BEFORE THE STATE ELECTION BOARD OF THE
STATE OF OKLAHOMA

IN THE MATTER OF CONTEST OF THE)
CANDIDACY OF **DARIO ALVARADO**)
FOR THE OFFICE OF STATE   )   CAUSE NO. 2016-01
REPRESENTATIVE, DISTRICT 89   )

FINDINGS AND ORDER

The above-styled cause was heard by the Election Board of the State of Oklahoma on April 25, 2016, meeting pursuant to lawful notice.

The following members of the State Election Board ("Board") were present: Steve Curry, Chair; Tom Montgomery, Vice-Chair; and Dr. Tim Mauldin, Member. Also present were Paul Ziriax, Secretary; and counsel for the State Election Board, Jan Preslar, Deputy Attorney General; and Jason Seay, Assistant Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner Shane Stone appeared *pro se*. Contestee Dario Alvarado did not appear.

The Petition was filed and Notice of Hearing issued on April 15, 2016, at 5:10 p.m.

The Board received proof of attempted personal service on Mr. Alvarado by the Oklahoma County Sheriff on April 15, 2016, at 6:44 p.m., stating the Contestee could not be found. The provisions for constructive service on Contestee, set forth in 26 O.S. § 5-125, therefore apply.

Mr. Alvarado did not submit a cashier's or certified check in the amount of $250.00, as required by 26 O.S. § 5-129.

The Board made the following findings of fact and conclusions of law:

1.   Mr. Stone filed with the Board a Declaration of Candidacy for the office of State Representative, District 89, during the filing period of April 13-15, 2016.

2.   Mr. Alvarado filed with the Board a Declaration of Candidacy for the office of State Representative, District 89, during the filing period of April 13-15, 2016.

3.   14 O.S. § 108 provides, in pertinent part:

> To file as a candidate for the House of
> Representatives in any representative district, a
> person must have been a registered voter in such

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district and a resident residing within such district for at least six (6) months immediately preceding the filing period prescribed by law.

4.   Mr. Stone's Petition alleges, as the basis for the contest:

Per his voter registration he was not a resident of House District 89 until December 17th, 2015. This change was made more than two months beyond the deadline. (14 O.S. § 108)

5.   The filing period began on April 13, 2016, pursuant to 26 O.S. § 5-110. Consequently, Mr. Alvarado was required to have been registered in District 89 on or before October 13, 2015.

6.   Title 26 O.S. § 5-129 requires a contestee, at the time of filing his or her answer to the contest, or, if no answer is filed, at the time of his or her appearance, to deposit with the secretary of the election board a cashier's check or certified check in the amount of $250.00. All persons filing a Declaration of Candidacy are referred to the State Election Board's website to obtain a Candidate Filing Packet. The packet contains, on page three, a notice to contestees that if they desire to respond to a petition contesting their candidacy, they must deposit with the election board secretary a cashier's check or certified check at the time of his or her appearance at the scheduled hearing on the contest.

7.   Mr. Alvarado's failure to answer the petition by submitting the proper cashier's check or certified check in the amount of $250.00, as required by 26 O.S. § 5-129, places Mr. Alvarado in default, pursuant to 26 O.S. § 5-130.

8.   Pursuant to 26 O.S. § 5-130, Mr. Alvarado's default constitutes an admission of the allegations of the petition.

9.   The Board finds the factual allegations of the petition constitute appropriate grounds for disqualification of Contestee's candidacy.

10.   Mr. Stone's Petition is sustained, pursuant to 26 O.S. § 5-130, and Mr. Alvarado's name will not appear on the ballot as a candidate for the office of State Representative, District 89.

Done this 25th day of April, 2016, by a unanimous vote of the Election Board of the State of Oklahoma.

OKLAHOMA STATE ELECTION BOARD

STEVE CURRY, Chairman

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