

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D36153
N/kmb

_____AD3d_____

Argued - September 21, 2012

ANITA R. FLORIO, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
ROBERT J. MILLER, JJ.

2012-07552

DECISION & ORDER

In the Matter of Gregory John Fischer, et al.,
appellants, v NYS Board of Elections, et al.,
respondents.

(Index No. 22486/12)

In a proceeding pursuant to Election Law § 16-102, inter alia, to validate petitions purporting to designate Gregory John Fischer, Roger S. Lewis, and Bill Jurow as candidates in a primary election that was held on September 13, 2012, for the nomination of the Democratic Party as candidates for the public offices of Trustees of the Long Island Power Authority, the petitioners appeal from a final order of the Supreme Court, Suffolk County (Garguilo, J.), dated August 6, 2012, which granted the respective motions of the New York State Board of Elections, of the Suffolk County Board of Elections, Anita S. Katz, and Wayne T. Rogers, and of the Nassau County Board of Elections, William T. Biamonte, and Louis G. Savinetti, to dismiss the petition for failure to state a cause of action, and dismissed the petition.

ORDERED that the final order is affirmed, without costs or disbursements.

Pursuant to Public Authorities Law § 1020-d(1), the 15 trustees who constitute the Long Island Power Authority are appointed by the Governor, the Temporary President of the Senate, and the Speaker of the Assembly. Since the trustees of the Long Island Power Authority are appointed, rather than elected in a public election, the designating petitions filed with the Suffolk County Board of Elections purporting to designate Gregory John Fischer, Roger S. Lewis, and Bill Jurow as candidates in a primary election for the nomination of the Democratic Party as candidates for the public offices of Trustees of the Long Island Power Authority were a nullity. Accordingly, the Supreme Court properly dismissed the petition in this proceeding, which was commenced to

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validate the appellants' designating petitions.

The appellants' remaining contentions are without merit.

FLORIO, J.P., DICKERSON, BELEN and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court