



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Friday, July 19, 2019
Martha Brissette Conference
Room
Washington Building
Richmond, VA
2:00 P.M.

SBE Board Working Papers



**STATE BOARD OF ELECTIONS
AGENDA**

*DATE: Friday, July 19, 2019
LOCATION: Washington Building
Martha Brissette Conference Room
1100 Bank St
Richmond, VA
TIME: 2:00 P.M.*

I. CALL TO ORDER

*Robert Brink
Chair*

II. OLD BUSINESS

A. Determination of Candidate Qualification

*Dave Nichols
Elections Services Manager*

III. CLOSED SESSION

IV. OTHER BUSINESS & PUBLIC COMMENT

V. ADJOURNMENT

NOTE: During the discussion of each topic there will be an opportunity for public comment. Anyone wishing to discuss an issue not on the agenda will be allowed to comment at the end of the new business section.

All materials provided to the Board are available for public inspection under the Virginia Freedom of Information Act upon request.



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STATE BOARD *of* ELECTIONS

Determination of Candidate Qualification

BOARD WORKING PAPERS
Dave Nichols
Elections Services Manager



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STATE BOARD *of* ELECTIONS

Memorandum

To: Chairman Brink, Vice Chair O'Bannon, and Secretary LeCruise
From: Dave Nichols, Election Services Manager
Date: July 19, 2019
Re: Determination of Candidate Qualifications

Applicable Code Section:

Va. Code § 24.2-503 - The written statements of qualification and economic interests shall be filed by (i) primary candidates not later than the filing deadline for the primary, (ii) all other candidates for city and town offices to be filled at a May general election by 7:00 p.m. on the first Tuesday in March, (iii) candidates in special elections by the time of qualifying as a candidate, and (iv) all other candidates by 7:00 p.m. on the second Tuesday in June.

A statement shall be deemed to be timely filed if it is mailed postage prepaid to the appropriate office by registered or certified mail and if the official receipt therefor, which shall be exhibited on demand, shows mailing within the prescribed time limits.

The State Board may grant an extension of any deadline for filing either or both written statements and shall notify all candidates who have not filed their statements of the extension. Any extension shall be granted for a fixed period of time of ten days from the date of the mailing of the notice of the extension.

Va. Code § 24.2-511.A – “The state, district, or other appropriate party chairman shall certify the name of any candidate who has been nominated by his party by a method other than a primary for any office to be elected by the qualified voters of (i) the Commonwealth at large, (ii) a congressional district or a General Assembly district, or (iii) political subdivisions jointly electing a shared constitutional officer, along with the date of the nomination of the candidate, to the State Board not later than five days after the last day for nominations to be made. The State Board shall notify the general registrars of the names of the candidates to appear on the ballot for such offices.”

Background:

After publicly posting a list of candidates for Virginia House of Delegates, a local General Registrar contacted the Department of Elections about the lack of a Republican candidate for the House of Delegates 30th District (HOD-30). Upon examination of the records, it was determined that the Department had not received a Party Certification of Non-Primary Candidate (ELECT-511) form nor had it received any candidate paperwork (Certificate of Candidate Qualification (SBE-501) or Statement of Economic Interests (SOEI)) from any Republican candidates in HOD-30. The attached documents related to Issue #1 are presented for the Board's consideration of accepting the ELECT-511 after the June 17, 2019 deadline. In the attachments presented to the Board at the July 11 meeting, ELECT inadvertently omitted a letter from Mr. Chris Marston, General Counsel for the Republican Party of Virginia. That letter is included with the attachments to this memo.

Attachments:

- Affidavit of Bruce Kay
- ELECT-511 signed by Bruce Kay nominating Nicholas J. Freitas as the Republican candidate for HOD-30
- Email chain with the subject "Candidate for the 30th District Republican Committee"
- Letter from Chris Marston, Republican Party of Virginia
- Letter from Nicholas J. Freitas
- Candidate Withdrawal Form (ELECT-612.2) from Nicholas J. Freitas



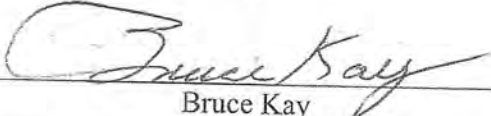
Christopher M. Woodfin
Attorney and Counselor at Law

AFFIDAVIT

COMMONWEALTH OF VIRGINIA
COUNTY OF ORANGE

Bruce Kay, who resides at 105 Constitution Blvd., Locust Grove, VA 22508 in Orange County, Commonwealth of Virginia, and serves as the Legislative District Chairman for the 30th House of Delegates District for the Republican Party of Virginia and makes his statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of his knowledge:

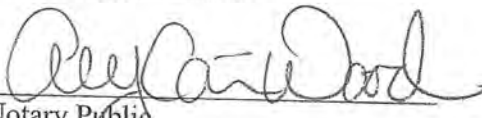
On May 7, 2019, I, Bruce Kay, acting in my capacity as 30th District Chairman for the Republican Party of Virginia e-mailed a completed party certification form, Form ELECT-511, to Paul Stenbjor with the State Board of Elections, which is the same information where the form was sent two years prior. I was not aware that the personnel at the office had changed. A copy of the ELECT-511 form is attached where you can see my notation in the bottom left that was made at the time of mailing.


Bruce Kay

Commonwealth OF VIRGINIA

Orange (County / City)

Subscribed, sworn and acknowledged before me by Bruce Kay this 29th day of June, 2019.


Notary Public

My Commission Expires
August 31st 2020

Woodfin Law Offices, PLLC
7330 Staples Mill Rd., #100, Richmond, VA 23188
Ph: 757-559-1505 . office@woodfinlaw-va.com



ASHLEY CARTER WOOD
NOTARY PUBLIC 7685527
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES AUGUST 31, 2020



* VIRGINIA *

DEPARTMENT of ELECTIONS

PARTY CERTIFICATION OF NON-PRIMARY CANDIDATE VA. CODE § 24.2-511

Party, Election, and Office

Party: Democratic Republican (Circle One) General Election Date: 11/05/19 MM/DD/YY Nomination Date: 04/27/19 MM/DD/YY Nomination Method: CONVENTION

Office: DELEGATE Locality: ORANGE COUNTY District/Town: HOUSE DISTRICT 30 Name and/or Number

Is this a shared constitutional office? No Yes; Second Locality: _____
 (Constitutional Offices: Clerk of Court, Commissioner of Revenue, Commonwealth's Attorney, Sheriff, Treasurer)

Nominated Candidate

NICHOLAS J. FREITAS Full Name
NFREITAS@NICKFREITAS.COM Campaign Email Address
540-222-5382 Phone Number (Include Area Code)
NFREITAS @ NICKFREITAS.COM Email Address

Campaign Website

Party Representative

If the party chairman is the candidate, an alternate party official must certify

BRUCE KAY Full Name
BRUCEKAY@GMAIL.COM Email Address
540-992-2244 Phone Number (Include Area Code)

DISTRICT Committee Level (State, District, Local)
House District 30 District/Locality (Name and/or Number)
Chairman Alternate Official
 Circle One

Certification

I, the aforementioned party representative certify that the information contained herein is true and accurate to the best of my knowledge.

Party Representative Signature: Bruce Kay Date: 5/7/19

Save File Copy

SENT 5/7
PAUL STANBOR
ELECTIONS VIRGINIA GOV

Woodfin Law Offices

From: John Findlay [jfindlay@rpv.org]
Sent: Friday, June 28, 2019 8:51 PM
To: Chris Woodfin
Subject: Fwd: Candidate for the 30th District Republican Committee

Follow Up Flag: Follow up
Flag Status: Flagged

----- Forwarded message -----

From: Bruce Kay <brucekay44@gmail.com>
Date: Sat, Mar 9, 2019 at 8:00 AM
Subject: Candidate for the 30th District Republican Committee
To: Jordan Marshall <jmarshall1848@gmail.com>, Jim Smith <jimsmithbrc@comcast.net>, Jon Russell <jonrussell75@gmail.com>
CC: Nick Freitas <nfreitas@nickjfreitas.com>, John Findlay <jfindlay@rpv.org>, Chris Marston <chris.marston@gmail.com>, John March <jmarch@rpv.org>

The deadline for nominations for a delegate of the 30th District of Virginia has passed. Nick Freitas was the only candidate to submit an application. Therefore Nick Freitas is certified the Republican Nominee for the 30th Legislative District in the November 5, 2019 elections.

The convention called for on, Saturday, April 27, 2019, IS CANCELLED

Bruce Kay, Chair
30th District Republican Committee

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John Findlay, Executive Director Republican Party of Virginia Office: 804-780-0111 Cell: 804-476-4907
JFindlay@rpv.org



Republican Party of Virginia

www.rpv.org

July 2, 2019

Christopher E. Piper, Commissioner
Virginia Department of Elections
1100 Bank St Fl 1
Richmond VA 23219

VIA E-mail

Dear Commissioner Piper,

I write regarding the Republican nomination of Nick J. Freitas for the 30th District in the House of Delegates. I understand that the Department did not timely receive the ELECT-511 Form from Bruce Kay, the chairman of the Legislative District Committee for that district. I know that you have received correspondence from representatives of Del. Freitas, including an affidavit from Chairman Kay.

All of the appropriate procedures under the Plan of Organization for the Republican Party of Virginia were followed by Chairman Kay and Del. Freitas in the nominating process and Del. Freitas is the Republican nominee for the 30th District.

The Legislative District Committee selected a convention as the method of nomination for the District and the convention was called for April 27. Del. Freitas was the only candidate to file for the nomination. Pursuant to the call for the convention, the convention was cancelled, and Del. Freitas became the nominee of the Party. On March 9, Chairman Kay notified John Findlay, the Party's Executive Director, so that notice of the convention cancellation could be provided on our website. On May 7, Chairman Kay sent the ELECT-511 Form to the Department certifying Del. Freitas as the nominee. Unfortunately, it appears that the form was never received due to e-mail issues. Nevertheless, the Republican Party of Virginia requests that the State Board of Elections and the Department treat Nick J. Freitas as the Republican nominee and direct that his name be printed on the ballots in the 30th District.

I also want to express my regret over this and several other challenges with deadlines for determining the method of nomination as well as certifying nominees this year. I stand ready to work with the Department in future elections to ensure that the Republican Party of Virginia does everything it can to assist in ensuring compliance with

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relevant filing requirements and deadlines. I understand the challenge of over 250 different chairs in the cities, counties, and legislative districts responsible for filing information with the Department. I commend your staff for the excellent work they have done in managing the process. I look forward to working with them to make the process easier to manage in future elections.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Chris". The signature is written in a cursive, flowing style.

Chris Marston,
General Counsel

Cc: Jack Wilson, Chairman
Del. Nick Freitas
Christopher M. Woodfin, Esq.

19 JUL 2019 10:00



To Whom It May Concern,

I, Nicholas J. Freitas, hereby withdraw as the Republican nominee for the 30th House of Delegates District in the Commonwealth of Virginia effective July 18th, 2019.

As the Republican nominee for the 30th House of Delegates District for the 2019 General Election, I hereby withdraw my nomination effective July 18th, 2019.

Sincerely,

A handwritten signature in black ink, appearing to be "N. Freitas", written over a horizontal line.

Nicholas J. Freitas



★ VIRGINIA ★
DEPARTMENT of ELECTIONS

CANDIDATE WITHDRAWAL FORM
§ 24.2-612.2 OF THE CODE OF VIRGINIA

"A candidate who has qualified to have his name printed on the ballot for an election shall not be deemed to have withdrawn from such election until he has submitted a signed written notice declaring his intent to withdraw from such election and that notice has been received by the general registrar. Such notice shall be provided to the general registrar of the county or city in which he resides. In the case of an election held in more than one county or city, the recipient general registrar shall notify the appropriate general registrars of the candidate's withdrawal." (VA Code § 24.2-612.2)

INSTRUCTIONS:

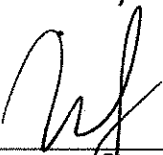
- Complete this form in its entirety.
- Submit the completed form to the general registrar of the county or city in which you reside.

Candidate Name: Nicholas J. Freitas Election Date: November 5, 2019

Office Sought: House of Delegates General Election: Special Election:

Locality: Culpeper, Madison, and Orange Counties District: 30

I declare my intent to withdraw my candidacy for the office listed above.

 July 18, 2019
Signature Date

General Registrars: For offices certified by the State Board of Elections, please forward a copy of this completed form to EA@Elections.Virginia.gov.