

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

D32227
C/ct

_____AD3d_____

Argued - August 16, 2011

PETER B. SKELOS, J.P.
JOSEPH COVELLO
RUTH C. BALKIN
LEONARD B. AUSTIN
SANDRA L. SGROI, JJ.

2011-07065

DECISION & ORDER

In the Matter of Shira Krance, appellant, v Paul S.
Chiaromonte, et al., respondents.

(Index No. 5216/11)

In a proceeding pursuant to Election Law § 16-102, inter alia, to invalidate petitions designating Paul S. Chiaromonte as a candidate in a primary election to be held on September 13, 2011, for the nomination of the Independence Party as its candidate for the public office of Family Court Judge, Rockland County, Shira Krance appeals from so much of a final order of the Supreme Court, Rockland County (Garvey, J.), entered August 5, 2011, as, after a hearing, denied that branch of her petition which was to invalidate the petitions designating Paul S. Chiaromonte as a candidate in the primary election to be held on September 13, 2011, for the nomination of the Independence Party as its candidate for the public office of Family Court Judge, Rockland County.

ORDERED that the final order is affirmed insofar as appealed from, without costs or disbursements.

Election Law § 6-134, which pertains to designating petitions, states, in pertinent part, “(10) [t]he provisions of this section shall be liberally construed, not inconsistent with substantial compliance thereto.” Here, the cover sheets of the designating petitions, as they related to Paul S. Chiaromonte (hereinafter the candidate), substantially complied with the requirements of the Election Law and the regulations of the New York State Board of Elections, to allow for the Rockland County Board of Elections (hereinafter the Board of Elections) to cumulatively count the signatures within the subject designating petitions to reach the required minimum number of valid signatures (*see*

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Election Law § 6-134[10]; 9 NYCRR 6215.6[a]; *see also Matter of Siems v Lite*, 307 AD2d 1016; *Matter of Most v Walker*, 297 AD2d 356, 357). In any event, the candidate was not notified of, and given the opportunity to cure, the purported defect, as required (*see Matter of Pearse v New York City Bd. of Elections*, 10 AD3d 461).

We do not reach the Board of Elections' contention pertaining to the invalidation of the candidate's Working Families Party designating petition, as it is not properly before this Court.

SKELOS, J.P., COVELLO, BALKIN, AUSTIN and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court