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In the matter of the Complaint  
Against  
New York State Board of Elections  
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WHEREAS, on or about January 2, 2024, the Division of Election Law Enforcement of the New York State Board of Elections (DELE) received a complaint alleging the New York State Board of Elections (NYSBOE) misstated the eligibility criteria for being elected as President of the United States on its website. The complaint states that the NYSBOE website “*cited being ‘Born a Citizen’ as one of the criteria for holding*” office of the President of the United States. Instead, the complaint claims the correct eligibility should be “*Natural Born Citizen*” and further claims that continuing to list such inaccurate eligibility criteria is a gross derogation of New York State Election Law; and

WHEREAS, a review of the NYSBOE website found that it does state that the requirement to hold the office of President of the United States as “born a citizen” on both the webpage entitled Running for Office and a pdf guidebook found on that page. However, the guidebook, titled “*Running for Elected Office in New York State*,” does contain a preface stating that “*information posted...is not used as a substitute for...specific petition requirements;*” and

WHEREAS, when adopting the U.S. Constitution, courts and other literature point to the meaning of a natural born citizen, as to include those born outside of the U.S., so long as at least one parent is a U.S. Citizen. The usages and evidence from the first U.S. Congress suggest including those born outside of the U.S. On the Meaning of Natural Born Citizen, Harvard Law Review Forum, vol. 128:161; Minor v Happersett, 88 U.S. 162 (1874); and

WHEREAS, NYS Election Law § 6-102 governs designations and nominations of candidates. “Party nominations of a candidate for the office of elector of president and vice president of the United States, ... shall be made by the party committee;” and

WHEREAS, similarly, a lawsuit alleged to disqualify President Obama and accused NYSBOE of failing to ascertain that President Obama was a natural-born citizen. The court in Strunk v New York State Bd. Of Elections et al, 35 misc.3d 1208A (2012) opined that the framework for the Electoral College and its voting procedures for the President ... found in the U.S Constitution is fleshed out in 3 USC § 1 et seq. That court concluded that the exclusive focus was meant to resolve objections to the elector’s selection of a President. The court went on to state that federal courts and state courts have no role; and

NOW, THEREFORE, based on the foregoing, this matter is closed with no further enforcement action.

NEW YORK STATE  
BOARD OF ELECTIONS

A handwritten signature in black ink, appearing to read "Michael L. Johnson". The signature is written in a cursive style with a long, sweeping tail.

By: Michael L. Johnson  
Chief Enforcement Counsel