

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

Richard Urban,
Complainant,

v.

David Catania,
Respondent.

Administrative Hearing
No. 10-13

Re: Motion for Reconsideration
Challenge to Nominating Petition of David
Catania, Candidate, At-Large Member of the
Council of the District of Columbia

MEMORANDUM OPINION AND ORDER

This matter originally came before the District of Columbia Board of Elections and Ethics (“the Board”) on September 17, 2010. It was a challenge to the nominating petition of David Catania (“the Respondent”) as a candidate for the office of At-Large Member of the Council of the District of Columbia filed by Richard Urban (“the Complainant”) pursuant to D.C. CODE § 1-1001.08(o)(1) (2006). Board member Charles R. Lowery, Jr. presided over the initial hearing and rendered the decision on September 23, 2010 granting ballot access to the Respondent to appear on the ballot in the 2010 General Election.

On September 23, 2010, Mr. Urban filed a letter with the Board asserting factual errors in the order issued, and he requested that the Board correct and revise its Order. Counsel for the Respondent also filed a response to the Complainant’s request on the same day. Pursuant to D.C. Mun. Reg. tit. 3 §429, the Board hereby accepts the Complainant’s request and the Respondent’s attendant response as a motion for reconsideration and opposition, respectively. For the following reasons, the Complainant’s motion is granted in part and denied in part.

DISCUSSION

The Complainant's assertion regarding the incorrect number of signatures submitted by the Catania campaign on August 5, 2010 is not without merit. The Catania campaign actually filed 4,251 signatures.¹ The Board further found that the campaign augmented their filing with an additional 1,051 signatures on August 25, 2010 for a total of 5,302 signatures. Although the total number of signatures was accurate in the order, the Complainant raises the discrepancy in an effort to revisit his argument proffered at the hearing concerning the initial submission amounted to less than 3,000 valid signatures. The Complainant believes that supplemental submissions shouldn't have been accepted by the Board if the initial submission did not contain 3,000 valid signatures.

The Complainant brought attention to the affidavit filed with the nominating petitions. By averring that the signatory was submitting the requisite amount of valid signatures to the best of their knowledge, Mr. Urban contends that the supplemental filing should not be accepted if the initial submission turns out to not include the requisite number of valid signatures. Mr. Urban cites no authority for this position, and the Board is not inclined to follow this line of reasoning. Such a rule would lead to the harsh result of denying ballot access to candidates who submitted the requisite amount of signatures prior to the filing deadline notwithstanding a numerically insufficient initial filing.² The Board does however, appreciate the need for an accurate recitation of the facts leading to

¹ Although Mr. Urban states that the number of submitted signatures on August 5, 2010 totaled 4,229, the Board's Office of General Counsel conducted an independent audit of the signature totals and found that the campaign submitted 4,251 signatures.

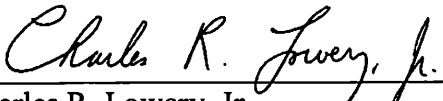
² There is no need to determine whether the initial filing contained 3,000 valid signatures because the supplemental filing augmented the total number of signatures garnered, and there is no allegation that Mr. Urban was not privy to the supplemental filing during the challenge period.

its decision, and will reissue its order in the matter of *Urban v Catania*, 10-012 (Sept. 23, 2010) to reflect the existence of a supplemental filing.

In light of the Board's findings of fact and conclusions of law, it is hereby:

ORDERED, that the Order in the case of *Urban v. Catania*, 10-012 (September 23, 2010) be amended to accurately reflect the number of signatures submitted in the initial filing, and to accurately include the number of signatures submitted in the supplemental filing. With respect to the Complainant's other claims, the Board hereby summarily denies his request. Accordingly, the Complainant's motion for reconsideration is granted in part and denied in part.

September 24, 2010



Charles R. Lowery, Jr.
Member, Board of Elections and Ethics