

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

GERALD APREA, JOHN VIDUREK,

-Plaintiffs,

-against-

**DEFENDANT STATE
BOARD OF ELECTIONS'
ANSWER TO COMPLAINT**

NEW YORK STATE BOARD OF ELECTIONS,

Index No. 1196-11

-Defendant.

The New York State Board of Elections (hereinafter "the Board"), by their attorney, KIMBERLY A. GALVIN, for their answer to the verified petition:

1. Deny knowledge and information sufficient to admit or deny the allegations contained in paragraphs numbered 1, 6, 13, 19, 20, 23, 29, 33, 59, 60, 61, 68, 73, 77, 79, 81, and 82.
2. Deny the allegations contained in paragraphs numbered 2, 4, 5, 8, 12, 14, 15, 16, 30, 31, 32, paragraphs 45 through 54 inclusive, 63, 64, 65, 67, 70, 71, 72, 74, 80, 86, 87, 91, 96, 97, 101, 102, and 103.
3. Make no response as to paragraphs numbered 3, 18, 55, 56, 66, 75, 84, 89, 90, 94, 95, and 100, as they contain no statement of fact.

4. Maintain that the allegations contained in paragraphs numbered 7, 17, 21, 22, 25, 27, 28, 58, 62, 69, 76, 78, 83, 88, 93, 99, and 105 assert conclusions of law as to which no response is required.

5. Admit that portion of paragraph 9 which sets forth the Mission Statement of the New York State Board of Elections; and deny the remainder of the assertions contained in paragraph 9.

6. As to the allegations in paragraph numbered 10 and 24, respectfully refer the Court to the New York Election Law for an accurate depiction of the contents thereof deny the allegations to the extent that they depart therefrom.

7. As to the allegations in paragraph 11 respectfully refer the Court to the public document referenced therein.

8. Make no response as to paragraph 26 as it contains no statement of fact.

9. Deny knowledge and information sufficient to admit or deny the allegations contained in paragraph 33, and further deny knowledge and information admit or deny the allegations contained in paragraphs numbered 34 through 44 inclusive, as none of the actions referenced therein are attributable to the New York State Board of Elections.

10. Deny knowledge or information sufficient admit or deny the allegations contained in paragraph 57 referencing the number of election districts; and make no response to the remainder of the paragraph as it contains no statement of fact.

11. Deny knowledge or information sufficient admit or deny the allegations contained in paragraph 85 referencing the extent of plaintiffs' trust; and maintain that the allegations contained in the remainder of the paragraph assert conclusions of law as to which no response is required.

12. Deny the allegations contained in paragraphs numbered 92, 98 and 104, and further, respectfully refer the Court to the public document referenced therein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

13. The complaint/petition fails to state a claim upon which relief can be granted and fails to join necessary parties to this action.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

14. The actions and conduct of defendant, NEW YORK STATE BOARD OF ELECTIONS, and employees of the State of New York under their direction or control of the Board in regard to the matters alleged in the petition, at all relevant times have been fully in compliance with all applicable federal and state constitutional provisions, statutes and regulations.

WHEREFORE, defendant respectfully request that judgment be entered dismissing the complaint and granting such other and further relief as this Court may deem just and proper.

DATED: January 20, 2012
Albany, New York



KIMBERLY A. GALVIN
Special Counsel
Attorney for Defendant
New York State Board of Elections
40 Steuben Street, Albany, NY 12207
Tel: (518) 474-6367 / Fax: (518) 486-4546