listening to the
14 various people, you should have an opportunity to
15 read the cases and report back to us. So we're
16 going --

17 COMMISSIONER ZACCONE: President Umane?

18 PRESIDENT UMANE: Yes?

19 COMMISSIONER ZACCONE: I'm sorry to
20 interrupt.

21 MR. ALTER: Then why are you doing,
22 mister.

23 COMMISSIONER ZACCONE: This is
24 Commissioner Zaccone. May I recommend that since

1 June 15, 2021

2 we have plenty of time until the general election

3 --

4 MR. ALTER: I'm having a hard time
5 hearing.

6 COMMISSIONER ZACCONE: -- that this
7 particular matter be moved to our next meeting
8 and it be addressed then and it will give counsel
9 sufficient time to review the case law.

10 PRESIDENT UMANE: I think that's a good
11 idea.

12 MR. ALTER: Sounds good to me.

13 MR. SAVINO: Thank you, commissioners.

14 MS. PATEL: Thank you.

15 PRESIDENT UMANE: Alright. So we're
16 going, we're going to --

17 MR. ALTER: What day, what day we going
18 to --

19 MR. SAVINO: Tuesday.

20 MS. SANDOW: No, it's not next Tuesday,
21 so let's not give out information.

22 MR. SAVINO: Oh, yeah, oh shoot, it'll
23 be two weeks.

24 MS. SANDOW: Okay, next Tuesday is

1 June 15, 2021

2 election day.

3 MR. SAVINO: Two weeks.

4 MR. CHAMPOLI: Commissioners, could I
5 suggest that you table it at the call of the
6 commissioners.

7 PRESIDENT UMANE: Right, okay.

8 MR. CHAMPOLI: For counsel to be given
9 notice?

10 MS. SANDOW: Yes. That's what we will
11 do. We will send out notice. Our next meeting
12 will not be next Tuesday, it'll be June 29th at
13 1:30 p.m.

14 MR. CHAMPOLI: Okay.

15 MS. SANDOW: Next Tuesday is election
16 day.

17 MR. CHAMPOLI: Okay, got you.

18 PRESIDENT UMANE: Okay.

19 MR. ALTER: So I understand this, Mr.
20 Umane, we're adjourning this whole process until
21 the 29th of June. Am I correct?

22 PRESIDENT UMANE: That's correct.

23 MR. ALTER: Alright. I just wanted to
24 make sure I get that correct.

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2 PRESIDENT UMANE: So --

3 MR. ALTER: Because I don't want to get
4 confused now.

5 PRESIDENT UMANE: [unintelligible]
6 [03:22:46] yeah, that's when we're doing it.

7 MS. SANDOW: You have the initials to
8 do.

9 MS. PATEL: Commissioners, we still have
10 the --

11 PRESIDENT UMANE: Thank you both.

12 MS. PATEL: Commissioners if I may, we
13 still have the other second called items, which
14 was from the prima facie calendars, there were
15 the three --

16 MR. ALTER: Am I done, am I done, Mr.
17 [unintelligible] [03:23:06]?

18 PRESIDENT UMANE: Yes, you're done.

19 MR. ALTER: Am I finished? I just want
20 to get off the line. Okay. Thank you.

21 PRESIDENT UMANE: Thank you.

22 MR. ALTER: Bye-bye.

23 MR. CHAMPOLI: Thank you, commissioners.

24 COMMISSIONER ZACCONE: Thank you.

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2 PRESIDENT UMANE: Okay.

3 MS. PATEL: Commissioners, if I may,
4 from the prima facie calendar that we heard
5 earlier today, there were three candidates who
6 filed late amended cover sheets. However, their
7 cover sheets, the original cover sheets were not
8 signed and they received no NCN from the board.
9 Those three candidates are Devin Balkind, that's
10 on page 1 of 14, Michael Lewyn, who is on page --
11 do you have that page? No, sorry, it's Balkind,
12 Michael Morgan and Casavis, sorry. And
13 commissioners, all three candidates filed amended
14 cover sheet, I guess acknowledging that their
15 cover sheet originally filed were not signed. And
16 if you recall, no NCNs were -- we confirmed that
17 no NCNs were sent out for their unsigned cover
18 sheet by our office. And therefore, they were not
19 given an opportunity to cure their defect of
20 their cover sheet.

21 Commissioner Umane, you recommended that
22 we send them an NCN and give them an opportunity
23 to cure, given that they had actually, if they
24 had filed, refilled properly, timely, would have

1 June 15, 2021

2 properly amended their cover sheets.

3 PRESIDENT UMANE: Or had an opportunity
4 to do so.

5 MS. PATEL: Right. Or, or had an
6 opportunity to do so.

7 PRESIDENT UMANE: Yeah. And Commissioner
8 Araujo was concerned that we were inappropriately
9 extending their time to file a cover sheet or an
10 amended cover sheet and it was my view that we,
11 since it was our obligation to send it and we
12 didn't send it, that it was sort of unfair to
13 them, because they would have had an opportunity
14 once we pointed out the defect to them.

15 COMMISSIONER ZACCONE: This would be --

16 PRESIDENT UMANE: Then it would be
17 timely. And so you were going to look to see if
18 there were cases --

19 MS. PATEL: Correct.

20 PRESIDENT UMANE: -- about this.

21 MS. SANDOW: Correct. So what did you
22 find, counsel, for the commissioners? Any cases?

23 MS. PATEL: We didn't --

24 MS. SANDOW: Any precedent?

1 June 15, 2021

2 MS. PATEL: -- commissioners we didn't -
3 - we didn't --

4 MR. SAVINO: I don't have any cases to
5 cite, but I will say that it was consistently
6 held at the commissioners' meetings this year,
7 you know, to avoid fraud that the cover sheet
8 should be signed.

9 PRESIDENT UMANE: Oh, no question that
10 the cover sheet should be signed. And, but
11 somehow these three instances, we missed it, so.

12 COMMISSIONER ARAUJO: This is
13 Commissioner Araujo. That being said, I would
14 second Commissioner Umane's motion to provide
15 them with an NCN notice.

16 PRESIDENT UMANE: Okay. Thank you. All
17 in favor?

18 MULTIPLE: Aye.

19 PRESIDENT UMANE: Anybody objecting? All
20 opposed? All abstentions? So that's what we're
21 going to do. And we'll send out the notices as
22 quickly as you can, and we'll have a cover sheet
23 meeting probably next, two weeks or in the
24 interim perhaps and --

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2 MS. SANDOW: The candidate --

3 MR. SAVINO: You can send to that, yeah?

4 MS. SANDOW: Can you give consent
5 please.

6 MR. GRINDLE: Yes, absolutely, NCN is
7 perfectly fine.

8 PRESIDENT UMANE: Okay.

9 MR. GRINDLE: The hearing will be held
10 earlier?

11 SECRETARY CAMILO: Any other matters?

12 MR. SAVINO: Not that I'm aware of.
13 That's it.

14 MS. PATEL: No, commissioners.

15 MS. SANDOW: That's it. That concludes
16 the hearings.

17 COMMISSIONER ZACCONE: Please, please,
18 before you go, I believe we had to, we second
19 called 11-1, which was the line by lines or the
20 clerks' report. And that the [unintelligible]
21 [03:27:30] finally sent that over to us a little
22 bit after we had requested it, so I think that's
23 still an open item.

24 COMMISSIONER TAYLOR: Get

1 June 15, 2021

2 [unintelligible] [03:27:40] back.

3 MS. SANDOW: He's not appearing for
4 John Tobacco. Blair is not here.

5 COMMISSIONER ZACCONE: I'm not talking
6 about the lawyers, I'm talking about --

7 MS. SANDOW: No, I'm sorry,
8 commissioner, I'm not talking to you. There's
9 somebody here.

10 COMMISSIONER ZACCONE: Oh, I apologize.

11 MS. SANDOW: That's okay.

12 COMMISSIONER ZACCONE: But am I correct
13 that 11-1 still needs to be addressed is my
14 question?

15 MS. PATEL: On the legal issues we have
16 that the commissioners voted that they were not
17 as stated. I --

18 COMMISSIONER ZACCONE: I, I thought we
19 had to vote on these clerks' report on 11-1, that
20 we hadn't previously.

21 MS. PATEL: Yeah, actually we didn't,
22 that's fine.

23 SECRETARY CAMILO: Yeah, they were sent
24 to us afterwards, which we all did receive now a

1 June 15, 2021

2 copy.

3 MS. PATEL: Oh, that's right. That's
4 right, commissioner. You didn't have a copy of it
5 at the time.

6 SECRETARY CAMILO: Right.

7 COMMISSIONER ZACCONE: Correct.

8 MS. KONTZAMANIS: There is an
9 appearance, and the person is waiting in the
10 lobby.

11 MS. SANDOW: Sorry.

12 MR. GRINDLE: No worries.

13 MS. KONTZAMANIS: Oh, sorry. Alexandra
14 Sherer is in the lobby. She is representing --

15 PRESIDENT UMANE: She's the objector.

16 MS. KONTZAMANIS: The objector.

17 MS. SANDOW: And there is somebody here
18 on behalf of the candidate?

19 MR. GRINDLE: That'd be me.

20 MS. SANDOW: No, I found out today that
21 there's [unintelligible] [03:29:03].

22 MR. SATTIE: No, there is not.

23 PRESIDENT UMANE: Alright, well, I move
24 the clerks' report.

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2 MS. KONTZAMANIS: We're going to admit
3 Ms. Scherer.

4 PRESIDENT UMANE: Who are we going to
5 admit? Ms. Sherer?

6 MS. KONTZAMANIS: She is in the meeting.

7 MS. SHERER: Hi, commissioners.

8 PRESIDENT UMANE: Hello. So --

9 MS. SHERER: Thanks for [unintelligible]
10 [03:29:27].

11 PRESIDENT UMANE: So I'm going to move
12 the clerks' report.

13 MS. SHERER: Okay.

14 PRESIDENT UMANE: The total valid
15 signatures are 3,557, the total required is
16 3,750. It's insufficient. So, Ms. Sherer, do you
17 have any objection to us moving the clerks'
18 report?

19 MS. SHERER: No objection to that.

20 SECRETARY CAMILO: And I would second,
21 thank you.

22 COMMISSIONER ARAUJO: There's no
23 appearances by the other side?

24 MS. SANDOW: Yes, there is. He's just

1 June 15, 2021

2 filling out a notice of appearance, I'm sorry.

3 PRESIDENT UMANE: Oh, I'm sorry, we
4 didn't know.

5 MS. SANDOW: Well, we didn't know
6 either.

7 COMMISSIONER SHAMOUN: Things are moving
8 very fast today. I think we should slow it down,
9 this time and next time too.

10 MS. SANDOW: Hello?

11 SECRETARY CAMILO: Is he there in
12 person?

13 MS. SANDOW: Yes, he is.

14 SECRETARY CAMILO: Because I thought we
15 required notices by yesterday.

16 MS. SANDOW: There was a notice of
17 appearance, and from what I'm being told, and the
18 other attorney couldn't show and he was here
19 already for another matter and was asked to
20 appear.

21 PRESIDENT UMANE: We should hear him, we
22 should hear him if he's here. Who is, let us,
23 give us your appearance.

24 MR. SAVINO: Thank you.

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2 MR. GRINDLE: Hello again.

3 MS. SANDOW: Okay. Legal.

4 PRESIDENT UMANE: So, sir, please give
5 us your appearance and do you have an exception
6 report for us?

7 MR. GRINDLE: An exception report, uh,
8 no I have the ruling from the -- the
9 recommendation from the commissioners to not
10 consider the spec for all the reasons we had
11 originally -- you guys had originally discussed
12 earlier. Additionally, I'd also like to add that
13 it incorrectly cites the number of signatures as
14 7,500. In the spec I noticed that that wasn't
15 mentioned before. The correct number is 3,750,
16 which means that Ms. Sherer by admitting that
17 Tobacco submitted 4,900 signatures is directly
18 stating in her own spec that Tobacco has
19 submitted the number of signatures required to
20 appear on the ballot.

21 COMMISSIONER TAYLOR: There is something
22 wrong here.

23 COMMISSIONER TOWNSEND: Our counsel's
24 report --

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2 COMMISSIONER SHAMOUN: What's the
3 response? I had trouble following. What was the
4 allegation or response?

5 COMMISSIONER TAYLOR: We're talking
6 about New York 11-1, correct?

7 MS. SANDOW: Yes.

8 MS. PATEL: So, commissioners, if I may,
9 you have the counsel's report on New York 11-1,
10 where the objection, the specifications are
11 flawed in the specific language of the
12 specification, the objection is to -- the
13 objection is to Mr. Tobacco's independent
14 nominating petition for mayor of the city of New
15 York. If you look at it, it's quoted, it's in the
16 specifications.

17 COMMISSIONER TAYLOR: Yes, because he
18 running as comptroller.

19 MS. PATEL: Right Because if you look at
20 the language as the specifications, says office
21 of mayor and it cites the number of signatures
22 required for mayor. And that is --

23 COMMISSIONER ZACCONE: So if that's the
24 case, then the specification is in error.

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2 MS. PATEL: Yes, commissioners.

3 COMMISSIONER ZACCONE: And --

4 COMMISSIONER TAYLOR: It must be
5 dismissed.

6 MS. PATEL: That portion of it, yes. And
7 I went, we went on to discuss the claim that you
8 need to cite the city charter as we discussed
9 before, and all of the other issues with regard
10 to the cover sheets were all covered by our
11 bipartisan review team and a commissioners cover
12 sheet review committee, but the fact that there's
13 an error with regard to correctly naming the
14 candidacy, it is of course a fatal defect in the
15 specifications.

16 COMMISSIONER ZACCONE: Okay, so if I
17 could just clarify for a second, so I can
18 understand. The legal report we addressed
19 already.

20 MS. PATEL: Yes.

21 COMMISSIONER ZACCONE: The, the
22 signature specifications and the clerks' report,
23 we have not addressed yet.

24 MS. PATEL: Yes.

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2 COMMISSIONER ZACCONE: But you are
3 telling me that the general and specific
4 specifications filed in this matter have named
5 the wrong position --

6 MS. PATEL: Yes.

7 COMMISSIONER ZACCONE: -- in their
8 objection.

9 MS. PATEL: Yes, commissioners, the
10 attached, it's all attached as exhibits if you
11 will, if you look at the counsel's report, the
12 specifications are attached.

13 COMMISSIONER ZACCONE: Mm-hmm.

14 MS. PATEL: As Exhibit Attachment 1. And
15 --

16 COMMISSIONER ZACCONE: Okay. So --

17 MS. PATEL: -- the language --

18 COMMISSIONER ZACCONE: -- so based --

19 MS. PATEL: Yes.

20 COMMISSIONER ZACCONE: Sorry, so based
21 upon our longstanding position specifications
22 have to be properly and strictly construed, it's
23 my understanding that these specifications should
24 be thrown out as being incorrect.

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2 MS. SHERER: Commissioners, if I may
3 speak up?

4 COMMISSIONER ZACCONE: Before you do, I
5 just want to ask my counsel to opine on that, and
6 then we'll hear from you.

7 MS. SHERER: Okay.

8 MS. PATEL: Yes, commissioners, that was
9 our position, both myself and Mr. Savino agreed
10 that the specifications are in fact erroneous and
11 should be found as not as stated, yes.

12 COMMISSIONER ZACCONE: Okay, Ms. Sherer,
13 I'm sorry. I didn't mean to interrupt you.

14 MS. SHERER: Thank you, commissioners. I
15 would strongly disagree with that contention. My
16 cover sheet correctly stated the office, which
17 John Tobacco Jr. is seeking, which is comptroller
18 of the city of New York. As everyone is aware,
19 the cover sheet requires strict compliance. The
20 worksheets provided in the spec do not actually
21 have to state the office in which the person is
22 seeking.

23 MS. PATEL: That's not what we're
24 talking about.

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2 MS. SHERER: So I actually provided more
3 information, albeit was a small clerical error.
4 However, I did not need to provide the office and
5 the actual worksheet of the spec and I did
6 strictly comply with the cover sheet requirement
7 for my spec.

8 COMMISSIONER ZACCONE: Okay.

9 MS. SHERER: And also, in addition,
10 sorry, the candidate was on notice about my spec
11 because of the cover sheet being in strict
12 compliance and stated the office that he is
13 seeking, which is comptroller for the city of New
14 York. Thank you.

15 MS. PATEL: So, commissioners I just
16 want to clarify for the record that Ms. Sherer is
17 speaking about her line by line and we're talking
18 about her legal spec, which is incorrect.

19 PRESIDENT UMANE: So the question that
20 we have to face I guess, is if the legal spec on
21 those sheets was improper and incorrect whether
22 that tarnishes the entire objection including the
23 line by line, where I guess there were -- of
24 course it doesn't seem to have been worked,

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2 because there are no comments to it. So I guess
3 that's the issue that we're facing and it's one
4 we face a lot. And I think the issue is, as
5 Commissioner Zaccone laid it out that we have to
6 comply strictly with particularly in objections
7 that they don't have the liberality of the
8 petitions and that they have to be strictly
9 construed. And if this is incorrect, it's
10 incorrect.

11 MS. SHERER: If I could just add one
12 thing as well. I would just ask for the clerks'
13 report to be moved. It is obviously the most
14 basic requirement that candidates for public
15 office in the state of New York have a certain
16 number of signatures and the candidate here did
17 not have that number of signatures. And
18 therefore, he was not compliant with the election
19 law, so I would ask for the clerks' report to be
20 moved. Thank you.

21 COMMISSIONER MARMORATO: I would say
22 based on the recommendation of legal, I'll move
23 to dismiss the spec and the legal objection.

24 COMMISSIONER ZACCONE: And to -- I'll

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2 second that, but I'll also then move to dismiss
3 the clerks' report.

4 PRESIDENT UMANE: Okay. All in favor?

5 MULTIPLE: Aye.

6 PRESIDENT UMANE: All opposed? All
7 abstentions? So the candidate remains on the
8 ballot.

9 MR. GRINDLE: Thank you.

10 MS. PATEL: Thank you, commissioners.

11 PRESIDENT UMANE: If the spec is out,
12 then nobody looks beyond that. So, that's where
13 we are.

14 MR. GRINDLE: Thank you very much,
15 commissioners. And I appreciate you letting me
16 speak at the last minute for him.

17 MS. SANDOW: You're welcome. Thank you.

18 MR. GRINDLE: Have a good day.

19 MS. SANDOW: You too.

20 MS. PATEL: I believe that's it.

21 PRESIDENT UMANE: So, is there anything
22 else?

23 MS. PATEL: No, that's it,
24 commissioners.

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2 MR. SAVINO: No, there appears to be no
3 other business before the board at this time.

4 SECRETARY CAMILO: Thank you all so
5 much. [unintelligible] [03:39:43].

6 COMMISSIONER ZACCONE: Thank you
7 everyone. Thank the staff.

8 COMMISSIONER TAYLOR: Do we still have
9 to --

10 COMMISSIONER ZACCONE: [unintelligible]
11 [03:39:48] two weeks.

12 COMMISSIONER TAYLOR: Don't we have to -
13 -

14 MS. SANDOW: Yes.

15 COMMISSIONER TAYLOR: -- dispose of our
16 weekly meeting?

17 MS. SANDOW: No, yes, we still have an
18 update for the June primary and there was, we
19 wanted to add executive session for litigation
20 also. Georgea, do we still have all our
21 commissioners, or have they signed off?

22 COMMISSIONER TAYLOR: We're still here.

23 MS. KONTZAMANIS: You have a quorum.

24 COMMISSIONER ZACCONE: I'm still here.

1 June 15, 2021

2 MS. SANDOW: We have a quorum?

3 PRESIDENT UMANE: Yeah.

4 MS. KONTZAMANIS: Yes, ma'am.

5 MS. SANDOW: Okay.

6 PRESIDENT UMANE: So we need an update
7 on the --

8 MS. SANDOW: Yes. And then we have
9 litigation executive session. Today is day four
10 of early voting. As of the close of polls
11 yesterday, 43,720 voters have voted early
12 citywide. As of 12:00 noon today, a little over
13 5,500 voters had voted so far citywide. We remind
14 the public that the polls are open today until
15 8:00 p.m., early voting goes on until this
16 Sunday, June 20th. For early voting hours or to
17 find your assigned early voting location, please
18 visit our website at vote.nyc or call us at 866-
19 VOTENYC.

20 We are happy to report the pilot of the
21 early voting wait time map has been executed
22 successfully. We have received positive feedback
23 from both the public and the staff. We doubled
24 the visits to our website this week compared to

1 June 15, 2021

2 the week before and have received almost 200,000
3 searches on the poll site locator this week
4 alone.

5 We are continuing to process and send
6 out absentee ballots. To date, there's 210,795
7 that have been sent out which includes the vendor
8 uploads to NYS Ballot, and in-person absentee
9 issued by the borough office. As of 10:00 a.m.
10 today, we have received back a total of 52,074
11 citywide. We remind the public that today is the
12 last day to apply for an absentee ballot. You may
13 apply using the portal e-mail or fax until
14 midnight tonight or postmark your ballot
15 application by June 15th.

16 Election day testing of equipment is
17 complete and deliveries are ongoing and on track.
18 Our refresher training will continue throughout
19 the weekend for our election poll workers,
20 reinforcing what is new, ranked-choice voting and
21 the two-page ballot. As of date, we are at 92
22 percent citywide assigned for election day and
23 are on track for next Tuesday. We have received
24 all individual borough commissioner approvals for

1 June 15, 2021

2 poll worker exceptions in their respective
3 boroughs. The citywide report was sent to each of
4 you earlier. We just ask that the full board
5 ratify the borough commissioners' approval. Can
6 we move with a vote for the exception reports?

7 PRESIDENT UMANE: Okay. So I would move
8 that we adopt the exception reports and this is
9 required by the full board pursuant to the quote,
10 Kellner Rule, who came up with the requirement to
11 make sure that individual boroughs did not abuse
12 the obligation of making everybody a coordinator
13 instead of just a poll worker so that they can
14 get extra money. If there's a second, we should
15 approve it and have it come into effect on
16 election day.

17 COMMISSIONER MARMORATO: Commissioner
18 Marmorato, I second it.

19 PRESIDENT UMANE: All in favor?

20 MULTIPLE: Aye.

21 PRESIDENT UMANE: All opposed? All
22 abstentions? It's carried unanimously.

23 MS. SANDOW: Commissioners, this
24 concludes today's agenda, the next stated meeting

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2 is Tuesday after election day, 1:30 p.m. on June
3 29th. Can we close the meeting for executive
4 session?

5 PRESIDENT UMANE: Yeah, just one thing
6 before we do. I had received a couple of phone
7 calls this morning about people asking about what
8 we're doing about providing information about the
9 election. And, sorry about that. And what we had
10 propounded last week was that on election night,
11 we would be providing the first place vote for
12 early voting and election day results on that
13 evening, usually between 9:30 and 10:00, polls
14 closing at 9:00 o'clock, which is
15 [unintelligible] [03:44:39]. And unfortunately,
16 we will not be able to do any sort of calculation
17 of the ranked-choice voting until approximately a
18 week afterward, at which time we would run the
19 algorithm in the program that was approved by the
20 state board. Once we've gotten back the scanners
21 from the various locations. And we're not able to
22 run the algorithm from the initial information
23 that we get, the memory sticks on election night.
24 And we have to wait until all of the scanners are

1 June 15, 2021

2 returned to the voting machine facilities. And
3 then we were going to rerun the program weekly
4 and announce on Tuesdays adding in the counted
5 affidavit and absentee/mail in ballots thereafter
6 as they come in.

7 We wanted to remind everybody that the
8 mail in absentee procedure requires the board to
9 resend out the ballots for those that are not
10 completed in certain respects and that we then
11 have to wait for those ballots to come back
12 before they can be processed and counted. And
13 after we have certified, it is our intention to
14 provide the full backup information to everybody.

15 But it's important to know that as of
16 the first Tuesday when we provide the initial
17 unofficial results, that those results can
18 change. And that [unintelligible] [03:46:31]
19 necessarily [unintelligible] [03:46:33] by
20 whatever those numbers are. They may be valid,
21 they may be not, they'll be valid and correct,
22 but they may not be dispositive depending on the
23 addition of the mail-in absentee ballots and
24 affidavit ballots.

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2 So [unintelligible] [03:46:52] and
3 understand that it's a longer process than what
4 people are used to and we are going to do the
5 best we can to provide information as we can and
6 as we get it. So, thank you. And so now we should
7 go into executive session to promptly discuss a
8 litigation.

9 MS. SANDOW: And just so the public
10 knows, this process will be posted on our website
11 on our Friday, so that the public can see what
12 the process is going to be and the times and the
13 dates, okay.

14 PRESIDENT UMANE: Okay.

15 MS. SANDOW: Thank you.

16 PRESIDENT UMANE: Thank you.

17 COMMISSIONER ZACCONE: I move we go into
18 executive session for litigation matters.

19 PRESIDENT UMANE: Second. All in favor?
20 All opposed? All abstentions? Okay. Here we go,
21 executive session.

22 [EXECUTIVE SESSION]

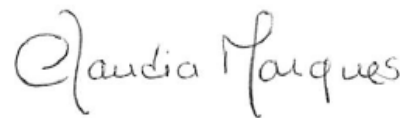
23 (The meeting concluded at 5:40 p.m.)

24

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Board of Elections in The City of New York on June 15, 2021 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Claudia Marques

Date: December 17, 2021

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