BEFORE THE STATE ELECTION BOARD
STATE OF OKLAHOMA

IN THE MATTER OF THE CONTEST OF THE CANDIDACY OF **NATALIE MAI** FOR THE OFFICE OF DISTRICT JUDGE, DISTRICT 7, OFFICE NO. 5.	)))))	CAUSE NO. 2022-11

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

The above-styled cause was heard by the Election Board of the State of Oklahoma on Monday, April 25, 2022, meeting pursuant to lawful notice under the Open Meeting Act, 25 O.S. 2021, § 301 *et seq.* All testimony was taken under oath. The hearing was transcribed, and a permanent record of such will be kept.

The following members of the State Election Board ("Board") were present: Tom Montgomery, Chair; Dr. Tim Mauldin, Vice Chair; and Heather Cline, Member. Also present were Paul Ziriax, Secretary; and counsel for the State Election Board, Niki Batt, Deputy Attorney General; and Thomas R. Schneider, Deputy General Counsel to the Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner, Beau Phillips, appeared in person represented himself as a duly licensed Oklahoma attorney. Contestee, Judge Natalie Mai, appeared in person and represented by counsel Denise Lawson and Lexie Norwood. Contestee Mai filed an answer along with a cashier's or certified check in the amount of $250.00, as required under 26 O.S. 2021, § 5-129. The Petition was timely filed and Notice of Hearing issued on Tuesday, April 19, 2022. The Board received proof from the Petitioner that the Oklahoma County Sheriff served Contestee within 24 hours of setting the Petition for hearing, as required by 26 O.S. 2021, § 5-124. The Petitioner delivered the executed return of service to the Secretary of the State Election Board on the date of the hearing.

Prior to the start of hearing, the parties were advised that the Board requested new evidence in light of Cause No. 2018-09 in which Contestee Mai's residency was challenged at the same Cleveland County address.

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

1. Contestee Mai filed with the State Election Board a Declaration of Candidacy for the Office of District Judge, District 7, Office No. 5, during the 2022 Candidate Filing Period starting April 13, 2022, and ending on April 15, 2022.

2. Petitioner Phillips filed with the State Election Board a Declaration of Candidacy for the Office of District Judge, District 7, Office No. 5, during the 2022 Candidate Filing Period starting April 13, 2022, and ending on April 15, 2022.

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. 2021, §§ 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.

5. Petitioner Phillips alleges that Contestee Mai was unqualified to run for the office of District Judge, District 7, Office No. 5 because Mai did not reside in the county.

6. Okla. Stat. tit. 20, § 92i states, in pertinent part, "To file as a candidate for the office of district judge or associate district judge, one must have been a registered voter and actual resident of the appropriate county for at least six (6) months prior to the first day of the filing period."

7. Through land records of Cleveland County, Petitioner Phillips alleges that Mai is a resident of Cleveland County at the address of 12808 Rohan Ct., Oklahoma City, OK, due to Mai claiming a homestead exemption.

8. Contestee Mai testified that she purchased the property from her parents to allow them to continue residing in the house despite being unable to afford it. ***See* Testimony of Natalie Mai (Hrg. Tr. at 19:25-20:5)**.

9. In October 2019, Contestee Mai purchased Unit 216B under her limited liability company, AMD, LLC. ***See* Ex. 3 and Testimony of Natalie Mai (Hrg. Tr. at 24:2-25:7)**.

10. Contestee Mai is the registered agent for AMD, LLC. ***See* Ex. 4**.

11. Contestee Mai listed her voter registration and residential address as 5906 N. Pennsylvania Ave., #216B, Oklahoma City, OK 73112 on her Declaration of Candidacy. ***See* Ex. 6**.

12. Contestee Mai's Statement of Organization with the Oklahoma Ethics Commission also the 5906 N. Pennsylvania Ave. address as the residential address for the Contestee. ***See* Ex. 6**.

13. Contestee Mai's voter registration record from the Oklahoma County Election Board reveals that Mai is a registered voter at the address of 5906 N. Pennsylvania Ave. address since April 7, 2021. ***See* Ex Nos. 8**.

14. Contestee Mai pays for electricity at the 5906 N. Pennsylvania Ave. address. ***See* Ex Nos. 9 & 10 and Testimony of Natalie Mai (Hrg. Tr. 28:6-29:6)**.

15. Contestee Mai pays homeowners' association dues for the 5906 N. Pennsylvania Ave. address. ***See* Ex. 5 and Testimony of Natalie Mai (Hrg. Tr. at 26:23-25)**.

16. Contestee Mai testified that she lives in Oklahoma County at the 5906 N. Pennsylvania Ave. address; that her personal belongings and effects are located at the address; and that she has no intent to abandon this residence in the near future. ***See* Testimony of Natalie Mai (Hrg. Tr. at 22:24-23:7 and 23:11-14)**.

17. During the 2018 Contest of Candidacy hearings, Contestee was found to have resided in Oklahoma County and not a resident at the 12808 Rohan Ct. address in Cleveland County in Cause No. 2018-09 during the 2018 Contest of Candidacy Hearings. ***See* Ex. 2**.

18. Contestee Mai also called three (3) witnesses who all confirmed that they know Contestee Mai to reside at the 5906 N. Pennsylvania Ave. address. ***See generally*** **Testimonies of Mike Klika, Kristyn Pickering, and David Short**.

19. 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).

20. In *Suglove v. Oklahoma Tax Commission*, 1979 OK 168, ¶5, 605 P.2d 1315, 1317-18, the Court said:

> [T]o effect a change of domicile, there must be (a) actual abandonment of the first domicile coupled with (b) the intention not to return to it and (c) actual residence in another place with intention of making it a permanent home. Indicia of a changed domicile are to be found in the habits of the person, his business and domestic relations, declarations, exercise of political rights, community activities and other pertinent objective facts ordinarily manifesting the existence of requisite intent. As a general principle, Oklahoma domicile, once established, is presumed to continue unless an individual can show that a change has occurred

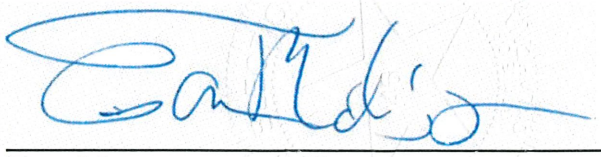
(citations omitted).

21. Accordingly, considering the totality of the testimony exhibits, Petitioner Phillips has failed to meet his burden of proof by the greater weight of the evidence in showing that Contestee Mai does not reside in Oklahoma County as required by 20 O.S. 2021, § 92i. Therefore, the Petition is **DENIED**, and Contestee Mai shall remain on the ballot as a candidate for the Office of District Judge, District 7, Office No. 5.

22. Petitioner Phillips shall bear the costs incurred pursuant to 26 O.S. 2021, § 5-131.

On the 25th day of April 2022, members of the State Election Board voted unanimously to **DENY** the petition and **RETAIN** the candidacy of Natalie Mai for the Office of District Judge, District 7, Office No. 5.

OKLAHOMA STATE ELECTION BOARD



June 22, 2022
Date

TOM MONTGOMERY, *Chairman*

CERTIFICATE OF MAILING

I hereby certify that on the 22 day of June 2022, the above and foregoing Findings of Fact, Conclusions of Law, and Final Order in the above-captioned matter was mailed to:

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