

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

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MARK C. DILLON, J.P.
RUTH C. BALKIN
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2009-01498

DECISION & ORDER

In the Matter of Angel L. Del Villar, appellant,
v Digna Vekiarelis, respondent-respondent,
et al., respondent.

(Index No. 2806/09)

In a proceeding pursuant to Election Law § 16-102, inter alia, to validate an independent nominating petition nominating Angel L. Del Villar as the candidate of the Community First Party in a special election to be held on February 24, 2009, for the public office of Member of the New York City Council, 21st Council District, the petitioner appeals from a final order of the Supreme Court, Queens County (Strauss, J.), entered February 9, 2009, which granted the application of Digna Vekiarelis to dismiss the amended petition based on the petitioner's failure to strictly comply with the service provisions of the order to show cause, and dismissed the proceeding.

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

“The method of service provided for in an order to show cause is jurisdictional in nature and must be strictly complied with” (*Matter of Master v Pohanka*, 43 AD3d 478, 480, quoting *Matter of Hennessey v DiCarlo*, 21 AD3d 505, 505). Even if we accept the petitioner’s interpretation of the service provisions of the subject order to show cause, he nevertheless did not timely effect service of the order to show cause, initial verified petition, and supporting papers upon the objector by any of the methods of service which he claims were permitted. Accordingly, the application to dismiss the amended petition was properly granted and the proceeding was properly dismissed.

DILLON, J.P., BALKIN, BELEN and CHAMBERS, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court

February 20, 2009

MATTER OF DEL VILLAR v VEKIARELIS