

IN THE SUPREME COURT OF OHIO

**STATE OF OHIO, ex rel.
ROBERT RICHARDS, et al.,**

Relators,

v.

**STARK COUNTY BOARD OF
ELECTIONS, et al.,**

Respondents.

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: Case No. 2015-1297
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: **Original Action in Prohibition**
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**ANSWER AND AFFIRMATIVE DEFENSES OF RESPONDENT
SECRETARY OF STATE JON HUSTED**

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**ANSWER AND AFFIRMATIVE DEFENSES OF RESPONDENT
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For his Answer and Affirmative Defenses to Relators’ Complaint for Writ of Prohibition, Respondent Secretary of State (“Respondent”) states:

ANSWER

1. The Complaint speaks for itself. Further answering, the allegations contained in paragraph 1 of the Complaint call for a legal conclusion for which no response is required.
2. Respondent admits the allegations contained in paragraph 2 of the Complaint.
3. Respondent admits the allegations contained in paragraph 3 of the Complaint.
4. The Complaint speaks for itself. Respondent denies the remaining allegations contained in paragraph 4 of the Complaint.
5. The Complaint speaks for itself. Respondent admits that Relators filed a protest. Respondent denies for want of knowledge the remaining allegations contained in paragraph 5 of the Complaint.

6. Paragraph 6 of the Complaint calls for legal conclusions for which no response is required. To the extent a further answer is required, any remaining allegations are denied.
7. The Ohio Revised Code and the cases cited in paragraph 7 of the Complaint speak for themselves. Respondent denies the remaining allegations.
8. Respondent admits that he broke a tie-vote of the Respondent Stark County Board of Elections in favor of certifying Francis Cicchinelli's independent candidacy for Mayor of Massillon to the November 3, 2015 General Election Ballot. Respondent denies the remaining allegations contained in paragraph 8 of the Complaint.
9. The cases cited in paragraph 9 of the Complaint speak for themselves. Paragraph 9 of the Complaint also calls for legal conclusions for which no response is required. To the extent a further answer is required, any remaining allegations are denied.
10. The cases cited in paragraph 10 of the Complaint speak for themselves. Respondent denies the remaining allegations.
11. Respondent admits the allegations contained in paragraph 11 of the Complaint.
12. Exhibit 1 speaks for itself. To the extent a further answer is required, any remaining allegations in paragraph 12 of the Complaint are denied.
13. Respondent admits that Relators filed a protest. Exhibit 2, a copy of said protest, and R.C. 3513.262 speak for themselves. To the extent a further answer is required, any remaining allegations in paragraph 13 of the Complaint are denied. Respondent admits the allegations in Footnote 1.
14. Respondent admits that the Stark County Board of Elections conducted a hearing on the protest. Exhibit 1, the transcript of said hearing, speaks for itself. To the extent a further

- answer is required, any remaining allegations in paragraph 14 of the Complaint are denied. Respondent denies for want of knowledge the allegation in Footnote 2.
15. Respondent is without sufficient knowledge to admit or deny the allegations contained in paragraph 15 of the Complaint. Paragraph 15 of the Complaint also calls for legal conclusions for which no response is required. To the extent a further answer is required, any remaining allegations are denied.
 16. Exhibit 1 speaks for itself. Respondent denies for want of knowledge the allegation that Cicchinelli's wife was deeply involved in Cicchinelli's candidacy. To the extent a further answer is required, any remaining allegations in paragraph 16 of the Complaint are denied.
 17. Respondent denies the allegations contained in paragraph 17 of the Complaint.
 18. Respondent admits the allegations contained in paragraph 18 of the Complaint.
 19. R.C. 3501.11(X) speaks for itself. Respondent admits the remaining allegations contained in paragraph 19 of the Complaint.
 20. Exhibit 3 speaks for itself. Respondent admits the remaining allegations contained in paragraph 20 of the Complaint.
 21. Exhibit 3 speaks for itself. To the extent a further answer is required, any remaining allegations in paragraph 21 of the Complaint are denied.
 22. The allegations contained in paragraph 22 of the Complaint call for a legal conclusion for which no response is required.
 23. Exhibit 3 speaks for itself. Respondent denies the remaining allegations contained in paragraph 23 of the Complaint.

24. The case cited in paragraph 24 of the Complaint speaks for itself. The remaining allegations contained in paragraph 24 of the Complaint call for a legal conclusion for which no response is required.
25. The allegations contained in paragraph 25 of the Complaint call for a legal conclusion for which no response is required.
26. Respondent denies the allegations contained in paragraph 26 of the Complaint.
27. R.C. 3501.01(I) and 3513.257 speak for themselves. Respondent denies the remaining allegations contained in paragraph 27 of the Complaint.
28. Respondent admits that a primary election was held on May 5, 2015. The remaining allegations contained in paragraph 28 of the Complaint call for a legal conclusion for which no response is required. To the extent a further answer is required, any remaining allegations are denied.
29. R.C. 3513.257 speaks for itself.
30. R.C. 3501.01(I) speaks for itself.
31. The case cited in paragraph 31 of the Complaint speaks for itself.
32. The case cited in paragraph 32 of the Complaint speaks for itself.
33. The allegations contained in paragraph 33 of the Complaint call for a legal conclusion for which no response is required. To the extent a further answer is required, any remaining allegations are denied.
34. The case cited in paragraph 34 of the Complaint speaks for itself.
35. R.C. 3513.257 speaks for itself. The allegations contained in paragraph 35 of the Complaint also call for a legal conclusion for which no response is required. To the extent a further answer is required, any remaining allegations are denied.

36. The Complaint and the cases cited in paragraph 36 of the Complaint speak for themselves. Respondent denies the remaining allegations.
37. Respondent denies the allegations contained in paragraph 37 of the Complaint.
38. Respondent admits that Relators filed this Complaint within five business days of Respondent's decision. The remaining allegations contained in paragraph 38 of the Complaint call for a legal conclusion for which no response is required.
39. The allegations contained in paragraph 39 of the Complaint call for a legal conclusion for which no response is required.
40. Respondent admits that the affidavits of Richards and Schartiger are attached to the Complaint. To the extent a further answer is required, any remaining allegations contained in paragraph 40 of the Complaint are denied.
41. Respondent specifically denies that Relators are entitled to the relief requested in the Prayer for Relief.
42. Respondent denies any and all allegations contained in Relators' Complaint not expressly admitted above. Moreover, all of the case law, other legal authority, and exhibits cited throughout the Complaint speak for themselves.

AFFIRMATIVE DEFENSES

First Defense

43. Relators have failed to state a claim upon which they are entitled to relief from Respondent.

Second Defense

44. Relators have failed to satisfy the requirements for a writ of prohibition to issue.

Third Defense

45. Respondent's exercise of power was authorized by law.

Fourth Defense

46. Respondent did not abuse his discretion in finding that Relators failed to meet their burden of demonstrating clear and convincing evidence in support of disqualifying Francis Cicchinelli.

Fifth Defense

47. Respondent reserves the right to add additional defenses, including additional affirmative defenses, as they become apparent in discovery.

WHEREFORE, having answered Relators' Complaint, Respondent respectfully requests that this Court dismiss it in its entirety, with prejudice.

Respectfully submitted,

MIKE DEWINE
Ohio Attorney General

/s/ Nicole M. Koppitch

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Counsel for Respondent

Ohio Secretary of State Jon Husted

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Answer and Affirmative Defenses of Respondent Secretary of State Jon Husted* was served by electronic mail or by facsimile transmission on August 14, 2015, upon the following:

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