

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. _____ MD 2022

**CHARLES E. O'CONNOR, JR., KEVIN PASQUAY, ELIJAH BOLGER,
and HELEN BANUSHI, Petitioners**

v.

**SHAWN DILLON and THE PENNSYLVANIA DEMOCRATIC
PARTY, Respondents**

PETITION/OBJECTIONS TO SET ASIDE NOMINATION/NOMINATION
PAPERS OF SHAWN DILLON AS A CANDIDATE FOR SENATOR
IN THE SPECIAL ELECTION FOR THE 5th STATE SENATE DISTRICT OF
THE COMMONWEALTH OF PENNSYLVANIA

McNEES WALLACE & NURICK LLC

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Attorneys for Petitioners

**PETITION/OBJECTIONS TO SET ASIDE
NOMINATION/NOMINATION PAPERS**

AND NOW, come the Petitioners, Charles E. O'Connor, Jr., Kevin Pasquay, Elijah Bolger, and Helen Banushi by and through their attorneys, McNEES WALLACE & NURICK LLC, per Ryan Gonder, Esquire to file the within Petition to Set Aside Nomination/Nomination Papers of Shawn Dillon as a candidate for Senator in the Special Election in the 5th State Senate District of the Commonwealth of Pennsylvania, averring in support thereof as follows:

1. This Court has jurisdiction pursuant to 42 Pa. C.S.A. § 764.
2. As set forth by the Commonwealth of Pennsylvania Department of State the last day to file Objections to Nomination Papers/Petitions is March 31, 2022, making Petitioners' present action timely. A true and correct copy of the Calendar for the Special Election to be Held May 17, 2022 issued by the Pennsylvania Department of State is attached hereto as **Exhibit A**.
3. Petitioner, Charles E. O'Connor, Jr., is an adult individual with an address of 3628 East Thompson Street, Philadelphia, Philadelphia County, Pennsylvania 19134, and resides in the 5th State Senate District of the Commonwealth of Pennsylvania and is registered to vote in the said District and eligible to vote for State Senator in said District in the May 17, 2022 Special Election.

4. Petitioner, Kevin Pasquay, is an adult individual with an address of 3454 Livingston Street, Philadelphia, Philadelphia County, Pennsylvania 19134, and resides in the 5th State Senate District of the Commonwealth of Pennsylvania and is registered to vote in the said District and eligible to vote for State Senator in said District in the May 17, 2022 Special Election.

5. Petitioner, Elijah Bolger, is an adult individual with an address of 1825 East Atlantic St., Apt. 202, Philadelphia, Philadelphia County, Pennsylvania 19134, and resides in the 5th State Senate District of the Commonwealth of Pennsylvania and is registered to vote in the said District and eligible to vote for State Senator in said District in the May 17, 2022 Special Election.

6. Petitioner, Helen Banushi, is an adult individual with an address of 730 Byberry Road, Apt. 504, Philadelphia, Philadelphia County, Pennsylvania 19116, and resides in the 5th State Senate District of the Commonwealth of Pennsylvania and is registered to vote in the said District and eligible to vote for State Senator in said District in the May 17, 2022 Special Election.

7. Respondent, Shawn Dillon, is an adult individual residing at 3824 Chalfont Drive, Philadelphia, Philadelphia County, Pennsylvania 19154.

8. Respondent, The Pennsylvania Democratic Party, is a political party with a registered address of 229 State Street, Harrisburg, PA 17101 and is named

as a Respondent herein because said Party nominated the Respondent, Shawn Dillon as its candidate, as more full set forth herein.

9. Respondent, Shawn Dillon was nominated by Respondent, The Democratic Party of Pennsylvania as its candidate for Senator in the May 17, 2022 Special Election for the vacant seat in the 5th State Senate District of the Commonwealth of Pennsylvania.

10. A Special Election was scheduled for May 17, 2022 to fill the vacant seat for the 5th State Senate District of the Commonwealth of Pennsylvania, following Sen. John Sabatina Jr. (D)'s resignation on January 1, 2022.

11. Section 1104(b)(1) of the Public Official and Employee Ethics Act requires candidates to file a statement of Financial Interest, providing “[a]ny candidate for a state-level public office shall file a statement of financial interests for the preceding calendar year with the commission on or before the last day for filing a petition to appear on the ballot for election. A copy of the statement of financial interests shall also be appended to such petition.” *65 Pa.C.S. § 1104(b)(1)*. The last day to file the required Statement of Financial Interest was March 28, 2022. *See Exhibit A.*

12. Further, Section 1104(b)(3) of the Public Official and Employee Ethics Act, states in relevant part “[n]o petition to appear on the ballot for election shall be accepted . . . unless the petition has appended thereto a statement of

financial interests Failure to file the statement in accordance with the provisions of this chapter shall, in addition to any other penalties provided, be a *fatal defect* to a petition to appear on the ballot.” 65 Pa.C.S. § 1104(b)(3) (emphasis added).

13. On March 29, 2022, one day after Respondent Dillon’s May 17, 2022 Special Election Statement of Financial Interest was required to be filed with the State Ethics Commission, a person associated with the campaign conducted a search on the State Ethics Commission’s website for a copy of Respondent Dillon’s Statement of Financial Interest, or any copy of Respondent Dillon’s previously filed Statements of Financial Interests, to which said person was unable to return any search results for Respondent Dillon’s Statements of Financial Interests.

14. On March 30, 2022, two days after Respondent Dillon’s Statement of Financial Interest was required to be filed with the State Ethics Commission, a person associated with the campaign inquired in-person with the State Ethics Commission for a copy of Respondent Dillon’s Statement of Financial Interest, or any copy of Respondent Dillon’s previously filed Statements of Financial Interests, to which the State Ethics Commission, after investigating the request, confirmed that it does not have any Statements of Financial Interests for Respondent Dillon.

15. On March 31, 2022 at or around 12:00 P.M., three days after Respondent Dillon's Statement of Financial Interest was required to be filed with the State Ethics Commission, a person associated with the campaign conducted a search on the State Ethics Commission's website for a copy of Respondent Dillon's Special Election Statement of Financial Interest, or any copy of Respondent Dillon's previously filed Statements of Financial Interests, to which said person was unable to return any search results for Respondent Dillon's Statements of Financial Interests. *See Exhibit B.*

16. On March 31, 2022 at or around 2:00 P.M., three days after Respondent Dillon's Statement of Financial Interest was required to be filed with the State Ethics Commission, a person associated with the campaign inquired in-person with the Commonwealth of Pennsylvania Department of State for a copy of Respondent Dillon's Statement of Financial Interest, or any copy of Respondent Dillon's previously filed Statements of Financial Interests, to which the Department of State, after investigating the request, provided a copy of a Statement of Financial Interest date stamped February 2, 2022 by the Department of State, but said copy did not include a corresponding State Ethics Commission stamp. *See Exhibit C.*

17. Accordingly, to the best of Petitioners' knowledge, a Statement of Financial Interest was not filed with the State Ethics Commission for the May 17,

2022 Special Election by Respondent Dillon as required by Section 1104(b)(1) of the Public Official and Employee Ethics Act.

18. Respondent has failed to timely file Respondent Dillon's statement of financial interests in accordance with the Public Official and Employee Ethics Act.

19. Respondent's failure to file Respondent Dillon's Statement of Financial Interests in accordance with the provisions of the Public Official and Employee Ethics Act constitutes a fatal defect to his petition to appear on ballot in the Special Election for the 5th State Senate District of the Commonwealth of Pennsylvania. *See In re Guzzardi*, 99 A.3d 381 (Pa. 2014).

20. "[T]he requirement to file a timely statement of financial interests is 'particularly important' and 'unwaivable.'" *In re Wilson*, 728 A.2d 1025, 1029 (Pa. Commw. Ct. 1999), citing *In re Petition to Set Aside Certain Nominating Petitions for Office of Lower Moreland Township School Director*, 657 A.2d 1382, 1384 (Pa. Commw. Ct. 1995), *affd sub nom. Heerin v. Friedenber*g, 663 A.2d 696 (Pa. 1995).

WHEREFORE, Petitioners, Charles E. O'Connor, Jr., Kevin Pasquay, Elijah Bolger, and Helen Banushi respectfully request that this Honorable Court issue an Order setting aside and striking Respondent's Nomination/Nomination Papers, as defective, and preventing Respondent Shawn Dillon's name from appearing on the ballot in said Special Election for failure to comply with the law.

Respectfully Submitted,

McNEES WALLACE & NURICK LLC

By: /s/Ryan T. Gonder

Ryan T. Gonder

Pa. I.D. No. 321027

J. Andrew Crompton

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Attorneys for Petitioners

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

McNEES WALLACE & NURICK LLC

By: /s/Ryan T. Gonder

Ryan T. Gonder

Pa. I.D. No. 321027

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Attorneys for Petitioners

Dated: March 31, 2022

VERIFICATION

I, Charles E. O'Connor, Jr., verify that the statements contained in the foregoing Petition/Objections to Set Aside Nomination/Nomination Papers are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

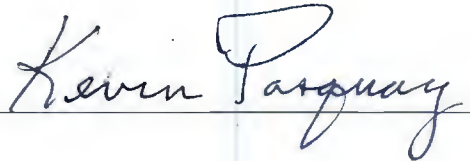
Date: March 31, 2022

Charles E O'Connor Jr

VERIFICATION

I, Kevin Pasquay, verify that the statements contained in the foregoing Petition/Objections to Set Aside Nomination/Nomination Papers are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: March 31, 2022



VERIFICATION

I, Helen Banushi, verify that the statements contained in the foregoing Petition/Objections to Set Aside Nomination/Nomination Papers are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: March 31, 2022

Helen Banushi

VERIFICATION

I, Elijah Bolger, verify that the statements contained in the foregoing Petition/Objections to Set Aside Nomination/Nomination Papers are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: March 31, 2022

A handwritten signature in black ink, appearing to read 'E. Bolger', written over a horizontal line.

EXHIBIT A

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF ELECTIONS AND NOTARIES

**CALENDAR FOR THE SPECIAL ELECTION TO BE HELD MAY 17, 2022
SENATOR IN THE GENERAL ASSEMBLY FOR THE 5TH DISTRICT
IN THE COUNTY OF PHILADELPHIA**

**ALL DATES SUBJECT TO CHANGE WITHOUT NOTICE IN THE EVENT OF PASSAGE OF ANY AMENDATORY LEGISLATION CHANGING THE PRIMARY DATE*

1. Writ, prepared by presiding officer,
served on the Secretary of the Commonwealth January 10, 2022
(At least 60 days prior to the special election. 25 P.S. § 2778)
2. First day for political parties and minor political parties to nominate
candidates by filing nomination certificates January 10, 2022
(25 P.S. § 2779)
3. First day for political bodies to circulate and file nomination
papers nominating candidates January 10, 2022
(25 P.S. § 2779)
4. Last day to file nomination certificates and
nomination papers March 28, 2022
(50 days prior to date of special election. 25 P.S. § 2779)
5. Last day to file objections: 3 days after the deadline for filing March 31, 2022
(25 P.S. § 2782)
6. Last day for Commonwealth Court to set a hearing
on objections: 7 days after deadline for filing April 4, 2022
(25 P.S. § 2782)
7. Last day to withdraw: 7 days after the deadline for filing April 4, 2022
(25 P.S. § 2783)
8. Last day to file substituted nomination
certificates: 7 days after the deadline for filing April 4, 2022
(25 P.S. § 2784(c))
9. Last day to file objections to substituted nominations:
3 days after substituted nomination certificate is filed Depends on filing date
(25 P.S. § 2785)

10. Last day for Secretary of the Commonwealth to certify names and residence of all candidates..... April 17, 2022
(30th day preceding the day fixed for the special election. 25 P.S. § 2786)
11. Last day to register to vote before the election..... May 2, 2022
(15 days before the special election. 25 P.S. § 3071(b))
12. Last day before the election on which official applications for civilian absentee and mail-in ballots may be received by the county board of elections May 10, 2022
(Tuesday before special election. 25 P.S. §§ 3146.2a(a), 3150.12a(a))
13. All civilian absentee ballots must be received by the county board of elections no later than 8:00 P.M. on this day to be counted..... May 17, 2022
(On the day of the special election. 25 P.S. § 3146.6(a))
14. All mail-in ballots must be received by the county board of elections no later than 8:00 P.M. on this day to be counted..... May 17, 2022
(On the day of the special election. 25 P.S. § 3150.16(c))
15. Last day for county boards of elections to receive voted military and overseas absentee ballots May 24, 2022
(By 5:00 P.M. on the 7th day following a primary or election and must be voted no later than 11:59 P.M. on May 16th, 25 P.S. § 3146.8(g)(1) & 25 Pa.C.S. § 3511(a)).

ADDITIONAL INFORMATION

- A. Political Parties, including Minor Political Parties, file nomination certificates, nominating candidates in accordance with party rules.
- B. Candidates of political bodies file nomination papers, obtaining signatures equal to 2% of the largest vote cast for any elected officer in that district at the last preceding election or the number of signatures required on a nomination petition for a political party candidate, whichever is greater. Signers of such papers must be qualified, registered electors of the district. **The number of signatures required on nomination papers to be filed by candidates of political bodies for the Special Election for the 5th Senatorial District is 1,391.** All nomination papers must be accompanied by a properly completed candidate's affidavit and a copy of the Statement of Financial Interests required to be filed with the State Ethics Commission. In addition, a filing fee of \$100.00 must be submitted with each set of nomination papers and must be paid by certified check or money order payable to the 'Commonwealth of Pennsylvania'.

NOTE: The Election Code provides that no person “who is a registered and enrolled member of a party (shall) be eligible to be the candidate of a political body for a special election.” 25 P.S. § 2911.1.

CAMPAIGN FINANCE REPORTING DEADLINES

<i>Report</i>	<i>Complete Up To And Including</i>	<i>Filing Deadline*</i>
2nd Friday Pre-Election <i>(Complete as cf 15 days prior to the special election. 25 P.S. § 3246(a)).</i>	May 2, 2022	May 6, 2022
24 Hour Reporting <i>(25 P.S. § 3248)</i>	May 3, 2022 <i>(begins)</i>	May 17, 2022 <i>(ends/includes)</i>
30 Day Post-Election <i>(Complete as cf 10 days after the special election. 25 P.S. § 3246(e))</i>	May 27, 2022	June 16, 2022

*Postmarks are acceptable as proof of timely filing when reports are postmarked by the U.S. Postal Service no later than the day before the filing deadline.

ETHICS LAW INFORMATION

All candidates for the Special Election must file Statements of Financial Interests with the State Ethics Commission and a copy of the Statement of Financial Interests with their nomination certificates or nomination papers. For further information, please call the State Ethics Commission at (717) 783-1610.

EXHIBIT B



Home Browse Search

SFI Search

Searches are not case sensitive

First Name: shawn

Last Name: dillon

Submit Reset

Sort results by: Relevance

Results: 0 - 0 of 0

No results found



EXHIBIT C

STATEMENT OF FINANCIAL INTERESTS

PLEASE PRINT NEATLY

01 LAST NAME FIRST NAME MI SUFFIX

D i l l i o n S h a w n F

02 ADDRESS office (business or governmental) or home City State Zip Code Area Code Phone

3824 Chalfont Dr, Philadelphia PA 19154 215 868-8138

NOTE: IF YOU ARE INCLUDING ATTACHMENTS, DO NOT INCLUDE ANYTHING THAT BEARS YOUR SOCIAL SECURITY NUMBER OR FINANCIAL ACCOUNT NUMBERS.

03 STATUS Check applicable block or blocks, more than one block may be marked. (See instructions on page 2)

A Candidate (including write-in) C Public Official (Current) D Public Employee (Current) E Check this block if you are filing as a solicitor Check this block if you are amending an original filing

B Nominee C Public Official (Former) D Public Employee (Former)

04 PUBLIC POSITION OR PUBLIC OFFICE (administrator, member, Commissioner, job title, etc.) seeking hold held

A L i q u o r S t o r e S u p e r v i s o r V seeking hold held

B P A S t a t e S e n a t o r

05 GOVERNMENTAL ENTITY in which you are/were an Official, Employee, Candidate or Nominee (e.g., dept, agency, authority, borough, board, commission, county, school district, twp, etc.)

A C o m m o n w e a l t h o f P A

B P A S t a t e S e n a t e

06 OCCUPATION OR PROFESSION (This may be the same as block 4) 07 YEAR Indicate calendar year for which form is being filed. SEE INSTRUCTIONS.

Retired 2021

08 REAL ESTATE INTERESTS (See instructions on page 2) If NONE, check this box.

09 CREDITORS (See instructions on page 2). Creditor (Name and Address) If NONE, check this box.

Name: Address: Interest Rate

10 DIRECT OR INDIRECT SOURCES OF INCOME including (but not limited to) all employment. (See instructions on pg. 2) ONLY IF NONE, check this block. (OFFICIAL USE ONLY)

Name: Dept. of the Auditor General Address: P.O Box 8006 Harrisburg Pa. 19102

City of Philadelphia (Spouse) 1401 JFK Blvd. Phila. Pa 19102

11 GIFTS (See instructions on page 2) If NONE, check this box.

Source of Gift Value of Gift

Address of Source of Gift Circumstances (including description) of Gift

12 TRANSPORTATION, LODGING, HOSPITALITY (See instructions on page 2) If NONE, check this box.

Source (Name and Address) Value

13 OFFICE, DIRECTORSHIP, OR EMPLOYMENT IN ANY BUSINESS (See instructions on page 2) If NONE, check this box.

Business Entity (Name and Address) Position Held

Name: Phila. Democratic Party Ward Leader Address: 219 Spring Garden St Phila Pa 19123

14 FINANCIAL INTEREST IN ANY LEGAL ENTITY IN BUSINESS FOR PROFIT (See instructions on page 2) If NONE, check this box.

Name and Address of Business Interest Held

15 BUSINESS INTERESTS TRANSFERRED TO IMMEDIATE FAMILY MEMBER (See instructions on page 2) If NONE, check this box.

Business (Name and Address) Interest Held Relationship Date Transferred

Transferee (Name and Address)

The undersigned hereby affirms that the foregoing information is true and correct to the best of said person's knowledge, information and belief; said affirmation being made subject to the penalties prescribed by 18 Pa.C.S. §4904 (unsworn falsification to authorities) and the Public Official and Employee Ethics Act, 65 Pa.C.S. §1109(b).

Signature *Shawn Dillon* Enter Current Date 1/18/2022

THIS FORM IS CONSIDERED DEFICIENT IF ANY BLOCK ABOVE IS NOT COMPLETED. MAKE A COPY FOR YOUR RECORDS.