

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS**

Joseph Johnson,	)	
Complainant	)	Administrative Hearing
	)	No. 14-16
	)	
v.	)	Re: Nominating Petition
	)	Challenge, Office of
	)	Advisory Neighborhood
Marvin Lee,	)	Commissioner 8E01
Respondent.	)	

**MEMORANDUM OPINION AND ORDER**

**I. Introduction**

This matter came before the District of Columbia Board of Elections (“the Board”) on September 3, 2014 pursuant to a challenge filed by Joseph Johnson (“Mr. Johnson”) to the nominating petition submitted by Marvin Lee (“Mr. Lee”) in support of his candidacy for the office of Advisory Neighborhood Commissioner (“ANC”) for Single-Member District (“SMD”)8E01. Neither Messrs. Johnson nor Lee appeared for the hearing. Accordingly, the hearing proceeded *ex-parte* pursuant to Title3 of the District of Columbia Municipal Regulations (“DCMR”)§403.4.<sup>1</sup>Chairman Deborah K. Nichols and Board member Stephen Danzansky presided over the hearing pursuant to 3 DCMR§406.10.<sup>2</sup>

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<sup>1</sup> 3 DCMR §403.4 states in relevant part:

“If any person or party waives the right to be present at the hearing or fails to appear at the hearing, the Board may proceed ex parte.”

<sup>2</sup>3 DCMR § 406.10 states in relevant part:

“A majority of the board shall constitute a quorum.”

## II. Statement of Facts

On July 28, 2014, Mr. Lee timely submitted a nominating petition in support of his candidacy for the office of ANC Commissioner for SMD 8E01 (“the Petition.”) The Petition contained a total of 54 signatures. The minimum signature requirement for this office is 25 signatures of duly registered voters who reside in the same SMD from which the candidate seeks election pursuant to D.C. Official Code § 1-309.05(b)(1)(B) (2013).

On August 18, 2014, Mr. Johnson, a duly registered voter in the District of Columbia, timely filed a challenge to the petition in which he alleged that 46 of the 54 signatures were invalid. Each signature was challenged on a specific ground or grounds as required by the Board’s regulations. Specifically, Mr. Johnson challenged signatures on the grounds that: (1) the signer is not duly registered in the SMD from which the candidate seeks election at the time the petition was signed; and (2) the signature on the petition is not made by the person whose signature it purports to be.

Pursuant to 3 DCMR §415.1, the Office of the General Counsel conducted a pre-hearing conference in this matter on Friday, August 22, 2014. Mr. Johnson was not present at the hearing, and Mr. Lee appeared *pro se*. During the pre-hearing conference, Karen Brooks, the Registrar of Voters (“the Registrar”) rendered a preliminary determination report which indicated that 24 of the 46 challenges were valid leaving the Petition with 30 signatures, which is 5 signatures above the required minimum for ballot access.

Pursuant to D.C. Official Code § 1-1001.08(o)(3),

For the purpose of verifying a signature on any petition filed pursuant to this section, the Board shall first determine if the address on the petition is the same as the address shown o[n] the signer's voter registration record. If the address is different than the address which appears on the signer's registration record, the address shall be deemed valid if: [t]he signer's current address is within the single member district for an Advisory Neighborhood Commission election; and [t]he

signer files a change of address form with the Board during the first 10 days of the period designated for resolving challenges to petitions.

The Registrar's preliminary determination also indicated that the Petition contained 3 signatures with addresses that are different than the addresses which appear on the signers' registration records. Mr. Lee was given until the close of business (4:45 p.m.) on Thursday, August 28, 2014, to provide change of address forms for, and thereby cure, the affected signatures. Mr. Lee did not turn in any change of address forms.

During the pre-hearing conference, there were no issues outside of the original challenges that were preserved for the record.

### III. Discussion

Upon reviewing the challenge, the Board determined that the Registrar's findings should be upheld with respect to all signatures. Because neither Mr. Lee nor Mr. Johnson appeared at the hearing on September 3, 2014, the Board made a motion to adopt the Registrar's final determination to grant Mr. Lee ballot access pursuant to 3 DCMR § 418.1 (b)<sup>3</sup>.

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<sup>3</sup>3 DCMR § 418.1 (b) states in relevant part:

"If a party who has received notice has not appeared, the Chairperson may proceed... with the hearing, obtain the testimony of those present, and, on the basis of the testimony and the record, issue a decision in the case."

IV. **Conclusion**

Accordingly, the Board finds that the Petition contains 30 valid signatures, 5 above the minimum required in order to allow Mr. Lee to appear on the ballot. Therefore, it is hereby:

**ORDERED** that the candidate Mr. Marvin Lee be granted ballot access for the office of Advisory Neighborhood Commissioner AE01 in t

September 8, 2014  
Date

A handwritten signature in cursive script, appearing to read "Deborah K. Nichols", written over a horizontal line.

Deborah K. Nichols, Esq.  
Chairman,  
Board of Elections