

SPECIFICATIONS TO OBJECTIONS

TO THE BOARD OF ELECTIONS STATE OF NEW YORK:

WHEREAS, the undersigned Mario M. Castracan, a duly enrolled member of the Republican Party and Vincent F. Bonelli, a duly enrolled member of the Democratic Party, each registered to vote for the office of Justice of the Supreme Court of the State of New York, Ninth Judicial District, each being a duly qualified voter of the said Ninth Judicial District, which includes Westchester County, New York, did heretofore on September 24, 1990 file with the Board of Elections of the State of New York objections to the Nominating Certificate filed on September 19th 1990 in the office of the Board of Elections of the State of New York purporting to nominate George H. Roberts, Esq. of Waccabuc, New York, Hon. Francis A. Nicolai of Pleasantville, New York, and Howard Miller, Esq. of Tappan, New York as the three candidates of the Republican Party for the office of Justice of the Supreme Court of the State of New York, Ninth Judicial District to be voted upon at the General Election to be held on November 6th 1990;

NOW, THEREFORE, the undersigned, pursuant to Section 6-154 of the Election Law of the State of New York and other provisions of law applicable thereto, do hereby specify the following as grounds, of their objections to said Certificate:

- (1) The Call for a Judicial Convention issued by Anthony J. Colavita, Esq. (referred to hereinafter as

EXHIBIT E 000 38

"Colavita"), Chairman of the Westchester Republican County Committee, failed to comply with the provisions set forth in Section 6-126 of the Election Law of the State of New York* in that the time and place of the Judicial Convention was not fixed by a committee appointed pursuant to the rules of the Republican State Committee. The Amended Notice of the Call shows on its face that it was issued by Colavita pursuant to a purported authority conferred upon him by the Republican County Committee Chairmen of the Counties of Dutchess, Orange, Putnam, and Rockland.

(2) The Notice of the Call for a Judicial Convention mailed to the Delegates and Alternate Delegates identified on the official Roll, failed to give adequate and required minimum notice of said call.

(3) The Amended Notice of the Call for said Convention failed to give adequate and required minimum notice of the amendment changing the date and place of the convention.

(4) The Roll shows that the Delegates and the Alternate Delegates elected to attend the Judicial Convention called for the purpose of nominating candidates for the office of Justice of the Supreme

*References hereinafter to Section refer to said Election Law.

Court of the State of New York for the Ninth Judicial District, State of New York, were not elected in the proportionate numbers required by Section 6-124: the number of Delegates from the various Assembly Districts contained within the Ninth Judicial District relative to each other were not in substantially the same ratio that the number of votes received by the Republican candidate for Governor in the General Election held in 1986 in each of said assembly districts bore to the total number of votes received statewide by said Republican candidate.

(5) The specification relating to the election of the Delegates, as set forth in paragraph (4) hereinabove, alleged to apply with equal force to the election of Alternate Delegates.

(6) The Convention was not called to order by the Chairman of the Committee originating the Call or by a person designated in writing for that purpose by such Chairman, nor by a person designated in such manner as the rules of the Republican Party prescribe.

(7) The Roll of the Convention until it was organized was not kept in the custody of such Chairman or person designated.

(8) The Alternate Delegates elected to attend the Convention were seated, in violation of Section 6-

126. Upon the calling of the Roll to determine whether a sufficient number of Delegates were present to constitute a quorum and thereby permit the Convention to be organized; specifically, the seat to be filled by a Delegate who was absent and did not answer the Roll Call was not filled by an Alternate Delegate, as prescribed by said Section. Substitution of the Alternate Delegate was not effected in the order of the vote received by each such Alternate as such vote appeared upon the certified list of Delegates and Alternate Delegates.

(9) In violation of Section 6-126, the person who called the Convention to order, to wit Colavita, exercised a function other than that of calling the official Roll of Delegates upon the vote for Temporary Chairman and declaring the result thereof.

(10) The Temporary Chairman of the Convention was not chosen upon a call of the official roll. The Convenor, Colavita, failed to call the official Roll upon the election of the Temporary Secretary. The Convenor, Colavita, failed to call the official roll upon the election of the permanent chairman of the Convention. The Convenor, Colavita, failed to call the roll for the election of the Permanent Secretary of the Convention. The records of the Convention have not been kept by the

permanent officer, all in violation of Section 6-126(2).

(11) The Certificate of Nominations made by the Ninth Judicial District Convention of the Republican Party is inaccurate, defective, invalid, illegal, null and void, and not in compliance with the requirements of law in that as aforesaid stated, the convention was not duly convened at the time and place therein described and the individuals purporting to have been nominated for the office of Justice of Supreme Court of the State of New York, Ninth Judicial District were not duly nominated as candidates for election to said public office.

(12) The Delegates and Alternate Delegates who voted for candidates Nicolai, Miller and Roberts at said Convention participated therein and cast their votes for the election thereof unanimously, in accord and compliance with, and in furtherance of, the illegal contract entered into in 1989 by said Colavita and the then Chairman of the Westchester Democratic Convention Committee one Richard J. Weingarten, Esq. (referred to hereinafter as "Weingarten") set forth in the Objections referred to on page 1. hereinabove.

(13) The Delegates and Alternate Delegates who

attended, participated in, and voted at the Convention were selected by Colavita to be elected at the primary election which was held on September 11, 1989 to the position of Delegates and Alternate Delegates, after having procured promises, expressed or implied, from said Delegates and Alternate Delegates that, when attending the Convention, they would not form or exercise their independent opinions and judgments at said Convention, but, in fact, and, instead, that they would vote as Delegates and Alternate Delegates at said Convention, in conformity with the instructions, wishes and desires of Colavita and thereby permit him to perform his agreed obligations under the illegal 1989 contract entered into with said Weingarten.

For all of the foregoing reasons, said nominations are null and void, and the Nominating Certificates should be rejected.

The office of Justice of the Supreme Court of the State of New York, Ninth Judicial District, is a judicial office.

The post office address for each of the undersigned objectors is c/o their attorney, Doris L. Sassower, P.C., 283 Soundview Ave, White Plains, New York 10606, same being hereby designated as the attorney and agent to receive process on their behalf.

IN WITNESS WHEREOF, we have signed our names hereto this 29
day of September 1990.

Mario M. Castracan
MARIO M. CASTRACAN

Vincent F. Bonelli
VINCENT F. BONELLI

State of New York)
County of Westchester) ss:

On the 29 day of September, 1990, before me personally Mario M. Castracan and Vincent F. Bonelli, to me known, and known to me to be the same persons described in and who executed the foregoing specifications and acknowledged to me that they executed the same.

Eligiano
Notary Public, State of New York

ELI VIGLIANO
Notary Public, State of New York
No. 4967363
Qualified in Westchester County
Commission Expires June 4, 1992