

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D16209  
G/cb

\_\_\_\_\_AD2d\_\_\_\_\_

Argued - August 21, 2007

STEPHEN G. CRANE, J.P.  
GABRIEL M. KRAUSMAN  
GLORIA GOLDSTEIN  
ANITA R. FLORIO  
WILLIAM E. McCARTHY, JJ.

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2007-07678

DECISION & ORDER

In the Matter of Irma Drace, et al., petitioners-respondents,  
v Nader Sayegh, appellant, Westchester County Board  
of Elections, et al., respondents.

(Index No. 14189/07)

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In a proceeding pursuant to Election Law § 16-102, inter alia, to invalidate a petition designating Nader Sayegh as a candidate in a primary election to be held on September 18, 2007, for the nomination of the Independence Party as its candidate for the public office of Mayor of the City of Yonkers, the appeal is from a final order of the Supreme Court, Westchester County (Smith, J.), dated August 15, 2007, which, after a hearing, granted the petition, invalidated the designating petition, and directed the Westchester County Board of Elections to remove Nader Sayegh's name from the ballot.

ORDERED that the final order is affirmed, without costs or disbursements.

Generally, a candidate's designating petition will only be invalidated on the ground of fraud if there is a finding that the entire designating petition is permeated with fraud (*see Matter of Ferraro v McNab*, 60 NY2d 601, 603; *Matter of Fonvil v Michel*, 308 AD2d 424, 425; *Matter of Ragusa v Roper*, 286 AD2d 516, 516-517). However, a designating petition may also be invalidated when there is a finding that the candidate has participated in or is chargeable with knowledge of fraud in procuring signatures for a designating petition, even if there is a sufficient number of valid signatures independent of those fraudulently procured (*see Matter of Leonard v*

August 24, 2007

MATTER OF DRACE v SAYEGH

Page 1.

*Pradhan*, 286 AD2d 459; *Matter of MacDougall v Board of Elections of City of N.Y.*, 133 AD2d 198, 199).

Here, contrary to the appellant Nader Sayegh's contention, the petitioners made a prima facie showing that he participated in fraudulently procuring signatures for his designating petition. The Supreme Court credited the testimony of two witnesses whose signatures appeared on the designating petition over the appellant's contradictory testimony as to the circumstances of their signing. A hearing court's assessment of credibility is entitled to substantial deference as it had the advantage of hearing and seeing the witnesses (*see Matter of Morini v Scannapieco*, 286 AD2d 459, 460). We perceive no reason to disturb the Supreme Court's determination on appeal.

The appellant's remaining contentions are without merit.

CRANE, J.P., KRAUSMAN, GOLDSTEIN, FLORIO and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court