

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Howard Marks,
Complainant,

v.

Ricardo Mr. Ampudia,
Respondent.

Administrative Hearing
No. 12-006 **B**

Re: Challenge to the Nominating Petition of
Ricardo Mr. Ampudia,
Candidate for Advisory Neighborhood
Commissioner Single Member District 2F08

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on September 5, 2012. It is a challenge to the nominating petition of Ricardo Ampudia (“Mr. Ampudia”) for the office of Advisory Neighborhood Commissioner, (ANC) Single Member District 2F08 filed by Howard Marks (“Mr. Marks”) pursuant to D.C. CODE § 1-1001.08 (o)(1) (2006). The Respondent notified the Board that he would not be able to attend the hearing, and the Complainant had to leave prior to the commencement of the hearing. Accordingly, the Board proceeded *ex parte* pursuant to 3 D.C.M.R. § 403.4¹. Chairman Deborah K. Nichols and Board members Devarieste Curry and Stephen I. Danzansky presided over the hearing.

Background

On August 8, 2012, Mr. Ampudia submitted a Nominating Petition for the office of ANC 2F08 with twenty-seven (27) signatures. On August 11, 2012 the petition was

¹ 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. 3 D.C.M.R. § 403.4.

posted for inspection, pursuant to D.C. CODE §1-1001.08(o)(1)(2006), for a full 10-day challenge period.²

On August 17, 2012, Mr. Marks filed a challenge to the petition in which he challenged thirteen (13) of the twenty-seven (27) signatures. Each signature was challenged on a specific ground or grounds as required by the Board's regulations.

A pre-hearing on this matter was scheduled for Monday, August 20 at 2:30 p.m. at the Board's offices. Mr. Ampudia was not in attendance and failed to send a representative. At the pre-hearing, the Registrar of Voters ("Registrar") gave her preliminary report concerning the challenge. The Registrar's review of the challenges referencing the Municipal Regulations concluded that twelve (12) of the challenges to Mr. Ampudia's nominating petition were valid – leaving the candidate with fifteen (15) signatures. The minimum requirement of signatures for this office is twenty-five (25), pursuant to D.C. Code §1-309.05(b)(1)(b) (2011). Accordingly, the Registrar concluded that the Candidate did not secure enough signatures on his nominating petition for ballot access.

All parties were notified that a hearing before the Board was scheduled for Wednesday, September 5, 2012 at 12:15 p.m. Mr. Marks was present prior to the commencement of the hearing; however, he could not stay due to time constraints. Mr. Ampudia was not in attendance and failed to send a representative. Having concluded

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.

that Mr. Ampudia received adequate notice of the proceedings, the Board proceeded ex parte pursuant to 3 DCMR §403.4. Since Mr. Ampudia gave no additional testimony contradicting the Registrar's preliminary review of the challenged signatures, the Board accepts the Registrar's review of the challenges and upon that basis finds that Mr. Ampudia does not have the requisite number of signatures for ballot access.

In view of the evidence presented, the Board finds that the challenge is sufficient to remove the candidate's name from the ballot. Therefore, the Board upholds the challenge as specified herein.

ORDERED that candidate Ricardo Ampudia is denied ballot access to appear on the ballot in the forthcoming election for ANC-SMD 2F08.

September 6, 2012
Date

A handwritten signature in black ink, reading "Deborah K. Nichols". The signature is written in a cursive style with a large, looping initial "D".

Ms. Deborah K. Nichols
Chairman,
Board of Elections