

SUPREME COURT OF THE STATE OF NEW YORK
ALBANY COUNTY

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PAUL NICHOLS, DAVID ENGLERT

Petitioners

-against-

LYNNE C. BOECHER, JOSEPH COE, TODD
M. KERNER, AND MATTHEW MALIN

Respondent(s)-Objectors(s)

-and-

NEW YORK STATE BOARD OF
ELECTIONS

Respondent

VERIFIED PETITION

Index No.:

Date Purchased

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Petitioners, representing himself respectfully alleges:

1. At all times hereinafter mentioned, Petitionerss-Candidate Paul Nichols and David Englert ("Petitionerss") is a candidate within the meaning of Section 16-102 of the Election Law, having duly filed a Designating Petition with Respondent New York State Board of Elections ("Board of Elections") naming Petitioners and David Englert as a candidates of the Democratic Party for the public office of Governor of the State of New York and Lieutenant Governor of the State of New York for the Primary Election to be held on the day of June 28, 2022, ("Designating Petition").

2. Respondent Board of Elections is charged with the responsibility of the supervision of the conduct of official elections held in the State of New York, including the duties of receiving and filing designating petitions for public office and party position in political subdivisions located

entirely within the State of New York, the review and determination of Objections and Specifications of Objections to such designating petitions, notification of a determination of non-compliance, maintaining the permanent personal voter registration poll records of voters and official maps for all election districts located within the State of New York, and the preparation of official Primary Election ballots for use in the State of New York.

3. Upon information and belief, on or about April 11, 2022, the Designating Petition was filed with Respondent Board of Elections naming Petitioners and David Englert as candidates of the Democratic Party for the public office of Governor and Lieutenant Governor of the State of New York in the Primary Election to be held on the day of June 28, 2022.

4. Petitioners and David Englert are, in all respects, duly qualified for the said designations.

5. The Designating Petition was and still is in due and proper form as prescribed by law, and contains more than the minimum number of signatures of duly enrolled voters of the Democratic Party in the State of New York for which said designation was made, and the Designating Petition is otherwise valid, proper, sufficient and legally effective.

6. Upon information and belief, after the filing of the Designating Petition, written Objections to the Designating Petition were filed with Respondent Board of Elections by the following persons referred to herein as the Respondent-Objectors, each of whose purported residence was indicated on said written Objections, and Petitioners is therefore aggrieved:

NAME OF OBJECTORS	ADDRESS OF OBJECTORS SET FORTH ON OBJECTIONS
LYNNE C. BOECHER	9 OAKWOOD DRIVE QUEENSBURY, NY 12804
JOSEPH COE	4 VILLAGE MILL HAVERSTRAW, NY 10927
TODD M. KERNER	49 SPRUCE STREET CLIFTON PARK, NY 12065

MATTHEW MALIN

3640 WOODBRIDGE LANE N.
WANTAGH, NY 11793

7. Upon information and belief, Specifications of Objections in support of the aforesaid written Objections to the Designating Petition were filed with the Respondent Board of Elections.

8. (a) Upon information and belief, the aforesaid Objections and Specifications of Objections are insufficient, deficient as a matter of law and do not comply with the Rules of Respondent Board of Elections, and many of the allegations contained therein are without merit in law or in fact;

9. Upon information and belief, Respondent Board of Elections has made a determination with regard to the aforesaid Objections and Specifications of Objections.

10. Upon information and belief, the aforesaid Specifications of Objections came on for a preliminary hearing before Respondent Board of Elections on April 28, 2022, and sustained on a public hearing May 2, 2022 and many of the allegations in the Specifications of Objections will, of necessity, have to come before this Court for determination.

11. Petitioners believe that Respondent Board of Elections made an erroneous determination of the several questions of law and fact raised by the aforesaid Objections and Specifications of Objections, which determinations would, according to law and the principles of equity, be subject to review by this Court and, that Respondent Board of Elections determinations sustaining the aforesaid Objections and Specifications of Objections, Petitioners were aggrieved by such a determination.

12. Petitioners respectfully request this Order to Show Cause be granted so that proceeding may be commenced in a timely fashion due to Respondent Board of Elections' determination adverse to Petitioners, and so that Petitioners may resuscitate signatures that were erroneously sustained by the Board of Elections.

1 13. Some of the matters raised in the said preliminary hearing on April 28, 2022 and
2 Specifications of Objections are exclusively within the jurisdiction of this Court and should be
3 heard and determined by this Court.

4 14. Respondent Board of Elections has rendered a determination adverse to Petitioners, and said
5 determination is arbitrary, capricious, and in violation of the provisions of the Election Law so as
6 to be reviewable pursuant to Election Law Section 16-102.

7 15. Petitioners intend to prove to this Court that the decision rendered by Respondent Board of
8 Elections in favor of the Respondent-Objector(s) on particular Specifications of Objections filed
9 with Respondent Board of Elections are erroneous and the Respondent Board of Elections lacked
10 jurisdiction to review the Specifications of Objections.

11 16. In accordance with prior decisions of this and other Courts, whose decisions are controlling,
12 Petitioners retains the right to submit proof establishing the Respondent Board was without
13 jurisdiction to consider the Specifications of Objections filed with Respondent Board, and to
14 establish the validity of individual signatures and sheets on the Designating Petition, and of the
15 Designating Petition itself, for reasons not heretofore specified, and Petitioners intends to
16 exercise such right.

17 17. Petitioners request leave and reserve the right to submit upon the argument and hearing of
18 this application, evidence by way of affidavits, testimony, and documentary proof to substantiate
19 and support this application.

20 18. Petitioners request that Respondent Board of Elections produce upon request by the trial
21 judge upon the argument and hearing of this application the aforesaid Designating Petition, with
22 cover sheet and any amended cover sheet(s), identification number application form and any
23 other documents designating and/or nominating Petitioners-Candidates Paul Nichols and David
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Englert; together with the Objections and Specifications of Objections relating to the aforesaid Designating Petition; any written notification of a determination of non-compliance together with proof of service upon Petitioners and/or contact person designated therein; any writing purporting to cure or correct said determination of non-compliance; the permanent personal voter registration poll records of voters, computer generated registration lists for the last four (4) years and official maps for the State of New York; the report of the Clerk(s) of Respondent Board of Elections made on such Objections and Specifications of Objections; the minutes and proceedings of any meeting of Respondent Board of Elections made for the purpose of ruling upon Objections and/or Specifications of Objections filed by any person herein to the aforesaid Designating Petition of Petitioners-Candidates; such other records of Respondent Board of Elections as may relate to this matter for examination by this Court; and the records provided for in the annexed Order to Show Cause.

19. Petitioners has no adequate remedy at law.

20. No previous application has been made for the relief sought herein or for the Order to Show Cause hereto annexed, or for any similar relief.

WHEREFORE, Petitioners respectfully prays that the annexed Order to Show Cause be granted, for a final Order and Judgment granting the relief prayed for in the Order to Show Cause, and for such other and further relief as this Court deems just and proper.

Dated: Albany, New York
May 2, 2022

Pro Se Litigant/Attorney for Petitioner *Englert*

By: 

Paul Nichols
111-08 133rd St. So. Ozone Pk. NY
516-903-8790

VERIFICATION

STATE OF NEW YORK)

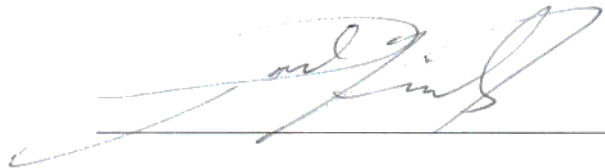
) ss:

COUNTY OF Albany)

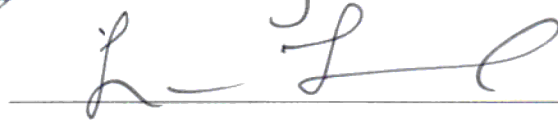
Paul Nichols

, being duly sworn, says as follows:

I am the Petitioner and also represent Petitioner David Englert in the within proceeding, have read the foregoing Petition and know the content thereof; the same is true to my own knowledge, except as to matters stated to be alleged upon information and belief, and as to those matters, I believe it to be true.



Sworn to before me this

4thday of May, 2022.

Notary Public

LATOYA LATISHA LEGRAND
Notary Public, State of New York
Reg. No. 01LE63643099
Qualified in Queens County
Commission Expires September 11, 2025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

PAUL NICHOLS, DAVID ENGLERT,

Petitioners,

PROPOSED ORDER

-against-

Index No. 903427-22

LYNNE C. BOECHER, JOSEPH COE,
TODD KERNER, AND MATTHEW MALIN

Respondent-Objectors,

-and-

NEW YORK STATE BOARD OF ELECTIONS,

Respondent.

Richard J. McNally, Jr.

PRESENT: _____,
Supreme Court Justice

NOW, therefore, upon consideration of all papers and proceedings heretofore had herein, including oral argument held on the record May 10, 2022 in this proceeding commenced pursuant to Election Law § 16-102 (2) to validate the designating petition filed by petitioners, and after due deliberations it is

ORDERED that the respondent-objector Todd Kerner's motion to dismiss the instant validating petition is granted as service was made by mail only on the last day of the limitations period pursuant to Election Law § 16-102 (2), which is jurisdictionally defective;

ORDERED that the respondent State Board of Elections' motion to dismiss the instant validating petition is granted as service was not made on the New York State Board of Elections by delivery of the Order to Show Cause dated May 5, 2022 to the offices of the New York State Board of Elections at 40 North Pearl Street, Albany, New York as required by said Order to Show Cause;

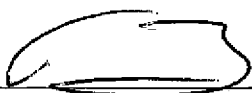
ORDERED that the petitioners' motion to validate their designating petitions is accordingly denied, and it is further

ORDERED that the instant validating petition is denied and dismissed by reason of the foregoing.

This constituted the decision, judgment and final order of the court.

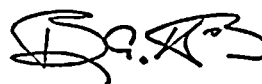
ENTER

Dated: May 11, 2022



Hon. _____, J.S.C.

Richard J. McNally, Jr.



05/12/2022