## The Following Order Was Entered And Filed On August 14, 2013

Saxe, J.P., Richter, Manzanet-Daniels, Feinman, Clark, JJ.

10546 In re Maximo Rivera, et al., Petitioners-Appellants, Index 260594/13

-against-

Maria Del Carmen Arroyo, Respondent-Respondent,

The Board of Elections in The City of New York, Respondent.

Law Offices of Donald R. Dunn, Bronx (Donald R. Dunn, Jr. of counsel), for appellants.

Stanley K. Schlein, Bronx, for Maria Del Carmen Arroyo, respondent.

Judgment, Supreme Court, Bronx County (John W. Carter, J.), entered on or about August 9, 2013, unanimously affirmed for the reasons stated by Carter, J., without costs or disbursements.

No opinion. Order filed.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: AUGUST 14, 2013

Sumuka

## The Following Order Was Entered And Filed On August 14, 2013

Richter, J.P., Manzanet-Daniels, Feinman, Gische, Clark, JJ.

10547 In re Sam Sloan, Petitioner-Appellant, Index 101087/13

Richard Bozulich, et al., Petitioners,

-against-

Daniel S. Szalkiewicz, et al., Respondents-Respondents.

Sam Sloan, appellant pro se.

Daniel S. Szalkiewicz, New York, respondent pro se, and for Salvatore G. Caruso, respondent.

Michael A. Cardozo, Corporation Counsel, New York (Stephen Kitzinger of counsel), for Board of Elections in The City of New York, respondent.

Judgment, Supreme Court, New York County (Paul Wooten, J.), entered on or about August 9, 2013, unanimously affirmed for the reasons stated by Wooten, J., without costs or disbursements.

No opinion. Order filed.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: AUGUST 14, 2013

Sumukp

The Following Order Was Entered And Filed On August 14, 2013

Richter, J.P., Manzanet-Daniels, Feinman, Gische, Clark, JJ.

10548 In re Alan Flacks, et al., Index 101057/13 Petitioners-Appellants,

-against-

Board of Elections in The City of New York, Respondent-Respondent.

Sarah K. Steiner, New York, for appellants.

Michael A. Cardozo, Corporation Counsel, New York (Stephen Kitzinger of counsel), for respondent.

Judgment, Supreme Court, New York County (Paul Wooten, J.) entered August 9, 2013, which granted the motion to confirm the referee's report and denied the application to validate the candidacies of appellants for the Democratic party nomination of Judicial Delegate and Alternate Judicial Delegate, unanimously reversed, on the law, without costs or disbursements, the motion denied and the petition to validate granted, and the Board of Elections Directors is directed to place the names of petitionerappellants on the ballot.

It is undisputed that, due to a scrivener's error, the amended cover sheet accompanying the designating petitions filed for these candidates misidentified three volumes of signatures. Volume numbers NY 1300553, NY 1300554 and NY 1300555 were erroneously recorded on the amended cover sheet as NY 1300053, NY 1300054 and NY 100055. The incorrect numbers did not refer to any existing volumes. The amended cover sheet otherwise correctly identified five volumes which, without considering any of the signatures contained in the misidentified volumes, contained approximately 2600 signatures, greatly exceeding the 500 valid signatures otherwise required to qualify each candidate for the ballot.

There is no claim that the "mistake" defrauded or misled the public or was used for any improper purpose. In fact, the original cover sheet correctly identified these volumes, notwithstanding other errors that required amendment. Additionally, the ledger maintained by the Board of Elections correctly identified all of the volumes in the petition. The discrepancies in the amended cover sheet do not implicate policy considerations that override the right of the electorate to fully exercise its franchise (see Staber v Fidler, 65 NY2d 529 [1985]). Our decision in Feliciano v Guastella (98 AD3d 434 [2012]), relied upon by the Board of Election, is factually distinguishable. We find that, under the circumstances of this case, it was improper for the Board of Elections to conclude that the scrivener's error was a fatal defect, rendering these candidates ineligible for the ballot.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: AUGUST 14, 2013

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