

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

D24386
W/prt

_____AD3d_____

Argued - September 1, 2009

WILLIAM F. MASTRO, J.P.
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS
SHERI S. ROMAN, JJ.

2009-07824
2009-08180

DECISION & ORDER

In the Matter of Mel Ehrlich, etc., appellant,
v William Biamonte, et al., respondents.

(Index No. 15925/09)

In a proceeding pursuant to Election Law § 16-102, inter alia, to validate a petition designating Mel Ehrlich as a candidate in a primary election to be held on September 15, 2009, for the nomination of the Democratic Party as a candidate for the party position of male member of the Democratic County Committee, 13th Assembly District, 3rd Election District, Mel Ehrlich appeals (1) from an amended final order of the Supreme Court, Nassau County (Warshawsky, J.), entered August 14, 2009, which, after a hearing, denied the petition and dismissed the proceeding, and (2), as limited by his brief, from so much of an order of the same court dated August 19, 2009, as, upon renewal, adhered to the original determination in the amended final order.

ORDERED that the amended final order entered August 14, 2009, is affirmed, without costs or disbursements; and it is further,

ORDERED that the order dated August 19, 2009, is affirmed insofar as appealed from, without costs or disbursements.

The Supreme Court properly determined that two of the signatures on the appellant's designating petition were invalid since those voters previously had signed the designating petition of another candidate for the same position (*see* Election Law § 6-134[3]; *Matter of Venuti v Westchester County Bd. of Elections*, 43 AD3d 482, 484; *Matter of Keenan v Chemung County Bd. of Elections*, 43 AD3d 623, 624; *Matter of McNulty v McNab*, 96 AD2d 921). In light of our additional

September 2, 2009

Page 1.

MATTER OF EHRLICH v BIAMONTE

determination, inter alia, that certain other signatures in dispute are also invalid, the appellant's designating petition does not contain a sufficient number of valid signatures. Accordingly, the Supreme Court properly denied the petition, inter alia, to validate the designating petition and dismissed the proceeding.

The appellant's remaining contentions are either not properly before this Court or without merit.

MASTRO, J.P., LEVENTHAL, CHAMBERS and ROMAN, 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