THE STATE OF NEW HAMPSHIRE

BALLOT LAW COMMISSION

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NEW HAMPSHIRE
SECRETARY OF STATE

PETITION OF THE LAMONTAGNE FOR GOVERNOR COMMITTEE

NOW COMES the Lamontagne for Governor Committee, by and through its attorneys, Douglas & Douglas, and states as follows:

JURISDICTION

1. The Ballot Law Commission has exclusive jurisdiction over this issue pursuant to R.S.A. 665:5.

INTRODUCTION

2. Candidates seeking to have their names placed on the New Hampshire Gubernatorial Primary ballot must take one of two paths. If the candidate agrees to abide by the voluntary campaign spending limits set forth in R.S.A. 664:5-b (Supp. 1995), the candidate need only file a declaration of candidacy with the New Hampshire Secretary of State and pay an administrative assessment of \$100.00. The filing of 200 primary petitions can be substituted for the \$100.00 assessment. R.S.A. 655:17; R.S.A. 655:19-c (Supp. 1995). See R.S.A. 655:19-b,II (Supp. 1995) (filing fees and petitions waived for those agreeing to voluntary limits).

- 3. If a candidate chooses <u>not</u> to agree to the voluntary campaign spending limits, he or she must do the following:
 - a) File a declaration of candidacy; See R.S.A. 655:17;
 - b) Pay a \$5,000.00 filing fee; <u>See</u> R.S.A. 655:19 (Supp. 1995);
 - c) Submit 2,000 petitions signed by members of his party in the form required by R.S.A. 655:21 (Supp. 1995); See R.S.A. 655:20 (Supp. 1995); R.S.A. 655:22 (Supp. 1995); and
 - d) Pay a \$100.00 administrative assessment or file 200 additional petitions. See R.S.A. 655:19-c (Supp. 1995).
- 4. Candidate Bill Zeliff chose the second path and refused to accept the voluntary spending cap. He filed petitions signed by 302 individuals who were not registered Republicans in their cities or towns. He also submitted 20 petitions bearing duplicative signatures; i.e., 10 individuals signed two separate petitions. Lastly, he filed at least 20 petitions bearing facial irregularities including the lack of a street address. When these invalid petitions are disregarded, the total number submitted falls substantially below the number 2,000 required by law.

FACTS

- 5. Ovide Lamontagne is a candidate for the Republican gubernatorial nomination. Mr. Lamontagne chose to agree to the voluntary campaign spending limits and therefore perfected his right to have his name on the primary ballot by simply filing his declaration of candidacy with the New Hampshire Secretary of State on June 13, 1996, and paying the administrative assessment of \$100.00.
- 6. Bill Zeliff, the only gubernatorial candidate who chose not to agree to the voluntary campaign spending limits, also filed his declaration of candidacy with the Secretary of State on June 13, 1996. Along with his declaration, Congressman Zeliff filed 2,225 primary petitions and paid a \$5,000.00 filing fee.
- 7. Pursuant to R.S.A. 655:26, the respondent's petitions were examined by the Secretary of State and 51 were rejected for failing to conform to the legal requirements.
- 8. Members of the petitioner's staff have reviewed a number of Congressman Zeliff's petitions and gross irregularities are apparent:
 - a) Mr. John Simmons compared the Zeliff petitions to the voter checklists in the cities of Manchester and Laconia, and the towns of Wolfeboro, Tuftonboro, Ossipee, Conway, Tamworth, and Merideth and found that 110 of the individuals who signed petitions were not registered Republicans in those cities and towns; See

- Exhibit 1 (Affidavit of John Simmons and attached petitions).
- b) Mr. Brian Moushegian compared the Zeliff petitions to the voter checklists in the cities of Nashua and Dover and the towns of Hollis, Hudson, Goffstown, Bedford, Amherst, Milford, Litchfield, and Merrimack and found that 84 of the individuals who signed petitions were not registered Republicans in those cities and towns;

 See Exhibit 2 (Affidavit of Brian Moushegian and attached petitions).
- c) Mr. Randolph Holden compared the Zeliff petitions to the voter checklists in the cities of Concord and Portsmouth, and the towns of Derry, Londonderry, Windham, Bow, Hooksett, Allenstown, Pembroke, Dunbarton, Exeter, and Stratham and found that 109 of the individuals who signed petitions were not registered Republicans in those cities and towns; See Exhibit 3 (Affidavit of Randolph Holden and attached petitions).
- 9. 20 duplicate petitions have also been discovered; i.e., ten individuals signed two separate petitions. See Exhibit 4.
- 10. A third group of 20 petitions have irregularities which are apparent on their face including the lack of a proper address. See Exhibit 5.

- 11. To date, the petitioner's staff has examined many of Congressman Zeliff's petitions and has found that 343 appear invalid. 303 were not signed by registered Republicans; 20 were duplicate petitions; and 20 show other facial irregularities. Accordingly, substantially fewer than the required 2,000 petitions were filed by the Zeliff for Governor campaign. The petitioner's examination continues and supplemental pleadings will be filed as necessary.
- 12. The numerous irregularities found in the petitions examined to date raise serious questions regarding who acknowledged the signatures of the voters in question. The statutory petition form requires a notary to attest that he or she personally observed the signing and had the signatory subscribe under oath that the information in the petition was true. See R.S.A. 655:21.

DISCUSSION

- 13. The deadline for completing the filings required to place a candidate's name on a primary ballot is the second Friday in June. R.S.A. 655:14.
- 14. Because Congressman Zeliff refused to agree to the voluntary spending limitations in R.S.A. 664:5-a and R.S.A 664:5-b, he was required to submit 2,000 valid primary petitions by Friday, June 14, 1996. See R.S.A. 655:14(setting deadline); R.S.A. 655:20,II (Supp. 1995) (candidate for governor who does not agree to campaign spending cap must file requisite number of

petitions); R.S.A. 655:22 (Supp. 1995) (appropriate number of petitions for candidate for governor is 2,000).

- 15. It is a mandatory requirement that each petition Congressman Zeliff filed had to have been signed by a member of the Republican party in the form required by R.S.A. 655:21 (Supp. 1995). See R.S.A. 655:20, II (Supp. 1995).
- 16. While Congressman Zeliff filed 2,225 petitions on June 13, 1996, at least 394 (303 not signed by registered Republicans, 20 duplicates, 20 with facial defects, and 51 rejected by the Secretary of State) are invalid because they fail to conform to the statutory requirements. Therefore, at most, only 1,831 valid petitions were filed.
- 17. Bill Zeliff's failure to file 2,000 valid petitions by June 14, 1996, in conjunction with the notarial irregularities apparent in the petitions he did file, cast serious doubts on the legal sufficiency of his filings.

WHEREFORE, the petitioner respectfully requests that this Honorable Commission:

- A. Schedule a hearing on this matter at the Commission's earliest possible convenience;
- B. Rule that Bill Zeliff violated the election laws when he failed to produce 2,000 primary petitions in the form prescribed by statute;
- C. Order Bill Zeliff to comply with the voluntary campaign spending limits in R.S.A. 664:5-a (Supp. 1995) and R.S.A. 664:5-b (Supp. 1995);
- D. Investigate the notarial irregularities apparent in the defective petitions;
- E. Take such other action as may be provided by law as is necessary to remedy the election law violations set forth above; and
- F. Grant such further relief as may be appropriate.

Respectfully submitted,

Ovide Lamontagne for Governor

By Its Attorneys:

DOUGLAS & DOUGLAS

DATED: June 19, 1996

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