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August 7, 2007

New York State Board of Elections
General Counsel, Office of Enforcement
40 Steuben Street
Albany, N.Y.

Re: Violations of NYS Election Law

Dear Office of General Counsel:

I request immediate intervention on my behalf by your office concerning the present Republican Party primary for the office of Suffolk County Legislator of the 12th Legislative district. As the incumbent in the position who has not been renominated by the Smithtown Republican Executive Committee, chaired by William Ellis, my rights as a candidate are being infringed in the current role of Mr. Ellis both as a candidate for Committeeman and as an employee of he Suffolk County Board of Elections. Presently, Mr. Ellis holds a supervisory position at the board of Elections, overseeing the storage, maintenance and custody of voting machines. This past week, Mr. Ellis authored and distributed two venomous letters (attached) directly attacking me as an incumbent, and my fitness to stand for re-election.

As a result of this dual role of the Republican Party Chairman, my rights as a candidate and an elected official have been irreparably harmed, and immediate action on the part of the Board is required to remedy this disenfranchisement of the electorate. The dual roles referenced above are in direct contravention of Article 3-302 of the election Law, and I request assistance to rectify this matter.

Further, I disagree with the state Board's interpretation of the federal court's ruling concerning the Constitutionality of Election Law Article 2-126as applied to the expenditure of party campaign funds in support of a committee's nominee in a primary election. A careful reading of the District Court's ruling in Kermani v. NY State Board of Elections will show that Article 2-126 has been held unconstitutional only as it applies to independent, uncoordinated expenditures (such as purchasing advertising in newspapers), but not to coordinated expenditures and contributions(expenditures made in cooperation with a candidate or campaign) Furthermore, the District court specifically stayed, for one year, the portion of their preliminary injunction that applies to coordinated expenditures and contributions.

As can be seen from the attached letters, Mr. Ellis has clearly expended the campaign funds of the Smithtown Republican committee in direct cooperation with the party's chosen candidate for the primary election. Mr. Ellis could have chosen to expend these funds to purchase advertising, but instead he ought to fund a direct communication in cooperation with the party's candidate to my immediate and irreparable detriment. As such, I hereby request the State board to enforce that section of Article 2-126 specifically relating to the coordinated expenditures and contributions of party campaign funds in a primary election.

Finally, I ask that the board instruct the Commissioners of the local Board of Elections that the offending party either be dismissed from his position at the Board, or that he immediately resign his position as the Smithtown Republican Party chairman, so that I may be able to receive unimpeded assistance during the balance of my campaign. I ask for your immediate intervention and a quick restoration of the integrity and neutrality of the electorate process here in Suffolk County.

Sincerely,

John M. Kennedy Jr.
Legislator, 12th L.D.

Cc: Commissioners,
Suffolk County Board of Elections

Attach