

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

Jim Abely,
Complainant,

v.

Randy Brown
Respondent.

Administrative Hearing
No. 10-003

Re: Challenge to Nominating
Petition of Randy Brown,
Candidate, Ward 6 Member of the
Council of the District of Columbia

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections and Ethics (“the Board”) on July 23, 2010. It is a challenge to the nominating petition of Randy Brown (“the Respondent”) as a candidate for the office of Ward 6 Member of the Council of the District of Columbia filed by Jim Abely (“the Complainant”) pursuant to D.C. CODE § 1-1001.08(o)(1) (2006). Chairman Errol R. Arthur presided over the hearing. The Complainant appeared *pro se*, and the Respondent did not appear. Pursuant to 3 D.C.M.R. § 403.4,¹ the Board proceeded *ex parte*.

Background

On July 7, 2010, the Respondent submitted a nominating petition for the office of Ward 6 Member of the Council of the District of Columbia containing a total of 273

¹ 3 D.C.M.R. § 403.4 states: “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*, unless the Board extends the time of the hearing or unless their appearance is required by statute.”

signatures. On July 10, 2010, the petition was posted for inspection, pursuant to D.C. CODE § 1-1001.08(o)(1) (2006), for a 10-day challenge period.²

On July 10, 2010, the Complainant filed a challenge to the nominating petition in which he challenged 144 of the 273 signatures. Each signature was challenged on a specific ground or grounds as required by the Board's regulations. The Registrar of Voters' ("Registrar") review of these challenges concluded that 96 of the challenges to the Candidate's nominating petition were valid, while 48 were invalid—leaving the Candidate with 177 signatures. The minimum requirement of signatures for this office is 250 pursuant to D.C. CODE § 1-1001.08(i)(2) (2006). Accordingly, the Registrar concluded that the Candidate did not secure enough signatures on the nominating petition for ballot access.

The Respondent did not appear at the pre-hearing conference for this matter which was scheduled for July 19, 2010. He did, however, receive a copy of the Registrar's preliminary determination review report. Despite being contacted regarding the Board hearing in this matter, which was scheduled for July 23, 2010, the Respondent failed to appear, compelling the Board to resolve this matter in his absence within the

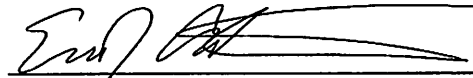
² D.C. CODE § 1-1001.08(o)(1) (2006) states in relevant part:

The Board is authorized to accept any nominating petition for a candidate for any office as bona fide with respect to the qualifications of the signatures thereto if the original or facsimile thereof has been posted in a suitable public place for a 10-day period beginning on the third day after the filing deadline for nominating petitions for the office. Any registered qualified elector may within the 10-day period challenge the validity of any petition by written statement signed by the challenger and filed with the Board and specifying concisely the alleged defects in the petition.

statutorily prescribed fifteen (15) day time limit pursuant to D.C. CODE § 1-1001.08(o)(2) (2006).³

The Board hereby affirms the determination of the Registrar with respect to the Complainant's challenge. Based on the Board's findings and conclusions, it is hereby **ORDERED** that the challenge to the nominating petition of Randy Brown, candidate for the office of Ward 6 Member of the Council of the District of Columbia, is upheld. It is **FURTHER ORDERED** that Randy Brown be denied ballot access in the September 14, 2010 Congressional and Council Primary Election as a Democratic candidate for that office.

July 23, 2010



Errol R Arthur
Chairman, Board of Elections and Ethics

³ D.C. CODE § 1-1001.08(o)(2) states in relevant part: "The Board shall receive evidence in support of and in opposition to the challenge and shall determine the validity of the challenged nominating petition not more than 15 days after the challenge has been filed."