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SECRETARY OF STATE

STATE OF NEW HAMPSHIRE

BALLOT LAW COMMISSION

DOCKET NO.

Arnesen A
BLC

96-8

N.H. Republican State Committee

v.

Deborah Arnie Arnesen

PETITION OF THE N.H. REPUBLICAN STATE COMMITTEE

NOW COMES the N.H. Republican State Committee, by and through its attorneys, Cleveland, Waters and Bass, P.A., and requests that the Ballot Law Commission declare and determine that Deborah Arnie Arnesen, Democratic Party candidate for the office of United States Representative, Second District, failed to comply with New Hampshire's statutory requirements for appearing on the Primary Ballot and, as a result, strike Deborah Arnie Arnesen's name from appearing on the official ballot as a candidate for the office of United States Representative, Second District, or, alternatively, order that, unless she agrees to abide by the voluntary spending limits, her name be stricken from appearing on the official ballot as a candidate for the office of United States Representative, Second District. In support thereof, the Petitioner states as follows:

Parties

1. Petitioner, the N.H. Republican State Committee, is a state political party organization organized pursuant to RSA 667:21-22, with a principal place of business at 134 North Main Street, Concord, New Hampshire.

2. Respondent, Deborah Arnie Arnesen, of RR 1, Box 42, Orford, New Hampshire, is a declared candidate for the Democratic nomination for the office of United States Representative, Second District.

Jurisdiction

3. The Ballot Law Commission has jurisdiction over this Petition pursuant to RSA 665:5 and 7.

4. Because this Petition is based on claims of illegality and fraud, this Petition is timely filed. See Rauh v. Smith; Douglas v. Swett, BLC Docket #96-2, 96-4, Order dated July 18, 1996 (the "Order"), at 10, 18. See also Colby v. Broderick, 96 N.H. 316 (1950).

Facts

A. Background.

5. In seeking the Democratic nomination for the United States House of Representatives, Deborah Arnie Arnesen elected to not abide by the voluntary spending limits set forth in RSA 664:5-b and chose to have her name placed on the ballot by submitting at least 1,000 primary petitions to the Secretary of State by June 14, 1996. See RSA 655:14; 655:19; 655:19-b; 655:19-c; 655:20; 655:22.

6. On or before June 14, 1996, according to the Secretary of State, Deborah Arnie Arnesen submitted 1192 petitions to the Secretary of State.

B. Petitions Signed by Individuals Not Registered as Democrats.

7. Based on voter checklist information, at least 205 of Ms. Arnesen's petitions were signed by individuals who were not

registered Democrats as of February 20, 1996. These included persons not registered to vote; persons registered as Republicans, Independents or undeclared voters; and persons not registered to vote in the second congressional district. Of these 205 who were not registered Democrats as of February 20, 1996, a sample consisting of 53 were checked to determine if they remained ineligible to file primary petitions for Ms. Arnesen after February 20, 1996. It was determined that, as of May 22, 1996, 40 of those 53 were not registered as Democrats in the City of Concord and remained ineligible. Upon information and belief, this was a representative sample, and, based on such sample, a substantial number of the 205 petitions in question were not signed by registered Democrats.

C. Duplicate and Triplicate Petitions.

8. On information and belief, at least 45 of Ms. Arnesen's petitions are duplicates or triplicates. That is, at least 21 individuals signed two (2) petitions each and at least one (1) individual signed three (3) petitions.

D. Defective Petitions.

9. In addition, at least twenty-eight (28) of Ms. Arnesen's petitions are substantively defective in that they are not notarized, are not notarized properly, or fail to contain the requisite information about the person who signed the petition.

E. Petitions Purportedly Acknowledged Before Matthew S. Pappas and Benjamin D. Lewis.

10. Matthew S. Pappas purportedly took the acknowledgement on at least 167 petitions on behalf of Deborah Arnie Arnesen, not including several duplicates described in paragraph 8 above, and Benjamin D. Lewis purportedly took the acknowledgement on at least 62 petitions on behalf of Ms. Arnesen.

11. In previous proceedings before the Ballot Law Commission in Douglas v. Swett, BLC Docket #96-4, it was found that Mr. Pappas signed acknowledgements on a substantial number of petitions on behalf of Dick Swett, a Democratic candidate for the United States Senate, when signatories were not in his presence and that the acknowledgments on a significant number of Pappas petitions were not truthful. Order at 15, 16.

12. Furthermore, the Ballot Law Commission found that Mr. Pappas "intentionally evaded service of a subpoena to avoid testifying before the Commission," Order at 15, and in fact did not testify in that matter.

13. On information and belief, although Mr. Lewis was subpoenaed to testify before the Ballot Law Commission in Douglas v. Swett, he did not appear. No findings of fact were made with regard to Mr. Lewis.

14. The findings of the Ballot Law Commission in Douglas v. Swett, and Mr. Pappas' and Mr. Lewis' failure to appear before the Commission in that matter, give rise to a reasonable inference that Mr. Pappas and Mr. Lewis were grossly negligent in acknowledging

petitions on behalf of Deborah Arnie Arnesen and otherwise engaged in misconduct and deceptive behavior.

15. Of the 167 petitions purported acknowledged before Mr. Pappas, virtually if not all indicate that they were "witnessed" in Merrimack County regardless of the domicile of the signatory. On July 22, 1996, a sample of 13 of the individuals whose names appeared as qualified voters on primary petitions filed on behalf of Ms. Arnesen and purportedly acknowledged before Mr. Pappas were contacted by telephone. In response to inquiries, two (2) have no recollection of signing a petition for Ms. Arnesen, one (1) of which was a registered Republican; at least one (1) petition was mailed to Ms. Arnesen's campaign in an envelope provided for that purpose without an acknowledgement of a notary or justice of the peace; ten (10) did not know a Matthew Pappas; one (1) of the two who did know Mr. Pappas stated that he did not give his completed petition to Mr. Pappas; one (1) petition was signed before a woman; two (2) of the petitions were signed in Salem and Hudson, respectively, although the acknowledgement on each indicates they were "witnessed" in Merrimack County; and all of the eleven who recalled signing a petition stated that no identification was asked for and no oath was administered. Upon information and belief, this was a representative sample, and, based on such sample, a substantial number, if not all, of the 167 petitions in question are invalid.

16. Of the 62 petitions purportedly acknowledged before Mr. Lewis, the acknowledgement on each indicates they were "witnessed"

in Belknap County on June 10, 11 and 12, 1996. Virtually all of the petitions on which Mr. Lewis is named as the acknowledging officer were signed by residents in towns or cities not located in Belknap County. On July 22, 1996, a sample of 18 of the individuals whose names appeared as qualified voters on primary petitions filed on behalf of Ms. Arnesen and purportedly acknowledged by Mr. Lewis were contacted by telephone. In response to inquiries, two (2) have no recollection of signing a petition for Ms. Arnesen; three (3) claim not be registered Democrats; none were signed in Belknap County; none know a Benjamin Lewis; one (1) petition was signed before a woman; and all of the 16 who recalled signing a petition stated that no identification was asked for and no oath was administered. Upon information and belief, this was a representative sample, and, based on such sample, a substantial number, if not all, of the 62 petitions in question are invalid.

17. On July 22, 1996, representative samplings of the petitions purportedly acknowledged before Mr. Pappas and Mr. Lewis for Joe Keefe, candidate for Congress in the First Congressional District, were also taken and the results of those samples are consistent with the findings set forth in paragraphs 15 and 16 above. See N.H. Republican State Committee v. Keefe, petition dated the date hereof, BLC Docket # (pending), ¶¶ 15, 16.

F. Petitions Purportedly Acknowledged Before Others.

18. Based on the above facts, it is reasonable to infer that others who purportedly took acknowledgements on petitions submitted on behalf of Ms. Arnesen similarly engaged in conduct not in

accordance with the statutory requirements for taking the acknowledgement on such petitions.

Grounds for Relief

19. RSA 655:20 requires petitions to be signed by members of the candidate's political party. Therefore, substantially all of the 205 petitions described in paragraph 7 above are invalid and illegal.

20. RSA 655:23 requires that no voter sign more than one primary petition for the same office. Therefore, the 45 petitions described in paragraph 8 above are invalid and illegal.

21. A valid primary petition must be acknowledged in person before a notary public or justice of the peace, who is obligated to verify the identify of the person signing the petition, personally observe the signing and have the signatory subscribe under oath that the information in the petition is true. RSA 655:21. See also RSA 456:6. On information and belief, Mr. Pappas' and Mr. Lewis' conduct with regard to the 167 and 62 petitions each acknowledged respectively on behalf of Deborah Arnie Arnesen may be so egregious as to constitute possible fraud and each of those petitions, plus the twenty-eight (28) petitions described in paragraph 9 above and those described in paragraph 18 above, are invalid and illegal for failing to conform to these statutory requirements.

22. Because Deborah Arnie Arnesen refused to agree to the voluntary spending limits set forth in RSA 664:5-a and 5-b, she was required to submit at least 1,000 valid primary petitions on or

before June 14, 1996 and her failure to submit 1,000 valid primary petitions on or before June 14, 1996 is a violation of New Hampshire's election laws. See RSA 655:14; 655:19; 655:19-b; 655:19-c; 655:20; 655:22.

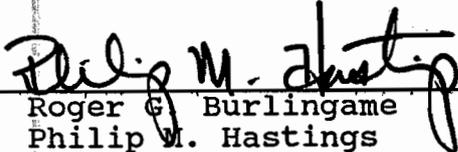
WHEREFORE, the N.H. Republican State Committee respectfully requests that the Ballot Law Commission:

- A. Schedule a hearing on this matter at its convenience;
- B. Upon hearing, rule that Deborah Arnie Arnesen has failed to submit the requisite petitions in the form prescribed by law in violation of New Hampshire's election laws;
- C. Order that Deborah Arnie Arnesen's name be stricken from appearing on the Democratic primary election ballot or, in the alternative;
- D. Order that, unless Deborah Arnie Arnesen agrees to abide by the voluntary spending limits set forth in RSA 664:5-b, her name be stricken from appearing on the democratic primary election ballot; and
- E. Order such other and further relief as is reasonable.

Respectfully submitted,
N.H. REPUBLICAN STATE COMMITTEE
By its Attorneys,
CLEVELAND, WATERS AND BASS, P.A.

Dated: July 25, 1996

By: _____


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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of July, 1996, a copy of this Petition was hand-delivered to the New Hampshire Ballot Law Commission, c/o the New Hampshire Department of State, Secretary of State's Office; and to Andru H. Volinsky, Esq., as counsel for Deborah Arnie Arnesen; and mailed, postage prepaid to Attorney Christopher Reid, Assistant Attorney General. Further, copies were faxed on this date to Ballot Law Commission Standing Members Chairman Gary Richardson, Esq.; the Honorable Hugh Gregg; Attorney Emily Rice; and Andru H. Volinsky, Esq., counsel for Deborah Arnie Arnesen.


Philip M. Hastings