

# STATE BOARD OF ELECTIONS

## STATE OF ILLINOIS

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### AGENDA

State Board of Elections  
Sitting as the Duly Authorized  
State Officers Electoral Board  
Thursday, January 9, 2014  
10:30 a.m.

James R. Thompson Center – Room 2-025  
Chicago, Illinois  
and via videoconference  
2329 S. MacArthur Blvd.  
Springfield, Illinois

#### Roll call.

1. Approval of the minutes from the December 17 meeting.
2. Consideration to objections to candidate nominating petitions for the March 18, 2014 General Primary Election;
  - a. *Kelm v. Jones*, 13SOEBGP101;
  - b. *Solomon v. Riley*, 13SOEBGP500;
  - c. *Ramsey v. Soloman*, 13SOEBGP522;
  - d. *Atsaves v. Alvarez*, 13SOEBGP502;
  - e. *Atsaves v. Lee*, 13SOEBGP505;
  - f. *Wright & Cochrane v. Lewis*, 13SOEBGP503;
  - g. *Couvall v. Hickory*, 13SOEBGP506;
  - h. *Gress & Farrar v. Thomas*, 13SOEBGP507;
  - i. *Bigger & Shearer v. Zalzman*, 13SOEBGP508;
  - j. *Wright & Cochrane v. Rayburn*, 13SOEBGP509;
  - k. *Mullen v. Goel*, 13SOEBGP514;
  - l. *Trigleth v. Ekhoff*, 13SOEBGP515;
  - m. *Thompson v. Ekhoff*, 13SOEBGP517;
  - n. *Macklin v. Sims, Jr.*, 13SOEBGP516;
  - o. *Imhoff v. Flores*, 13SOEBGP520;
  - p. *Willard v. Howard*, 13SOEBGP521;
  - q. *Kolovitz v. Galhotra*, 13SOEBGP524;
  - r. *Franklin v. Jones*, 13SOEBGP525;
  - s. *Hardiman v. Quinn & Vallas*, 13SOEBGP527;
  - t. *Vara v. Harmon*, 13SOEBGP528.

3. **Objections/Candidates withdrawn – informational;**
  - a. ***Reeves v. Goncher*, 13SOEBGP501 – objection withdrawn;**
  - b. ***Hanford & Anseeuw v. Reyes*, 13SOEBGP510 – candidate withdrew;**
  - c. ***Ramsey v. Jernigan*, 13SOEBGP519 – candidate withdrew.**
4. **Other business.**
5. **Recess the State Officers Electoral Board until 10:30 a.m. on Wednesday, February 19, 2014 in Chicago or call of the Chairman, whichever occurs first.**

**Kelm v. Jones**  
**13 SOEB GP 101**

**Candidate:** Peter Edward Jones

**Office:** Governor

**Party:** Republican

**Objector:** Michelle Kelm

**Attorney For Objector:** Andrew Raucci

**Attorney For Candidate:** No one has filed an appearance on Candidate's behalf.

**Number of Signatures Required:** Minimum of 5,000

**Number of Signatures Submitted:** No more than 35.

**Number of Signatures Objected to:** N/A

**Basis of Objection:** Candidate filed an insufficient number of signatures to qualify for placement on the ballot. Candidate failed to include a candidate for Lt. Governor. Candidate misidentified the date of the General Primary Election, listing the date as November 4, 2014. The nominating petitions failed to contain the name of the office sought by the candidate, nor did it contain the residence address of the candidate. The candidate failed to file a Statement of Economic Interest and failed to file a receipt of same.

**Dispositive Motions:**

**Binder Check Necessary:** No

**Hearing Officer:** Robert Bell

**Hearing Officer Findings and Recommendation:** The Hearing Officer recommends that based on the lack of sufficient signatures to qualify for the ballot, the objection be sustained and Candidate Jones not be certified for the office of Governor on the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the Recommendation of the Hearing Officer.

**BEFORE THE STATE OFFICERS  
ELECTORAL BOARD**

<b>Michelle Kelm,</b>	)	
	)	
<b>Objector,</b>	)	
	)	
<b>vs.</b>	)	<b>Case #: 2013 SOEB GP 101</b>
	)	
<b>Peter Edward Jones,</b>	)	
	)	
<b>Candidate.</b>	)	

**HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS**

This matter having been assigned to me for recommendation by the Board on the Objection of Michelle Kelm that the Candidate's Nomination Papers are insufficient in law and in fact because they fail to contain the . statutory minimum of 5000 signatures for the Office of Governor and that the Candidate has only submitted the signatures of 35 qualified voters falling below the statutory minimum and otherwise failed to comply with statutory requirements. The Hearing Officer reviewed the objection, the petition sheets, the records review, and the appearance of counsel for the Objector; the putative Candidate having appeared for the initial case management conference but otherwise not filing an appearance or participating or responding to any other contacts, and recommend as follows:

**PRELIMINARY FACTS**

The Candidate submitted petition sheets which purport to contain no more than 35 qualified voters falling beneath the statutory minimum of 5000 signatures of voters for the office of Governor, at least 4965 below the statutory minimum.

**FINDINGS OF FACT AND LAW**

The Candidate failed to submit the statutory minimum signatures of voters to sustain his Nomination Papers. The Candidate has failed to comply with other statutory requirements, (failure to include Lt. Governor candidate on his nominating petitions, failure to properly identify the election at which he seeks nomination, and failed to identify the office sought and failed to provide the address of the Candidate) however such issues are moot, given his failure to

comply with the minimum statutory number of signatures of qualified voters, *i.e.*, 35 of 5000, deficient by 4965 signatures.

### **RECOMMENDATION**

For the above and foregoing reasons, I recommend that the Board: i) sustain the Objector's Petition on the basis that the Candidate failed to submit the minimum 5000 signatures required by statute, having only 35 signatures, which is below the required number to be certified, ii) find that the number of signatures, *i.e.*, 35, are insufficient in law and fact to sustain the Candidate's nominating papers and candidacy, and iii) order that the name Peter Edward Jones not appear nor be printed on the ballot as a candidate for the Office of Governor of the State of Illinois to be voted on at the Primary Election to be held on March 18, 2014.

Date: January 7, 2014

  
Robert S. Bell, Jr.  
Hearing Officer

Robert S. Bell, Jr.  
111 W. Washington Street  
Suite 920  
Chicago, IL 60602  
312-498-7181

IN THE MATTER OF THE OBJECTIONS OF )  
MICHELLE KELM TO THE PURPORTED )  
NOMINATING PETITION OF PETER EDWARD )  
JONES AS A CANDIDATE FOR NOMINATION OF )  
THE REPUBLICAN PARTY FOR GOVERNOR OF )  
ILLINOIS )

**VERIFIED OBJECTOR'S PETITION**

NOW COMES **MICHELLE KELM** and respectfully represents that Objector resides in the State of Illinois at 2300 Chesapeake Landing, Springfield, Sangamon County, Zip Code 62712 and that your Objector is a registered, qualified legal voter at her residence address and that your Objector's interest in filing this objection is that of a citizen desirous of seeing that the election laws of the State of Illinois governing the filing of petitions for nomination of the Republican Party to the office of Governor of the State of Illinois are fully and properly complied with and that only those candidates who properly comply therewith have their names printed upon the ballot as candidates for the said office and therefore your Objector makes the following objections to the to the purported nominating petition of PETER EDWARD JONES as a candidate for nomination of the Republican Party to the office of Governor of Illinois to be voted upon at the Primary Election to be held on March 18, 2014, (and alternatively, for the election to be held on November 4, 2014) and files the same herewith and states the petition is insufficient in law and in fact for the following reasons:

1. Your Objector states that such petitions require the signatures of 5,000 qualified voters.
2. Your Objector states that on its face the petition purports to contain the signatures of no more than 35 qualified voters, or at least 4,965 below the statutory minimum.
3. Your Objector further states that the petition on its face fails to contain the statutory minimum, and therefore, is invalid and insufficient.

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STATE BOARD OF ELECTIONS

4. Your Objector further states that the nominating petition is fatally defective because it fails to name a candidate for the office of Lieutenant Governor of Illinois, contrary to the statutes in such cases made and provided.

5. Your Objector further states that the nominating petition is fatally defective for the reason that it states (and similarly, the Statement of Candidacy states) that the candidate is running in a primary election to be held on November 4, 2014. There is no primary election to be held in Illinois on that date.

6. Your Objector further states that the nominating petition is fatally defective for the reason that the petition sheets signed by the nominators fail to contain the name of the office, contrary to the statutes in such cases made and provided.

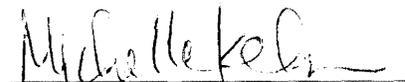
7. Your Objector further states that the nominating petition is fatally defective for the reason that the petition sheets signed by the nominators fail to contain the residence address of the candidate, contrary to the statutes in such cases made and provided.

8. Your Objector further states that the nominating petition is fatally defective for the reason that the candidate failed to file a Statement of Economic Interests as required by the Illinois Constitution and the Election Code, contrary to the statutes in such cases made and provided.

9. Your Objector further states that the nominating petition is fatally defective for the reason that the candidate failed to file receipt from the Secretary of State showing that he had filed a Statement of Economic Interests as required by the Illinois Election Code, contrary to the statutes in such cases made and provided.

WHEREFORE, YOUR Objector prays that the purported nominating petition of PETER EDWARD JONES as a candidate for nomination of the Republican Party to the office of Governor of Illinois be declared by this Honorable Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that this Honorable Board enter its decision declaring that the name of PETER EDWARD JONES as a candidate for nomination of the Republican Party to the office of Governor of

Illinois **BE NOT PRINTED** upon the **OFFICIAL BALLOT** for the Primary Election to be held on March 18, 2014, and alternatively, that the candidate's name **BE NOT PRINTED** upon the **OFFICIAL BALLOT** for the General Election to be held on November 4, 2014.

  
**MICHELLE KELM**

**Solomon v. Riley**  
**13 SOEB GP 500**

**Candidate:** Al Riley

**Office:** State Representative, 38<sup>th</sup> District

**Party:** Democratic

**Objector:** McStephen O. A. "Max" Solomon

**Attorney For Objector:** Pro Se

**Attorney For Candidate:** Michael Kasper

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 1,671 (Only the first 1,500 signatures were considered as valid.)

**Number of Signatures Objected to:** 1,227 (Objections to signatures above 1,500 were not considered.)

**Basis of Objection:** 1. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer’s Address Missing or Incomplete,” and “Signer Signed Petition More than Once.” In addition, objections were made to improper, partial and incomplete addresses, and the use of only a partial name, stricken signatures and blank lines. 2. The Circulator of petition pages 19 and 63 failed to sign the circulator affidavit and take the oath required rendering each and every signature on those sheets invalid. 3. Fifteen petition signature sheets (pages 23, 60, 65, 67, 81, 82, 83, 86, 87, 88, 89, 90, 95, 96 and 97) containing 265 signatures are legally void because the county designation in the scilicet of the notary certificate is empty, thus failing to provide the jurisdiction in which the notarial act was performed.

**Dispositive Motions:** Candidate: Candidate’s Reply to Objector’s Brief; Objector: Motion to Strike and Dismiss Respondent’s Response to Petitioner’s Brief in Support of Objector’s Petition;

**Binder Check Necessary:** Yes

**Hearing Officer:** Robert Bell

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 23, 2013. The examiners ruled on objections to 1,051 signatures. 439 objections were sustained leaving 1,061 valid signatures, which is 561 signatures more than the required 500 minimum number of signatures. The Hearing Officer addressed the other issues raised by the Objector and determined that insufficient evidence was submitted to sustain such objections. Furthermore, even if all the signatures were stricken on the pages that the Objector claims had circulator and notary deficiencies, the Candidate would still have in excess of the statutory minimum. The objection to exceeding the maximum allowable number of signatures is overruled, since this allegation was not timely alleged, and the excess number of signatures were already stricken when the final signature count was calculated.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

**BEFORE THE STATE OFFICERS  
ELECTORAL BOARD**

MC STEPHEN O.A. "MAX	)	
SOLOMON,	)	
	)	
Objector,	)	
	)	
vs.	)	Case #: 2013 SOEB GP 500
	)	
AL RILEY,	)	
	)	
Candidate.	)	

**HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS**

This matter having been assigned to me for recommendation by the Board on the Objection of McStephen Solomon that the Candidate's Nomination Papers are insufficient in fact and law because they fail to contain the statutory minimum of 500 signatures. The Candidate's papers contain 1671 purported signatures, however only the first 1,500 signatures are considered valid for purposes of the official signature count. Objections were made to 1,051 of these signatures, 612 of which were overruled and 439 were sustained, reducing the total number of signatures to 1061. The Hearing Officer reviewed the objections, the records review, and the appearances of counsel, and recommends as follows:

**PRELIMINARY FACTS**

The Candidate, Al Riley timely filed his Nomination Papers with the State Board of Elections to qualify as a candidate for the Office of State Representative for the 38<sup>th</sup> Representative District of the State of Illinois to be voted for at the Primary Election on March 18, 2014. The Objector Solomon objects to the Petitions stating that the Nomination Papers are insufficient in fact and law, in that the nomination papers contain petition sheets with the names of over 1500 persons which exceeds the statutory number, that the purported signatures of the circulators of petition sheets 19 and 63 were incomplete because the affidavits were not signed by the circulator nor notarized or insufficiently notarized, the signatures of one individual do not match, *i.e.*, a forgery, and the notarial jurat or the scilicet, does not contain the county of the petition sheet nor the state (the identification of the jurisdiction in which the notarial act was performed). Specifically, the Objector originally objected to signatures of voters who did not sign the papers in their own proper persons, such signatures are not genuine and are forgeries, the petition contains sheets with the names of persons for whom the addresses stated are not in the 38<sup>th</sup> District or, contain petition sheets with the names of persons for whom the addresses given are either entirely missing or are incomplete, the petition contains sheets with the names of persons who have signed the Nomination Papers more than one time and the signatures are legally defective and deficient for a variety of other reasons, all of which result in the Nomination Papers containing less than 500 validly collected signatures and therefore being under the statutory minimum number of signatures necessary to appear on the ballot.

## FINDINGS OF FACT AND LAW

The Objector and the Candidate were provided the Board's Appendix-Recapitulation sheets and a summary of the Board's staff rulings.

The Candidate filed a Reply to the Objector's Brief, claiming that the Objector for the first time made argument and suggestion that the Candidate's nominating papers should be ruled invalid because the Candidate submitted an excessive number of signatures in violation of the requirement that the nominating papers contain at least 500 signatures but no more than 1500 signatures. Candidate argues that Objector should not be allowed to amend his Petition. In addition, Candidate also replied to the notarization issues raised by Objector, the alleged improper identification of the Circulator, and an alleged forgery. The Objector moves to strike the Candidate's Reply as being untimely filed and not being in accordance with the Hearing Officer's Order of December 17, 2013.

## RECOMMENDATION

For the above and foregoing reasons, I recommend that the Board : i) overrule the Objector's Petition on the basis that the Objector failed to submit any evidence which would disqualify or reduce the number of signatures of voters beyond those already stricken in the records exam, ii) find that even if the objections to the circulators and notaries contained on sheets 19, 21, 60, 63, 65, 67, 81, 82, 83, 86, 87, and lines 1 through 9 of page 88. (The 9<sup>th</sup> line contains the 1,500<sup>th</sup> signature.) were sustained, this would only reduce the total number of valid signatures by 182, and the Candidate would still have 879 valid signatures, exceeding the statutory minimum number by 379 signatures, iii) , find, to the extent necessary, that the Candidate's Reply was filed in accordance with Hearing Officer's Order of December 17, 2013, iv) find that the number of signatures of voters , *i.e.*, 1,061 or 879, are sufficient to sustain the Candidate's nominating papers and candidacy, v) overrule the objection to the petition based on exceeding the statutory maximum number of signatures, since the Rules of Procedure addresses this situation by requiring the excess number of signatures to be stricken, and the objection was not timely alleged, and vi) order that the name Al Riley be certified for the ballot as a candidate for the Office of State Representative for the 38<sup>th</sup> Representative District of the State of Illinois to be voted on at the Primary Election to be held on March 18, 2014.

Date: January 7, 2014

  
Robert S. Bell, Jr.  
Hearing Examiner

Robert S. Bell, Jr.  
111 W. Washington Street  
Suite 920  
Chicago, IL 60602  
(312) 498-7181

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF COOK )

**BEFORE THE DULY CONSTITUTED  
ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO  
NOMINATION PAPERS FOR CANDIDATES FOR THE OFFICE OF  
REPRESENTATIVE IN THE GENERAL ASSEMBLY FROM 38TH  
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS.**

IN THE MATTER OF THE OBJECTIONS )  
OF McSTEPHEN O. A. "MAX" SOLOMON )  
TO THE NOMINATION PAPERS OF )  
AL RILEY OF 847 WOODSTOCK ROAD )  
OLYMPIA FIELDS, ILLINOIS 60461, AS A )  
CANDIDATE FOR NOMINATION OF THE )  
DEMOCRATIC PARTY TO THE OFFICE OF )  
REPRESENTATIVE IN THE GENERAL )  
ASSEMBLY FROM THE 38TH )  
REPRESENTATIVE DISTRICT OF THE STATE )  
OF ILLINOIS TO BE VOTED ON AT THE )  
MARCH 18, 2014, PRIMARY ELECTION. )

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VERIFIED OBJECTOR'S PETITION

NOW COMES, McStephen O. A. "Max" Solomon, hereinafter referred to as the "Objector," and respectfully represents that Objector resides at 7 E Carriageway Drive, Suite 201, Hazel Crest, Illinois 60429, in the 38th Representative District of the State of Illinois; that Objector is a duly qualified, registered, and legal voter at such address; that Objector's interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for nomination of the Democratic Party to the office of Representative in the General Assembly from the 38th Representative District of the State of Illinois are properly complied with and that only qualified candidates have their names appear on the ballot as candidates for the said office; and therefore your Objector makes the following objections to the nomination papers of AL RILEY, hereinafter referred to as the "Candidate," as

a candidate for nomination of the DEMOCRATIC Party to the office of Representative in the General Assembly from the 38th Representative District of the State of Illinois, and files the same herewith, and states that the said nomination papers are insufficient in law and in fact for the following reasons:

1. Your Objector states that in the 38th Representative District of the State of Illinois, the signatures of **not less than 500** and **no more than 1,500** duly qualified, registered, and legal voters of the said 38th Representative District of the State of Illinois are required. 10 ILCS 5/8-8. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

2. Your Objector states that the Candidate has filed **97** petition signature sheets – 20 signature lines each – containing a total of **1,683** signatures of allegedly duly qualified, legal, and registered voters of the 38th Representative District of the State of Illinois; a Statement of Candidacy; a receipt of filing of Statement of Economic Interest; and an optional Loyalty Oath.

3. Your Objector states that the laws pertaining to the securing of ballot access require that certain requirements be met as established by law. Filings made contrary to such requirements must be voided, being in violation of the statutes in such cases made and provided. One such legal requirement mandates that “[P]etitions for nomination for the office of Representative in the General Assembly shall be signed by **at least 500 but not more than 1,500** of the qualified primary electors of the candidate's party in his or her representative district.” (Emphasis added). 10 ILCS 5/8-8. This nominating petition **fails** to adhere to, and therefore is in **contravention** of, the Illinois Election Code cited above, in that it contains a total of **1,683** signatures of allegedly duly qualified, legal, and registered voters of the 38th Representative District of the State of

Illinois. The Candidate's nomination papers are, therefore, **not in compliance** with the statutes in such cases made and provided.

4. Your Objector further states that the aforesaid nomination papers contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the 38th Representative District of the State of Illinois and their signatures are therefore invalid, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT REGISTERED (A)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

5. Your Objector further states that the said nomination papers contain the names of numerous persons who have signed said petition but who are not, in fact, duly qualified, registered, and legal voters at addresses that are located within the boundaries of the 38th Representative District of the State of Illinois as shown by the addresses they have given on the petition, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT IN DISTRICT (B)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

6. Your Objector further states that the said nomination papers contain the names of numerous persons who did not sign the said nomination papers in their own proper persons, and that the said signatures are not genuine, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT PROPER PERSON AND NOT GENUINE (C)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

7. Your Objector further states that said nominating petition contains the signatures of various individuals who have signed the petition more than once, and such duplicate signatures

are invalid, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNED PETITION MORE THAN ONCE (D)," with a further notation therein of the sheet and line numbers of the alleged signature(s) as Sh. \_\_\_\_, L. \_\_\_\_, attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

8. Your Objector states that various purported signatures are legally defective and deficient for a variety of reasons, as more fully set forth in the Appendix-Recapitulation, under the column designated "OTHER (E)" (together with an appropriate further reason) attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided. These objections include, but are not limited to improper, partial, incomplete, or no address; names stricken or crossed out from the sheets; use of only a partial name; and improper use of name; or individual signature lines being left unfilled or blank or containing a name that has been crossed off, eradicated, stricken, or removed, all of said signatures being in violation of the statutes in such cases made and provided.

9. Your Objector states that the circulator of petition signature sheet nos. **19**, and **63**, has failed to sign the Circulator Affidavit and take the oath, as required by law, on the line indicated for the "signature of person making this affidavit," rendering each and every signature on the aforesaid sheets as invalid, as more fully set forth in the Appendix-Recapitulation under the column designated as "OTHER – UNSIGNED CIRCULATOR AFFIDAVIT (E)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

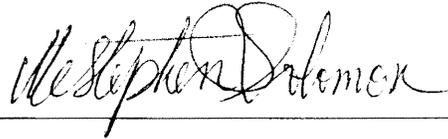
10. Your Objector also states that petition signature sheets nos. **23, 60, 65, 67, 81, 82, 83, 86, 87, 88, 89, 90, 95, 96, and 97** (consisting of **265** signatures) are legally void in their entirety for the following reasons:

- a. The “County” designation in the scilicet of the notary certificate is empty on each of the said sheets, thus, failing to provide the jurisdiction in which the notarial act was performed. This is in contravention of the Illinois Notary Public Act, 5 ILCS 312/6-103, which mandates that “[T]he certificate must include identification of the jurisdiction in which the notarial act is performed ...,” all of said signatures being in violation of the statutes in such cases made and provided.

11. Your Objector states that the Candidate’s nomination papers herein contested consist of 97 sheets – 20 signature lines each – supposedly containing the valid and legal signatures of 1,683 individuals. The individual objections cited herein with specificity reduce the number of valid signatures by 1,683 or 1,320 to 0 or 363 (and less than that if Candidate’s nomination papers had been in compliance with the required **statutory maximum of 1,500**) below the statutory minimum of 500. In addition, the allegations contained in paragraph 3 of this Objector’s Petition render the entire nominating petition null and void.

**WHEREFORE**, your Objector prays that the purported nomination papers of **AL RILEY** as a candidate of the **DEMOMCRATIC** Party for nomination to the office of Representative in the General Assembly from the 38th Representative District of the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of **AL RILEY** as a candidate of the **DEMOCRATIC** Party for nomination to the office of the Representative in the General Assembly from the 38th Representative District of the State of Illinois **BE NOT PRINTED** on the **OFFICIAL BALLOT** for the **DEMOCRATIC** Party at the Primary Election to be held on March 18, 2013.

Dated: Dec 3, 2013



McStephen O. A. "Max" Solomon  
Objector

McStephen O. A. "Max" Solomon  
7 E Carriageway Drive, Suite 201  
Hazel Crest, IL 60429  
Phone: 708.989.0024  
Email: mcstephen.solomon@gmail.com

**Ramsey v. Solomon**  
**13 SOEB GP 522**

**Candidate:** McStephen O.A. "Max" Solomon

**Office:** 38<sup>th</sup> State Representative, 38<sup>th</sup> District

**Party:** Democratic

**Objector:** Benjamin Ramsey

**Attorney For Objector:** Michael Kasper

**Attorney For Candidate:** Pro Se

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 1109

**Number of Signatures Objected to:** 854

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including "Signer's Signature Not Genuine," "Signer Not Registered at Address Shown," "Signer Resides Outside of the District," "Signer's Address Missing or Incomplete" and "Signer Signed Petition More than Once."

**Dispositive Motions:** Candidate: Motion to Strike and Dismiss Objector's Petition; Objector: Response to the Motion to Strike and Dismiss Objector's Petition;

**Binder Check Necessary:** Yes

**Hearing Officer:** Robert Bell

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 23, 2013. The examiners ruled on objections to 854 signatures. 732 objections were sustained leaving 377 valid signatures, which is 123 signatures less than the required 500 minimum number of signatures. Candidate Solomon attempted to file a Rule 9 Motion by the December 27, 2013 deadline, however his Motion did not include any evidence to rebut the SBE staff findings made during the records exam. He then attempted to send an e-mail attachment to the Hearing Officer on December 30<sup>th</sup>, but was informed that said submission was not timely and therefore rejected as not being in conformity with Rule 9. Since no Rule 9 Motions were validly filed, the results of the records examination are dispositive. The recommendation is to sustain the Objector's Petition, and to not certify Candidate Solomon to the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

**BEFORE THE STATE OFFICERS  
ELECTORAL BOARD**

Benjamin Ramsey,                    )  
  )  
                                  **Objector,**                    )  
  )  
                                  **vs.**                                    )  
  )  
McStephen A. O. "Max" Solomon,    )  
  )  
                                  **Candidate.**                    )

Case #: 2013 SOEB GP 522

**HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS**

This matter having been assigned to me for recommendation by the Board on the Objection of Benjamin Ramsey that the Candidate's Nomination Papers are insufficient in fact and law because they fail to contain the statutory minimum of 500 signatures. The Candidate's papers contained 1109 purported signatures, for which objections to 122 were overruled and 732 were sustained, reducing the total number of signatures to 377. The Hearing Officer reviewed the objections, the records review, and the appearances of counsel, and recommends as follows:

**PRELIMINARY FACTS**

The Candidate, McStephen A. O. "Max" Solomon ("Solomon") timely filed his Nomination Papers with the State Board of Elections to qualify as a candidate for the Office of State Representative for the 38<sup>th</sup> Representative District of the State of Illinois to be voted for at the Primary Election on March 18, 2014. The Objector Benjamin Ramsey objects to the Petitions stating that the Nomination Papers are insufficient in fact and law alleging that the nomination papers contain petition sheets with the names of fewer than 500 persons therefore being under the required statutory minimum number. Specifically, Objector filed his Petition objecting to signatures on the petition sheets of voters who did not sign the papers in their own proper persons, such signatures are not genuine or are forgeries or, contain petition sheets with the names of persons for whom the addresses stated are not in the 38<sup>th</sup> District or, the addresses opposite the names of persons on the sheets

are either missing or incomplete or, contain names of persons who signed the Nomination Papers more than one time or, contain petition sheets with the names of persons who are not registered voters at the addresses shown, all of which result in the Nomination Papers containing less than 500 validly collected signatures of qualified and duly registered voters of the 38<sup>th</sup> Representative District.. The Hearing Officer also reviewed the Candidate's Request that the Electoral Board reconsider rulings made at the Rule 9 records examination and his Objections to those rulings which were adverse to the Candidate

The Candidate filed a Demand for Bill of Particulars, a Motion to Strike and Dismiss Objector's Petition for vagueness and lack of particularity on December 20, 2013 and his Rule 9 Motion on December 27, 2013 requesting reinstatement and rehabilitation or an evidentiary hearing to present further evidence to reinstate or rehabilitate those signatures having been objected to and sustained by the records examiners even though Candidate had duly and timely objected to those rulings. Candidate alleged that he had evidence that would assist him in the reinstatement and rehabilitation process in his Motion.

### **FINDINGS OF FACT AND LAW**

The Candidate was provided the Board's Appendix-Recapitulation sheets and a summary of the Board's staff rulings.

The Candidate argued in his Rule 9 Motion that evidence exists that the signatures could be rehabilitated and reinstated, but he failed to timely produce such evidence with his Motion in contradiction of Rule 9 and its provisions.

### **RECOMMENDATION**

For the above and foregoing reasons, I recommend that the Board : i) sustain the Objector's Petition on the basis that the Candidate failed to submit the minimum 500 signatures, which is required by statute, having only 377 signatures which is below the required number to be certified, ii) find the Candidate's Bill of Particulars be stricken as not contemplated by Board Rules nor that it be necessary

for the Objector to respond , iii) the Candidate's Motion to Strike and Dismiss be denied in light of the lack of sufficient signatures and the sustained objections in favor of the Objector, iv) find that the number of signatures, *i.e.*, 377, are insufficient in law and fact to sustain the Candidate's nominating papers and candidacy, and , v) order that the name McStephen A. O. "Max" Solomon not appear and be printed on the ballot as a candidate for the Office of State Representative for the 38<sup>th</sup> Representative District of the State of Illinois to be voted on at the Primary Election to be held on March 18, 2014.

Date: January 7, 2014

  
Robert S. Bell, Jr.  
Hearing Examiner

Robert S. Bell, Jr.  
111 W. Washington Street  
Suite 920  
Chicago, IL 60602  
(312) 498-7181

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE  
38th REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Benjamin Ramsey, )  
)  
Petitioner-Objector, )  
)  
v. )  
)  
McStephen O.A. "Max" Solomon, )  
)  
Respondent-Candidate. )

CHICAGO  
2013 DEC -9 PM 3:37  
STATE BOARD OF ELECTIONS

OBJECTOR'S PETITION

INTRODUCTION

Benjamin Ramsey, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 18402 Stonecreek Drive, Hazel Crest, Illinois, Zip Code 60429, in the 38th Representative District of the State of Illinois, and is a duly qualified, legal and registered voter at that address.
2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Representative in the General Assembly for the 38th Representative District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of McStephen O.A. "Max" Solomon as a candidate for the office of Representative in the General Assembly for the 38th Representative District of the State of Illinois ("Office") to be voted for at the Primary Election on March 18, 2014 ("Election"). The Objector states that the Nomination Papers are insufficient in fact and law for the following reasons:

4. Pursuant to State law, nomination papers for the Office to be voted for at the Election must contain the signatures of not fewer than 500 duly qualified, registered and legal voters of the 38th Representative District of the State of Illinois collected in the manner prescribed by law. In addition, nomination papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code.

and otherwise executed in the form provided by law. The Nomination Papers purport to contain the signatures of in excess of 500 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.

5. The Nomination Papers contain petition sheets with the names of persons who are not registered voters, or who are not registered voters at the addresses shown opposite their respective names, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading Column a., "Signer Not Registered at Address Shown," in violation of the Illinois Election Code.

6. The Nomination Papers contain petition sheets with the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine and are forgeries, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column b., "Signer's Signature Not Genuine," in violation of the Illinois Election Code.

7. The Nomination Papers contain petition sheets with the names of persons for whom the addresses stated are not in the 38th Representative District of the State of Illinois, and such persons are not registered voters in the 38th Representative District, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column c., "Signer Resides Outside District," in violation of the Illinois Election Code.

8. The Nomination Papers contain petition sheets with the names of persons for whom the addresses given are either missing entirely or are incomplete, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column d., "Signer's Address Missing or Incomplete," in violation of the Illinois Election Code.

9. The Nomination Papers contain petition sheets with the names of persons who have signed the Nomination Papers more than one time as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column e., "Signer Signed Petition More Than Once at Sheet Indicated," in violation of the Illinois Election Code.

10. The Nomination Papers contain less than 500 validly collected signatures of qualified and duly registered legal voters of the 38th Representative District, signed by such voters in their own proper person with proper addresses, below the number required under Illinois law, as is set forth by the objections recorded in the Appendix-Recapitulation attached hereto and incorporated herein.

11. The Appendix-Recapitulation is incorporated herein, and the objections made therein are a part of this Objector's Petition.

WHEREFORE, the Objector requests: a) a hearing on the objections set forth herein; b) an examination by the aforesaid Electoral Board of the official records relating to voters in the 38th Representative District, to the extent that such examination is pertinent to any of the matters alleged herein; c) a ruling that the Nomination Papers are insufficient in law and fact, and d) a ruling that the name of McStephen O.A. "Max" Solomon shall not appear and not be printed on the ballot for nomination to the office of Representative in the General Assembly of the 38th Representative District of the State of Illinois, to be voted for at the Primary Election to be held March 18, 2014.

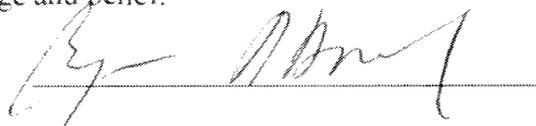
  
\_\_\_\_\_  
OBJECTOR

Address:  
Benjamin Ramsey  
18402 Stonecreek Dr.  
Hazel Crest, IL 60429

VERIFICATION

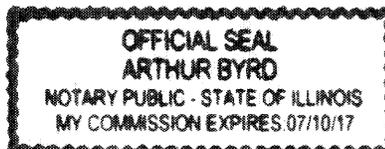
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Cook )

I, Benjamin Ramsey, being first duly sworn upon oath, depose and state that I have read the above and foregoing OBJECTOR'S PETITION, and that the matters and facts contained therein are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_

Subscribed and sworn to before me  
by Benjamin Ramsey  
this 7<sup>th</sup> day of December, 2013.

  
\_\_\_\_\_  
Notary Public



**Atsaves v. Alvarez**  
**13 SOEB GP 502**

**Candidate:** Armen Alvarez

**Office:** U.S. Senator

**Party:** Republican

**Objector:** Louis G. Atsaves

**Attorney For Objector:** William J. Cadigan

**Attorney For Candidate:** No one has filed an appearance on Candidate's behalf.

**Number of Signatures Required:** 5,000 – 10,000

**Number of Signatures Submitted:** 2,402

**Number of Signatures Objected to:** N/A

**Basis of Objection:** 1. The nomination papers do not comply with the requirements of Section 7-10 of the Election Code because the petitions submitted do not contain the required minimum amount of signatures. 2. The nomination papers do not comply with the requirements of Section 7-10 of the Election Code because the circulator statement on each petition sheet does not correctly state the time period when it was circulated or affirm that none of the signatures were gathered more than 90 days prior to the last day of petition filing.

**Dispositive Motions:** None filed

**Binder Check Necessary:** No

**Hearing Officer:** Bill Sullivan

**Hearing Officer Findings and Recommendation:** The Hearing Officer found that the petition contained an insufficient number of signatures to appear on the ballot for the office of U.S. Senator (Republican Party) and further found that the Candidate failed to comply with Section 7-10 of the Election Code by failing to state the time period in which the signatures were gathered nor affirm that none of the signatures were gathered more than 90 days prior to the last day of petition filing. As such, he recommends that the objection be sustained, and that the name of Armen Alvarez not be certified for the ballot as a Republican candidate for the office of U.S. Senator.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.



The Objector asserts that the Candidate was significantly short of the minimum number of signatures needed pursuant to Section 10(a) of the Illinois Election Code [10 ILCS 5/7-10(a)] to qualify for placement on the ballot. The Petition was indeed some 2,598 signatures short of the 5,000 signature requirement.

The Objector also asserts that the Petition does not comply with the requirements of Section 7-10 of the Illinois Election Code (10 ILCS 5/7-10) because the statement of the circulator on each petition sheet does not correctly state the time period when such petition was circulated. Indeed, the statement of the circulator on each such petition sheet indicates that "signatures...were signed in my presence, after the appropriate managing committee's selection of each candidate as the party's nominee" and is not in compliance with any of the following requirements of Section 7-10 of the Illinois Election Code: "...either (1) indicating the dates on which that sheet was circulated, or (2) indicating the first and last dates on which the sheet was circulated, or (3) certifying that none of the signatures on the sheet were signed more than 90 days preceding the last day for the filing of the petition...."

The Petition contains signatures totaling less than the minimum number (5,000) required pursuant to Section 10(a) of the Illinois Election Code [10 ILCS 5/7-10(a)]. The Petition also does not comply with the requirements of Section 7-10 of the Illinois Election Code (10 ILCS 5/7-10) because the statement of the circulator on each petition sheet does not correctly state the time period when such petition was circulated.

#### CONCLUSION AND RECOMMENDATION

Based upon the foregoing, the Hearing Officer finds that the Candidate's Petition contains fewer than the minimum number of signatures required under Section 10(a) of the Illinois Election Code [10 ILCS 5/7-10(a)] to qualify him for access to the ballot as a Republican Party candidate for the office of United States Senator from the State of Illinois. The Hearing Officer also finds that the Candidate's Petition does not comply with the requirements of Section 7-10 of the Illinois Election Code (10 ILCS 5/7-10) because the statement of the circulator on each petition sheet does not correctly state the time period when such petition was circulated.

Therefore, the Hearing Officer recommends that the Objector's "Verified Objector's Petition" be granted and that the name of the Candidate, Armen Alvarez, not be printed on the ballot as a Republican Party candidate for the office of United States Senator from the State of Illinois at the 2014 General Primary Election to be held on March 18, 2014.

Respectfully Submitted,



William B. Sullivan  
Hearing Officer

Dated: December 31, 2013

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF UNITED STATE SENATOR FROM THE STATE OF ILLINOIS**

LOUIS G. ATSAVES, )  
)  
Petitioner-Objector, )  
)  
v. )  
)  
ARMEN ALVAREZ, )  
)  
Respondent-Candidate. )  
)

**VERIFIED OBJECTOR' S PETITION**

Now comes objector (hereinafter referred to as the "Objector"), and states as follows:

1. Objector, LOUIS G. ATSAVES resides at 745 Northmoor Rd, Lake Forest IL 60045, County of Lake in the State of Illinois; that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for a Candidate for Election to the Office of United States Senator of the State of Illinois, are properly complied with by candidates for that office.

2. Your Objector makes the following objections to the nomination papers of Armen Alvarez ("the Nomination Papers") as a candidate for nomination of the Republican Party to the Office of United States Senator from the State of Illinois in the General Primary Election to be held on March 18, 2014, and files the same herewith, and states that the Nomination Papers are insufficient in law and in fact for the following reasons:

3. Your Objector states that in the State of Illinois the signatures of not less than 5,000 duly qualified, registered, and legal voters of State of Illinois are required. In addition, the Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and

presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

4. Your Objector states that the Candidate has filed 259 petition signature sheets containing a total of 2,396 signatures of allegedly duly qualified, legal, and registered voters of the State of Illinois.

**The Nomination Papers Do Not Comply With The Requirements Of Section 7-10 Of The Election Code Because The Petitions Submitted Do Not Contain The Required Amount of Signatures**

5. The Illinois Election Code requires that if a candidate seeks to run for statewide office, then the candidate's petition for nomination must contain at least 5,000 but not more than 10,000 signatures. 10 ILCS 5/7-10(a).

6. The Nominating Papers filed by the Candidate fail to comply with the requirement to contain at least 5,000 signatures. The 259 petition signature sheets filed by the Candidate only contain 2,396 signatures. Therefore, these petition sheets were not collected in accordance with Illinois law and should be declared null, void and invalid.

**The Nomination Papers Do Not Comply With The Requirements Of Section 8-10 Of The Election Code Because Circulator Statement On Each Petition Does Not Correctly State The Time Period When it was Circulated**

7. The Illinois Election Code requires each petition submitted by a candidate to include a circulator statement at the bottom of the sheet indicating the following: 1) the dates on which that sheet was circulated, or (2) the first and last dates on which the sheet was circulated, or (3) certifying that none of the signatures on the sheet were signed more than 90 days preceding the last day for the filing of the petition. 10 ILCS 5/7-10.

8. None of the petition sheets submitted by the Candidate contain a circulator statement that complies with the requirement that the time period when the petitions were

circulated or that they were not circulated any time prior to the 90 day period prior to the last day of filing.

9. Instead, each of the petition sheets submitted by the Candidate contains a circulator statement indicating that the sheets were circulated “after the appropriate managing committee’s selection of each candidate as the party’s nominee”. This language does not comply with the Illinois Election Code. Moreover, the language makes no sense in light of the fact that the Illinois Election Code does not require or permit a managing committee to be formed for the purpose of selecting a candidate in the General Primary Election on March 18, 2014. Therefore, these petition sheets were not collected in accordance with Illinois law and should be declared null, void and invalid.

**WHEREFORE**, your Objector prays that the purported nomination papers of Armen Alvarez as a candidate of the Republican Party for nomination to the office of the United States Senator from the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of Armen Alvarez as a candidate of the Republican Party for nomination to the office of the United States Senator from State of Illinois BE NOT PRINTED on the OFFICIAL BALLOT at the General Primary Election to be held on March 18, 2014.



\_\_\_\_\_  
Louis G. Atsaves

William J. Cadigan  
33 N. Dearborn, Ste. 2330  
Chicago, IL 60602  
(312) 207-0222 (o)  
(847) 424-2472 (f)  
(312) 543-5265 (m)  
wcadigan@cadiganlaw.net

**Atsaves v. Lee**  
**13 SOEB GP 505**

**Candidate:** William Lee

**Office:** U.S. Senator

**Party:** Republican

**Objector:** Louis G. Atsaves

**Attorney For Objector:** William J. Cadigan

**Attorney For Candidate:** No one has filed an appearance on Candidate's behalf.

**Number of Signatures Required:** 5,000 – 10,000

**Number of Signatures Submitted:** 4,019

**Number of Signatures Objected to:** N/A

**Basis of Objection:** The nomination papers do not comply with the requirements of Section 7-10 of the Election Code because the petitions submitted do not contain the required minimum amount of signatures.

**Dispositive Motions:** None

**Binder Check Necessary:** No

**Hearing Officer:** William B. Sullivan

**Hearing Officer Findings and Recommendation:** The Hearing Officer found that the petition contained an insufficient number of signatures to appear on the ballot for the office of U.S. Senator (Republican Party). As such, he recommends that the objection be sustained, and that the name of William Lee not be certified for the ballot as a Republican candidate for the office of U.S. Senator.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.



The Objector asserts that the Candidate was significantly short of the minimum number of signatures needed pursuant to Section 10(a) of the Illinois Election Code [10 ILCS 5/7-10(a)] to qualify for placement on the ballot. The Petition was indeed some 981 signatures short of the 5,000 signature requirement.

The Petition contains signatures totaling less than the minimum number (5,000) required pursuant to Section 10(a) of the Illinois Election Code [10 ILCS 5/7-10(a)].

CONCLUSION AND RECOMMENDATION

Based upon the foregoing, the Hearing Officer finds that the Candidate's Petition contains fewer than the minimum number of signatures required under Section 10(a) of the Illinois Election Code [10 ILCS 5/7-10(a)] to qualify him for access to the ballot as a Republican Party candidate for the office of United States Senator from the State of Illinois.

Therefore, the Hearing Officer recommends that the Objector's "Verified Objector's Petition" be granted and that the name of the Candidate, William Lee, not be printed on the ballot as a Republican Party candidate for the office of United States Senator from the State of Illinois at the 2014 General Primary Election to be held on March 18, 2014.

Respectfully Submitted,



William B. Sullivan  
Hearing Officer

Dated: December 31, 2013

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF UNITED STATE SENATOR FROM THE STATE OF ILLINOIS

2013 DEC -9 AM 10:51  
STATE BOARD OF ELECTIONS

LOUIS G. ATSAVES,

Petitioner-Objector,

v.

WILLIAM LEE,

Respondent-Candidate.

2013 DEC -9 AM 10:51  
STATE BOARD OF ELECTIONS

CHICAGO

**VERIFIED OBJECTOR' S PETITION**

Now comes objector (hereinafter referred to as the "Objector"), and states as follows:

1. Objector, LOUIS G. ATSAVES resides at 745 Northmoor Rd, Lake Forest IL 60045, County of Lake in the State of Illinois; that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for a Candidate for Election to the Office of United States Senator of the State of Illinois, are properly complied with by candidates for that office.

2. Your Objector makes the following objections to the nomination papers of William Lee ("the Nomination Papers") as a candidate for nomination of the Republican Party to the Office of United States Senator from the State of Illinois in the General Primary Election to be held on March 18, 2014, and files the same herewith, and states that the Nomination Papers are insufficient in law and in fact for the following reasons:

3. Your Objector states that in the State of Illinois the signatures of not less than 5,000 duly qualified, registered, and legal voters of State of Illinois are required. In addition, the Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and

presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

4. Your Objector states that the Candidate has filed 259 petition signature sheets containing a total of 3,945 signatures of allegedly duly qualified, legal, and registered voters of the State of Illinois.

**The Nomination Papers Do Not Comply With The Requirements Of Section 7-10 Of The Election Code Because The Petitions Submitted Do Not Contain The Required Amount of Signatures**

5. The Illinois Election Code requires that if a candidate seeks to run for statewide office, then the candidate's petition for nomination must contain at least 5,000 but not more than 10,000 signatures. 10 ILCS 5/7-10(a).

6. The Nominating Papers filed by the Candidate fail to comply with the requirement to contain at least 5,000 signatures. The 438 petition signature sheets filed by the Candidate only contain 3,945 signatures. Therefore, these petition sheets were not collected in accordance with Illinois law and should be declared null, void and invalid.

**WHEREFORE**, your Objector prays that the purported nomination papers of William Lee as a candidate of the Republican Party for nomination to the office of the United States Senator from the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of William Lee as a candidate of the Republican Party for nomination to the office of the United States Senator from State of Illinois BE NOT PRINTED on the OFFICIAL BALLOT at the General Primary Election to be held on March 18, 2014.



Louis G. Atsaves

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**Wright/Cochrane v Lewis**  
**13 SOEB GP 503**

**Candidate:** Marcus Lewis

**Office:** Representative in Congress, 2<sup>nd</sup> District

**Party:** Democratic

**Objector:** Nathan Wright/Christine A. Cochrane

**Attorney For Objector:** Michael Kreloff

**Attorney For Candidate:** Pro Se

**Number of Signatures Required:** 1,256

**Number of Signatures Submitted:** 1,450

**Number of Signatures Objected to:** 753

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer’s Address Missing or Incomplete,” and “Signer Signed Petition More than Once.”

**Dispositive Motions:** Candidate: Motion to Strike and Dismiss Objector’s Petition; Motion to Include Items to Motion to Strike and Dismiss Objector’s Petition; Respondent-Candidate Marcus Lewis’ Reply to Objection-Petitioner’s Response to Motion to Strike and Dismiss Objector’s Petition; Objector: Objector’s Response to Candidate’s Motion to Strike

**Binder Check Necessary:** Yes

**Hearing Officer:** Barbara Goodman

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 19, 2013. The examiners ruled on objections to 753 signatures. 599 objections were sustained leaving 851 valid signatures, which is 405 signatures less than the required 1,256 minimum number of signatures.

The Hearing Officer next considered the Candidate’s Motion to Strike and Dismiss, which challenged the objection on the grounds that it was filed in bad faith (a “shotgun” type of objection) and on the grounds that the prayer for relief was misleading and confusing in that it included a middle initial of the Candidate (Candidate’s Statement of Candidacy did not list a middle initial). The Hearing Officer denied the Motion based on the results of the records exam (78% of the objections were sustained) and based on there being no requirement that the prayer for relief list the candidate’s name exactly as it’s listed on the Statement of Candidacy and there being no evidence of confusion or anything else that would prejudice the Candidate’s ability to defend against the objection.

Based on the results of the records exam, the Hearing Officer recommends that the objection be sustained, and that the Candidate Marcus Lewis not be certified to appear on the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

BEFORE THE ILLINOIS STATE OFFICERS ELECTORAL BOARD

NATHAN WRIGHT and )  
CHRISTINE A. COCHRANE )  
 )  
Objectors )  
 )  
-v- )  
 )  
MARCUS LEWIS )  
 )  
Candidate )

13 SOEB GP 503

**HEARING OFFICER'S REPORT AND RECOMMENDED DECISION**

This matter was first assigned to Hearing Officer Cherf for hearing on December 17, 2013. Pursuant to the request of the Candidate, the case was reassigned to this Hearing officer. The Objector appeared through counsel Michael Kreloff and the Candidate appeared pro se. On December 19, 2013, the Candidate filed a Motion to Strike and Dismiss. On December 22, 2013, Candidate filed a Motion to Include items in the Motion to Strike and Dismiss. On December 23, 2013, Objector filed a Response to Candidate's Motion to Strike. On December 25, 2013, the Candidate filed a Reply and on December 26, 2013, the Candidate filed a supplemental reply with Exhibits. A records examination was also conducted.

The results of the records examination were as a follows:

- A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 1,256.
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,450.
- C. The number of signatures deemed invalid because of objections sustained in the records examination total 599.

D. The remaining number of signatures deemed valid as a result of the records examination total 851.

The results of the records examination established that the candidate had 405 signatures less than the required number of signatures for placement on the ballot. No motions were filed pursuant to Rule 9 of the Board's Rules of Procedure.

A hearing on the Candidate's Motion to Strike and Dismiss was held on December 27, 2013. Candidate raised two bases for dismissal of the objections. One basis was that the objections were brought in bad faith and were "shotgunned." Given the results of the records examination in which approximately 78% of the objections were sustained, the motion to strike and dismiss on the basis that the Objector's Petition was brought in bad faith and was "shotgunned" was denied.

The other basis raised by Candidate for dismissal of the objections was that the prayer for relief referred to the candidate as Marcus E. Lewis rather than Marcus Lewis, the name Candidate used on his Statement of Candidacy. Candidate argued that the Objector was obligated to use the exact name in his prayer for relief as the name that was contained in Candidate's Statement of Candidacy. In support of his argument, Candidate cited the case of *Kyles v. Daniels*, 92-EB-LEG-192, CBEC, February 10, 1992. In *Kyles*, the prayer for relief in the Objector's Petition named an entirely different candidate which the Board found to be confusing and ambiguous. As a result, the Objector's Petition was stricken and dismissed. Candidate also argued in his reply and supplemental reply that a middle initial is an important part of a name and confusion can result from the lack of its correct use. Candidate provided examples of website addresses that were dependent upon either the inclusion or exclusion of the person's middle initial in order to get to the correct website.

Objector argued that the name Marcus E. Lewis correctly identified the candidate and, in fact, it was the name used by the candidate as a circulator on each page circulated by the candidate. Here, there was no basis for confusion. Objector also cited the case of *Humphrey v. Phillips*, 57 Ill. 132,135 (1870), the only reported case that could be found on a variance of a middle initial, to support the argument that the middle initial is of so little relevance as to not be considered.

Objector further contended that electoral boards now generally look to the substance of the purported error and where the purported error is de minimis and does not create ambiguity or confusion, there is no basis to strike the Objector's Petition. In support of his argument, Objector cited *Davis v Hendon*, 02-EB-22-09, CBEC, January 25, 2002; *Burgess v Mitchell*, 11-EB-ALD-041, CBEC January 13, 2011; and *Thompson v White*, 11 EB-MUN-054, CBEC, January 11, 2011. In each of these cases, the Objector used a variation of the Candidate's name in the Objector's Petition (Ricky Hendon rather than Rickey R. Hendon, Ron Mitchell rather than Ronald Mitchell and Frederick K. White rather than Fredrick K. White) and the Board declined to strike the respective Objector's Petition.

Objector's argument and the cases upon which he relies are persuasive. In the instant case, there is no basis for confusion or ambiguity. The prayer for relief correctly identifies the Candidate and uses the Candidate's correct middle initial. The deviation between the prayer for relief which contains the Candidate's middle initial and the Statement of Candidacy which does not contain the Candidate's middle initial is, at most, a de minimis deviation, and insufficient to support the Candidate's Motion to Strike and Dismiss. Therefore, the Candidate's Motion to Strike and Dismiss was denied.

**RECOMMENDATION**

In light of the foregoing and in conformity with the results of the Records Examination, it is my recommendation that the objections of Nathan Wright and Christine Cochran to the nominating papers of Marcus Lewis be **sustained** and that the nominating papers of Marcus Lewis for the Democratic nomination to the office of Representative in Congress for the 2nd Congressional District be deemed **invalid** and that the name of Marcus Lewis for said office **not** be printed on the ballot at the March 18, 2014 General Primary Election.

Respectfully submitted,

*Barbara Goodman /s/*

\_\_\_\_\_  
Barbara Goodman, Hearing Officer  
January 6, 2013

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING OF AND PASSING UPON OBJECTIONS  
TO THE NOMINATION PAPERS FOR CANDIDATES FOR THE OFFICE OF  
REPRESENTATIVE IN CONGRESS, 2<sup>nd</sup> CONGRESSIONAL DISTRICT  
OF THE STATE OF ILLINOIS.

IN THE MATTER OF THE OBJECTIONS OF )  
NATHAN WRIGHT AND CHRISTINE A. )  
COCHRANE TO THE NOMINATION PAPERS )  
OF MARCUS LEWIS AS A CANDIDATE )  
FOR NOMINATION TO THE OFFICE OF )  
REPRESENTATIVE IN CONGRESS FOR THE 2<sup>nd</sup> )  
CONGRESSIONAL DISTRICT OF THE STATE OF )  
ILLINOIS TO BE VOTED UPON AT THE MARCH )  
18, 2014 PRIMARY ELECTION. )

VERIFIED OBJECTORS' PETITION

NOW COME Nathan Wright and Christine A. Cochrane ("Objectors"), and respectfully represent that Objector Nathan Wright resides at 19440 Glenwood Road, Chicago Heights, IL 60411 and Objector Christine A. Cochrane resides at 899 Wilshire Ln., Crete, IL 60417, in the 2<sup>nd</sup> Congressional District of the State of Illinois; that Objectors are duly qualified, registered, and legal voters at such addresses; that Objectors' interest in filing the following objections is that of citizens desirous of seeing to it that the laws governing the filing of nomination papers for nomination of the Democratic Party to the office of Representative in Congress in the 2<sup>nd</sup> Congressional District of the State of Illinois are properly complied with and that only qualified candidates have their names appear upon the ballot as candidates for said office; and therefore Objectors make the following objections to the nomination papers of Marcus Lewis ("Candidate") as a candidate for nomination of the Democratic Party to the office of

STATE BOARD OF ELECTIONS  
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Representative in Congress in the 2<sup>nd</sup> Congressional District of the State of Illinois and state that said nomination papers are insufficient in law and fact for the following reasons:

1. Illinois law requires that nomination papers for nomination of the Democratic Party to the office of Representative in Congress in the 2<sup>nd</sup> Congressional District of the State of Illinois for the March 18, 2014 Primary Election contain the signatures of not less than 1,256 duly qualified, registered and legal voters of said district.

2. The Candidate has filed 100 petition signature sheets as a part of his nomination papers containing a total of 1,452 lines of alleged signatures of duly qualified, legal, and registered voters of the 2<sup>nd</sup> Congressional District of the State of Illinois.

3. The petition signature sheets contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names and their signatures are therefore invalid, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "A – Signer Not Registered at Address Shown".

4. The petition signature sheets contain the names of numerous persons who did not sign the petition signature sheets in their own proper persons, and the signatures are not genuine, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "B- Signer Not Proper Person and Not Genuine".

5. The petition signature sheets contain the names of numerous persons who have signed the petition signature sheets but who are not, in fact, duly qualified, registered, and legal voters at addresses which are located within the boundaries of the 2<sup>nd</sup> Congressional District of the State of Illinois, as shown by the addresses they indicated on the signature sheet, as more

fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated “C-Signer Resides Outside District”.

6. The petition signature sheets contain the names of numerous persons who have signed the petition signature sheets but who failed to provide a legally complete and adequate address, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated “D-Signer’s Address Missing or Incomplete”.

7. The petition signature sheets contain the names of various persons who have signed the petition signature sheets more than once and their duplicate signatures are thereby invalid, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated “E-Signer Signed Petition More Than Once at Sheet/Line Indicated”.

8. Due to the foregoing defects and invalidities of numerous signatures, the Candidate has remaining less than the statutorily required minimum of 1,256 signatures, rendering the Candidate’s Nomination Papers insufficient and void.

WHEREFORE, Objectors pray that the Nomination Papers of Marcus E. Lewis (“Candidate”) as a candidate for nomination of the Democratic Party to the office of Representative in Congress for the 2<sup>nd</sup> Congressional District of the State of Illinois be declared by this Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate’s name be stricken and that the Electoral Board enter its decision that the name of Marcus E. Lewis as a candidate of the Democratic Party for nomination of the Democratic Party to the office of Representative in Congress for the 2<sup>nd</sup> Congressional District of the State of Illinois be not printed on the official ballot for the Democratic Party at the Primary Election to be held on March 18, 2014.

**Couvall v. Hickory**  
**13 SOEB GP 506**

**Candidate:** Arlene Hickory

**Office:** Representative in Congress, 10<sup>th</sup> District

**Party:** Democratic

**Objector:** Peter A. Couvall

**Attorney For Objector:** Michael Kreloff

**Attorney For Candidate:** Pro Se

**Number of Signatures Required:** 788

**Number of Signatures Submitted:** 892

**Number of Signatures Objected to:** 362

**Basis of Objection:** 1. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including "Signer's Signature Not Genuine," "Signer Not Registered at Address Shown," "Signer Resides Outside of the District," "Signer Signed Petition More than Once." 2. The petition sheets contain the names of various persons who have signed on a sheet (page 19) that improperly states an incorrect election date (March 18<sup>th</sup>, 2018) and the non-uniform heading causes all signatures on the page to be invalid. 3. The petition sheets contain the names of various persons who have signed on a sheet (page 50) where the circulator failed to have his signature properly notarized and the absence of a notary signature and stamp causes all signatures on the page to be invalid.

**Dispositive Motions:** Objector: Objector's Motion for Hearing Officer Review of Post Records Examination Unresolved Issues and for Rule 9 Request; Candidate: Candidate's Response to Objector's Unresolved Issues;

**Binder Check Necessary:** Yes

**Hearing Officer:** Phil Krasny

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 26, 2013. The examiners ruled on objections to 362 signatures. 211 objections were sustained leaving 681 valid signatures, which is 107 signatures less than the required 788 minimum number of signatures. Based on these results, the recommendation is to sustain the objection and to not certify Candidate Hickory to the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

**BEFORE THE STATE ELECTORAL BOARD OF THE STATE OF ILLINOIS**

PETER COUVALL )  
Petitioner-Objectors )  
)  
vs. ) 13SOEBG 506  
ARLENE HICKORY )  
Respondent- Candidate )  
)

**HEARING OFFICER'S RECOMMENDATION TO THE STATE ELECTORAL**

Respondent-Candidate, ARLENE HICKORY, has filed nominating petitions to have her name placed on the March 18, 2014 primary ballot for the office of Representative for the 10<sup>th</sup> Congressional District. In order to be placed on the primary ballot, a candidate is required to submit 788 valid signatures. That Respondent-Candidate's petitions included 892 signatures.

Petitioner-Objector, PETER COUVALL, has filed objections to the nominating petition alleging that 362 of the signatures were invalid.

A record examination was conducted on 12/26/13 wherein it was determined that 211 objections were sustained and 151 overruled, thereby leaving 681 valid signatures, 107 below the statutory minimum.

No Rule 9 evidence was submitted by the parties

A hearing was held on January 3, 2014 at the State Board of Elections office in Chicago. The Candidate represented herself. Objector was represented by Michael Kreoff. At the hearing the Candidate acknowledged that she did not have sufficient signatures to be placed on the primary ballot

**RECOMMENDATION**

It is recommended that, based upon having less than the required 788 signatures, the name of ARLENE HICKORY not be placed on the March 18, 2014 primary ballot for the office of Representative for the 10<sup>th</sup> Congressional District

/s/ \_\_\_\_\_  
Philip Krasny  
Hearing Officer

dated 1/5/14



1. Illinois law requires that nomination papers for nomination of the Democratic Party to the office of Representative in Congress in the 10<sup>th</sup> Congressional District of the State of Illinois for the March 18, 2014 Primary Election contain the signatures of not less than 788 duly qualified, registered and legal voters of said district.

2. The Candidate has filed 67 petition signature sheets as a part of her nomination papers containing a total of 898 (non-deleted) lines of alleged signatures of duly qualified, legal, and registered voters of the 10<sup>th</sup> Congressional District of the State of Illinois.

3. The petition signature sheets contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names and their signatures are therefore invalid, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "A – Signer Not Registered at Address Shown".

4. The petition signature sheets contain the names of numerous persons who did not sign the petition signature sheets in their own proper persons, and the signatures are not genuine, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "B- Signer's Signature Not Proper Person and Not Genuine".

5. The petition signature sheets contain the names of numerous persons who have signed the petition signature sheets but who are not, in fact, duly qualified, registered, and legal voters at addresses which are located within the boundaries of the 10<sup>th</sup> Congressional District of the State of Illinois, as shown by the addresses they indicated on the signature sheet, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "C-Signer Resides Outside District".

6. The petition signature sheets contain the names of numerous persons who have signed the petition signature sheets but who failed to provide a legally complete and adequate address, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "D-Signer's Address Missing or Incomplete".

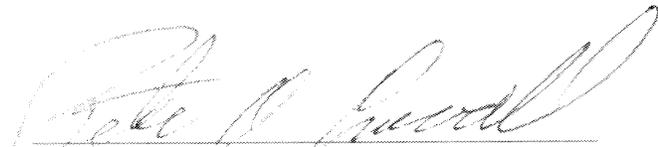
7. The petition signature sheets contain the names of various persons who have signed the petition signature sheets more than once and their duplicate signatures are thereby invalid, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "F-Other", with the duplicated sheets and lines listed in the Appendix at the place of the duplicated name.

8. The petition signature sheets contain the names of various persons who have signed the petition signature sheets on a page (sheet 19) that improperly stated an invalid and incorrect Election Date (March 18<sup>th</sup>, but in the year 2018), and the incorrect (and non-uniform) heading causes the signatures on said page to be invalid, as more fully set forth in the Appendix (attached hereto and made a part hereof), at page 19, under the column designated "F-Other".

9. The petition signature sheets contain the names of various persons who have purportedly signed the petition signature sheets but where the circulator of that sheet (sheet 50) failed to get his signature properly and lawfully signed in front of a notary public and the absence of both a notary's signature and stamp voids all signatures appearing on that page, and is more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "F-Other", and being marked "Circulator's Affidavit Not Properly Notarized" and "Sheet Not Notarized".

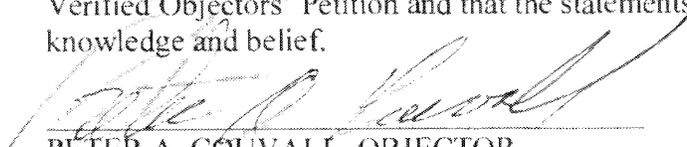
Due to the foregoing defects and invalidities of numerous signatures, the Candidate has remaining less than the statutorily required minimum of 788 signatures, rendering the Candidate's Nomination Papers insufficient and void.

WHEREFORE, Objector prays that the Nomination Papers of Arlene Hickory ("Candidate") as a candidate for nomination of the Democratic Party to the office of Representative in Congress for the 10<sup>th</sup> Congressional District of the State of Illinois be declared by this Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that the Electoral Board enter its decision that the name of Arlene Hickory as a candidate of the Democratic Party for nomination of the Democratic Party to the office of Representative in Congress for the 10<sup>th</sup> Congressional District of the State of Illinois be not printed on the official ballot for the Democratic Party at the Primary Election to be held on March 18, 2014.

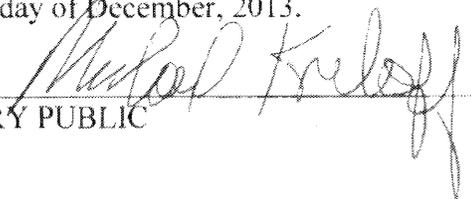
  
\_\_\_\_\_  
PETER A. COUVALL, OBJECTOR

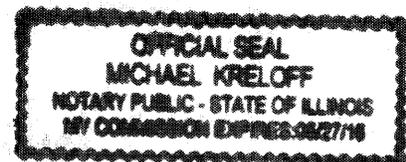
VERIFICATION

I, Peter A. Couvall, being first duly sworn on oath, state that I have read the foregoing Verified Objectors' Petition and that the statements therein are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
PETER A. COUVALL, OBJECTOR

Signed and sworn to before me, by Peter A. Couvall,  
this 7th day of December, 2013.

  
\_\_\_\_\_  
NOTARY PUBLIC



**Gress/Farrar v. Thomas**  
**13 SOEB GP 507**

**Candidate:** Lisa Thomas

**Office:** State Representative, 81<sup>st</sup> District

**Party:** Democratic

**Objector:** Larry Gress/Scott Farrar

**Attorney For Objector:** John Fogarty

**Attorney For Candidate:** Michael Kasper

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 584

**Number of Signatures Objected to:** 214

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer’s Address Missing or Incomplete,” “Signer Signed Petition More than Once” and “Signer Signed Republican Petition.”

**Dispositive Motions:** None filed by either party

**Binder Check Necessary:** Yes

**Hearing Officer:** Barbara Goodman

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 23, 2013. The examiners ruled on objections to 214 signatures. 126 objections were sustained leaving 458 valid signatures, which is 42 signatures less than the required 500 minimum number of signatures. Neither Candidate nor Objector submitted a Rule 9 Motion or any evidence contesting the results of the records examination.

Based on the results of the records examination, the Hearing Officer recommends that the objection be sustained and the name Lisa Thomas, Democratic candidate for the office of State Representative for the 81<sup>st</sup> District of the State of Illinois, not be certified for the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

BEFORE THE ILLINOIS STATE OFFICERS ELECTORAL BOARD

Larry Gress and Scott Farrar            )  
  )  
          Objectors                            )  
  )  
-v-    )  
  )  
Lisa Thomas                                 )  
  )  
          Candidate                         )

13 SOEB GP 507

**HEARING OFFICER’S REPORT AND RECOMMENDED DECISION**

This matter was first heard on December 17, 2013. The Objector appeared through counsel John Fogarty and the Candidate appeared through counsel Michael Kasper. No preliminary motions were filed and a records examination was conducted.

The results of the records examination were as a follows:

- A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 500.
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 584.
- C. The number of signatures deemed invalid because of objections sustained in the records examination total 126.
- D. The remaining number of signatures deemed valid as a result of the records examination total 458.

The results of the records examination established that the candidate had 42 signatures less than the required number of signatures for placement on the ballot.

The matter was scheduled for further hearing on December 27, 2013.<sup>1</sup> At that time, counsel for the Candidate indicated that he was standing on the results of the records examination and did not intend to proceed on a motion pursuant to Rule 9 of the Board's Rules of Procedure. Counsel for the Candidate confirmed his intention in an e-mail sent later that date, a copy of which is attached hereto.

### **RECOMMENDATION**

In light of the foregoing, it is my recommendation that the objections of Larry Gress and Scott Farrar to the nominating papers of Lisa Thomas be **sustained** and that the nominating papers of Lisa Thomas for the Democratic nomination to the office of Representative in the General Assembly for the 81<sup>st</sup> Representative District be deemed **invalid** and that the name of Lisa Thomas for said office **not be** printed on the ballot at the March 18, 2014 General Primary Election.

Respectfully submitted,

*Barbara Goodman /s/*

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Barbara Goodman, Hearing Officer  
December 29, 2013

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<sup>1</sup> The hearing was to be held at the Chicago office of the State Board of Elections. However, at the time of the hearing, the building was on lockdown and no one, including the attorneys in this matter, were permitted to enter the building. Therefore, the hearing was conducted via telephone.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING  
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR  
CANDIDATES FOR THE OFFICE OF REPRESENTATIVE IN THE GENERAL  
ASSEMBLY FROM THE 81<sup>ST</sup> REPRESENTATIVE DISTRICT OF THE STATE OF  
ILLINOIS.**

Larry Gress and Scott Farrar, )  
 )  
 Petitioner-Objectors, )  
 )  
 vs. )  
 )  
 Lisa Thomas, )  
 )  
 Respondent-Candidate. )

CHICAGO  
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 STATE BOARD OF ELECTIONS

**VERIFIED OBJECTORS' PETITION**

Now comes Larry Gress and Scott Farrar (hereinafter referred to as the "Objectors"), and states as follows:

1. Larry Gress resides at 1125 61<sup>st</sup> Street, Downers Grove, Illinois, 60516, in the Eighty-First Representative District of the State of Illinois; that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for a Candidate for Election to the Office of Representative in the General Assembly from the Eighty-First Representative District of the State of Illinois, are properly complied with and that only qualified candidates have their names appear upon the ballot as candidates for said office.

2. Scott Farrar resides at 806 80<sup>th</sup> Street, Downers Grove, Illinois, 60516, in the Eighty-First Representative District of the State of Illinois; that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for a Candidate for Election to the Office of Representative in the General Assembly from the Eighty-

First Representative District of the State of Illinois, are properly complied with and that only qualified candidates have their names appear upon the ballot as candidates for said office.

3. Your Objectors makes the following objections to the nomination papers of Lisa Thomas (“the Nomination Papers”) as a candidate for nomination of the Democratic Party to the Office of Representative in the General Assembly from the 81<sup>st</sup> Representative District of the State of Illinois, and files the same herewith, and states that the said nomination papers are insufficient in law and in fact for the following reasons:

4. Your Objectors state that in the 81<sup>st</sup> Representative District of the State of Illinois the signatures of not less than 500 duly qualified, registered, and legal voters of the said 81<sup>st</sup> Representative District of the State of Illinois are required. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

5. Your Objectors state that the Candidate has filed 38 petition signature sheets containing a total of 582 signatures of allegedly duly qualified, legal, and registered voters of the 81<sup>st</sup> Representative District of the State of Illinois.

6. Your Objectors state that the laws pertaining to the securing of ballot access require that certain requirements be met as established by law. Filings made contrary to such requirements must be voided, being in violation of the statutes in such cases made and provided.

**The Candidate Has An Insufficient Number Of Signatures To Qualify For Office**

7. Your Objectors further state that the aforesaid nomination papers contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the 81<sup>st</sup> Representative District of the State of Illinois

and their signatures are therefore invalid, as more fully set forth in the Appendix Recapitulation under the column designated "SIGNER NOT REGISTERED AT ADDRESS SHOWN (A)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

8. Your Objectors further state that the said nomination papers contain the names of numerous persons who have signed said petition but who are not, in fact, duly qualified, registered, and legal voters at addresses that are located within the boundaries of the 81<sup>st</sup> Representative District of the State of Illinois as shown by the addresses they have given on the petition, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT IN DISTRICT (B)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

9. Your Objectors further state that the said nomination papers contain the names of numerous persons who did not sign the said nomination papers in their own proper persons, and that the said signatures are not genuine, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT PROPER PERSON AND NOT GENUINE (C)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

10. Your Objectors further state that said nominating petition contains the signatures of various individuals who have signed the petition more than once, and such duplicate signatures are invalid, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNED PETITION TWICE (D)," with a further notation therein of the sheet and line numbers of the alleged duplicate signature(s) as Sh. \_\_\_\_, L. \_\_\_\_, attached hereto and made a

part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

10. Your Objectors state that various purported signatures are legally defective and deficient in that those individuals so signing signed a nominating petition for a candidate of another established political party prior to or after signing the Candidate, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNER SIGNED REPUBLICAN PETITION (E)" attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

11. Your Objectors state that the nomination papers herein contested consist of various sheets supposedly containing the valid and legal signatures of 582 individuals. The individual objections cited herein with specificity reduce the number of valid signatures to below the statutory minimum of 500.

WHEREFORE, your Objectors pray that the purported nomination papers of Lisa Thomas as a candidate of the Democratic Party for nomination to the office of the Representative in the General Assembly from the 81<sup>st</sup> Representative District of the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of Lisa Thomas as a candidate of the Democratic Party for nomination to the office of the Representative in the General Assembly from the 81<sup>st</sup> Representative District of the State of Illinois BE NOT PRINTED on the OFFICIAL BALLOT of the Democratic Party at the Primary Election to be held on March 18, 2014.

**Bigger/Shearer v. Zalcman**  
**13 SOEB GP 508**

**Candidate:** Mark Zalcman

**Office:** State Representative, 73<sup>rd</sup> District

**Party:** Republican

**Objector:** Michael S. Bigger/Steven P. Shearer

**Attorney For Objector:** John Fogarty

**Attorney For Candidate:** Pro Se

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 559

**Number of Signatures Objected to:** 122

**Basis of Objection:** 1. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer Signed Petition More than Once,” and “Signer Signed Democrat Petition.” 2. Candidate has failed to file with his nominating petition a receipt for filing his Statement of Economic Interests with the Illinois Secretary of State. 3. The heading on numerous petition sheets appears to have been materially altered (The Candidate purportedly altered his residence address in the heading of several petition sheets.) after sheets were signed by voters, rendering each of these sheets invalid.

**Dispositive Motions:** None filed by either party

**Binder Check Necessary:** Yes

**Hearing Officer:** David Herman

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 23, 2013. The examiners ruled on objections to 122 signatures. 99 objections were sustained leaving 460 valid signatures, which is 40 signatures less than the required 500 minimum number of signatures. Neither Candidate nor Objector submitted a Rule 9 Motion or any evidence contesting the results of the records examination.

The Candidate filed his actual Statement of Economic Interest with the State Board of Elections and not a receipt of filing at the Secretary of State. The Hearing Officer finds that this issue is moot because the Candidate lacks the statutorily required number of signatures to be placed on the ballot; however, if the Board determines the issue is not moot, the Candidate should not be placed on the ballot based upon the Board’s previous rulings in two cases where the objections were sustained against a Candidate who failed to file a Statement of Economic Interest with the Secretary of State on or before the last day to file nominating petitions for the office sought (Bruch v. Navarro, 11 SOEB GP 104 and Kopko v. Navarro, 11 SOEB GP 101).

Regarding the allegation that many of the Candidate's petition pages appear to have been materially altered after having been signed by purported voters, the Hearing Officer finds the issue to be moot because the Candidate lacks the statutorily required minimum number of signatures and the Candidate failed to file his Statement of Economic Interest with the Secretary of State.

Based upon the Candidate not meeting the minimum signature requirement, the Hearing Officer recommends that the name Mark Zalcman, Republican candidate for State Representative for the 73<sup>rd</sup> District of the State of Illinois, not be certified for the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS  
TO NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE OFFICE OF  
REPRESENTATIVE IN THE GENERAL ASSEMBLY FROM THE 73<sup>RD</sup>  
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS**

MICHAEL S. BIGGER AND STEVEN )  
P. SHEARER, )

Petitioners-Objectors, )

vs. )

MARK ZALCMAN, )

Respondent-Candidate. )

Case No. 13-SOEB-GP-508

**RECOMMENDATION OF HEARING EXAMINER**

**I. PROCEDURAL HISTORY**

This matter commenced on December 9, 2013 when Michael S. Bigger and Steven P. Shearer filed a “Verified Objectors’ Petition” with the Illinois State Board of Elections. Bigger and Shearer (hereinafter “Objectors”) alleged that the nomination papers of Mark Zalcmán for the Office of Representative in the General Assembly from the 73<sup>rd</sup> Representative District of the State of Illinois (hereinafter “Candidate”), were insufficient in that they were not in conformance with certain provisions of the Illinois Election Code. Specifically, the Objectors alleged that

- the nomination papers contained petition sheets with names of persons 1) who are not registered voters at the address shown, 2) whose addresses are not within the 73<sup>rd</sup> Representative District, 3) whose signatures were not genuine, 4) who signed the nomination papers more than once, and 5) who were signers of Democrat petitions;
- Candidate failed to file with his nomination papers a receipt for filing of his Statement of Economic Interest with the Illinois Secretary of State; and
- numerous of the nomination petitions papers appear to be have been materially altered after having been signed.

On December 23, 2013, a records examination was conducted by staff of the Illinois State Board of Elections. The results of the records examination as reported by the Board staff were not challenged or disputed by Candidate (Candidate did not timely file any Rule 9 motion or evidence). Neither party made any other filings in this matter. This matter was set for hearing

on January 2, 2014 at 4:00 p.m. at the Board's Springfield office, which was cancelled by the Hearing Examiner.

**A. Lack of Statutorily Required Signatures to Qualify for Office**

The records examination revealed that Candidate had collected a total of 559 signatures (Objectors' Verified Petition alleged Candidate collected and submitted 569 valid signatures). There were 122 line objections reviewed at the records examination. At the conclusion of the records examination, there were 460 signatures considered valid (99 line objections were sustained, while 23 line objections were overruled). The spreadsheet reflecting the results of the staff records exam is attached to this Recommendation as Exhibit A. After the records examination, Candidate did **NOT** have the required statutory minimum of not fewer than 500 signatures to be placed on the primary election ballot.

Neither Candidate nor Objector timely submitted a Rule 9 Motion or any evidence contesting the finding of the records examination conducted by the staff of the Illinois State Board of Elections. Accordingly, Candidate lacks the statutorily required number of signatures to be placed on the ballot.

**B. Lack of Filing of A Receipt for Filing Statement of Economic Interest with the Illinois Secretary of State**

Candidate filed his actual Statement of Economic Interest with the Illinois State Board of Elections and not a receipt of filing at the Illinois Secretary of State. Objectors assert the filing of the Statement at the State Board of Elections and not a receipt of his filing of the Statement at the Illinois Secretary of State is fatal.

This argument is moot because Candidate lacks the statutorily required number of signatures to be placed on the ballot. If the Board determines this argument is not moot, a review of Candidate's public filings of his nomination papers at the Illinois State Board of Elections reveals Candidate filed his actual Statement of Economic Interest at the State Board of Elections. Candidate did not file a receipt of his filing of his Statement of Economic Interest at the Illinois Secretary of State with the State Board of Elections. Candidate should not be placed on the ballot based upon the Board's previous ruling in Bruch v. Navarro, 11 SOEB GP 104 (Exhibit B); the Hearing Officer's Recommendation in Kopko v. Navarro, 11 SOEB GP 101 (Exhibit C) (which is adopted herein as if set forth in full), and the case of Kellog v. Cook County Officers Electoral Board, 347 Ill. App. 3d 666, 807 N.E.2d 1161 (1<sup>st</sup> Dist. 2004) (attached hereto as Exhibit D). Accordingly, applying Illinois law to these factual circumstances, Candidate should not be placed upon the ballot.

**C. Numerous of the Candidate's Petition Pages Appear to Have Been Materially Altered After Having Been Signed by Purported Voters**

This argument is moot because Candidate lacks the statutorily required number of signatures to be placed on the ballot and Candidate filed his Statement at the Illinois State Board of Elections and did not file a receipt of his filing with the Illinois Secretary of State at the State Board of Elections.

## II. CONCLUSION AND RECOMMENDATION

Because Candidate has **NOT** met the minimum signature requirement set forth in the Election Code, the Hearing Examiner recommends that Candidate's name **NOT** be placed on the ballot as a candidate of the Republican Party to the Office of Representative in the General Assembly from the 73<sup>rd</sup> Representative District of the State of Illinois to be voted for at the Primary Election to be held on March 18, 2014.

The parties herein have until January 2, 2014 on or before 5:00 p.m. CST to file any response or objection to this Recommendation with the Hearing Examiner.

DATED: December 30, 2013



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David A. Herman, Hearing Examiner

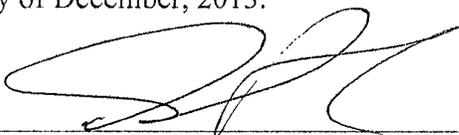
**CERTIFICATE OF SERVICE**

Service of the foregoing document was made by electronic transmission, where indicated, and by mailing a true and exact copy thereof in a sealed envelope, postage fully prepaid, addressed to:

Michael S. Bigger & Steven P. Shearer  
c/o John G. Fogarty, Jr.  
4043 N. Ravenswood  
Suite 226  
Chicago, IL 60613  
[john@fogartylawoffice.com](mailto:john@fogartylawoffice.com)

Mark Zalzman  
PO Box 280  
Chillicothe, IL 61523  
[mzalzmanlaw@sbcglobal.net](mailto:mzalzmanlaw@sbcglobal.net)

and by depositing same in the United States Mail from the office of the undersigned this 30<sup>th</sup>  
day of December, 2013.



David A. Herman, Hearing Examiner



Assembly from the Seventy-Third Representative District of the State of Illinois, are properly complied with and that only qualified candidates have their names appear upon the ballot as candidates for said office.

3. Your Objectors makes the following objections to the nomination papers of Mark Zalcmán (“the Nomination Papers”) as a candidate for nomination of the Republican Party to the Office of Representative in the General Assembly from the 73<sup>rd</sup> Representative District of the State of Illinois, and files the same herewith, and states that the said nomination papers are insufficient in law and in fact for the following reasons:

4. Your Objectors state that in the 73<sup>rd</sup> Representative District of the State of Illinois the signatures of not less than 500 duly qualified, registered, and legal voters of the said 73<sup>rd</sup> Representative District of the State of Illinois are required. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

5. Your Objectors state that the Candidate has filed 43 petition signature sheets containing a total of 569 signatures of allegedly duly qualified, legal, and registered voters of the 73<sup>rd</sup> Representative District of the State of Illinois.

6. Your Objectors state that the laws pertaining to the securing of ballot access require that certain requirements be met as established by law. Filings made contrary to such requirements must be voided, being in violation of the statutes in such cases made and provided.

**The Candidate Has An Insufficient Number Of Signatures To Qualify For Office**

7. Your Objectors further state that the aforesaid nomination papers contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the

addresses shown opposite their names in the 73<sup>rd</sup> Representative District of the State of Illinois and their signatures are therefore invalid, as more fully set forth in the Appendix Recapitulation under the column designated "SIGNER NOT REGISTERED AT ADDRESS SHOWN (A)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

8. Your Objectors further state that the said nomination papers contain the names of numerous persons who have signed said petition but who are not, in fact, duly qualified, registered, and legal voters at addresses that are located within the boundaries of the 73<sup>rd</sup> Representative District of the State of Illinois as shown by the addresses they have given on the petition, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT IN DISTRICT (B)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

9. Your Objectors further state that the said nomination papers contain the names of numerous persons who did not sign the said nomination papers in their own proper persons, and that the said signatures are not genuine, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT PROPER PERSON AND NOT GENUINE (C)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

10. Your Objectors further state that said nominating petition contains the signatures of various individuals who have signed the petition more than once, and such duplicate signatures are invalid, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNED PETITION TWICE (D)," with a further notation therein of the sheet and line numbers of the alleged duplicate signature(s) as Sh. \_\_\_\_, L. \_\_\_\_, attached hereto and made a

part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

10. Your Objectors state that various purported signatures are legally defective and deficient in that those individuals so signing signed a nominating petition for a candidate of another established political party prior to or after signing the Candidate, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNER SIGNED DEMOCRAT PETITION (E)" attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

11. Your Objectors state that the nomination papers herein contested consist of various sheets supposedly containing the valid and legal signatures of 569 individuals. The individual objections cited herein with specificity reduce the number of valid signatures to below the statutory minimum of 500.

**The Candidate Has Failed To File With His Nomination Papers A Receipt For Filing His Statement Of Economic Interests With The Illinois Secretary Of State**

12. Pursuant to State law, a candidate for office must file with his or her petitions a receipt indicating that he or she has filed a Statement of Economic Interests as required by the Illinois Governmental Ethics Act. 10 ILCS 5/7-10, 7-12. Nomination papers filed without such receipt are invalid. 10 ILCS 5/7-12(8).

13. Your Objectors state that the Candidate has failed to file with his Nomination Papers a receipt demonstrating that he has filed a Statement of Economic Interests with the Office of the Illinois Secretary of State as required by the Illinois Governmental Ethics Act. As such, the Nomination Papers are legally insufficient, and must be declared null and void.

**Numerous Of The Candidate's Petition Pages Appear To Have Been Materially Altered  
After Having Been Signed By Purported Voters**

14. The Illinois Election Code requires that for each candidate petition sheet, "the heading of each sheet shall be the same." 10 ILCS 5/7-10. The headings for numerous of the Candidate's petition sheets are not the same. In fact, it appears on numerous sheets that the Candidate has altered his residence address at the top of the petition sheet after having purported voters sign said petition sheet. This allegation is made specifically with respect to petition pages 1 – 32, 38, 42 and 43. Each and every one of these sheets fails to comply with the Election Code and must be invalidated.

WHEREFORE, your Objectors pray that the purported nomination papers of Mark Zalcman as a candidate of the Republican Party for nomination to the office of the Representative in the General Assembly from the 73<sup>rd</sup> Representative District of the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of Mark Zalcman as a candidate of the Republican Party for nomination to the office of the Representative in the General Assembly from the 73<sup>rd</sup> Representative District of the State of Illinois BE NOT PRINTED on the OFFICIAL BALLOT of the Republican Party at the Primary Election to be held on March 18, 2014.

**Wright/Cochrane v Rayburn  
13 SOEB GP 509**

**Candidate:** Charles Rayburn

**Office:** Representative in Congress, 2<sup>nd</sup> District

**Party:** Democratic

**Objector:** Nathan Wright/Christine A. Cochrane

**Attorney For Objector:** Michael Kreloff

**Attorney For Candidate:** Pro Se

**Number of Signatures Required:** 1,256

**Number of Signatures Submitted:** 1,471

**Number of Signatures Objected to:** 836

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including "Signer's Signature Not Genuine," "Signer Not Registered at Address Shown," "Signer Resides Outside of the District" and "Signer Signed Petition More than Once."

**Dispositive Motions:** Candidate: Candidate's Motion to Remove and Replace Hearing Officer; Candidate's Motion to Strike Objectors' Petition; Candidate's Motion to Reconsider Removing and Replacing Hearing Officer; Candidate Motion to Invalidate the Results of Petition Check; Candidate Motion to Declare Petition Results Invalid (3 motions); Objector: Objectors' Response to Candidate's Motion to Strike Objectors' Petition;

**Binder Check Necessary:** Yes

**Hearing Officer:** Kelly McCloskey Cherf

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 19, 2013. The examiners ruled on objections to 836 signatures. 759 objections were sustained leaving 712 valid signatures, which is 544 signatures less than the required 1,256 minimum number of signatures.

The Candidate's Motion to Remove and Replace the Hearing Officer and Motion to Reconsider Removing and Replacing the Hearing Officer are based solely on the Candidate's argument that because the Hearing Officer stated at the initial case management conference (in response to Mr. Rayburn's inquiry) that she knew Mr. Kreloff and knew that he was in fact, an attorney, that this should disqualify the Hearing Officer from hearing the objection. Because Mr. Rayburn did not provide any further basis for having the Hearing Officer removed, and after consulting with the General Counsel, the Hearing Officer denied both Motions.

The Candidate's Motion to Invalidate the Results of the Petition Check fails to provide any basis for the relief he is seeking; therefore, the motion should be denied.

The Candidate's Motion to Strike the Objectors' Petition does not contain any evidence supporting the allegation that he was unable to verify that the two Objectors are registered voters that live at the address listed on the Objector's petition and that the notary who notarized the Objector's Petition was a duly licensed notary in Illinois. Furthermore, it is immaterial if the notary to the Objectors' Petition is licensed in Illinois as there is no requirement in Section 10-8 that an objector sign, verify and notarize the Objector's Petition. (In any event, the Objector's affirmation that Mr. Kreloff is a duly licensed notary in Illinois went un rebutted.) The Motion to Strike does not contain any facts that demonstrate that the Candidate was not properly served with the Objectors' Petition or the Call for the initial hearing, nor does it contain facts that the initial hearing was untimely. Furthermore, the Candidate did not demonstrate that there has been any prejudice to the Candidate since he did appear at the initial hearing and had actual knowledge of the objection against him. In addition, the Candidate had notice of the time, date and location of the records examination and stated that he would not be in attendance. Finally, the Objectors' Petition and attached Appendix-Recapitulation sheets satisfy Section 10-8's requirement that the petition state fully the nature of the objections to the nomination papers; therefore, the Candidate's Motion to Strike should be denied.

The Hearing Officer recommends that the Board: i) deny the Candidate's Motion to Remove and Replace the Hearing Officer; ii) deny the Candidate's Motion to Reconsider Removing and Replacing the Hearing Officer; iii) deny the Candidate's Motion to Invalidate Results of the Petition Check; iv) deny the Candidate's three Motions to Declare Petition Results Invalid; v) deny the Candidate's Motion to Strike; vi) find that after the Record Examination, the Candidate is 544 signatures short of meeting the minimum requirement to have his name placed on the ballot; vii) sustain the Objectors' Petition; and viii) order that the name Charles Rayburn, Democratic candidate for Representative in Congress for the 2<sup>nd</sup> Congressional District of the State of Illinois, not be certified for the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer. I would only point out that in paragraph 4 of the Recommendation; the date of the initial meeting of the State Officers Electoral Board was December 17, 2013, not December 19. December 17 was within the 3 to 5 day period following receipt of the Objector's Petition by the Chairman of the SOEB.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF REPRESENTATIVE IN CONGRESS, 2<sup>nd</sup> CONGRESSIONAL DISTRICT  
OF THE STATE OF ILLINOIS

NATHAN WRIGHT and	)	
CHRISTINE A. COCHRANE,	)	
	)	
Petitioners-Objectors,	)	No. 13 SOEB GP 509
	)	
v.	)	
	)	
CHARLES RAYBURN,	)	
	)	
Respondent-Candidate.	)	

**HEARING OFFICER’S FINDINGS AND RECOMMENDATIONS**

This matter coming before the State Board of Elections as the duly qualified Electoral Board and before the undersigned Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Findings and Recommendations:

**I. PRELIMINARY FACTS**

The Candidate, Charles Rayburn (the “Candidate”), timely filed his Nomination Papers with the State Board of Elections to qualify as a Candidate for the office of Representative in Congress for the 2<sup>nd</sup> Congressional District of the State of Illinois, to be voted for at the primary election on March 18, 2014.

On December 9, 2013, the Objectors, Nathan Wright and Christine Cochrane (the “Objectors”), timely filed a verified Objectors’ Petition. In the Petition, the Objectors argue that the Candidate’s Nomination Papers are invalid and/or insufficient as the petition sheets contain fewer than the requisite 1,256 signatures because they contain the following deficiencies: a) names and addresses of individuals who are not registered voters or not registered at address that is listed; b) signatures that are not genuine; c) names of individuals who are not residents of the 2<sup>nd</sup> Congressional District in Illinois; d) names of persons for whom the addresses are missing or incomplete; and e) names of persons who signed the petition more than once. Attached to the Objectors’ Petition is an Appendix-Recapitulation.

An initial hearing and case management conference on this matter was held on December 17, 2013. Michael Kreloff appeared on behalf of the Objectors. Mr. Rayburn appeared pro se. At the initial hearing, the Candidate represented that he would be filing a Motion to Strike. A briefing schedule was set pursuant to the Illinois State Board of Elections Rules of Procedure. A case management hearing was set for December 26, 2013. At the initial case management

conference, both parties were notified that the Records Examination would commence on December 19, 2013 at 1:00 p.m. at the Illinois State Board of Elections Chicago office. The information regarding the Records Examination also was set forth in the Initial Case Management Order emailed to both parties on December 17, 2013.

On December 19, 2013, Mr. Rayburn notified the hearing officer via email at 7:37 a.m. that he would not be attending the Records Examination. A copy of the email is attached hereto as Exhibit A.

The Records Examination commenced and was completed on December 19, 2013. The Candidate needs 1,256 signatures to be on the ballot. The Candidate submitted 1,471 signatures. The examiners ruled on objections to 836 signatures. 759 objections were sustained, leaving 712 valid signatures, which is 544 signatures less than the required number of signatures. On December 19, 2013, the hearing officer provided notice of the Records Examination results to both parties via email. A copy of the email and the attachment to the email are attached hereto as Exhibit B.

On December 19, 2013, the Candidate filed a Motion to Remove and Replace Hearing Officer and Strike Objectors' Petition. The Motion to Remove and Replace Hearing Officer is premised upon the argument that the hearing officer acknowledged knowing Objectors' counsel. On December 19, 2013, General Counsel for the Illinois State Board of Elections notified the parties that the Motion to Remove and Replace Hearing Officer is denied as the Motion lacked sufficient grounds for removal.

On December 23, 2013, Mr. Rayburn filed: 1) a Motion to Reconsider Removing and Replacing the Hearing Officer; and 2) a Motion to Invalidate the Results of Petition Check.

On December 24, 2013, Mr. Rayburn filed a Motion to Declare Petition Results Invalid.

On December 27, 2013, Mr. Rayburn filed another Motion to Declare Petition Results Invalid.

On December 30, 2013, Mr. Rayburn filed another Motion.

Neither Party filed a Rule 9 Motion.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **The Candidate's Motion to Remove and Replace the Hearing Officer and Motion to Reconsider Removing and Replacing the Hearing Officer Should Be Denied.**

The sole basis for the Candidate's argument that the hearing officer be removed and replaced is that during the initial case management conference, the hearing officer "stated that she knew [Mr. Kreloff] and that he was an attorney." *See* Motion to Remove and Replace the Hearing Officer at p. 2. The Motion to Reconsider does not provide any additional allegations. The Candidate has failed to provide any basis for having the hearing officer removed. Therefore,

I recommend that the Motion to Remove and Replace the Hearing Officer and Motion to Reconsider be denied.

**The Candidate's Motion to Invalidate the Results of Petition Check Should Be Denied.**

The Candidate's Motion to Invalidate the Results of the Petition Check, which was filed on December 23, 2013, is premised upon the following two arguments: 1) that the Candidate was unable to retrieve the attachment on the hearing officer's December 19, 2013 notice of the records examination results; and 2) the newly established boundaries of the 2<sup>nd</sup> Congressional District should be declared invalid and redrawn.

I recommend that the Candidate's Motion to Invalidate the Records Examination Results be denied as the Candidate's motion fails to provide any basis for the relief he is seeking.

It is incumbent upon the Candidate to retrieve the Records Examination results if he was unable to open the attachment to the hearing officer's December 19, 2013 notice. The Candidate has repeatedly communicated with the hearing officer via email (*see, e.g.*, Exhibit A), and moreover, has submitted all of his filings to the hearing officer via email. If the Candidate was unable to open the attachment to the hearing officer's December 19, 2013 notice, the Candidate should have made arrangements with the Board in order to obtain the attachment. In an email to the parties on December 24, 2013 at approximately 11:04 a.m., the hearing officer advised the Candidate to contact the Board for the attachment and reminded the Candidate that the appropriate remedy to contest the findings made during the Records Examination is to timely file an appropriate Rule 9 motion in accordance with the Illinois State Board Rules and Procedure. A copy of the hearing officer's December 24, 2013 email is attached hereto as Exhibit C.

The Candidate's redistricting and boundary argument also is not a reason for the Board to invalidate the Records Examination results. The Candidate has failed to provide any basis to support his contention that the boundaries are invalid and should be redrawn. Moreover, and more importantly, the Candidate's redistricting issue is not properly before the Board of Elections.<sup>1</sup>

**The Candidate's Motion to Strike Should Be Denied.**

The Candidate's Motion to Strike generally consists of the following arguments: 1) the Candidate was unable to verify that the Objectors are registered voters at the respective addresses identified in the Petition; 2) the Candidate was unable to verify that the person who notarized the Objectors' Petition is a practicing notary in the State of Illinois; 3) the Candidate was not properly served with the Objectors' Petition or the Call; 4) the initial hearing on the Objectors' Petition was not timely; and 5) the objections are deficient.

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<sup>1</sup> The Candidate's Motion to Declare Petition Results Invalid which was filed on December 24, 2013 includes the same arguments set forth in the Candidate's Motion to Remove and Replace the Hearing Officer and the Candidate's Motion to Invalidate Results of Petition Check filed on December 23, 2013. I recommend that it also be denied.

For their Response to the Motion to Strike, the Objectors argue that: 1) the Candidate has not offered any evidence to challenge the eligibility of the Objectors to bring the Objectors' Petition; 2) although a notarization of the Objectors' Petition is not required under the Election Code, the notary is registered with the Secretary of State per the applicable website; and 3) the initial hearing by the Board of Elections was lawful and timely, and even if it were untimely, the Candidate has demonstrated no harm. In addition, the Objectors request that the remaining portion of the Motion to Strike be stricken and/or denied as it is based on hearsay statements and not relevant to the issue of whether the nomination papers are valid.

The Candidate did not appear at the December 26, 2013 case management conference. Counsel for the Objectors did appear and in addition to the arguments made in the Response to the Motion to Strike, counsel provided a copy of the Response with a Proof of Service indicating that the Candidate was served at his place of residence which is consistent with the address listed on the Candidate's appearance form previously filed with the Board. The Response and the Proof of Service have been marked as Exhibit 1.

I recommend that the Candidate's Motion to Strike be denied for the following reasons:

1. *Objectors' Standing.* The Candidate claims that he is unable to verify that the two Objectors are registered voters that live at the address identified in the Petition. Although an objector's standing may be raised as an affirmative defense on a motion to strike, the affirmative defense must be supported by proof. *See generally Morton v. State Officers Electoral Bd.*, 311 Ill. App. 3d 982 (4th Dist. 2000). The Candidate fails to provide any evidence that supports his allegation regarding the Objectors' standing.

2. *Notarization of the Objectors' Petition.* There is no requirement in 10 ILCS 5/10-8 that an objector needs to sign the objector's petition or verify its content. *See Davis v. Reed*, 04-EB-WC-81, February 6, 2004. Accordingly, it is immaterial if the notary to the Objectors' Petition is not licensed in Illinois as the Objectors' Petition does not need to be notarized.

3. *Service on the Candidate of the Objectors' Petition and the Call.* The Candidate fails to allege any facts that demonstrate that he was not served with the Objectors' Petition or the Call for the initial hearing. More importantly, the Candidate cannot claim prejudice for this purported lack of service. The Candidate did appear at the December 17, 2013 initial hearing and case management conference, and to the extent he had not previously received copies of the Objectors' Petition, he could have obtained copies of the Objector's Petition when he was at the State Board of Elections on December 17, 2013 and assumedly did receive the Objectors' Petition which is the basis for his Motion to Strike. Where the candidate has actual knowledge of the objections to his petitions, attended hearings on the objections and filed pleadings regarding the objections, the candidate cannot claim prejudice or object to the Board's jurisdiction on the grounds that the candidate did not receive a copy of the objections. *See Shipley v. Stephenson Co. Electoral Bd.*, 130 Ill. App. 3d 900, 903-04 (2d Dist. 1985).

4. *Timeliness of the Initial Hearing.* The Objectors' Petition was filed on December 9, 2013 with the State Board of Elections. By the second business day thereafter (December 11, 2013), the State Board of Elections was to transmit to the Chairman of the State Board of

Elections the Candidate's Nomination Papers and Objectors' Petition. 10 ILCS 5/10-8. Under the Election Code, the Chairman of the State Board of Elections shall send a call for a hearing on a date not less than 3 nor more than 5 days after receipt of the Candidate's nomination papers and the Objectors' Petition by the Chairman of the Board of Elections. 10 ILCS 5/10-10. December 19, 2013 falls within the 3-5 business day period referenced in Section 10-10 of the Election Code. The initial hearing of this matter was timely under Sections 10-8 and 10-10 of the Election Code. Moreover, even if the initial hearing was untimely, there has been no prejudice to the Candidate.

5. *Nature of the Objections.* In his Motion to Strike, although unclear, the Candidate seems to take issue with the nature of the objections identified in the Objectors' Petition. Section 10-8 of the Election Code provides in relevant part that the objector's petition "shall state fully the nature of the objections to the . . . nomination papers or petitions in question . . . ." 10 ILCS 5/10-8. Under the Election Code, an objection petition must adequately and sufficiently apprise the candidate of the specificity of each objection making an evaluation possible. See *Elysee v. Patterson*, 04-EB-RGA-14, January 20, 2004. The Objectors' Petition and the Appendix-Recapitulation clearly identify the nature of the objections and the deficiencies in the Candidate's Nomination Papers, e.g., there are names and addresses of individuals who are not registered voters or not registered at address that is listed, there are signatures that are not genuine, there are names of individuals who are not residents of the 2<sup>nd</sup> Congressional District in Illinois, there are the names of persons for whom the addresses are missing or incomplete, and there are names of persons who signed the petition more than once. The Objectors' Petition and the Appendix-Recapitulation sheets satisfy Section 10-8 of the Election Code.<sup>2</sup>

### III. RECOMMENDATIONS

For the foregoing reasons, I recommend that the Board: i) deny the Candidate's Motion to Remove and Replace the Hearing Officer; ii) deny the Candidate's Motion to Reconsider Removing and Replacing the Hearing Officer; iii) deny the Candidate's Motion to Invalidate Results of the Petition Check filed on December 23, 2013; iv) deny the Candidate's Motion to Declare Petition Results Invalid dated December 24, 2013; v) deny the Candidate's Motion to Strike; vi) deny the Candidate's Motion to Declare Petition Results Invalid dated December 27, 2013; vii) deny the Candidate's Motion filed on December 30, 2013; viii) find that after the Records Examination, the Candidate is 544 signatures short of meeting the minimum requirement to have his name placed on the ballot; vi) sustain the Objector's Petition; and ix) order that the name Charles Rayburn not be certified for the ballot as a Representative in Congress for the 2<sup>nd</sup> Congressional District of the State of Illinois, to be voted for at the primary election on March 18, 2014.

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<sup>2</sup> To the extent the Candidate has made any other arguments in the Motion to Strike, I recommend that those arguments be rejected by the Board as being either unintelligible or irrelevant to these proceedings. In addition, the Candidate's Motions filed on December 27, 2013 and December 30, 2013 are untimely and contain the same arguments that the Candidate previously made in other motions. I recommend that the Motions filed on December 27, 2013 and December 30, 2013 also be denied.

Date: December 31, 2013



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Kelly McCloskey Cherf  
Hearing Officer

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING OF AND PASSING UPON OBJECTIONS  
TO THE NOMINATION PAPERS FOR CANDIDATES FOR THE OFFICE OF  
REPRESENTATIVE IN CONGRESS, 2<sup>nd</sup> CONGRESSIONAL DISTRICT  
OF THE STATE OF ILLINOIS.

IN THE MATTER OF THE OBJECTIONS OF )  
NATHAN WRIGHT AND CHRISTINE A. )  
COCHRANE TO THE NOMINATION PAPERS )  
OF CHARLES RAYBURN AS A CANDIDATE )  
FOR NOMINATION TO THE OFFICE OF )  
REPRESENTATIVE IN CONGRESS FOR THE 2<sup>nd</sup> )  
CONGRESSIONAL DISTRICT OF THE STATE OF )  
ILLINOIS TO BE VOTED UPON AT THE MARCH )  
18, 2014 PRIMARY ELECTION. )

**VERIFIED OBJECTORS' PETITION**

NOW COME Nathan Wright and Christine A. Cochrane ("Objectors"), and respectfully represent that Objector Nathan Wright resides at 19440 Glenwood Road, Chicago Heights, IL 60411 and Objector Christine A. Cochrane resides at 899 Wilshire Ln., Crete, IL 60417, in the 2<sup>nd</sup> Congressional District of the State of Illinois; that Objectors are duly qualified, registered, and legal voters at such addresses; that Objectors' interest in filing the following objections is that of citizens desirous of seeing to it that the laws governing the filing of nomination papers for nomination of the Democratic Party to the office of Representative in Congress in the 2<sup>nd</sup> Congressional District of the State of Illinois are properly complied with and that only qualified candidates have their names appear upon the ballot as candidates for said office; and therefore Objectors make the following objections to the nomination papers of Charles Rayburn ("Candidate") as a candidate for nomination of the Democratic Party to the office of

STATE BOARD OF ELECTIONS  
2013 DEC -9 AM 10:54  
CHICAGO

Representative in Congress in the 2<sup>nd</sup> Congressional District of the State of Illinois and state that said nomination papers are insufficient in law and fact for the following reasons:

1. Illinois law requires that nomination papers for nomination of the Democratic Party to the office of Representative in Congress in the 2<sup>nd</sup> Congressional District of the State of Illinois for the March 18, 2014 Primary Election contain the signatures of not less than 1,256 duly qualified, registered and legal voters of said district.

2. The Candidate has filed 148 petition signature sheets as a part of his nomination papers containing a total of 1,472 lines (1,480 lines minus 8 deleted lines) of alleged signatures of duly qualified, legal, and registered voters of the 2<sup>nd</sup> Congressional District of the State of Illinois.

3. The petition signature sheets contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names and their signatures are therefore invalid, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "A – Signer Not Registered at Address Shown".

4. The petition signature sheets contain the names of numerous persons who did not sign the petition signature sheets in their own proper persons, and the signatures are not genuine, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated "B- Signer Not Proper Person and Not Genuine".

5. The petition signature sheets contain the names of numerous persons who have signed the petition signature sheets but who are not, in fact, duly qualified, registered, and legal voters at addresses which are located within the boundaries of the 2<sup>nd</sup> Congressional District of the State of Illinois, as shown by the addresses they indicated on the signature sheet, as more

fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated “C-Signer Resides Outside District”.

6. The petition signature sheets contain the names of numerous persons who have signed the petition signature sheets but who failed to provide a legally complete and adequate address, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated “D-Signer’s Address Missing or Incomplete”.

7. The petition signature sheets contain the names of various persons who have signed the petition signature sheets more than once and their duplicate signatures are thereby invalid, as more fully set forth in the Appendix (attached hereto and made a part hereof) under the column designated “E-Signer Signed Petition More Than Once at Sheet/Line Indicated”.

8. Due to the foregoing defects and invalidities of numerous signatures, the Candidate has remaining less than the statutorily required minimum of 1,256 signatures, rendering the Candidate’s Nomination Papers insufficient and void.

WHEREFORE, Objectors pray that the Nomination Papers of Charles Rayburn (“Candidate”) as a candidate for nomination of the Democratic Party to the office of Representative in Congress for the 2<sup>nd</sup> Congressional District of the State of Illinois be declared by this Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate’s name be stricken and that the Electoral Board enter its decision that the name of Charles Rayburn as a candidate of the Democratic Party for nomination of the Democratic Party to the office of Representative in Congress for the 2<sup>nd</sup> Congressional District of the State of Illinois be not printed on the official ballot for the Democratic Party at the Primary Election to be held on March 18, 2014.

**Mullen v. Goel**  
**13 SOEB GP 514**

**Candidate:** Manju Goel

**Office:** Representative in Congress, 8<sup>th</sup> District

**Party:** Republican

**Objector:** Patrick J. Mullen

**Attorney For Objector:** John Fogarty

**Attorney For Candidate:** Anish Parikh

**Number of Signatures Required:** 475

**Number of Signatures Submitted:** 1,565

**Number of Signatures Objected to:** 1,157

**Basis of Objection:** 1. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer Signed Petition More than Once,” and “Signer Signed Democrat Petition.” 2. The Nomination papers contain sheets purportedly circulated by individuals whose sheets demonstrate a pattern of fraud and disregard of the Election Code to such a degree that every signature on every sheet circulated by said individuals are invalid. 3. Numerous sheets of Candidate’s petition fail to comply with Section 7-10 of the Election Code based on being improperly notarized, in that each page fails to include the signature of the notary.

**Dispositive Motions:** Objector: Objector’s Response to Motion to Strike and Dismiss; Candidate: Motion to Strike and Dismiss Verified Objector’s Petition; Candidate’s Reply in Support of Motion to Strike and Dismiss Verified Objector’s Petition;

**Binder Check Necessary:** Yes

**Hearing Officer:** Phil Krasny

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 21, 2013. The examiners ruled on objections to 1,157 signatures. 425 objections were sustained leaving 1,140 valid signatures, which is 665 signatures more than the required 475 minimum number of signatures.

The Hearing Officer first considered the Candidate’s Motion to Strike and Dismiss. The Motion seeks to have the objection stricken that it was not made in good faith, based on the number of signatures that were objected to and the low sustained rate of said objections at the records exam. The Hearing Officer denied the Motion on the grounds that the case law cited by the Candidate involved a sustained rate of roughly 4.5% where in the instant case, the sustained rate was approximately 34%. In addition, the Objector raised the issue of whether a notary’s facsimile signature stamp was valid, in light of the Notary Public Handbook (published by the Illinois Secretary of State) proscription against using such stamps to notarize

a document. Because this was a valid issue that needs to be decided based on the applicable law, the Hearing Officer recommends denying the Motion to Strike.

The Hearing Officer recommends denying the objection that was based on improper notarization. The case law cited favors ballot access over technical defects in the notarization process, particularly where there is no evidence of a pattern of fraud. In this case, Mr. Mittal (the notary in question) testified that he was never made aware after years of notarizing documents (submitted to both State and Federal officials) that one could not use a facsimile stamp. He further testified that the circulators personally appeared before him to sign in his presence, which is the key to the integrity of the notarization process. One of the electoral board cases, while not binding, held that there was substantial compliance where a petition sheet wasn't signed by the notary but had the notary's stamp affixed to it, and there was no evidence of fraud.

In light of the above analysis, and the results of the records examination, the Hearing Officer recommends that the objection be overruled, and the Candidate Manju Goel be certified to the office of Representative in Congress on the March 18, 2014 General Primary ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

**BEFORE THE STATE ELECTORAL BOARD OF THE STATE OF ILLINOIS**

PATRICK MULLEN )  
Petitioner-Objectors )  
 )  
vs. ) 13SOEBG 514  
MANJU GOEL )  
Respondent- Candidate )  
 )

**HEARING OFFICER'S RECOMMENDATIONS TO THE STATE ELECTORAL BOARD**

**INTRODUCTION**

Respondent-Candidate, MANJU GOEL, has filed nominating petitions to have his name placed on the March 18, 2014 primary ballot for the office of Representative for the 8<sup>th</sup> Congressional District. The Candidate's petitions included 1574 signatures. In order to be placed on the primary ballot, the Candidate is required to submit 475 valid signatures.

Petitioner-Objector, PATRICK MULLEN , has filed objections to the Candidate's nominating petition alleging, inter alia, notary and circulator irregularities, "pattern of fraud" and invalidity of approximately 1225 signatures.

The Candidate has filed a Motion to Strike wherein he posits, inter alia, that the number of objections demonstrate that the petition was filed in bad faith. He also alleges that the alleged notary irregularities, including a stamp which replicated the notary's signature, are de minis and do not affect the validity of the petitions circulated.

The Objector has filed a Response to the Motion to Strike wherein he alleges, inter alia, that numerous petitions bear the Amitah Mittal notary stamp, but not his signature.

The Candidate filed a Reply, which included a letter signed by Amitah Mittal wherein he stated that he was physically present at the Manju for Congress Campaign office at 363 St. Paul Blvd, Carol

Stream, Illinois on November 22 and November 24, and that “all petitions were signed and sealed by me personally utilizing my signature and seal stamps. I personally also verified the details of the circulators and had them sign the petitions in my presence prior to accepting their petition lists for my signature.”

A record examination found that the Candidate had submitted 1565 signatures. 425 objections to the signatures were sustained, 732 were overruled, thereby leaving the Candidate with 1140 valid signatures.

A request for the issuance of subpoenas made by the Objector was granted as regards Amitah Mittal.

The Objector did not file any Rule 9 material.

### **Hearing**

A hearing on the Motion to Dismiss was originally scheduled for January 3, 2014 at the State Board of Elections office in Chicago. However, since Amitah Mittal was out of the country, the matter was continued to January 6, 2014.

At the January 6, 2014 hearing, the Candidate was represented by Anish Parikh and Cary Fleischer. The Objector was represented by John Fogarty. Prior to the start of the hearing, Mr. Fogarty acknowledged that he would not be providing any evidence on the issue of circulator irregularities and/or “pattern of fraud” set forth in paragraph 10 of the Objector’s petition.

### **Testimony of Amitabh V W Mittal**

Mr. Fogarty called Amitabh V W Mittal as a witness. Mr. Mittal testified that he resides in Bartlett and first became a notary in 1993, while living in Massachusetts. He eventually moved to Illinois and became an Illinois notary in 2007

Mr. Mittal explained that he has worked as an international freight forwarder since 1993 and became a notary to carry out the duties and responsibilities of an international freight forwarder, which included filing documents that included his verified signature certifying that specified items were being shipped to a specified country. The documents containing his verified signature would be sent to the state's secretary of state office, where his signature would be verified. Once verified by the state's secretary of state office, the documents would then be sent to the United States Secretary of State Office, where his signature would again be verified, and then sent to the country where the product was being shipped.

Because of the need for his signature to be similar enough to be accepted by the state secretary of state and the U.S. Secretary of State Office, Mr. Mittal used a signature facsimile stamp. He explained that he was never advised by anyone that he could not use a facsimile stamp. He further testified that when he became a notary in Illinois, he registered as a notary with the Illinois Secretary of State by using the facsimile.

Mr. Mittal explained the procedure he used when notarizing the circulator signatures appearing on the bottom of the 120 petition pages identified in paragraph 13 of the Objector's petition. (See Exhibit 1).

Mr. Mittal testified that on November 22, 2013 he met Michael Martin, a circulator for the Candidate, at the Candidate's campaign office in Carol Stream. Mr. Martin presented Mr. Mittal with nominating petitions Mr. Martin stated he circulated and which were signed in his presence. Only then did he notarize Martin's signature by entering Mr. Martin's name on the appropriate line on the bottom of the petition and applying his notary seal and his facsimile signature stamp to the form.

Mr. Martin also completed a notarization log in which Mr. Martin entered his name, address, date drivers' number and signature. However, he could not locate the log.

Mr. Mittal further testified that he returned to the campaign office on November 24, 2013 and performed the same procedure he used on November 22, 2013 when notarizing the nominating pages circulated by the 24 circulators whose names appear on the notarization log (Exhibit 3).

Mr. Mittal acknowledged that when he became an Illinois notary in Illinois he had reviewed the Illinois Notary Public Handbook, but did not recall its contents.

### **Stipulations**

The parties stipulated that:

- 1) The Illinois Notary Public Handbook (Exhibit 5) promulgated by the Illinois Secretary of State indicates that “Notaries may not use facsimile signature stamps in signing his or her name on her official certificates. A signature must be written in ink as commissioned.”
- 2) the aforementioned restriction is not set forth in The Illinois Notary Public Act.
- 3) should it be determined that the use of Mr. Mittal’s signature facsimile was improper, and all the signatures appearing on the circulators’ signatures were stricken, then the Candidate would have less than 475 valid signatures.

### **DISCUSSION**

#### **Did the Petitioner File his Objections in Good Faith**

The Candidate seeks to strike and dismiss the objector petition “on the ground that it is a ‘shotgun’ petition”. In support of his motion the Candidate points to the number of objections (1157 out of 1565) as well as the percentage of sustained objections, (which the parties agreed was 36%) as evidence of bad faith. Relying on several Chicago Board of Election cases, (*Barton v. Coleman*, 95-EB-ALD-144; *McCarthy v Pellett*, 04-EB-WC-04 and *Prince v Colvin* 08 EB-RGA-33), the Candidate claims that “objections challenging all, or virtually all, of the signatures filed on multiple grounds that

evidence of little if any, reasonable inquiry or investigation and lack of good faith" on behalf of Objector.

The Objector refutes the Candidate's characterization that the petition was "shotgun" and points out that "over 400 of the Candidate's signatures have been found to be invalid".

In *McCarthy* and *Colvin*, the Chicago Electoral Board, in finding that an objector brought a petition in bad faith, relied on *Derengowski v. Lamm*. In *Derengowski* the electoral board concluded that it should not be required to expend its time and resources, nor the time and resources of a candidate, in engaging in a "fishing expedition" for an objector who has not spent the requisite time and resources to make a reasonable inquiry of the facts. The Board found that entertaining such objections could invite future parties to interpose similar objections for improper purposes, such as to harass candidates, cause unnecessary delay in the preparation of the ballots or in the conduct of candidate campaigns, or needlessly increase the cost of conducting elections. Accordingly, Objections which have no basis in law or in fact and which are in the nature of what are commonly known as "shot-gun" objections will be dismissed.

Further, in *Barton*, the Chicago Electoral Board held that

Objections which have no basis in law or in fact and which are in the nature of what are commonly known as "shot-gunned" objections will be dismissed. *Baker v. James*, 94 CO 99, Cir. ct. Cook Co. (J. Kinnaid, February 28 / 1994) (affirming decision of Cook County Officers Electoral Board granting motion to strike objections raising every conceivable objection against every signature on petition sheets); *Arafat v. Shaw*, 91-EB-REP-81, CBEC, January, 1991; *Reed v. Norman*, 90 COEB-2, August 29, 1990, *reversed on other grounds sub.nom.* *Norman v. Kusper*, 90 CO 238, Cir.ct.Cook co., Sept.20, 1990, *rev'd on other grounds sub nom.* *Reed v. Norman*, Ill.2d (1990), *aff'd in part on other grounds remanded sub nom.* *Norman v. Reed*, 112 S.ct. 698, 502 U.S. 279, *aff'd on other grounds on remand sub nom.* *Reed v. Kusper*, 154 Ill.2d 77, 607 N.E.2d 1198 (1992) (objections to all 44,000 signatures on the basis that the signatures were not signed in the voter's own proper persons and that the signers were not duly registered voters deemed overruled)

In finding that the petition in the *Barton* case was brought in bad faith, the Chicago

Electoral Board found that:

The Hearing Examiner conducted a sample binder check of 365 randomly selected signatures. All 365 of the signatures had been objected to on the grounds that such signatures were not genuine. The sample binder check indicated that only 16 of the 365 (4.4%) objections to signatures were sustained. The results of the sample binder check indicated that the 15 pages contained 281 valid signatures, 25 more than the minimum necessary. All 68 objections that were sustained were on findings by the Board staff that the registration cards could not be found in the binders.

Unlike *Barton*, where only the 4.4% of objections were sustained, the sustained rate in the instant case was 34%. Further, since the facts in the instant case demonstrate that Mr. Mittal used a facsimile signature when notarizing the circulator petitions and considering the party's stipulation (that the use of a facsimile signature is prohibited in the Illinois Notary Public Handbook and should it be determined that the use of signature facsimile was improper and all the signatures appearing on the circulators' signatures were stricken, then the Candidate would have less than 475 valid signatures), it is your Hearing officer's recommendation that the Electoral Board find that the petition was brought in good faith based upon information reasonably known the Objector at the time. In other words, considering the potential abuse a facsimile stamp *could* be used for in the context of a political campaign, and considering the fact that that the Secretary of State Handbook states that "Notaries may not use facsimile signature stamps in signing his or her name on her official certificates. A signature must be written in ink as commissioned", it is your Hearing Examiner's recommendation that the Candidate's motion to dismiss based upon the petition being a "shotgun" petition and not brought in good faith should be denied.

### **Should the signatures notarized by Mr. Mittal be Stricken**

The statutory requirement that circulators of petitions sign a statement before an officer authorized to administer oaths has been held to be a substantial and valid requirement that relates to the integrity of the political process. *Williams v. Butler*, 35 Ill. App. 3d 532, 341 N.E.2d 394 (4th Dist.1976). These sworn statements must aver that the persons signing are the persons who actually circulated the petitions, that the signatures were signed in their presence, and that the signatures collected are genuine. Such authentication provides a significant safeguard against fraud by subjecting the circulator to the penalty of a perjury prosecution.

However, courts and electoral boards hesitate to remove candidates for purely technical defects in the notarization process or in the jurat, a trend which follows a well-established line of cases holding that harmless omissions, inadvertent acts, and grammatical/clerical errors in authentications will not defeat an otherwise valid instrument. See, e.g., *Mason v. Brock*, 12 Ill. App. 273, 279 (1850); *Stout v. Slattery*, 12 Ill. 162 (1850). See also *Levine v. Simms-Johnson*, No. 96-EB-WC-31 (Chicago Electoral Board 1996). In *Delgado v. Ladien*, No. 99-EB-ALD-126 (Chicago Electoral Board 1999), the Chicago Electoral Board found substantial compliance when a notary affixed his seal, but failed to sign the authentication. See also *Cintuc, Inc. v. Kozubowski*, 230 Ill. App. 3d 969, 596 N.E.2d 101 (1992), where court held that inserting the name of the notary rather than the name of the circulator in the jurat did not render the petition invalid. The court reasoned that the jurat is not an affidavit, but serves as evidence of the fact that the affidavit was properly sworn to by the affiant. Moreover, the affiant was otherwise identified in the pages. Accordingly, unless a pattern of fraud is evident, notary questions are often resolved in favor of the candidate, E.g., *Fitzgerald v. Brandt*, No. 92-EB-WC-63 (Chicago Electoral Board 1993) (signature sheets); *Maltbia v. Muhammad*, No. 92-EB-ALD-137 (Chicago Electoral Board 1995) (unknowing use of defective notary not fatal).

In the instant case there is no pattern of fraud. Rather, Mr. Mittal testified that on November 22, 2013, he met Michael Martin at the Candidate's campaign office in Carol Stream. Mr. Martin presented Mr. Mittal with nominating petitions that Martin acknowledged he circulated and were signed in his presence. Mr. Martin completed a notarization log in which Mr. Martin entered his name, address, date drivers' number and signature.

Mr. Mittal testified he entered Mr. Martin's name on the appropriate line on the bottom of the petition and applied his notary seal and his facsimile signature stamp to the form.

Mr. Mittal further testified that he returned to the campaign office on November 24, 2013 and performed the same procedure when notarizing the nominating pages circulated by the 24 circulators whose names appear on the notarization log (Exhibit 3).

Based on the Mr. Mittal's testimony that he used a facsimile stamp in submitting documents to governmental agencies since 1993 without ever being told that it was improper, the use of the facsimile stamp to notarize the circulators' signatures in the instant case is, at best, a technical defect that did not affect the purpose behind the notarization requirement—to lessen the chance of fraud by providing a procedure to assure that the circulators recognize the legal significant of their sworn statement, it is your hearing officer's recommendation that the signatures be allowed to stand. (See *Gilbert v. Electoral Board*, No. 80 CO 74 (Cook Cty.Cir. 1980), where the Cook County Circuit Court has upheld an electoral board decision to allow signatures where the notary was unaware that his commission had expired. Further, *Hamill v. Young*, No. 89-COEB-NWRD-03, rev'd, No. 90 CO 20 (Cook Cty.Cir. 1990), held that it is not the duty of those who go before notaries to ensure that their commissions have not expired, even where the commission expired 13 years prior.

Accordingly, since there is no pattern of fraud established, it is your hearing officer's recommendation that the Electoral Board overrule the Objector's claim that the circulators' signatures notarized by Amitabh V W Mittal be stricken.

**RECOMMENDATION**

Based upon the aforementioned reasons, it is recommended that the Objector's petition be denied and that MANJU GOEL have his name placed on the March 18, 2014 primary ballot for the office of Representative for the 8<sup>th</sup> Congressional District.

/s/ \_\_\_\_\_  
Philip Krasny  
Hearing Officer

dated 1/7/14

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING  
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR  
CANDIDATES FOR THE OFFICE OF REPRESENTATIVE IN CONGRESS FOR THE  
8<sup>th</sup> CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

**Patrick J. Mullen,** )  
 )  
**Petitioner-Objector,** )  
 )  
**vs.** )  
 )  
**Manju Goel,** )  
 )  
**Respondent-Candidate.** )

CHICAGO  
2013 DEC -9 PM 2:06  
STATE BOARD OF ELECTIONS

**VERIFIED OBJECTOR'S PETITION**

Now comes Patrick J. Mullen (hereinafter referred to as the "Objector"), and states as follows:

1. Patrick J. Mullen resides at 518 N. Weston Avenue, Elgin, Illinois, 60123, in the Eighth Congressional District of the State of Illinois; that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for a Candidate for Election to the Office of Representative in Congress for the Eighth Congressional District of the State of Illinois are properly complied with and that only qualified candidates have their names appear upon the ballot as candidates for said office.

2. Your Objector makes the following objections to the nomination papers of Manju Goel ("the Nomination Papers") as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 8<sup>th</sup> Congressional District for the State of Illinois, and files the same herewith, and states that the said nomination papers are insufficient in law and in fact for the following reasons:

3. Your Objector states that in the 8<sup>th</sup> Congressional District of the State of Illinois the signatures of not less than 475 duly qualified, registered, and legal voters of the said 8<sup>th</sup> Congressional District of the State of Illinois are required. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

**The Candidate Has An Insufficient Number Of Signatures To Qualify For Office**

4. Your Objector states that the Candidate has filed 175 petition signature sheets containing a total of 1574 signatures of allegedly duly qualified, legal, and registered voters of the 8<sup>th</sup> Congressional District of the State of Illinois.

5. Your Objector states that the laws pertaining to the securing of ballot access require that certain requirements be met as established by law. Filings made contrary to such requirements must be voided, being in violation of the statutes in such cases made and provided.

6. Your Objector further states that the aforesaid nomination papers contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the 8<sup>th</sup> Congressional District of the State of Illinois and their signatures are therefore invalid, as more fully set forth in the Appendix Recapitulation under the column designated "SIGNER NOT REGISTERED AT ADDRESS SHOWN (A)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

7. Your Objector further states that the said nomination papers contain the names of numerous persons who have signed said petition but who are not, in fact, duly qualified, registered, and legal voters at addresses that are located within the boundaries of the 8<sup>th</sup>

Congressional District of the State of Illinois as shown by the addresses they have given on the petition, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT IN DISTRICT (B)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

8. Your Objector further states that the said nomination papers contain the names of numerous persons who did not sign the said nomination papers in their own proper persons, and that the said signatures are not genuine, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT PROPER PERSON AND NOT GENUINE (C)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

9. Your Objector further states that said nominating petition contains the signatures of various individuals who have signed the petition more than once, and such duplicate signatures are invalid, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNED PETITION TWICE (D)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

10. Your Objector states that various purported signatures are legally defective and deficient in that those individuals so signing signed a nominating petition for a candidate of another established political party prior to or after signing the Candidate, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNER SIGNED DEMOCRAT PETITION (E)" attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

11. Your Objector states that the Nomination Papers contain petition sheets purportedly circulated by individuals whose petition sheets demonstrate a pattern of fraud and

disregard of the Election Code to such a degree that every signature on every sheet purportedly circulated by said individuals are invalid, and should be invalidated, in order to protect the integrity of the electoral process, in accordance with the principles set forth in the decisions of *Canter v. Cook County Officers Electoral Bd.*, 170 Ill.App.3d 364, 523 N.E.2d 1299 (1<sup>st</sup> Dist. 1988); *Huskey v. Municipal Officers Electoral Bd. for Village of Oak Lawn*, 156 Ill.App.3d 201, 509 N.E.2d 555 (1<sup>st</sup> Dist., 1987) and *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1<sup>st</sup> Dist. 1984). This allegation is made with specific reference to the following:

a. All petition pages purportedly circulated by Mike Martin. Numerous of the signatures on this circulator's petition pages are not genuine, and appear to have been written by the same hand. Mr. Martin alleges to have circulated petition sheet nos. 34-48, 54-63, 89, 123-125, 134, 140, 145, 149-151, 154, 155, 160, 169 and 172. Pursuant to the principles set forth by *Canter*, *Huskey* and *Fortas*, supra, each of the petition sheets purported to have been circulated by Mr. Martin must be invalidated.

b. All petition pages purportedly circulated by Rajeev Goel. Numerous of the signatures on this circulator's petition pages are not genuine, and appear to have been written by the same hand. Mr. Goel alleges to have circulated petition sheet nos. 1-3, 8-11, 27, 64-76, 88, 96, 97, 108, 109, 135, 137-139, 141, 143, 144, 162, 168 and 174. Pursuant to the principles set forth by *Canter*, *Huskey* and *Fortas*, supra, each of the petition sheets purported to have been circulated by Mr. Goel must be invalidated.

c. All petition pages purportedly circulated by Manju Goel. Numerous of the signatures on this circulator's petition pages are not genuine, and appear to have

been written by the same hand. Ms. Goel alleges to have circulated petition sheet nos. 6, 33, 110-118, 122, 163 and 166. Pursuant to the principles set forth by *Canter, Huskey* and *Fortas*, supra, each of the petition sheets purported to have been circulated by Ms. Goel must be invalidated.

13. Your Objector states that numerous of the Candidate's petitions fail to comply with Section 7-10 of the Election Code because the circulator affidavit of said sheets are not properly sworn to before an Illinois notary or other officer authorized to administer oaths in Illinois. Each of said petition sheets is improperly notarized in that each fails to include the signature of the purported notary for said petition sheet, in violation of the Election Code. This allegation is made with respect to petition page nos. 4, 6, 12, 13, 15-26, 28-30, 34-47, 54-63, 77-87, 89, 98-136, 140, 141, 145-152, 154-156, 158-175. Each and every such page is and must be declared invalid.

14. Your Objector states that the nomination papers herein contested consist of various sheets supposedly containing the valid and legal signatures of 1574 individuals. The individual objections cited herein with specificity reduce the number of valid signatures to below the statutory minimum of 475.

WHEREFORE, your Objectors pray that the purported nomination papers of Manju Goel as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 8<sup>th</sup> Congressional District for the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of Manju Goel as a candidate of the Republican Party for nomination to the Office of Representative in Congress for the 8<sup>th</sup> Congressional District of the State of Illinois

BE NOT PRINTED on the OFFICIAL BALLOT of the Republican Party at the General Primary  
Election to be held on March 18, 2014.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick Mullen", written over a horizontal line.

Patrick J. Mullen  
OBJECTOR

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING  
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR  
CANDIDATES FOR THE OFFICE OF REPRESENTATIVE IN CONGRESS FOR THE 8<sup>th</sup>  
CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

**PATRICK J. MULLEN,**

**Objector**

vs.

**MANJU GOEL,**

**Candidate.**

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Case No. 13 SOEBGP 514

**CANDIDATE'S MOTION TO STRIKE AND DISMISS  
VERIFIED OBJECTOR'S PETITION**

NOW COMES the Candidate, MANJU GOEL (the "Candidate"), by and through her attorneys, Parikh Law Group, LLC, and as her Motion to Strike and Dismiss Objector Patrick J. Mullen's (the "Objector") Verified Objector's Petition (the "Petition"), states as follows:

**BACKGROUND**

1. Objector filed the Petition against the Candidate's Nomination Papers alleging numerous objections to specified signatures and that certain circulators engaged in a pattern of fraud.
2. In support of his signature challenges, Objector attached to the Petition an Appendix Recapitulation consisting of objections to approximately 1,225 of Candidate's 1,574 signatures. In other words, Objector has lodged objections against a majority of the signatures contained in Candidate's Nomination Papers.
3. Objector has also alleged that certain petition sheets of Candidate's demonstrate a pattern of fraud in that "numerous of the signatures on [a] circulator's petition pages are not

genuine, and appear to have been written by the same hand.” Specifically, Objector makes this pattern of fraud allegation with respect to circulators Mike Martin, Rajeev Goel, and the Candidate herself, Manju Goel. Objector unfoundedly implies that Candidate and even her husband filed Nomination Papers containing signatures which were written by the same person.

4. Additionally, Objector contends that certain petition sheets must be invalidated as a whole because those sheets allegedly fail to include the signature of the purported notary.

5. For the reasons set forth below, Objector’s Petition must be stricken and dismissed for being a shotgun objection lacking the requisite investigation and due diligence and for being inconsistent with well-established law.

### **ARGUMENT**

#### **MOTION TO DISMISS OBJECTOR’S PETITION**

6. Candidate re-alleges paragraphs 1 through 5 as though fully set forth herein.

7. It is undisputed that Objector’s Petition does NOT object to approximately 375 signatures, 100 signatures short of the statutorily required minimum amount, and thus those signatures are presumed to valid at this time. The statutory minimum amount of signatures required by Candidate for her to be placed on the ballot is 475.

8. A simple review and sampling of Objector’s signature objections clearly establishes that this objection is a shotgun objection and completely frivolous.

9. Wholesale, frivolous, “shotgun,” or unfounded and irresponsible objections must be avoided, and at least 1 case has even resulted in personal liability for offending objectors. *See Paul v. Zapolsky*, No. 94 CO 162 (Cook Cty.Cir. 2000) (\$443,000 jury award).

10. Objections challenging all, or virtually all, of the signatures filed on multiple grounds that evidence little, if any, reasonable inquiry or investigation and that lack a good faith

basis in law or fact will be dismissed. *See, e.g., McCarthy v. Pellett*, No. 04-EB-WC-04 (Chicago Electoral Board 2004); *Young-Curtis v. Lyle*, No. 03-EBALD-139 (Chicago Electoral Board 2003).

11. In this case, the majority of the reasons for objections to signatures contained within Candidate's Nomination Papers are for the same reasons: either that the signer is not registered at the address shown or that the signer was not the proper person and thus that signature is not genuine.

12. Even taking a sampling of the Objector's Petition and reviewing the Appendix, this Electoral Board should take note as to how all the documents are computer generated and contain an "X" in mostly the first and the third columns. Some of Objector's Appendix sheets contain an "X" for every single signature on the petition sheet in both the first and the third columns. For example, pages 30 and 50 purport to object to every single signature on those corresponding petition sheets based on the signer not being registered at the address shown or the signer not signing as the proper person.

13. Similar to our case and of persuasive authority is a case in which the objector's petition objected to virtually each and every of the candidate's signatures on the grounds that the signatures are not genuine, the signers were not registered to vote at the address shown on petition and that the signer resides outside the district. *Derengowski v. Lamm*, 96 -EB-RGA-1, CBEC, January 17, 1995, affirmed *Derengowski v. Electoral Board of City of Chicago*, 96 CO 16 (Cir. Ct. Cook Co., Judge Henry, February 9, 1996). With the exception of some objections indicated in handwriting, each of the objections was marked by a computer-generated "X" next to the sheet and line for each petition signature. The electoral board in that case held that the objector's petition was not made as a result of a reasonable inquiry or investigation of the facts,

especially where the objector failed to show what types of investigations were made in preparing the objector's petition. As a result, the electoral board overruled the objection as "shot gun" objections. *Id.* The electoral board in that case held that they should not be required to expend its time and resources, nor the time and resources of a candidate, in engaging in a "fishing expedition" for an objector who has not spent the requisite time and resources to make a reasonable inquiry of the facts. *Id.* Such objections do not fully state the nature of the objections as required by Section 10-8 of the Election Code.

14. Objections that have no basis in law or in fact and which are in the nature of what are commonly known as 'shot-gunned' objections will be dismissed." *Barton v. Coleman*, 95-EB-ALD-144. In *Barton*, an objector challenged the validity of every signature filed by a candidate, and after a sample of 20% of the signatures was checked, the objections were overruled at a rate of 75%. It was determined by the Board of Elections in that case that the high rate of overruled signatures and the fact that the candidate needed 400 signatures and had collected 2,100 was indicative of the objections being of a "shot-gun" nature, and the objection was dismissed. *Id.*

15. As was established in *Prince v. Colvin*, when an objector's petition contains objections to signature lines that do not exist and the objector cannot present evidence as to what investigations were made in connection with preparing the petition, the objector's petition is held to be in bad faith and is appropriately dismissed. *Prince v. Colvin*, 08-EB-RGA-33.

16. Similar to the above cases, the Objector in the case at bar has clearly failed to expend the time and resources to make a reasonable inquiry of the facts.

17. In fact, Candidate, since receiving this Objector's Petition, has taken it upon herself to expend the time and resources needed to make a reasonable inquiry into the credibility of Objector's objections, in an effort to preserve her time and the time of this Electoral Board.

18. After conducting her own due diligence, Candidate has verified that the majority of Objector's signature objections are without merit and was easily determined with a simple determination into whether or not a petition signer was indeed registered to vote, contrary to what is alleged by Objector.

19. Attached hereto as Exhibits 1, 2 and 3 is evidence as to the reasonable inquiry Candidate performed with regards to her signatures and the quality of the same. These Exhibits contain proof of voter registration status in addition to the addresses that each petition signer is registered at.

20. Exhibit 1 contains more than 72 screen prints of voter registration records of petition signers from DuPage and Cook Counties. These correspond to the objections raised by Objector to sheets 1-42, 91-93, and 97 of Candidate's Nomination Papers.

21. Exhibit 2 contains 24 additional records corresponding to objections raised with respect to sheets 62-68 and 96-99 of Candidate's Nomination Papers.

22. Finally, Exhibit 3 contains voter registration information for petitions signers of sheet 101 of Candidate's Nomination Papers. Tellingly is the fact that Objector has objected to all 10 signatures on sheet 101 of Candidate's Nomination Papers, and the attached Exhibit 3 demonstrates that upon reasonable inquiry, it is clear that all 10 signatures on that page are valid.

23. Perhaps Objector's lack of familiarity with South Asian or other foreign names led him to file the underlying Objector's Petition; however, reasonable inquiry into the validity

of any possible objections could have and should have still been performed by Objector prior to filing this Objector's Petition.

24. Similar to the facts presented to the Board in *Barton*, here the Candidate has provided a representative sample size which demonstrates that the vast majority of the objected-to signatures do not have a basis in fact. The Candidate has provided evidence that the signatures list accurate addresses through the corresponding voter registration information attached hereto.

25. Even if this Electoral Board decides to move forward with a Records Examination, that Records Examination must be concluded as soon as Candidate has achieved more than the minimum amount of signatures for her to satisfy the statutory requirements of ballot access.

26. Given the bad faith nature, the clear lack of inquiry, and the "fishing expedition" nature of this Objector's Petition, Objector's Petition must be dismissed in its entirety.

**IN THE ALTERNATIVE – MOTION TO STRIKE**

27. In the alternative and even if this Electoral Board finds that the Objector's Petition should not be dismissed in its entirety based on the above, paragraph 13 of the Objector's Petition must be stricken.

28. Paragraph 13 of the Objector's Petition claims that certain petition sheets must be invalidated in whole based on the allegation that the circulator affidavits on those sheets are not properly notarized. As his basis, Objector claims that the relevant sheets fail to include the signature of the purported notary in violation of the Election Code.

29. Unfortunately for Objector, each and every sheet so objected to in paragraph 13 of the Objector's Petition in fact does include a notary seal and signature. Once again demonstrating his lack of investigation, Objector brings forth baseless objections in bad faith.

30. Even if, hypothetically, all of the sheets so objected to simply fail to include the notary's signature, courts and electoral boards have already decided that these are technical defects which should not adversely impact a candidate.

31. In one case, the candidate signed his statement of candidacy and the notary's seal was affixed to the document; however, the notary failed to sign the document. Section 10-5 of the Election Code requires that the statement of candidacy be subscribed and sworn to before some officer authorized to take acknowledgement of deed in the State of Illinois. Section 6-103 of the Illinois Notary Public Act (5 ILCS 312/6-103) requires that a "notarial act must be evidenced by a certificate signed and dated by the notary public. Section 3-102 of the Illinois Notary Public Act (5 ILCS 312/3-102) requires that "at the time of notarization, a notary public shall officially sign every notary certificate and affix the rubber stamp clearly and legibly using black ink, so that it is capable of photographic reproduction." As a result, the notary's affixation of her rubber stamp containing her official seal without her signature on the notary certificate was held to be in substantial compliance with the requirements of Section 10-5 of the Election Code. *Delgado v. Ladien*, 99-EB-ALD-126, CBEC, January 12, 1999.

32. Additionally, at best, a lack of a notary signature when the notary seal is present is a technical defect, and the removal of candidates for purely technical defects in the notarization process or in the jurat is frowned on by both courts and electoral boards. *See, e.g., Lipinski v. Board of Election Commissioners*, No. 86 CO 231 (Cook Cty.Cir. 1986).

33. Finally, the court in *Agrella v. Village of Kildeer Electoral Board*, No. 2-07-0274 (2d Dist. 2007) (Rule 23), validated nomination papers containing two sheets that did not bear the signature AND the seal of the notary public. In *Agrella*, the candidate presented his documents to the deputy village clerk (also a notary) and asked her to notarize two sheets, and he signed the circulator affidavits in her presence. Later, it became apparent that the clerk had failed to sign and seal these sheets. The court ruled that the candidate's actions "show more than substantial compliance" and held that "[a]lthough [the notary's] stamp and signature are missing, that does not change the fact that [the candidate's] statement was 'sworn to before some officer authorized to administer oaths.'" The court continued that even though "a notary stamp is the typical way to demonstrate that the statement was sworn to before a notary, the statute requires that it happen, not that it happen in this traditional form."

34. As stated above, a simple review of the petition sheets objected to in paragraph 13 of Objector's Petition clearly indicates the presence of a notary seal and signature. Even if Objector is correct in that there is no notary signature, according to the above case law, such an omission is simply a technical error and would not serve to invalidate Candidate's petition sheets.

35. Accordingly, paragraph 13 of the Objector's Petition must be stricken.

**WHEREFORE**, the Candidate requests that for the reasons based on the laws mentioned herein, this honorable Electoral Board dismiss the Objector's Petition based on the Objector's Petition being a "bad faith" or "shotgun" objection and, in the alternative, strike paragraph 13 of the Objector's Petition for being in contrast to existing law, and, if appropriate, enter a finding that the Objector's Petition thereafter includes no additional allegations, legal claims or other issues that require any attention or adjudication by this Electoral Board, and enter a ruling that

the Candidate's nomination papers are valid in law and fact, and that the Electoral Board enter a ruling that the name of the Candidate shall appear on the ballot for election to the office sought and in the election stated in the Candidate's nomination papers, and for whatever other relief this Electoral Board finds adequate and just.

Respectfully submitted,

MANJU GOEL, CANDIDATE

By: /s/Anish Parikh  
One of her attorneys

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**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING  
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR  
CANDIDATES FOR THE OFFICE OF REPRESENTATIVE IN CONGRESS FROM  
THE 8<sup>th</sup> CONGRESSIONAL DISTRICT FOR THE STATE OF ILLINOIS**

<b>Patrick J. Mullen,</b>	)	
	)	
<b>Petitioner-Objector,</b>	)	
	)	<b>13 SOEBGP 514</b>
<b>vs.</b>	)	
	)	
<b>Manju Goel,</b>	)	
	)	
<b>Respondent-Candidate.</b>	)	

**OBJECTOR’S RESPONSE TO MOTION TO STRIKE AND DISMISS**

Now comes the Objector, Patrick J. Mullen, by and through his attorney, and for his Response to the Candidate’s Motion to Strike and Dismiss, states as follows:

1. The Candidate has asked that the Objector’s Petition be stricken and dismissed on the grounds that it is a “shotgun” petition. However, following the records exam in this case, it appears that over 400 of the Candidate’s petition signatures have been found to be invalid. The exhibits the Candidate has included in support of this portion of her Motion to Strike and Dismiss are screen shots from various computers supposedly demonstrating various voter records, but are not properly authenticated. At any rate, all of these signatures have now been reviewed by the State Board of Elections, and their pronouncements are obviously controlling over the Candidate’s offerings. This Motion must be denied. Further, to the extent that the Candidate has asked that the records exam in this case not take place, this requested relief is now moot.

2. The Candidate has also moved to strike Paragraph 13 of the Objector’s Petition, in which the Objector has alleged that scores of the Candidate’s petition pages be declared legally insufficient because the purported notary on each sheet did not sign the petition sheet, but rather,

used a facsimile signature stamp.

3. The Candidate characterizes this systematic absence of a notary's actual signature as a "technical defect," relying on caselaw such as *Delgado v. Ladien*, 99 EB ALD 126, Chicago Board of Election Commissioners. *Delgado*, however, is obviously not binding on this Board, and at any rate, involves facts not remotely like those present in this case. In *Delgado*, a notary stamped, but did not sign, a candidate's statement of candidacy. That candidate's statement of candidacy was a pre-printed form, printed in such a way that it did not contain a space for the notary's signature – only for her stamp. The Chicago Board in this situation (where numerous other fatal defects existed with the candidate's petitions) found that the notary's stamp was sufficient to evidence the notarial act.

4. Here, on the other hand, the Candidate has submitted scores of petition sheets that purport to be notarized by Amitabh Mittal. Each of these petition sheets bear Mittal's notary stamp, but NOT his signature. Rather, each of these petition sheets has been stamped with a rubber stamp that purports to be Mittal's signature.

5. Because Mittal's facsimile signature stamp is not a "live" signature, that facsimile signature cannot serve as evidence that each of the circulators of these petition sheets swore their petition sheets before Mittal. Obviously, anyone in possession of Mittal's signature stamp could simply place his "signature" into a notarial jurat.

6. There is no question that the Illinois Notary Public Act requires that a "notarial act *must* be evidenced by a certificate *signed* and dated by the notary public." 5 ILCS 312/6-103 (emphasis added). Further, "at the time of notarization, a notary public shall *officially sign* every notary certificate and affix the rubber stamp clearly and legibly using black ink, so that it is capable of photographic reproduction." 5 ILCS 312/3-102 (emphasis added). Notably absent

from the Notary Public Act is any provision for a notary to use a stamp in place of his signature.

7. The First District in *Vancura v. Katris*, 907 N.E.2d 814 (1<sup>st</sup> Dist. 2008), *aff'd* 238 Ill.2d 352 (2010), provided an in-depth review of proper notary practices in assessing a case involving the procedure undertaken by a notary who notarized a forged document. In its discussion, the *Vancura* Court cited with approval the Illinois Notary Public Handbook (“the Handbook”), which is published by the Illinois Secretary of State, as an appropriate interpretive authority on proper notary procedure. The Handbook straightforwardly addresses the issue of whether a notary public is permitted to use a facsimile signature when notarizing documents. The Handbook, at page 26, answers this question in the negative, stating, in pertinent part:

**May notaries use rubber stamp signatures?**

No. Notaries may not use facsimile signature stamps in signing his or her official certificates. A signature must be written in ink as commissioned. In addition, a facsimile signature may not be notarized.

ILLINOIS NOTARY PUBLIC HANDBOOK, Illinois Secretary of State, December 2010, p. 26.

8. The Illinois Supreme Court in *Vancura v. Katris*, 238 Ill.2d 352 (2010) noted that an Illinois notary public “gives his or her personal seal and signature when completing a notarial act, and in so doing he or she assumes personal liability for the accuracy of his or her notarization.” *Vancura*, 238 Ill.2d at 381. This liability serves to provide incentive to notaries to perform their acts carefully, and in accordance with the law. This safeguard is destroyed, however, if a document may be notarized simply with a facsimile signature.

9. The Court in *Cunningham v. Schaefflein*, 969 N.E.2d 861 (1<sup>st</sup> Dist. 2012) found that the proper notarization of the circulator’s affidavit serves as a primary safeguard of the integrity of the petition collection process. In *Cunningham*, one of the candidate’s advisors devised a system to save volunteer time in which a notary notarized several petitions for

circulators who were not present before her. Because that notary's improper notarization practice provided no guarantee that the petition sheets at issue were gathered as required by the Election Code, every petition sheet notarized by that notary was invalidated.

10. Here, the threat to the integrity of the petition collection process is no different. A facsimile signature – because it is not actually a signature -- provides no guarantee that a petition circulator executed his circulator's affidavit in the presence of a notary public. Cutting corners here, like in *Cunningham*, undermines the integrity of the petition collection process.

11. The Candidate has provided no authority that could justify striking Paragraph 13 of the Objector's Petition. Quite the opposite, the Illinois Notary Public Act is clear that proper notarization requires a notary's signature. The Candidate's Motion should be denied, and the Objector given the opportunity to present his case on the merits.

Respectfully submitted,

Patrick J. Mullen, Objector

Date: December 23, 2013

By: /s/ John G. Fogarty, Jr. /s/  
One of his attorneys

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**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING  
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR  
CANDIDATES FOR THE OFFICE OF REPRESENTATIVE IN CONGRESS FOR THE 8<sup>th</sup>  
CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

<b>PATRICK J. MULLEN,</b>	)	
	)	
<b>Objector</b>	)	<b>Case No. 13 SOEBGP 514</b>
	)	
<b>vs.</b>	)	
	)	
<b>MANJU GOEL,</b>	)	
	)	
<b>Candidate.</b>	)	

**CANDIDATE’S REPLY IN SUPPORT OF MOTION TO STRIKE AND DISMISS  
VERIFIED OBJECTOR’S PETITION**

NOW COMES the Candidate, MANJU GOEL (the “Candidate”), by and through her attorneys, Parikh Law Group, LLC, and as her Reply in Support of Motion to Strike and Dismiss Objector Patrick J. Mullen’s (the “Objector”) Verified Objector’s Petition (the “Petition”), she states as follows:

1. The Objector correctly stated that as of the filing his Response to Candidate’s Motion to Strike and Dismiss, the Records Examination for this matter had occurred and concluded. However, this does not preclude this Board from dismissing the Objector’s Petition in its entirety. The Candidate’s rights must not be waived simply because of a scheduling issue.
2. The Objector here attempts to circumvent the bad faith objection claim directed at him by hiding behind the fact that a Records Examination has been conducted already. The results of the Records Examination are irrelevant to the Motion to Strike and Dismiss that is pending before this Board, constitute facts not in evidence, and thus should not be taken into account.

3. A simple review of Objector's Appendix Recapitulation clearly demonstrates a pattern of objections seemingly lodged absent proper investigation and due diligence. The Candidate here, through simple due diligence and tools available and relied upon by a layman, has confirmed the validity of numerous signatures that were objected to in bad faith. Accordingly, Objector's Motion to Dismiss must be granted.

4. The Objector next attempts to rely on *Cunningham v. Schaefflein*, 969 N.E.2d 861 (1<sup>st</sup> Dist. 2012), to support his position that the petition sheets notarized by Amitabh Mittal must be invalidated based on those sheets allegedly not being signed by the notary; however, the Objector misapplies the relevant law from *Cunningham*. The *Cunningham* court held that because the circulators in question had failed to properly appear before a notary to sign their Circulator's Affidavits, those sheets were invalidated.

5. This is not the issue that is relevant to the Objector's Petition in question in our case. Rather, the sole issue raised by the Objector pertains to the Notary Public himself, not to the circulators. Specifically, the question is whether the Notary Public has properly signed the petition sheets and whether or not, if the notarization is found to be invalid, this omission serves to invalidate entire petitions sheets. The Objector attempts to raise issues outside of his Objector's Petition; however, Illinois law prohibits objectors from amending their objectors' petitions after they are filed with the appropriate governmental office, *Siegel v. Lake Co. Officers Electoral Bd.*, 385 Ill.App.3d 452, 895 N.E.2d 69 (2nd Dist., 2008). As such, this Objector is precluded from adding any new allegations or legal claims to the Objector's Petition at issue herein.

6. In the case at bar, all the Objector has alleged is that the notary did not sign the document. What is undisputed and obvious from the petition sheets themselves is the fact that the notary's seal is affixed to each of the petition sheets in question.

7. This is precisely what occurred in *Delgado v. Ladien*. In fact, in *Delgado*, the document in question was the candidate's statement of candidacy which contained a notary stamp but not the notary's signature. Admittedly, the statement of candidacy document is a much stricter document with regards to the electoral process since it is the candidate himself who is swearing to certain statements under oath. The electoral board in *Delgado* held that the notary's affixation of her rubber stamp containing her official seal without her signature on the notary certificate substantially complied with the requirements of Section 10-5 of the Election Code. *Delgado v. Ladien*, 99-EB-ALD-126, CBEC, January 12, 1999. Although this may not be considered binding authority on this Board, it is certainly persuasive and provides guidance.

8. Additionally, in *Agrella v. Village of Kildeer Electoral Board*, No. 2-07-0274 (2d Dist. 2007), the court validated nomination papers containing two sheets that did not bear the signature and seal of the notary public. In *Agrella*, the candidate asked the deputy village clerk to notarize two petition sheets, and the circulator signed the petitions sheets in the notary's presence. Later, it became apparent that the clerk had failed to sign and seal these sheets. The court in *Agrella* affirmed, ruling that the candidate's actions "show more than substantial compliance." *Id.* It further held that "[a]lthough [the notary's] stamp and signature are missing, that does not change the fact that [the circulator's] statement was 'sworn to before some officer authorized to administer oaths.'" *Id.* The court further stated that even though "a notary stamp is the typical way to demonstrate that the statement was sworn to before a notary, the statute requires that it happen, not that it happen in this traditional form." *Id.*

9. In other words, the court in *Agrella* found that a nominating petition which failed to contain a notary signature on every page, but was sworn to by the circulator, constituted more than substantial compliance with Election Code §10-4. Although the court averred that the requirement of the Election Code, in this instance a notary signature on each page of the petition, was mandatory, it nonetheless upheld the substantial compliance exception to mandatory requirements under the Election Code.

10. Removal of candidates for purely technical defects in the notarization process or in the jurat is frowned on by both courts and electoral boards. *See, e.g., Lipinski v. Board of Election Commissioners*, No. 86 CO 231 (Cook Cty.Cir. 1986); *Willhoite v. Board of Election Commissioners*, No. 86 CO 235 (Cook Cty.Cir. 1986).

11. In the case at bar, it is clear that the petitions sheets notarized by Mr. Mittal are valid, especially since the circulators signed in his presence. With that said, as a reminder to this Board, the issue raised by the Objector is one pertaining to the notary's signature, not to the circulator's qualifications or validity of the circulator's affidavit.

12. Even if this Board holds that the notary's signature is not valid, "[s]ubstantial compliance can satisfy even a mandatory provision of the Election Code." *King v. Justice Party*, 284 Ill.App.3d 886, 890, 220 Ill.Dec. 83, 672 N.E.2d 900, 903 (1996).

13. Various cases have held that differing forms of affixing signatures to documents are valid, including a stamped signature. *People v. Stephens*, 12 Ill.App.3d 215, 217-18, 297 N.E.2d 224 (1973) (search warrant was authentic even though it bore only stamped signature of magistrate); *See also Alpine State Bank v. Ohio Casualty Insurance Co.*, 733 F.Supp. 60, 63 (N.D.Ill.1990), rev'd on other grounds, 941 F.2d 554 (7th Cir.1991) (use of stamp constituted signature endorsement). Additionally, as, for example, the recent enactment of the Electronic

Commerce Security Act (5 ILCS 175/1–101 et seq. (West 1998) reveals, alternative forms of signatures are increasingly accepted. Finally, 5 ILCS 175/5–120(a) states that “where a rule of law requires a signature...an electronic signature satisfies that rule.”

14. Access to a place on a ballot is a substantial right that should not be lightly denied. *Siegel v. Lake County Officers Electoral Bd.* 385 Ill.App.3d 452 (2d Dist. 2008). "A minor error in a candidate's nominating papers should not result in a candidates removal from the ballot." *Id.*; *See also Samuelson v. Cook County Officers Electoral Bd.*, 2012 IL App (1st) 120581, (1st Dist. 2012) (Election Code's provision governing form of nomination petitions requires only substantial, rather than strict, compliance). The doctrine of substantial compliance applies to the entirety of the form, including the notarization part. *See Cortez v. Municipal Officers Electoral Bd. For City of Calumet City*, 2013 IL App (1st) 130442 (1st Dist. 2013).

15. In *Cortez*, the appellees were denied placement on the ballot after the appellants ruled that they were not in compliance with the code for their failure to use the "long form" of notarization records on appellees' Statement of Candidacy. *Id.* The circuit court reversed the appellant's decision. *Id.* On appeal, the appellants argued that the notarization part of the Statement of Candidacy should follow strict compliance with the Election Code, which uses the "long form" of the notarization language. The Appellate court affirmed the circuit court, holding first that the Election code only requires substantial compliance with the form, and that applies to the forms in its entirety. *Id.* Where the candidates appeared personally before a notary and had the notary affix his seal and sign, the specific language, whether "long" or "short," remains in substantial compliance with the requirements of the Code, the intent of which is to preserve the integrity of the electoral process. *Id.* at paragraph 22. The court stated that "[i]n this case, the remedy of the Board is drastic, and 'absent a clearer statement by the legislature that it intended

that remedy as a sanction' for an inadvertent omission of language on a notarization, we decline to construe the Election Code in the manner as the appellants." *Id.*

16. Here, as in *Cortez*, the issue is not one of an "undisputed lack of action," but one of the form itself. The circulators, in this case, appeared personally before a notary. They personally swore to the integrity of the signatures before the notary, and the notary affixed his seal to the documents. The Objector takes issue with the use of a signature stamp; however, like *Cortez*, because the substantial and most important provisions of the Code were adhered to, namely that the circulators appear before a notary and certify and swear to the integrity of the signatures, the goal of ensuring a fair and honest election has been achieved, as the legislature intended. Therefore, as the court stated in *Cortez*, to remove the candidates from the ballot for the notary's inadvertent use of a stamp signature instead of actual signature would be a drastic remedy. Therefore, because the doctrine of substantial compliance applies to the notary section as well as the forms themselves, and because the substantial requirements were met, this Electoral Board must find that the papers are in substantial compliance and overrule the objections pertaining to the notary's signature.

17. Accordingly, Candidate's Motion to Strike and Dismiss must be granted.

**WHEREFORE**, the Candidate requests that for the reasons based on the laws mentioned herein, this honorable Electoral Board dismiss the Objector's Petition based on the Objector's Petition being a "bad faith" or "shotgun" objection and, in the alternative, strike paragraph 13 of the Objector's Petition for being in contrast to existing law, and enter a ruling that the Candidate's nomination papers are valid in law and fact, and that the Electoral Board enter a ruling that the name of the Candidate shall appear on the ballot for election to the office sought

and in the election stated in the Candidate's nomination papers, and for whatever other relief this Electoral Board finds adequate and just.

Respectfully submitted,

MANJU GOEL, CANDIDATE

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Illinois State Board of Elections,  
Chicago, IL

To whom it may concern.

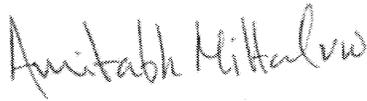
I Amitabh VW Mittal a resident of 770 Lambert Ln., Bartlett, IL 60103 in the county of Cook do hereby affirm that I was physically present at the Manju for Congress Campaign office at 363 St. Paul Blvd, Carol Stream, IL 60188 on the evening of November 22<sup>nd</sup> for about 1 hour, and then again the noon of November 24<sup>th</sup>, for about 3 ½ hours.

All the petitions were signed and sealed by me personally utilizing my signature and seal stamps.

I personally also verified the details of all the circulators and had them sign the petitions in my presence prior to accepting their petition lists for my signature.

I am a cook county Notary Public and my commission expires October 11, 2015.

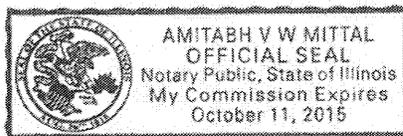
Sincerely

  
Legal Signature

Amitabh VW Mittal

Signed this document under penalties of perjury.

Date: 12/26/2013



**Trigleth v. Ekhoﬀ**  
**13 SOEB GP 515**

**Candidate:** Mark Ekhoﬀ

**Office:** State Representative 34<sup>th</sup> District

**Party:** Republican

**Objector:** Carlos Trigleth

**Attorney For Objector:** Thomas Cosgrove

**Attorney For Candidate:** John Fogarty

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 741

**Number of Signatures Objected to:** 390

**Basis of Objection:** 1. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including: “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer Signed Petition More than Once”, “Signer’s Address Missing or Incomplete” and “Signer’s Signature Printed and not Written”. 2. Numerous petition sheets are invalid because (a) the circulator did not sign or print his/her name where required, (b) the circulator did not appear before a notary, (c) the purported notary did not notarize the sheet (d) the circulator’s affidavit was not properly notarized (e) the circulator’s address is incomplete (f) the purported circulator did not actually circulate the petition sheet, and (g) the circulator’s signature is not genuine.

**Dispositive Motions:** None filed

**Binder Check Necessary:** Yes

**Hearing Officer:** Kelly McCloskey Cherf

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 26, 2013. The examiners ruled on objections to 390 signatures. 210 objections were sustained leaving 531 valid signatures, which is 31 signatures more than the required 500 minimum number of signatures. The Objector submitted a Request for a Rule 9 Evidentiary Hearing with an attached Exhibit listing petition page and line numbers where the Objector took issue with SBE staff rulings. No evidence was submitted with this Request. Given the State Officers Electoral Board Rules of Procedure adopted by the SBE, which require that evidence be submitted with any Rule 9 Motion (Motion filed to challenge staff rulings as to individual objections to signatures on a petition) that would prove that the SBE staff ruling was in error, and the failure of the Objector to timely submit such evidence, the Hearing Officer recommends denial of the Objector’s Request for a Rule 9 Evidentiary Hearing.

The Hearing Officer noted that objections were made to the circulator affidavits on four of the petition pages. This would affect an additional 30 signatures. She further noted however, that even if all these objections were sustained, the Candidate would still have signatures in excess of the statutory minimum. Given this fact, the Candidate's Rule 9 Motion consisting of 2 affidavits from two of the voters whose signatures were stricken by the SBE staff during the records examination was deemed moot.

Based on the above, it is the recommendation of the Hearing Officer that the Objector's Request for a Rule 9 Evidentiary Hearing be denied, the Objector's Petition be denied, and Candidate Mark Ekhoﬀ be certified for the March 18 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 34<sup>TH</sup>  
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

CARLOS TRIGLETH,	)	
	)	
Petitioner-Objector,	)	No. 13 SOEB GP 515
	)	
v.	)	
	)	
MARK EKHOFF,	)	
	)	
Respondent-Candidate.	)	

**HEARING OFFICER’S FINDINGS AND RECOMMENDATIONS**

This matter coming before the State Board of Elections as the duly qualified Electoral Board and before the undersigned Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Findings and Recommendations:

**I. PRELIMINARY FACTS**

The Candidate, Mark Ekhoﬀ (the “Candidate”) timely filed his Nomination Papers with the State Board of Elections to qualify as a Candidate for the office of State Representative for the 34th Representative District of the State of Illinois to be voted for at the primary election on March 18, 2014.

On December 9, 2013, the Objector, Carlos Trigleth (the “Objector”), timely filed a verified Objector’s Petition. In the Petition, the Objector argues that the Candidate’s Nomination Papers are invalid and/or insufficient as the petition sheets contain fewer than the requisite 500 signatures because they contain the following deficiencies: a) signatures that are not genuine; b) names and addresses of individuals who are not registered voters or not registered at address that is listed; c) names of individuals who are not residents of the 34th Representative District in Illinois; d) the names of persons for whom the addresses are missing or incomplete; e) names of persons who signed the petition more than once; f) signatures which are printed and not written; g) petition sheets where the circulator did not sign or print his/her name where requested; h) petition sheets where the circulator did not appear before a notary; i) petition sheets where the notary did not notarize the petition sheet; j) petition sheets where the circulator address is incomplete; k) petition sheets where the circulator did not circulate the petition sheet; l) petition sheets where the circulator’s affidavit is not properly notarized; and m) petition sheets where the

circulator's signature is not genuine. Attached to the Objector's Petition is an Appendix-Recapitulation.

An initial hearing and case management conference on this matter was held on December 17, 2013. Carlos Trigleth appeared pro se. John Fogarty appeared on behalf of the Candidate. At the initial hearing, the Candidate, through his attorney, represented that he would not be filing a Motion to Strike the Objector's Petition.

The Records Examination commenced and was completed on December 26, 2013. The Candidate needs 500 signatures to be on the ballot. The Candidate submitted 741 signatures. The examiners ruled on objections to 391 signatures. 210 objections were sustained leaving 531 valid signatures which is 31 signatures more than the required number of signatures.

On December 26, 2013, I provided the results of the records to both parties via an email. In the email, I advised the parties that "Rule 9 of the Adopted Rules of Procedure states that both parties have until 5 p.m. on the third business day following the release of these results to present evidence to the hearing officer to refute any staff finding." I also notified the parties of certain deadlines if either party filed a Rule 9 motion, including a January 2, 2014 deadline for the exchange of exhibits and witness lists for either party's "defense/rebuttal to the other party's Rule 9 motion." A copy of the December 26, 2013 email is attached as Exhibit A.

On December 31, 2013 at approximately 11:45 a.m., an Appearance was filed by Thomas Cosgrove on behalf of the Objector. Also filed by the Objector was a "Request for a Rule 9 Evidentiary Hearing." This pleading states that the Objector is requesting an evidentiary hearing on the matters set forth in Attachment A. Attachment A is a list of purported findings at the Records Examination. No evidence was submitted with the "Request for a Rule 9 Evidentiary Hearing." At the time of the filing of the pleading, Deputy General Counsel for the Illinois State Board of Elections advised counsel for the Objector that the State Board of Elections' Rule 9 Motion process operates differently than that of the City of Chicago Board of Elections and the Cook County Officers Electoral Board Rule 8 Motion process. In addition, approximately one hour after the filing of the "Request for a Rule 9 Evidentiary Hearing," I emailed counsel for the parties a copy of the Illinois State Board of Elections Rules of Procedure. A copy of the December 31, 2013 email is attached as Exhibit B. As of December 31, 2013 at 5:00 p.m., the Objector had not submitted any evidence to support a Rule 9 motion.

On December 31, 2013, the Candidate also filed a Rule 9 motion. The Candidate's Rule 9 Motion provides two affidavits as evidence to refute two findings by the Board of Elections' staff that the signature was not genuine.

A case management hearing was held on January 2, 2014.

## **II. FINDINGS OF FACT AND CONCLUSION OF LAW**

### **A. The Objector's Rule 9 Motion**

Rule 9 of the Illinois State Board of Elections Rules of Procedure states the following with regard to all objections to staff findings made at the records examination:

The party making the objection bears the burden of producing evidence proving that the staff finding was in error. Such evidence offered to refute the staff finding must be submitted to the Board or the hearing examiner no later than 5PM on the third business day following the date of the sending (or giving) of the printout described in the immediately preceding paragraph unless extended by the hearing examiner or Board.

Rule 9 of the Illinois State Board of Elections Rules of Procedure. The Objector failed to timely submit any evidence to support his argument that the staff findings listed on Attachment A of his "Request for Rule 9 Evidentiary Hearing" were in error.

At the January 2, 2014 case management conference, the Objector provided two arguments in response to my inquiry regarding the failure to provide evidence in compliance with the three business day deadline set forth in Rule 9 of the Illinois State Board of Elections Rules of Procedure. First, counsel argued that the Objector believed he had additional time to submit evidence because of the directives in my December 26, 2013 email to the parties. This argument is not compelling given the clear language in my December 26, 2013 email that both parties have three business days "to present evidence to the hearing officer to refute any staff finding" and that by January 2, 2013, the parties shall serve the hearing officer and the other party exhibits and witness lists for "his defense/rebuttal to the other party's Rule 9 motion." See Exhibit A.

Counsel's second argument was that the Objector needed additional time to submit his evidence. The Objector had three business days and five calendar days to gather his evidence and submit it to the board. The Illinois State Board of Elections Rules of Procedure state:

Due to statutory time constraints, the Board must proceed as expeditiously as possible to resolve the objections. There will be no continuance or resetting of the initial hearing or future hearings except for good cause shown.

Rule 1 of the Illinois State Board of Elections Rules of Procedure. Good cause has not been demonstrated. Therefore, I recommend that any extension of time to submit evidence be denied.

As no evidence has been submitted to support a Rule 9 Motion, I recommend that the Rule 9 Motion be denied.

**B. The Circulator Objections**

There are circulator objections on the following four sheets of the Candidate's Nominating Petition: 51, 53, 54 and 73. If the circulator objections on all four sheets were sustained, an additional 30 signatures would be stricken leaving the Candidate with 501 signatures which is still more than the required number of signatures to be on the ballot.

**C. The Candidate's Rule 9 Motion**

Given the foregoing, the Candidate's Rule 9 Motion is moot.

**III. RECOMMENDATIONS**

For the foregoing reasons, I recommend that the Board: i) deny the Objector's Rule 9 Motion and overrule the Objectors' Petition; ii) find that after the Records Examination, the Candidate is 31 signatures above the minimum requirement to have his name placed on the ballot; and iii) order that the name Mark Eckhoff be certified for the ballot as a candidate for the office of State Representative in the General Assembly for the 34th Representative District of the State of Illinois, to be voted on at the Primary Election to be held on March 18, 2014.<sup>1</sup>

Date: January 3, 2013



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Kelly McCloskey Cherf  
Hearing Officer

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<sup>1</sup> There is one related case, *i.e.*, Thompson v. Eckhoff (13-SOEB-GP-517). In that case, I also recommend that the Objector's Petition be overruled and that Mark Eckhoff be certified for the ballot as a candidate for the office of State Representative in the General Assembly for the 34th Representative District of the State of Illinois, to be voted on at the Primary Election to be held on March 18, 2014

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON  
 OF NOMINATION OBJECTION TO PETITION SHEETS OF CANDIDATES FOR ELECTION TO THE  
 OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE REPRESENTATIVE DISTRICT  
 OF THE STATE OF ILLINOIS

Carlos Trigleth )  
 )  
 Petitioner-Objector, )  
 )  
 V. )  
 )  
 Mark Eckhoff )  
 Respondent-Candidate )

CHICAGO  
 2013 DEC -9 PM 3:20  
 STATE BOARD OF ELECTIONS

Carlos Trigleth, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 7915 S. Eberhart Ave. in the 34th Representative District of the State of Illinois, and is a duly qualified, legal and registered voter at the address.
2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Representative in the general Assembly for the 34th Representative District of the State of Illinois are properly complied with and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported petition sheets of Mark Eckhoff as a candidate for the office of Representative in the General Assembly for the 34th Representative District of the State of Illinois ("Office") to be voted for in the Primary Election on March 18, 2014 ("Election"). The Objector states the Petition Sheets are insufficient in fact and law for the following reasons:
4. Pursuant to State law, petition sheets/packet for the Office to be voted for at the Election must contain the signatures of not fewer than 500 duly qualified registered and legal voters of the 34th Representative District of the State of Illinois collected in the manner prescribed by law. In addition, petition sheets must truthfully be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The petition sheets purport to contain the signatures of in excess of 500 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.
5. The Petition Sheets contain the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine and are forgeries, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column A, "Signer's Signature not genuine," in violation of the Illinois Election Code.
6. The Petition Sheets contain the names of persons who are not registered voters, or who are not registered at the addresses shown opposite their respective names, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the heading Column B,

"Signer's not registered or not registered at address shown," in violation of the Illinois Election Code.

7. The Petition Sheets contain the names of persons for whom the addresses stated are not in the 34<sup>th</sup> Representative District of the State of Illinois, and such persons are not registered voters in the 34<sup>th</sup> Representative District, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the heading Column C "Signer resides outside the district," in violation of the Illinois Election Code.

8. The Petition Sheets contain the names of persons for whom the address given are either missing entirely or are incomplete, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column D, "Signer's address missing or incomplete," in violation of the Illinois Election Code.

9. The Petition Sheets contain the names of persons who have signed the Petition Sheets more than one time, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column E "Signer signed more than once on sheet/line indicated," in violation of the Illinois Election Code.

10. The Petition Sheets contain the names of persons who did not sign the papers but are printed and not written, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column F, "Signer's Signature printed and not written," in violation of the Illinois Election Code.

11. The complete removal of all the Petition Sheets where the circulator did not sign or print their name(s) where requested, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

12. The complete removal of all the Petition Sheets where the Petition Sheets circulator did not appear before a notary, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

13. The complete removal of all the Petition Sheets where the purported notary did not notarize the petition sheet, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

14. The complete removal of all the Petition Sheets where the purported circulator's address is incomplete, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

15. The complete removal of all the Petition Sheets where the purported circulator did not circulate the petition sheet, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

16. The complete removal of all the Petition Sheets where the circulator's affidavit is not properly notarized, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

17. The complete removal of all the Petition Sheets where the circulator's signature is not genuine, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

18. The complete removal of all the Petition Sheets where the purported notary did not notarize the petition sheet, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

WHEREFORE, the Objector requests a) a hearing on the objections set forth herein; b) an examination by aforesaid Electoral Board of the official records relating to voters in the 34<sup>th</sup> Representative District, to the extent that such examination is pertinent to any of the matters alleged herein; c) a ruling the Petition Sheets are insufficient in law and fact, and d) a ruling the name of Mark Ekhoff shall not appear and not be printed on the ballot for the nomination to the office of Representative in the General Assembly of the 34<sup>th</sup> Representative District of the State of Illinois, to be voted for at the Primary Election to be held March 18, 2014.

OBJECTOR  
Carlos Trigleth  
Address: 7915 S. Eberhart  
Chicago, IL 60619

VERIFICATION

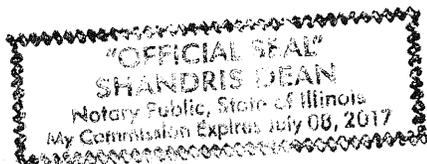
STATE OF ILLINOIS )  
 )SS.  
COUNTY OF COOK )

I, Carlos Trigleth, being first duly sworn upon oath, depose and state that I have read the above and foregoing OBJECTOR'S PETITION, and that the matters and facts contained therein are true and correct to the best of my knowledge and belief

Subscribed and sworn to before me  
By Carlos Trigleth  
This 9<sup>th</sup> day of December, 2013



[Signature]  
Notary Public



**Thompson v. Ekhoﬀ**  
**13 SOEB GP 517**

**Candidate:** Mark Ekhoﬀ

**Office:** State Representative, 34<sup>th</sup> District

**Party:** Republican

**Objector:** Jennifer Thompson

**Attorney For Objector:** Michael Kasper

**Attorney For Candidate:** John Fogarty

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 740

**Number of Signatures Objected to:** 392

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including: “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer’s Address Missing or Incomplete and “Signer Signed Petition More than Once.”

**Dispositive Motions:** None filed

**Binder Check Necessary:** Yes

**Hearing Officer:** Kelly McCloskey Cherf

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 27, 2013. The examiners ruled on objections to 392 signatures. 179 objections were sustained leaving 561 valid signatures, which is 61 signatures more than the required 500 minimum number of signatures. Since neither party filed a Rule 9 Motion, the result of the records examination is dispositive. As such, the recommendation is to overrule the objection and to certify Candidate Mark Ekhoﬀ for the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 34<sup>TH</sup>  
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

JENNIFER THOMPSON,	)	
	)	
Petitioner-Objector,	)	No. 13 SOEB GP 517
	)	
v.	)	
	)	
MARK EKHOFF,	)	
	)	
Respondent-Candidate.	)	

**HEARING OFFICER’S FINDINGS AND RECOMMENDATIONS**

This matter coming before the State Board of Elections as the duly qualified Electoral Board and before the undersigned Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Findings and Recommendations:

The Candidate, Mark Ekhoﬀ (the “Candidate”) timely filed his Nomination Papers with the State Board of Elections to qualify as a Candidate for the office of State Representative for the 34th Representative District of the State of Illinois to be voted for at the primary election on March 18, 2014.

On December 9, 2013, the Objector, Jennifer Thompson (the “Objector”), timely filed a verified Objector’s Petition. In the Petition, the Objector argues that the Candidate’s Nomination Papers are invalid and/or insufficient as the petition sheets contain fewer than the requisite 500 signatures because they contain the following deficiencies: a) names and addresses of individuals who are not registered voters or not registered at address that is listed; b) signatures that are not genuine; c) names of individuals who are not residents of the 34th Representative District in Illinois; d) the names of persons for whom the addresses are missing or incomplete; and e) names of persons who signed the petition more than once. Attached to the Objector’s Petition is an Appendix-Recapitulation.

An initial hearing and case management conference on this matter was held on December 17, 2013. Michael Kasper appeared on behalf of the Objector. John Fogarty appeared on behalf of the Candidate. The Candidate, through his attorney, represented that he would not be filing a Motion to Strike the Objector’s Petition.

The Records Examination commenced and was completed on December 27, 2013. Both parties were present at the Records Examination. The Candidate needs 500 signatures to be on

the ballot. The Candidate submitted 740 signatures. The examiners ruled on objections to 392 signatures. 179 objections were sustained leaving 561 valid signatures which is 61 signatures more than the required number of signatures.

Neither party filed a Rule 9 Motion.

For the foregoing reasons, I recommend that the Board: i) overrule the Objectors' Petition; ii) find that after the Records Examination, the Candidate is 61 signatures above the minimum requirement to have his name placed on the ballot; and iii) order that the name Mark Eckhoff be certified for the ballot as a candidate for the office of State Representative in the General Assembly for the 34th Representative District of the State of Illinois, to be voted on at the Primary Election to be held on March 18, 2014.<sup>1</sup>

Date: January 8, 2012



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Kelly McCloskey Cherf  
Hearing Officer

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<sup>1</sup> There is one related case, *i.e.*, Tringleth v. Eckoff (13-SOEB-GP-515). In that case, I also recommend that the Objector's Petition be overruled and that Mark Eckoff be certified for the ballot as a candidate for the office of State Representative in the General Assembly for the 34th Representative District of the State of Illinois, to be voted on at the Primary Election to be held on March 18, 2014.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE  
34th REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Jennifer Thompson, )  
)  
Petitioner-Objector, )  
)  
v. )  
)  
Mark Ekhoﬀ, )  
)  
Respondent-Candidate. )

CHICAGO  
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STATE BOARD OF ELECTIONS

OBJECTOR'S PETITION

INTRODUCTION

Jennifer Thompson, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 7555 S. Michigan Ave., Chicago, Illinois, Zip Code 60619, in the 34th Representative District of the State of Illinois, and is a duly qualified, legal and registered voter at that address.
2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Representative in the General Assembly for the 34th Representative District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of Mark Ekhoﬀ as a candidate for the office of Representative in the General Assembly for the 34th Representative District of the State of Illinois ("Office") to be voted for at the Primary Election on March 18, 2014 ("Election"). The Objector states that the Nomination Papers are insufficient in fact and law for the following reasons:

4. Pursuant to State law, nomination papers for the Office to be voted for at the Election must contain the signatures of not fewer than 500 duly qualified, registered and legal voters of the 34th Representative District of the State of Illinois collected in the manner prescribed by law. In addition, nomination papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The Nomination Papers purport to contain

the signatures of in excess of 500 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.

5. The Nomination Papers contain petition sheets with the names of persons who are not registered voters, or who are not registered voters at the addresses shown opposite their respective names, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading Column a., "Signer Not Registered at Address Shown," in violation of the Illinois Election Code.

6. The Nomination Papers contain petition sheets with the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine and are forgeries, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column b., "Signer's Signature Not Genuine," in violation of the Illinois Election Code.

7. The Nomination Papers contain petition sheets with the names of persons for whom the addresses stated are not in the 34th Representative District of the State of Illinois, and such persons are not registered voters in the 34th Representative District, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column c., "Signer Resides Outside District," in violation of the Illinois Election Code.

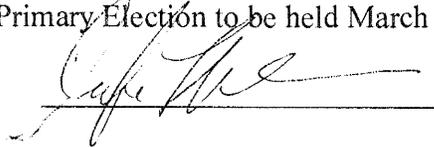
8. The Nomination Papers contain petition sheets with the names of persons for whom the addresses given are either missing entirely or are incomplete, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column d., "Signer's Address Missing or Incomplete," in violation of the Illinois Election Code.

9. The Nomination Papers contain petition sheets with the names of persons who have signed the Nomination Papers more than one time as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column e., "Signer Signed Petition More Than Once at Sheet Indicated," in violation of the Illinois Election Code.

10. The Nomination Papers contain less than 500 validly collected signatures of qualified and duly registered legal voters of the 34th Representative District, signed by such voters in their own proper person with proper addresses, below the number required under Illinois law, as is set forth by the objections recorded in the Appendix-Recapitulation attached hereto and incorporated herein.

11. The Appendix-Recapitulation is incorporated herein, and the objections made therein are a part of this Objector's Petition.

WHEREFORE, the Objector requests: a) a hearing on the objections set forth herein; b) an examination by the aforesaid Electoral Board of the official records relating to voters in the 34th Representative District, to the extent that such examination is pertinent to any of the matters alleged herein; c) a ruling that the Nomination Papers are insufficient in law and fact, and d) a ruling that the name of Mark Ekhoﬀ shall not appear and not be printed on the ballot for nomination to the office of Representative in the General Assembly of the 34th Representative District of the State of Illinois, to be voted for at the Primary Election to be held March 18, 2014.



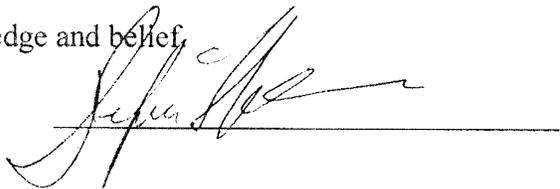
OBJECTOR

Address:  
Jennifer Thompson  
7555 S. Michigan Ave.  
Chicago, IL 60619

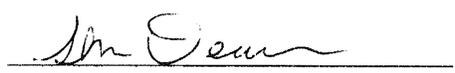
VERIFICATION

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Cook )

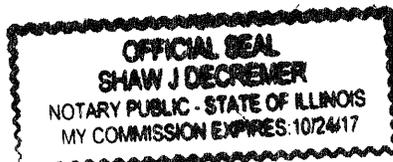
I, Jennifer Thompson, being first duly sworn upon oath, depose and state that I have read the above and foregoing OBJECTOR'S PETITION, and that the matters and facts contained therein are true and correct to the best of my knowledge and belief.



Subscribed and sworn to before me  
by Jennifer Thompson  
this 8 day of December, 2013.



Notary Public



**Macklin v. Sims**  
**13 SOEB GP 516**

**Candidate:** Elgie R. Sims Jr.

**Office:** State Representative, 34<sup>th</sup> District

**Party:** Democratic

**Objector:** Darnell Macklin

**Attorney For Objector:** Laura Jacksack

**Attorney For Candidate:** Michael Kasper

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 1,524\*

**Number of Signatures Objected to:** 882

**Basis of Objection:** 1. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including: “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer Signed Petition More than Once,” “Signer’s Signature Printed and not Written” and “Signer Signed Republican Petition of the Republican Candidate in the 34<sup>th</sup> District.” 2. Numerous petition sheets are invalid because (a) the circulator did not sign or print his/her name where required, (b) the circulator did not appear before a notary, (c) purported notary did not notarize the petition sheet, (d) the circulator address is incomplete, (e) the purported circulator did not actually circulate the petition sheet, the circulator’s affidavit is not properly notarized and (f) the circulator’s signature is not genuine.

**Dispositive Motions:** Candidate: Motion to Strike and Dismiss; Objector: Objector’s Response to Motion to Strike and Dismiss;

**Binder Check Necessary:** No

**Hearing Officer:** Kelly McCloskey Cherf

**Hearing Officer Findings and Recommendation:** The Candidate raises two issues in his Motion to Strike and Dismiss. 1) even if all the objections to the Candidate’s nominating petition were sustained, the Candidate would still have enough signatures to qualify for appearance on the ballot and 2) the objection to signatures being printed as opposed to written should be stricken in accordance with Appendix A, 1A of the State Officers Electoral Board Rules of Procedure (“the Rules”).

There were 882 line by line objections, and if all of these are sustained, the candidate would have 618 signatures remaining. If all the circulator objections were sustained, and additional 113 signatures would be stricken, leaving the candidate with 505 valid signatures, which is 5 more than necessary to qualify for the ballot. Given these numbers, the Hearing Officer did not rule on the Objector’s other issues; (signature printed and not written, persons signing for a Republican candidate and circulator’s affidavit not properly notarized). However, she does recommend that at a minimum, the objection to the 15 signatures being printed and not written be overruled, consistent with the Rules.

The Hearing Officer recommends that the Candidate's Motion to Strike and Dismiss be granted, the Objector's Petition be overruled, and that Candidate Elgie R. Sims Jr. be certified for the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

\*It was noted by the Hearing Officer that the Candidate filed in excess of the maximum number of signatures allowed. As a result, the final 24 signatures on the Candidate's nominating petition were excluded in the final signature count and any corresponding objection was not considered, as these signatures were essentially "stricken" from the petition. See Appendix A, Section III of the Rules.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 34<sup>TH</sup>  
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

DARNELL MACKLIN,	)	
	)	
Petitioner-Objector,	)	No. 13 SOEB GP 516
	)	
v.	)	
	)	
ELGIE R. SIMS JR.,	)	
	)	
Respondent-Candidate.	)	

**HEARING OFFICER’S FINDINGS AND RECOMMENDATIONS**

This matter coming before the State Board of Elections as the duly qualified Electoral Board and before the undersigned Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Findings and Recommendations:

**I. PRELIMINARY FACTS**

The Candidate, Elgie R. Sims Jr. (the “Candidate”), timely filed his Nomination Papers with the State Board of Elections to qualify as a Candidate for the office of State Representative for the 34th Representative District of the State of Illinois, to be voted for at the primary election on March 18, 2014.

On December 9, 2013, the Objector, Darnell Macklin (the “Objector”), timely filed a verified Objector’s Petition. In the Petition, the Objector argues that the Candidate’s Nomination Papers are invalid and/or insufficient as the petition sheets contain fewer than the requisite 500 signatures because they contain the following deficiencies: a) signatures that are not genuine; b) names and addresses of individuals who are not registered voters or not registered at address that is listed; c) names of individuals who are not residents of the 34th Representative District in Illinois; d) names of persons for whom the addresses are missing or incomplete; e) names of persons who signed the petition more than once; f) signatures which are printed and not written; g) names of persons who previously signed a Republican petition for the Republican candidate of the 34th Representative District; h) petition sheets where the circulator did not sign or print his/her name where requested; i) petition sheets where the circulator did not appear before a notary; j) petition sheets where the notary did not notarize the petition sheet; k) petition sheets where the circulator’s address is incomplete; l) petition sheets where the circulator did not circulate the petition sheet; m) petition sheets where the circulator’s affidavit is not properly notarized; and n) petition sheets where the circulator’s signature is not genuine. Attached to the Objector’s Petition is an Appendix-Recapitulation.

An initial hearing and case management conference on this matter was held on December 17, 2013. Laura Jacksack appeared on behalf of the Objector. Michael Kasper appeared on behalf of the Candidate. At the initial hearing, the Candidate, through his attorney, represented that he would be filing a Motion to Strike and Dismiss the Objector's Petition on the grounds that the Candidate would still satisfy the minimum signature requirement even if every objection in Objector's Petition is sustained. A briefing schedule was set pursuant to the Illinois State Board of Elections Rules of Procedure. Oral argument on the Motion to Strike and Dismiss was set for December 26, 2013, but subsequently waived by the parties.

## II. THE CANDIDATE'S MOTION TO STRIKE AND DISMISS

On December 19, 2013, the Candidate filed his Motion to Strike and Dismiss which consists of the following two arguments: 1) assuming each signature is invalidated for each and every reason set forth in the Petitioner's Objection, including the circulator objections, the Candidate would still have at least 519 signatures which is above the statutory minimum of 500, and therefore, a count of all the objections raised in the Objector's Petition should be made to confirm that it is mathematically impossible for the Objector to establish that the Candidate has an insufficient number of valid signatures at a Records Examination; and 2) Paragraph 10 of the Objector's Petition which alleges that certain signatures are invalid on the sole basis that the "Signer's signature [is] printed and not written" should be stricken because the Board has consistently held that said objections do not state a sufficient basis upon which to invalidate petition signatures.

The Candidate's first argument, if correct, would obviate the need for a records examination which was set for December 26, 2013. Therefore, on December 22, 2013, I advised the parties that based upon a preliminary review, it appears that the Candidate's first argument is correct in that even if each objection was sustained, the Candidate would be above the statutory minimum of 500. A copy of the worksheet for my preliminary analysis was provided to both parties so that the parties could address my calculations in their briefs. I also advised the parties that the Records Examination set for December 26, 2013 was continued until the Motion to Strike and Dismiss was resolved.<sup>1</sup> A copy of my December 22, 2013 correspondence to the parties is attached hereto as Exhibit A.

On December 23, 2013, the Objector filed his Response which argues that based upon the first 1,500 signatures, if every objection was sustained, including the circulator objections, the Candidate would have 497 signatures which is below the statutory minimum. With regard to the

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<sup>1</sup> I also pointed out the following issues: 1) the Candidate submitted 1,524 signatures which is 24 signatures more than the permitted amount of 1,500; 2) there are objections of "signature is printed and not written" where it is the only objection to the signature and which will most likely be overruled under State Board of Elections Rules of Procedure at Appendix A, I (A); 3) there are objections for signing another Republican Party Petition which do not indicate the name of the Republican Party candidate (there are two additional Republican Party candidates) where it is the only objection to the signature; and 4) certain Appendix-Recapitulation sheets include only one circulator objection, *i.e.*, "circulator's affidavit not properly notarized" and upon initial review, there does not appear to be any basis for sustaining the objection. A resolution of the latter three issues is not necessary given my recommendation that the Candidate would still have the minimum statutory requirement of 500 signatures even if all the line-by-line and circulator objections were sustained (*infra* at p. 3).

“signature is printed and not written” objection, the Objector contends that all reasonable inferences should be made in favor of the Objector and that the Objector was “simply being more specific than required” in noting that the signatures did not match the voter’s registration card. With regard to the objection that the voter signed another Republican Party candidate’s petition, the Objector points out that he did indicate in the Appendix-Recapitulation sheets the page and line number of the “other” Republican Party candidate which Objector claims is Fatimah Macklin and that further details will be provided at a hearing. With regard to the objection that the “circulator’s affidavit is not properly notarized,” the Objector argues that the notary date is not legible.

On December 26, 2013, the Candidate filed his Reply which points out that the Objector concedes that he has not alleged sufficient line-by-line objections to reduce the Candidate below 500 valid signatures, and that the circulator objections are completely meritless. In that regard, the Candidate argues that the Electoral Boards have consistently held that a failure to place a date in the notarial jurat constitutes an insufficient basis to invalidate the nominating papers. Finally, the Candidate argues that with regard to the “signature is printed and not written” objection (paragraph 10 of the Objector’s Petition), the Objector is attempting to change that objection to “signature did not match the signature on the voter’s registration card” which is another objection set forth in paragraph 5 of the Objector’s Petition and Column A of the Appendix-Recapitulation sheets.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The minimum statutory signature requirement for the office of Representative in the General Assembly is 500 signatures. 10 ILCS §5/8-8. The Candidate has submitted 1,524 signatures which is 24 more than the statutory maximum. *Id.* Therefore, only the first 1,500 signatures will be reviewed and the last 24 signatures will be stricken. Illinois State Board of Elections Rules of Procedure at Appendix A, III.

Attached as Exhibit B is a spreadsheet which shows on a sheet-by-sheet basis the following information: 1) the number of signatures per sheet; 2) the number of signatures per sheet for which a line-by-line objection was made (*i.e.*, not including the circulator objections); and 3) the number of additional signatures per sheet that would be stricken if all the circulator objections are sustained.

Based upon this analysis, there are 882 line-by-line objections to individual signatures, resulting in 618 signatures for the Candidate if each line-by-line objection is sustained. If all the circulator objections are sustained, an additional 113 signatures would be stricken, bringing the Candidate down to 505 signatures. Therefore, based upon my analysis, if all the line-by-line and circulator objections are sustained, the Candidate would still have the minimum statutory requirement of 500 signatures.<sup>2</sup>

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<sup>2</sup> Given the foregoing, recommendations regarding the additional issues presented in my December 22, 2013 email and addressed by the parties in their briefs are not necessary. Nevertheless, I also recommend that the objection of “signature printed and not written” be stricken where it is the only objection to the signature. The Illinois State Board of Election Rules and Procedures states: “Any objection solely on the ground that the signature is printed and not in cursive form or where the basis for the non-genuineness is the fact that the signature is printed, will be denied

### III. RECOMMENDATIONS

For the foregoing reasons, I recommend that the Board: i) grant the Candidate's Motion to Strike and Dismiss; ii) dismiss the Objector's Petition in its entirety; and iii) order that the name Elgie R. Sims, Jr. be certified for the ballot as a candidate for the office of State Representative in the General Assembly for the 34th Representative District of the State of Illinois, to be voted on at the Primary Election to be held on March 18, 2014.

Date: December 27, 2013



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Kelly McCloskey Cherf  
Hearing Officer

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as failing to state grounds for an objection." See Illinois State Board of Elections Rules of Procedure, Appendix A, I (A). Attached as Exhibit C is a spreadsheet which shows the number of signatures per sheet for which the "signature printed and not written" objection is the only objection (*i.e.*, line-by-line or circulator) made to the signature. I counted 15 such objections.

# **EXHIBIT A**

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND  
 PASSING UPON OF NOMINATION OBJECTION TO PETITION SHEETS OF  
 CANDIDATES FOR ELECTION TO THE OFFICE OF REPRESENTATION IN THE  
 GENERAL ASSEMBLY FOR THE REPRESENTATIVE DISTRICT OF THE STATE OF  
 ILLINOIS

Darnell Macklin )  
 )  
 Petitioner-Objector, )  
 )  
 V. )  
 )  
 Elgie R. Sims Jr. )  
 Respondent-Candidate )

CHICAGO  
 2013 DEC -9 PM 3:19  
 STATE BOARD OF ELECTIONS

Darnell Macklin, herein sometimes referred to as the Objector, states as follows:

1. The objector resides at 7927 S. Eberhart Ave. in the 34<sup>th</sup> Representative District of the State of Illinois, and is a duly qualified, legal and registered voter at the address.
2. The objector's interest in filing this petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Representative in the General Assembly for the 34<sup>th</sup> Representative District of the State of Illinois are properly complied with and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported petition sheets of Elgie R. Sims Jr. as a candidate for the office of Representative in the General Assembly for the 34<sup>th</sup> District of the State of Illinois ("Office") to be voted for in the Primary Election on March 18, 2014 ("Election"). The Objector states the Petition Sheets are insufficient in fact and law for the following reasons:
4. Pursuant to State law, petition sheets/packet for the office to be voted for at the Election must contain the signatures of not fewer than 500 duly qualified registered and legal voters of the 34<sup>th</sup> Representative District of the State of Illinois collected in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The petition sheets purport to contain the signatures of in excess of 500 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.
5. The Petition Sheets contain the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine and are

forgeries, as set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column A, "Signer's signature not genuine," in violation of the Illinois Election Code.

6. The Petition Sheets contain the names of persons who are not registered voters, or who are not registered at the addresses shown opposite their respective names, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading Column B, "Signer's not registered at the address shown", in violation of the Illinois Election Code.

7. The Petition Sheets contain the names of persons for whom the addresses stated are not in the 34<sup>th</sup> Representative District of the State of Illinois, and such persons are not registered voters in the 34<sup>th</sup> Representative District, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading Column C "Signer resides outside district," in violation of the Illinois Election Code.

8. The Petition Sheets contain the names of persons for whom the address given are either missing entirely or are incomplete, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading Column D "Signer's address is missing or incomplete," in violation of the Illinois Election Code.

9. The Petition Sheets contain the names of persons who have signed the Petition Sheets more than one time, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading Column E "Signer signed the petition more than once at sheet/line indicated," in violation of the Illinois Election Code.

10. The Petition Sheets contain the names of persons who did not sign the papers but are printed and not written, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading Column F "Signer's signature printed and not written," in violation of the Illinois Election Code.

11. The Petition Sheets contain the names of persons who previously signed Republican Petition for the Republican candidate of the 34<sup>th</sup> Representative District, such signatures are not valid, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading Column G "Signer signed Republican petition at sheet/line indicated," in violation of the Illinois Election Code.

12. The complete removal of all the Petition Sheets where the circulator did not sign or print their name(s) where requested, as is set forth specifically in the

Appendix-Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

13. The complete removal of all the Petition Sheets where the circulator did not appear before a notary, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

13. The complete removal of all the Petition Sheets where the purported notary did not notarize the petition sheet, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

14. The complete removal of all the Petition Sheets where the purported circulator's address is incomplete every signature on the designated sheet is objected to, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

15. The complete removal of all the Petition Sheets where the purported circulator did not circulate the petition sheet, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

16. The complete removal of all the Petition Sheets where the circulator's affidavit is not properly notarized, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

17. The complete removal of all the Petition Sheets where the circulator's signature is not genuine, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.

18. The complete removal of all the Petition Sheets where the purported notary did not notarize the petition sheet, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the line objection section indicated by an X, in violation of the Illinois Election Code.



**Imhoff v. Flores  
13 SOEB GP 520**

**Candidate:** Ariana Flores

**Office:** State Representative, 43<sup>rd</sup> District

**Party:** Republican

**Objector:** Frank F. Imhoff

**Attorney For Objector:** Michael Kasper

**Attorney For Candidate:** No one appeared on behalf of the Candidate.

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 519

**Number of Signatures Objected to:** 150

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer’s Address Missing or Incomplete” and “Signer Signed Petition More than Once.”

**Dispositive Motions:** None filed

**Binder Check Necessary:** Yes

**Hearing Officer:** Scott Erdman

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 27, 2013. The examiners ruled on objections to 150 signatures. 130 objections were sustained leaving 389 valid signatures, which is 111 signatures less than the required 500 minimum number of signatures. Since no Rule 9 Motions were filed, the results of the records examination are dispositive. The recommendation is to sustain the Objector’s Petition, and to not certify Candidate Ariana Flores to the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 43<sup>RD</sup>  
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Frank M. Imhoff,	)	
	)	
Petitioner-Objector,	)	No. 13 SOEB GP 520
	)	
v.	)	
	)	
Ariana Flores,	)	
	)	
Respondent-Candidate.	)	

**HEARING OFFICER’S REPORT AND RECOMMENDATION**

This matter coming before the State Board of Elections as the duly qualified Electoral Board and before the undersigned Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Report and Recommendation:

1. The Candidate timely filed with the State Board of Elections Nomination Papers to qualify as a candidate for the office of Representative in the General Assembly of the 43<sup>RD</sup> Representative District in the State of Illinois.
2. The Objector’s Verified Petition to the Nomination Papers of the Candidate was timely filed on December 9, 2013. In the Petition, the Objector raised objections including that the nominating papers contained insufficient signatures for the reasons set forth in the Verified Objector’s Petition and the Appendix-Recapitulation attached to the Objector’s Petition.
3. An initial hearing and case management conference on this matter was held on December 17, 2013. The Candidate Ariana Flores was not present. Michael J. Kasper appeared on behalf of the Objector.
4. An Initial Case Management Order was issued by this Hearing Officer on December 18, 2013.
5. All parties who had filed appearances were notified that the records examination had been scheduled for December 27, 2013 at 9:00 a.m. in the State Board of Elections’ Chicago office.
6. On December 27, 2013 the record exam was completed and all parties who had filed appearances were notified of the results and the time period for the filing of any Rule 9 Motions began.

7. No Rule 9 Motions were received by the proscribed deadline.

8. The results of the record exam showed that there were 519 signatures submitted for an office that requires 500 valid signatures. The objection petition objected to 150 of those signatures. Of that number 130 objections were sustained leaving a total of 389 valid signatures, 111 less than are required.

9. Since there were no Rule 9 Motions filed the results of the record exam show that the Candidate has insufficient signatures to remain on the ballot and I recommend that the objection be sustained.

Dated: January 7, 2013

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Scott B. Erdman  
Hearing Officer

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE  
43rd REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Frank F. Imhoff, )  
 )  
 Petitioner-Objector, )  
 )  
 v. )  
 )  
 Ariana Flores, )  
 )  
 Respondent-Candidate. )

STATE BOARD OF ELECTIONS  
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COMM

OBJECTOR'S PETITION

INTRODUCTION

Frank F. Imhoff, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 739 Prospect Blvd., Elgin, Illinois, Zip Code 60120, in the 43rd Representative District of the State of Illinois, and is a duly qualified, legal and registered voter at that address.
2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Representative in the General Assembly for the 43rd Representative District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of Ariana Flores as a candidate for the office of Representative in the General Assembly for the 43rd Representative District of the State of Illinois ("Office") to be voted for at the Primary Election on March 18, 2014 ("Election"). The Objector states that the Nomination Papers are insufficient in fact and law for the following reasons:
4. Pursuant to State law, nomination papers for the Office to be voted for at the Election must contain the signatures of not fewer than 500 duly qualified, registered and legal voters of the 43rd Representative District of the State of Illinois collected in the manner prescribed by law. In addition, nomination papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The Nomination Papers purport to contain

the signatures of in excess of 500 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.

5. The Nomination Papers contain petition sheets with the names of persons who are not registered voters, or who are not registered voters at the addresses shown opposite their respective names, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading Column a., "Signer Not Registered at Address Shown," in violation of the Illinois Election Code.

6. The Nomination Papers contain petition sheets with the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine and are forgeries, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column b., "Signer's Signature Not Genuine," in violation of the Illinois Election Code.

7. The Nomination Papers contain petition sheets with the names of persons for whom the addresses stated are not in the 43rd Representative District of the State of Illinois, and such persons are not registered voters in the 43rd Representative District, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column c., "Signer Resides Outside District," in violation of the Illinois Election Code.

8. The Nomination Papers contain petition sheets with the names of persons for whom the addresses given are either missing entirely or are incomplete, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column d., "Signer's Address Missing or Incomplete," in violation of the Illinois Election Code.

9. The Nomination Papers contain petition sheets with the names of persons who have signed the Nomination Papers more than one time as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column e., "Signer Signed Petition More Than Once at Sheet Indicated," in violation of the Illinois Election Code.

10. The Nomination Papers contain less than 500 validly collected signatures of qualified and duly registered legal voters of the 43rd Representative District, signed by such voters in their own proper person with proper addresses, below the number required under Illinois law, as is set forth by the objections recorded in the Appendix-Recapitulation attached hereto and incorporated herein.

11. The Appendix-Recapitulation is incorporated herein, and the objections made therein are a part of this Objector's Petition.

WHEREFORE, the Objector requests: a) a hearing on the objections set forth herein; b) an examination by the aforesaid Electoral Board of the official records relating to voters in the 43rd Representative District, to the extent that such examination is pertinent to any of the matters alleged herein; c) a ruling that the Nomination Papers are insufficient in law and fact, and d) a

ruling that the name of Ariana Flores shall not appear and not be printed on the ballot for nomination to the office of Representative in the General Assembly of the 43rd Representative District of the State of Illinois, to be voted for at the Primary Election to be held March 18, 2014.

Frank F. Imhoff

OBJECTOR

Address:  
Frank F. Imhoff  
739 Prospect Blvd.  
Elgin, IL 60120

VERIFICATION

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Co. 12 )

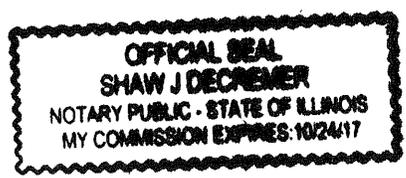
I, Frank F. Imhoff, being first duly sworn upon oath, depose and state that I have read the above and foregoing OBJECTOR'S PETITION, and that the matters and facts contained therein are true and correct to the best of my knowledge and belief.

Frank F. Imhoff

Subscribed and sworn to before me  
by Frank F. Imhoff  
this 7 day of December, 2013.

Wm Deane

Notary Public



**Willard v. Howard  
13 SOEB GP 521**

**Candidate:** John W. Howard

**Office:** 79<sup>th</sup> State Representative, 79<sup>th</sup> District

**Party:** Democratic

**Objector:** John A. Willard

**Attorney For Objector:** Michael Kasper

**Attorney For Candidate:** Adam Lasker

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 869

**Number of Signatures Objected to:** 416

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer’s Address Missing or Incomplete” and “Signer Signed Petition More than Once.”

**Dispositive Motions:**

**Binder Check Necessary:** Yes

**Hearing Officer:** Phil Krasny

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 26, 2013. The examiners ruled on objections to 416 signatures. 299 objections were sustained leaving 570 valid signatures, which is 70 signatures more than the required 500 minimum number of signatures. Since no Rule 9 Motions were filed, the results of the records examination are dispositive. The recommendation is to overrule the Objector’s Petition, and to certify Candidate John W. Howard for the office of State Representative on the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

**BEFORE THE STATE ELECTORAL BOARD OF THE STATE OF ILLINOIS**

JOHN WILLARD )  
Petitioner-Objectors )  
 )  
vs. ) 13SOEBG 521  
JOHN HOWARD )  
Respondent- Candidate )  
 )

**HEARING OFFICER'S RECOMMENDATION TO THE STATE ELECTORAL**

Respondent-Candidate, JOHN HOWARD, has filed nominating petitions to have his name placed on the March 18, 2014 primary ballot for the office of Representative for the 79th District. In order to be placed on the primary ballot, a candidate is required to submit 500 valid signatures. That Candidate's petitions included 869 signatures.

Petitioner-Objector, JOHN WILLARD, has filed objections to the nominating petition alleging that 416 of the signatures were invalid.

A record examination was conducted wherein it was determined that 299 objections were sustained and 117 overruled, thereby leaving 570 valid signatures, 70 above the statutory minimum.

No Rule 9 evidence was submitted by the parties

A hearing was held on January 3, 2014 at the State Board of Elections office in Chicago. The Candidate was represented by Adam Lasker. The Objector was represented by Michael Kasper. At the hearing no evidence was presented challenging the record examination

**RECOMMENDATION**

It is recommended that, based upon the Candidate having more than the required 500 signatures, the name of JOHN HOWARD be placed on the March 18, 2014 primary ballot for the office of Representative for the 79th District.

/s/ \_\_\_\_\_  
Philip Krasny  
Hearing Officer

dated 1/5/14

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE  
79th REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

John A. Willard, )  
 )  
Petitioner-Objector, )  
 )  
v. )  
 )  
John W. Howard, )  
 )  
Respondent-Candidate. )

CHICAGO  
2013 DEC -9 PM 3:38  
STATE BOARD OF ELECTIONS

OBJECTOR'S PETITION

INTRODUCTION

John A. Willard, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 2034 S. 10000 W. Rd., Bonfield, Illinois, Zip Code 60913, in the 79th Representative District of the State of Illinois, and is a duly qualified, legal and registered voter at that address.
2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Representative in the General Assembly for the 79th Representative District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of John W. Howard as a candidate for the office of Representative in the General Assembly for the 79th Representative District of the State of Illinois ("Office") to be voted for at the Primary Election on March 18, 2014 ("Election"). The Objector states that the Nomination Papers are insufficient in fact and law for the following reasons:

4. Pursuant to State law, nomination papers for the Office to be voted for at the Election must contain the signatures of not fewer than 500 duly qualified, registered and legal voters of the 79th Representative District of the State of Illinois collected in the manner prescribed by law. In addition, nomination papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The Nomination Papers purport to contain

the signatures of in excess of 500 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.

5. The Nomination Papers contain petition sheets with the names of persons who are not registered voters, or who are not registered voters at the addresses shown opposite their respective names, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading Column a., "Signer Not Registered at Address Shown," in violation of the Illinois Election Code.

6. The Nomination Papers contain petition sheets with the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine and are forgeries, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column b., "Signer's Signature Not Genuine," in violation of the Illinois Election Code.

7. The Nomination Papers contain petition sheets with the names of persons for whom the addresses stated are not in the 79th Representative District of the State of Illinois, and such persons are not registered voters in the 79th Representative District, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column c., "Signer Resides Outside District," in violation of the Illinois Election Code.

8. The Nomination Papers contain petition sheets with the names of persons for whom the addresses given are either missing entirely or are incomplete, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column d., "Signer's Address Missing or Incomplete," in violation of the Illinois Election Code.

9. The Nomination Papers contain petition sheets with the names of persons who have signed the Nomination Papers more than one time as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column e., "Signer Signed Petition More Than Once at Sheet Indicated," in violation of the Illinois Election Code.

10. The Nomination Papers contain less than 500 validly collected signatures of qualified and duly registered legal voters of the 79th Representative District, signed by such voters in their own proper person with proper addresses, below the number required under Illinois law, as is set forth by the objections recorded in the Appendix-Recapitulation attached hereto and incorporated herein.

11. The Appendix-Recapitulation is incorporated herein, and the objections made therein are a part of this Objector's Petition.

WHEREFORE, the Objector requests: a) a hearing on the objections set forth herein; b) an examination by the aforesaid Electoral Board of the official records relating to voters in the 79th Representative District, to the extent that such examination is pertinent to any of the matters alleged herein; c) a ruling that the Nomination Papers are insufficient in law and fact, and d) a ruling that the name of John W. Howard shall not appear and not be printed on the ballot for nomination to the office of Representative in the General Assembly of the 79th Representative District of the State of Illinois, to be voted for at the Primary Election to be held March 18, 2014.

John A Willard

OBJECTOR

Address:  
John A. Willard  
2034 S. 10000 W. Rd.  
Bonfield, IL 60923

VERIFICATION

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Wirtz )

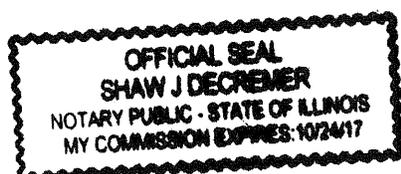
I, John A. Willard, being first duly sworn upon oath, depose and state that I have read the above and foregoing OBJECTOR'S PETITION, and that the matters and facts contained therein are true and correct to the best of my knowledge and belief.

John A Willard

Subscribed and sworn to before me  
by John A. Willard  
this 8 day of December, 2013.

Shaw J Decremier

Notary Public



**Kolovitz v. Galhotra**  
**13 SOEB GP 524**

**Candidate:** Bob Galhotra

**Office:** State Senate, 39<sup>th</sup> District

**Party:** Democratic

**Objector:** Michael J. Kolovitz

**Attorney For Objector:** Michael Kasper

**Attorney For Candidate:** David Thomas

**Number of Signatures Required:** 1,000

**Number of Signatures Submitted:** 2,051

**Number of Signatures Objected to:** 1,155

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer’s Address Missing or Incomplete” and “Signer Signed Petition More than Once.”

**Dispositive Motions:** Objector: Response to Motion to Strike and Dismiss the Objector’s Petition;  
Candidate: Motion to Strike and Dismiss Objector’s Petition;

**Binder Check Necessary:** Yes

**Hearing Officer:** Scott Erdman

**Hearing Officer Findings and Recommendation:** The Hearing Officer first considered the Candidate’s Motion to Strike and Dismiss, which consisted of four paragraphs. The first two paragraphs were withdrawn by the Objector, and thus were rendered moot. The Hearing Officer denied the third and fourth paragraphs as they involved questions of fact (The third paragraph objected to signatures being printed and not written as well as not genuine, and paragraph four challenged the objection to the signature being out of the district on the grounds that it was the same address as that of the Candidate.)

A records examination commenced and was completed on December 27, 2013. The examiners ruled on objections to 1,155 signatures. 691 objections were sustained leaving 1,360 valid signatures, which is 360 signatures more than the required 1,000 minimum number of signatures. Since no Rule 9 Motions were filed, the results of the records examination are dispositive. The recommendation is to overrule the Objector’s Petition, and to certify Candidate Bob Galhotra to the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF THE STATE SENATE FOR THE 39<sup>TH</sup> LEGISLATIVE DISTRICT OF THE  
STATE OF ILLINOIS

Michael J. Kolovitz,	)	
	)	
Petitioner-Objector,	)	No. 13 SOEB GP 524
	)	
v.	)	
	)	
Bob Galhotra,	)	
	)	
Respondent-Candidate.	)	

**HEARING OFFICER'S REPORT AND RECOMMENDATION**

This matter coming before the State Board of Elections as the duly qualified Electoral Board and before the undersigned Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Report and Recommendation:

1. The Candidate timely filed with the State Board of Elections Nomination Papers to qualify as a candidate for the office of the State Senate for the 39<sup>th</sup> Legislative District in the State of Illinois.
2. The Objector's Verified Petition to the Nomination Papers of the Candidate was timely filed on December 9, 2013. In the Petition, the Objector alleged that the nominating papers contained insufficient signatures for the reasons set forth in the Verified Objector's Petition and the Appendix-Recapitulation attached to the Objector's Petition.
3. An initial hearing and case management conference on this matter was held on December 17, 2013. The Candidate Bob Galhotra was present and represented by his counsel David Thomas. The Objector Michael J. Kolovitz was represented by his attorney Michael J. Kasper.
4. An Initial Case Management Order was issued by this Hearing Officer on December 18, 2013. A briefing schedule was requested and issued.
5. Respondent-Candidate Galhotra filed a timely Respondent's Motion to Strike and Dismiss. Petitioner-Objector filed a timely Response to the Motion to Strike and Dismiss the Objector's Petition. Respondent-Candidate Galhotra chose not to file a reply and rested upon the initial motion to strike.
6. A case management conference call was held on December 27, 2013 at which time this Hearing Officer ruled on Respondent-Candidate Galhotra's Motion to Strike and Dismiss.

Paragraphs one and two of the Motion to Strike were ruled moot as the corresponding objections were withdrawn by Petitioner-Objector in his Response. Respondent-Candidate Galhotra asked that paragraph three of the Objection be stricken based upon Appendix A., Section I, Paragraph A of the adopted rules of the Board. Respondent-Candidate relied upon the following sentence to justify his motion to strike numerous lines of the Petitioner-Objector's Appendix: "Any objection based solely on the ground that the signature is printed and not in cursive form or where the basis for the non-genuineness is the fact that the signature is printed, will be denied as failing to state grounds for an objection." Petitioner-Objector's Appendix listed included "printed" signatures in column b. "Signer's signature not genuine". As Petitioner-Objector was not objecting to the printed signatures based solely upon the fact that they were printed but rather that the printed signatures were not genuine as to the signature contained on the signer's voter registration, the motion to strike the paragraph was based upon a question of fact and not law. Therefore the motion to strike the objections enumerated on those lines was denied. In paragraph four, Respondent-Candidate moved to strike an objection to a signature as being out of the district. The basis of the motion was that the signer's address was the same as the Candidate. Again, this is a question of fact and not law and the motion to strike that paragraph was denied.

7. On December 20, 2013, all parties were notified that the records examination had been scheduled for December 27, 2013 at 9:00 a.m. in the State Board of Elections' Springfield office.

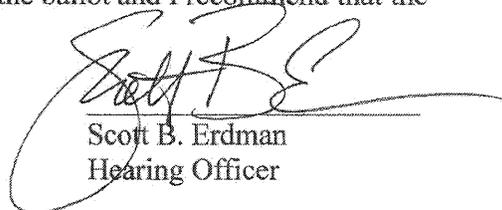
8. On December 27, 2013 the record exam was completed and all parties were notified of the results and the time period for the filing of any Rule 9 Motions began.

9. No Rule 9 Motions were received by the proscribed deadline.

10. The results of the record exam showed that there were 2,051 signatures submitted for an office that requires 1,000 valid signatures. The objection petition objected to 1,155 of those signatures. Of that number only 691 objections were sustained leaving a total of 1,360 valid signatures, 360 more than are required.

11. Since there were no Rule 9 Motions filed the results of the record exam show that the Candidate has sufficient signatures to remain on the ballot and I recommend that the objection be overruled.

Dated: January 6, 2013

  
Scott B. Erdman  
Hearing Officer

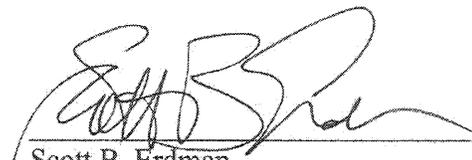
BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE  
OFFICE OF THE STATE SENATE FOR THE 39<sup>TH</sup>  
LEGISLATIVE DISTRICT OF THE STATE OF ILLINOIS

Michael J. Kolovitz, )  
 )  
Petitioner-Objector, ) No. 13 SOEB GP 524  
 )  
v. )  
 )  
Bob Galhotra, )  
 )  
Respondent-Candidate. )

**NOTICE**

A copy of the Hearing Officer's Findings and Recommendation was served upon the parties on January 6, 2014. Exceptions to the Report and Recommendation should be filed with the State Board of Elections within two (2) business days. This matter will be presented to the State Board of Elections as the duly constituted State Officers Electoral Board at a hearing on January 9, 2014 at the James R. Thompson Center, 100 W. Randolph St., Chicago Illinois, 60601. The parties should check with the Illinois State Board of Elections or its website for the time of the hearing.

Date: January 6, 2014

  
\_\_\_\_\_  
Scott B. Erdman  
Hearing Officer

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF STATE SENATOR FOR THE  
39th LEGISLATIVE DISTRICT OF THE STATE OF ILLINOIS

Michael J. Kolovitz, )  
)  
Petitioner-Objector, )  
)  
v. )  
)  
Bob Galhotra, )  
)  
Respondent-Candidate. )

CHICAGO  
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STATE BOARD OF ELECTIONS

OBJECTOR'S PETITION

INTRODUCTION

Michael J. Kolovitz, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 1847 N. Normandy, Chicago, Illinois, Zip Code 60707, in the 39th Legislative District of the State of Illinois, and is a duly qualified, legal and registered voter at that address.

2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of State Senator for the 39th Legislative District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of Bob Galhotra as a candidate for the office of State Senator for the 39th Legislative District of the State of Illinois ("Office") to be voted for at the Primary Election on March 18, 2014 ("Election"). The Objector states that the Nomination Papers are insufficient in fact and law for the following reasons:

4. Pursuant to State law, nomination papers for the Office to be voted for at the Election must contain the signatures of not fewer than 1,000 duly qualified, registered and legal voters of the 39th Legislative District of the State of Illinois collected in the manner prescribed by law. In addition, nomination papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise

executed in the form provided by law. The Nomination Papers purport to contain the signatures of in excess of 1,000 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.

5. The Nomination Papers contain petition sheets with the names of persons who are not registered voters, or who are not registered voters at the addresses shown opposite their respective names, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading Column a., "Signer Not Registered at Address Shown," in violation of the Illinois Election Code.

6. The Nomination Papers contain petition sheets with the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine and are forgeries, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column b., "Signer's Signature Not Genuine," in violation of the Illinois Election Code.

7. The Nomination Papers contain petition sheets with the names of persons for whom the addresses stated are not in the 39th Legislative District of the State of Illinois, and such persons are not registered voters in the 39th Legislative District, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column c., "Signer Resides Outside District," in violation of the Illinois Election Code.

8. The Nomination Papers contain petition sheets with the names of persons for whom the addresses given are either missing entirely or are incomplete, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column d., "Signer's Address Missing or Incomplete," in violation of the Illinois Election Code.

9. The Nomination Papers contain petition sheets with the names of persons who have signed the Nomination Papers more than one time as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column e., "Signer Signed Petition More Than Once at Sheet Indicated," in violation of the Illinois Election Code.

10. The Nomination Papers contain less than 1,000 validly collected signatures of qualified and duly registered legal voters of the 39th Legislative District of the State of Illinois, signed by such voters in their own proper person with proper addresses, below the number required under Illinois law, as is set forth by the objections recorded in the Appendix-Recapitulation attached hereto and incorporated herein.

11. The Appendix-Recapitulation is incorporated herein, and the objections made therein are a part of this Objector's Petition.

WHEREFORE, the Objector requests: a) a hearing on the objections set forth herein; b) an examination by the aforesaid Electoral Board of the official records relating to voters in the 39th Legislative District, to the extent that such examination is pertinent to any of the matters alleged herein; c) a ruling that the Nomination Papers are insufficient in law and fact, and d) a ruling that the name of Bob Galhotra shall not appear and not be printed on the ballot for nomination to the office of State Senator of the 39th Legislative District of the State of Illinois, to be voted for at the Primary Election to be held March 18, 2014.



OBJECTOR

Address:  
Michael J. Kolovitz  
1847 N. Normandy  
Chicago, IL 60707

VERIFICATION

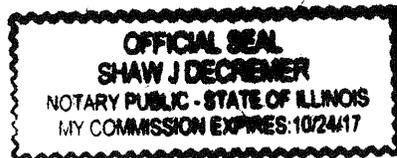
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Cook )

I, Michael J. Kolovitz being first duly sworn upon oath, depose and state that I have read the above and foregoing OBJECTOR'S PETITION, and that the matters and facts contained therein are true and correct to the best of my knowledge and belief.



Subscribed and sworn to before me  
by  
this 9 day of December, 2013.

Shm Ocan  
Notary Public



**Franklin v. Jones**  
**13 SOEB GP 525**

**Candidate:** Thaddeus Jones

**Office:** State Representative, 29<sup>th</sup> District

**Party:** Democratic

**Objector:** Jacqueline Franklin

**Attorney For Objector:** Andrew Finko

**Attorney For Candidate:** Michael Kasper

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 1,178

**Number of Signatures Objected to:** 735

**Basis of Objection:** 1. Candidate Jones currently holds two elected offices for which he receives compensation: 3<sup>rd</sup> Ward Alderman in Calumet City and State Representative in the 29<sup>th</sup> District. As such, the Candidate is improperly receiving two taxpayer funded salaries. Candidate's Nomination Papers are invalid because the office of State Representative and municipal alderman are incompatible under the provisions of the Revised Cities and Villages Act. [65 ILCS 20/21-14(b)] 2. Candidate's Nomination Papers violate the provisions of Article IV, Section 2(e) of the Illinois Constitution through his simultaneous receipt of compensation for two elected offices. 3. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including: "Signer's Signature Not Genuine," "Signer Not Registered at Address Shown," "Signer Resides Outside of the District," "Signer's Address is Missing or Incomplete" and "Signer Signed Petition More than Once." 4. Numerous circulator and notary allegations render multiple petition sheets invalid so that every signature on those sheets should be stricken. 5. Signatures should be stricken on those pages where various objections were made to the circulators and notaries; including a circulator who was under the age of 18, lack of circulator signature, circulator not residing at the address listed, not being a U.S. citizen, missing circulator's address, circulator signature not being genuine, circulator circulated for a candidate of another political party, purported circulator did not circulate the petition and did not appear before a notary, un-notarized petition sheets and sheets not properly notarized. 6. Sheets circulated or notarized by two persons are invalid, in that the circulators did not appear personally before the notary and contain errors and omissions that rise to a pattern of fraud. 7. Certain sheets demonstrate a pattern of fraud and disregard for the Election Code to such a degree that they should be stricken. 8. Notary Alesia McKinley is an employee of the State of Illinois, employed at the office of Thaddeus Jones, and improperly used public funds for private purposes when she used her notarial jurat to notarize Candidate's petition sheets at the governmental office of Thaddeus Jones, both of which were paid for and purchased by the State of Illinois, and all such signatures should be stricken.

**Dispositive Motions:** Candidate: Motion to Strike; Reply Memorandum Objector: Response to Motion to Strike, and Cross Motion for Judgment as a Matter of Law;

**Binder Check Necessary:** Yes

**Hearing Officer:** Phil Krasny

**Hearing Officer Findings and Recommendation:** The Hearing Officer first considered the issue of whether the Candidate is not qualified for the office he seeks, based on his being a current alderman in Calumet City and a sitting State Representative. The basis for the disqualification is a provision in the Revised Cities and Villages Act [65 ILCS 20/21-14(b)], which generally precludes a person from holding another civil service office while serving as a current city officer. In addition, the Objector cites Article IV, Section 2(e) of the Illinois Constitution, which generally prohibits a State Representative from accepting public compensation from another unit of government while in attendance as a member of the General Assembly. According to the Objector, the Candidate has violated his Statement of Candidacy by swearing that he is qualified to hold the office of State Representative while currently holding the “incompatible” office of city alderman. The Candidate first argues that the issue is not properly before the Electoral Board, as such Board is charged only with ruling upon objections to the nominating papers, and is not empowered to look beyond said papers. He further argues that Section 7-12 of the Election Code only prohibits persons from running for, as opposed to holding incompatible offices. The Objector replied by stating that the Electoral Board has the power to review a candidate’s qualifications, and the Candidate responded by saying that the Candidate has met the Constitutional qualifications and what the Objector is pursuing is really a quo-warranto action challenging the candidate’s ability to hold the office.

In his analysis the Hearing Officer concluded that the language of Section 7-10, which requires a candidate when filling out the mandated Statement of Candidacy, to swear that he is “legally qualified...to hold such office...”, is in the present tense, so that at the time of executing the Statement, the candidate must be so qualified. Thus the issue was framed as whether the candidate is holding two offices which are incompatible, such that he is not qualified to hold the office he seeks (State Representative) and has therefore submitted a false Statement of Candidacy. The Hearing Officer noted a case cited by the Objector which among other things establishes incompatibility where a statute expressly prohibits an occupant of either of the offices in question from holding the other. Also noted was the Candidate’s reply that the Constitution exclusively sets forth the qualifications for State Representative (U.S. citizen, 18 years of age or older, and a 2 year resident in the applicable district), any other statutory provision notwithstanding. The Candidate went on to state that the Constitutional provision in question only prohibits one from receiving compensation from another governmental unit while attending legislative sessions. It does not preclude one from holding another elected office. The Hearing Officer agreed with this reading. The Candidate also challenged the applicability of Section 20/21 of the Revised Cities and Villages Act as only applying to city of Chicago officers, and in addition, only applying to civil service positions. The Candidate is not a Chicago alderman, but rather a Calumet City alderman and elected positions such as alderman are by definition not civil service positions. [65 ILCS 5/10-1-17] While the Hearing Officer opined that Section 20/21 was not limited to the City of Chicago, he believed that denying a candidate ballot access based on a possible Municipal Code violation was Draconian. He further stated that the appropriate remedy for such a violation was an action in quo warranto. In addition, the Hearing Officer notes the decision of the Appellate Court in Velazquez v. Soliz 141 Ill App 3d 1024, which held that the issue of the two offices being incompatible was not ripe for consideration, since the Constitutional and statutory provisions in question did not disqualify one from running for the two offices. The court reasoned that any compatibility of office issue would only arise if the person attempted to serve as both alderman and representative. In this case, the Candidate is currently holding both offices, and it should be noted that neither of the governmental entities have challenged the Candidate from doing so.

The Hearing Officer then noted the records examination that was conducted by the SBE. The examiners ruled on objections to 1,178 signatures; 407 objections were sustained leaving 771 valid signatures, which is 271 signatures more than the required 500 minimum number of signatures. Based on these numbers, and the statement of the Objector that he was unable to present evidence to prove his pattern of fraud and

circulator/notary objections, the Hearing Officer recommends overruling the Objector's Petition, and certifying Candidate Thaddeus Jones for the March 18 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer. I believe that while the Objector may have raised a question as to whether the Candidate can hold the office of city alderman and State Representative at the same time, this is a question to be decided in a different forum. In my view, it is not disputed that the Candidate is qualified to hold the office of State Representative, as there is no challenge to his Constitutional qualifications (age, citizenship and residence). Therefore, I don't believe the Objector has shown that the Statement of Candidacy was falsely sworn to. In addition, Article IV, Section 6(d) provides that each House of the General Assembly is charged with judging the qualifications of its Members. Any challenge to Rep. Jones holding a municipal office while serving in the General Assembly would have to originate in the respective legislative chamber. Regarding his current service as a city alderman, as noted by the Hearing Officer, the remedy for challenging a municipal officer's authority to hold his office is an action in quo warranto. Lastly, I agree with the position of the Candidate that Section 20/21[65 ILCS 20/21-14(b)] is applicable only to the City of Chicago, and therefore the prohibition contained therein is not applicable to officers serving cities other than Chicago.

**BEFORE THE STATE ELECTORAL BOARD OF THE STATE OF ILLINOIS**

JAQUELINE FRANKLIN )  
Petitioner-Objectors )  
)  
vs. ) 13SOEBG 525  
)  
THADDEUS JONES )  
Respondent- Candidate )  
)

**HEARING OFFICER'S RECOMMENDATIONS TO THE STATE ELECTORAL BOARD**

**INTRODUCTION**

Respondent-Candidate, THADDEUS JONES, has filed nominating petitions to have his name placed on the March 18, 2014 primary ballot for the office of Representative for the 29<sup>th</sup> District of the state of Illinois. The Candidate's petitions included 1178 signatures. In order to be placed on the primary ballot, the Candidate is required to submit 500 valid signatures.

Petitioner-Objector, JAQUELINE FRANKLIN, has filed objections to the Candidate's nominating petition alleging, inter alia, circulator irregularities, "pattern of fraud" and invalidity of specified signatures. Additionally, Objector alleges that the Candidate is precluded from placing his name on the March 18, 2014 primary ballot for the office of Representative for the 29<sup>th</sup> District because he currently holds that position and is also a paid alderman in Calumet City, Illinois.

The Candidate has filed a Motion to Strike wherein he posits, inter alia, that, under Section 10-10 of the Election Code, "the function of the electoral board is limited to a consideration of objections to a candidate's nominating papers" and that the Electoral Board is not empowered to look beyond the candidate's nominating papers.

The Objector has filed a Response to the Motion to Strike and a Cross Motion for Judgment on the pleadings wherein she posits, inter alia, that the Electoral Board has standing to review the Qualifications of a Candidate, including whether a Candidate's statement of candidacy is false.

The Candidate has filed a Reply wherein he contends, inter alia, that the Candidate has meet the Constitutional requirements to have his name placed on the ballot and that Objector's petition is really an action for *quo warranto* challenging a person's ability to hold public office.

A record examination found that the Candidate had submitted 1178 signatures. 407 objections to the signatures were sustained, thereby leaving the Candidate with 771 valid signatures.

The Objector did not file any Rule 9 material.

A hearing on the Motion to Dismiss was held on January 3, 2014 at the State Board of Elections office in Chicago. The Candidate was represented by Michael Kasper. The Objector was represented by Andrew Finko.

Prior to the hearing, the parties stipulated that that the Candidate is an elected Representative and an elected Alderman form Calumet City and that both positions are compensated.

## **DISCUSSION**

### **Cross Motions for Judgment on the Pleadings**

Objector's claims that a statute and constitutional provision preclude the Candidate from having his name placed on the primary ballot for the office of Representative for the 29<sup>th</sup> District. Specifically, she points to the provision of the Revised Cities and Villages Act, 65 ILCS 20/21- !4(b) which states:

(b)No member of the city council shall at the same time hold any other civil service office under the federal, state or city government, except if such member is granted a leave of absence from such civil service office, or except in the National Guard, or as a notary public, and except such honorary offices as go by appointment without compensation.

In addition to the Revised Cities and Villages Act, Objector argues that the Candidate's Nomination Papers also violate the provisions of the Illinois Constitution, Article IV, Sec. 2(e), which states as follows:

(e) No member of the General Assembly shall receive compensation as a public officer or employee from any other governmental entity for time during which he is in attendance as a member of the General Assembly.  
Relying on the aforementioned statute and constitutional provision,

Based upon the aforementioned provisions, Objector claims that the position of alderman and state representative are "incompatible", and that the Candidate has violated his sworn statement wherein he avers that he is legally qualified to hold the office of Representative for the 29<sup>th</sup> District of the state of Illinois.

The Candidate contests that the aforementioned statute and constitutional provision disqualify him from running for state representative. Rather, relying on 10 ILCS 5/7-12 of the Election Code, he argues that section 5/7-12 does not preclude him from holding, only running for, two "incompatible" offices. Additionally, the Candidate claims that under 10 ILCS 5/10-10 of the Election Code, "the function of the electoral board is limited to a consideration of objections to a candidate's nominating papers" and cannot review the qualifications of the candidate.

In addressing the Candidate's position that Section 10-10 of the Election Code limits the electoral board to "a consideration of objections to a candidate's nominating papers", it is axiomatic that, when construing the Election Code, courts employ the same basic principles of statutory construction applicable to statutes generally, including ascertaining the legislative intent of a statute. *Lucas v. Lakin*, 175 Ill. 2d 166, 171 (1997). Accordingly, the best indication of legislative intent is the language employed by the General Assembly, which must be given its plain and ordinary meaning. When statutory language is plain and unambiguous, the statute must be applied as written without

resort to aids of statutory construction. *People ex rel. Madigan v. Kinzer*, 232 Ill. 2d 179, 184-85 (2009).

Section 7-10 of the Election Code requires a candidate to include with his nomination petition a sworn statement of candidacy attesting that he or she "is qualified for the office specified." 10 ILCS 5/7-10 (West 2008). The word "is" indicates present tense, indicative mood. The legislature's use of this word evinces an intention to require candidates to meet the qualifications for the office they seek at the time they submit the statement of candidacy which must accompany their nominating papers.

The legislature's intention to require candidates to meet the qualifications for the office they seek at the time they submit the statement of candidacy which must accompany their nominating papers is further supported by the form for the statement of candidacy included by the legislature in the text of section 7-10 (10 ILCS 5/7-10 (West 2008)). The form's language calls for a candidate to swear or affirm that, among other things, "I am legally qualified (including being the holder of any license that may be an eligibility requirement for the office I seek the nomination for) to hold such office \*\*\*." 10 ILCS 5/7-10 (West 2008). See *Goodman v. Ward*, 241 Ill.2d 398, 409-410, 948 N.E.2d 580 (2011

Further, since "am" indicates present tense and because the signed statement must accompany the nominating petition when it is filed, the statute can only be understood to mean that a candidate must meet the qualifications of office at the time he or she files a nomination petition with electoral authorities. No principle of English grammar or statutory construction permits an interpretation of the law which would allow candidates to defer meeting the qualifications of office until some later time. (See *Goodman v. Ward*, 241 Ill.2d 398, 409-410, 948 N.E.2d 580 (2011). (See also *Lewis v. Dunne*, 63 Ill. 2d 48, 53 (1976) (purpose of requiring statement of candidacy to be included as part of a candidate's nominating papers is "to obtain a sworn statement from the candidate establishing his qualifications to enter the primary election for the office he seeks").

Accordingly, since statutory requirements governing statements of candidacy and oaths are mandatory, *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 219 (2008), a candidate's statement of candidacy, which does not substantially comply with the statute, is not entitled to have his or her name appear on the primary ballot. *Lawlor v. Municipal Officer Electoral Board*, 28 Ill. App. 3d 823, 829-30 (1975).

Thus, the issues to be resolved in the instant case is whether the Candidate is currently holding incompatible positions and whether holding the incompatible positions violates the Candidate's statement of candidacy requiring the Electoral Board to remove his name from the primary ballot.

While the issue of whether elective offices are "incompatible" is murky, the case of *People ex rel Myers v. Haas*, 145 Ill. App. 283, is instructive. Under *Haas*, the court found that the duties and demands of the offices of United States Senator and municipal court clerk conflicted to the extent that one person was incapable of simultaneously holding both offices. In rendering its decision, the court determined that incompatibility exists:

"...when the written law of a state specifically prohibits the occupant of either one of the offices in question from holding the other and, also, where the duties of either office are such that the holder of the office cannot in every instance, properly and fully, faithfully perform all the duties of the other office." (emphasis added) *Haas*, 145 Ill. App. at 286

Relying on *Haas*, Objector argues that the Illinois Constitution, Article IV, Sec. 2(e), precludes the petitioner from holding the positions of alderman and state representative. As noted, Illinois Constitution, Article IV, Sec. 2(e) provides as follows:

(e) No member of the General Assembly shall receive compensation as a public officer or employee from any other governmental entity for time during

which he is in attendance as a member of the General Assembly.

In his Reply, the Candidate argues that the qualifications for the office of Representative in the General Assembly are set forth in Article IV, Section 2(c) of the Illinois Constitution. Ill.Const.1970, Art. IV, § 2(c). To be eligible for the office, a person must satisfy the three following qualifications: (a) United States Citizen; (b) at least 21 years old; (c) and a resident of the district for at least two years preceding the election. *Id.*

The Candidate points out that the Objector does not claim that the Candidate fails to satisfy these eligibility criteria. Instead, the Candidate claims that the Objector perverts the clear reading of Article IV, Sec. 2(e) by placing emphasis on the prohibition on compensation in an attempt to argue that the candidate cannot serve as both a Representative and an Alderman at the same time.

The Candidate argues that "properly read, the emphasis in this provision belongs on the phrase "for time during which he is in attendance as a member of the General Assembly." *Id.* The obvious import of this phrase is to prohibit a member of the General Assembly from being compensated from another government entity while he or she is attending legislative sessions in Springfield."

Your Hearing Officer agrees with the Candidate's position that Article IV, Section 2(e) of the Illinois Constitution does not prohibit him from holding the positions of state representative and alderman. Rather, a clear reading of the sections comports with the Candidate's position that General Assembly members may not receive other compensation while they are attending legislative sessions.

Likewise, the applicability of Revised Cities and Villages Act, 65 ILCS 20/21-14(b) is challenged by the Candidate. As previously noted, that section provides:

*(b)No member of the city council shall at the same time hold any other civil service office under the federal, state or city government, except if such member is granted a leave of absence from such civil service office, or except in the National Guard, or as a notary public, and except such honorary offices as go by appointment without compensation. (emphasis added).*

The Candidate contends that the aforementioned section does not preclude him from running for position of state representative while a Calumet City alderman. He argues that “the provision, indeed the whole article, applies to the City of Chicago 65 ILCS 20/21-1 and that, the Candidate is not an officer in the City of Chicago.”

Additionally, the Candidate contends that the statute, which precludes a member of the “City Council from holding ‘any other *civil service office*’ in the federal, state or city government” 65 ILCS 20/21-14(b), does not apply to the Candidate, since elected positions are exempt from the definition of civil service 65 ILCS 511 0-1-17 (“Officers who are elected by the people ... shall not be included in such classified service ...”); see also 55 ILCS 5/3-14022. Elected positions are simply not civil service positions. As a result, even if the provision the Objector cites applied here, it would still not form a basis for concluding that he was doing anything improper.”

Initially, the Candidate’s suggestion that 65 ILCS 20/21-14(b) applies only to the City of Chicago appears to be erroneous, since 65 ILCS 20/21-1 provides that:

The city of Chicago upon the adoption of this article in the manner stated in sections 21-2 to 21-4 inclusive, in addition to all of the rights, powers, privileges, duties, and obligations conferred thereon elsewhere in this or any other Acts, shall have the rights, powers, and privileges, and shall be subject to the duties and obligations conferred in this article. The provisions in other articles of this Act shall be in full force and shall continue to apply to the city of Chicago insofar as they are not inconsistent with the provisions of this article, but the provisions of this article shall supersede all inconsistent provisions in the other articles of this Act.

Accordingly, it would appear that the Revised Cities and Villages Act is not limited to the City of Chicago, but is applicable to Calumet City as well.

In further challenging the applicability of 65 ILCS 20/21-14(b), the Candidate relies on 65 ILCS 5/10-1-1, which provides, in pertinent part, that “officers who are elected by the people, or

who are elected by the corporate authorities pursuant to the municipal charter...shall not be included in such classified service". In essence, the Candidate argues that, in order for the statute to be applicable, both elected positions must be civil service positions. Since the Candidate's aldermanic position is exempt from civil service classification, the Candidate concludes that he is not in violation 65 ILCS 20/21-14(b),.

While both the Objector and Candidate make intriguing arguments, requiring the Electoral Board to bar the Candidate from the March 18, 2014 primary ballot because the position he is running for may violate a provision of the Illinois Municipal Code is Draconian. Instead of seeking to bar the Candidate from running in the primary, your hearing officer agrees with the Candidate that the appropriate cause of action is one of *quo warranto*, wherein there is a challenge to a person's ability to hold public office not run for office.

Your hearing officer's recommendation attempts to be consistent with the reasoning set forth in *Velazquez v. Soliz* 141 Ill App3d 1024, 490 NE2d 1346 (1986), where the appellate court upheld the trial court's finding that the offices of alderman and state representative were not incompatible. In that case, the Plaintiff argued that the trial court erred in overruling their objection that the two positions were incompatible. As in this case, the objector/plaintiff asserted that "holding the offices of alderman and State Representative are incompatible under the provisions of the Cities and Villages Act (Ill. Rev. Stat. 1983, ch. 24, par. 21-14) and section 2(e) of the Illinois Constitution (Ill. Const. 1970, art. IV, sec. 2(e)). Section 21-14 of the Cities and Villages Act provides that '[n]o member of the city council shall at the same time hold any other civil service office under the federal, state or city government \* \* \*.' Article IV, section 2(e), provides that '[n]o member of the General Assembly shall receive compensation as a public

officer or employee from any other governmental entity for time during which he is in attendance as a member of the General Assembly.”

In rejecting the Plaintiff’s argument, the court noted as follows:

*Neither of the above provisions purports to disqualify a person from seeking an elective office. Any question of disqualification would arise only if Soliz attempted to serve both as alderman and as State Representative after his election to both offices. (emphasis added)*

While, unlike the candidate in *Velazquez*, the Candidate in the instant case is currently holding both positions, the *Velazquez*, court’s finding that the statutory and constitutional provisions relied on by the Objector in this case did not disqualify a person from seeking an elective office is compelling. Accordingly, as suggested in *Velazquez*, the proper remedy would be the filing of a *quo warranto* petition challenging the ability of the Candidate to hold both positions. Additionally, the Objector may seek other relief by filing a complaint with Calumet City authorities and/or seeking disciplinary action through the state representative ethics committee.

#### **Circulator irregularities and “Pattern of Fraud”**

At the hearing, Objector acknowledged that for various reasons, including the lack of cooperation of Candidate’s circulators and notaries, he would be unable to provide evidence to support his allegations of circulator irregularities and “pattern of fraud”. However, it was stipulated by the parties that the allegations set forth in Objector’s petition alleging circulator irregularities and “pattern of fraud” were brought in good faith.

#### **RECOMMENDATION**

Based upon the aforementioned reasons, it is recommended that the Objector’s petition be denied and that THADDEUS JONES have his name placed on the March 18, 2014 primary ballot for the office of Representative for the 29<sup>th</sup> District of the state of Illinois.

/s/ \_\_\_\_\_  
Philip Krasny  
Hearing Officer

dated 1/6/14

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON NOMINATION OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR ELECTION  
AT THE MARCH 18, 2014 GENERAL PRIMARY ELECTION

JACQUELINE FRANKLIN, )  
)  
Objector, )  
v. ) No. \_\_\_\_\_  
)  
THADDEUS JONES, )  
)  
Candidate. )

**ORIGINAL ON FILE AT  
STATE BD OF ELECTIONS  
ORIGINAL TIME STAMPED  
AT 4:35 PM 12-9-13**

OBJECTORS' PETITION

Parties

*BMA*

1. Objector, Jacqueline Franklin, is a duly registered and qualified voter residing at 265 E. 173<sup>rd</sup> Place, South Holland, IL 60473, in Cook County, and that his/her interest in filing the following objection is that of a citizen desirous of seeing that the laws governing the filing of nomination papers for a candidate for nomination to the office of Representative in the General Assembly for the 29<sup>th</sup> Representative District in the State of Illinois are properly complied with and that only qualified candidates have their names printed upon the ballot as candidates for said office.

2. Candidate, Thaddeus Jones, submitted nomination papers for nomination to the office of Representative in the General Assembly for the 29<sup>th</sup> Representative District in Illinois, to be voted upon at the Democratic Party general primary election to be held on March 18, 2014, including a statement of candidacy, oath, and nomination signature petitions ("Nomination Paper").

3. Thaddeus Jones currently, and simultaneously, holds the two elected offices of State Representative for the 29<sup>th</sup> District of Illinois ( <http://www.ilga.gov/house/rep.asp?MemberID=1782> ), and 3<sup>rd</sup> Ward Alderman for Calumet City, Illinois ( <http://calumetcity.org/council/thaddeus-m-jones> ). See Certified Election Results from Clerk of the Circuit Court of Cook County, attached, confirming election as Alderman of Calumet City, and Certified Results of State of Illinois Board of Elections confirming election as Representative in the General Assembly for the 29<sup>th</sup> District in Illinois, attached.

4. The office of Alderman in Calumet City, Illinois is an elected office for which compensation is paid to Candidate, Thaddeus Jones, at the rate of \$125.00 per meeting of the city council attended, Calumet City Ordinance, Sec. 2-65 (Code 1980, §2-52; Ord. No. 77-12, §§1-4, 3-17-1977). See copy of Calumet City, Ill. ordinance "Sec. 2-65. - Salary," attached.

5. In addition, Candidate, Thaddeus Jones, receives compensation, reimbursements, and other payments, as a Representative in the General Assembly, pursuant to the provisions of 25 ILCS 115/0.01, et seq., the "General Assembly Compensation Act" which equates to an annual salary, as of January 2013, of \$64,717.08 which Candidate, Thaddeus Jones, receives from the taxpayers of the State of Illinois as a Representative in the General Assembly.

Defective Statement of Candidacy – Double Dipping

6. Objector asserts that Candidate, Thaddeus Jones, is intentionally, and with full knowledge of his actions, improperly receiving (at least) two tax payer-funded salaries, and is double dipping, in violation of the

Illinois Code.

7. The office of Representative in the General Assembly and municipal Alderman are incompatible under the provisions of the Revised Cities and Villages Act, 65 ILCS 20/21-14(b) which states:

(b) No member of the city council shall at the same time hold any other civil service office under the federal, state or city government, except if such member is granted a leave of absence from such civil service office, or except in the National Guard, or as a notary public, and except such honorary offices as go by appointment without compensation. (Source: P.A. 93-847, eff. 7-30-04.)

8. Candidate, Thaddeus Jones', Nomination Papers are also in violation of the provisions of the Illinois Constitution, Article IV, Sec. 2(e), through his simultaneous receipt of compensation for two elected offices, which states as follows:

(e) No member of the General Assembly shall receive compensation as a public officer or employee from any other governmental entity for time during which he is in attendance as a member of the General Assembly.

9. By accepting and currently serving in both elected offices simultaneously, the statement of candidacy and oath filed by Candidate, Thaddeus Jones, in his Nomination Papers is further defective and perjurious, since Candidate, Thaddeus Jones, has also compromised his ability to, in every instance, properly and fully, faithfully perform all duties of both offices, as discussed in the recent decision, *People ex rel. Alvarez v. Price*, 408 Ill. App.3d 457, 948 N.E.2d 174 (2011), in which the Court stated that:

Public offices are considered incompatible when "the written law of a state specifically prohibits the occupant of either one of the offices in question from holding the other and, also, where the duties of either office are such that the holder of the office cannot in every instance, properly and fully, faithfully perform all the duties of the other office." (Internal quotation marks omitted.) *People v. Claar*, 293 Ill.App.3d 211, 215, 687 N.E.2d 557, 560 (1997) (quoting *People ex rel. Myers v. Haas*, 145 Ill.App. 283, 286 (1908)).

10. Objector asserts that Candidate, Thaddeus Jones, is not eligible to hold the office of Representative in the General Assembly for the 29<sup>th</sup> Representative District in Illinois, and is precluded from doing so by Illinois law, and therefore, his statement of candidacy and oath are false and perjurious, in violation of the Illinois Election Code, and should be stricken in their entirety.

#### Insufficient Number of Valid and Qualified Voter Signatures

11. Candidate is required to submit original petition sheets, and not photocopies, containing at least 500 signatures of duly registered Democratic Party voters of the 29<sup>th</sup> Representative District in Illinois, 10 ILCS 5/8-8, but not more than 1,500 signatures, and gathered by duly qualified circulators who personally attest under oath to the manner in which the signatures were collected, as prescribed by law.

7. Candidate submitted 90 signature petition sheets, containing approximately 1,179 purported signatures of voters of the 29<sup>th</sup> Representative District in Illinois, however, the majority of signatures submitted are not genuine signatures of duly registered voters in the 29<sup>th</sup> Representative District or otherwise not valid signatures, as shown on each of the "Objection and Appendix-Recapitulation Sheets," which are attached and incorporated in this Objector's Petition, as if fully stated herein.

8. Objector states that Candidate's signature petitions contain the purported signatures of people who did not sign the Candidate's nomination papers in their own proper persons, and that all such signatures are not genuine, as more fully set forth in the Objection and Appendix-Recapitulation Sheets, attached hereto, under the column designated "**A. Signature not genuine signature of purported voter**" and all such purported signatures being in violation of the requirements of the Election Code should be stricken and not counted.

9. Objector states that the Candidate's signature petitions contain the names of people who were not, on the date signed, duly qualified, registered, and legal voters at the addresses shown next to their names on the signature petition sheets in the 29<sup>th</sup> Representative District in Illinois, and their signatures are therefore not valid, as more fully set forth in the Objection and Appendix-Recapitulation Sheets, attached hereto, under the column designated "**B. Signer not registered at address shown within political district,**" and all such purported signatures being in violation of the requirements of the Election Code should be stricken and not counted.

10. Objector states that the Candidate's signature petitions contain the names of many people who have signed said petition but who are not, in fact, duly qualified, registered, and legal voters at addresses that are located within the boundaries of the 29<sup>th</sup> Representative District in Illinois, as shown by the addresses they have given on the signature petitions, as more fully set forth in the Objection and Appendix-Recapitulation Sheets, attached hereto, under the column designated "**C. Signer resides outside of district,**" and all such purported signatures being in violation of the requirements of the Election Code should be stricken and not counted.

11. Objector states that the Candidate's signature petitions contain various purported signatures that are legally defective and deficient in that the address shown next to said voter's name is incomplete or missing, as more fully set forth in the Objection and Appendix-Recapitulation Sheets, attached, under the column designated "**D. Signer's Address Missing or Incomplete**" and all such purported signatures being in violation of the requirements of the Election Code should be stricken and not counted.

12. Objector states that Candidate's nominating petition contains the signatures of various individuals who have signed the petition more than once, and such duplicate signatures are invalid, as more fully set forth in the Objection and Appendix-Recapitulation Sheets, attached, under the column designated "**E. Signer Signed Petition More Than Once At Sheet/Line Indicated**" and all such purported duplicate signatures being in violation of the requirements of the Election Code should be stricken and not counted.

13. Objector states that said nominating petition contains other defects and deviations from the requirements of the Illinois Election Code as more fully set forth in the Objection and Appendix-Recapitulation Sheets, attached, under the column designated "**F. Other,**" and the specific additional objections stated upon the Appendix-Recapitulation sheets, and all such purported signatures being in violation of the requirements of the Election Code should be stricken and not counted.

14. Objector further states that all signatures that do not satisfy the requirements of Illinois law should be stricken and disregarded, including all signatures on sheets where objections to circulators and/or notaries are sustained, as listed on the lower portion of the Objection and Appendix-Recapitulation Sheets, attached, including but not limited to circulator being younger than 18 years of age, where a circulator did not sign a petition sheet, a circulator does not reside at address shown, a circulator is not a U.S. Citizen, there is missing or omitted circulator addresses, circulator signature not genuine, circulator circulated for candidate of another party, purported circulator did not circulate sheet, circulator did not appear before notary, purported notary did not notarize sheet, sheet is not notarized, and/or circulator's affidavit not properly notarized.

15. Objector also asserts that all sheets circulated and/or notarized by Alesia McKinley and Cassandra Holbert demonstrate numerous errors, omissions, failures to adhere to the Illinois Notary Public Act, and on information and belief, other purported circulators did not appear before her when they signed their circulator affidavits, and such errors and omissions rise to the level of a pattern of fraud, and all such sheets that

were notarized and/or circulated by Alesia McKinley and Cassandra Holbert, as identified by the objections at the lower portion of the Objection and Appendix-Recapitulation Sheets, attached hereto, and all such purported signatures being in violation of the requirements of the Election Code should be stricken and not counted.

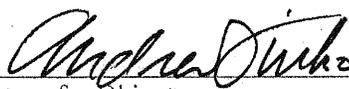
16. Objector asserts that Alesia McKinley is an employee of the State of Illinois, employed at the office of Thaddeus Jones, and on information and belief, improperly and in violation of Illinois law and the Illinois Constitution's prohibition against using public funds for private purposes, used the governmental office of Thaddeus Jones, and her *notarial jurat*, which were both paid for and purchased by the State of Illinois, to notarize petition sheets of Candidate, Thaddeus Jones, and all such signatures should be stricken and not counted.

17. Objector states that the Nomination Papers contain petition sheets purportedly circulated by individuals whose petition sheets demonstrate a pattern of fraud and disregard of the Election Code to such a degree that all signatures on every sheet purportedly circulated by said individuals are invalid, and should be invalidated, in order to protect the integrity of the electoral process, in accordance with the principles set forth in the decisions of *Canter v. Cook County Officers Electoral Board*, 170 Ill.App.3d 364, 523 N.E.2d 1299 (1<sup>st</sup> Dist. 1988); *Huskey v. Municipal Officers Electoral Bd. for Village of Oak Lawn*, 156 Ill.App.3d 201, 509 N.E.2d 555 (1<sup>st</sup> Dist., 1987) and *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1<sup>st</sup> Dist. 1984).

18. Objector states that Candidate's nomination papers contain fewer than 500 valid, duly qualified and legal signatures of Democratic Party voters from the 29<sup>th</sup> Representative District in Illinois signed in their own proper person with proper addresses, which is fewer than the minimum number of signatures required by Illinois law, as set forth in the Objector's Petition, including the Appendix-Recapitulation that is attached and made a part of the Objector's Petition.

WHEREFORE, Objector respectfully requests (a) a hearing on the objections set forth herein, (b) an examination by the duly constituted Electoral Board of the of the official records of the voters of the State of Illinois, (c) a determination that the nomination papers of Candidate as the Democratic Party's candidate for Representative in the General Assembly from the 29<sup>th</sup> District in Illinois do not contain a sufficient number of valid signatures and are insufficient in fact and law, and be stricken, and (d) a decision declaring that the name of Candidate, Thaddeus Jones, **NOT BE PRINTED** on the Democratic Party primary ballot for the election to held on March 18, 2014.

Respectfully submitted:

By:   
Attorney for Objector

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Attorney at Law  
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Tel (773) 480-0616  
Fax (773) 453-3266

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON NOMINATION OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR ELECTION  
AT THE MARCH 18, 2014 GENERAL PRIMARY ELECTION

JACQUELINE FRANKLIN,	)	
	)	
Petitioner-Objector,	)	
	)	
v.	)	13 SOEB GP 525
	)	
THADDEUS JONES,	)	
	)	
Respondent-Candidate.	)	
	)	

MOTION TO STRIKE

NOW COMES Respondent-Candidate and moves to strike and dismiss paragraphs 6-10, and 16 in Objector’s petition and, in support thereof, states as follows:

A. Paragraphs 6-10, and 16 of the Objector’s Petition Should be Stricken.

1. Paragraph 6 of the Objector’s Petition alleges that Candidate, Thaddeus Jones is “double-dipping” in violation of the Illinois Election Code.
2. The Electoral Board has only the powers set forth in Section 10-10 of the Code, which are limited to determining the sufficiency of candidate nominating petitions.
3. The Electoral Board is created by statute and therefore limited to those powers granted by its enabling legislation. *Kozel v. State Board of Elections*, 126 Ill.2d 58 (1998); *Wiseman v. Elward*, 5 Ill.App.3d 249, 283 N.E.2d 282 (1st Dist. 1972). “Under section 10-10 of the Election Code, the function of an electoral board is limited to a consideration of objections to a candidate’s nomination papers.” *Kozel*, 126 Ill.2d at 68.

4. Further, the Electoral Board's powers are clearly enunciated in Section 10-10 of the Election Code, which provides:

The electoral board shall take up the question as to whether or not the certificate of nomination or nomination papers or petitions are in proper form, and whether or not they were filed within the time and under the conditions required by law, and whether or not they are the genuine certificate of nomination or nomination papers or petitions which they purport to be, and whether or not in the case of the certificate of nomination in question it represents accurately the decision of the caucus or convention issuing it, and in general shall decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained and the decision of a majority of the electoral board shall be final subject to judicial review as provided in Section 10-10.1.

5. Accordingly, Paragraph 6 should be stricken and any signature challenged solely on that basis should be declared valid.

6. Paragraph 7 of the Objector's Petition alleges that Candidate, Thaddeus Jones cannot serve as both a Representative in the General Assembly and municipal Alderman pursuant to the Revised Cities and Villages Act, 65 ILCS 20/21-14(b). While Section 7-12 of the Election Code provides a person cannot *run* for two incompatible offices at the same election (10 ILCS 5/7-12), the Objector's Petition makes no such allegation. Instead, the Objector's Petition alleges that the Candidate may not *hold* both offices at the same time.

7. The Electoral Board has only the powers set forth in Section 10-10 of the Code, which are limited to determining the sufficiency of candidate nominating petitions.

8. The Electoral Board is created by statute and therefore limited to those powers granted by its enabling legislation. *Kozel v. State Board of Elections*, 126 Ill.2d 58 (1998); *Wiseman v. Elward*, 5 Ill.App.3d 249, 283 N.E.2d 282 (1st Dist. 1972). "Under section 10-10 of the Election Code, the function of an electoral board is limited to a consideration of objections to a candidate's nomination papers." *Kozel*, 126 Ill.2d at 68.7.

9. Further, the Electoral Board's powers are clearly enunciated in Section 10-10 of the Election Code, which provides:

The electoral board shall take up the question as to whether or not the certificate of nomination or nomination papers or petitions are in proper form, and whether or not they were filed within the time and under the conditions required by law, and whether or not they are the genuine certificate of nomination or nomination papers or petitions which they purport to be, and whether or not in the case of the certificate of nomination in question it represents accurately the decision of the caucus or convention issuing it, and in general shall decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained and the decision of a majority of the electoral board shall be final subject to judicial review as provided in Section 10-10.1.

10. Accordingly, Paragraph 7 should be stricken and any signature challenged solely on that basis should be declared valid.

11. Paragraph 8 of the Objector's Petition alleges that Candidate, Thaddeus Jones is in violation of the Illinois Constitution, Article IV, Sec. 2(e) through his simultaneous receipt of compensation for two elected offices.

12. The Electoral Board has only the powers set forth in Section 10-10 of the Code, which are limited to determining the sufficiency of candidate nominating petitions, not constitutional questions of law.

13. The Electoral Board is created by statute and therefore limited to those powers granted by its enabling legislation. *Kozel v. State Board of Elections*, 126 Ill.2d 58 (1998); *Wiseman v. Elward*, 5 Ill.App.3d 249, 283 N.E.2d 282 (1st Dist. 1972). "Under section 10-10 of the Election Code, the function of an electoral board is limited to a consideration of objections to a candidate's nomination papers." *Kozel*, 126 Ill.2d at 68.11.

14. Further, the Electoral Board's powers are clearly enunciated in Section 10-10 of the Election Code, which provides:

The electoral board shall take up the question as to whether or not the certificate of nomination or nomination papers or petitions are in proper form, and whether or not they were filed within the time and under the conditions required by law, and whether or not they are the genuine certificate of nomination or nomination papers or petitions which they purport to be, and whether or not in the case of the certificate of nomination in question it represents accurately the decision of the caucus or convention issuing it, and in general shall decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained and the decision of a majority of the electoral board shall be final subject to judicial review as provided in Section 10-10.1.

15. Accordingly, Paragraph 8 should be stricken and any signature challenged solely on that basis should be declared valid.

16. Paragraph 9 of the Objector's Petition alleges that Candidate, Thaddeus Jones is unable to "properly and fully, faithfully perform all duties of both offices" due to oath incompatibilities.

17. The Electoral Board has only the powers set forth in Section 10-10 of the Code, which are limited to determining the sufficiency of candidate nominating petitions.

18. The Electoral Board is created by statute and therefore limited to those powers granted by its enabling legislation. *Kozel v. State Board of Elections*, 126 Ill.2d 58 (1998); *Wiseman v. Elward*, 5 Ill.App.3d 249, 283 N.E.2d 282 (1st Dist. 1972). "Under section 10-10 of the Election Code, the function of an electoral board is limited to a consideration of objections to a candidate's nomination papers." *Kozel*, 126 Ill.2d at 68.15.

19. Further, the Electoral Board's powers are clearly enunciated in Section 10-10 of the Election Code, which provides:

The electoral board shall take up the question as to whether or not the certificate of nomination or nomination papers or petitions are in proper form, and whether or not they were filed within the time and under the conditions required by law, and whether or not they are the genuine certificate of nomination or nomination papers or petitions which they purport to be, and whether or not in the case of the certificate of nomination in question it represents accurately the decision of the caucus or convention

issuing it, and in general shall decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained and the decision of a majority of the electoral board shall be final subject to judicial review as provided in Section 10-10.1.

20. Accordingly, Paragraph 9 should be stricken and any signature challenged solely on that basis should be declared valid.

21. Paragraph 10 of the Objector's Petition alleges that Candidate, Thaddeus Jones is not eligible to hold office as a matter of belief and opinion not related to the Candidate's nominating petitions.

22. The Electoral Board has only the powers set forth in Section 10-10 of the Code, which are limited to determining the sufficiency of candidate nominating petitions.

23. The Electoral Board is created by statute and therefore limited to those powers granted by its enabling legislation. *Kozel v. State Board of Elections*, 126 Ill.2d 58 (1998); *Wiseman v. Elward*, 5 Ill.App.3d 249, 283 N.E.2d 282 (1st Dist. 1972). "Under section 10-10 of the Election Code, the function of an electoral board is limited to a consideration of objections to a candidate's nomination papers." *Kozel*, 126 Ill.2d at 68.19.

24. Further, the Electoral Board's powers are clearly enunciated in Section 10-10 of the Election Code, which provides:

The electoral board shall take up the question as to whether or not the certificate of nomination or nomination papers or petitions are in proper form, and whether or not they were filed within the time and under the conditions required by law, and whether or not they are the genuine certificate of nomination or nomination papers or petitions which they purport to be, and whether or not in the case of the certificate of nomination in question it represents accurately the decision of the caucus or convention issuing it, and in general shall decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained and the decision of a majority of the electoral board shall be final subject to judicial review as provided in Section 10-10.1.

25. Accordingly, Paragraph 10 should be stricken and any signature challenged solely on that basis should be declared valid.

26. Paragraph 16 of the Objector's Petition alleges that Candidate, Thaddeus Jones' petitions were notarized using government resources in violation of criminal statute.

27. Objector basically seeks to have the Electoral Board enforce a criminal statute that clearly goes beyond the scope and powers of the Electoral Board. Moreover, Objector did not seek to have any criminal statute enforced against those alleged to have violated it; rather the Objector seeks to have the statute enforced against the Candidate, against whom he made no accusations. The only relief Objector has sought is dismissal of the Candidate's Petition, which would have penalized only the Candidate by denying him his right, under Section 10-10 of the Code.

28. Objector makes unsubstantiated allegations that certain people have violated a criminal statute that has no relation to the powers of the Board.

29. The Electoral Board has only the powers set forth in Section 10-10 of the Code, which are limited to determining the sufficiency of candidate nominating petitions.

30. The Electoral Board is created by statute and therefore limited to those powers granted by its enabling legislation. *Kozel v. State Board of Elections*, 126 Ill.2d 58 (1998); *Wiseman v. Elward*, 5 Ill.App.3d 249, 283 N.E.2d 282 (1st Dist. 1972). "Under section 10-10 of the Election Code, the function of an electoral board is limited to a consideration of objections to a candidate's nomination papers." *Kozel*, 126 Ill.2d at 68.

31. Further, the Electoral Board's powers are clearly enunciated in Section 10-10 of the Election Code, which provides:

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33. The Electoral Board's authority to do anything must either "arise from the express language of the statute" or " 'devolve by fair implication and intendment from the express provisions of the [statute] as an incident to achieving the objectives for which the [agency] was created.'" *Vaughniaux v. Department of Professional Regulation*, 208 Ill.2d 173, 188, quoting *Schalz v. McHenry County Sheriff's Department Merit Comm'n*, 113 Ill.2d 198, 202-03.

34. Inquiry into allegations of improper use of government resources in the nomination process is beyond the scope of the electoral board's authority. *Nader v. Illinois State Board of Elections*, 354 Ill.App. 3d 335, 344. In *Nader*, the Candidate alleged that State employees, working on State time, compiled the objections to the Candidate's petitions. The Appellate Court ruled that such an inquiry was beyond the electoral board's authority:

The Electoral Board, however, is no more required or empowered to conduct an investigation into how the Objector's petition was compiled than it is to do so into the methods employed by the Candidates in obtaining signatures in their petition. Rather, the Electoral Board can determine only whether the Candidates' nomination petition complies with the requirements of the Election Code. *Id.*

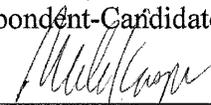
Objector asks the Board to make exactly the same type of inquiry that the Court precluded in *Nader*.

35. The Electoral Board's inquiry is limited to the validity of the objections that the Board is statutorily obliged to investigate; whether those objections were compiled by State employees in violation of the Election Code is not within this Board's statutorily limited scope. *Id.* at 345.

36. Accordingly, Paragraph 16 should be stricken and any signature challenged solely on that basis should be declared valid.

WHEREFORE, Respondent-Candidate respectfully requests that the Motion to Strike paragraphs 6-10, and 16 of Objector's petition be granted.

Respectfully submitted,  
Respondent-Candidate

By:  \_\_\_\_\_

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BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON NOMINATION OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR ELECTION  
AT THE MARCH 18, 2014 GENERAL PRIMARY ELECTION

JACQUELINE FRANKLIN,	)	
	)	
Objector,	)	
v.	)	No. 2013 – SOEB – GP525
	)	
THADDEUS JONES,	)	
	)	
Candidate.	)	

**RESPONSE TO MOTION TO STRIKE and  
CROSS-MOTION FOR JUDGMENT AS A MATTER OF LAW**

Now comes the objector, Jacqueline Franklin, through counsel, and files her response to Candidate's motion to strike, and requests that said motion be denied, and that the Objector's Petition be granted as a matter of law, as there are no questions of fact, and a decision that the name of Candidate, Thaddeus Jones, not be printed upon the March 18, 2014 primary election ballot, for the following reasons.

**A. Electoral Board has Standing to Review Qualifications of Candidate.**

Candidate's only argument on the motion to strike is one directed at the Electoral Board's standing, or statutory authority, to review the eligibility, or legal qualifications, of Candidate for the elected office, and Objector repeats the same paragraph, verbatim, in his motion to strike at paragraphs 3, 8, 13, 18, 23 and 30.

Candidate offers no other affirmative defenses that negate the allegations in the Objector's petition, nor does Candidate dispute that (a) he was first elected as a member of the General Assembly from the 29<sup>th</sup> Representative District in 2011, and then elected as Alderman for Calumet City, Illinois on April 9, 2013; (b) he is simultaneously holding and exercising his elected authority as both an Alderman and member of the General Assembly, simultaneously; and (c) he is being compensated by taxpayers directly through a salary (and collecting time towards a taxpayer-funded



candidacy and oath. See *Geer v. Kadera*, 173 Ill.2d 398, 671 N.E.2d 692 (1996).

The statement of candidacy has been reviewed by electoral boards (see summary of Chicago Electoral Board decisions, attached as Exhibit 2), as well as courts of review, to determine whether a candidate has falsely sworn that he/she was “legally qualified” when in fact, such statement was false and perjurious. For example, the eligibility for office based upon the municipal Code, read *in pari materia* with the Election Code was the subject of the Supreme Court's holdings in *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200, 209, 886 N.E.2d 1011 (2008), *Hossfeld v. Illinois State Bd. of Elections*, 238 Ill.2d 418, 939 NE 2d 368 (2010), and *Jackson v. Board of Election Commissioners*, 2012 IL 111928 (2012).

Electoral Boards are also empowered to review compliance with the Municipal Code, that prohibits a person with a felony from seeking nomination to municipal office. See e.g., *Bryant v. Board of Election Commissioners*, 224 Ill.2d 473, 865 N.E.2d 189 (2007) and *Delgado v. Board of Election Commissioners*, 224 Ill.2d 481, 865 N.E.2d 183 (2007).

Electoral Boards have also considered qualifications in the context of a duly registered voter within the district for which election is sought, and for certain offices, the duration of residency within the district for a period of time prior to election. For example, see *Maksym v. Bd. of Election Com'rs*, 242 Ill.2d 303, 950 NE 2d 1051 (2011) (electoral board reviewed the residency requirement in section 3.1-10-5(a) of the Municipal Code, 65 ILCS 5/3.1-10-5(a) (West 2008) encompassed within the candidate's oath in his statement of candidacy).

The City of Chicago Board of Election Commissioners, convened as an electoral board reviewing objections to nomination papers, has held that the failure to be a resident of the district (though not expressly stated in the statement of candidacy), would preclude a candidate from being certified to the ballot. For example, the following are excerpted summaries of Chicago Electoral Board decisions finding that a statement of candidacy was false and perjurious, where a candidate did not reside in the district for a sufficient length of time.

In many prior cases where a candidate's oath in the statement of candidacy was false, when

considered in light of the Illinois Constitution, or other provisions of the Illinois Code, read *in pari materia* with the Election Code, electoral boards have had the authority to remove a candidate's name from the ballot – and did so based upon a false oath in the statement of candidacy.

In addition, where a candidate has filed for two incompatible offices, simultaneously, and failed to timely withdraw one set of nomination papers, the electoral board is empowered to not print such a candidate's name upon the ballot for either office. See e.g., 10 ILCS 5/8-9, which provides in pertinent part as follows:

If petitions for nomination have been filed for the same person for 2 or more offices which are incompatible so that the same person could not serve in more than one of such offices if elected, that person must withdraw as a candidate for all but one of such offices within the 5 business days following the last day for petition filing. If he fails to withdraw as a candidate for all but one of such offices within such time, ***his name shall not be certified, nor printed*** on the ***primary*** ballot, for any office. (*Emphasis added.*)

Although Candidate, Jones, has not simultaneously filed two sets of nomination papers for the March 18, 2014, primary election, Section 8-9 of the Election Code is referenced for purposes of showing the legislative intent of prohibiting double-dippers in elected office. There are many qualified voters who have the time and motivation to devote their full and undivided attention to elected office, rather than part-timing two or more elected offices.

Factually, a similar situation has arisen – the situation that is expressly prohibited by 10 ILCS 5/8-9 – through Candidate, Jones', willful and intentional exercise of authority (and receipt of compensation) for both elected offices, simultaneously, rather than devoting his full time attention to his last-elected office of Alderman, or resigning as member of the General Assembly.

Finally, the Court's decision in *Velasquez* is dispositive of the Candidate's motion to strike, where an electoral board reviewed and made a decision on an objector's petition asserting incompatibility of offices, which was then reviewed by the circuit court and appellate court. Had there been no authority for such a challenge, the objector's petition would have been summarily dismissed at any of the three stages. See *Velasquez v. Soliz*, 141 Ill. App.3d 1024, 1031, 490 N.E.2d 1346 (1986).

**B. Candidate Jones is Improperly and Without Authority a Member of the General Assembly.**

There are numerous decisions which discuss incompatibility of office, and the factors considered by courts of review.

It is undisputed that the Illinois Constitution applies to Candidate, Jones, as an elected member fo the General Assembly, which provides as follows:

**No member of the General Assembly shall receive compensation as a public officer** or employee from any other governmental entity for time during which he is in attendance as a member of the General Assembly.

Ill. Const. Art., 4 §2(e).

It is also undisputed that the provisions of the Revised Cities and Villages Act, 65 ILCS 20/21-14(b) are applicable to Candidate, Jones, as an elected Alderman, excerpted in pertinent part as follows:

**(b) No member of the city council shall at the same time hold any other civil service office** under the federal, state or city government, except if such member is granted a leave of absence from such civil service office, or except in the National Guard, or as a notary public, and except such honorary offices as go by appointment without compensation. (*Source: P.A. 93-847, eff. 7-30-04.*)

As such, since Candidate, Jones, has been, at all relevant times, fulfilling his duties and receiving compensation for his services as an Alderman in Calumet City, he is not “legally qualified” to hold the office of member of the General Assembly, nor is he “legally qualified” to be elected to such offices. In addition, the Objector has also asserted that the two offices are incompatible under the common law, making the Candidate's statement of candidacy that is being reviewed by this Electoral Board not truthful and not accurate.

In a similar, though not precisely identical situation, the *Velazquez v. Soliz* decision reviewed an election contest petition, seeking to strike the nomination papers filed by a candidate for Alderman, after he was elected as a State Representative in a prior election. The Appellate Court offered the following analysis:

Each of the three sections of the Election Code reads, in part, as follows:

"If petitions for nomination have been filed for the same person for 2 or more offices which are incompatible so that the same person could not serve in more than one of such offices if elected, that person must withdraw as a candidate for all but one of such offices within the 5 days following the last day for petition filing." Ill.Rev.Stat. 1983, ch. 46, pars. 7-12(9), 8-9(3), 10-7.

There is a difference in the sanction portion of the three sections. As to the sanction for failing to withdraw, sections 7-12(9) and 8-9(3) read, in part, as follows:

"If he fails to withdraw as a candidate for all but one of such offices within such time his name shall not be certified, nor printed on the primary ballot, for any office." (Emphasis added.) Ill. Rev. Stat. 1983, ch. 46, pars. 7-12(9), 8-9(3).

On the other hand, section 10-7 reads, as to the result of failure to withdraw: "If he fails to withdraw as a candidate for all but one of such offices within such time, his name shall not be certified, nor printed on the ballot, for any office." Ill. Rev. Stat. 1983, ch. 46, par. 10-7.

*Velazquez v. Soliz*, 141 Ill. App.3d 1024, 1031, 490 N.E.2d 1346 (1986).

Although the *Velazquez* court found that there was no incompatibility as a candidate who filed his nomination papers seeking election in a "non-partisan" special aldermanic election, *after* he was certified to the ballot for nomination in a primary election as a State Representative. *Velazquez v. Soliz*, 141 Ill. App.3d 1024, 1027, 490 N.E.2d 1346 (1986). As such, since the candidate in *Velazquez* had not yet been elected to either office, it's holding is legally and factually distinguishable. The holding in *Velazquez* is also based in large part upon the "non-partisan" nature of the election, as well as Section 10-5 of the Election Code, which omits the word "primary" that is found Sections 8-9 and 7-10 – the *Velazquez* court offered the additional guidance, which distinguishes its holding from the present situation, and support entry of judgment as a matter of law on Objector's petition.

Factually, the matter before this electoral board is also distinct from the fact pattern that was reviewed by the court in *Velazquez*, since the candidate there was not yet elected as an Alderman, but offered an affidavit that he would resign his State Representative position, if elected.

At all relevant times, Candidate, Jones, has been exercising his authority as an Alderman in Calumet City, while also simultaneously exercising his authority as an elected State Representative. The relevant time for review – as with indebtedness, felony conviction, and otherwise – is at the time

that the statement of candidacy was filed with the election authority. See e.g. *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200, 886 N.E.2d 1011 (2008).

At the time that Candidate, Jones, was duly sworn under oath, and signed his statement of candidacy and oath required under 10 ILCS 5/8-8, and on the November 25, 2013, when Candidate, Jones, filed his statement of candidacy and oath with the State Board of Elections he was fulfilling the duties of both Alderman of Calumet City and State Representative for the 29<sup>th</sup> Representative District, with no intention of withdrawing, or resigning, from either elected office.

The *Velazquez* court, analyzing the same two provisions of Illinois law that were raised by the Objector, offered the following guidance for a similar hypothetical situation, that *would* result in the disqualification from office – i.e., Candidate's failure to be “legally qualified” to hold office – excerpted as follows:

Section 21-14 of the Cities and Villages Act provides that “[n]o member of the city council shall at the same time hold any other civil service office under the federal, state or city government \* \* \*.” Article IV, section 2(e), provides that “[n]o member of the General Assembly shall receive compensation as a public officer or employee from any other governmental entity for time during which he is in attendance as a member of the General Assembly.”

Neither of the above provisions purports to disqualify a person from seeking an elective office. **Any question of disqualification would arise only if Soliz attempted to serve both as alderman and as State Representative after his election to both offices.** We base this conclusion on *People ex rel. Myers v. Haas* (1908), 145 Ill. App. 283, which involved a situation where a State Senator was later elected to the office of clerk of the municipal court. There, the court found the two offices incompatible because State law specifically prohibited the occupant of one office from holding the other and because the duties of the one office would interfere with those of the other. In determining that the official could not hold both elected positions, the court held that by the senator's acceptance of the office of clerk, he voluntarily resigned his senatorship office.

*Velazquez v. Soliz*, 141 Ill. App.3d 1024, 1032, 490 N.E.2d 1346 (1986).

**C. Candidate, Jones, Improperly Holding Two Elected Offices.**

In general, various prior courts have held that as a matter of law, when a candidate is elected for a second, incompatible office, the first office is, *ipso facto*, vacated. For example, in *People ex rel. Myers v. Haas*, 145 Ill. App. 283, a State senator was later elected clerk of the municipal court of

Chicago. The court found that the two offices were incompatible under section 3 of article IV and held that acceptance of the office of clerk was an *ipso facto* resignation of the office of senator. Similarly, in *People ex rel. Cromer v. Village of Maywood*, 381 Ill. 337, cert. den. 218 U.S. 783, this court again held that acceptance of a second incompatible office automatically vacates the first office and described the constitutional prohibition against simultaneously holding incompatible offices as self-executing. See also, *Livingston v. Ogilvie*, 43 Ill.2d 9, 250 N.E.2d 138 (1969).

For over a century, Illinois has recognized incompatibility, and disqualification from elected office. The court in *Haas* stated:

. Incompatibility, in this connection, is present when the written law of a state specifically prohibits the occupant of either one of the offices in question from holding the other and, also, where the duties of either office are such that the holder of the office cannot in every instance, properly and fully, faithfully perform all the duties of the other office. This incompatibility may arise from multiplicity of business in the one office or the other, considerations of public policy or otherwise.

*People ex rel. Myers v. Haas*, 145 Ill. App. 283, 286 (1908).

As such, Candidate, Jones, is improperly but voluntarily seeking to fulfill the duties of State Representative for the 29<sup>th</sup> Representative District, without authority in law, and in flagrant disregard for the election laws of the State of Illinois. Candidate, Jones, has stipulated that he concurrently, and simultaneously holds both elected offices – facts which are a matter of public record.

Although most candidates would have respected the Election Code, and withdrawn from one or both elected offices, Candidate, Jones, did not do so, but rather, fell within the hypothetical situation discussed in *Velazquez* – the squatter who refused to voluntarily vacate one office, but rather insisted on attempting to serve both as Alderman and State Representative after his election to both offices. *Velazquez v. Soliz*, 141 Ill. App.3d 1024, 1032, 490 N.E.2d 1346 (1986).

As such, Candidate, Jones, having the benefit of attorneys who are on the payroll of the General Assembly, as well as Calumet City's attorney, disqualified himself from seeking election as a State Representative. Candidate, Jones, is not “legally qualified” to hold the office of State Representative, since on November 25, 2013, he was exercising the authority, and being

compensated, for two elected, and incompatible offices.

**D. Incompatibility Under the Common Law.**

There are numerous decisions that have reviewed the compatibility of two offices under the common law, that have a common question of law – regardless if brought as a quo warranto action, declaratory judgment, or an election contest – all seek a determination of the “legal qualifications” of an office holder to seek and/or maintain the elected office.

By accepting and concurrently serving in both elected offices, the statement of candidacy and oath filed by Candidate, Thaddeus Jones, in his nomination papers (Board Exhibit A) is defective and perjurious under the common law. That is, Candidate, Thaddeus Jones, has compromised his ability to, in every instance, properly and fully, faithfully perform all duties of both offices, as discussed in *People ex rel. Alvarez v. Price*, 408 Ill. App.3d 457, 948 N.E.2d 174 (2011), in which the Court stated that:

Public offices are considered incompatible when "the written law of a state specifically prohibits the occupant of either one of the offices in question from holding the other and, also, where the duties of either office are such that the holder of the office cannot in every instance, properly and fully, faithfully perform all the duties of the other office." (Internal quotation marks omitted.) *People v. Claar*, 293 Ill.App.3d 211, 215, 687 N.E.2d 557, 560 (1997) (quoting *People ex rel. Myers v. Haas*, 145 Ill.App. 283, 286 (1908)).

Two public offices are incompatible under the common law when the "written law of a state specifically prohibits the occupant of either one of the offices in question from holding the other and, also, where the duties of either office are such that the holder of the office cannot in every instance, properly and fully, faithfully perform all the duties of the other office." *People v. Claar*, 293 Ill.App.3d 211, 215, 687 N.E.2d 557 (1997), quoting *Myers v. Haas*, 145 Ill.App. 283, 286 (1908).

The incompatibility doctrine has been further explained as follows:

“Incompatibility of offices exists where there is a conflict in the duties of the offices, so that the performance of the duties of the one interferes with the performance of the duties of the other. They are generally considered incompatible where such duties and functions are inherently inconsistent and repugnant, so that because of the contrariety and antagonism which would result from the attempt of one person to discharge faithfully, impartially, and efficiently the duties of both offices, considerations of public policy render it

improper for an incumbent to retain both.

At common law, it is not an essential element of incompatibility of offices that the clash of duty should exist in all or in the greater part of the official functions. If one office is superior to the other in some of its principal or important duties, so that the exercise of such duties may conflict, to the public detriment, with the exercise of other important duties in the subordinate office, then the offices are incompatible.” *Rogers v. Village of Tinley Park*, 116 Ill.App.3d 437, 441, 451 N.E.2d 1324 (1983), quoting 63 Am.Jur.2d Public Officers and Employees §73 (1972).

Whether two offices are incompatible must be determined on a case-by-case basis. *People ex rel. Fitzsimmons v. Swailes*, 101 Ill.2d 458, 469, 463 N.E.2d 431 (1984).

*People ex rel. Barsanti v. Scarpelli*, 371 Ill.App.3d 226, 233, 862 N.E.2d 245, 251-52 (2007). See also, *People v. Claar*, 293 Ill. App.3d 211, 87 N.E.2d 557 (1997).

The court in *People v. Price* also revised the prior standard for incompatibility, so that “instead of examining whether there has been an actual conflict in the two offices in which a person is serving, Illinois courts look to whether there will eventually be a conflict,” based upon the Illinois Supreme Court's holding in *People ex rel. Fitzsimmons v. Swailes*, 101 Ill.2d 458, 469, 463 N.E.2d 431, 436 (1984). *People ex rel. Alvarez v. Price*, 408 Ill. App.3d 457, 948 N.E.2d 174 (2011), citing *People ex rel. Barsanti v. Scarpelli*, 371 Ill.App.3d 226, 233, 862 N.E.2d 245, 251-52 (2007) (and cases cited therein). See also, *People ex rel. Smith v. Brown*, 356 Ill. App.3d 1096, 828 N.E.2d 306 (2005) (incompatibility between two offices, where units of government may enter into agreements with each other).

The simultaneous undertaking of the duties of Alderman of Calumet City (see latest Calumet City minutes approved/posted, Exhibit 3), located within the 29<sup>th</sup> Representative District, and State Representative for the 29<sup>th</sup> Representative District (see Exh. 5, Bills sponsored, 5A committees, 5C General Assembly info), creates a conflict of interest that prevents Candidate, Jones, from “in every instance, properly and fully, faithfully perform all the duties of the other office.” Public funding comes from the State of Illinois to Calumet City, as well as other municipalities, including but not limited to State funds for roads, schools (see revenue, Exhibit 4, from <http://iirc.niu.edu>, and School

Code, 105 ILCS 5/1-1, et seq.), redevelopment initiatives, Illinois Municipal Retirement Fund (40 ILCS 5/7-101, et seq.), et al. Candidate, Jones, has a conflict of interest in voting upon, disbursing public funds, and serving all residents of the 29<sup>th</sup> Representative District, versus his self-retained duties of zealously fighting for funds and serving his constituents and businesses in the 3<sup>rd</sup> Ward of Calumet City.

WHEREFORE, Objector, Jacqueline Franklin, through her attorney, Andrew Finko P.C., requests that the motion to strike filed by Candidate, Thaddeus Jones, be denied, and that Objector's cross-motion for judgment be entered, and that her Objector's petition be granted as a matter of law, and that a decision be issued recommending that the name of Thaddeus Jones, NOT be printed upon the March 18, 2014, primary election ballot.

\_\_\_\_\_/s/\_\_\_\_\_  
Andrew Finko

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#### **Notice of Filing and Certificate of Service**

The undersigned, an attorney, certifies that he filed with the State Officer's Electoral Board, and served all counsel of record, the foregoing Response to Motion to Strike and Cross-Motion for Judgment, on December 27, 2013 at or prior to 5:00 pm, via email to the following email recipients/email addresses:

Hearing Officer, Philip Krasny  
State Officer's Electoral Board, c/o Steve Sandvoss  
State Board of Elections, c/o Bernadette Harrington  
Candidate's Attorney, Michale Kasper

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mjkasper60@mac.com

\_\_\_\_\_/s/\_\_\_\_\_  
Andrew Finko

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON NOMINATION OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR ELECTION  
AT THE MARCH 18, 2014 GENERAL PRIMARY ELECTION

JACQUELINE FRANKLIN,	)	
	)	
Petitioner-Objector,	)	
	)	
v.	)	13 SOEB GP 525
	)	
THADDEUS JONES,	)	
	)	
Respondent-Candidate.	)	
	)	

CANDIDATE’S RESPONSE TO OBJECTOR’S CROSS  
MOTION AND REPLY REGARDING MOTION TO STRIKE

NOW COMES Respondent-Candidate and for his response to Objector’s Cross Motion for Judgment as a Matter of Law and in reply regarding the Motion to Strike and dismiss paragraphs 6-10, and 16 in Objector’s petition and, in support thereof, states as follows:

- A. The Candidate’s Statement of Candidacy is Valid Because the Candidate is Qualified for the Office.

The Objector’s Petition is really an action in *quo warranto* pretending to challenge the sufficiency of the Candidate’s nominating petitions. A *quo warranto* proceeding challenges a person’s ability to hold public office. In this case, that is exactly what the Objector is doing. The gist of the Objector’s Petition is the Objector’s incorrect assertion that the Candidate is legally prohibited from holding both the office of Representative in the General Assembly and municipal alderman from Calumet City at the same time. The Electoral Board, of course, has no authority to adjudicate a *quo warranto* complaint as that is the exclusive jurisdiction of the Circuit Court. 735 ILCS

5/18-102 (“The proceeding shall be brought in the name of the people of the State of Illinois ... when leave has been granted by the circuit court.”). The electoral board’s authority, on the other hand, “is limited to a consideration of objections to a candidate’s nomination papers.” *Kozel v. State Board of Elections*, 126 Ill.2d 58, 68 (1998); *see also Wiseman v. Elward*, 5 Ill.App.3d 249 (1st Dist. 1972).

In an attempt to circumvent this obvious defect in his Objector’s Petition, the Objector makes two faulty arguments. First, Objector falsely and unconstitutionally asserts that compatibility of offices is somehow a “qualification” subject to the Electoral Board’s jurisdiction. Second, Objector points to a provision in Section 8-9 (10 ILCCS 5/8-9) concerning an instance where a candidate files nomination papers for two incompatible offices in the same election, an instance that she admits is not present here.

1. The Objector’s Petition Improperly Seeks to Add an Additional Qualification for this Office.

The qualifications for the office of Representative in the General Assembly are set forth in Article IV, Section 2(c) of the Illinois Constitution. Ill.Const.1970, Art. IV, § 2(c). To be eligible for the office, a person must satisfy the three following qualifications: (a) United States Citizen; (b) at least 21 years old; (c) and a resident of the district for at least two years preceding the election. *Id.* These are the only three qualifications for the office. The Objector does not claim that the Candidate fails to satisfy these eligibility criteria. Instead, Objector claims that in addition to these three constitutional qualifications, there is an additional fourth qualification, namely that a candidate not hold an additional incompatible office.

Objector’s contention that the phrase “I am legally qualified to hold such office” as it appears in the Statement of Candidacy, contains assertions beyond the qualifications

set forth in the Constitution is not only completely without precedent, but any such interpretation of Illinois law would be patently unconstitutional. The Candidate mentions the Constitution not to ask the Board to declare a statute unconstitutional, but instead to demonstrate that the Objector's suggested interpretation of Section 8-8 should be rejected because, if it were adopted, it would conflict with well settled constitutional principles.

Article IV, Section 2(c), the "Qualifications Clause", establishes the three constitutional eligibility criteria for members of the General Assembly. One of the most well-settled tenants of constitutional law is that where the Constitution sets forth the qualifications for an office, the legislature may not impose any additional eligibility criteria on that office. *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 115 S.Ct. 1842 (1995). In *U.S. Term Limits*, the U.S. Supreme Court struck down legislation imposing term limits on members of Congress as violating the Qualifications Clause of the federal Constitution because the legislation imposed an additional qualification – non-incumbency – for Congressional office. *Id.* at 797.

In reaching its conclusion the Supreme Court took "note of the striking unanimity among the courts that have considered the issue" and pointed out that there is not even "a single case in which a state court or federal court has approved of a State's addition of qualifications for a Member of Congress. To the contrary, an impressive number of courts have determined that States lack the authority to add qualifications." *Id.*, citing *Chandler v. Howell*, 104 Wash. 99, 175 P. 569 (1918); *Ekwall v. Stadelman*, 146 Or. 439, 446, 30 P.2d 1037, 1040 (1934); *Stockton v. McFarland*, 56 Ariz. 138, 144, 106 P.2d 328, 330 (1940); *State ex rel. Johnson v. Crane*, 65 Wyo. 189, 197 P.2d 864 (1948); *Dillon v. Fiorina*, 340 F.Supp. 729, 731 (N.M.1972); *Stack v. Adams*, 315 F.Supp. 1295,

1297-1298 (ND Fla.1970); *Buckingham v. State*, 42 Del. 405, 35 A.2d 903, 905 (1944); *Stumpf v. Lau*, 108 Nev. 826, 830, 839 P.2d 120, 123 (1992); *Danielson v. Fitzsimmons*, 232 Minn. 149, 151, 44 N.W.2d 484, 486 (1950); *In re Opinion of Judges*, 79 S.D. 585, 587, 116 N.W.2d 233, 234 (1962). In contrast, the Candidate is unaware of *any* case, from *any* jurisdiction, that has *ever* held that a State may add to the constitutional qualifications for an office.

In *U.S. Term Limits*, the Supreme Court considered the very question “whether the fact that [the term limits legislation] is formulated as a ballot access restriction rather than as an outright disqualification is of constitutional significance.” *Thornton* at 787. The legislation at issue in *U.S. Term Limits* prevented election authorities from certifying anyone who exceeded the term limits cap as a candidate in the next election. *Id.* at 830. The Court summarily rejected this contention, noting that the law was simply “an indirect attempt to accomplish what the Constitution prohibits Arkansas from accomplishing directly.” *Id.*

In short, the U.S. Supreme Court invalidated term limits because “allowing States to evade the Qualifications Clauses by ‘dress[ing] eligibility to stand for Congress in ballot access clothing’ trivializes the basic principles of our democracy that underlie those Clauses.” *Id.* If Section 8-8 could be read to require voter registration as a condition of ballot access (it cannot be read that way), such a restriction would discriminate against a class of candidates – those registered at different addresses or not registered at all. Needless to say, the Supreme Court has expressly declared that legislation “with the avowed purpose and obvious effect of evading the requirements of

the Qualifications Clauses by handicapping a class of candidates cannot stand.” *Id.* at 831.

Just as States may not impose additional qualifications on Congressional office, the State may not impose additional qualifications for offices in the General Assembly. The Illinois Supreme Court has, on at least four occasions, held that the “Qualifications Clauses” of the Illinois Constitution relating to constitutionally-created officers are the sole bases for determining eligibility. *See e.g. Theis v. State Board of Elections*, 124 Ill.2d 317, 529 N.E. 565 (1988); *Cusack v. Howlett*, 44 Ill. 2d 233, 254 N.E.2d 506 (1969); *Hoyne v. McCormick*, 261 Ill. 413, 103 N.E. 103 (1913); *People v. Board of Election Commissioners*, 221 Ill. 9, 77 N.E. 34 (1906).

Moreover, the Constitutional Convention of 1970 specifically rejected the notion that a member of the General Assembly should be precluded from holding another elective office. Under the Constitution of 1870, General Assembly members were precluded from holding other compensated public offices. Ill.Const.1870, art. IV, § 3. A similar proposal was rejected by the Sixth Illinois Constitutional Convention. *VI Record of Proceedings, Sixth Illinois Constitutional Convention*, 2821-2828 (1970).

The Objector correctly points out that the electoral board has the authority to determine whether a candidate’s Statement of Candidacy is valid – including the ability to satisfy the existing eligibility requirements. *See Maksym v. Board of Election Commissioners*, 242 Ill.2d 303 (2011)(residency); *Cinkus v. Stickney Officers Elec. Bd.*, 228 Ill.2d 200 (2008)(municipal indebtedness); *Jackson v. Board of Election Commissioners*, 2012 IL 111928 (2012)(municipal indebtedness); *Delgado v. Board of Election Commissioners*, 224 Ill.2d 481 (2007)(felony conviction); *Bryant v. Board of*

*Election Commissioners*, 224 Ill.2d 481 (2007)(felony conviction). In each of these cases, the electoral board considered whether or not a candidate met the statutory qualifications for municipal office. None of these cases, or any other for that matter, stand for the proposition that an electoral board may expand the eligibility criteria for elective office.

That, however, is precisely what the Objector is asking this Board to do. In addition to citizenship, age and residency, the Objector is asking this Board to impose an additional fourth eligibility criteria that appears nowhere in the Constitution. Indeed, the Objector is asking the Board to write into the Constitution a qualification that not only does not appear in the Constitution, but that was specifically rejected by the Constitutional Convention.

It is worth noting that each of the cases cited above involved qualification for *municipal* rather than constitutional office. As such, the eligibility criteria of residency (*Maksym*), indebtedness (*Cinkus, Jackson*), and felony conviction (*Delgado, Bryant*) were set forth in the Municipal Code, rather than the Constitution. While the Electoral Board could not have expanded upon the qualifications for those municipal offices beyond those that appeared in the statute, that prohibition is even more important where the qualifications are set forth in the Constitution that was approved by the voters.

Importantly, neither of the two cases the Objector cites involving General Assembly candidates resulted in the Candidate's removal from the ballot. First, in *Velasquez v. Soliz*, 141 Ill.App.3d 1024 (1986), the Court held that a candidate *could* simultaneously run for both the office of Representative in the General Assembly and

Chicago Alderman. That case dealt only with the statutory provision governing *running* for two offices simultaneously, a condition that the Objector admits is not present here.

Second, *Hossfeld v. Illinois State Bd. of Elections*, 238 Ill.2d 418 (2010) had nothing to do with qualifications for the office, but instead dealt with party affiliation and prohibitions on party raiding. Like *Velazquez*, in *Hossfeld*, the Court affirmed this Board's decision overruling the challenge to the Candidate's nomination papers. *Id.* at 430. Moreover, nothing in *Hossfeld* suggests that the Board, or any reviewing court ever considered *Hossfeld* to be a "qualifications" case, as the Objector contends this case is about.

The Objector does not challenge that the Candidate is a United States citizen, that he is at least 21 years old, or that he does not satisfy the constitutional residency requirements. As a result, the Objector concedes that the Candidate's Statement of Candidacy is valid. Indeed, the Candidate is unaware of any electoral board or court decision, and Objector cites to none, that has ever invalidated a Candidate's Statement of Candidacy on the basis of incompatible office. The Motion to Strike should be granted.

2. The Objector's Reliance on Section 8-9 is Misplaced.

The Objector cites a provision of the Election Code, Section 8-9, that he immediately admits has nothing to do with this case. Section 8-9 provides that "*if petitions have been filed for the same person for 2 of more offices which are incompatible*" then the candidate must withdraw from one of the two offices or the election authority will not certify the candidate's name for either office. 10 ILCS 5/8-9. Objector immediately admits "Candidate, Jones, has not simultaneously filed two sets of

nomination papers for the March 19, 2014, primary election...” As a result, Section 8-9 has nothing to do with this case.

B. The Objector Misstates the Constitutional Provision Regarding Legislative Compensation.

To reinforce that this is really a *quo warranto* action masquerading as a petition challenge, the Objector spends the majority of his brief arguing that the Candidate “*is improperly and without authority a Member of the General Assembly*” (Obj. Resp., p. 5), and that he is “*Improperly Holding Two Elected Offices*” (Obj. Resp., p. 7), and discussing “*Incompatibility Under the Common Law*” (Obj. Resp., p. 9). None of these portions of her brief have anything whatsoever to do with the Candidate’s eligibility to seek his party’s nomination in the March 18, 2014 primary election. All of this discussion has to do with his current status as a public office, but not with his status as a candidate in the primary election. As a result, it is beyond the Board’s jurisdictional scope.

However, even if it were within the Board’s jurisdiction, the Objector is legally incorrect in her arguments. First, and most obviously, the Candidate misstates the meaning of Article 4, Section 2 of the Illinois Constitution, which provides:

No member of the General Assembly shall receive compensation as a public officer or employee from any other governmental entity for time during which he is in attendance as a member of the General Assembly.

Ill.Const.1970, Art. IV, § 2(e). Objector places emphasis on the prohibition on compensation in an attempt to argue that the candidate cannot serve as both a Representative and an Alderman at the same time. This, of course, is a complete misreading of this provision.

Properly read, the emphasis in this provision belongs on the phrase “for time during which he is in attendance as a member of the General Assembly.” *Id.* The obvious import of this phrase is to prohibit a member of the General Assembly from being compensated from another government entity while he or she is attending legislative sessions in Springfield. To suggest that this Section prohibits a second office or government employment is nothing short of ridiculous. In fact, by its very terms, it recognizes that General Assembly members may have other public offices or employment. If General Assembly members may not receive other compensation while they are attending legislative sessions, the only reasonable interpretation of this clause is that they may receive such compensation when they are not attending legislative sessions.

If the provision were to have Objector’s proposed meaning, why would the Constitutional framers have included the session restriction? If the Objector is correct, the Article IV, Section 2(e) would simply say: “No member of the General Assembly shall receive compensation as a public officer or employee from any other governmental entity.” Obviously, the Constitution does not contain such a restriction, and Article IV, Section 2(e) hurts, rather than supports, the Objector’s dubious claims.

C. Objector’s Reference to the Civil Service in Revised Cities and Villages Act Has No Applicability Here.

Objector’s next argument is that Section 21-14(b) of the Revised Cities and Villages Act precludes a member of the City Council from holding “any other civil service office” in the federal, state or city government. 65 ILCS 20/21-14(b). First, and foremost, this provision, indeed the whole article, applies to the City of Chicago. 65 ILCS 20/21-1. Obviously, the Candidate is not an officer in the City of Chicago. Second, and more importantly, elected positions are exempt from the definition of civil service. 65

ILCS 5/10-1-17 (“Officers who are elected by the people ... shall not be included in such classified service...”); *see also* 55 ILCS 5/3-14022. Elected positions are simply not civil service positions. As a result, even if the provision the Objector cites applied here, it would still not form a basis for concluding that he was doing anything improper.

D. The Offices Are Compatible, and Even if They Are Not, the Candidate is Still Eligible to Run for the Office.

At the onset of this discussion, it is important to note that the Objector again cites authority that hurts, rather than supports, her arguments. In her discussion of incompatibility, she points to cases supporting the proposition that when a candidate is elected to, and accepts, a second office that is incompatible with the first office, that such acceptance constitutes an *ipso facto* resignation from the first office. *People ex rel Myers v. Haas*, 145 Ill.App. 283 (1908); *People ex rel Cromer v. Village of Maywood*, 381 Ill. 337 (1942); *Livingston v. Ogilvie*, 43 Ill.2d 138 (1969). Of course, how could a candidate be elected to and accept a second incompatible office if they were, as Objector asserts, ineligible to run for that second office in the first place? In other words, the only way these cases could result in an *ipso facto* resignation is if the candidates were on the ballot to win the second office. So these cases demonstrate that incompatibility applies to *holding* rather than *seeking* public office.

Objector’s discussion of *People ex rel Myers* is particularly interesting. The case appears, at first glance, be particularly notable here as it involved an office in the General Assembly and a local office. Objector cites this case for the proposition that the “court found that the two offices were incompatible under Section 3 of article IV...” (Obj. Resp., p. 8). Objector neglects to point out, however, that *Myers* arose under the 1870

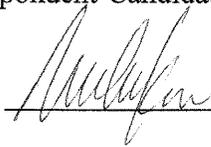
Constitution and that the Court's decision was based upon the same Constitutional prohibition (discussed above) that was expressly excluded from our current Constitution.

In reality, Objector can cite to no authority supporting his contention that the offices of Representative in the General Assembly and Calumet City Alderman are incompatible. In contrast, there is a long list of authority supporting the conclusion that a seat in the General Assembly is compatible with local elected office. *See, People v. Capuzi*, 20 Ill.2d 486 (1960)(office in the General Assembly compatible with the office village president, deputy county coroner, deputy bailiffs, and deputy court clerks even under the 1870 Constitution); 1999 Ill. Atty. Gen. Op. 015, 1999 WL 600311 (Ill.A.G.)(Member of the General Assembly and county board member are compatible); 1980 Ill. Atty. Gen. Op. 116, 1980 WL 26146 (Ill.A.G.)(Representative in the General Assembly is compatible with the office of township supervisor); 1999 Ill. Atty. Gen. Op. 015, 1999 WL 600311 (Ill.A.G.)(Representative in the General Assembly is compatible with the office of community college board trustee).

The overwhelming authority supports the conclusion that the office of Representative in the General Assembly is compatible with a whole host of elected local offices, including alderman from a suburban municipality like Calumet City. Thus, even if it were within the Board's purview to determine the compatibility of offices, the Objector's Petition should be overruled.

WHEREFORE, Respondent-Candidate respectfully requests that: (1) the Motion to Strike paragraphs 6-10, and 16 of Objector's petition be granted; (2) Objector's Cross Motion for Judgment as a Matter of Law be denied; and (3) the Objector's Petition be overruled.

Respectfully submitted,  
Respondent-Candidate

By:  \_\_\_\_\_

Michael J. Kasper  
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Chicago, IL 60601  
312.704.3292  
Atty No. 33837

**Hardiman v. Quinn/Vallas**  
**13 SOEB GP 527**

**Candidate:** Pat Quinn/Paul Vallas

**Office:** Governor/Lt Governor

**Party:** Democratic

**Objector:** Tio Hardiman

**Attorney For Objector:** Randy Crumpton

**Attorney For Candidate:** Burt Odelson & James Nally

**Number of Signatures Required:** 5,000 – 10,000

**Number of Signatures Submitted:** 10,002

**Number of Signatures Objected to:** 5,468

**Basis of Objection:** 1. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” and “Signer Signed Petition More than Once.”

**Dispositive Motions:** Candidate: Motion to Dismiss;

**Binder Check Necessary:** Yes

**Hearing Officer:** Barbara Goodman

**Hearing Officer Findings and Recommendation:** A partial records examination commenced and was suspended on December 19, 2013. The examiners ruled on objections to 1,392 signatures. 261 objections were sustained and 1,131 objections were overruled. There were 4,076 remaining objections that were not ruled upon. If every one of these remaining objections were sustained, the Candidate would still have 5,663 presumably valid signatures. No Rule 9 Motions were filed challenging the results of the examination. Therefore, based on the above, the Hearing Officer recommends that the Objector’s Petition be overruled and the Candidate Pat Quinn be certified for the office of Governor at the March 18, 2014 General Primary Election.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

BEFORE THE ILLINOIS STATE OFFICERS ELECTORAL BOARD

Tio Hardiman )  
 )  
 Objector )  
 ) 13 SOEB GP 527  
 -v- )  
 )  
 Pat Quinn and Paul Vallas )  
 )  
 Candidate )

**HEARING OFFICER’S REPORT AND RECOMMENDED DECISION**

This matter was first heard on December 17, 2013. The Objector appeared through counsel Randall Crumpton and the Candidate appeared through counsel Burton Odelson. Counsel James P. Nally also appeared on behalf of the Candidate. No preliminary motions were filed. The issues raised in the Objector’ Petition were those that required a records examination and, thereafter, a records examination was conducted. The records examination was suspended when it was determined that an insufficient number of allegations remained in order to invalidate the nominating papers. At the time the records examination was suspended, the following were the results:

- A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 5,000.
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate totaled 10,002.
- C. The number of objections sustained totaled 261.
- D. The number of objections overruled totaled 1,131.

**E.** The remaining number of signatures deemed valid as a result of the records examination totaled 9,741.

**F.** The number of objections remaining totaled 4,076.

No motions pursuant to Rule 9 of the Board's Rules of Procedure were filed. The Candidate then filed a Motion to Dismiss the Objector's Petition. The matter was set for further hearing and at the time of the hearing, counsel for the Objector indicated that he was standing on the results of the records examination. Accordingly, there was no need to address the Motion to Dismiss.

### **CONCLUSION**

In light of the foregoing, it is my recommendation that the objections of Tio Hardiman to the nominating papers of Pat Quinn and Paul Vallas be **overruled** and that the nominating papers of Pat Quinn and Paul Vallas for the Democratic nomination to the offices of Governor and Lieutenant Governor of the State of Illinois be deemed **valid** and that the name of Pat Quinn and Paul Vallas for said offices **be** printed on the ballot at the March 18, 2014 General Primary Election.

Respectfully submitted,

*Barbara Goodman /s/*

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Barbara Goodman, Hearing Officer  
1/6/13

STATE OF ILLINOIS )  
 )  
 ) ss.  
COUNTY OF COOK )

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING  
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR  
CANDIDACY FOR THE OFFICES OF GOVERNOR AND LIEUTENANT GOVERNOR  
OF THE STATE OF ILLINOIS.**

**IN THE MATTER OF THE OBJECTIONS )  
OF TIO HARDIMAN TO THE NOMINATION )  
PAPERS OF PAT QUINN AND PAUL VALLAS, )  
AS CANDIDATES FOR NOMINATION OF THE )  
DEMOCRATIC PARTY TO THE OFFICES OF )  
GOVERNOR AND LIEUTENANT GOVERNOR )  
OF THE STATE OF ILLINOIS TO BE VOTED ON )  
AT THE MARCH 18, 2014, PRIMARY ELECTION. )**

**VERIFIED OBJECTOR'S PETITION**

NOW COMES, Tio Hardiman, hereafter referred to as the "Objector" and respectfully represents that Objector resides at 233 N. Irving Ave., Hillside, Illinois, 60162, in the State of Illinois; that Objector is a duly qualified, registered, and legal voter at such address; that Objector's interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for nomination of the Democratic Party to the offices of Governor and Lieutenant Governor of the State of Illinois are properly complied with and that only qualified candidates have their names appear on the ballot as candidates for the said office; and therefore your Objector makes the following objections to the nomination papers of Pat Quinn and Paul Vallas as candidates for nomination of the Democratic Party to the offices of Governor and Lieutenant Governor of the State of Illinois, and files the same herewith, and states that the said nomination papers are insufficient in law and in fact for the following reasons:

1. Your Objector states that in the State of Illinois the signatures of not less than

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5,000 nor more than 10,000 duly qualified, registered, and legal voters of the said State of Illinois are required. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

2. Your Objector states that the Candidate has filed petition signature sheets that contains less than the required 5,000 signatures of allegedly duly qualified, legal, and registered voters of the State of Illinois.

3. Your Objector further states that the aforesaid nomination papers contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the of the State of Illinois and their signatures are therefore invalid, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT REGISTERED (A)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

4. Your Objector further states that the nomination papers contain the names of numerous persons who have signed said petition but who are not, in fact, duly qualified, registered, and legal voters at addresses that are located within the boundaries of the State of Illinois as shown by the addresses they have given on the petition, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER RESIDES OUTSIDE DISTRICT (B)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

5. Your Objector further states that the nomination papers contain the names of numerous persons who did not sign the sign the said nomination papers in their own proper persons, and that the said signatures are not genuine, as more fully set forth in the Appendix-

Recapitulation under the column designated "SIGNER NOT PROPER PERSON AND NOT GENUINE (C)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

6. Your Objector further states that the nomination papers contain the signatures of various individuals who have signed the petition more than once, and such duplicate signatures are invalid, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNED PETITION TWICE (D)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

7. Your Objector further states that the nomination papers contain the alleged signatures of various individuals who have signed the petition and such signatures are invalid, as more fully set forth in the Appendix-Recapitulation under the column designated "Other (State Reason) (E)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

WHEREFORE, your Objector prays that the purported nomination papers of Pat Quinn and Paul Vallas, as Candidates of the Democratic Party for nomination to the offices of Governor and Lieutenant Governor of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidates' names be stricken and that this Honorable Electoral Board enter its decision declaring that the names of Pat Quinn and Paul Vallas as candidates of the Democratic Party for nomination to the offices of Governor and Lieutenant Governor of the State of Illinois NOT BE PRINTED on

**Vara v. Harmon**  
**13 SOEB GP 528**

**Candidate:** Don Harmon

**Office:** State Senator, 39<sup>th</sup> District

**Party:** Democratic

**Objector:** Ralph P. Vara

**Attorney For Objector:** Laura Jacksack

**Attorney For Candidate:** Michael Kasper

**Number of Signatures Required:** 1,000

**Number of Signatures Submitted:** 2,984

**Number of Signatures Objected to:** 1,043

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including: "Signer's Signature Not Genuine," "Signer's signature not Legible or Incomplete", "Signer's Signature Printed or Not Written," "Signer Not Registered at Address Shown," "Signer's Address Missing or Incomplete", "Signer Resides Outside of the District," and "Signer Signed Petition More than Once." 2. Numerous petition sheets are invalid because (a) the circulator did not sign or print his/her name where required, (b) the circulator did not appear before a notary, (c) the purported circulator did not actually circulate the petition sheet, (d) the circulator's affidavit is not properly notarized, (e) the circulator signature is not genuine, and (g) the purported notary did not actually notarize the petition.

**Dispositive Motions:** Candidate: Motion to Strike and Dismiss; Reply Regarding Motion to Strike and Dismiss; Objector: Objector's Response to Motion to Strike and Dismiss;

**Binder Check Necessary:** No

**Hearing Officer:** Phil Krasny

**Hearing Officer Findings and Recommendation:** The Hearing Officer recommends that the Candidate's Motion to Strike and Dismiss be granted. A records examination was initially ordered and scheduled, but was later determined to be unnecessary based on the fact that if all the specific objections were sustained, the Candidate would still have in excess of the statutory minimum (2984 signatures, minus 1,043 specific signature objections, equals 1,941 presumably valid signatures.) Though the Objector stated at the hearing that there were objections to the petition sheets circulated by four circulators, the Candidate argued that the Objector did not specifically state the basis for the challenge and did not indicate on the recapitulation sheets, what the irregularities were, or which sheets contained them. On that basis, the Hearing Officer recommends granting the Motion to Strike and Dismiss, overruling the objection and certifying Candidate Harmon for the office of State Senator at the March 18, 2014 General Primary Election.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

**BEFORE THE STATE ELECTORAL BOARD OF THE STATE OF ILLINOIS**

RALPH VARA )  
Petitioner-Objectors )  
 )  
vs. ) 13SOEBG 528  
DON HARMON )  
Respondent- Candidate )  
 )

**HEARING OFFICER'S RECOMMENDATION TO THE STATE ELECTORAL BOARD REGARDING CANDIDATE'S MOTION TO DISMISS**

Respondent-Candidate, Don Harmon, has filed nominating petitions to have his name placed on the March 18, 2014 primary ballot for the office of Senator for the 39<sup>th</sup> District of the state of Illinois.

In order to be placed on the primary ballot, a candidate is required to submit 1,000 valid signatures. That Respondent-Candidate's petitions included 2984 signatures.

Petitioner-Objector, Ralph Vara, has filed objections to the nominating petition alleging, inter alia, that 1043 of the signatures were invalid.

Respondent-Candidate has filed a Motion to Dismiss, wherein he posits that, assuming that all objected to signatures were sustained, the Respondent-Candidate would have 1,984 valid signatures, 984 in excess of the 1,000 requirement.

Petitioner-Objector has filed a Response to the Motion to Dismiss wherein he alleges that, in addition to challenging 1043 signatures, the petition alleges circular and notary irregularities.

A hearing on the Motion to Dismiss was held on December 30, 2013 at the State Board of Elections office in Chicago. Respondent-Candidate, Don Harmon, was represented by Courtney Nottage and Michael Kasper. Petitioner-Objector, Ralph Vara, was represented by Laura Jacksack

During oral argument on the Motion to Dismiss, Ms. Jacksack posited that, in addition to challenging specific voters' signatures, the Objector's petition alleged circulator irregularities.

Specifically, she claimed that the signatures of four circulators, Alfredo Maldonado, John Nicholas Alburkerk, Luke Gasson and Allen Van Notz were invalid and, accordingly, all the signatures on those petitions should be stricken. She further argued that if all the sheets circulated by Alfredo Maldonado, John Nicholas Alburkerk, Luke Gasson and Allen Van Notz were stricken, Respondent-Candidate would have less than the 1,000 signatures required by the Election Code.

Respondent-Candidate's attorney argued that the petition filed by Petitioner-Objector did not set forth, with specificity, the allegations regarding the circulator irregularities made at the hearing. In essence, Respondent-Candidate's attorney argued that the Respondent-Candidate was not put on notice of the nature and extent of the circulator irregularities and that Petitioner-Objector was attempting to untimely amend his petition.

#### RECOMMENDATION

The "Rules of Procedure" promulgated by the Electoral Board specifically advise that the proceedings pertaining to the objections to nominating petitions shall be expedited. Specifically, page 1 of the rules is entitled "Expedited Proceedings" and provides as follows:

On all hearing dates set by the Board or its designated hearing examiner, (other than the Initial Hearing of the Board) the objector and the candidate (at times individually referred to as "party" or collectively referred to as the "parties") shall be prepared to proceed with the hearing of their case. Due to statutory time constraints, the Board must proceed as expeditiously as possible to resolve the objections. Therefore, there will be no continuances or resetting of the initial hearing or future hearings except for good cause shown.

Further, page 3 of the "Rules of Procedure" provides as follows:

*"The Board may on its own motion, strike any objection if it determines that the objection does not meet the requirements of set forth in 10 ILCS 5/10-8. Objections to individual signers and/or circulators must consist of specific objection or objections to that particular signer or circulator"*

An inspection of paragraphs 12-16 of Objector's Petition alleges numerous circulator irregularities and refers to Column H on the recapitulation sheet. However, an examination of Column

H of the recapitulation sheets fails to reference any irregularities of the sheets circulated by Alfredo Maldonado, John Nicholas Alburkerk, Luke Gasson and Allen Van Notz. In fact, none of the recapitulation sheets filed by the Objector has an "x" marked in Column H. Accordingly, since Objector's petition failed to specifically identify the names of the circulators and the nature of the circulator irregularities, it is your Hearing Officer's recommendation that the Candidate-Respondent's Motion to Dismiss be granted.

/s/ \_\_\_\_\_  
Philip Krasny  
Hearing Officer

dated 12/30/13

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON  
OF NOMINATION OBJECTION TO PETITION SHEETS OF CANDIDATES FOR ELECTION TO THE  
OFFICE OF SENATOR FOR THE STATE OF ILLINOIS

Ralph P. Vara	)
	)
Petitioner-Objector,	)
	)
V.	)
	)
Don Harmon	)
	)
Respondent-Candidate	)

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STATE BOARD OF ELECTIONS

OBJECTOR'S PETITION

Ralph P. Vara, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 637 S. Taylor Ave in the 39th Senate District of the State of Illinois, and is a duly qualified, legal and registered voter at the address.
2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Senator for the 39th District of the State of Illinois are properly complied with and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported petition sheets of Don Harmon, as a candidate for the office of State Senate for the 39th Senate District of the State of Illinois ("Office") to be voted for in the Primary Election on March 18, 2014 ("Election"). The Objector states the Petition Sheets are insufficient in fact and law for the following reasons:
4. Pursuant to State law, petition sheets/packet for the Office to be voted for at the Election must contain the signatures of not fewer than 1000 duly qualified registered and legal voters of the 39th Senate District of the State of Illinois collected in the manner prescribed by law. In addition, petition sheets must truthfully be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The petition sheets purport to contain the signatures of in excess of 1000 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.
5. The Petition Sheets contain the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine and are forgeries, as is set forth specifically

in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column A, "Signer's Signature not genuine," in violation of the Illinois Election Code.

6. The Petition Sheets contain the names of persons therein not legible or are incomplete and cannot be verified, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column B, "Signer's Signature not legible or incomplete," in violation of the Illinois Election Code.

7. The Petition Sheets contain the names of persons who did not sign the papers but are printed and not written, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column C, Signer's "Signature printed or not written," in violation of the Illinois Election Code.

8. The Petition Sheets contain the names of persons who have signed the Petition Sheets more than one time, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column D, "Signer signed more than once on sheet/line indicated," in violation of the Illinois Election Code.

9. The Petition Sheets contain the names of persons who are not registered voters, or who are not registered at the addresses shown opposite their respective names, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the heading Column E, "Signer's not registered or not registered at address shown," in violation of the Illinois Election Code.

10. The Petition Sheets contain the names of persons for whom the addresses stated are not in the 39th Senate District of the State of Illinois, and such persons are not registered voters in the 39th Senate District, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the heading Column F "Signer resides outside the district," in violation of the Illinois Election Code.

11. The Petition Sheets contain the names of persons for whom the address given are either missing entirely or are incomplete, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column G, "Signer's address missing or incomplete," in violation of the Illinois Election Code.

12. The complete removal of all the Petition Sheets where the circulator did not sign or print their name(s) where requested, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the heading Column H, "Other (see below)," in violation of the Illinois Election Code.

13. The complete removal of all the Petition Sheets where the Petition Sheets circulator did not appear before a notary, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the heading Column H, "Other (see below)," in violation of the Illinois Election Code.

14. The complete removal of all the Petition Sheets where the purported circulator did not circulate the petition sheet, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the heading Column H, "Other (see below)," in violation of the Illinois Election Code.

15. The complete removal of all the Petition Sheets where the circulator's affidavit is not properly notarized, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the heading Column H, "Other (see below)," in violation of the Illinois Election Code.

16. The complete removal of all the Petition Sheets where the circulator's signature is not genuine, every signature on the designated sheet is objected to, as is set forth specifically in the Appendix Recapitulation attached hereto and incorporated herein under the heading Column H, "Other (see below)," in violation of the Illinois Election Code.

21. The Petition Sheets contain less than 1000 validly collected signatures of qualified and duly registered legal voters of the 39th Senate District, signed by such voters in their own proper person with proper addresses, below the number required under Illinois law, as is set forth by objections recorded in the Appendix-Recapitulation attached hereto and incorporated herein.

22. The Appendix-Recapitulation is incorporated herein, and the objections made therein are part of the Objector's Petitions.



**Reeves v. Goncher**  
**13 SOEB GP 501**

**Candidate:** Beth C. Goncher

**Office:** State Representative, 50<sup>th</sup> District

**Party:** Republican

**Objector:** Timothy John Reeves

**Attorney For Objector:** John P. Duggan

**Attorney For Candidate:** Kenneth C. Shepro

**Number of Signatures Required:** 500

**Number of Signatures Submitted:** 770

**Number of Signatures Objected to:** 358

**Basis of Objection:** 1. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including "Signer's Signature Not Genuine," "Signer Not Registered at Address Shown," "Signer Resides Outside of the District," "Signer's Address Missing or Incomplete," "Signer Signed Petition More than Once," and 5 electors signed petitions for both Democratic and Republican candidates for the March 18, 2014 Primary Election. 96 signatures were objected to on the basis that they were printed instead of written. In addition, objections were made to improper, partial and incomplete addresses, and the use of only a partial name, stricken signatures and blank lines. 2. Three petition signature sheets (pages 23, 28 and 33) containing 45 signatures are invalid because the circulator failed to certify under oath that the signers are qualified voters of the Republican Party. 3. One petition signature sheet (page 15) containing 15 signatures is invalid because three of the signatures were signed by the same person who signed on line 14 of that sheet, thereby rendering the circulator's affidavit false and fraudulent. 4. One petition signature sheet (page 16) containing 15 signatures is invalid because the notarial jurat on the circulator affidavit states that the affidavit was signed on October 13, 2014.

**Dispositive Motions:** None filed

**Binder Check Necessary:** Yes

**Hearing Officer:** Scott Erdman

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 23, 2013. The examiners ruled on objections to 358 signatures. 174 objections were sustained leaving 596 valid signatures, which is 96 signatures more than the required 500 minimum number of signatures. The Objector withdrew the Objection. Based on the withdrawal, the matter is now moot, and the recommendation is to certify Candidate Goncher to the office of State Representative in the March 18, 2014 General Primary Election.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY OF THE 50<sup>TH</sup>  
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Timothy John Reeves,	)	
	)	
Petitioner-Objector,	)	No. 13 SOEB GP 501
	)	
v.	)	
	)	
Beth C. Goncher,	)	
	)	
Respondent-Candidate.	)	

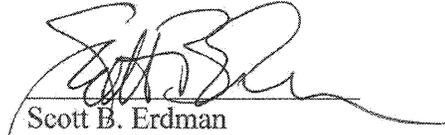
**HEARING OFFICER'S REPORT AND RECOMMENDATION**

This matter coming before the State Board of Elections as the duly qualified Electoral Board and before the undersigned Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Report and Recommendation:

1. The Candidate timely filed with the State Board of Elections Nomination Papers to qualify as a candidate for the office of Representative in the General Assembly of the 50<sup>th</sup> Representative District in the State of Illinois.
2. The Objector's Verified Petition to the Nomination Papers of the Candidate was timely filed on December 9, 2013. In the Petition, the Objector raised objections including that the nominating papers contained insufficient signatures for the reasons set forth in the Verified Objector's Petition and the Appendix-Recapitulation attached to the Objector's Petition.
3. An initial hearing and case management conference on this matter was held on December 17, 2013. The Candidate Beth C. Goncher was present. The Objector Timothy John Reeves was present. Additionally, John P. Duggan appeared on behalf of the Objector.
4. An Initial Case Management Order was issued by this Hearing Officer on December 18, 2013. All parties involved were notified that the records examination had been scheduled for December 23, 2013 at 9:00 a.m. in the State Board of Elections' Springfield office.
5. On December 23, 2013 the record exam was completed and all parties were notified of the results and the time period for the filing of any Rule 9 Motions began.
6. No Rule 9 Motions were received by the proscribed deadline.
7. On December 27, 2013, the Objector John Reeves, through his attorney John P. Duggan filed a Withdrawal of Verified Objector's Petition with the State Board of Elections.

8. Since a withdrawal of objections has been filed by the Objector, I recommend that the matter be rendered moot.

Dated: January 6, 2013



Scott B. Erdman  
Hearing Officer

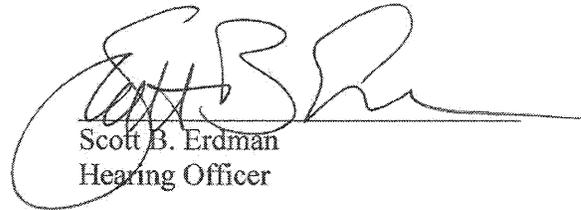
BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO  
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY OF THE 50<sup>TH</sup>  
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Timothy John Reeves,	)	
	)	
Petitioner-Objector,	)	No. 13 SOEB GP 501
	)	
v.	)	
	)	
Beth C. Goncher,	)	
	)	
Respondent-Candidate.	)	

**NOTICE**

A copy of the Hearing Officer's Findings and Recommendation was served upon the parties on January 6, 2014. Exceptions to the Report and Recommendation should be filed with the State Board of Elections within two (2) business days. This matter will be presented to the State Board of Elections as the duly constituted State Officers Electoral Board at a hearing on January 9, 2014 at the James R. Thompson Center, 100 W. Randolph St., Chicago Illinois, 60601. The parties should check with the Illinois State Board of Elections or its website for the time of the hearing.

Date: January 6, 2014

  
Scott B. Erdman  
Hearing Officer

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF KANE )

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING  
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR  
CANDIDATES FOR THE OFFICE OF REPRESENTATIVE IN THE GENERAL  
ASSEMBLY OF THE 50<sup>TH</sup> REPRESENTATIVE DISTRICT IN THE STATE OF  
ILLINOIS**

IN THE MATTER OF THE OBJECTIONS )  
OF TIMOTHY JOHN REEVES TO THE NOMINATING )  
PETITION OF BETH C. GONCHER, AS A )  
CANDIDATE FOR ELECTION TO THE OFFICE )  
OF REPRESENTATIVE IN THE GENERAL ASSEMBLY )  
OF THE 50<sup>TH</sup> REPRESENTATIVE DISTRICT IN THE )  
STATE OF ILLINOIS TO BE VOTED ON AT )  
THE MARCH 18, 2014 PRIMARY ELECTION. )

CHICAGO  
2013 DEC -9 AM 10:03  
STATE BOARD OF ELECTIONS

**VERIFIED OBJECTOR'S PETITION OF JOHN REEVES  
TO THE NOMINATING PETITION OF BETH GONCHER**

NOW COMES TIMOTHY JOHN REEVES, hereinafter referred to as the "Objector," and respectfully represents that your Objector makes the following objections to the nominating petition of BETH C. GONCHER as a candidate for nomination as a Republican candidate for election to the office of Representative in the General Assembly of the 50<sup>th</sup> Representative District in the State of Illinois, and files the same herewith, and states that the nominating petition is insufficient in law and in fact for the following reasons:

1. Objector resides at 7630B Route 34, in the unincorporated area of Oswego, County of Kendall, State of Illinois, 60543, located in the General Assembly District of the Representative in the General Assembly of the 50<sup>th</sup> Representative District in the State of Illinois which is the General Assembly district for which Beth C. Goncher filed the Nominating Paper which are the subject of this objection petition; that Objector is a duly qualified, registered, and legal voter at that address; that Objector's interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nominating petitions in the Republican Primary for election to the office of Representative in the General Assembly of the 50<sup>th</sup> District in the State of Illinois are properly complied with and that only qualified candidates have their names appear on the Republican Primary ballot as candidates for that office.

2. Nominating petitions for election to the office of Representative in the General Assembly of the 50<sup>th</sup> Representative District in the State of Illinois require the signatures of not less than 500 duly qualified, registered, and legal voters of the Representative in the General Assembly of the 50th District in the State of Illinois collected and filed in a proper and legal form and manner, together with various supporting documents as required by law.

3. Your Objector states that the Candidate has filed 59 petition signature sheets containing a total of 771 signatures of allegedly duly qualified, legal, and registered voters of Representative in the General Assembly of the 50<sup>th</sup> District of the State of Illinois. A true and accurate copy of Beth C. Goncher's Nominating Papers are attached hereto as Exhibit B.

4. Your Objector states that the laws pertaining to the securing of ballot access require that certain requirements be met as established by law. Filings made contrary to such requirements must be voided, being in violation of the statutes in such cases made and provided. Violation of a mandatory requirement of the Election Code renders the petition fatally defective. *Bolger v. Electoral Board of City of McHenry*, 210 Ill.App.3d 958, 569 N.E.2d 628, 155 Ill.Dec. 447 (2d Dist. 1991); *Powell v. East St. Louis Electoral Board*, 337 Ill.App.3d 334, 785 N.E.2d 1014, 271 Ill.Dec. 820 (5th Dist. 2003). The nomination papers are, therefore, not in compliance with the statutes in such cases made and provided.

5. For the reasons hereinafter detailed, Beth C. Goncher only submitted Petition sheets with 362 duly qualified, legal, and registered voters of Representative in the General Assembly of the 50<sup>th</sup> District of the State of Illinois, and has insufficient duly qualified, legal, and registered voters supporting her Nominating Papers.

6. The Appendix-Recapitulation attached hereto as Exhibit A is incorporated by reference and it details the specific reason(s) that each of the 409 signatures objected to hereby are improper and should not be counted toward the minimum 500 duly qualified, legal, and registered voters required for Beth C. Goncher to appear as a Republican Candidate at the March 18, 2014 Republican Primary Election to be a Republican Candidate for Representative in the General Assembly of the 50<sup>th</sup> District of the State of Illinois.

#### **MANDATORY DEFECTS IN THE PETITION SHEETS**

7. Your Objector further states that the said nomination papers contain the names of 168 persons who did not sign the said nomination papers in their own proper persons, and that the said signatures are not genuine, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER SIGNATURE NOT GENUINE (A)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

8. Your Objector further states that the aforesaid nomination papers contain the names of 145 persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the Representative in the General Assembly of the 50<sup>th</sup> Representative District of the State of Illinois and their signatures are therefore invalid, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT REGISTERED AT ADDRESS SHOWN (B)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

9. Your Objector further states that the said nomination papers contain the names of 29 persons who have signed said petition but who are not, in fact, duly qualified, registered, and legal voters at addresses that are located within the boundaries of the General Assembly of the 50<sup>th</sup> District of the State of Illinois as shown by the addresses they have given on the petition, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER RESIDES OUTSIDE OF DISTRICT (C),"

attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

10. Your Objector further states that the said nomination papers contain the names of 107 persons who did indicate their address which is either missing or incomplete, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER'S ADDRESS MISSING OR INCOMPLETE (D)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

11. Your Objector further states that said nominating petition contains 16 signatures of 8 individuals who have signed the petition more than once, and each such duplicate signatures are invalid, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNER SIGNED PETITION MORE THAN ONCE AT SHEET/LINE INDICATED (E)," with a further notation therein of the sheet and line numbers of the alleged duplicate signature(s) as Sh. \_\_\_\_\_, L. \_\_\_\_\_, attached hereto and made a part hereof, all of said duplicated signatures (8 total) being in violation of the statutes in such cases made and provided.

12. Your Objector further states that the said nomination papers contain the names of 96 persons who did not sign the said nomination papers in their own proper persons, and that the said signatures are not genuine, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER'S SIGNATURE PRINTED AND NOT WRITTEN (F)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

13. Your Objector states that 15 purported signatures are legally defective and deficient for a variety of reasons, as more fully set forth in the Appendix-Recapitulation, under the column designated "OTHER (G)" (together with an appropriate further reason) attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided. These objections include, but are not limited to improper, partial, incomplete, or no address; names stricken or crossed out from the sheets; use of only a partial name; and improper use of name; or individual signature lines being left unfilled or blank or containing a name that has been crossed off, eradicated, stricken, or removed, all of said signatures being in violation of the statutes in such cases made and provided. The specific objection is stated in

14. Your Objector states that 5 purported signatures are legally defective and deficient because the Elector signed petitions for both Democratic and Republican candidates for the primary election to be held on March 18, 2014, and accordingly these voters are not valid electors for the Petition of Beth C. Goncher, as detailed on Exhibit C hereto, Electors who signed Democratic and Republican Petitions for the March 18, 2014 Primary Election.

#### **MANDATORY DEFECTS IN THE CIRCULATOR AFFIDAVITS OF THE PETITION SHEETS**

15. Your Objector further states that the said nominating petition contains petition signature sheets nos. 23, 28 and 33 (containing 45 signatures) in which the circulator of those particular sheets (Ellen Notke for Sheets 23 and 28 and Susan Grometer for Sheet 33) fails to certify under oath: that "...to the Best of my knowledge and belief the persons so signing were at the time of signing the petition qualified voters of the Republican Party..." and rendering each and every one of the signatures on such petition signature sheets Nos. 23, 28 and 33 invalid, all of said signatures being in violation in the statutes in such

cases made and provided. It is a mandatory provision of the Election Code as relates to primary elections that the circulator verify under oath that the circulator believes the elector is a qualified voter of the party, in this case the Republican Party, that the nomination is sought for. The Circulator Affidavits on Sheets 23, 28 and 33 do not state any party that the circulator believed that the elector was a duly qualified voter for and Sheets 23, 28, and 33 should be stricken in their entirety.

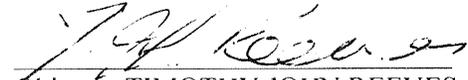
16. Your Objector further states that the said nominating petition contains petition signature sheets no. 15 (containing 15 signatures) in which the circulator of those particular sheets (one James Leonardi) certifies under oath: that "...the signatures on this sheet were signed in my presence, ...and are genuine and to the Best of my knowledge and belief the persons so signing were at the time of signing the petition qualified voters of the Republican Party..." but that statement is false and fraudulent because the signatures on Sheet No. 15 lines 12, 13 and 15 were signed by the person who signed Sheet No. 15 line 14, and rendering each and every one of the signatures on such petition signature sheet 15 invalid, all of said signatures being in violation in the statutes in such cases made and provided due to the false circulator affidavit.

17. Your Objector further states that the said nominating petition contains petition signature sheets no. 16 (containing 15 signatures) in which the circulator of those particular sheets (one Dean Bannos) certifies under oath: that the jurat on the Circulator Affidavit states that circulator affidavit was signed on October 13, 2014. That statement is false and renders each and every one of the signatures on such petition signature sheet 16 invalid, all of said signatures being in violation in the statutes in such cases made and provided due to the false circulator affidavit.

### CONCLUSION

17. Your Objector states that the nomination papers herein contested consist of various sheets supposedly containing the valid and legal signatures of 771 individuals. The individual objections cited herein with specificity reduce the number of valid signatures by 409 or to 362 or 138 below the statutory minimum of 500.

WHEREFORE, your Objector prays that the purported nomination papers of BETH C. GONCHER as a candidate for nomination as a Republican candidate for election to the office of Representative in the General Assembly of the 50<sup>th</sup> Representative District in the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of BETH C. GONCHER as a candidate for nomination as a Republican candidate for election to the office of Representative in the General Assembly of the 50<sup>th</sup> Representative District in the State of Illinois BE NOT PRINTED on the OFFICIAL BALLOT for the Republican Party at the Primary Election to be held on March 18, 2014.

  
Objector TIMOTHY JOHN REEVES

### VERIFICATION

**Hanford/Anseeuw v. Reyes**  
**13 SOEB GP 510**

**Candidate:** Eric Reyes

**Office:** Representative in Congress, 17<sup>th</sup> District

**Party:** Republican

**Objector:** William Hanford/Brian Anseeuw

**Attorney For Objector:** John Fogarty

**Attorney For Candidate:** Pro Se

**Number of Signatures Required:** 598

**Number of Signatures Submitted:** 770

**Number of Signatures Objected to:** 295

**Basis of Objection:** The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including "Signer's Signature Not Genuine," "Signer Not Registered at Address Shown," "Signer Resides Outside of the District", "Signer Signed Petition More than Once" and Signer signed a petition for a Democratic Party candidate. Candidate himself circulated a petition sheet where it appears that all the signatures on said sheet were signed by the same hand.

**Dispositive Motions:** Candidate: Candidate's Motion to Strike and Dismiss Objector's Petition; Objector: Objector's Response to Motion to Dismiss;

**Binder Check Necessary:** Yes

**Hearing Officer:** David Herman

**Hearing Officer Findings and Recommendation:** Based on the results of the records examination, 226 of the Candidate's signatures were stricken, bringing the total number of valid signatures to 544, which is 54 less than the required minimum of 598. Since no Rule 9 Motions were made to rehabilitate any of the stricken signatures, the results of the records examination are dispositive. Therefore, I recommend that the objection be sustained, and that the name of Eric Reyes not be certified for the March 18 General Primary Election.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

# WITHDRAWAL OF CANDIDACY

I, Eric Reyes (Name of Candidate) being first duly sworn, say that I reside at 750 30th Street in the City of Rock Island, County of Rock Island and State of Illinois; that I am the same person whose name is subscribed hereto in whose behalf nomination papers were filed for the office of Representative in Congress, 17th district, Republican Party, and I hereby withdraw as a candidate for said office and respectfully request that my name **NOT** be printed upon the official ballot as a candidate for the Primary Election to be held on March 18, 2014 (date of election).

[Handwritten Signature]

SIGNATURE OF CANDIDATE

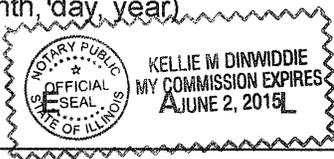
14 JAN -7 AM 11:25  
PRINCIPAL OFFICE  
STATE BOARD OF ELECTIONS

STATE OF Illinois )  
COUNTY OF Rock Island ) SS.

I, Kellie M Dinwiddie a Notary Public, in and for said County and State aforesaid, do hereby certify that Eric Reyes personally known to me to be the same person whose name is subscribed to in the foregoing withdrawal, appeared before me in person this day and acknowledged that he signed the said instrument as his free and voluntary act of his own will and accord.

Signed and sworn to (or affirmed) by Eric Reyes before me on January 3, 2014.  
(insert month, day, year)

(Name of Candidate)



[Handwritten Signature]  
(Notary Public's Signature)

Withdrawal is filed with the office where original nominating petition or certificate of nomination was filed. Upon receipt, the local election official must issue amended certification to each election authority who prepares ballots for the political subdivision.

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Congressional District of the State of Illinois are properly complied with and that only qualified candidates have their names appear upon the ballot as candidates for said office.

3. Your Objectors make the following objections to the nomination papers of Eric Reyes (“the Nomination Papers”) as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 17<sup>th</sup> Congressional District for the State of Illinois, and files the same herewith, and states that the said nomination papers are insufficient in law and in fact for the following reasons:

4. Your Objectors state that in the 17<sup>th</sup> Congressional District of the State of Illinois the signatures of not less than 598 duly qualified, registered, and legal voters of the said 17<sup>th</sup> Congressional District of the State of Illinois are required. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

**The Candidate Has An Insufficient Number Of Signatures To Qualify For Office**

5. Your Objectors state that the Candidate has filed 57 petition signature sheets containing a total of 771 signatures of allegedly duly qualified, legal, and registered voters of the 17<sup>th</sup> Congressional District of the State of Illinois.

6. Your Objectors state that the laws pertaining to the securing of ballot access require that certain requirements be met as established by law. Filings made contrary to such requirements must be voided, being in violation of the statutes in such cases made and provided.

7. Your Objectors further state that the aforesaid nomination papers contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the 17<sup>th</sup> Congressional District of the State of Illinois

and their signatures are therefore invalid, as more fully set forth in the Appendix Recapitulation under the column designated "SIGNER NOT REGISTERED AT ADDRESS SHOWN (A)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

8. Your Objectors further state that the said nomination papers contain the names of numerous persons who have signed said petition but who are not, in fact, duly qualified, registered, and legal voters at addresses that are located within the boundaries of the 17<sup>th</sup> Congressional District of the State of Illinois as shown by the addresses they have given on the petition, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT IN DISTRICT (B)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

9. Your Objectors further state that the said nomination papers contain the names of numerous persons who did not sign the said nomination papers in their own proper persons, and that the said signatures are not genuine, as more fully set forth in the Appendix-Recapitulation under the column designated "SIGNER NOT PROPER PERSON AND NOT GENUINE (C)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

10. Your Objectors further state that said nominating petition contains the signatures of various individuals who have signed the petition more than once, and such duplicate signatures are invalid, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNED PETITION TWICE (D)," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

11. Your Objectors state that various purported signatures are legally defective and deficient in that those individuals so signing signed a nominating petition for a candidate of another established political party prior to or after signing the Candidate, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNER SIGNED DEMOCRAT PETITION (E)" attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

12. Your Objectors state that the Nomination Papers contain petition sheets purportedly circulated by individuals whose petition sheets demonstrate a pattern of fraud and disregard of the Election Code to such a degree that every signature on every sheet purportedly circulated by said individuals are invalid, and should be invalidated, in order to protect the integrity of the electoral process, in accordance with the principles set forth in the decisions of *Canter v. Cook County Officers Electoral Bd.*, 170 Ill.App.3d 364, 523 N.E.2d 1299 (1<sup>st</sup> Dist. 1988); *Huskey v. Municipal Officers Electoral Bd. for Village of Oak Lawn*, 156 Ill.App.3d 201, 509 N.E.2d 555 (1<sup>st</sup> Dist., 1987) and *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1<sup>st</sup> Dist. 1984). This allegation is made with specific reference to at least petition page 29, alleged to have been circulated by the Candidate himself. The signatures on this petition page are not genuine, and appear to have been written by the same hand. The Candidate alleges to have circulated petition sheet nos. 1-4, 23, 25-34, 44, and 46-57. Pursuant to the principles set forth by *Canter*, *Huskey* and *Fortas*, supra, each of the petition sheets purported to have been circulated by the Candidate must be invalidated.

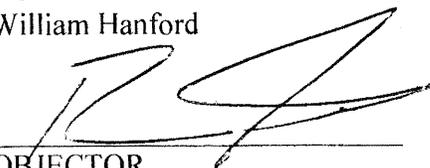
13. Your Objectors state that the nomination papers herein contested consist of various sheets supposedly containing the valid and legal signatures of 771 individuals. The

individual objections cited herein with specificity reduce the number of valid signatures to below the statutory minimum of 598.

WHEREFORE, your Objectors pray that the purported nomination papers of Eric Reyes as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 17<sup>th</sup> Congressional District for the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of Eric Reyes as a candidate of the Republican Party for nomination to the Office of Representative in Congress for the 17<sup>th</sup> Congressional District of the State of Illinois BE NOT PRINTED on the OFFICIAL BALLOT of the Republican Party at the General Primary Election to be held on March 18, 2014.

Respectfully submitted,

  
\_\_\_\_\_  
OBJECTOR  
William Hanford

  
\_\_\_\_\_  
OBJECTOR  
Brian Anseeuw

**Ramsey v. Jernigan**  
**13 SOEB GP 519**

**Candidate:** Linda D. Jernigan

**Office:** State Representative, 38<sup>th</sup> District

**Party:** Democratic

**Objector:** Benjamin Ramsey

**Attorney For Objector:** Michael Kasper

**Attorney For Candidate:** Pro Se

**Number of Signatures Required:** 500 – 1,500

**Number of Signatures Submitted:** 984

**Number of Signatures Objected to:** 716

**Basis of Objection:** 1. The Nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including: “Signer’s Signature Not Genuine,” “Signer Not Registered at Address Shown,” “Signer Resides Outside of the District,” “Signer’s Address Missing or Incomplete” and “Signer Signed Petition More than Once.” 2. The Statement of Candidacy is invalid as it is not signed by the Candidate and is not notarized.

**Dispositive Motions:** None filed

**Binder Check Necessary:** Yes

**Hearing Officer:** Robert Bell

**Hearing Officer Findings and Recommendation:** A records examination commenced and was completed on December 26, 2013. The examiners ruled on objections to 716 signatures. 549 objections were sustained leaving 435 valid signatures, which is 65 signatures less than the required 500 minimum number of signatures. Since no Rule 9 Motions were filed, the results of the records examination are dispositive. The recommendation is to sustain the Objector’s Petition, and to not certify Candidate Linda Jernigan to the March 18, 2014 General Primary Election ballot.

**Recommendation of the General Counsel:** I concur with the recommendation of the Hearing Officer.

# WITHDRAWAL OF CANDIDACY

I, Linda Jernigan (Name of Candidate) being first duly sworn, say that I reside at 3823 Canterbury CT in the City/Village of Richton Park, County of Cook and State of Illinois; that I am the same person whose name is subscribed hereto in whose behalf nomination papers were filed for the office of Representative, \_\_\_\_\_ district, 38 Party, and I hereby withdraw as a candidate for said office and respectfully request that my name **NOT** be printed upon the official ballot as a candidate for the Primary Election to be held on March 18, 2014 (date of election).

Linda D. Jernigan  
SIGNATURE OF CANDIDATE

STATE BOARD OF ELECTIONS  
2014 JAN 8 AM 9:46  
CHICAGO

STATE OF IL )  
COUNTY OF Cook ) SS.

I, Lea Farrisols, a Notary Public, in and for said County and State aforesaid, do hereby certify that Linda Jernigan personally known to me to be the same person whose name is subscribed to in the foregoing withdrawal, appeared before me in person this day and acknowledged that he/she signed the said instrument as his free and voluntary act of his/her own will and accord.

Signed and sworn to (or affirmed) by Linda Jernigan before me on Jan. 3, 2014 (insert month, day, year)  
(Name of Candidate)



[Signature]  
(Notary Public's Signature)

Withdrawal is filed with the office where original nominating petition or certificate of nomination was filed. Upon receipt, the local election official must issue amended certification to each election authority who prepares ballots for the political subdivision.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO  
NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE  
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE  
38th REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Benjamin Ramsey, )  
)  
Petitioner-Objector, )  
)  
v. )  
)  
Linda Jernigan, )  
)  
Respondent-Candidate. )

CHICAGO  
2013 DEC -9 PM 3:37  
STATE BOARD OF ELECTIONS

OBJECTOR'S PETITION

INTRODUCTION

Benjamin Ramsey, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 18402 Stonecreek Drive, Hazel Crest, Illinois, Zip Code 60429, in the 38th Representative District of the State of Illinois, and is a duly qualified, legal and registered voter at that address.
2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Representative in the General Assembly for the 38th Representative District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of Linda Jernigan as a candidate for the office of Representative in the General Assembly for the 38th Representative District of the State of Illinois ("Office") to be voted for at the Primary Election on March 18, 2014 ("Election"). The Objector states that the Nomination Papers are insufficient in fact and law for the following reasons:

4. Pursuant to State law, nomination papers for the Office to be voted for at the Election must contain the signatures of not fewer than 500 duly qualified, registered and legal voters of the 38th Representative District of the State of Illinois collected in the manner prescribed by law. In addition, nomination papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The Nomination Papers purport to contain

the signatures of in excess of 500 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.

5. The Nomination Papers contain petition sheets with the names of persons who are not registered voters, or who are not registered voters at the addresses shown opposite their respective names, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading Column a., "Signer Not Registered at Address Shown," in violation of the Illinois Election Code.

6. The Nomination Papers contain petition sheets with the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine and are forgeries, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column b., "Signer's Signature Not Genuine," in violation of the Illinois Election Code.

7. The Nomination Papers contain petition sheets with the names of persons for whom the addresses stated are not in the 38th Representative District of the State of Illinois, and such persons are not registered voters in the 38th Representative District, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column c., "Signer Resides Outside District," in violation of the Illinois Election Code.

8. The Nomination Papers contain petition sheets with the names of persons for whom the addresses given are either missing entirely or are incomplete, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column d., "Signer's Address Missing or Incomplete," in violation of the Illinois Election Code.

9. The Nomination Papers contain petition sheets with the names of persons who have signed the Nomination Papers more than one time as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column e., "Signer Signed Petition More Than Once at Sheet Indicated," in violation of the Illinois Election Code.

10. The Nomination Papers contain less than 500 validly collected signatures of qualified and duly registered legal voters of the 38th Representative District, signed by such voters in their own proper person with proper addresses, below the number required under Illinois law, as is set forth by the objections recorded in the Appendix-Recapitulation attached hereto and incorporated herein.

11. The Statement of Candidacy is invalid as it is not signed by the Candidate.

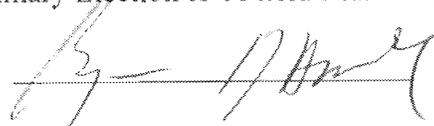
12. The Statement of Candidacy is invalid as it is not notarized. The Statement of Candidacy is neither signed nor stamped by a Notary Public in violation of the Election Code and Notary Public Act.

13. Because of the foregoing irregularities in the Statement of Candidacy, the

Nomination Papers are invalid in their entirety.

14. The Appendix-Recapitulation is incorporated herein, and the objections made therein are a part of this Objector's Petition.

WHEREFORE, the Objector requests: a) a hearing on the objections set forth herein; b) an examination by the aforesaid Electoral Board of the official records relating to voters in the 38th Representative District, to the extent that such examination is pertinent to any of the matters alleged herein; c) a ruling that the Nomination Papers are insufficient in law and fact, and d) a ruling that the name of Linda Jernigan shall not appear and not be printed on the ballot for nomination to the office of Representative in the General Assembly of the 38th Representative District of the State of Illinois, to be voted for at the Primary Election to be held March 18, 2014.



OBJECTOR

Address:  
Benjamin Ramsey  
18402 Stonecreek Dr.  
Hazel Crest, IL 60429

VERIFICATION

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Cook )

I, Benjamin Ramsey, being first duly sworn upon oath, depose and state that I have read the above and foregoing OBJECTOR'S PETITION, and that the matters and facts contained therein are true and correct to the best of my knowledge and belief.



Subscribed and sworn to before me  
by Benjamin Ramsey  
this 7<sup>th</sup> day of December, 2013.



Notary Public

