

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In the Matter of)
Ashish Kanswal)
) Administrative
) Order #24-013

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on July 3, 2024. It concerns a recommendation by the Board’s General Counsel that the Board take enforcement action against Ashish Kanswal based on evidence that he fraudulently entered voter signatures on a candidate’s nominating petition. Chairman Gary Thompson and Board member J.C. Boggs presided over the hearing. The Board’s General Counsel was also present.

Background

This matter arises out of evidence that came to the Board’s attention in the course of litigation over a nominating petition submitted by a candidate for U.S. Senator in the 2024 Democratic Party Primary Election (“the Election”). The facts relevant to Kanswal’s involvement with the candidate’s nominating petition are as follows:

For the purpose of having his name printed on the Election ballot, the candidate, Ankit Jain, was required to submit a nominating petition containing valid signatures from 2,000 Democratic Party voters who were registered in the District of Columbia. To gather the minimum 2,000 signatures that he needed on his petition, candidate Jain enlisted the help of several petition circulators, including Ashish Vinod Kanswal.

Kanswal was authorized to circulate petition sheets for Jain pursuant to a non-resident petition circulator form that was filed with the Board.¹ That form contained a circulator affidavit section, signed by Kanswal, whereby he swore that he would adhere to petition circulation rules and regulations. Petition circulation requirements include that petition signatures must be “made by the person whose signature it purports to be and not by any other person;” and that circulators sign an affidavit that states that they personally circulated the petition and personally witnessed each person sign the petition.² Kanswal signed his form in the presence of Board staff and it was accepted by Board staff based on his providing a current identification card that had his name, date of birth, and photograph.

On March 6, 2024, candidate Jain’s nominating petition was filed with the Board. The sheets of signatures in the petition consisted of Board-issued forms that included at the end of the sheet an affidavit whereby the circulator of the sheet was required to swear under penalty of law that he personally witnessed the making of the signatures that appeared on that sheet.³ On fourteen sheets in Jain’s petition, Kanswal was identified as the circulator and the signature on the circulator affidavit matched the signature that Kanswal provided on his non-resident circulator form.

¹ See D.C. Official Code § 1-1001.02(26); 3 D.C.M.R. §1604.

² See D.C. Official Code § 1-1001.08(b)(3). The requirements of § 1-1001.08(b)(3) apply to all circulators, regardless of whether they are resident or non-resident.

³ Specifically, the affidavit section requires the circulator to “swear or affirm” that the circulator “personally witnessed the signing of each signature hereon[.]” Over a line for the circulator’s signature, the affidavit section includes the following language: “WARNING: READ THE ABOVE AFFIDAVIT AND MAKE SURE IT IS TRUE BEFORE YOU SIGN BELOW. IF YOU ARE CONVICTED OF MAKING A FALSE STATEMENT, YOU CAN BE FINED UP TO \$1,000 AND/OR JAILED UP TO 180 DAYS[.]” (Emphasis in original.) The requirement of personally witnessing signatures is also repeated in circulator instructions that precede the affidavit portion of the sheet. The instructions state in part: “As the circulator of this petition sheet, you must personally witness the signing of each signature that appears on this petition, and you must swear or affirm that you have done so in the circulator’s affidavit below.”

On March 18, 2024, Trezell Ragas, a District of Columbia voter, timely filed a challenge to the validity of signatures on candidate Jain's petition.⁴ In her initial challenge submission, Ragas alleged, *inter alia*, that candidate Jain's nominating petition contained forged signatures and, in support of that claim, she specifically identified five signatures on petition sheets circulated by Kanswal. She argued that the invalid signatures on Jain's petition should not be counted and, for that reason, he did not have the 2,000 valid signatures that he needed to have his name printed on the ballot.⁵

In the subsequent proceedings on Ragas's challenges to Jain's petition, Ragas elaborated on the basis of her fraud claim. Relying on obituaries that she had located on-line, she asserted that two petition signatures gathered by Kanswal were for persons who were deceased at the time the petition was circulated. She also offered a handwriting expert, Dr. Roy Fenoff, who identified indicia of forgery with respect to numerous signatures on four of the fourteen petition sheets that were circulated by Kanswal.⁶ Those four sheets also included the entries for the two voters that Ragas had claimed were deceased.

⁴ Nominating petitions, such as candidate Jain's, that are filed with the Board are subject to a review process. *See* D.C. Official Code § 1-1001.08(o)(1). That review process includes an opportunity for D.C. voters to challenge the petition's signatures on several grounds (for example, a valid basis for challenging a signature on petition for Primary Election ballot access is that the signer is not registered in the candidate's party). *Id.* and 3 D.C.M.R. §1606-1607.

⁵ The filing of Ragas's challenge triggered a 20-day period for resolving the matter. *See* D.C. Official Code § 1-1001.08(o)(2). Unless the challenge becomes moot (for example, if the candidate withdraws), the Board convenes a hearing during that period and announces its ultimate decision as to whether the candidate's petition contained a sufficient number of valid signatures. The announcement of the Board's decision is then memorialized in a written order.

⁶ Prior to the Board hearing, Jain offered an affidavit in which he attested to observing Kanswal collect some of the signatures that appeared on two petition sheets and that he witnessed Kanswal make proper inquiries of the signers. At the hearing, however, Jain did not rely on that affidavit or repeat the attestations it contained. Candidate Jain also did not, at the Board hearing, deny that two signers of the sheets circulated by Kanswal were deceased and he did not present Kanswal. The witnesses that Jain did present had no personal knowledge of Kanswal's signature-gathering activities. Ragas and her counsel did not cross-examine Jain about his allegations in his affidavit.

At a Board hearing on Ragas’s challenge and again in a written Board order, the Board credited Ragas’s expert and found that there was a “strong likelihood” that signatures gathered on the four sheets reviewed by Dr. Fenoff were made by the same hand.⁷ The Board also found that there was a significant reason to doubt the truthfulness and completeness of the circulator affidavit on the petition sheets circulated by Kanswal.⁸ Accordingly, the Board exercised its discretion and rejected all of the signatures on the petition sheets circulated by Kanswal.⁹ As noted by the Board Chair at the close of the nominating petition challenge hearing, however, any action against Kanswal for petition circulation misconduct would have to be addressed in a separate proceeding.¹⁰

Given the evidence of Kanswal’s misconduct that came to light in the course of Ms. Ragas’s challenge to Jain’s nominating petition, an investigation into Kanswal’s petition circulation activity was subsequently initiated by the Board’s Office of General Counsel. By notice sent on April 30, 2024, OGC requested Kanswal’s presence at a pre-hearing conference. The notice informed Kanswal that the pre-hearing conference concerned evidence that “he falsely and fraudulently circulated/completed petition forms in the 2024 Primary Election cycle.” It also warned that such conduct could violate criminal laws regarding circulator misconduct and making

⁷ See *Ragas v. Jain*, DC BOE Admin. Op. 24-008 (issued April 6, 2024) (“Order”) and posted at <https://www.dcboe.org/about-us/office-of-the-general-counsel/administrative-orders> at page 8.

⁸ Order at 9.

⁹ Because Jain had enough valid signatures on his petition to obtain ballot access, even without the signatures collected by Kanswal, Ragas’s challenge was denied. Ragas appealed the Board’s decision and argued that the fraud by Kanswal justified rejecting Jain’s petition in its entirety. On April 11, 2024, the D.C. Court of Appeals summarily affirmed the Board’s decision and agreed that the fraud shown by Ragas justified rejection of only the petition sheets circulated by Kanswal. *Ragas v. D.C. Board of Elections*, DCCA Case No. 24-AA-0351 (issued 04/11/2024).

¹⁰ Transcript of April 5, 2024 hearing at p. 177-78. Notably, the Board Chair stated that evidence of forged signatures presented a “very serious matter.” *Id.* The transcript of the hearing is posted on the Board’s website here: <https://www.dcboe.org/about-us/meetings-and-hearings/notices,-agendas,-and-minutes>.

false statements,¹¹ or trigger civil penalties.¹² In addition, the notice encouraged Kanswal to have counsel appear on his behalf and advised him that he could assert his privilege against self-incrimination.

A pre-hearing conference proceeding before the OGC was held on May 15, 2024. Mr. Kanswal appeared and acknowledged that he circulated petition sheets for candidate Jain. Although Mr. Kanswal initially stated at the pre-hearing conference that he was willing to go forward unrepresented notwithstanding his right against self-incrimination, he later requested additional time to find counsel. The pre-hearing conference was thus continued to June 17, 2024 to give Mr. Kanswal additional time to find legal representation.¹³ On the eve of the continued pre-hearing conference, Kanswal emailed OGC that his counsel had declined to assist him after he “reveal[ed] the situation to the attorney” and that attorney “learn[ed] the nature of the allegations” against Mr. Kanswal. Given the circumstances, the investigating OGC attorney notified Mr. Kanswal in writing that the matter would be set for a Board hearing on July 3, 2024, at which time the General Counsel would present her recommendation with respect to enforcement.

July 3, 2024 Board Hearing

At the Board hearing on July 3, 2024, the OGC attorney assigned to the matter presented the case against Mr. Kanswal. The investigating OGC attorney noted that the Board’s voter files

¹¹ The letter cited D.C. Official Code § 1-1001.08(b)(4), which criminalizes knowingly and willfully violating petition circulation requirements, and D.C. Official Code § 22-2405(b), which criminalizes willfully making false statements to D.C. government entities. The penalty for violating § 1-1001.08(b)(4) is a fine of up to \$10,000, or imprisonment for not more than 6 months, or both. For violating § 22-2405(b), the penalty is a fine of up to \$1,000 and imprisonment of not more than 180 days, or both.

¹² D.C. Official Code § 1-1001.18(b) authorizes the Board to impose, upon the recommendation of the General Counsel, civil fines of up to \$2,000 for each violation of the laws concerning the regulation of elections, including petition circulation requirements set forth in D.C. Official Code § 1-1001.08(b).

¹³ Prior to the June 17 continued pre-hearing conference, OGC emailed to Kanswal the transcript that covered the Board’s hearing on the *Ragas v. Jain* matter, the Board’s written order in that matter, and scans of the fourteen petition sheets that he had circulated.

for the two signers who Ms. Ragas had alleged were deceased showed that the persons at issue had been categorized as deceased prior to the date that their signatures were purportedly made on the petition. She pointed out that, not only did the voter files independently corroborate Ragas's allegation that signatures from deceased persons appeared on sheets circulated by Kanswal, there was also substantial evidence in the record in the *Ragas v. Jain* matter of forged signatures on the four petition sheets reviewed by Dr. Fenoff, the handwriting expert. Indeed, the attorney commented that the similarities between Kanswal's signature and voter signatures on those four sheets were so apparent that even a lay person reviewing the signatures would likely suspect fraud.

Because the record incorporated from the *Ragas v. Jain* matter arguably only supported finding forgeries with respect to the four sheets that had been evaluated by Dr. Fenoff, the OGC attorney explained to the Board that she had focused her investigation on the other ten petition sheets that had been circulated by Kanswal. She also explained that she reviewed the signatures on those other ten petition sheets against signatures in the Board's voter files. The attorney reported that, in her opinion, one of those ten remaining petition sheets showed clear evidence of fraud.¹⁴ Seven of the ten signatures on that additional suspect sheet bore, in the assigned OGC attorney's opinion, similarities to the signatures that Dr. Fenoff concluded were forgeries. Those seven signatures also did not align with signature samples for the voters that were on file with the Board. Notably, an eighth signature on that additional suspect sheet was for yet another voter who, according to the Board's voter files, was deceased at the time the petition was circulated. The investigating attorney noted that the Board members had been provided with all the sheets circulated by Kanswal and signature samples for the voters whose names appeared on the

¹⁴ Dr. Fenoff considered only the four sheets that were numbered 276, 277, 278 and 291. The other sheet found to be suspect by the OGC attorney assigned to the case was numbered 279 and was circulated during the same period of time as the other four sheets that contained forged signatures. The remaining nine sheets were circulated by Kanswal prior to the time that the last five problematic sheets were circulated.

additional suspect sheet and could form their own opinions as to whether there was additional evidence of forgery.¹⁵

After the presentation of the case, the Board Chair asked the General Counsel for her recommendation in the matter. The General Counsel recommended that the matter be referred to the Attorney General for the District of Columbia and/or the United States Attorney's Office for criminal investigation and prosecution.

The Board Chair made a motion to adopt the recommendation of the General Counsel and refer the matter for prosecution. The motion was duly seconded and passed unanimously.

Discussion

As noted above, the petition circulation laws provide, *inter alia*, that circulators must personally witness each person sign the petition.¹⁶ In addition, the affidavit that appears at the bottom of each petition sheet requires that circulators attest to personally circulating and to personally witnessing the signing of the petition. D.C. Official Code § 1-1001.08(b)(4) establishes criminal penalties with respect to any circulator who knowingly and willingly violates these petition circulation laws and regulations. The penalties consist of a fine of not more than \$10,000, or imprisonment for not more than 6 months, or both. The law states that “[e]ach occurrence of a violation . . . shall constitute a separate offense.”¹⁷ Falsely executing that affidavit and the affidavit

¹⁵ The Board hereby admits into the record the following documents offered by the General Counsel: (1) any documents from the *Ragas v. Jain* matter that were relevant to the allegations of fraud against Kanswal; (2) images of relevant voter file records including the voter file maintenance sheet for the two petition signers who Ragas had claimed were deceased; (3) samples of voter signatures that were in the Board's voter files; and (4) the June 16, 2024 email from Mr. Kanswal notifying OGC that his counsel had withdrawn. The voter file images were offered as business records and supported by an affidavit executed by Board staff that authenticated them.

¹⁶ D.C. Official Code § 1-1001.08(b)(3). The election laws specifically state that petition circulators who violate signature gathering laws and regulations are subject to prosecution by the Attorney General of the District of Columbia. D.C. Official Code § 1-1001.08(b)(4).

¹⁷ *Id.*

on the non-resident circulator form also risks a violation of the D.C. criminal law against making false statements to the government.¹⁸

D.C. Official Code § 1–1001.18(a) provides that criminal referrals by the Board must be made upon recommendation by the Board’s General Counsel.¹⁹ Given the recommendation of the General Counsel here, our task then is to determine whether there is sufficient evidence of unlawful activity by petition circulator Ashish Kanswal to justify the referral of this matter for further investigation and criminal prosecution.

There are several facts that support a finding here that the law has been violated. First, on its face, the entry on petition sheets circulated by Kanswal of signatures from three voters who were deceased at the time their signatures were purportedly entered is sufficient evidence of unlawful failure to personally witness voters signing the petition.²⁰ Second, there is sufficient evidence based on the findings of Dr. Fenoff that Kanswal forged signatures on four petition sheets in violation of the petition circulation laws. Third, from a lay perspective, we note that signatures on the fifth sheet that contained the signature of a deceased individual and that was not reviewed by Dr. Fenoff are strikingly similar in format and style to other petition signatures and to Kanswal’s signature. Samples of Kanswal’s signature show a pattern of cursive writing beginning in the left lower area of the signature field and rising diagonally towards the right upper corner of the field with the end of the last letter in the script forming a line that underscores the entire signature. This distinctive writing appears in over a dozen of the fifty signatures on the five petition sheets at issue.

¹⁸ D.C. Official Code § 22–2405(a).

¹⁹ *See also* D.C. Code § 1–1001.05(a)(16) (authorizing the Board to “[p]erform such other duties as are imposed upon it by this subchapter”).

²⁰ Given the conclusiveness of the evidence of misconduct, we need not deliberate over the minimum evidentiary standard that must be met to make a criminal referral.

Fourth, over a dozen signatures on these five sheets consist of only the signer's first name or just their first name and first letter of the last name. Based on our experience reviewing petition forms, it is extraordinarily unusual for signer's last name to be omitted in over 20% of a petition's signatures. Fifth, signatures on the fifth petition sheet are not similar to samples of the voter's signatures that are in their voter files.²¹ Thus, there is substantial evidence on the record before us that Kanswal, on multiple occasions, forged voter signatures and therefore did not personally witness voters signing Jain's petition.

The suspect signatures appear on documents that include affidavits executed by Kanswal wherein he swore that he personally witnessed the signatures. Accordingly, the evidence of forgeries may be relied upon, not only to support a violation of the circulator law, but also to charge Kanswal with violating the law against making false statements.

Finally, no innocent explanation or legal defense has been asserted. On the contrary, Kanswal has not denied that he circulated the petition sheets at issue or that he signed the affidavits that appear on each page. Thus, there is no basis upon which to decline to refer this matter for further investigation and prosecution.

Conclusion

For the reasons indicated above, it is hereby:

ORDERED that the recommendation of the General Counsel is **ACCEPTED**. The General Counsel is directed to notify the Office of the Attorney General for the District of

²¹ To give just one example, the voter file for the signer appearing on line 3 of petition sheet 279 includes two samples showing that the voter signs the first letter of her first and middle names (*i.e.*, only her initials) and then writes out her last name in full. The samples also show that she writes the first letter of her first name, "A", by starting at the peak of the letter and drawing down to the left and then returning back to the peak so that the left hand side of the "A" has consists of two lines. The sample also shows that the voter forms her "A's" with a sharp peaks. The signature on the petition, however, consists of only the voter's first name spelled in full (as opposed to just the initial of the first name, her middle initial and her last name spelled out in full), the first letter "A" of that name has only a single line on the left hand side (as opposed to two lines) and the peak is rounded (as opposed to sharp).

Columbia and/or the U.S. Attorney for the District of Columbia of the referral of this matter for further investigation and possible prosecution.

Date: July 3, 2024



Gary Thompson
Chairman
Board of Elections