

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE STATE BOARD OF ELECTIONS & ETHICS ENFORCEMENT

IN THE MATTER OF: APPEAL OF)
CHALLENGE TO CANDIDACY OF)
NORA TROTMAN)

ORDER

THIS MATTER CAME BEFORE THE STATE BOARD OF ELECTIONS & ETHICS ENFORCEMENT (“State Board”) during a hearing held April 4, 2018, upon the appeal of Nora Trotman, candidate for election to Senate District 37 (the “Candidate-Appellant”), from an adverse ruling of the Mecklenburg County Board of Elections (the “Mecklenburg Board”) on a candidate challenge brought by James W. McEwen and Lynn C. Weis (collectively, the “Challenger-Appellees”).

The State Board heard argument from counsel for Candidate-Appellant, Thomas Stark, and from counsel for Challenger-Appellees, Zachary Deason. Having considered the arguments from the parties, relevant statutes, and basing its decision upon the whole record in this Matter, the State Board by vote of five members in the affirmative, hereby finds, concludes, and orders as follows:

FINDINGS OF FACT

1. Challenger-Appellees timely challenged the qualification of Candidate-Appellant by a verified affidavit filed with the Mecklenburg Board in the manner prescribed under Part 3 of Article 19 of Chapter 163A of the North Carolina General Statutes (the “Challenge”).
2. The Mecklenburg Board properly notified Candidate-Appellant of a public hearing at which the Candidate-Appellant did not appear. The Mecklenburg Board subsequently voted in a public meeting to sustain the Challenge by a vote of two in the affirmative and one in opposition, and entered a judgment for Challenger-Appellees.
3. Candidate-Appellant timely appealed to the State Board, which held a hearing by teleconference following notice to the parties.

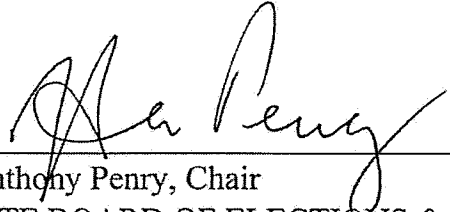
CONCLUSIONS OF LAW

1. The State Board has jurisdiction to review this matter. G.S. § 163A-1030(a).
2. County boards of elections are established by statute and empowered to adjudicate challenges against candidates for election to offices nested wholly within the county.
3. "Except where required by law to act unanimously," county boards of election may act only upon the affirmative vote of a *majority* of its members, which statute defines as "three of the four members." G.S. § 163A-766.
4. The Mecklenburg Board's decision was not supported by three votes in the affirmative, as required under G.S. § 163A-766. It was, therefore, clear error to sustain the Challenge as a matter of law.

IT IS THEREFORE ORDERED:

The decision of the Mecklenburg County Board of Elections is **REVERSED**.

This the ninth day of April, 2018.



J. Anthony Penry, Chair
STATE BOARD OF ELECTIONS &
ETHICS ENFORCEMENT

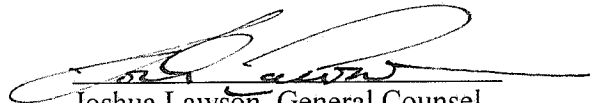
CERTIFICATE OF SERVICE

I, Josh Lawson, general counsel to the North Carolina State Board of Elections & Ethics Enforcement, do hereby certify that I have this day served the foregoing document upon the party to this action by depositing the same into the care and custody of Federal Express for overnight delivery to the recipients below:

Thomas Stark
for Candidate-Appellant
6011 Farrington Rd., Ste. 300
Chapel Hill, NC 27517

Zachary Deason
for Challenger-Appellees
754 Ideal Way
Charlotte, NC 28203

This the ninth day of April, 2018.

A handwritten signature in black ink, appearing to read 'Josh Lawson', with a long horizontal flourish extending to the right.

Joshua Lawson, General Counsel
N.C. State Board of Elections &
Ethics Enforcement

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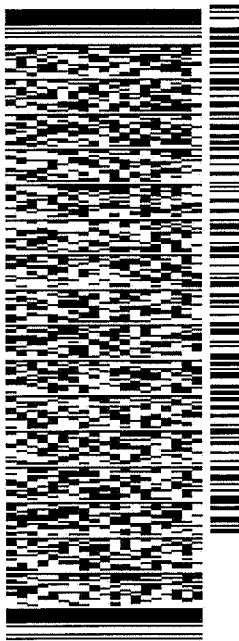
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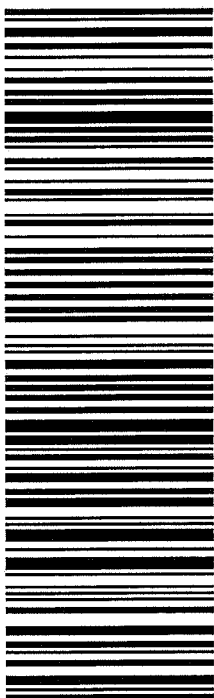
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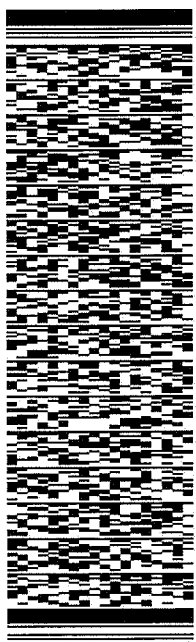
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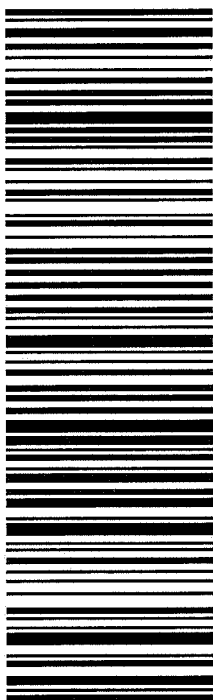
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