

**BEFORE THE STATE ELECTION BOARD  
STATE OF OKLAHOMA**

IN THE MATTER OF THE CONTEST OF )  
THE CANDIDACY OF **JASON LOWE** FOR )  
THE OFFICE OF STATE ) CAUSE NO. 2020-08  
REPRESENTATIVE, DISTRICT 97 )

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER**

The above-styled cause was heard by the State Election Board for the State of Oklahoma on Tuesday, April 21, 2020, meeting pursuant to lawful notice and posting of an agenda consistent with the Open Meeting Act and SB 661, 2020 O.S.L. 3, § 3, amending the Open Meeting Act.

The following members of the State Election Board (“Board” or “SEB”) were present: Mr. Tom Montgomery, Chair<sup>1</sup>; Dr. Tim Mauldin, Vice Chair<sup>2</sup>; and Ms. Heather M. Cline<sup>3</sup>, Member (videoconference). Also present were Paul Ziriach, Secretary; and counsel for the State Election Board, Niki Batt, Vice-Deputy Attorney General; and Thomas R. Schneider, Assistant Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member<sup>4</sup>; and Debi Thompson, Alternate Member<sup>5</sup>.

Petitioner Ben M. Janloo appeared in person and was represented by M. Mark Myles. Contestee State Rep. Jason Lowe<sup>6</sup> appeared via videoconference and served as his own counsel.

Petitioner Ben M. Janloo’s Petition for Contest of Candidacy was filed and Notice of Hearing was issued on Tuesday, April 14, 2020. The Board received proof from the Petitioner that the Tulsa County Sheriff’s Office successfully served Contestee Shan within 24 hours of setting the Petition for hearing, as required by 26 O.S. 2011, § 5-124. The Petitioner provided Return of Sheriff Service to the Secretary of the State Election Board before or on the date of the hearing.

Contestee Lowe did submit a cashier’s or certified check in the amount of \$250.00, as required by 26 O.S. 2011, § 5-129, as well as submitted an Answer.

During the hearing, the following exhibits were offered into the record and testimony was heard, after first being duly sworn, from the following persons:

<b>Petitioner’s Exhibits</b>	
Petitioner’s Exhibit 1 (Document setting forth qualifications for the Office of State Representative in the State of Oklahoma)	<b>ADMITTED</b>

<sup>1</sup> Chairman Montgomery appeared by videoconference.

<sup>2</sup> Vice Chair Dr. Mauldin appeared by teleconference.

<sup>3</sup> Member Cline appeared by videoconference.

<sup>4</sup> Alternate Member Buchanan appeared by videoconference.

<sup>5</sup> Alternate Member Thompson appeared by videoconference.

<sup>6</sup> State Rep. Jason Lowe is a licensed attorney in good standing in the State of Oklahoma.

<b>Petitioner's Exhibits</b>	
Petitioner's Exhibit 2 (Notice of Hearing issued by the Secretary of the State Election Board)	<b>ADMITTED</b>
Petitioner's Exhibit 3 (Return of Sheriff Service)	<b>ADMITTED</b>
Petitioner's Exhibit 4 (Document of Title Election from American Eagle Title for property located at 27 NE 63rd St.)	<b>ADMITTED</b>
Petitioner's Exhibit 5 (2016 Declaration of Candidacy of Contestee Lowe)	<b>ADMITTED</b>
Petitioner's Exhibit 6 (2020 Declaration of Candidacy of Contestee Lowe)	<b>ADMITTED</b>
Petitioner's Exhibit 7 (Picture of Notice of Hearing attached to door at 25½ NE 63rd St., Oklahoma City, OK)	<b>ADMITTED</b>
Petitioner's Exhibit 11 (Notice from the City of Oklahoma City concerning the shutting off of utilities taken at 2:15 p.m. on April 15, 2020)	<b>ADMITTED</b>
Petitioner's Exhibit 12 (Notice from the City of Oklahoma City [larger])	<b>ADMITTED</b>
Petitioner's Exhibit 13 (Printout from Oklahoma County Assessor website for 25 N.E. 63rd St.)	<b>ADMITTED</b>
Petitioner's Exhibit 14 – (Photo of black BMW sedan bearing sticker of the Oklahoma House of Representatives )	<b>ADMITTED</b>
Petitioner's Exhibit 15 (Premium Background Report for years 2011-2015 for Jason Erksine Lowe)	<b>ADMITTED</b>
Petitioner's Exhibit 16 (Picture of 25½ NE 63rd St., Oklahoma City, OK on Monday, April 13, 2020, at 2:31 p.m.)	<b>ADMITTED</b>
Petitioner's Exhibit 17 (Picture of 25½ NE 63rd St., Oklahoma City, OK on Friday, April 17, 2020, at 1:23 p.m.)	<b>ADMITTED</b>
Petitioner's Exhibit 18 (Picture of 25½ NE 63rd St., Oklahoma City, OK on Saturday, April 18, 2020, at 11:24 a.m.)	<b>ADMITTED</b>
Petitioner's Exhibit 19 (Picture of 25½ NE 63rd St., Oklahoma City, OK on Saturday, April 18, 2020, at 9:04 p.m.)	<b>ADMITTED</b>
Petitioner's Exhibit 20 (Picture of 16201 Old Oak Dr., Edmond, OK on Tuesday, April 14, 2020, at 12:11 p.m.)	<b>ADMITTED</b>
Petitioner's Exhibit 21 (Picture of 16201 Old Oak Dr., Edmond, OK on Saturday, April 18, 2020, at 11:03 a.m.)	<b>ADMITTED</b>
Petitioner's Exhibit 22 (Picture of 16201 Old Oak Dr., Edmond, OK on Saturday, April 18, 2020, at 9:44 p.m.)	<b>ADMITTED</b>
Petitioner's Exhibit 23 (Screenshot of Facebook Page [Atty Jason Lowe] posted on October 6, 2019)	<b>ADMITTED</b>
Petitioner's Exhibit 24 (Screenshot of Facebook Page [Atty Jason Lowe] posted on November 17, 2019)	<b>ADMITTED</b>
Petitioner's Exhibit 25 (Map of Edmond, OK neighborhood using Google Earth)	<b>ADMITTED</b>

*Witnesses for Petitioner*

Petitioner Ben M. Janloo, *for himself*

Ms. Lisa Mahmoodjanloo

<b>Contestee's Exhibits</b>	
Contestee's Exhibit 1 (Picture of Erma Allen showing address in handwriting)	<b>ADMITTED<sup>7</sup></b>
Contestee's Exhibit 2 (Picture of Erma Allen without handwritten address)	<b>ADMITTED<sup>8</sup></b>
Contestee's Exhibit 3 (Picture of Erma Allen, back of the house)	<b>ADMITTED<sup>9</sup></b>
Contestee's Exhibit 4 (April 2020 Payment Confirmation from Oklahoma Natural Gas for Jason E. Lowe at service address of 25½ NE 63rd St., Oklahoma City, OK)	<b>ADMITTED</b>
Contestee's Exhibit 5 (April 2020 Billing Statement from OG&E to Jason Lowe at service address 25½ NE 63rd St., Oklahoma City, OK)	<b>ADMITTED</b>
Contestee's Exhibit 6 (City of Oklahoma City water and trash bill to Jason Lowe at service address 16201 Old Oak Dr., Edmond, OK)	<b>ADMITTED</b>
Contestee's Exhibit 7 (OU Physicians Billing Statement dated April 7, 2020, to Jason Lowe at 25½ NE 63rd St., Oklahoma City, OK)	<b>ADMITTED</b>
Contestee's Exhibit 8 (Handwritten Invoice showing service to gas line at 25½ NE 63rd St., Oklahoma City, OK)	<b>ADMITTED</b>
Contestee's Exhibit 9 (Checks written to landlord)	<b>ADMITTED</b>
Contestee's Exhibit 10 (Letter of Carl Clary dated April 16, 2020)	<b>ADMITTED</b>

*Witnesses for Contestee*

Contestee State Rep. Jason Lowe, *for himself*  
 Paula Brown  
 Jacques McGowen

The Board conducted the hearing. After considering all evidence and testimony offered and admitted, and after hearing arguments by the Parties, the Board makes the following findings of fact and conclusions of law:

1. Contestee, State Rep. Jason Lowe, filed with the State Election Board a Declaration of Candidacy for the office of State Representative, District 97, during the 2020 Candidate Filing Period occurring on April 8 through April 10, 2020.
2. Petitioner, Ben M. Janloo, filed with the State Election Board a Declaration of Candidacy for the office of State Representative, District 97, during the 2020 Candidate Filing Period occurring on April 8 through April 10, 2020.
3. The SEB received proof of personal service made on Contestee within twenty-four (24) hours of setting the Petition for hearing, as required by 26 O.S. 2011, §§ 5-124 & 5-125.
4. Under 26 O.S. 2011, § 5-130, “[t]he burden of proof shall be upon the petitioner to sustain the allegations in his petition.” In order to sustain his or her burden of proof, the petitioner must prove the allegations set forth in the Petition by the greater weight of the evidence.

<sup>7</sup> Previously offered as Pet'r.'s Ex. 8. Withdrawn by Petitioner Janloo.

<sup>8</sup> Previously offered as Pet'r.'s Ex. 9. Withdrawn by Petitioner Janloo.

<sup>9</sup> Previously offered as Pet'r.'s Ex. 10. Withdrawn by Petitioner Janloo.

5. The allegation contained in the Petition filed by Petitioner Janloo argues that since Contestee State Rep. Lowe has not been a resident in House District 97 for the six (6) months immediately preceding the filing period, he does not qualify to be a candidate under 14 O.S. 2011, § 108.
6. Pursuant to 14 O.S. 2011, § 108, a candidate for State Representative “must have been a registered voter in such district and a resident residing within such district for at least six (6) months immediately preceding the filing period prescribed by law.”
7. The filing period began on Wednesday, April 8, 2020, pursuant to 26 O.S. 2011, § 5-110. Consequently, Contestee Lowe was required to have been a registered voter and resident of House District 97 on or before October 7, 2019.
8. Contestee Lowe’s Declaration of Candidacy lists his residential address as 25½ NE 63rd St., Oklahoma City, OK (“63rd St. Address”) and his mailing address as the “same as above.” *See* **Petitioner’s Exhibit 6.**
9. A printout from the Oklahoma County Assessor’s website indicates that the owner of the property at 25 NE 63rd St., Oklahoma City, OK as the Nan Westervelt Trust. *See* **Petitioner’s Exhibit 13.**
10. While Oklahoma County Assessor records indicate that Contestee Lowe does not own the property at the 63rd St. Address (*see* **Pet’r.’s Ex. 13**), other evidence offered by the Contestee demonstrates the following: Contestee made a payment for natural gas service at the same address (*see* **Contestee Ex. 4**); a billing statement from OG&E for electric at a service address of the 63rd St. Address (*see* **Contestee Ex. 5**); a billing statement from OU Physicians addressed to Contestee at the same address (*see* **Contestee Ex. 7**); an invoice from a contractor indicating service at the 63rd St. address (*see* **Contestee Ex. 8**); checks<sup>10</sup> of Jason Lowe paying rent (*see* **Contestee Ex. 9**); and a handwritten letter submitted by his landlord (*see* **Contestee Ex. 10**).
11. During the hearing, Petitioner and his witness contended that the totality of their evidence showed that Contestee Lowe did not reside at the 63rd St. Address. Instead, they argued that he lived at 16201 Old Oak Dr., Edmond, OK. On cross examination, Petitioner Janloo to having moved away from his property at 27 NE 23rd St. in 2018<sup>11</sup>. Consequently, Contestee argued, Petitioner Janloo would not have actual knowledge as to whether Contestee Lowe resided at the 63rd Address since October 7, 2019.
12. Witness for Petitioner Janloo, Lisa Mahmoodjanloo, contended that pictures she took and documents she accumulated established that the Contestee didn’t live at the 63rd St. Address but that he did reside at 16201 Old Oak Dr., Edmond, OK. Mahmoodjanloo’s

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<sup>10</sup> The checks offered by Contestee Lowe bore an address of 16201 Old Oak Dr., Edmond, OK. Contestee explained that these were old checks he was still using.

<sup>11</sup> Upon questions from Member Cline, Janloo stated that he moved a couple of miles away from the 63rd St. Address.

testimony was substantially speculative and required significant inferential leaps.<sup>12</sup> On cross examination by Contestee Lowe, Mahmoodjanloo admitted to her speculation.

13. In contrast, testimony provided in Contestee's presentation of his case was largely credible, relevant, material, and not unnecessarily duplicative. Testimony from Contestee Lowe indicated that he lives at the 63rd St. Address and in House District 97. He explained that pictures of his car parked in front of the 16201 N. Old Oak Dr. address. He was at his parents' home assisting his mom in caring for his father who is homebound. Witness Brown<sup>13</sup> corroborated Contestee Lowe's explanation of his parent's living situation, and also admitted that she has issued checks on Contestee's behalf to pay the rent at the 63rd St. Address.<sup>14</sup> Witness McGowen stated that he has assisted Contestee Lowe in carrying trash to the corner, cleaning, moving furniture, and mowing the lawn at the 63rd St. Address.
14. The Oklahoma Supreme Court ruled on the question of residency as it was set forth in 14 O.S. § 108, in *Box v. State Election Bd. of Okla.*, 1974 OK 104, 526 P.2d 936. In determining the question of residency, the Court noted that it was one of fact, not law. *Id.* at ¶ 21, 526 P.2d at 940. Moreover, the Court also stated, '[t]he controlling fact to be considered is *the fact of intent* and to determine this fact . . . may take into consideration all the movements, transactions, and attending circumstances of the party or parties involved in the question.' *Id.* (emphasis added).
15. In light of the evidence provided and testimony given, Contestee Lowe has demonstrated his intent to reside in House District 97, specifically at 25½ NE 63rd St., Oklahoma City, OK, since on or before October 7, 2019 (see **Findings of Fact 7, 10, & 13**). Contestee Lowe has met the six-month residential requirement under 14 O.S. 2011, § 108.
16. Petitioner Ben M. Janloo has not sustained his burden of proof by the greater weight of the evidence in showing that it is more likely true than it is not that Contestee Lowe does not meet the six-month residential requirement set forth in 14 O.S. 2011, § 108.
17. Petitioner Nichols' Petition is therefore **DENIED**, pursuant to 26 O.S. 2011, § 5-130, and Contestee Lowe's name shall appear on the ballot as a candidate for the office of State Representative, District 97.
18. Costs are assessed against Petitioner Janloo pursuant to 26 O.S. 2011, § 5-131.

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<sup>12</sup> During cross examination, Witness Mahmoodjanloo could not answer whether she had definitive evidence to show that the Contestee resided and lived at the Edmond address outside of House District 97.

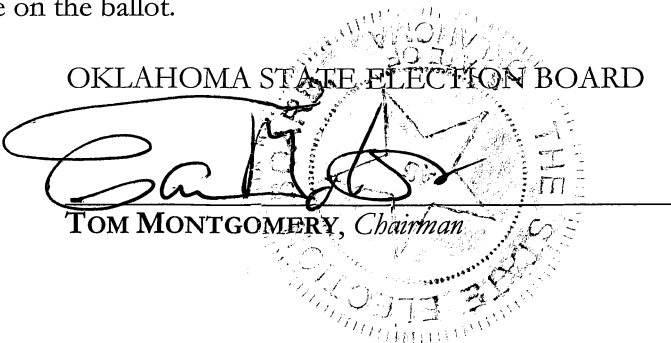
<sup>13</sup> Witness Brown works for Contestee Lowe at the Contestee's law firm. Asked by Member Cline whether she was under pressure to testify on the Contestee's behalf, Ms. Brown answered no.

<sup>14</sup> Questioned by Member Cline about Contestee Lowe maintaining another residence, Witness Brown answered that Lowe does not maintain any other residence.

On the 21st day of April, 2020, all members of the State Election, constituting a quorum, voted to **DENY** Petitioner Ben M. Janloo's Petition for Contest of Candidacy and **RETAIN** the candidacy of Contestee State Rep. Jason Lowe on the ballot.

5-18-20  
Date

OKLAHOMA STATE ELECTION BOARD



TOM MONTGOMERY, *Chairman*