

APPEARANCE REQUIRED ON  
THE HEARING DATE OF 7/24/23

**SUPREME COURT STATE OF NEW YORK  
COUNTY OF ORANGE**

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In the matter of  
Claudio Guazzoni de Zanetti, Public Advocate and aggrieved voter,  
Petitioner,

-against-

THE VILLAGE OF TUXEDO PARK, and  
Elizabeth Doherty, Village Clerk,  
and Chief Village Election Official,  
and Respondent Candidates, David C. McFadden, Joshua S.  
Scherrer, Marc D. Citrin and Paul A. Brooke,  
Respondents.

Index No.:

Date Purchased:

**ORDER TO SHOW CAUSE**

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Upon the reading and filing of annexed Verified Petition, duly verified on the 20th day of  
June, 2023, and upon all of the papers and proceedings heretofore submitted and had herein, it is  
hereby

**ORDERED**, that Respondents show cause before this Court, before the Honorable Justice  
Maria Vazquez-Doles, to be held at the Courthouse located at 285 Main Street, Goshen, New York,  
in the County of Orange, State of New York, on the **24th day of JULY, 2023** at 10:00 a.m. of that  
day, why an order should not be made and entered herein:

- (a) Allowing the joinder of other parties to these proceedings as may be needed and  
the amendment of the pleadings as may be required by changing facts;
- (b) Taking up any Constitutional claims and providing for notification to the Attorney  
General;
- (c) Determining the validity of any ballots and votes, including but not limited to, all  
election day paper ballots (including canvassed ballots and non-canvassed hand  
counted ballots), emergency ballots, absentee ballots, affidavit ballots, special

ballots, and military ballots cast for the public offices voted for by the voters of the Village of Tuxedo Park in the Village Election on the 20<sup>th</sup> day of June, 2023, which were not verified as to registration of the voter as required by law;

- (d) Ordering the Village Clerk to perform her duty under the law by verifying whether or not any person who requested an absentee ballot for the Village election being held on June 20, 2023 was registered to vote in said Village on the date they requested a ballot;
- (e) Ordering the Village Clerk to perform her duty under the law by and reject any absentee ballot received from a person who was not registered to vote at the time they applied for and was sent an absentee ballot;
- (f) Ordering the Village Clerk to perform her duty under the law and verify the registration of all absentee ballots received prior to opening said ballots and, with regard to those persons determined to be not registered to vote in the Village election -- ie: not registered by midnight on June 9, 2023 -- to be set aside and not counted;
- (g) Ordering the Village Clerk to perform her duty under the law and verify each person who appears to vote in person, was registered to vote on or before June 9, 2023 for the election being held on June 20, 2023;
- (h) Ordering the Village Clerk to certify the correct vote tally and/or the name of the correct Candidates as the duly elected persons to those public offices pertaining thereto, in the Village Election held therefor on the 20<sup>th</sup> day of June, 2023;
- (i) Alternatively, in the event that the Court determines the voting discrepancies to be outcome determinative, ordering a new Village Election; and

(j) Granting Petitioner such other and further relief as this Court deems just and proper; and it is further

**ORDERED** that Respondents shall file any Opposition papers on or before July 10, 2023 and Petitioner shall file any Reply papers on or before July 17, 2023, and it is further

**ORDERED**, that the Village Clerk of the Village of Tuxedo Park is *temporarily restrained* from counting all absentee ballots in the 2023 General Village Election held in and for the Village of Tuxedo Park, *and temporarily restrained* from allowing persons to vote in person without first verifying they had been registered on or before June 9, 2023; and it is

**ORDERED**, that Respondent Village Clerk produce upon the *day of the hearing* of this order all election day paper ballots, absentee ballots, affidavit ballots, special ballots, military ballots, official tally sheets and returns of canvass sheets used in the Village Election held on the 20<sup>th</sup> day of June, 2023, and other records which are the subject of this proceeding, and with the determinations of the said Village Clerk upon any objections and challenges to voters, and any other papers or worksheets relating thereto; and it is further,

**ORDERED**, that Respondent Village Clerk cause all election day paper ballots, absentee ballots, affidavit ballots, special ballots, military ballots, and worksheets including statements of canvass (collectively the "Voting Material"), utilized in the Village Election on the 20th day of June, 2023 be maintained in the offices of the Village Clerk, pending future order of this Court; and it is further

**ORDERED**, that any objected to unopened and/or non-canvassed ballots, absentee ballots, uncanvassed emergency ballots, affidavit ballots, special ballots, and military ballots, be set aside unopened and non-canvassed pending further Order of this Court; and it is further

**ORDERED**, that the Village Clerk and any person or entity acting on her behalf be and hereby is *enjoined from certifying the results of the election at issue herein pending further Order of the Court*; and it is further

**ORDERED**, that sufficient reason appearing therefore, leave is hereby granted to the parties to submit 20 days before the trial of this matter additional witnesses, exhibits, proofs and other evidence as may be necessary; and

**SUFFICIENT CAUSE APPEARING THEREFOR**, it is further

**ORDERED**, that service of a copy of this order, together with a copy of the papers upon which it is granted, on the Respondents **VILLAGE OF TUXEDO PARK** and **ELIZABETH DOHERTY, VILLAGE CLERK**, thereof be made by email to Village of Tuxedo Park, Village Attorney - Brian Nugent - [bnugent@fnmlawfirm.com](mailto:bnugent@fnmlawfirm.com) and to the Village Clerk at [edoherty@tuxedopark-ny.gov](mailto:edoherty@tuxedopark-ny.gov) on the **20<sup>TH</sup> day of June, 2023** and by US Mail Express Delivery to the Village of Tuxedo - Village Clerk - on the **21st day of June, 2023**, and it is further

**ORDERED**, that service of a copy of this Order to Show Cause, together with a copy of the papers upon which it is granted, upon the Respondent - Candidates, be made by one of the following methods at the option of the petitioner(s):

(1) by delivering the same to such Respondent-Candidates personally pursuant to CPLR 318 (1) on or before the **20<sup>th</sup> day of JUNE, 2023**; or

(2) by enclosing the same in a securely sealed and duly prepaid wrapper, addressed to such Respondent-Candidates at the address set forth in his / her / their Independent Nominating petition(s), and by depositing the same with a depository of the United States Postal Service (or any other recognized overnight delivery service), on or before the **20<sup>th</sup> day of JUNE, 2023** via **EXPRESS MAIL**; or

(3) Consistent with the holding in Anglelli v. Niagara County Board of Elections, 25 N.Y.3d 794 (2015) and Marcoccia v. Garfinkle, 307 A.D.2d 1010, (2<sup>nd</sup> Dept. 2003), by affixing the same to the outer or inner door of the residence of such Respondent-Candidates at the address set forth in his / her / their Independent Nominating petition(s), AND by enclosing the same in a securely sealed and duly prepaid wrapper, addressed to each such Respondent-Candidate at the address set forth in his / her / their Independent Nominating petition(s), and depositing the same with a depository of the United States Postal Service (or any other recognized overnight delivery service) on or before the 20<sup>th</sup> day of JUNE, 2023; or

(4) by delivering the same to a person of suitable age and discretion at the address of each such Respondent-Candidates as set forth in his / her / their Independent Nominating petition(s), AND by enclosing the same in a securely sealed and duly prepaid wrapper, addressed to such Respondent-Candidate at the address set forth in his / her / their Independent Nominating petition(s), and depositing the same with a depository of the United States Postal Service (or any other recognized overnight delivery service); on or before the 20<sup>th</sup> day of JUNE, 2023, or;


(5) by delivering the same to a person of suitable age and discretion at the business address, or campaign offices of such Respondent-Candidates AND by enclosing the same in a securely sealed and duly prepaid wrapper, addressed to such Respondent-Candidate at the address set forth in his / her / their Independent Nominating petition(s), and depositing the same with a depository of the United States Postal Service (or any other recognized overnight delivery service), on or before the 20<sup>th</sup> day of JUNE, 2023; and it is further

**ORDERED** that wherever this Order specifies Express Mail service by the United States Postal Service, the Petitioner may, as allowed by law, use any recognized overnight delivery service, and that such service shall be deemed due, timely, good and sufficient service thereof, and

such service shall constitute sufficient notice hereof.

Dated: June 20, 2023  
Goshen NY

ENTER:

  
Hon. Maria Vazquez-Delgado J.S.C.