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EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
FAX (212) 487-5349
www.vote.nyc.ny.us

AGENDA COMMISSIONERS' MEETING TUESDAY, OCTOBER 27, 2009 AT 1:30 P.M.

1. Minutes
 - a) 09/22/09
 - b) 10/06/09
 - c) 10/06/09 *Finance Committee*

2. Marcus Cederqvist
 - a) HAVA Update
 - b) Report on NYS Assembly Hearing – Thursday, October 22, 2009
 - c) Report on 2009 Voter Registration Activity

3. George Gonzalez
 - a) November 27, 2009

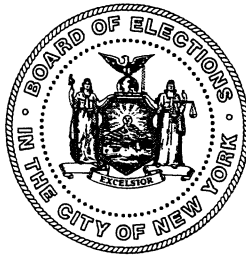
4. John Ward
 - a) Vacancy Report

For Your Information

- Hendrik Hertzberg Discusses National Popular Vote at Demos – 11/3
- HAVA Weekly Status Report, Week Ending October 22, 2009
- Special Terms for Election Matters – November 3, 2009 General Election
- Supreme Court of the State of New York, Appellate Division: Second Judicial Department – Osaretin Ighile, Appellant, v Board of Elections in the City of New York, Respondent – Decision & Order – Index No. 700036/09
- Department of Justice Pre-Clearance of Submissions Numbered 2009- K -11
- For Immediate Release - City of New York Conflicts of Interest Board
- United States Court of Appeals for the Second Circuit – Jose Adames, Plaintiff-Appellant v. Steven Richman, NYC Board of Elections, New York City Law Department, Defendants-Appellees – Order Docket Number: 09-4047-cv
- For Immediate Release: Schumer Announces Senate Committee to Conduct Review of Proposed Diebold Merger; Says Deal Needs' Additional Scrutiny' From Consumers and Congress

News Items of Interest

- *The Daily News*: City's No-Cash Poll Dance
- *The New York Post*: Election Board Broke
- *The New York Times*: Congress Approves Bill Helping Overseas Voters



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TESTIMONY ON BEHALF OF THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK BEFORE THE NEW YORK STATE ASSEMBLY COMMITTEES ON ELECTION LAW, EDUCATION, AND LIBRARIES AND EDUCATION TECHNOLOGY THURSDAY, OCTOBER 22, 2009 NEW YORK CITY

Chair Millman and Members of the New York State Assembly's Committees on Election Law, Education, and Libraries and Education Technology, I want to thank you for giving the Board of Elections in the City of New York this opportunity to share with you the challenges we face in effectively implementing a HAVA-compliant voting system for the September 2010 Primary Election.

The City Board conducted a Citywide Primary Election on September 15, 2009 and a citywide Runoff Primary Election for the Democratic candidates for Public Advocate and Comptroller on September 29, 2009. Extensive preparations are currently underway to conduct the November 3, 2009 General Election where the voters of this City will elect their next Mayor, Public Advocate, Comptroller, five Borough Presidents and all the Members of the New York City Council in addition to District Attorneys in Brooklyn and Manhattan and members of the judiciary.

There is a common and pervasive misperception where people confuse the fact that voting is a fundamental right with the fact that elections cost money. No Board of Elections controls the level of activity required by law, court order and executive proclamations. Unlike many other agencies, virtually all of the Board's duties, responsibilities, and activities are prescribed by Federal, State, and local law. The Board does not have the discretion to delay or cancel an election based on municipal budget shortfalls, nor can it delay processing voting registration forms or providing language assistance to voters.

The Board began this Fiscal Year with a structural deficit of over \$30 million. This was the case during the last fiscal year as well. Critical legal obligations such as the September 29 Runoff Primary or the collective bargaining salary increases for our unionized employees are not funded. We have taken the liberty of attaching to this testimony a chart describing in greater detail the persistent and chronic under-funding of electoral administration in New York City as well as a letter that the Board sent to the Mayor's Office of Management and Budget and others last week requesting additional funds to enable the Board to conduct the November 3rd General Election.

Given the compressed electoral calendar this year, with the New York City Board of Elections conducting three citywide elections in a span of only eight weeks, the Board determined that it could not participate in a pilot program coordinated by the State Board of Elections where several jurisdictions throughout the state are using optical scan voting machines on a limited basis during this Election Cycle. However, the City Board continues its intensive efforts to completely revise how elections will be conducted in this city for the 2010 Elections when it will be required to use optical scan voting machines.

As you know, the State Board has not yet certified any new voting system for use within the State of New York. The City Board continues to hope that the State Board will successfully complete that process in accordance with the schedule they submitted to the U.S. Department of Justice and the United States District Court in Albany. Under that schedule, the City Board will make its selection shortly after the State Board certifies the new voting system or systems, which is projected as mid to late December 2009.

To date, the most significant challenges we have identified as we seek to effectively implement the new HAVA-compliant voting system is the lack of

sufficient resources, particularly adequate funding to make a successful transition. As we move forward with more detailed planning we are certain to identify with great specificity additional requirements, the costs of which will need to be covered. Without adequate funding, it will be virtually impossible to successfully make this dramatic change. As anyone familiar with change management projects can attest to, you only get one opportunity to make an entirely new implementation and that one opportunity takes an enormous amount of resources to be executed correctly.

For the current Fiscal Year, the Board sought to implement important changes to our poll worker recruitment and training programs as well as poll site management and operations that would have assisted in the transition to a new system. We projected these to cost approximately \$4.6 million, none of which was funded by the City of New York. I want to take a moment and briefly highlight what the City Board believes has to be done, if we are to successfully change the way we vote here in the City of New York.

Poll workers are clearly a critical part of the voting experience. The Board has asked the City on numerous occasions for support to ensure that it has the resources to adequately train the poll workers. It is important to note that, unlike some of the changes that have occurred in voting and election administration over the years, which have been evolutionary in nature, the introduction of a new voting system for the whole city will, in fact, be revolutionary – not only for the Board’s more than 350 permanent staff and more than 30,000 Election Day poll workers, but also for the 4.6 million registered voters in New York City.

The implementation of an entirely new voting system will have a tremendous impact on the administration of elections in New York City. Poll workers will need extensive training to properly assist voters on Election Day and the voters themselves will need to be educated so that they understand the changes in voting well in advance of being confronted with an entirely new way of voting when they go to vote. In reviewing the Board’s poll worker operations and comparing it to other jurisdictions nationwide, the Board has identified numerous recommendations to enhance the agency’s ability to recruit and train the large number of qualified poll workers that are needed. Among our key recommendations:

- raise the pay for attending training classes from \$25 to a more realistic \$100. The new voting system requires a

longer training class and greater hands-on trainee participation;

- increase the performance award paid to certain poll workers from \$35 to \$100. The award is paid as an incentive for poll workers to attend training, pass the test, and ensure that they work the two regular election events. The BOE believes that increasing this award is a fair and more effective incentive for poll workers to complete all the criteria associated with the payment;
- increase compensation paid to poll site coordinators to \$100 (\$50 for the Primary Election and \$50 for the General Election) to participate in the post-election debriefing sessions. Coordinators are not eligible for the performance award described previously but receive a mere \$25 for attending a debriefing session with the borough staff to discuss the recent election and any problems. These sessions are vitally important for the BOE staff to address problems and plan for subsequent elections. We believe that elevating the compensation will result in a greater rate of participation in the debriefings among the coordinators.
- raise the amount paid to privately owned poll sites on each Election Day. The BOE has been losing many long-time privately owned poll sites over the last few years and finds it increasingly difficult to secure new ones. There are 554 privately owned sites serving approximately 1,600 Election Districts (EDs) that the BOE must rent in areas where no public facilities are available. The current remuneration of \$70 per ED has remained unchanged for decades. Several property owners who have leased space to the BOE on Election Days past have stated that the current amount is insufficient to cover their operating costs. Increasing the compensation paid to privately owned sites to \$165 per ED would help the BOE retain private poll sites at this critical time when our space needs are increasing.

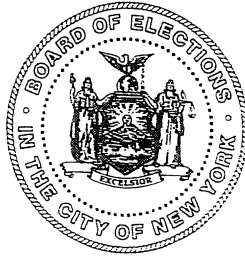
Educating the public about voting and accommodating their expectations is also a critical element of successful elections and a necessary component of a new voting system implementation. The Board has retained the services of an established communications and outreach firm, Burson-Marsteller to assist us in the design and implementation of a public

education and information effort. An original comprehensive plan cost approximately \$16 million to implement but was reduced to \$6.7 million as a consequence of City Budget reductions. To help put this figure in context, please note that it costs nearly \$2 million in postage alone to send a mailing to the City's 4.6 million registered voters.

We are anticipating numerous other challenges as well. The City Board expects that detailed review and analysis of the new system following its selection will reveal that myriad modifications to the equipment and software will be necessary to make it conform with the city's requirements. The costs of such changes cannot be precisely projected until the Board has selected the system and the staff is able to begin working directly with the chosen vendor. Nonetheless, we once again have not been given sufficient budgetary resources to address this anticipated contingency. Further, there will be a dramatic increase in recurring expenditures such as the cost of printing and distributing millions of paper ballots for each election event as well as the cost of transporting the new optical scan voting systems and all the materials necessary to conduct elections in over 6,000 election districts spread out over 1,350 different poll sites.

In conclusion, we want to make a special point to note that we all recognize the fiscal challenges faced by all levels of government, but the conduct of fair, honest, and open elections is a fundamental right in our democracy. The lack of adequate funding to enable Boards of Elections throughout this State to perform their statutory duties and make a successful transition to a new voting system at this critical time puts our democracy at risk. The City Board once again urges the State of New York to establish by law a mandatory minimum funding level for each Board of Elections within this State so that we collectively are not made to be beggars going with cup in hand each year but have the necessary resources and ability to ensure that the electoral process in the Empire State is one that we can all be proud of.

I thank you again for your time and for allowing me to come before you on behalf of the Board of Elections in the City of New York today. As always, we are available to answer any questions that you may have.



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October 15, 2009

VIA FAX AND MAIL

Hon. Mark Page
Director
Office of Management and Budget
75 Park Place
New York, NY 10007

Dear Mr. Page:

We are writing on behalf of the Commissioners of Elections to request funding for the November 3, 2009 General Election that the Board of Elections in the City of New York is required to conduct pursuant to the New York State Election Law (including Section 8-100 (1)(c)).

The Commissioners of Elections in the City of New York, pursuant to the provisions of Section 8-100(1)(a) and (b) have conducted the Fall Primary Election on September 15, 2009 and the Runoff Primary Election on September 29, 2009. Please note that Section 6-162 of the New York State Election Law requires the BOE to conduct a Runoff Primary Election in instances when a candidate for Mayor, Public Advocate, or Comptroller fail to garner at least forty percent of the votes cast by enrolled members of the party in a Primary Election. This year, the BOE conducted the mandated citywide Runoff Primary Election for the Public Offices of Public Advocate and Comptroller.

Funding for three citywide elections events was not included in the City's Fiscal Year 2010 (FY'10) Expense Budget that the Mayor and City Council adopted in June. As you know, the BOE is unique in that a majority of its expenditures occur during the first half of the Fiscal Year in conjunction with the election calendar. Due to the failure of the city to provide sufficient funding for the Board to discharge its Constitutional and statutory obligations, the BOE does not have the necessary funding to enable it to meet its financial obligations to vendors and poll workers for the General Election to be held on Tuesday, November 3, 2009. In the absence of an immediate appropriation of sufficient funds as outlined below, the Board has a legal and

moral obligation to advise its poll workers and vendors that the City of New York has failed to provide the Board with the funds necessary to pay them for their services and if they choose to provide any service to the voters of this City, they do so at their own financial risk.


The BOE is in the process of paying the more than 30,000 poll workers who served the voters during the Primary and Runoff Elections. The Board requires an additional \$7 million to pay the poll workers who are needed for the November General Election. In order to ensure that these poll workers who report to work can be compensated with timely payments and to avoid further attrition in the future, it is vital that the funds be made available immediately. The failure of the City to address immediately this need, and the resulting reality that poll workers will not show up to work on Election Day knowing that they will not be compensated for their efforts, would imperil the voting rights of the city's more than 4 million voters and expose the City to additional liability under the federal Voting Rights act of 1965, as amended.

In addition to the immediate concern and priority of obtaining funding for the unfunded election events that were required under State Law, the BOE continues to be beset by under funding overall, which inhibits our ability to meet our statutory obligations and our efforts to comply with a federal court order to replace the mechanical lever voting machines with a new voting system in compliance with the Help America Vote Act (HAVA).

Our office projects a deficit of \$11 million in personal services (PS) in FY'10 due to both initial under funding by the City and collective bargaining increases. For expenses related to other than personal services (OTPS), the BOE received an initial under funding of \$7 million for FY'10, was obligated to conduct the unfunded Runoff Primary Election at a cost of approximately \$13.5 million, and faces the 5% matching payments to the New York State Office of General Services (OGS) of at least \$2 million for the new voting system in the months ahead. These considerations leave the agency with a combined projected funding deficit of more than \$33 million for FY'10, not including the need for at least one Special Election for an Assembly District in Queens in early 2010.

We have taken the liberty of enclosing for your review a chart detailing the agency's funding needs to ensure its ability to serve the voters of New York City. While we are acutely aware of the City's fiscal situation, we do not have the discretion to control the level of activity required by the BOE or modify its legal mandates and obligations under court orders. Please feel free to contact us if you have any questions or if we can be of any assistance with this matter.

Sincerely,



Marcus Cederqvist
Executive Director



George González
Deputy Executive Director

cc: Hon. Michael R. Bloomberg, Mayor of the City of New York
Hon. Kevin Sheekey, Deputy Mayor for Government Affairs
Hon. Edward Skyler, Deputy Mayor for Operations
Hon. Christine C. Quinn, Speaker of the New York City Council
Hon. David I. Weprin, Chair of the Finance Committee
Hon. Helen Sears, Chair of the Committee on Governmental Operations
Commissioners of Elections of the City of New York
Commissioners of Elections of the State of New York
Hon. Eric Holder, Attorney General of the United States

FY10 OTPS PROJECTION
10-20-09

FY10

| | | |
|------------------------------------|--|---------------------|
| OTPS ALLOCATION | | \$68,675,379 |
| OTPS ALLOCATION Minus HAVA Funding | | \$53,505,379 |
| Minus Rent Money and Intra-City | | <u>\$20,428,972</u> |
| Adj. Total | | \$33,076,407 |

| | | |
|---------------------|--|--------------------|
| Day to Day Spending | | <u>\$5,000,000</u> |
| Adj. Total | | \$28,076,407 |

| | | |
|------------------------------|---------------------|----------------------|
| 2 Event Costs | | |
| 117 Postage | \$2,500,000 | |
| 412 Rental tables and chairs | \$350,000 | |
| 417 Advertising | \$400,000 | |
| 600 Contractual | \$650,000 | |
| 615 Printing | \$12,000,000 | |
| 633 Trucks-Cabs | \$4,000,000 | |
| 414 Poll sites | \$300,000 | |
| 686 Pollworker | <u>\$15,000,000</u> | |
| 2 Event Costs | \$35,200,000 | <u>-\$35,200,000</u> |
| Adj. Total | | -\$7,123,593 |

| | | |
|---|--|----------------------|
| Projected PS Deficit Including Collective Bargaining | | <u>-\$11,000,000</u> |
|---|--|----------------------|

| | | |
|-----------------|--|---------------|
| Deficit Balance | | -\$18,123,593 |
|-----------------|--|---------------|

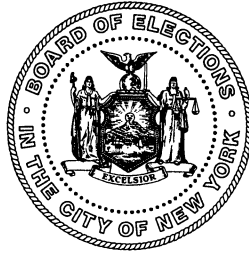
| | | |
|---------------------|--|---------------|
| September 29 Runoff | | -\$13,500,000 |
|---------------------|--|---------------|

| | | |
|----------------------------|--|---------------------|
| New Voting System 5% Match | | <u>-\$2,000,000</u> |
|----------------------------|--|---------------------|

| | | |
|------------------------|--|---------------|
| Projected FY10 Deficit | | -\$33,623,593 |
|------------------------|--|---------------|

Assumptions:
All Rent and Intra-City money is spent.
No other cuts.

Most numbers rounded



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ADMINISTRATIVE MANAGER

JOHN J. WARD
FINANCE OFFICER

DATE: October 27 2009
TO: Commissioners

FROM: John Ward
Finance Officer.

RE: Vacancies

| | | | | | Inc. | New. |
|---|---------------------------|------------|-------|------|----------|----------|
| | | | | | \$75,000 | |
| 1 | Assistant General Counsel | | | | | |
| 2 | Valerie Marshall | Adm. Asst. | N.Y. | Dem. | \$39,440 | \$37,562 |
| 3 | Robert Helenius | VMT | Bklyn | Rep. | \$27,818 | \$26,493 |
| 4 | Lisa Sattie | Adm. Asst. | S.I. | Dem. | \$39,440 | \$37,562 |
| 5 | Angela Petit | Clerk. | Bklyn | Rep. | \$27,111 | \$25,820 |

F.Y.I.

Marcus Cederqvist

From: Yusuf, Bibi [byusuf@cityhall.nyc.gov]
Sent: Monday, October 26, 2009 11:15 AM
Subject: FW: Hendrik Hertzberg Discusses National Popular Vote at Demos - 11/3

Attn: Chair, Commissioners & Representatives:

The article below is FYI:

Thanks

Bibi N. Yusuf
 Office Manager
 Voter Assistance Commission
 100 Gold Street, 2nd Floor
 New York, NY 10038
 Tel.: 212-788-8384
 Fax: 212-788-2527
 Email: byusuf@cityhall.nyc.gov
 website: www.nyc.gov/voter

From: Demos Events [mailto:updates@demos.org]
Sent: Monday, October 26, 2009 8:06 AM
To: Coward-Mayers, Onida
Subject: Hendrik Hertzberg Discusses National Popular Vote at Demos - 11/3

Demos

Events

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Electoral College Reform: The National Popular Vote Plan for President

With Hendrik Hertzberg, Chris Pearson, Rob Richie, and Brenda Wright

Date: Tuesday, November 3, 2009
Time: 12:00 - 2:00 pm

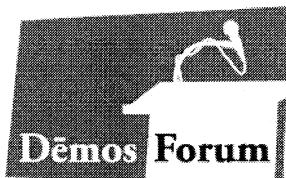
Location: Demos
 220 5th Avenue, 5th Floor
 New York, NY - [map](#)
 212.389.1399

"The promoters of a National Popular Vote, as they're calling themselves, have come up with an elegant finesse. Instead of trying to change the Constitution, they propose to apply it, one bit in particular: Article II, Section 1, which instructs each state to 'appoint' its Presidential electors 'in such Manner as the Legislature thereof may direct.' Here's how the plan would work. One by one, legislature by legislature, state law by state law, individual states would pledge themselves to an interstate compact under which they would agree to award their electoral votes to the nationwide winner of the popular vote. The compact would take effect only when enough states had joined it to elect a President - that is, enough to cast a majority of the five hundred and thirty-eight electoral votes. And then, presto! All of a sudden, the people of all fifty states plus the District of Columbia are empowered to elect their President the same way they elect their governors, mayors, senators, and congressmen. We still have the Electoral College, with its colorful eighteenth-century rituals, but it can no longer do any damage. It becomes a tourist attraction, like the British monarchy." -**Hendrik Hertzberg**, *The New Yorker*, February 27, 2006

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To RSVP or for more information, please contact Jinny Khanduja at jkhanduja@demos.org or 212.389.1399, or [click here](#).

This event will be webcast LIVE at www.demos.org.

The Electoral College system as we know it may soon change. **Demos** and **FairVote** are proud to present a forum with *The New Yorker* magazine's **Hendrik Hertzberg**, National Popular Vote's **Chris Pearson**, FairVote's **Rob Richie**, and Demos' **Brenda Wright** to discuss the future of the National Popular Vote initiative.

The National Popular Vote bill advancing in states around the country would guarantee the Presidency to the candidate who receives the most popular votes in all 50 states and the District of Columbia. Since its proposal in 2006, it has passed 29 legislative chambers in 19 states, and has been enacted by Hawaii, Washington, Illinois, New Jersey, and Maryland: states representing nearly a quarter of the 270 necessary to activate the law in the next presidential election. Join us for a lively discussion about the implications of NPV for future U.S. Presidential elections.

For more background on the National Popular Vote Plan and what it means for upholding equality, please visit the following:

[National Popular Vote's Website](#)

[FairVote's 2008 Election Analysis](#)

Speakers:



Hendrik Hertzberg is a Senior Editor at *The New Yorker* magazine, where he frequently writes the lead essay or "The Talk of the Town." Hertzberg has served as President Jimmy Carter's chief speechwriter, editor of *The New Republic* magazine, and a Fellow at the Institute of Politics and the Shorenstein Center for the Press, Politics, and Public Policy. He is the author of *Politics: Observations & Arguments, 1966-2004*, and is a frequent guest on leading cable and radio talk programs. In 2006, his articles won *The New Yorker* a National Magazine Award for Columns and Commentary. Hertzberg is a leading supporter of establishing a national popular vote for president.



Chris Pearson has been a board member of National Popular Vote since 2006. He served in the Vermont House of Representatives from 2006 to 2008, where he was a member of the House Government Operations Committee. In 2005, he was the first Director of the Presidential Election Reform program at FairVote. Pearson has also served as Director of the Vermont Progressive Party, and has worked on the election campaigns of Congressman Bernie Sanders and Anthony Pollina, candidate for Governor of Vermont.



Rob Richie is the Executive Director and Co-Founder of FairVote, a non-profit organization that researches and advocates election reforms that increase voter turnout, accountable governance, and fair representation. He has served in this role since 1992, and is an expert on

international and domestic electoral systems. Richie is a co-author of *Every Vote Equal*, which spells out the reasons and plan for establishing a national popular vote for president, and also co-authored *Whose Votes Count* about the case for proportional voting and instant runoff voting.



Brenda Wright is the Director of the Democracy Program at Demos. She has more than 20 years of experience in litigation, public education, advocacy and media appearances on voting rights, campaign finance reform and election reform issues. Before joining Demos, Brenda served as Managing Attorney at the National Voting Rights Institute in Boston. Brenda also served previously as Director of the Voting Rights Project at the Lawyers' Committee for Civil Rights Under Law in Washington, D.C.



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website: www.elections.state.ny.us

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Executive Director
Kimberly A. Galvin
Special Counsel
Paul M. Collins
Deputy Counsel

October 23, 2009

Honorable Gary L. Sharpe
United States District Court
for the Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Re: *United States v. New York State Board of Elections, et al.*
Civil Action No. 06-CV-0263 (GLS)

Dear Judge Sharpe,

We enclose herewith Status Report of the Defendant New York State Board of Elections for the week ending October 22, 2009.

Respectfully submitted,

s/ _____
Kimberly A. Galvin (505011)
Special Counsel

s/ _____
Paul M. Collins (101384)
Deputy Special Counsel

HAVA COMPLIANCE UPDATE
Activities & Progress for the Week of 10/16/09-10/22/09

Following is a detailed report concerning the previous week's progress in implementing the terms of the Court's Orders.

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are on schedule with the revised time line.

Contracting with Voting System Vendors

Status of tasks in this category: on schedule

- The out of state litigation matter concerning Dominion and RBM Consulting LLC is no longer a concern for SBOE .

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: on schedule

- Overall progress of testing :
 - SBOE and NYSTEC staff were in Denver last week working with SysTest to improve the quality of test procedures and to assist in resolving any issues that were impacting meeting the scheduled end date for testing. The visit was successful in that progress is continuing.
 - Some of the NYSTEC team remained in Denver this week to continue to work with SysTest in finalizing the security testing.
 - It is projected that the Run For Record Testing will be completed on November 6, 2009—in accordance with the revised time line.
 - Weekly conference calls with SBOE, Vendors and NYSTEC resumed.

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: on schedule

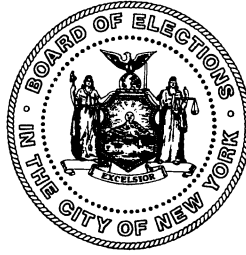
- Acceptance testing continues for the remainder of the Dominion machines needed for the pilot counties. County deliveries are being scheduled and should be complete by early next week.

HAVA COMPLAINT PROCESS

NYC HAVA Complaint

SBOE awaits a response to the letter to NYCBOE addressing compliance issues which was electronically sent by the Co-Executive Directors of SBOE on October 14th.

Comm Mb
Ry7



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
JAMES J. SAMPSEL
NANCY MOTTOLA-SCHACHER
NAOMI C. SILIE
J.P. SIPP
GREGORY C. SOUMAS
JUDITH D. STUPP
COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

STEVEN H. RICHMAN
GENERAL COUNSEL
Tel: (212) 487-5338
Fax: (212) 487-5342
E-Mail:
srichman@boe.nyc.ny.us

October 23, 2008

TO: ✓ The Commissioners of Elections,

FROM: Steven H. Richman, General Counsel

COPY: Marcus Cederqvist, George Gonzalez, Pamela Perkins,
Roseanna Rahmouni, Valerie Vasquez-Rivera, Charles
Webb, Steven Denkberg, John Owens, Daniel Lavelle, Chris
Matos, Diana Scopelliti;
Chief Clerk & Deputy Chief Clerk: Manhattan
Chief Clerk & Deputy Chief Clerk: Brooklyn
Chief Clerk & Deputy Chief Clerk: Queens
Chief Clerk & Deputy Chief Clerk: Staten Island
Deputy Chief Clerks: Bronx
Stephen Kitzinger, Esq., Assistant Corporation Counsel,
NYC Law Department
Lester Paverman, Esq., Legal Bureau, NYC Police
Department

RE: SPECIAL TERMS FOR ELECTION MATTERS –
NOVEMBER 3, 2009 GENERAL ELECTION

Attached are copies of Administrative Transfer Orders issued by Hon. Fern A. Fisher, Deputy Chief Administrative Judge of the State of New York for New York City Courts, on October 23, 2009, establishing Special Election Terms to hear and determine all cases arising under

the Election Law relating to the eligibility for voting in the November 3, 2009 General Election in each county within the City of New York.

SPECIAL TERMS FOR ELECTION MATTERS

| ADMINISTRATIVE TRANSFER ORDER # | JUDICIAL DISTRICT | COUNTY |
|--|------------------------------|---------------|
| 96 | 12 | BRONX |
| 97 | 11 | QUEENS |
| 98 | 1 | NEW YORK |
| 99 | 2 | KINGS |
| 100 | 13 | KINGS |

Except for New York County, each County's Special Election Term will sit at the Board's Borough Office. The Special Terms for Election Matters in Queens, Bronx and Kings Counties will convene from 7 AM until 9 PM while the Special Term for Election Matters in Richmond County will convene from 6 AM to 9 PM.

In New York County one Special Election Term will convene at the Board's Borough Office from 7 AM to 9 PM, while the other will convene at the Harlem State Office Building from 9:00 AM until 9 PM.

PLEASE MAKE THE APPROPRIATE ARRANGEMENTS TO ACCOMMODATE THE JUSTICES OF THE SUPREME COURT AND THEIR SUPPORT PERSONNEL.

Note to the Chief and Deputy: If the assigned Justice(s) does not appear at the scheduled time, please contact my office immediately so that appropriate notifications to the Deputy Chief Administrative Judge's office can be made and the situation addressed forthwith.

Thank you for your cooperation in this matter. If you have any questions, please call me.

Attachments



STATE OF NEW YORK
UNIFIED COURT SYSTEM
111 CENTRE STREET
NEW YORK, NEW YORK 10013
646-386-4201

ANN PFAU
CHIEF ADMINISTRATIVE JUDGE

FERN A. FISHER
DEPUTY CHIEF ADMINISTRATIVE JUDGE
NEW YORK CITY COURTS

MARIA LOGUS, ESQ.
CHIEF OF STAFF

ADMINISTRATIVE TRANSFER ORDER 96

Pursuant to the authority vested in me, I hereby temporarily designate a Special Term, of the Supreme Court, Civil Branch, Bronx County, Twelfth Judicial District, for Election Day to be held on Tuesday, November 3, 2009, to hear and determine all cases arising under the Election Law relating to eligibility for voting, and do assign the following Supreme Court Justices to hold such Special Term for Election Matters, in addition to their other assignments.

BRONX COUNTY
Board of Elections
1780 Grand Concourse, Bronx, New York 10457

7:00 A.M. to 2:00 P.M.

HON. JULIA RODRIGUEZ

2:00 P.M. to 9:00 P.M.

HON. NORMA RUIZ

Dated: New York, New York
October 23, 2009

FERN A. FISHER
Deputy Chief Administrative Judge
New York City Courts

RECEIVED
GENERAL COUNSEL
BD. OF ELECTIONS
IN THE CITY OF NEW YORK
2009 OCT 23 PM 5:00



STATE OF NEW YORK
UNIFIED COURT SYSTEM
111 CENTRE STREET
NEW YORK, NEW YORK 10013
646-386-4201

ANN PFAU
CHIEF ADMINISTRATIVE JUDGE

FERN A. FISHER
DEPUTY CHIEF ADMINISTRATIVE JUDGE
NEW YORK CITY COURTS

MARIA LOGUS, ESQ.
CHIEF OF STAFF

ADMINISTRATIVE TRANSFER ORDER 97

Pursuant to the authority vested in me, I hereby temporarily designate a Special Term, of the Supreme Court, Civil Branch, Queens County, for Election Day, to be held on Tuesday, November 3, 2009, to hear and determine all cases arising under the Election Law relating to eligibility for voting, and do assign the following Supreme Court Justices to hold such Special Term for Election Matters, in addition to their other assignments.

QUEENS COUNTY
Board of Elections

126-06 Queens Blvd., Kew Gardens, New York 11475

7:00 A.M. to 2:00 P.M.

HON. LEE A. MAYERSOHN

2:00 P.M. to 9:00 P.M.

HON. BERNICE D. SIEGAL

Dated: New York, New York
October 23, 2009

FERN A. FISHER
Deputy Chief Administrative Judge
New York City Courts



STATE OF NEW YORK
UNIFIED COURT SYSTEM
111 CENTRE STREET
NEW YORK, NEW YORK 10013
646-386-4201

ANN PFAU
CHIEF ADMINISTRATIVE JUDGE

FERN A. FISHER
DEPUTY CHIEF ADMINISTRATIVE JUDGE
NEW YORK CITY COURTS

MARIA LOGUS, ESQ.
CHIEF OF STAFF

ADMINISTRATIVE TRANSFER ORDER 98

Pursuant to the authority vested in me, I hereby temporarily designate a Special Term, of the Supreme Court, Civil Branch, New York County, First Judicial District, for Election Day to be held on Tuesday, November 3, 2009, to hear and determine all cases arising under the Election Law relating to eligibility for voting, and do assign the following Supreme Court Justices to hold such Special Term for Election Matters, in addition to their other assignments.

NEW YORK COUNTY
Board of Elections

200 Varick Street, New York, New York 10014

| | |
|------------------------|--|
| 7:00 A.M. to 2:00 P.M. | HON. PAUL FEINMAN HON. DEBORAH KAPLAN |
| 2:00 P.M. to 9:00 P.M. | HON. MATTHEW COOPER HON. DORIS LING-COHAN |

163 West 125th Street, 8th Floor
New York, New York 10027

9:00 A.M. to 9:00 P.M. HON. MILTON TINGLING

Dated: New York, New York
 October 23, 2009

FERN A. FISHER
Deputy Chief Administrative Judge
New York City Courts



STATE OF NEW YORK
UNIFIED COURT SYSTEM
111 CENTRE STREET
NEW YORK, NEW YORK 10013
646-386-4201

ANN PFAU
CHIEF ADMINISTRATIVE JUDGE

FERN A. FISHER
DEPUTY CHIEF ADMINISTRATIVE JUDGE
NEW YORK CITY COURTS

MARIA LOGUS, ESQ.
CHIEF OF STAFF

ADMINISTRATIVE TRANSFER ORDER 99

Pursuant to the authority vested in me, I hereby temporarily designate a Special Term, of the Supreme Court, Civil Branch, Kings County, Second Judicial District, for Election Day to be held on Tuesday, November 3, 2009, to hear and determine all cases arising under the Election Law relating to eligibility for voting, and do assign the following Supreme Court Justices to hold such Special Term for Election Matters, in addition to their other assignments.

KINGS COUNTY
Board of Elections
345 Adams Street, Brooklyn, New York 11201

7:00 A.M. to 2:00 P.M.

HON. ELLEN SPODEK

2:00 P.M. to 9:00 P.M.

HON. DAVID SCHMIDT

Dated: New York, New York
October 23, 2009

FERN A. FISHER
Deputy Chief Administrative Judge
New York City Courts



STATE OF NEW YORK
UNIFIED COURT SYSTEM
111 CENTRE STREET
NEW YORK, NEW YORK 10013
646-386-4201

ANN PFAU
CHIEF ADMINISTRATIVE JUDGE

FERN A. FISHER
DEPUTY CHIEF ADMINISTRATIVE JUDGE
NEW YORK CITY COURTS

MARIA LOGUS, ESQ.
CHIEF OF STAFF

ADMINISTRATIVE TRANSFER ORDER 100

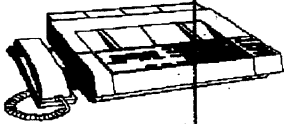
Pursuant to the authority vested in me, I hereby temporarily designate a Special Term, of the Supreme Court, Civil Branch, Richmond County, Thirteenth Judicial District, for Election Day to be held on Tuesday, November 3, 2009, to hear and determine all cases arising under the Election Law relating to eligibility for voting, and do assign the following Supreme Court Justices to hold such Special Term for Election Matters, in addition to their other assignments.

RICHMOND COUNTY
Board of Elections
One Edgewater Plaza, Staten Island, New York 10305

| | |
|-------------------------|---------------------------|
| 6:00 A.M. to 10:00 A.M. | HON. LEONARD P. RIENZI |
| 10:00 A.M. to 2:00 P.M. | HON. CATHERINE DIDOMENICO |
| 2:00 P.M. to 6:00 P.M. | HON. THOMAS P. ALIOTTA |
| 6:00 P.M. to 9:00 P.M. | HON. JUDITH MCMAHON |

Dated: New York, New York
October 23, 2009

FERN A. FISHER
Deputy Chief Administrative Judge
New York City Courts



FAX TRANSMISSION SHEET

RECEIVED
GENERAL COUNSEL
BD. OF ELECTIONS
IN THE CITY OF NEW YORK
2009 OCT 23 PM 5:00

DATE: 10/23/09

TO: Mr. Steven Richman 212 487-5342

FROM: Hon. Fern Fisher

SUBJECT: Election Day - Tuesday - November 3, 2009

- Bronx County
- Kings County
- Queens County
- Richmond County
- New York County

NUMBER OF PAGES
(Including cover sheet): 6

FOR YOUR INFORMATION _____

OTHER ACTION TO BE TAKEN AND/OR COMMENTS:

If you do not receive all pages, please call: Maria (646) 386-4201

*County
F.Y.I.*



Appellate Division
Supreme Court of the State of New York
Second Judicial Department
45 Monroe Place
Brooklyn, N.Y. 11201
(718) 875-1308

A. GAIL PRUDENTI
PRESIDING JUSTICE
JAMES EDWARD PELZER
CLERK OF THE COURT

MEL E. HARRIS
SUSAN H. HARKAVY
MARY-ELLEN SKENYON
DEPUTY CLERKS

MATTHEW KIERNAN
APRILANNE AGOSTINO
ASSOCIATE DEPUTY CLERKS

FACSIMILE TRANSMITTAL

To: Steve Richman Fax #: 212 487 5342

Company: _____ Date: 10/22

From: Sue Harkavy Time: 1:10 PM

Tot. # Pages: 3 A.D. Fax #: (718) 858-2446

Urgent For Review Please Comment Please Reply As Requested

Comments: Ighite Election Appeal

2009 OCT 22 PM 3:23

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IN THE CITY OF NEW YORK

**Supreme Court of the State of New York
Appellate Division: Second Judicial Department**

D24852
G/hu

AD3d

Argued - October 19, 2009

MARK C. DILLON, J.P.
THOMAS A. DICKERSON
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2009 OCT 22 PM 3: 23
BU OF ELECTIONS
IN THE CITY OF NEW YORK

2009-09408

DECISION & ORDER

In the Matter of Osaretin Ighile, appellant, v Board
of Elections in the City of New York, respondent.

(Index No. 700036/09)

In a proceeding pursuant to Election Law § 16-102, inter alia, to validate an independent nominating petition nominating Osaretin Ighile as a candidate in a general election to be held on November 3, 2009, for the public office of Member of the New York City Council, 35th Council District, the petitioner appeals from a final order of the Supreme Court, Kings County (Schmidt, J.), dated September 23, 2009, which, in effect, denied the petition, inter alia, to validate and dismissed the proceeding.

ORDERED that the final order is affirmed, without costs or disbursements.

Election Law § 6-140 requires an independent nominating petition to state the public office for which the candidate is seeking nomination (*see* Election Law § 6-140). The description of a public office contains two components—the title of the office and the geographic boundaries of the area represented by the office (*see Matter of Colluccio v Fox*, 286 AD2d 552; *Matter of Dunlea v New York State Bd. of Elections*, 275 AD2d 589, 590; *Matter of Liepshutz v Palmateer*, 112 AD2d 1101, 1102, *affd* 65 NY2d 965). The description will be deemed adequate so long as the petition, read as a whole, is “sufficiently informative . . . so as to preclude any reasonable probability of confusing or deceiving the signers, voters or board of elections” (*Matter of Donnelly v McNab*, 83 AD2d 896, 896; *see Matter of Cerreto v Sunderland*, 307 AD2d 1004, 1005; *Matter of Amelio v D’Apice*, 153 AD2d 713).

Here, the petitioner's independent nominating petition described the public office sought as "Public Office City Council," but failed to specify the Council District to which the petitioner was seeking nomination. The petitioner contends that because he listed his address, which is in the 35th Council District, in the petition, there was no reasonable probability of confusing or deceiving the signatories thereto. However, under Public Officers Law § 3(1), a candidate is required to live in the particular Council District at the time of election, not at the time of petitioning (*see* Public Officers Law § 3[1]). Therefore, on a date before the election, the signatories could never rely on the address in the petition to establish the Council District to which the petitioner was seeking nomination. In any event, even if that provision did not exist, under the particular facts of this case, the presence in the petition of the petitioner's address did not preclude any reasonable probability of confusing or deceiving the signers, voters, or Board of Elections in the City of New York. There are 16 Council Districts in Kings County, and reference to the petitioner's address would not notify the signatories as to the specific Council District to which the petitioner was seeking nomination (*cf. Matter of Amelio v D'Apice*, 153 AD2d at 713; *Matter of Donnelly v McNab*, 83 AD2d 896). Accordingly, the Supreme Court properly declined to validate the petition (*see Matter of Packer v Board of Elections of City of N.Y.*, 207 AD2d 513).

The petitioner's remaining contention is not properly before this Court.

DILLON, J.P., DICKERSON, AUSTIN and ROMAN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

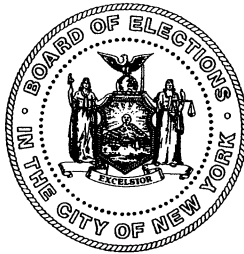
2009 OCT 22 PM 3: 28

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IN THE CITY OF NEW YORK

October 20, 2009

MATTER OF IGHILE v BOARD OF ELECTIONS IN THE CITY OF NEW YORK

Page 2.



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
JAMES J. SAMPEL
NANCY MOTTOLA-SCHACHER
NAOMI C. SILIE
J.P. SIPP
GREGORY C. SOUMAS
JUDITH D. STUPP
COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

STEVEN H. RICHMAN
GENERAL COUNSEL
Tel: (212) 498-5338
Fax: (212) 497-5342
E-Mail:
srichman@boe.nyc.ny.us

October 21, 2009

TO: ✓ The Commissioners of Elections

FROM: Steven H. Richman, General Counsel 

COPIES: Marcus Cederqvist, George Gonzalez, Pamela Perkins, Steve Ferguson, Charles Webb, & Steven Denkberg, & OCG Files; Chief Clerk & Deputy Chief Clerk, Brooklyn

RE: **DEPARTMENT OF JUSTICE PRE - CLEARANCE OF SUBMISSIONS NUMBERED 2009- K -11**

Attached hereto is a copy of a letter dated October 15, 2009 from Christopher Coates, Chief of the Voting Section, Civil Rights Division, U.S. Department of Justice advising that the Attorney General of the United States does not object to our pre-clearance submission:

2009 K-11 (dated August 26, 2009) changing the poll site for the 38th Election District of the 40th Assembly District for the September 15, 2009 Primary Election.

Therefore, this change is effective as of October 15, 2009.

Thank you for your attention to this matter.

Attachment



U.S. Department of Justice

Civil Rights Division

CC:JBG:JDH:tst
DJ 166-012-3
2009-2790

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

October 15, 2009

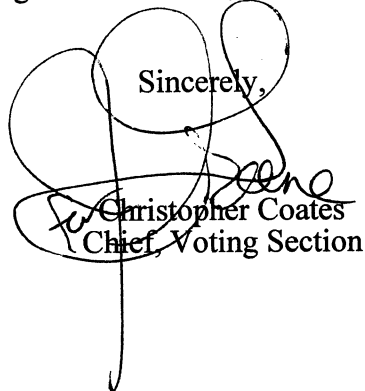
Steven H. Richman, Esq.
General Counsel
Board of Elections
32 Broadway, Floor 7
New York, NY 10004-1609

Dear Mr. Richman:

This refers to the polling place change for September 15, 2009, primary election for the City of New York in Bronx, Kings and New York Counties, Yew York, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on August 28, 2009.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

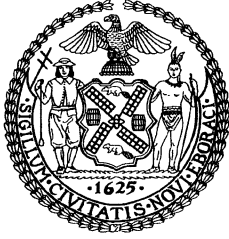
Sincerely,



Christopher Coates
Chief, Voting Section

2009 OCT 20 PM 3:01

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GENERAL COUNSEL
BO. OF ELECTIONS
IN THE CITY OF NEW YORK



CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010
New York, New York 10007
(212) 442-1400
Fax: (212) 442-1407 TDD: (212) 442-1443

*Comm. Mtg
Pg 2*

Steven B. Rosenfeld
Chair/Board Member

October 19, 2009

Monica Blum
Board Member

FOR IMMEDIATE RELEASE

Angela Mariana Freyre
Board Member

HEARING OFFICER IN THE ADMINISTRATIVE TRIBUNAL AT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OFFICE OF GENERAL COUNSEL FINED \$1,400, FOR USING HIS DOHMH COMPUTER AND E-MAIL ACCOUNT, WHILE ON CITY TIME, TO PURSUE AN ONLINE DEGREE.

Andrew Irving
Board Member

Burton Lehman
Board Member

The New York City Conflicts of Interest Board (the "Board") and the New York City Department of Health and Mental Hygiene ("DOHMH") have concluded a three-way settlement with a Hearing Officer in the Administrative Tribunal of DOHMH's Office of the General Counsel who, while on City time, used City resources to pursue an online degree at Capella University.

Mark Davies
Executive Director

Wayne G. Hawley
*Deputy Executive Director
& General Counsel*

Carolyn Lisa Miller
Director of Enforcement

Julia Davis
*Special Counsel &
Director of Financial
Disclosure*

Alex Kipp
*Director of Training &
Education*

Ute O'Malley
*Director of
Administration*

The Hearing Officer admitted that, at times when he was supposed to be doing work for DOHMH, he used a City computer and his DOHMH e-mail account in an amount substantially in excess of the *de minimis* amount permitted by the City of New York's Policy on Limited Personal Use of City Office and Technology Resources (also known as the "Acceptable Use Policy") to complete coursework related to an online degree at Capella University. The Hearing Officer acknowledged that his conduct violated the City of New York's conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. The Hearing Officer agreed to pay a \$1,400 fine to DOHMH. A copy of the disposition is attached.

Derick Yu
*Director of Information
Technology*

The Board took the occasion of this disposition to remind public servants that they are prohibited from engaging in private activities on City time and from using City resources for any non-City purpose. Public servants who have any questions about the City's conflicts of interest law are urged to contact the Board, which can be reached at (212) 442-1400.

The Conflicts of Interest Board is the City's ethics board and is responsible for enforcing Chapter 68 of the New York City Charter, the City's conflicts of interest law. The Board is composed of five members,

Visit our home page at <http://nyc.gov/ethics>

appointed by the Mayor with the advice and consent of the City Council. Board penalties are civil fines.

Carolyn Lisa Miller, Director of Enforcement, handled this case for the Board. Jonathan C. Wangel, Deputy Director of the DOHMH Employment Law Unit, handled this case for DOHMH.

The Board does not comment on Board dispositions, except as set forth above. For copies of any additional public documents, e-mail miller@coib.nyc.gov.

THE CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD AND
THE CITY OF NEW YORK
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

In the Matter of

ROBERT ANTHONY

Respondent

**STIPULATION &
DISPOSITION**

COIB Case No. 2009-479

WHEREAS, the New York City Department of Health and Mental Hygiene (“DOHMH”) became aware that Robert Anthony (“Respondent”) engaged in conduct in violation of the Agency’s Standards of Conduct, which include Chapter 68 of the City Charter (“Chapter 68”); and

WHEREAS, given that a related administrative action was pending at DOHMH, the New York City Conflicts of Interest Board (the “Board”) referred this matter to DOHMH pursuant to Section 2603(e)(2)(d) of Chapter 68 of the City Charter (“Chapter 68”); and

WHEREAS, the Board, DOHMH, and Respondent wish to resolve this matter on the following terms,

IT IS HEREBY AGREED by and between the parties as follows:

In full satisfaction of the above-captioned matter, Respondent admits the following:

1. From June 11, 2007, to the present, I have been employed by DOHMH as a Hearing Examiner in the Administrative Tribunal of DOHMH’s Office of the General Counsel.
2. At all relevant times hereafter mentioned, I have been a public servant within the meaning of Chapter 68.
3. In 2008 and 2009, I used technology resources assigned to me by DOHMH to complete coursework for an online degree at Capella University. I accessed a number of education-related websites via my City computer and used my DOHMH email account for purposes related to my coursework, sometimes when I was scheduled to perform duties assigned to me by DOHMH.
4. I acknowledge that by using my City computer and City e-mail to engage in personal activities in excess of the *de minimis* amount permitted by the City of New York’s Policy on Limited Personal Use of City Office and Technology Resources (also known as the “Acceptable Use Policy”), I violated Chapter 68, specifically City Charter § 2604(b)(2) and Board Rules §§ 1-13(a) and 1-13(b). City Charter § 2604(b)(2) states: “No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or

indirect, which is in conflict with the proper discharge of his or her official duties.” Board Rules § 1-13(a) states in relevant part: “it shall be a violation of City Charter § 2604(b)(2) for any public servant to pursue personal and private activities during times when the public servant is required to perform services for the City.” Board Rules § 1-13(b) states in relevant part: “it shall be a violation of City Charter § 2604(b)(2) for any public servant to use City letterhead, personnel, equipment, resources, or supplies for any non-City purpose.”

5. A meeting was held at DOHMH on August 20, 2009 relating to my above-described misconduct. I acknowledge that my above-described misconduct violated the DOHMH Standards of Conduct, and, therefore, in lieu of DOHMH proceeding with administrative action, this Disposition is hereby entered into by the parties whose signatures are affixed below.

6. In recognition of the foregoing, I agree to pay a fine of One Thousand Four Hundred Dollars (\$1,400) to DOHMH, with the payment of said fine made through equal automatic payroll deductions over the course of two (2) months.

7. I agree that this Disposition is a public and final resolution of the charges against me. I knowingly waive on my behalf and on behalf of my successors and assigns any rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or the United States, and to contest the lawfulness, authority, jurisdiction, or power of the Board and DOHMH in imposing the penalty which is embodied in this Disposition, and I waive any right to make any legal or equitable claims or to initiate legal proceedings of any kind against the Board and DOHMH, or any members or employees thereof relating to, or arising out of this Disposition or the matters recited therein.

8. I confirm that I have entered into this Disposition freely, knowingly, and intentionally, without coercion or duress; and after having had the opportunity to be represented by an attorney of my choice and having declined that opportunity; that I accept all terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of the Board or DOHMH; and that I fully understand all the terms of this Disposition.

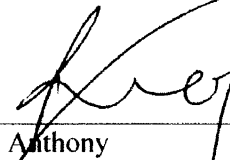
9. Any material misstatement of the facts of this Chapter 68 matter, including of the Disposition, by me or by my attorney or agent shall, at the discretion of the Board, be deemed a waiver of confidentiality of this matter.

10. This Disposition shall not be effective until all parties have affixed their signatures below.

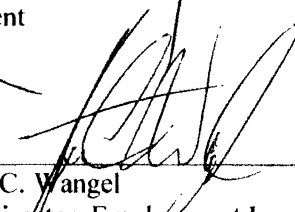
11. Respondent and DOHMH consent to making the Board a party to this Disposition.

12. The Board and DOHMH accept this Disposition and the terms contained herein as a final disposition of the above-captioned matter only, and affirmatively state that other than as recited herein, no further action will be taken by the Board and DOHMH against Respondent based upon the facts and circumstances set forth herein, except that the Board and DOHMH shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

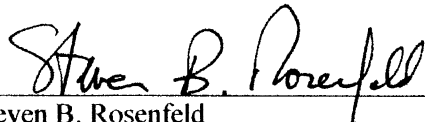
Dated: 9/4, 2009


Robert Anthony
Respondent

Dated: 9/25, 2009


Jonathan C. Wangel
Deputy Director, Employment Law Unit
NYC Department of Health and Mental Hygiene

Dated: OCTOBER 13, 2009

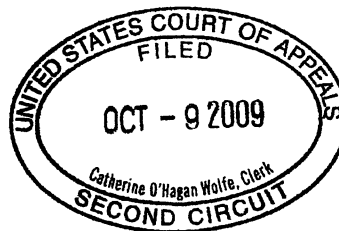

Steven B. Rosenfeld
Chair
NYC Conflicts of Interest Board

County
Ryz

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 9th day of October, two thousand and nine.

PRESENT: José A. Cabranes,
Circuit Judge.



Jose Adames,
Plaintiff-Appellant,

ORDER
Docket Number: 09-4047-cv

v.

Steven Richman, NYC Board of Elections, New York City Law Department,
Defendants-Appellees.

IT IS HEREBY ORDERED that the Appellant's motion to expedite the appeal and for an order placing Appellant's name on the ballot as a candidate for mayor is DENIED. Appellant's request for an order delaying the general election at least one month while the appeal is resolved is also DENIED.

FOR THE COURT,
Catherine O'Hagan Wolfe,
Clerk

By: Judy Pisnanont
Judy Pisnanont, Motions Staff Attorney

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IN THE CITY OF NEW YORK

Comm Mtg
Pg 2

FOR IMMEDIATE RELEASE: October 9, 2009

SCHUMER ANNOUNCES SENATE COMMITTEE TO CONDUCT REVIEW OF PROPOSED DIEBOLD MERGER; SAYS DEAL NEEDS 'ADDITIONAL SCRUTINY' FROM CONSUMERS AND CONGRESS

Schumer, As Senate Rules Chairman, Will Solicit Input From State, Local Election Officials About Anti-Competitive Impacts Of Proposed Merger

Findings Will Be Compiled Into Public Report That Will Be Shared With Justice Department

Senator: More Information Is Needed On Voting Machine Merger And Possible Antitrust Problems

WASHINGTON, DC – U.S. Senator Charles E. Schumer (D-NY), the Chairman of the Senate Rules and Administration Committee and a senior member of the Senate Judiciary Committee, raised new concerns Friday over Diebold's proposed sale of its voting machine business to its biggest competitor, and announced that his Rules Committee staff would begin a formal review of potential problems posed by the merger. Schumer announced he would be seeking input from state and local election officials to investigate the deal's impacts on the administration of elections across the United States. The findings will be compiled into a public report that could be shared with the Department of Justice.

On Sept. 14th, Schumer requested that Attorney General Eric Holder examine the proposed sale of Diebold's voting machine business, known as Premier Election Systems, to Nebraska-based Election Systems & Software Inc. (ES&S) for possible antitrust violations. The deal immediately sparked concern from election law experts since it would join Premier, which has a 33 percent share of the voting-machine market, with ES&S, whose systems were used in counting approximately 50 percent of all ballots cast in the last four major U.S. elections.

“Since this merger was announced, we have heard from election officials across the country worried about the effects of this deal,” Schumer stated. “We intend to give local election officials the opportunity to inform Congress about their concerns over this merger's effect on the business of elections. Our review will be thorough, and our findings will go to the Justice Department.”

“It is in the public interest to maintain a range of choices in voting systems,” Schumer added. “If one company has a stranglehold over the market for voting machines, it runs the risk of jeopardizing the integrity of our elections.”

Schumer said potential concerns arising out of the deal include the prospect of non-negotiable contracts, unilateral changes, and locking jurisdictions into expensive service contracts.

As part of the review, Schumer’s office will solicit information and complaints of competitive problems in the voting machine industry. In the coming days, Schumer said his office would even provide ways for information to be submitted anonymously in the event that officials are concerned about making a public complaint for fear of retaliation. Schumer’s office expects to receive specific information about competitive harms to the market, and concerns about how the resulting market power might be used to raise prices and reduce services.

The Senate Committee on Rules and Administration has jurisdiction over issues related to federal elections and election administration.

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City's no-cash poll dance

Director says board lacks funds to pay 30,000 workers for Nov. 3 general election

THE CITY'S Board of Elections warned yesterday it has no money to pay the 30,000 poll watchers for the Nov. 3 general election.

Election officials blamed the shortfall on the \$13.5 million cost of the unbudgeted runoff election.

The warning came in testimony before a panel of three Assembly committees dealing with the looming statewide conversion to electronic machines.

The board had to use its available funds for the general election to pay bills for the Sept. 29 runoff.

EXCLUSIVE

BY CELESTE KATZ
and FRANKLOMBARDI
DAILY NEWS CITY HALL BUREAU

In a citywide election, more than 30,000 poll workers are assigned to 1,350 poll sites around the city.

Most are paid \$200 for the day, with poll site coordinators receiving \$300. Total cost is put at \$7 million.

Signed by board Executive Director Marcus Cederqvist, the letter to city budget officials stated that due to the "failure of the

city to provide sufficient funding," the board "does not have the necessary funding to enable it to meet its financial obligation to vendors and poll workers for the General Election."

Without an immediate appropriation of additional funds, the letter continued, the city has "a legal and moral obligation" to advise poll workers and contracted vendors that "if they chose to provide any service to the voters of this city, they do so at their own financial risk."

Even with a full complement of poll workers — largely recruited

by political clubs and party leaders — the board has been criticized in the past for being unable to cope with large-turnout elections, resulting in long lines and confusion at the polls.

That has not been the case this year, because the primary and runoff elections saw abysmal turnouts.

Still, citywide general elections attract far more voters than primaries. The city now has 4.2 million registered voters. Nearly 1.3 million voters cast ballots for mayor four years ago, and 1.5 million did so in 2001.

In the event that not enough

poll workers show up, the board would have to make do with reduced staffing.

Normally, one Democrat and one Republican worker is assigned for each machine at a polling site.

Mayoral spokesman Marc LaVorgna said, "The dollars are in place for the Board of Elections to fully fund the general election."

"Anytime a runoff or special election occurs, that bill is subsequently paid by the city."

The Thompson campaign called the shortfall another way to suppress the vote.

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Election Board broke

The city's Board of Elections says it's burned through its budget for the Nov. 3 election and won't have enough money to pay thousands of poll workers needed that day.

Executive Director Marcus Cederqvist disclosed the problem in an Oct. 15 letter to city budget officials. He said no money had been tucked into the fiscal plan for the Sept. 29 primary runoff, which cost \$13.5 million.

Some 30,000 workers get assigned to more than

1,300 polling sites for general elections. He said the city should warn them that "if they chose to provide any service to the voters of this city, they do so at their own financial risk."

Mayor Bloomberg's spokesman Marc LaVorgna insisted the money will be there because runoffs are never budgeted for in advance and any shortfall is reimbursed to the board by the city.

Maggie Haberman

Congress Approves Bill Helping Overseas Voters

By IAN URBINA

WASHINGTON — For decades, Election Day has been just out of reach for many American troops and civilians abroad. After struggling to get the paperwork needed to register, they often receive their ballots too late to return them by the deadline.

On Thursday, however, federal lawmakers made it easier for American citizens to cast ballots overseas. By a 68-to-29 vote in the Senate, Congress gave final approval to legislation requiring all states to provide overseas voters with the new option of getting ballots electronically and no later than 45 days before the election. This is so voters have adequate time to complete and mail them back to the United States.

The bill, attached to the Department of Defense authorization legislation, was introduced after a survey last May showed that as many as one in four ballots cast by overseas voters went uncounted in last year's presidential election.

The bill, which will take effect before next year's federal elections, bars states from rejecting military ballots that have not been notarized, a difficult procedure in the bases of Iraq and Afghanistan. It also requires the Federal Voting Assistance Program at the Department of Defense, which is the main source of election-related information and assistance for many military personnel, to include voter registration and absentee ballot request

information at every base.

"It is the least we can do for our troops to make sure their votes get counted when they are serving overseas," said Senator Charles E. Schumer, Democrat of New York and chairman of the Senate Rules Committee. "This bill will remove the barriers that too often conspire to disenfranchise our military men and women."

The bill comes about a week after a federal judge in Richmond ruled that Virginia had failed to mail more than 2,000 absentee ballots to military personnel and other overseas citizens in time for their votes to be counted in last November's presidential election, violating their rights under federal law.

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