

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of

Index #: 100814/14

NEW YORK CITY COALITION FOR
ACCOUNTABILITY NOW, INC., VALERIE
LUCZNIKOWSKA, AND DONAL BUTTERFIELD
Petitioners,
-against-

BILL OF PARTICULARS

MICHAEL MCSWEENEY, CITY CLERK OF THE
CITY OF NEW YORK,
Respondent,

for an order, pursuant to Article 16 of the Election Law
And Municipal Home Rule Law 24 and 37, to compel
Respondent to certify that the Petition conforms with all
requirements of law.

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I, Leo Glickman, being an attorney admitted to practice law in the state of New York, and
representing the above petitioners hereby submit this Bill of Particulars in the above captioned
action:

1. The petitioners hereby allege that Respondent erroneously concluded that the
Petitioners' petition submitted to Respondent on July 3, 2014 did not contain sufficient valid
signatures for the referendum to appear on the general election ballot on November 3, 2014.
Many valid signatures were erroneously deemed to be invalid by Respondent. Attached as
Exhibits "A" – "E" are line by line worksheets indicating each particular signature erroneously
deemed invalid by Respondent which should be deemed by this court to be valid.

2. The Petitioners referendum petition contains at least 65,697 total signatures.
Respondent alleges that 37,688 signatures are invalid, leaving Petitioners' referendum petition
with 27,892 valid signatures. Upon review of a copy of the petition with the Respondent's

notations and voter registration documents, Petitioners claim that 5,268 signatures deemed by Respondent to be invalid are in fact valid, leaving Petitioners with at least 33,160 valid signatures.

3. Exhibit A indicates the instances in which the Respondent erroneously invalidated signatures because the address on the referendum petition does not match the “address of record”, (i.e. “wrong address”). In each instance listed in exhibit A, the signer of the petition matched a voter in the Board of Elections’ registered voter database. The address on the petition need not match the voter’s address listed on the Board of Elections database to be valid; the signer must only be registered. The number of signatures that were erroneously invalidated for this reason is 3,723. In addition, appended to this exhibit is a breakdown by volume of “wrong addresses” that the Respondent apparently miscounted and over-counted. The Respondent counted 131 “wrong addresses” that did not exist on his own worksheets.

4. Exhibit B indicates the instances in which the Respondent erroneously invalidated a signature because the subscribing witness had “no address/county stated”. In each of these instances the address or county is stated or is neither misleading nor confusing nor borne of fraud and therefore must be considered valid. Curley v. Zacek, 22 A.D.3d 954 (3rd Dep’t. 2005). In addition, Petitioner contends that these should be valid because the Respondent exceeded his jurisdiction in invalidating these signatures. Cavallaro v. Schimel, 194 Misc. 2d 788 (Sup. Ct., Nassau Cty., 2003). The number of signatures that were erroneously invalidated for this reason is 918.

5. Exhibit C indicates the instances in which the Respondent erroneously invalidated a signature because the subscribing witness altered her own date or signature. In each of these

instances, the witness did not alter her date or signature. In addition, Petitioner contends that these should be valid because the Respondent exceeded his jurisdiction in invalidating these signatures. Cavallaro v. Schimel, 194 Misc. 2d 788, (Sup. Ct., Nassau Cty., 2003). The number of signatures that were erroneously invalidated for this reason is 391.

6. Exhibit D indicates the instances in which the Respondent erroneously invalidated a signature because the number of signatures was omitted from the witness statement. Though in these instances the subscribing witness may have wrongly counted or failed to write the number of signatures or her name, Petitioner contends that these should be valid because the Respondent exceeded his jurisdiction in invalidating these signatures. Cavallaro v. Schimel, 194 Misc. 2d 788, (Sup. Ct., Nassau Cty., 2003). The number of signatures that were erroneously invalidated for this reason is 74.

7. Exhibit E indicates the instances in which the Respondent erroneously invalidated a signature because the date the subscribing witness signed the petition was “illegible.” In each of these instances, the date is legible. In addition, Petitioner contends that these should be valid because the Respondent exceeded his jurisdiction in invalidating these signatures. Cavallaro v. Schimel, 194 Misc. 2d 788, (Sup. Ct., Nassau Cty., 2003). The number of signatures that were erroneously invalidated for this reason is 31.

8. Furthermore, Petitioners contend in their summary judgment motion, and contend in this Bill of Particulars, that the Respondent exceeded his authority in reviewing and invalidating all of the 4,153 “wrong addresses”; the 646 signatures for “alteration of date/signature”; the 15 for the date being the 1008 for the signature being “printed” or not “handwritten”; the 918 for the witness identification statement not including the county or that the subscribing witness’

address did not include the borough, though the witness's actual address is apparent from what is written; and the 74 signatures or name of the subscribing witness is omitted.

9. Petitioners incorporate their Memorandum of Law in Support of their Motion for Summary Judgment herein and assert herein each argument contained in the Memorandum in support of the petitions validity and full compliance with law.

10. Petitioners hereby incorporate all prior documents in connection with this submission of this referendum, including but not limited to the original referendum petition and the Respondents review of said petition with notations, the Order to Show Cause and Verified Petition, and the Memorandum of Law in Support of their Motion for Summary Judgment, with all annexed exhibits.

WHEREFORE, it is respectfully requested that the Petitioners' referendum petition be declared valid and in compliance with all laws, and that Respondent's certificate of compliance be overruled.

Dated: Brooklyn, NY
August 27, 2014

Stoll, Glickman & Bellina, LLP
Attorneys for Petitioner

By _____
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VERIFICATION

I, the undersigned, an attorney admitted to practice in the Courts of the State of New York, state that I am the attorney of record for the Petitioners in the within action; that I have read the foregoing Bill of Particulars and know its contents; that it is true to my own knowledge, except as to matters alleged to be on information and belief, and as to those matters I believe it to be true.

The reason that this verification is made by me and not by the Petitioners is because the Petitioners are not located in the county in which your affirmant maintains his office.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

Records contained in my file and conversations had with the Petitioners.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: Brooklyn, New York
August 27, 2014

Leo Glickman