

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

LAWRENCE E. GILDER,

Plaintiff,

- against -

JOHN P. GULINO, *et al.*,

Defendants.

**DECLARATION OF
STEPHEN KITZINGER IN
SUPPORT OF THE BOARD
OF ELECTIONS IN THE
CITY OF NEW YORK'S
MOTION TO DISMISS THE
COMPLAINT**

CV 15-4094 (KAM)

----- X

STEPHEN KITZINGER, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury, that:

1. I am an Assistant Corporation Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, attorney for defendant Board of Elections in the City of New York (the "Board"). As such, I am familiar with the facts of this case.

2. I submit this declaration in support of the Board's motion to dismiss the Complaint.

3. Attached hereto as Exhibit A is a true and correct copy of the Certificate of Nomination naming Vincent J. Gentile as the Democratic Party nominee in the May 5, 2015 Special Election for Member of Congress from New York's 11th Congressional District that was duly filed with the Board on March 2, 2015.

Dated: New York, New York
October 15, 2015

s/Stephen Kitzinger
STEPHEN KITZINGER

MC
CLERK OF THE BOARD
BOARD OF ELECTIONS IN
THE CITY OF NEW YORK
32 BROADWAY

2015 MAR -2 P 11:44

DEMOCRATIC PARTY
KINGS & RICHMOND COUNTIES
11TH CONGRESSIONAL DISTRICT
CERTIFICATE OF PARTY NOMINATION
AND
CERTIFICATE OF CONSENT AND ACCEPTANCE

DEMOCRATIC PARTY
KINGS & RICHMOND COUNTIES
11TH CONGRESSIONAL DISTRICT
CERTIFICATE OF PARTY NOMINATION

Borough of Brooklyn
City and State of New York

To the Board of Elections in the City of New York:

Pursuant to Article 3, §30, §31, and §42 of the *Public Officers Law*; §6-158(6) and §4-106(3) of the *Election Law*; a vacancy in the public office of Representative in Congress in the 11th Congressional District occurred upon the resignation of Michael Grimm, Representative in Congress, from said district; and pursuant to §6-114 of the *Election Law* and the *Proclamation of the Governor*, issued on February 20, 2015, said vacancy shall be filled by the voters of said district for the remainder of the unexpired term of said office at the *Special Election* to be held on May 5, 2015.

Pursuant to §6-156 and §6-158(6) of the *Election Law*, the undersigned John P. Gulino, Chairman - Presiding Officer and Charles J. Ragusa, Secretary, respectively, of the 11th Congressional District Committee of the Democratic Party, do hereby certify that:

1. Pursuant to Article VI, §2(a)(iii) and Article II, §3(a)(ii) of the *Rules of the Democratic Party of the State of New York*; and §6-116 of the *Election Law*, said 11th Congressional District Committee of the Democratic Party, being composed of the duly elected Chairs of the Richmond and Kings County Democratic County Committees, said committee being the "...committee last elected in the political subdivision in which such vacancy is to be filled...", represents the **Democratic Party**, a political party, which, pursuant to §1-104(3) of the *Election Law*, at the last preceding Election for Governor of the State of New York, polled upwards of fifty thousand votes for its candidate for Governor.

2. John P. Gulino is the duly elected Chair of the Democratic County Committee in and for Richmond County and Charles J. Ragusa is the duly elected Chair of the Democratic County Committee in and for Kings County.

3. The aforesaid *Rules of the Democratic Party of the State of New York*, have been previously certified and filed in your office and in the offices of the State Board of Elections pursuant to §2-114 and §6-156 of the *Election Law*.

4. A special meeting of the 11th Congressional District Committee of the Democratic

Party, was convened in Apartment 5L of 10 Avenue P, Brooklyn, New York on Friday, February 27, 2015, at which a quorum of members was present, and, at which, John P. Gulino, residing at 66 Douglas Road, Staten Island, New York 10304, was elected Chairman-Presiding Officer, thereof, and Charles J. Ragusa, residing at 10 Avenue P, Apartment 5L, Brooklyn, New York 11204, was elected Secretary, thereof.

5. The aforesaid 11th Congressional District Committee of the Democratic Party, by its majority vote, duly nominated the following named, enrolled member of the Democratic Party, as the Democratic Party candidate for election to the public office of Representative in Congress from the 11th Congressional District, Kings & Richmond Counties, State of New York, to be voted for by the voters of said district at the Special Election to be held on Tuesday, May 5, 2015 as hereinafter specified:

NAME OF CANDIDATE

PLACE OF RESIDENCE

Vincent J. Gentile

8901 Shore Road, Apt. 7E
Brooklyn, New York 11209

6. The aforesaid 11th Congressional District Committee of the Democratic Party appointed the following named persons (all of whom are enrolled members of the Democratic Party):

Frank V. Carone, residing at 2626 National Drive, Brooklyn, New York 11234

John P. Gulino, residing at 66 Douglas Road, Staten Island, New York 10304

Charles J. Ragusa, residing at 10 Avenue P, Apartment 5L, Brooklyn, New York 11204

as a Committee to Fill Vacancies in accordance with the provisions of the *Election Law*.

IN WITNESS WHEREOF, we have made and executed this certificate this 27th day of February 2015.



John P. Gulino, Chairman - Presiding Officer
11th Congressional District Committee of the Democratic Party



Charles J. Ragusa, Secretary
11th Congressional District Committee of the Democratic Party

State of New York)
 City of New York) ss.:
 County of Kings)

BOARD OF ELECTIONS IN
 THE CITY OF NEW YORK
 30 ELM STREET

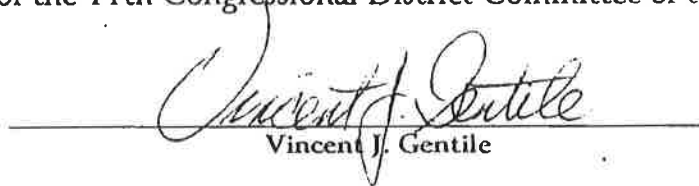
On this 27th day of February 2015, before me, the undersigned, personally appeared John P. Gulino and Charles J. Ragusa, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument..



Jeffrey C. Feldman
 Commissioner of Deeds
 City of New York - No. 2-9011
 Certificate filed in Kings County
 Commission Expires on February 1, 2016

CERTIFICATE OF CONSENT AND ACCEPTANCE

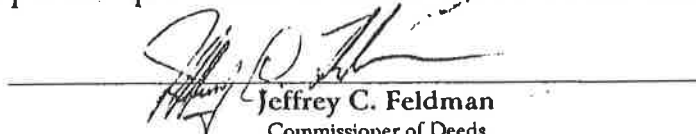
I, Vincent J. Gentile, residing at 8901 Shore Road, Apt. 7E, Brooklyn, New York 11209, do hereby consent to and accept the nomination as the candidate of the Democratic Party for the public office of Representative in Congress from the 11th Congressional District, Kings & Richmond Counties, State of New York, to be voted for and at the Special Election to be held on Tuesday, May 5, 2015, which nomination was duly tendered to me by the Democratic Party at a special meeting of the 11th Congressional District Committee of the Democratic Party.



Vincent J. Gentile

State of New York)
 City of New York) ss.:
 County of Kings)

On this 27th day of February 2015, before me, the undersigned, personally appeared Vincent J. Gentile, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Jeffrey C. Feldman
 Commissioner of Deeds
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