

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

1020 South Spring Street, P.O. Box 4187
Springfield, Illinois 62708
217/782-4141 TTY:217/782-1518
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James R. Thompson Center
100 West Randolph, Suite 14-100
Chicago, Illinois 60601
312/814-6440 TTY: 312/814-6431
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BOARD MEMBERS
William M. McGuffage, Chairman
Jesse R. Smart, Vice Chairman
Harold D. Byers
Betty J. Coffrin
Ernest L. Gowen
Judith C. Rice
Bryan A. Schneider
Charles W. Scholz

EXECUTIVE DIRECTOR
Rupert T. Borgsmiller

AGENDA
State Board of Elections
Sitting as the Duly Authorized
State Officers Electoral Board
Thursday, February 2, 2012
11:00 a.m.

James R. Thompson Center – Suite 14-100
Chicago, Illinois
and via videoconference
1020 South Spring Street
Springfield, Illinois

Call State Board of Elections to order.

1. Approval of the minutes from the January 9 & 17 meetings.
2. Recess the State Board of Elections and convene as the State Officers Electoral Board.
3. Approval of the minutes from the January 9 & 17 SOEB meetings.
4. Consideration of objections to candidate nominating petitions for the March 20, 2012 General Primary Election;
 - a) *Brimm v. Newman*, 12SOEBGP102;
 - b) *Freeman v. Obama*, 12SOEBGP103;
 - c) *Jackson v. Obama*, 12SOEBGP104;
 - d) *Petzel v. Ritter*, 12SOEBGP522;
 - e) *Rodriguez v. Rutagawibira*, 12SOEBGP523;
 - f) *Coyle/Bigger v. Miller*, 12SOEBGP524;
 - g) *Schaefflin/Brezinski v. Cunningham*, 12SOEBGP525;
 - h) *Billerman/Pettlon v. Harris*, 12SOEBGP526;
 - i) *Cunningham v. Biggert*, 12SOEBGP527;
 - j) *Cunningham v. Harris*, 12SOEBGP528;
 - k) *Sutton v. Baker, et al.*, 12SOEBGP501.
5. Objections withdrawn;
 - a) *Meroni, et al. v. Obama* 12SOEBGP500.
6. Other business.
7. Recess the State Officers Electoral Board until February 22, 2012 at 9:00 a.m. or until call of the Chairman, whichever occurs first.
8. Reconvene as the State Board of Elections.

- 9. Consideration of pending candidate withdrawals following certification;
a) Alan Nudo - 52nd Senate District.**
- 10. Other business.**
- 11. Adjourn until February 22, 2012 at 9:00 a.m. or until call of the Chairman, whichever occurs first.**

STATE BOARD OF ELECTIONS
Special Board Meeting Via Videoconference
Tuesday, January 9, 2012

MINUTES

PRESENT:

William M. McGuffage, Chairman
Jesse R. Smart, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
Judith C. Rice, Member
Bryan A. Schneider, Member
Charles W. Scholz, Member

ALSO PRESENT:

Rupert Borgsmiller, Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The special meeting of the State Board of Elections was called to order via videoconference at 10:05 a.m. with all Members present. Chairman McGuffage and Members Gowen and Rice were present in Chicago. Vice Chairman Smart and Members Byers, Coffrin and Scholz were present in Springfield. Member Schneider was present via teleconference.

The Chairman opened the meeting by leading everyone in the pledge of allegiance.

Vice Chairman Smart moved to recess the State Board of Elections and reconvene as the State Officers Electoral Board. Member Byers seconded the motion which passed unanimously. The meeting recessed at 10:07 a.m. and reconvened at 10:50 a.m.

With there being no further business before the Board, Member Coffrin moved to adjourn until Thursday, January 12, 2012 at 10:00 a.m. or until the call of the Chairman whichever occurs first. Member Byers seconded the motion which passed unanimously. The meeting adjourned at 10:51 a.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert Borgsmiller, Executive Director

STATE BOARD OF ELECTIONS
Special Board Meeting Via Videoconference
Tuesday, January 17, 2012

MINUTES

PRESENT: William M. McGuffage, Chairman
Jesse R. Smart, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
Judith C. Rice, Member
Bryan A. Schneider, Member
Charles W. Scholz, Member

ALSO PRESENT: Rupert Borgsmiller, Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The special meeting of the State Board of Elections was called to order via videoconference at 10:05 a.m. with all Members present. Chairman McGuffage and Members Gowen, Rice and Schneider were present in Chicago. Vice Chairman Smart and Members Byers and Coffrin were present in Springfield. Member Scholz was present via teleconference.

The Chairman opened the meeting by leading everyone in the pledge of allegiance.

The Executive Director presented the certification of established party Congressional candidates for the March 20, 2012 General Primary Election. Member Schneider moved to approve the certification. Member Coffrin seconded the motion which passed unanimously.

Member Schneider moved to recess the State Board of Elections and reconvene as the State Officers Electoral Board. Member Byers seconded the motion which passed unanimously. The meeting recessed at 10:07 a.m. and reconvened at 10:40 a.m.

Upon reconvening a second roll call was taken with the same attendance as noted in the first roll call.

The General Counsel presented a proposed supplement to the Consent Decree between the State Board of Elections and the Department of Justice. He noted that this was approved at the November Board meeting and what is being presented today included some minor changes relating to reporting dates and training material. Member Gowen moved to approve the Consent Decree as presented. Member Schneider seconded the motion which passed by roll call vote of 80.

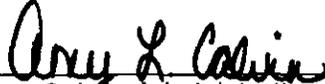
A pending candidate withdrawal following certification was presented from Thomas J. Carroll, Cook County 3rd Subcircuit, Moore vacancy. The affected jurisdictions were contacted and they did not object to the withdrawal. Member Schneider moved to accept the candidate withdrawal noting that there was no objection from Cook County or the Chicago Board of Elections. Vice Chairman Smart seconded the motion which passed by roll call vote of 80.

With there being no further business before the Board, Vice Chairman Smart moved to

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adjourn until Tuesday, January 24, 2012 at 11:00 a.m. or until call of the Chairman whichever occurs first. Member Byers seconded the motion which passed unanimously. The meeting adjourned at 10:50 a.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert Borgsmiller, Executive Director

STATE OFFICERS ELECTORAL BOARD
Special Meeting via Videoconference
Tuesday, January 9, 2012

MINUTES

PRESENT: William M. McGuffage, Chairman
Jesse R. Smart, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
Judith C. Rice, Member
Bryan A. Schneider, Member
Charles W. Scholz, Member

ALSO PRESENT: Rupert Borgsmiller, Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The special meeting of the State Officers Electoral Board was called to order via videoconference at 10:06 a.m. with all Members present. Chairman McGuffage and Members Gowen and Rice were present in Chicago. Vice Chairman Smart and Members Byers, Coffrin and Scholz were present in Springfield. Member Schneider was present via teleconference.

The first item on the Agenda was to call cases and accept appearances for objections to candidate nominating petitions for the March 20, 2012 General Primary Election. The Chairman called the following cases:

- a) *Bromley v. Evans*, 12SOEBGP100 – Attorney Jeff Jurgens on behalf of the objector and no one appeared for the candidate;
- b) *Bromley v. Canfield*, 12SOEBGP101 – Attorney Jeff Jurgens on behalf of the objector and candidate Robert Canfield;
- c) *Brimm v. Newman*, 12SOEBGP102 – Attorney John Fogarty on behalf of the objector and candidate Teri Newman;
- d) *Hoffman v. Farnick*, 12SOEBGP52 – Attorneys Mike Kreloff and Sally Salzberg on behalf of the objector and candidate Jonathan Farnick;
- e) *Petzel v. Ritter*, 12SOEBGP522 – Geoffrey Petzel for the objector and candidate Tim Ritter;
- f) *Rodriguez v. Rutagwibira*, 12SOEBGP523 – Attorney Rich Means on behalf of the objector and no one appeared for the candidate;
- g) *Coyle & Bigger v. Miller*, 12SOEBGP524 – Attorney John Fogarty on behalf of the objectors and candidate Darrel Miller;
- h) *Schaefflein & Brezinski v. Cunningham*, 12SOEBGP525 – Attorney John Fogarty on

behalf of the objector and Attorney Deanna Mool and candidate John "Jack" Cunningham;

- i) *Billerman & Pettlon v. Harris*, 12SOEBGP526 – Attorney John Fogarty on behalf of the objector and no one appeared for the candidate;
- j) *Cunningham v. Biggert*, 12SOEBGP527 – Attorney John Duggan and John "Jack" Cunningham for the objector and Attorney John Fogarty on behalf of the candidate;
- k) *Cunningham v. Harris*, 12SOEBGP528 – Attorney John Duggan and John "Jack" Cunningham for the objector and no one appeared for the candidate.

The General Counsel presented the revised Rules of Procedure for the State Officers Electoral Board. He noted that there were minor changes in paragraph eight concerning deadlines for subpoena requests and responses to those requests. Vice Chairman Smart moved to approve the revised Rules of Procedure as presented. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel said he has chosen the individuals that will serve as hearing officers and the cases that would be assigned to them outlined in his memo to the Board. These are the same hearing officers that presided over the last round of objections and after their appointment they would meet with the parties for initial case management conferences. Vice Chairman Smart moved to approve the appointment of hearing officers and assignment of cases. Member Scholz seconded the motion which passed by roll call vote of 8-0.

Next on the Agenda was Consideration of objections to candidate nominating petitions for the March 20, 2012 General Primary Election and presented *DeVivo v. Bradley*, 11SOEBGP500. No one was present for the objector and candidate Duane Bradley was present in Chicago. The General Counsel summarized the matter and said he concurred with the hearing officer recommendation to sustain the objection and not certify the candidate to the ballot due to an insufficient amount of signatures. Mr. Bradley stated that he disagreed with the recommendation made some general objections and questioned the interpretation of the statute. After discussion regarding the statutory signature requirement, Vice Chairman Smart moved to accept the recommendation of the hearing officer and General Counsel to sustain the objection and not certify the candidate to the ballot. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Zurek v. Saviano*, 11SOEBGP501 and summarized the objection. No one was present for the objector and Attorney Andrew Raucci was present on behalf of the candidate. The General Counsel concurred with the hearing officer recommendation to overrule the objection and certify the candidate to the ballot. Mr. Raucci agreed with that recommendation. The General Counsel noted that the recommendation also included referral of the circulators to the state's attorney's office on the allegation that they committed perjury. Vice Chairman Smart moved to accept the recommendation of the hearing officer and General Counsel to overrule the objection, certify the candidate to the ballot and dismiss the referral to the state's attorney's office. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *McSweeney v. Rowe*, 11SOEBGP503 and summarized the

objections. Attorney Rich Means was present on behalf of the objector and attorney Laura Jacksack was present on behalf of the candidate. The General Counsel concurred with the hearing officer recommendation to overrule the objection based on the results of the records examination and certify the candidate to the ballot. Mr. Means and Ms. Jacksack both concurred with the recommendation. Member Scholz moved to accept the recommendation of the hearing officer and General Counsel. Member Byers seconded the motion which passed by roll call vote of 80.

The General Counsel presented *Young v. Jacobs*, 11SOEBGP504 and summarized the objection. No one appeared for the objector or the candidate. The General Counsel concurred with the hearing officer recommendation to grant the motion for summary judgment, sustain the objection and not certify the candidate to the ballot. Member Byers moved to accept the recommendation of the hearing officer and General Counsel. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Montgomery/Williams v. Mahon*, 11SOEBGP519 and summarized the matter. No one appeared for the objector or the candidate. The General Counsel concurred with the hearing officer recommendation to overrule the objection and certify the candidate to the ballot. The General Counsel also noted that the recommendation to certify the candidate be stayed until the disposition of *Harris v. Mahon*, 11SOEBGP505. Vice Chairman Smart moved to accept the recommendation of the hearing officer and General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

A listing of Objections that have been withdrawn was presented. Vice Chairman Smart moved to accept the withdrawal from the objectors for the following matters: c) *Wooters/Cannon v. Roman*, 11SOEBGP103; d) *Harmon v. Dove*, 11SOEBGP108; e) *Kim v. Barnhart*, 11SOEBGP109; and f) *Harris v. Harris*, 11SOEBGP507. Member Scholz seconded the motion which passed unanimously.

With there being no further business before the State Officers Electoral Board, Member Scholz moved to recess until Thursday, January 12, 2012 at 10:00 a.m. or until call of the Chairman whichever occurs first. Vice Chairman Smart seconded the motion which passed unanimously. The meeting adjourned at 10:50 a.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert Borgsmiller, Executive Director

STATE OFFICERS ELECTORAL BOARD
Special Meeting via Videoconference
Tuesday, January 17, 2012

MINUTES

PRESENT:

William M. McGuffage, Chairman
Jesse R. Smart, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
Judith C. Rice, Member
Bryan A. Schneider, Member
Charles W. Scholz, Member

ALSO PRESENT:

Rupert Borgsmiller, Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The special meeting of the State Officers Electoral Board was called to order via videoconference at 10:07 a.m. with all Members present. Chairman McGuffage and Members Gowen, Rice and Schneider were present in Chicago. Vice Chairman Smart and Members Byers and Coffrin were present in Springfield. Member Scholz was present via teleconference

The first item on the Agenda was consideration of objections to candidate nominating petitions for the March 20, 2012 General Primary Election. The General Counsel presented *McSweeney v. Gaffney*, 11SOEBGP502 and indicated this case was not ready for disposition. The Board agreed to place the matter on the January 24 Agenda for consideration.

The General Counsel presented *Woods v. Maurice*, 11SOEBGP510 and summarized the objection. No one was present for the objector or the candidate. The General Counsel agreed with the hearing officer recommendation to sustain the objection and not certify the candidate to the ballot due to insufficient number of signatures. Member Schneider moved to accept the recommendation of the hearing officer and General Counsel. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented subpoena requests in connection with challenges to nominating petitions of congressional candidates. The first was *Bromley v. Evans*, 12SOEBGP100 and the General Counsel concurred with the hearing officer recommendation to grant the objector's request for subpoenas but redact any personal information that might be contained in the documents. Attorney Jeff Jurgens was present on behalf of the objector and Candidate Richard Evans was present. Mr. Jurgens concurred and Mr. Evans said he objected to the subpoena requests. Member Schneider moved to accept the recommendation of the hearing officer and General Counsel. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a request for subpoena request for *Schaefflein/Brezinski v. Cunningham*, 12SOEBGP525 and reviewed the matter. He concurred with the hearing officer recommendation to grant the subpoena requests, however, the subpoena for Notary Lisa Hwang is limited to any knowledge she might have regarding the residency of Charlie Leslie. Attorney John Fogarty was present on behalf of the objector and Deanna Mool was present on behalf of the

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January 17, 2012 - Page 2

candidate. Mr. Fogarty agreed with the recommendation and Ms. Mool asked that the subpoena request be denied except for Mr. Leslie. Member Schneider moved to accept the recommendation of the hearing officer and General Counsel. Member Gowen seconded the motion which passed by roll call vote of 7-1 with Member Byers voting in the negative.

The Board returned to consideration of objections to candidate nominating petitions. The General Counsel presented *Montgomery/Williams v. Letke*, 11SOEBGP520 and concurred with the hearing officer recommendation to sustain the objection and not certify the candidate to the ballot due to an insufficient number of signatures. No one was present on behalf of the objector and Mr. Fogarty was present on behalf of the candidate. In light of the fact that the Board had not had a chance to consider his exceptions to the Hearing Officer's ruling, he requested that the matter be heard at a subsequent meeting. After discussion, Member Schneider moved to place the matter on the January 24 Agenda for consideration. Member Gowen seconded the motion which passed unanimously.

The General Counsel indicated that notice was received that the objector withdrew in *Hoffman, Jr. v. Farnick*, 12SOEBGP521. Member Schneider moved to accept the withdrawal. Member Byers seconded the motion which passed unanimously.

With there being no further business before the State Officers Electoral Board, Member Schneider moved to recess until Tuesday, January 24, 2012 at 11:00 a.m. or until call of the Chairman whichever occurs first. Member Byers seconded the motion which passed unanimously. The meeting adjourned at 10:40 a.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert Borgsmiller, Executive Director

Brimm v. Newman
12 SOEB GP 102

Candidate: Teri Newman

Office: Congress, 12th Dist.

Party: Republican

Objector: Michael Brimm

Attorney For Objector:

Attorney For Candidate:

Number of Signatures Required: 600

Number of Signatures Submitted: 618

Number of Signatures Objected to: 122

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

Binder Check Necessary: Yes

Hearing Officer: David Herman

Hearing Officer Findings and Recommendation: A records examination commenced and was completed on January 13, 2012. The examiners ruled on objections to 122 signatures. 57 objections were sustained leaving 561 valid signatures, which is 39 signatures below the required minimum number of signatures.

Accordingly, the Hearing Officer recommends that the Board sustain the objection and that the name Teri Newman not be certified for the ballot as a Republican candidate for the office of Representative in Congress for the 12th Congressional District for the State of Illinois for the March 20, 2012 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 NOMINATION OBJECTIONS TO
NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE
OFFICE OF REPRESENTATIVE IN CONGRESS FOR THE 12th CONGRESSIONAL
DISTRICT OF THE STATE OF ILLINOIS**

Michael Brimm,)	
)	
Petitioner-Objector,)	
)	
v.	)	File No. 12 SOEB GP 102
)	
Teri Newman,)	
)	
Respondent-Candidate.)	

AMENDED RECOMMENDATION OF HEARING EXAMINER

This matter coming on for recommendation on the Verified Objection in this matter and the Hearing Examiner states as follows:

PROCEDURAL HISTORY

This matter commenced on January 4, 2012 when Michael Brimm filed a "Verified Objectors' Petition" with the State Board of Elections. Brimm (hereinafter "Objector") alleged that the nomination papers of Teri Newman as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 12th Congressional District for 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 Objector 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 12th Congressional District, 3) whose signatures were not genuine, 4) who signed the Nomination Papers more than once, and 5) whose addresses were missing or incomplete.

On January 13, 2012, a records examination was conducted by staff of the State Board of Elections. The records review revealed that Candidate had collected a total of 618 signatures. There were 122 line objections reviewed at the records examination. At the conclusion of the records examination, there were 561 signatures considered valid (57 line objections were sustained, while 65 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 review, Candidate did **NOT** have the required statutory minimum of not fewer than 600 signatures to be placed on the primary election ballot.

Neither Candidate nor Objector submitted a Rule 9 Motion contesting the finding of the records examination conducted by the staff of the State Board of Elections.

Conclusion

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 for nomination of the Republican Party to the Office of Representative in Congress for the 12th Congressional District for the State of Illinois in the general primary election to be held on March 20, 2012.

DATED: January 24, 2012

A handwritten signature in black ink, appearing to read 'D. A. Herman', written over a horizontal line.

David A. Herman, Hearing Examiner

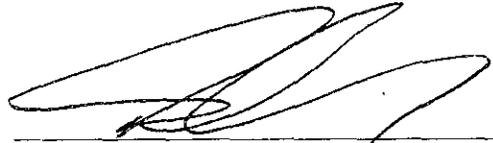
CERTIFICATE OF SERVICE

Service of the foregoing document was made by sending a copy via email to:

John G. Fogarty
Law Office of John Fogarty, Jr.
4043 N. Ravenswood, Suite 226
Chicago, IL 60613
john@fogartylawoffice.com

Teri Newman
797 Cedar Mill Drive
Belleville, IL 62221
TeriDavisNewman@gmail.com

and by mailing a copy thereof, in a sealed envelope, postage fully prepaid, addressed to all parties listed above by depositing same in the United States Mail from the office of the undersigned this 24th day of January, 2012.



David A. Herman, Hearing Examiner

Case Name: Brimm v. Newman

Case Number: 12 SOEBGP 102

Office: 12th Congress

Signatures

Required: Not less than 600

PAGE NUMBER	NUMBER OF SIGNATURES	PAGE NOTES	NUMBER SUSTAINED	NUMBER OVERRULED	*area to indicate if 2 pages are numbered the same, a number has been skipped, etc.
1	15	*	0	0	No recap
2	15		1	1	
3	15		0	1	
4	14		4	1	
5	15		10	2	
6	15		4	3	
7	14		3	2	
8	15		1	1	
9	15		3	1	
10	15		0	4	
11	15	*	0	0	No recap
12	15		0	2	
13	15		0	1	
14	15	*	0	0	No recap
15	15		0	1	
16	15		1	2	
17	15	*	0	0	No recap
18	15	*	0	0	No recap
19	15		9	2	
20	15	*	0	0	No recap
21	15	*	0	0	No recap
22	15		0	2	
23	15		1	3	
24	15		0	2	
25	15	*	0	0	No recap
26	15	*	0	0	No recap
27	15		0	1	
28	15	*	0	0	No recap
29	15		0	3	
30	15	*	0	0	No recap
31	15		1	4	
32	15		0	2	
33	15		0	5	
34	15	*	0	0	No recap
35	9		2	2	
36	14		3	2	
37	12		4	2	
38	7		1	1	
39	5	*	0	0	No recap

EXHIBIT
A

40	14	*	0	0	No recap
41	10		4	4	
42	12		3	3	
43	9		1	4	
44	5	*	0	0	No recap
45	9		1	1	
46	4	*	0	0	No recap
TOTAL	618		57	65	

**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
12th CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

Michael Brimm,)
)
Petitioner-Objector,)
)
vs.)
)
Teri Newman,)
)
Respondent-Candidate.)

STATE BOARD OF ELECTIONS
12 JAN -4 AM 11:39

VERIFIED OBJECTORS' PETITION

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

1. MICHAEL BRIMM resides at 2314 LOGAN, GRANITE CITY, Illinois, 62040, in the Twelfth 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 Twelfth 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 TERI NEWMAN ("the Nomination Papers") as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 12th 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 Objectors state that in the 12th Congressional District of the State of Illinois the signatures of not less than 600 duly qualified, registered, and legal voters of the said 12th 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.

4. Your Objectors state that the Candidate has filed 46 petition signature sheets containing a total of 615 signatures of allegedly duly qualified, legal, and registered voters of the 12th Congressional District of the State of Illinois.

5. 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.

6. 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 12th 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 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 12th 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 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.

9. 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.

10. Your Objectors state that various purported signatures are legally defective and deficient in that the address shown next to said voter's name is incomplete, as more fully set forth in the Appendix-Recapitulation, under the column designated "INCOMPLETE ADDRESS (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 615 individuals. The individual objections cited herein with specificity reduce the number of valid signatures to 490, or 110 below the statutory minimum of 600.

WHEREFORE, your Objectors pray that the purported nomination papers of TERI NEWMAN as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 12th 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 TERI NEWMAN as a candidate of the Republican Party for nomination to the Office of Representative in Congress for the 12th 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 20, 2012.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michael Brimm", is written over a horizontal line.

OBJECTOR
MICHAEL BRIMM

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND
PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR
CANDIDATE/RESPONDENT FOR THE OFFICE OF REPRESENTATIVE IN CONGRESS FOR
THE 12TH CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS

BRIMM, OBJECTOR/PETITIONER

VS.

12 SOEBGP 102

TERI NEWMAN, CANDIDATE/RESPONDENT/RESPONDENT

**ANSWER TO OBJECTION AND MOTION TO DISMISS OBJECTION AS
UNFOUNDED AND REQUEST FOR HEARING AND EXAMINATION BEFORE THE
STATE BOARD OF ELECTIONS OF ILLINOIS**

Comes now the Respondent/Candidate/Respondent, **Teri Newman** and files this answer to the Objection and Motion to Dismiss Objection as Unfounded and states the following:

1. Candidate/Respondent/Respondent admits allegations contained in paragraphs 1 and 2 of the Objector's Petition.
2. Candidate/Respondent/Respondent adamantly denies the allegations contained in paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.
3. Candidate/Respondent/ respectfully requests a hearing in front of the State Board of Elections on this matter and further requests that the signatures be examined by the State Board of Elections to verify their authenticity.
4. Candidate/Respondent states that each and every signature that is on the nominating sheets signed by Candidate/Respondent and circulator June Combs is indeed genuine, was signed by the registered voter residing in the 12th Illinois Congressional district at the address shown on the petition at the time of the signature. Candidate/Respondent further states that no signatures were obtained at any place other than the residence address shown on the petition. Candidate/Respondent personally went to each and every residence shown on each nominating sheet and witnessed each individual signature at the residence of each signer and used the voter list provided by the Republican Party's Voter Vault database and has the database printouts to back up each signature.
5. At no time did the Candidate/Respondent collect any signatures in any place other than the address shown next to each signature and never collected signatures at any public place. Candidate/Respondent personally went to the

registered address of each signer and signed an affidavit to attest to the same and represents that the signatures are true valid and correct.

6. The Candidate/Respondent requests that the Objection be dismissed as unfounded and that her name be placed on the ballot for the March 20th primary.

Wherefore Candidate/Respondent TERI NEWMAN prays that the nomination papers be declared by the State Board of Elections be dismissed as unfounded and that her nomination papers be declared sufficient and in compliance with the laws of the State of Illinois and that her name be placed on the ballot for the March 20th 2012 General Primary Election for Representative to Congress.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'TERI NEWMAN', with a long, sweeping flourish extending to the right.

Teri Newman, Candidate/Respondent

I hereby certify that a copy of the preceding has been sent via email to the following:

John Fogarty (john@fogartylawoffice.com) Steve Sandvoss ([SSandvoss@elections.il.gov](mailto:ssandvoss@elections.il.gov))
David Herman (dherman@giffinwinning.com)

A handwritten signature in black ink, appearing to read 'TERI NEWMAN', with a long, sweeping flourish extending to the right.

Teri Newman, Candidate/Respondent 12840 North Ridge Dr. Highland, IL 62249

**Freeman v. Obama
12 SOEB GP 103**

Candidate: Barack Obama

Office: President

Party: Democrat

Objector: Benjamin Freeman

Attorney For Objector: Michael Kreloff/Mike Kasper

Attorney For Candidate: Pro se

Number of Signatures Required:

Number of Signatures Submitted:

Number of Signatures Objected to:

Basis of Objection: The Candidate does not meet the Constitutional requirements for seeking and holding the office of President of the United States because he is not a "Natural Born Citizen," as required by Article II, Section I of the United States Constitution.

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

Binder Check Necessary: No

Hearing Officer: Jim Tenuto

Hearing Officer Findings and Recommendation: The Candidate filed a Motion to Strike and Dismiss the Objector's Petition on the basis that the Objector failed to comply with Section 10-8 because he did not state his "Objector's Interest" in filing the objection and that the petition is based upon an incorrect legal interpretation of what constitutes a "Natural Born Citizen."

Rule 9 of the Board's Adopted Rules of Procedure provides that the Board is to decide all dispositive motions upon receipt of the recommendation of a Hearing Officer and/or General Counsel.

The Hearing Officer assumed, for the sake of argument, that the Objector has adequately stated his interest. A copy of the Candidate's birth certificate is attached to the Candidate's Motion to Strike and Dismiss the Objector's Petition. The Hearing Officer finds that the birth certificate clearly establishes the Candidate's eligibility for office as a "Natural Born Citizen."

For the reasons set forth above, the Hearing Officer recommends that the Candidate's Motion to Strike and Dismiss the Objector's Petition be granted and the name Barack Obama be certified to appear on the ballot as Democratic candidate for President of the United States for the March 20, 2012 General Primary Election.

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

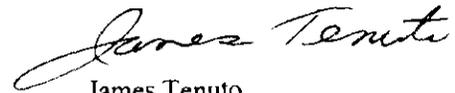
MOTION TO DISMISS

1. The Rules of Procedure, # 7, provides the Board is to decide all dispositive motions upon receipt of the recommendation of a Hearing Examiner and/or General Counsel.
2. A copy of the Candidate's birth certificate is attached to the Candidate's Motion as Exhibit A. Said Exhibit A is attached to this Recommendation.
3. It is argued that the Objector does not adequately state his interest in filing the objection. It will be assumed, for the sake of argument, that the Objector has adequately stated his interest.
4. The birth certificate attached as Exhibit A clearly establishes the Candidate's eligibility for office as a "Natural Born Citizen"

RECOMMENDATION

For the reasons set forth above, it is the Recommendation of the Hearing Examiner the Candidate's Motion to Strike and Dismiss Objector's Petition be granted.

Respectfully Submitted,



James Tenuto

Hearing Examiner

Date: January 27, 2012

CERTIFICATE OF SERVICE

I, James Tenuto, Hearing Examiner, do hereby certify that I served a copy of the Recommendation of the Hearing Examiner to the following on January 27, 2012 by the method set forth following the names:

Michael Kreloff and

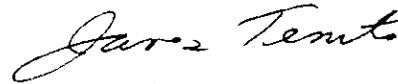
Email to: Capitolaction@Yahoo.com

Michael Kasper

Benjamin C. Freeman

Email to: Freeman.All@Juno.com

Respectfully Submitted,



James Tenuto

Hearing Examiner

STATE OF HAWAII		CERTIFICATE OF LIVE BIRTH		DEPARTMENT OF HEALTH	
		FILE NUMBER 151		61 10641	
1. Child's First Name (Type or print)		1b. Middle Name		1c. Last Name	
BARACK		HUSSEIN		OBAMA, II	
2. Sex	3. This Birth	4. If Twin or Triplet, Was Child Born		5a. Birth Date	5b. Hour
Male	Single <input checked="" type="checkbox"/> Twin <input type="checkbox"/> Triplet <input type="checkbox"/>	1st <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd <input type="checkbox"/>		August 4, 1961	7:24 P.M.
6a. Place of Birth: City, Town or Rural Location				6b. Island	
Honolulu				Oahu	
8. Name of Hospital or Institution (If not in hospital or institution, give street address)				6d. Is Place of Birth Inside City or Town Limits? If not, give judicial district	
Kapiolani Maternity & Gynecological Hospital				Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
7a. Usual Residence of Mother: City, Town or Rural Location			7b. Island	7c. County and State or Foreign Country	
Honolulu			Oahu	Honolulu, Hawaii	
7d. Street Address				7e. Is Residence Inside City or Town Limits? If not, give judicial district	
6085 Kalaniana'ole Highway				Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
7f. Mother's Mailing Address				7g. Is Residence on a Farm or Plantation?	
				Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
8. Full Name of Father		9. Race of Father			
BARACK HUSSEIN OBAMA		African			
10. Age of Father	11. Birthplace (Island, State or Foreign Country)	12a. Usual Occupation		12b. Kind of Business or Industry	
25	Kenya, East Africa	Student		University	
13. Full Maiden Name of Mother		14. Race of Mother			
STANLEY ANN DUNHAM		Caucasian			
15. Age of Mother	16. Birthplace (Island, State or Foreign Country)	17a. Type of Occupation Outside Home During Pregnancy		17b. Date Last Worked	
18	Wichita, Kansas	None			
18a. Signature of Parent or Other Informant		18b. Date of Signature			
<i>Ann Dunham Obama</i>		Parent <input checked="" type="checkbox"/> Other <input type="checkbox"/>		8-7-61	
18c. Signature of Attendant		18d. Date of Signature			
<i>David A. Simlar</i>		M.D. <input type="checkbox"/> D.O. <input type="checkbox"/> Midwife <input type="checkbox"/> Other <input type="checkbox"/>		8-8-61	
19. Date Accepted by Local Reg.		20. Signature of Local Registrar		21. Date Accepted by Reg. General	
AUG - 8 1961		<i>U. K. Lee</i>		AUG - 9 1961	
22. Evidence for Delayed Filing or Alteration					

APR 25 2011

I CERTIFY THIS IS A TRUE COPY OR
ABSTRACT OF THE RECORD ON FILE IN
THE HAWAII STATE DEPARTMENT OF HEALTH

Alvin T. Onaka, Ph.D.
STATE REGISTRAR

Cand. Ex. A

Benjamin C. Freeman

445 S. Edward St.

Decatur, Illinois 62522

I, Benjamin C. Freeman, a natural born citizen dwelling in the county of Macon, within the state of Illinois, in the country of the United States of America, do here by put forth that candidate Barack Obama does not meet the constitutional and statutory qualifications for holding the Presidential office he is seeking in the state of Illinois 2012 Presidential primary election. I further state that I have submitted this handwritten document (with a copy) to the Illinois State Board of Elections at 1020 South Spring Street, Springfield, Illinois, 62704 before 5:00 o'clock p.m., Friday January 13, 2012.

The contention is that Barack Obama does not satisfy the "natural born citizen" requirement of Article II, Section I, clause 5 of the United States Constitution. Barack Obama's father, Barack Obama Sr., was a native of Kenya and a British subject. "Because it is undisputed that Mr. Obama's father was not a U.S. citizen, the defendant can never be a natural-born citizen, as that term was defined by the U.S. Supreme Court. Therefore, the defendant cannot meet the constitutional requirements to hold the office of President. Illinois election code requires such a candidate to be stricken from any Illinois ballot.

Sincerely,

Benjamin C. Freeman

Citizen of Illinois

January 10, 2012

12 JAN 10 PM 4:11

STATE BOARD OF ELECTIONS

Jackson v. Obama
12 SOEB GP 104

Candidate: Barack Obama

Office: President

Party: Democrat

Objector: Michael Jackson

Attorney For Objector: Michael Krelaff/Mike Kasper

Attorney For Candidate: Pro se

Number of Signatures Required:

Number of Signatures Submitted:

Number of Signatures Objected to:

Basis of Objection: The Candidate's nomination papers are insufficient because they fail to demonstrate or otherwise offer proof of whether the candidate meets the constitutional requirements for office because the Candidate's nomination papers do not include proof of United States' citizenship.

Dispositive Motions: Candidate's Motion to Strike and Dismiss the Objector's Petition, Objector's Opposition to Candidate's Motion to Strike and Dismiss the Objector's Petition

Binder Check Necessary: No

Hearing Officer: Jim Tenuto

Hearing Officer Findings and Recommendation: The Candidate filed a Motion to Strike and Dismiss the Objector's Petition on the basis that the Objector failed to comply with Section 10-8 because he did not state his "Objector's Interest" in filing the objection and that the petition is based upon an incorrect legal interpretation of what constitutes a "Natural Born Citizen."

Rule 9 of the Board's Adopted Rules of Procedure provides that the Board is to decide all dispositive motions upon receipt of the recommendation of a Hearing Officer and/or General Counsel.

The Hearing Officer assumed, for the sake of argument, that the Objector has adequately stated his interest. A copy of the Candidate's birth certificate is attached to the Candidate's Motion to Strike and Dismiss the Objector's Petition. The Hearing Officer finds that the birth certificate clearly establishes the Candidate's eligibility for office as a "Natural Born Citizen."

For the reasons set forth above, the Hearing Officer recommends that the Candidate's Motion to Strike and Dismiss the Objector's Petition be granted and the name Barack Obama be certified to appear on the ballot as Democratic candidate for President of the United States for the March 20, 2012 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 OBJECTIONS FOR THE
OFFICE OF THE PRESIDENT OF THE UNITED STATES

Michael Jackson (objector)	{	
VS	{	12 SOEB GP 104
Barack Obama (candidate)	{	

RECOMMENDATION OF THE HEARING EXAMINER

1. The Candidate timely filed nominating petitions for the March 20, 2012 General Primary Election as Candidate for President of the United States Democratic primary.
2. The Objector timely filed an objection to the Candidate's nominating petitions.
3. The above-referenced objection was called by the State Officers Electoral Board on January 24, 2012.
4. Michael Jackson filed a Pro se Appearance as Objector.
5. Michael Kreloff and Michael Kasper filed Appearances on behalf of the Candidate.
6. A case management conference was held on January 24, 2012, immediately following the calling of cases and filing of Appearances.
7. The Candidate's attorneys timely filed Candidate's Motion to Strike and Dismiss Objector's Petition. The basis of the motion is as follows:
 - A. Objector failed to comply with Section 10-8, Never stating "Objector's Interest" in filing the objection, nor any appropriate relief within the power of the Electoral Board.
 - B. Objector's Petition is Based upon an Incorrect Legal Interpretation of What Constitutes
a
"Natural Born Citizen"
8. The Objector did not file any motions against the Candidate by the January 25, 2012, 5:00pm deadline.

9. The Objector did not file a Response to the Candidate's Motion to Strike and Dismiss Objector's Petition.
10. The Objector timely filed Objector's Opposition to Candidate's Motion to Strike and Dismiss Objector's Petition. Said pleading is illogical, nonsensical and not worthy of consideration.

MOTION TO DISMISS

1. The Rules of Procedure, # 7, provides the Board is to decide all dispositive motions upon receipt of the recommendation of a Hearing Examiner and/or General Counsel.
2. A copy of the Candidate's birth certificate is attached to the Candidate's Motion as Exhibit A. Said Exhibit A is attached to this Recommendation.
3. It is argued that the Objector does not adequately state his interest in filing the objection. It will be assumed, for the sake of argument, that the Objector has adequately stated his interest.
4. The birth certificate attached as Exhibit A clearly establishes the Candidate's eligibility for office as a "Natural Born Citizen"

RECOMMENDATION

For the reasons set forth above, it is the Recommendation of the Hearing Examiner the Candidate's Motion to Strike and Dismiss Objector's Petition be granted.

Respectfully Submitted,



James Tenuto

Hearing Examiner

Date: January 27, 2012

CERTIFICATE OF SERVICE

I, James Tenuto, Hearing Examiner, do hereby certify that I served a copy of the Recommendation of the Hearing Examiner to the following on January 27, 2012 by the method set forth following the names:

Michael Kreloff and

Email to: Capitolaction@ Yahoo.com

Michael Kasper

Michael Jackson

Email to: JesusChristBloodSaves@ Gmail.com

Respectfully Submitted,



James Tenuto

Hearing Examiner

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING OF AND PASSING UPON OBJECTIONS TO
THE NOMINATION PAPERS FOR CANDIDATES FOR THE OFFICE OF
PRESIDENT OF THE UNITED STATES**

IN THE MATTER OF THE OBJECTIONS OF)
MICHAEL JACKSON)
TO THE NOMINATION PAPERS OF BARACK) 12SOEBGP104
OBAMA AS A CANDIDATE FOR THE NOMINATION)
TO THE OFFICE OF THE PRESIDENT OF THE UNITED)
STATES TO BE VOTED UPON AT THE)
MARCH 20, 2012 ELECTIONS.)

OBJECTOR'S EXCEPTION TO RECOMMENDATION OF THE HEARING EXAMINER

DATED JANUARY 27, 2012

NOW COMES Objector Michael Jackson, self-represented, and moves to take Exception to Hearing Examiner's Recommendation dated January 27, 2012.

Regarding RECOMMENDATIONS OF THE HEARING EXAMINER takes Exception to the following:

1. OBJECTOR CONTESTS PARAGRAPH 9 AND 10

Paragraph 9 and 10 are incorrect. Objector did in good faith file a response as proven by Number 10 which is Exhibit 1 of Objector's Opposition to Candidate's Motion to Strike and Dismiss Objector's Petition, which Hearing Examiner Tenuto admitted to receiving before the deadline. Due to Objector's error in sending the email to the Examiner and opposing council, the Opposition to the Motion to Strike

did not arrive before the 5p.m. deadline. However the email labeled the Amicus Brief did arrive as "Exhibit 1 Amicus Brief on Natural Born for Memorandum of Law for Opposition to Motion to Dismiss". Exhibit 1 is an Amicus Brief that was just accepted into Obama ballot eligibility cases in Georgia, it is not "illogical, nonsensical and not worthy of consideration". On its face as an Amicus Brief that proves Obama is NOT Constitutionally eligible. The Examiner appears to have made this judgment out of context. The Amicus Brief is a thorough legal brief based in law which 100% supports Objector's argument that Obama is NOT a Natural Born Citizen because of post 14th Amendment Supreme Court ruling **Minor v. Happersett, 88 U.S. pg. 167-168 (1875)**.

Minor v. Happersett, 88 U.S. pg. 167-68 (1875): "Additions might always be made to the citizenship of the United States in two ways: first, by birth, and second, by naturalization. This is apparent from the Constitution itself, for it provides that 'no person except a natural-born citizen, or a citizen of the United States at the time of the adoption of the Constitution, shall be eligible to the office of President,' and that Congress shall have power 'to establish a uniform rule of naturalization.' Thus new citizens may be born or they may be created by naturalization.

"The Constitution does not, in words, say who shall be natural-born citizens. Resort must be had elsewhere to ascertain that. At common-law, with the nomenclature of which the framers of the Constitution were familiar, it was never doubted that **all children born in a country of parents who were its citizens** became themselves, upon their birth, citizens also. **These were natives, or natural-born citizens**, as distinguished from aliens or foreigners. Some authorities go further and include as citizens children born within the jurisdiction without reference to the citizenship of their parents. As to this class there have been doubts, but never as to the first. For the purposes of this case it is not necessary to solve these doubts. It is sufficient for everything we have now to consider that all children born of citizen parents within the jurisdiction are themselves citizens" (emphasis added).

Objector resubmits the above referenced Amicus Brief by Leo Donofrio as his adopted Memorandum of Law for this petition. (Exhibit 1)

2. OBJECTOR CONTESTS PARAGRAPH 4 UNDER MOTION TO DISMISS

The Hearing Examiner contends that "the birth certificate attached as Exhibit A clearly establishes the Candidate's eligibility for office as a "Natural Born Citizen". The Hearing Examiner is legally incorrect on his assessment that Obama's birth certificate proves he is a Natural Born U.S. citizen. Obama's counsel has submitted never before seen prima facie evidence to the Illinois State Elections Board. Obama's long form Hawaii birth certificate was not available to the Board during the 2008 election cycle. This birth certificate proves that Obama is a native born citizen of the United States and on its face also proves that Candidate Obama is NOT a NATURAL Born Citizen. His mother Stanley Ann Dunham was a U.S. Citizen but his father Barack Hussein Obama, Sr., was a Kenyan foreign national with British Citizenship that was passed to Candidate Obama by right at his birth under the **British Nationality Act of 1948: 4)**"*Subject to the provisions of this section, every person born within the United Kingdom and Colonies after the commencement of this Act shall be a citizen of the United Kingdom and Colonies by*

birth: (5)Subject to the provisions of this section, a person born after the commencement of this Act shall be a citizen of the United Kingdom and Colonies by descent if his father is a citizen of the United Kingdom and Colonies at the time of the birth"

Further, Obama, Sr. was only on a student visa in the United States at the time of Candidate Obama's birth. (Exhibit 2) Candidate Obama, a British born citizen, cannot possibly be a U.S. Natural Born Citizen.

Moreover, the federal government recognizes that there is a legal difference between Native born and Natural Born citizens: (<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-45104/0-0-0-48602.html>).

Candidate Obama's attorney argued and Hearing Examiner appears to erroneously believe that dicta from an Indiana Appellate Court case (**Ankeny v. Governor of Indiana 916 N.E. 2d 678 (In. App. 2009)**) overrides the U.S. Supreme Court precedent **Minor v. Happersett** on the definition of Natural Born Citizen.

Candidate Obama is a Constitutionally ineligible candidate for President and he cannot possibly have valid nomination papers, because any nominating petition signed would be fraudulent on its face.

The Illinois State Election Board has been duly informed of Candidate Obama's U.S. Constitutional ineligibility under Article II, Section 1, Clause 5, of the U.S. Constitution.

If the Board allows Candidate Obama on the ballot, they commit massive fraud against the citizens of the state of Illinois.

Respectfully Submitted,

/s/ Michael Jackson

Michael Jackson, OBJECTOR

1/31/2012

STATE OF HAWAII

CERTIFICATE OF LIVE BIRTH

DEPARTMENT OF HEALTH

FILE
NUMBER 151

61 10641

1. Child's First Name (Type or print) BARACK			11. Middle Name HUSSEIN			12. Last Name OBAMA, II		
3. Sex Male	5. This Birth Single <input checked="" type="checkbox"/> Twin <input type="checkbox"/> Triplet <input type="checkbox"/>	4. If Twin or Triplet, Was Child Born 1st <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd <input type="checkbox"/>		5a. Birth Date August	Month August	Day 4	Year 1961	5b. Hour / 7:24 P.M.
6. Place of Birth: City, Town or Rural Location Honolulu						6b. Island Oahu		
6a. Name of Hospital or Institution (If not in hospital or institution, give street address) Kapiolani Maternity & Gynecological Hospital						6d. Is Place of Birth Inside City or Town Limits? If no, give judicial district Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
7. Usual Residence of Mother: City, Town or Rural Location Honolulu				7b. Island Oahu		7c. County and State or Foreign Country Honolulu, Hawaii		
7a. Street Address 6085 Kalaniana'ole Highway						7e. Is Residence Inside City or Town Limits? If no, give judicial district Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
7f. Mother's Mailing Address						7g. Is Residence on a Farm or Plantation? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
8. Full Name of Father BARACK HUSSEIN OBAMA			9. Race of Father African					
10. Age of Father 25	11. Birthplace (Island, State or Foreign Country) Kenya, East Africa		12a. Usual Occupation Student		12b. Kind of Business or Industry University			
13. Full Maiden Name of Mother STANLEY ANN DUNHAM			14. Race of Mother Caucasian					
15. Age of Mother 18	16. Birthplace (Island, State or Foreign Country) Wichita, Kansas		17a. Type of Occupation Outside Home During Pregnancy None		17b. Date Last Worked			
I certify that the above stated information is true and correct to the best of my knowledge.		18a. Signature of Parent or Other Informant <i>Ann Dunham Obama</i>				Parent <input checked="" type="checkbox"/> 18b. Date of Signature 8-7-61		Other <input type="checkbox"/>
I hereby certify that this child was born alive on the date and hour stated above.		19a. Signature of Attendant <i>David A. Simlan</i>				M.D. <input type="checkbox"/> 19b. Date of Signature 8-8-61		D.O. <input type="checkbox"/> Midwife <input type="checkbox"/> Other <input type="checkbox"/>
20. Date Accepted by Local Reg. AUG - 8 1961		21. Signature of Local Registrar <i>Willie</i>				22. Date Accepted by Reg. General AUG - 8 1961		
23. Evidence for Delayed Filing or Alteration								

APR 25 2011

I CERTIFY THIS IS A TRUE COPY OR
ABSTRACT OF THE RECORD ON FILE IN
THE HAWAII STATE DEPARTMENT OF HEALTHAlvin T. Onaka, Ph.D.
STATE REGISTRAR

Cand. E. A

William McGuffage
IL State BOE Chairman
1020 Spring St.
Springfield, IL 62704

ORIGINAL ON FILE AT
STATE BD OF ELECTIONS
ORIGINAL TIME STAMPED
AT Jan 13 2012 @ 3:25 p.m.

Chairman McGuffage,

My name is Michael Jackson. My residence is 100 Caroline St. Morton, IL. I am a registered voter in the state of IL. I am a constitutionally law abiding U.S. citizen born on U.S. soil. My father was born in MO and born to U.S. citizen parents. Though proudly and thankfully I am a legal and lawful U.S. citizen, this I can attest to, but I cannot attest that I am a Natural Born Citizen as my mother was not naturalized as a U.S. citizen until after I was born, thus I could never be a Natural Born Citizen.

It has come to my attention that Willard Mitt Romney has been placed on the Republican primary ballot for IL as a candidate for President. Pursuant to **Illinois Statute 10 ILCS 5/10-5 chap 46, para 10-5** said candidate "...being first duly sworn" and "signed" that said candidate is "...legally qualified to hold such an office". With great concern to the yet unanswered question as to said candidate's being "legally qualified to hold such an office" I am herewith submitting my "objector's petition" pursuant to **10 ILCS 5/10-8 chap 46 para 10-8**: whereby "any legal voter..." "... having objections to any certificate of nomination or nomination papers or petitions filed, shall file an abjector's petition together with a copy thereof in the principal office or the permanent branch office of the State Board of Elections, or in the office of the election authority or local election official with whom the certificate of nomination, nomination papers or petitions are on file". Moreover, with respect to **10 ILCS 5/1A-2.1 (from Ch. 46, par. 1A-2.1)**: "Each member of the State Board of Elections, before entering upon his duties, shall subscribe to the Constitutional oath..." Your charge is great in order to preserve the integrity of our ballot and voter's rights to a legal and lawful election. I submit therefore that your responsibility and duty is to prohibit and remove from our primary and general election ballot Mr. Willard Mitt Romney, as he is not "legally qualified" to hold the Office of President. One must be a Natural Born Citizen in order to be "legally qualified to hold such an office". The U.S. Constitution as set forth in **Article II Section I Clause V** relating to the Office of President: "No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States." We have U.S. Supreme Court precedent establishing Article II Section I with the ruling of **Minor v. Happersett**, 88 U.S. pg. 167-68 (1875). "Additions might always be made to the citizenship of the United States in two ways: first, by birth, and second, by naturalization. This is apparent from the Constitution itself, for it provides that 'no person except a natural-born citizen, or a citizen of the United States at the time of the adoption of the Constitution, shall be eligible to the office of President,' and that Congress shall have power 'to establish a uniform rule of naturalization.' Thus new citizens may be born or they may be created by naturalization.

"The Constitution does not, in words, say who shall be natural-born citizens. Resort must be had elsewhere to ascertain that. At common-law, with the nomenclature of which the framers of the

Constitution were familiar, it was never doubted that **all children born in a country of parents who were its citizens became themselves, upon their birth, citizens also.** These were natives, or **natural-born citizens**, as distinguished from aliens or foreigners. Some authorities go further and include as citizens children born within the jurisdiction without reference to the citizenship of their parents. As to this class there have been doubts, but never as to the first. For the purposes of this case it is not necessary to solve these doubts. It is sufficient for everything we have now to consider that all children born of citizen parents within the jurisdiction are themselves citizens" (emphasis added).

In addition, supporting case law has been adjudicated by the U.S. Supreme Court which confirms and helps define a Natural Born Citizen. **1. The Venus, 12 U.S. 8 Cranch 253 289 (1814):** Justice Livingston, who wrote the unanimous decision, quoted the entire §212nd paragraph from the French edition of Vattel: "*The citizens are the members of the civil society; bound to this society by certain duties, and subject to its authority, they equally participate in its advantages. The natives or indigenes are those born in the country of parents who are citizens. Society not being able to subsist and to perpetuate itself but by the children of the citizens, those children naturally follow the condition of their fathers, and succeed to all their rights.*" **2. Shanks v. Dupont, 28 U.S. 3 Pet. 242 242 (1830):** Justice Story, who gave the ruling, cites the principle of citizenship enshrined in his definition of a "natural born citizen": ... *she might well be deemed under the circumstances of this case to hold the citizenship of her father, for children born in a country, continuing while under age in the family of the father, partake of his national character as a citizen of that country.*

With these supporting lawful and legal precedents it behooves those who have the power and constitutional responsibility to confirm and authenticate if Mitt Romney is legally qualified to be president by virtue of being a Natural Born Citizen. Mitt Romney's father, George Romney was born in Chihuahua, Mexico in 1907, the son of Gaskell Romney and Anna Amelia Pratt. George Romney came to the U.S. reportedly in the late 1920's. However, George Romney was a Mexican citizen by birth and this is established by law in the **Mexican Constitution - Chapter II:**

Article 30. Mexican nationality is acquired by birth or by naturalization:

A. Mexicans by birth are:

I. Those born in the territory of the Republic, regardless of the nationality of their parents:

II. Those born in a foreign country of Mexican parents; of a Mexican father and a foreign mother; or of a Mexican mother and an unknown father.

By virtue of this law, in order for George Romney to have become a U.S. citizen he would have to be naturalized. Moreover, in order for Mitt Romney to be a Natural Born Citizen both of said candidate's parents would have to be naturalized as U.S. citizens prior to Mitt Romney's birth. The burden of proof falls upon said candidate to provide the necessary legal and authentic documentation to the veracity of said candidate's parent(s) being naturalized U.S. citizens before the birth of Mitt Romney's on March 12, 1947 in Detroit, MI.

The dates and any legal documentation pertaining to George Romney's being repatriated or naturalized are crucial in order to determine Mitt Romney's eligibility as President specifically related to the Natural Born Citizen clause set forth in the U.S. Constitution. The **U.S. Nationality Act of 1940 Sect 201, 54 Stat. 1137**, provides the law by which a person born outside the U.S. is bound by in order to qualify legally as a U.S. citizen. Therefore if candidate Romney's parents weren't lawfully U.S. citizens according to this Act, Mitt Romney is therefore not "*legally qualified to hold such an office*" as president by virtue of not being a Natural Born Citizen. The Romney's had purposely left American legal jurisdiction:

[http://www.our-genealogy.com/Latter-Day-Saint-Families/Romney-](http://www.our-genealogy.com/Latter-Day-Saint-Families/Romney-Family/george-wilcken-romney.htm)

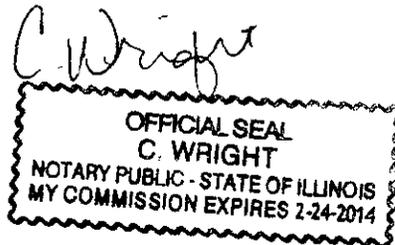
[Family/george-wilcken-romney.htm](http://www.our-genealogy.com/Latter-Day-Saint-Families/Romney-Family/george-wilcken-romney.htm). The real legal question is this: Romney's father was born in Mexico. Under their Constitution, he was a Mexican citizen. If George Romney was naturalized as a U.S citizen, what date was that naturalization obtained?

I, Michael Jackson seek relief by the prohibition of Willard Mitt Romney on the U.S. Presidential ballot; for Mr. Romney to attest to the dates of his father George Romney's U.S. naturalization with legal and authentic documentation to the veracity of such facts; that any litigation expenses plaintiff incurs will be recovered in full; moreover that my 14th Amendment rights provided in Section 1 of U.S. Constitution are not deprived nor caused to suffer injury.

For Christ and Country and Most Respectfully,

Signed Michael Jackson

Date 1-13-12



Elections, or in the office of the election authority or local election official with whom the certificate of nomination, nomination papers or petitions are on file.

To deny this registered citizen voter interest in this objection would be to deny him/this Objector his due process rights guaranteed under this statute.

A denial of interest in having a legally constituted Illinois Presidential ballot where Objector's vote is not watered down due to illegal candidates on the ballot, is a denial of Objectors right to vote. Additionally the objection speaks of my interest in filing this objection is that I am a citizen desirous of ensuring that the Illinois and US Constitutions are upheld, laws governing the filing of nomination papers for Respondent/Candidate Obama are properly complied with, and/or that only qualified candidates would appear upon the ballot for President. Objector requested and requests again that the Board bar Respondent's access to the ballot as he is NOT legally qualified to be President of the United States under Article II, Section 1, Clause 5's NATURAL Born requirement. Every nomination paper signed for Respondent/Candidate Obama is on its face fraud, because the candidate does not meet the legal qualifications of this position under the U.S. Constitution. The citizens of Illinois were defrauded already in 2008 by Respondent appearing on the ballot. Respondent fraudulently ran for office and solicited millions of dollars from unknowing citizens. The Board has the power to not certify nomination paperwork under their statutory powers. The Board does in effect have the power to bar someone from the ballot by not certifying a candidate's nomination paperwork that was signed under false pretenses.

A candidate in effect acts as the highest level circulator when trying to obtain nomination signatures to qualify for the ballot. By extension, ineligible Respondent/Candidate Obama acted as an illegal circulator while causing nomination signatures to be collected for his candidacy for the Presidential primary election to be held this March.

For example in the nomination objection Robinson v. Williams, No. 08-EB-WC-16, heard before the Board of Election Commissioners of the City of Chicago's Electoral Board, the board found "that the circulator lied under oath, it further supports a decision to refuse to count any signatures that the circulator purportedly witnessed." Harmon v. Town of Cicero Municipal Officers Electoral Board, 371 Ill.App.3d 1111, 864 N.E.2d 996 (1st Dist. 2007; Fortas v. Dixon, 122 Ill.App.3d 697, 462 N.E.2d 615 (1st Dist. 1984).

"For the reasons stated above, the Electoral Board sustains the Objections of the Candidate's Nomination Papers are invalid." (Emphasis by Objector.)

The court consequently ordered the following:

"IT IS THEREFORE ORDERED, that the Objections of FRIEDA ROBINSON to the Nomination papers of YVETTE WILLIAMS, candidate for the election to the office of Ward Committeeman for the 17th Ward of the City of Chicago, Democratic Party are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of YVETTE WILLIAMS, candidate for election to the office of Ward Committeeman for the 17th Ward of the City of Chicago, Democratic Party, SHALL NOT be printed on the official ballot for the General Primary Election to be held on February 5, 2008." (Emphasis By Objector.) (

The State Board of Elections has the power to invalidate petitions due to fraud and ORDER a candidate's name NOT to be printed on the ballot.

The Board of Election Commissioners of the City of Chicago Electoral Board further illustrated an Illinois elections board's responsibility to safeguard its citizens against election fraud in *Williams v. Parlow* (No.:99-eb-ald-032).

*"The Electoral Board finds that where testimony clearly discloses a pattern of fraud, false swearing, and a total disregard for the mandatory requirements of the Election Code, the it is proper to invalidate the entire sheet. Fortas v. Dixon, 462 N.E.2d 615 (1984). In Fortas, it was demonstrated that the circulators of the various sheets had filed affidavits in connection with the circulation of the sheets. **The Electoral Board therefore finds that all of the Candidate's nominating petition sheets demonstrate a pattern for fraud and false swearing and are invalid in their entirety.**"*

Even if Respondent Obama did not actually sign a statement that he is qualified to hold The Office of the Presidency, he in effect tells that citizens and voters of Illinois that he is eligible by the mere fact that he is running for the office. To run for office when you are not eligible, in pure and simple fraud and a total disregard for the mandatory requirements of the election code that require a candidate to be eligible for the office he is campaigning for. It was ordered that all of Candidate Charles Paltrow's Nomination Papers be declared INVALID AND THAT HIS NAME NOT BE PRINTED ON THE BALLOT.

- B. Respondent-Obama is NOT a NATURAL Born Citizen. Respondent is incorrect in their unsupported opinion. Supreme Court ruling *Minor v. Happersett* (1875) is the precedent on the definition of NATURAL Born Citizen. Regardless of where Respondent Obama was

born, he was born to a father who was a citizen of Kenya at the time of Respondent's birth. Exhibit 1 (Obama Senior's Alien Registration Card). Obama was born a British Citizen. Never has the Supreme Court or other high federal court ruled that a native born citizen born to a foreign parent is a NATURAL Born Citizen. It has never been ruled on or interpreted that a citizen born with multiple citizenships is a NATURAL Born Citizen.

Respondent Obama provides the full ruling of an Indiana Supreme Court ruling as supposed evidence that Respondent Obama is Natural Born. The court did not decide if Obama is a NATURAL BORN Citizen, and even if they did, the Supreme Court decision trumps any state ruling. Objector submits into evidence **Exhibit 1** (Amicus Brief on Natural Born Citizen used with permission .) a Law Memorandum that proves that Respondent Obama is NOT NATURAL Born.

Regarding Wong Kim Ark Ruling, 14th Amendment and Obama's Naturalization at Birth

Because Obama was not born to citizen parent(s), assuming he was born in Hawaii, he has to rely on the Fourteenth Amendment or 8 U.S.C. Sec. 1401(a) to be a "citizen of the United States." First, that amendment and statute do not provide anyone with the status of a "natural born Citizen," which status is only obtained by satisfying the American "common-law" definition of the clause as confirmed by *Minor v. Happersett*, 88 U.S. 162, 167-68 (1875), which, after analyzing American citizenship at length, held:

"The Constitution does not, in words, say who shall be natural-born citizens. Resort must be had elsewhere to ascertain that. At common-law, with the nomenclature of which the framers of the Constitution were familiar, it was never doubted that all children born in a country of parents who were its citizens became themselves, upon their birth, citizens also. These were natives, or natural-born citizens, as distinguished from aliens or foreigners. Some authorities go further and include as citizens children born within the jurisdiction without reference to the citizenship of their [88 U.S. 162, 168] parents. As to this class there have been doubts, but never as to the first. For the purposes of this case it is not necessary to solve these doubts. It is sufficient for everything we have now to consider that all children born of citizen parents within the jurisdiction are themselves citizens.

Id. at 168. As we see, only a child born "in a country of parents who were its citizens themselves" can be a "natural-born citizen." So like Obama, the 14th Amendment in effect naturalized Wong Kim Ark at birth" to be a Fourteenth Amendment "citizen of the United States."

Because Obama needs either the Fourteenth Amendment or statute to remove the alienage with which he was born by being born to a non-U.S. citizen father, he is in effect at best a naturalized citizen "at birth," who automatically becomes a "citizen of the United States" and needs no further naturalization after birth. But the Founders and Framers, as they revealed through the Naturalization Acts of 1790, 1795, and 1802, meant a "natural born Citizen" to be a child whose first breath of life was as a person in allegiance and citizenship only to the United

States and to no other country. In other words, to be a "natural born Citizen" it was not sufficient that one was a citizen of the United States "at birth." Rather, what was needed was that "at birth" one was only a "citizen of the United States" and of no other nation. Because of the possibility of jus sanguinis (citizenship inherited from one's parents) and jus soli (citizenship acquired from the territory on which one is born) providing allegiance and citizenship to a child at the moment of birth, they adopted the "natural born citizen" standard for future presidents which was a child born in the country to citizen parents. This means that a "natural born Citizen" is a child who is born in the United States or its jurisdictional equivalent to a father and mother who are both either a "natural born Citizen" or a "citizen of the United States."

Obama has conceded that his father was a citizen of Great Britain at the time Obama was born. Hence, even assuming that Obama was born in Hawaii, he was not born to a father who was either a "natural born Citizen" or a "citizen of the United States." He was not born as a child whose first breath of life was as a person in allegiance and citizenship only to the United States and to no other country. Obama may be a Fourteenth Amendment "naturalized born Citizen," but he is not and cannot be an Article II "natural born Citizen."

ANKENY RULING HAS NO EFFECT ON NATURAL BORN MEANING

The Supreme Court has already defined NATURAL Born Citizen in *Minor v. Happersett* (1875). Dicta from a state court does not override the U.S. Supreme Court.

The issue of Chester Arthur having been born to an alien father wasn't known to the public when Arthur ran for VP, or at any time through his POTUS administration. And there has not been a single newspaper article, or legal reference to the issue, anywhere in recorded American history before 2008.

Since Dec. 2008, the issue has gained widespread attention. It has appeared in the Indiana Court of Appeals opinion from the case, *Ankeny v. Governor of the State of Indiana*, as well as in Jack Maskell's Congressional Research Service memo, although neither source has been intellectually honest with its audience about the issue. In the *Ankeny* opinion, the Court deceptively remarked as follows:

"We note that President Obama is not the first U.S. President born of parents of differing citizenship. Chester A. Arthur, the twenty-first U.S. President, was born of a mother who was a United States citizen and a father who was an Irish citizen... Although President Arthur's status as a natural born citizen was challenged in the 1880 Presidential Election on the grounds that he was born in Canada rather than Vermont, the argument was not made that because Arthur's father was an Irish citizen he was constitutionally ineligible to be President. See generally *id.*" *Ankeny v. Governor of the State of Indiana*, Cause No. 49D10-0812-PL-55511, pg. 18 (2009).

Either the Court here was being coy, or they were being ignorant, in that they failed to discuss that the issue was not raised because it was not known. Had it been known, it certainly would have been raised.

We have direct evidence – that the issue was not known to the public – from two important sources. One is President Arthur himself, and the other is a crucially relevant law review article from 1916. Both sources provide translucent illumination upon the matter.

When Charles Evans Hughes was running for President, this very issue was brought to the attention of the public by former Secretary of State and Ambassador to Italy, Breckenridge Long, in an article written for the Chicago Legal News in 1916:

“Whether Mr. Hughes is, or is not, a ‘natural born’ citizen within the meaning of the Constitution, so as to make him eligible or ineligible, to assume the office of President, presents an interesting inquiry.

He was born in this country and is beyond question ‘native born.’ But is there not a distinction between ‘native born’ and ‘natural born? At the time he was born his father and mother were subjects of England. His father had not then been naturalized. The day after Mr. Hughes was born his father had a right, as an English subject, to go to the British consul, at New York, and to present his wife and infant and to claim any assistance he might need from the consul as the representative of the English government.

If war had broken out between this government and England this government would have had a right to interne the father, the mother and the son as subjects of an enemy power.”

Read the article in full. You will notice that it does not address the issue of Chester Arthur’s father having been an alien. Had the nation been aware of that fact, such knowledge would have determined the very issue in question thereby rendering it moot.

Long’s failure to draw a comparison to Arthur’s father, who was also a British subject for the first fourteen years of Chester’s life, is conclusively telling. Nobody knew about Chester Arthur’s little secret outside of whoever was keeping that secret.

One of the Electoral Board’s key functions as listed at the Illinois Board of Election is:

Determination of validity and receipt of nominating petitions and certificates of nominations.

In Conclusion

ALL of Obama’s nomination petitions are INVALID because he is a Constitutionally ineligible candidate, therefore the electoral board using their statutory authority should invalidate all of Respondent’s existing nomination papers and prevent his name from being placed on the ballot now and at all times in the future as his NATURAL BORN Citizen status can NEVER change.

Respectfully Submitted

s// Michael Jackson

1/26/12

Michael Jackson

Date

Petzel v. Ritter
12 SOEB GP 522

Candidate: Tim Ritter

Office: Congress, 6th Dist.

Party: Democrat

Objector: Gcoffrey Petzel

Attorney For Objector:

Attorney For Candidate:

Number of Signatures Required: 600

Number of Signatures Submitted: 427

Number of Signatures Objected to:

Basis of Objection: Candidate's nomination papers contain an insufficient amount of signatures.

Dispositive Motions: None

Binder Check Necessary: No

Hearing Officer: Phil Krasny

Hearing Officer Findings and Recommendation: The Candidate filed nominating petitions containing 427 signatures. The minimum number of signatures required to appear on the ballot at the General Primary Election as an established party candidate for the office of Representative in Congress is 600; therefore, the Candidate has 173 signatures less than the minimum signature requirement. Based on the Candidate submitting nominating petitions containing less than the minimum number of 600 signatures, the objection should be sustained and the name of Tim Ritter should not be certified for the ballot as a Democratic candidate for the office of Representative in Congress for the 6th Congressional District for the State of Illinois for the March 20, 2012 General Primary Election.

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

**BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS**

In the Matter of:)	
GOEFFREY PETZEL)	
Objector)	
)	
vs.	)	12 SOEB GP 522
)	
TIM RITTER)	
Candidate)	

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

This matter comes before the State Board of Sections as the duly qualified Electoral Board and before the undersigned Hearing Officer, Philip Krasny, pursuant to Notice issued previously.

Pro Se Appearances were filed on behalf of the Objector and Candidate

ANALYSIS

The Candidate filed nomination petitions for the office of Representative in the General Assembly for the 6th Representative District of the State of Illinois.

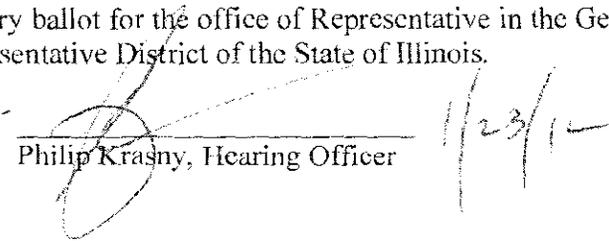
An objection was timely filed by Geoffrey Petzel.

The minimum signature requirement is 600. The candidate filed petitions containing 427 signatures.

A hearing was held on January 23, 2012 at the Chicago office of the State Board of Elections. Geoffrey Petzel appeared on behalf of the Objector and the Candidate did not appear.

RECOMMENDATION

It is recommended that the name of the Candidate, Tim Ritter, should be removed from the primary ballot for the office of Representative in the General Assembly for the 6th Representative District of the State of Illinois.


Philip Krasny, Hearing Officer

1/23/12

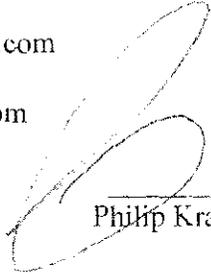
CERTIFICATION

The undersigned certifies that on January ²⁷24, 2012 the FINDINGS AND RECOMMENDATIONS OF HEARING OFFICER was forwarded via e-mail to:

Steve Sandervoss at ssandvoss@elections.il.gov
General Counsel State Board of Elections

Geoffrey Petzel, at gpetzel@yahoo.com

Tim Ritter, at tim.g.ritter@gmail.com



Philip Krasny, 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 US REPRESENTATIVE FOR THE 6TH CONGRESSIONAL DISTRICT

Geoffrey Petzel,)
)
Petitioner, Objector)
)
v.)
)
Tim Ritter,)
)
Respondent, Candidate.)
)

CHICAGO
12 JAN - 4 10 14
STATE BOARD OF ELECTIONS

OBJECTOR'S PETITION

INTRODUCTION

Geoffrey Petzel, hereinafter sometimes referred to as Objector, states as follows:

1. The Objector resides at 695 Windemere Lane, Lake Zurich, Illinois, 60047 in the 6th Congressional 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 US Representative for the 6th Congressional District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

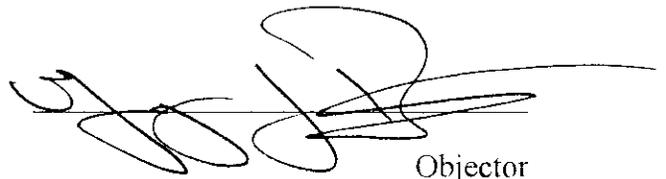
OBJECTIONS

3. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of Tim Ritter as a candidate for the office of US Representative for the 6th Congressional District of the State of Illinois ("Office") to be voted for at the

Primary Election on March 20, 2012 ("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 600 duly qualified, registered and legal voters of the 6th Congressional District of the State of Illinois collected in the manner prescribed by law.
5. The Nomination Papers only contain 427 signatures. The Nomination Papers contain less than 600 validly collected signatures of qualified and duly registered voters of the 6th Congressional District, signed by such voters in their proper person with proper address below the number required under Illinois law.

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 the Nomination Papers of Tim Ritter for the 6th Congressional 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 Tim Ritter shall not appear and not be printed on the ballot for nomination for the office of US Representative to the 6th Congressional District of the State of Illinois, to be voted for at the Primary Election to be held March 20, 2012.



Objector

Address:

695 Windemere Lane

Lake Zurich, IL 60047

VERIFICATION

STATE OF ILLINOIS)

COUNTY OF Kane)

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



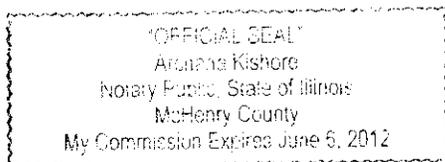
Subscribed to and sworn before me

By Geoffrey Petzel

this 3rd day of January, 2012.

Arshana Kishore

Notary Public



Affix Seal Here

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 US REPRESENTATIVE FOR THE 6TH CONGRESSIONAL DISTRICT

CHICAGO
12 JAN -9 11:00 AM
STATE BOARD OF ELECTIONS

Geoffrey Petzel,)
)
Petitioner, Objector)
)
v.)
)
Tim Ritter,)
)
Respondent, Candidate.)
)

CASE # 12 SCFB GP - 522

**OBJECTOR'S MOTION FOR SUMMARY JUDGEMENT AS A MATTER OF LAW
REGARDING CANDIDATE'S NOMINATING PETITIONS**

Objector, Geoffrey Petzel, requests that the Electoral Board rule, based on the undisputed facts, that the nomination papers for the office of US Representative for the 6th Congressional District in the State of Illinois, filed by Candidate Tim Ritter be found insufficient in law and that Tim Ritter's name shall not appear or be printed on the ballot for nomination for US Representative.

STATEMENT OF FACTS RELEVANT TO THIS MOTION

This case involves Objector's challenge to the nominating petitions submitted for nomination to the office of US Representative for the 6th Congressional District in the State of Illinois by Candidate Tim Ritter.

Candidate's for US Representative in Illinois are required to submit 600 valid signatures from registered and qualified voters. Candidate filed his nominating petitions on December 23, 2011 according to the Electoral Board. Such filing consisted of a Statement of Candidacy and 32 pages of signatures. The 32 pages of signatures contained approximately 427 signatures, well short of the legal requirement for nomination to the office of US Representative in Illinois.

LEGAL DISCUSSION

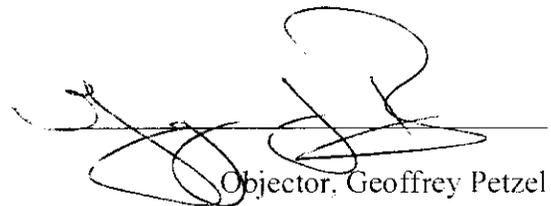
Illinois law is clear on the minimum number of signatures required for nomination to the office of US Representative for established political parties. Based on Illinois Statute [10 ILCS 5/7-10(b)] candidates for established political parties must submit a minimum of 600 signatures of qualified primary electors of the candidate's party in the Congressional District.

Candidate Tim Ritter, seeking the nomination of US Representative for the 6th Congressional District of Illinois as an established political party candidate for the Democratic Party, did not meet the minimum requirements of the Electoral Board under state statute when he submitted approximately 427 signatures.

CONCLUSION

As a matter of law, Candidate Tim Ritter significantly failed to meet minimum statutory requirements as required by law to provide 600 qualified signatures. Accordingly, Objector's motion as a matter of law, should be granted and Candidate Tim Ritter's name should not appear and should not be printed on the ballot for nomination for the office of US Representative to the 6th Congressional District of the State of Illinois, to be voted for at the Primary Election to be held March 20, 2012.

Respectfully Submitted.



Objector, Geoffrey Petzel

Address:

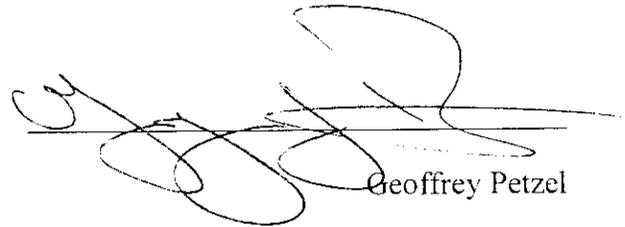
695 Windemere Lane
Lake Zurich, IL 60047

VERIFICATION

STATE OF ILLINOIS)

COUNTY OF Lake)

I, Geoffrey Petzel, being first duly sworn upon oath, depose and state that I have read the above and foregoing MOTION FOR SUMMARY JUDGEMENT, and that the matters and facts contained therein are true and correct to the best of my knowledge and belief.


Geoffrey Petzel

Subscribed to and sworn before me

By Geoffrey Petzel

this 8th day of January, 2012.

Kathleen M. Flatow

Notary Public



Affix Seal Here

Rodriguez v. Rutagwibira
12 SOEB GP 523

Candidate: Aloys Rutagwibira

Office: Congress. 10th Dist.

Party: Democrat

Objector: Kimberly A. Rodriguez

Attorney For Objector: Richard Means

Attorney For Candidate: Pro se

Number of Signatures Required: 600

Number of Signatures Submitted: 634

Number of Signatures Objected to: 410

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."

The Objector further alleges that the notarization on all 43 petition sheets does not comply with the Election Code because the notary jurat in each affidavit does not recite who it was who signed and swore to the affidavit before the notary.

The Objector further alleges that certain petition sheets do not comply with the Election Code because the circulator knew and believed that the persons signing the petition sheet were qualified voters of the Democratic Party.

Dispositive Motions: Candidate's Objection to Registration Records Examination Results. Objector's Response to Candidate's Objection to Registration Records Examination Results. Candidate's Reply to Objector's Response to Candidate's Objection to Registration Records Examination Results

Binder Check Necessary: Yes

Hearing Officer: Phil Krasny

Hearing Officer Findings and Recommendation: A records examination commenced and was completed on January 17, 2012. The examiners ruled on objections to 410 signatures. 340 objections were sustained leaving 294 valid signatures, which is 306 signatures below the required minimum number of signatures.

The Candidate did not file any Rule 9 Motion; however, he questioned why the tally sheet from the records examination reflected that the office at issue was the "8th Congress" when the Candidate was seeking nomination for the 10th Congressional District.

Regarding the missing name of the circulator on the "name of circulator" line in the jurat, the Hearing Officer finds that the identity of the circulator is readily determined from viewing the nomination petition as a whole because the signature of the circulator (who is the candidate) is on the "circulator signature" line. Since the identity of the circulator is readily determined, it is recommended that the objection to the notary jurat on the basis of a missing name be overruled.

Regarding the failure of the circulator to aver on pages 15, 21, 23, 31, 36 and 37, that the persons signing the petition on those pages were qualified voters of the Democratic Party, the Hearing Officer finds that the missing affirmation of the circulator requires those sheets to be stricken because nothing in the petition allows one to conclude that, to the best of the circulator's belief, the persons signing the petition were qualified voters of the Democratic Party. Accordingly, in the absence of any testimony or explanation from the circulator/candidate as to why the party affiliation was omitted from the specified nominating petitions, or what steps the circulator/candidate took to assure that the signers were members of the Democratic Party, the Hearing Officer recommends that the objection be sustained and the 87 signatures on the above referenced pages be stricken.

Accordingly, the Hearing Officer recommends that the Board: (1) overrule the objection to the missing name in the notary jurat; (2) sustain the objection to the circulator's affidavit where the circulator did not attest to knowledge and belief that the persons signing the petition sheet were qualified voters of the Democratic Party and strike 87 signatures; (3) find that, as a result of the records examination, the Candidate has filed only 294 valid signatures, and (4) order that the name Aloys Rutagwibira not be certified for the ballot as a Democratic candidate for the office of Representative in Congress for the 10th Congressional District for the State of Illinois for the March 20, 2012 General Primary Election.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer. I further note that the misidentification of the spreadsheet containing the results of the records examination was simply a scrivener's error, in that the template from a previous objection was not changed to reflect the office the candidate in this case was seeking. The figures in the spreadsheet were checked by staff, and they accurately reflect the results of the records exam in this case.

BEFORE THE STATE BOARD OF ELECTIONS OF THE STATE OF ILLINOIS

KIMBERLY A. RODRIQUEZ)
Petitioner-Objector)
)
vs.) 11 SOEB-GP 523
ALOYS RUTAGWIBIRA)
Respondent- Candidate)
)

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

PROCEDURAL HISTORY

The Candidate, ALOYS RUTAGWIBIRA, ("the Candidate") seeks the nomination of the Democratic Party for the office of Representative in the General Assembly 10th Congressional District, and has filed nominating petitions to be placed on the ballot for the primary election scheduled for March, 20, 2012.

Objector, KIMBERLY A. RODRIQUEZ, ("Objector") has filed certain objections to those nominating petitions.

The State Board of Elections ("SBOE") appointed Philip Krasny as the hearing officer to conduct a hearing on the objections to the nominating petitions and present recommendations to the SBOE.

At an initial case management conference the Candidate appeared pro se. The Objector was represented by Richard Means.

The parties were given time to file motions

A binder/records check was conducted and the he results of the binder/records check were disseminated to the parties on the same day.

The Candidate filed pleadings challenging the efficacy of the binder/records examination. The Candidate filed a Response.

On January 23, 2012, a hearing on the objections to the nominating petitions was conducted at the offices of the State Board of Election, Chicago, Illinois. At the hearing the Candidate did not appear. The Objector was represented by Richard Means.

PLEADINGS

Besides challenging the number of valid signatures, the Objector claims that the nominating petitions fail to comply with the requirements of the Election Code. Specifically, the Objector claims

2. The Nomination Papers contain petition sheets, in fact each and every one of the 43 petition sheets filed, which contains the affidavit of circulator which affidavit has not been validly sworn to as provided by law. *Specifically, the notary jurat in each such affidavit does not recite who it was who signed and swore to the affidavit before the notary*, in violation of Illinois Election Code and therefore all signatures on all petition sheets submitted are invalid.

3. The Nomination Papers contain petition sheets numbered 15, 21, 23, 31, 36 and 37, which sheets contain a circulator's affidavit which fails to allege *that the circulator knew and believed that the persons signing the petition sheet were qualified voters of the Democratic Party*, in violation of the Illinois Election Code and therefore all such signatures on such petition sheets are invalid.

ANALYSIS

10 ILCS 5/7-10 pertains to nominating petitions and provides as follows:

Each sheet of the petition other than the statement of candidacy and candidate's statement shall be of uniform size and shall contain above the space for signatures an appropriate heading giving the information as to name of candidate or candidates, in whose behalf such petition is signed; the office, the political party represented and place of residence; and the heading of each sheet shall be the same. Such petition shall be signed by qualified primary electors residing in the political division for which the nomination is sought in their own proper persons only and opposite the signature of each signer; his residence address shall be written or printed. The residence address required to be written or printed opposite each qualified primary elector's name shall include the street address or rural route number of the signer, as the case may be, as well as the

signer's county, and city, village or town, and state. However the county or city, village or town, and state of residence of the electors may be printed on the petition forms where all of the electors signing the petition reside in the same county or city, village or town, and state. Standard abbreviations may be used in writing the residence address, including street number, if any. *At the bottom of each sheet of such petition shall be added a circulator statement signed by a person 18 years of age or older who is a citizen of the United States, stating the street address or rural route number, as the case may be, as well as the county, city, village or town, and state; and certifying that the signatures on that sheet of the petition were signed in his or her presence and certifying that the signatures are genuine;* and 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 *and certifying that to the best of his or her knowledge and belief the persons so signing were at the time of signing the petitions qualified voters of the political party for which a nomination is sought. Such statement shall be sworn to before some officer authorized to administer oaths in this State.* No petition sheet shall be circulated more than 90 days preceding the last day provided in Section 7-12 for the filing of such petition. The person circulating the petition, or the candidate on whose behalf the petition is circulated, may strike any signature from the petition, provided that: (1) the person striking the signature shall initial the petition at the place where the signature is struck; and (2) the person striking the signature shall sign a certification listing the page number and line number of each signature struck from the petition. Such certification shall be filed as a part of the petition.

Although the statutory requirement that circulators sign a statement before a notary are mandatory and have 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), courts have routinely held that substantial compliance with the Code is acceptable when the invalidating charge concerns a technical violation of the statute that does not affect the legislative intent to guarantee a fair and honest election. *Madden v. Schumann*, 105 Ill. App. 3d 900, 903-04, 435 N.E.2d 173, 176 (1982). Thus, the threshold question is whether the Candidate has substantially, rather than literally, complied with statutory requirements and whether substantial compliance can satisfy the Election Code.

As regards the alleged notarization defect, courts and electoral boards hesitate to remove candidates for purely technical defects in the notarization process or in the jurat,¹ 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).

In the instant case, although the "name of the circulator" does not appear on the line in the jurat designated as the "name of the circulator", the signature of the circulator (who is the candidate) is on the line designated as "circulator signature" located directly above the jurat. Since the identity of circulator as the person whose signature was notarized is readily determined from viewing the nominating petition as a whole, it is recommended that the Objector's objection that "the notary jurat in each such affidavit does not recite who it was who signed and swore to the affidavit before the notary" be denied.

However, the failure of the circulator to aver on pages 15, 21, 23, 31, 36 and 37, that the persons signing the petition on those pages were qualified voters of the Democratic Party requires that those pages be stricken; for unlike the defect in the notary, nothing in the petition allows one to conclude that "to the best of [the circulator's] belief" the persons signing the petition were qualified voters of the Democratic Party". (See *Havens v. Miller*, 102 Ill. App. 3d 558, 568, 429 N.E.2d 1292 (1st Dist. 1981), where court held that, with respect to the circulator's affidavit, a

¹ A jurat is a certificate of an officer or person before whom a writing was sworn to, or the clause written at the foot of an affidavit, stating when, where, and before whom such affidavit was sworn.

petition that failed to include the circulator's residence address and certification that the circulator believed that the people who signed the petition were registered voters who gave their correct residence address, rendered the petition invalid, even if the signers of the petition stated that they were voters who reside within the political subdivision, and each signer gives an address after his or her signature. The court explained that reasons for this rule were twofold: (1) the circulators, and not the petition signers, are under oath, and (2) the perjury provision in the Election Code attaches only to the circulator's affidavit and not to the nomination petition itself). Thus, in this case, even though the top portion of each nominating petition states that the signers of the petition were "qualified primary electors of the Democratic Party, the statement of the signers are not under oath. Rather, it is the circulator, not the signers, who must affirm that "to the best of [the circulator's] belief" the persons signing the petition were qualified voters of the Democratic Party".

Accordingly, in the absence of any testimony or explanation from the circulator/candidate as to why the party affiliation was omitted from the specified nominating petitions, or what steps the circulator/candidate took to assure that the signers were members of the Democratic Party, the hearing officer recommends that the Electoral Board sustain the Objector's objection that the signatures on pages 15, 21, 23, 31, 36 and 37, which contain 87 signatures, be stricken.

Finally, the binder/records examination revealed that the Candidate presented 43 nominating petitions containing 634 signatures. Following the examination, 340 objections to signatures were sustained and 70 were overruled., thereby resulting in 294 valid signatures, which is less than the 600 required by the Code.

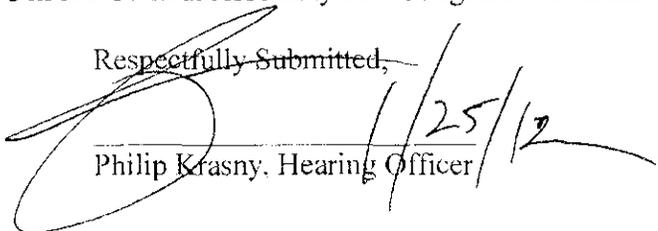
Although the Candidate did not attend the hearing on January 23, 2012, nor attend the binder/records examination, he did file a pleading questioning the efficacy of the record examination; i.e.; he questioned why the tally sheet reflected that the office at issue was the "8th Circuit", while the Candidate was seeking to run in the 10th Congressional District. While this may have been a scrivener's error, the Objector has not responded to the error, and your Hearing Officer is making the Electoral Board aware of the discrepancy.

RECOMMENDATIONS

- 1) That the Objector's objection that "the notary jurat in each such affidavit does not recite who it was who signed and swore to the affidavit before the notary" be denied.
- 2) That the Objector's objection to the Candidate's nomination sheets numbered 15, 21, 23, 31, 36 and 37, containing 87 signatures, should be granted, since the circulator's affidavit on those pages fails to allege that the circulator knew and believed that the persons signing the petition sheet were qualified voters of the Democratic Party. By striking the 87 signatures, the Candidate is left with less than the 600 signatures required under the Code.
- 3) That, assuming the Board is provided with a satisfactory explanation regarding the reference to the "8th district", rather than the 10th district, on the tally sheets, the result of the binder/record examination revealed that the Candidate has only 294 signatures, which is less than 600 signatures required under the Code.

Accordingly, for the reasons set forth herein, it is the hearing officer's recommendation to the Electoral Board that the Candidate's name be removed from the Democratic primary ballot for the office of Representative in the General Assembly 10th Congressional District.

Respectfully Submitted,


Philip Krasny, Hearing Officer

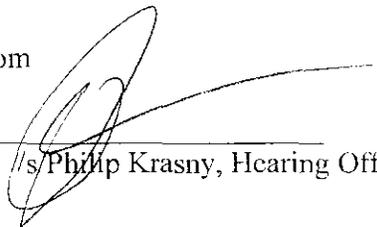
CERTIFICATION

The undersigned certifies that on January 25, 2012, the FINDINGS AND
RECOMMENDATIONS OF HEARING OFFICER was forwarded via e-mail to:

Steve Sandervoss at ssandvoss@elections.il.gov
General Counsel State Board of Elections

Aloys Rutagwibira at alrutaa@hotmail.com

Richard Means at rmeans@richardmeans.com


/s/ Philip Krasny, Hearing Officer

REPRESENTATIVE IN CONGRESS PRIMARY PETITION

We, the undersigned, members of and affiliated with the DEMOCRATIC Party and qualified primary electors of the DEMOCRATIC Party, in the 10th Congressional District of the State of Illinois, do hereby petition that ALOYS RUTAGWIBIRA who resides at 308 CHRISTINE LN in the City, Village, Unincorporated Area (circle one) of HAINESVILLE (if unincorporated, list municipality that provides postal service) Zip Code 60030 County of LAKE and State of Illinois, shall be a candidate of the DEMOCRATIC Party for the nomination for the office of REPRESENTATIVE IN CONGRESS of the State of Illinois, for the 10th Congressional District to be voted for at the primary election to be held on MARCH 20, 2012 (date of election).

If required pursuant to 10 ILCS 5/7-10.2, complete the following (this information will appear on the ballot)

FDRMERLY KNOWN AS UNTIL NAME CHANGED ON (List all names during last 3 years) (List date of each name change)

Table with 4 columns: NAME (VOTER'S SIGNATURE), STREET ADDRESS OR RR NUMBER, CITY, TOWN OR VILLAGE, COUNTY. Contains 15 rows of voter information.

State of Illinois) County of Lake) SS.

I, Aloys Rutagwibira (Circulator's Name) do hereby certify that I reside at 308 Christine Ln in the City/Village/Unincorporated Area (circle one) of Hainesville (if unincorporated, list municipality that provides postal service) Zip Code 60030 County of Lake State of Illinois that I am 18 years of age or older, that I am a citizen of the United States, and that the signatures on this sheet were signed in my presence, not more than 90 days preceding the last day for filing of the petitions and are genuine and 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 Party in the political division in which the candidate is seeking nomination/elective office, and that their respective residences are correctly stated, as above set forth.

Rutagwibira (Circulator's Signature)

Signed and sworn to (or affirmed) by (Name of Circulator)

before me, on 12/23/11 (insert month, day, year)



(Notary Public's Signature)

REPRESENTATIVE IN CONGRESS PRIMARY PETITION

We, the undersigned, members of and affiliated with the DEMOCRATIC Party and qualified primary electors of the DEMOCRATIC Party, in the 10th Congressional District of the State of Illinois, do hereby petition that ALOYS RUTAGWIBIRA who resides at 308 Christine Ln in the City, Village, Unincorporated Area (circle one) of HAINESVILLE (if unincorporated, list municipality that provides postal service) Zip Code 60030 County of LAKE and State of Illinois, shall be a candidate of the DEMOCRATIC Party for the nomination for the office of REPRESENTATIVE IN CONGRESS of the State of Illinois, for the 10th Congressional District to be voted for at the primary election to be held on March 20, 2012 (date of election).

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Table with 4 columns: NAME (VOTER'S SIGNATURE), STREET ADDRESS OR RR NUMBER, CITY, TOWN OR VILLAGE, COUNTY. Contains 15 rows of handwritten voter information.

State of Illinois) County of Lake) SS.

I, Aloys Rutagwibira (Circulator's Name) do hereby certify that I reside at 308 Christine Ln in the City/Village/Unincorporated Area (circle one) of HAINESVILLE (if unincorporated, list municipality that provides postal service) Zip Code 60030, County of LAKE, State of ILLINOIS that I am 18 years of age or older, that I am a citizen of the United States, and that the signatures on this sheet were signed in my presence, not more than 90 days preceding the last day for filing of the petitions and are genuine and 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 DEMOCRATIC Party in the political division in which the candidate is seeking nomination/elective office, and that their respective residences are correctly stated, as above set forth.

Signed and sworn to before me, on 12/23/2011 before me, on (insert month, day, year) (Circulator's Signature) before me, on (Name of Circulator) (Notary Public's Signature) OFFICIAL SEAL L AUSTIN NOTARY PUBLIC, STATE OF ILLINOIS (SEAL MY COMMISSION EXPIRES MAR. 26, 2014)

REPRESENTATIVE IN CONGRESS PRIMARY PETITION

We, the undersigned, members of and affiliated with the DEMOCRATIC Party and qualified primary electors of the DEMOCRATIC Party, in the 10th Congressional District of the State of Illinois, do hereby petition that ALOYS RUTAGWIBIRA who resides at 308 CHRISTINE LN in the City, Village, Unincorporated Area (circle one) of HAINESVILLE (if unincorporated, list municipality that provides postal service) Zip Code 60030 County of LAKE and State of Illinois, shall be a candidate of the DEMOCRATIC Party for the nomination for the office of REPRESENTATIVE IN CONGRESS of the State of Illinois, for the 10th Congressional District to be voted for at the primary election to be held on MARCH 20, 2012 (date of election).

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FORMERLY KNOWN AS UNTIL NAME CHANGED ON (List all names during last 3 years) (List date of each name change)

Table with 4 columns: NAME (VOTER'S SIGNATURE), STREET ADDRESS OR RR NUMBER, CITY, TOWN OR VILLAGE, COUNTY. Contains 15 rows of handwritten signatures and addresses.

State of Illinois) County of Lake) SS.

I, Aloys Rutagwibira (Circulator's Name) do hereby certify that I reside at 308 Christine Ln in the City/Village/Unincorporated Area (circle one) of Hainesville (if unincorporated, list municipality that provides postal service) Zip Code 60030, County of Lake, State of Illinois that I am 18 years of age or older, that I am a citizen of the United States, and that the signatures on this sheet were signed in my presence, not more than 90 days preceding the last day for filing of the petitions and are genuine and 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 Party in the political division in which the candidate is seeking nomination/elective office, and that their respective residences are correctly stated, as above set forth.

Signed and sworn to (or affirmed) before me, on 12/23/11 (insert month, day, year) (Circulator's Signature) (Name of Circulator)



(Notary Public's Signature)

REPRESENTATIVE IN CONGRESS PRIMARY PETITION

We, the undersigned, members of and affiliated with the DEMOCRATIC Party and qualified primary electors of the DEMOCRATIC Party, in the 10th Congressional District of the State of Illinois, do hereby petition that Aloys Rutagwibira who resides at 308 Christine Ln in the City, Village, Unincorporated Area (circle one) of HAINESVILLE (if unincorporated, list municipality that provides postal service) Zip Code 60030 County of LAKE and State of Illinois, shall be a candidate of the DEMOCRATIC Party for the nomination for the office of REPRESENTATIVE IN CONGRESS of the State of Illinois, for the 10th Congressional District to be voted for at the primary election to be held on MARCH 20, 2012 (date of election).

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Signed and sworn to (or affirmed) before me, on 12/23/2011 (insert month, day, year)



Rutagwibira (Circulator's Signature) before me, on 12/23/2011 (insert month, day, year) [Notary Signature] (Notary Public's Signature)

REPRESENTATIVE IN CONGRESS PRIMARY PETITION

We, the undersigned, members of and affiliated with the DEMOCRATIC Party and qualified primary electors of the DEMOCRATIC Party, in the 10th Congressional District of the State of Illinois, do hereby petition that ALOYS RUTAGWIBIRA who resides at 308 Christine Ln in the City, Village, Unincorporated Area (circle one) of HAINESVILLE (if unincorporated, list municipality that provides postal service) Zip Code 60030 County of LAKE and State of Illinois, shall be a candidate of the DEMOCRATIC Party for the nomination for the office of REPRESENTATIVE IN CONGRESS of the State of Illinois, for the 10th Congressional District to be voted for at the primary election to be held on March 20, 2012 (date of election).

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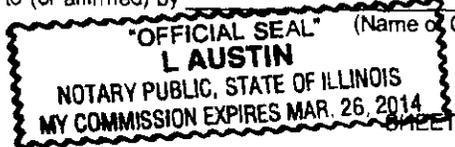
Table with 4 columns: NAME (VOTER'S SIGNATURE), STREET ADDRESS OR RR NUMBER, CITY, TOWN OR VILLAGE, COUNTY. Contains 15 rows of voter information.

State of Illinois) County of Lake) SS.

I, Aloys Rutagwibira (Circulator's Name) do hereby certify that I reside at 308 Christine Ln in the City/Village/Unincorporated Area (circle one) of Hainesville (if unincorporated, list municipality that provides postal service) Zip Code 60030 County of Lake State of Illinois that I am 18 years of age or older, that I am a citizen of the United States, and that the signatures on this sheet were signed in my presence, not more than 90 days preceding the last day for filing of the petitions and are genuine and 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 Party in the political division in which the candidate is seeking nomination/elective office, and that their respective residences are correctly stated, as above set forth.

Rutagwibira (Circulator's Signature)

Signed and sworn to (or affirmed) by before me, on 12/23/2011 (insert month, day, year)



(Notary Public's Signature)

REPRESENTATIVE IN CONGRESS PRIMARY PETITION

We, the undersigned, members of and affiliated with the DEMOCRATIC Party and qualified primary electors of the DEMOCRATIC Party, in the 10th Congressional District of the State of Illinois, do hereby petition that ALOYS RUTAGWIBIRA who resides at 308 Christine Ln in the City, Village, Unincorporated Area (circle one) of Hainesville (if unincorporated, list municipality that provides postal service) Zip Code 60030 County of LAKE and State of Illinois, shall be a candidate of the DEMOCRATIC Party for the nomination for the office of **REPRESENTATIVE IN CONGRESS** of the State of Illinois, for the 10th Congressional District to be voted for at the primary election to be held on March 20, 2012 (date of election).

If required pursuant to 10 ILCS 5/7-10.2, complete the following (this information will appear on the ballot)

FORMERLY KNOWN AS _____ UNTIL NAME CHANGED ON _____
(List all names during last 3 years) (List date of each name change)

NAME (VOTER'S SIGNATURE)	STREET ADDRESS OR RR NUMBER	CITY, TOWN OR VILLAGE	COUNTY
1. <u>Marie Medina</u>	<u>1500 Cedar Lake</u>	<u>Rlake Ill</u>	<u>60073/Lake</u>
2. <u>Marta Hasty</u>	<u>1620 Victoria</u>	<u>W Chgo</u>	<u>IL Lake</u>
3. <u>L. DUKES</u>	<u>1105 GOLF</u>	<u>W/Kgn</u>	<u>IL LAKE</u>
4. <u>Joe [Signature]</u>	<u>2525 [Address]</u>	<u>W/Kgn</u>	<u>IL LAKE</u>
5. <u>Sharon [Signature]</u>	<u>2585 Northmore ave</u>	<u>W/Kgn</u>	<u>IL Lake</u>
6. <u>Jasmine [Signature]</u>	<u>1105 Golf Rd</u>	<u>W/Kgn</u>	<u>IL LAKE</u>
7. <u>Shayla Dukes</u>	<u>1105 Golf Rd</u>	<u>W/Kgn</u>	<u>IL Lake</u>
8. <u>D'Andre Calderon</u>	<u>2712 W Florida av</u>	<u>W/Kgn</u>	<u>IL Lake</u>
9. <u>Breath Davis</u>	<u>1314 Hillcrest</u>	<u>Michigan</u>	<u>IL</u>
10. <u>Tom Johnson</u>	<u>2255 Lewis</u>	<u>W/Kgn</u>	<u>IL Lake</u>
11. <u>Cumma [Signature]</u>	<u>1216 Yorktown Rd</u>	<u>Woodlyn</u>	<u>IL Lake</u>
12. <u>Enelda Behon</u>	<u>505 WOODMOOR DR</u>	<u>RLB</u>	<u>IL LAKE</u>
13. <u>Colleen [Signature]</u>	<u>2316 E Beck</u>	<u>Lumberhurst</u>	<u>IL Lake</u>
14. <u>[Signature]</u>	<u>2316 E Beck</u>	<u>Lumberhurst</u>	<u>IL Lake</u>
15. <u>[Signature]</u>	<u>37724 N. NorthAve</u>	<u>Each Park</u>	<u>IL LAKE</u>

State of Illinois)
County of Lake) SS.

I, Aloys Rutagwibira (Circulator's Name) do hereby certify that I reside at 308 Christine Ln in the City/Village/Unincorporated Area (circle one) of Hainesville (if unincorporated, list municipality that provides

postal service) Zip Code 60030 County of Lake State of Illinois that I am 18 years of age or older, that I am a citizen of the United States, and that the signatures on this sheet were signed in my presence, not more than 90 days preceding the last day for filing of the petitions and are genuine and 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 _____ Party in the political division in which the candidate is seeking nomination/elective office, and that their respective residences are correctly stated, as above set forth.

Rutagwibira
(Circulator's Signature)
before me, on 12/23/2011
(insert month, day, year)

Signed and sworn to (or affirmed) by _____ (Name of Circulator)



[Signature]
(Notary Public's Signature)

State of Illinois)
) SS.
County of Cook)

CHICAGO
12 JUN - 4 11 16
STATE BOARD OF ELECTIONS

**Before the Duly Constituted Electoral Board for the Hearing and
Passing Upon of Objections to Nomination Papers of Candidates for
the Nomination of the Democratic Party for the Office of
Representative in Congress for the 10th Congressional District**

**Objections of Kimberly A. Rodriguez to the Nomination Papers of
Aloys Rutagwibira for the Democratic Party Nomination for the
Office of Representative in Congress for the 10th Congressional
District, to be voted for at the General Primary Election to be Held on
March 20, 2012**

Verified Objector's Petition

Kimberly A. Rodriguez, residing and registered to vote at 621 Saxon Lane, Libertyville, Illinois (hereinafter referred to as "Objector") states that the Objector's address is as stated, that the Objector is a legal voter of the 10th Congressional District, and that the Objector's interest in filing the following objections is that of a citizen desirous of seeing that the election laws governing the filing of nomination papers for the Nomination of the Democratic Party for the office of Representative in Congress for the 10th Congressional District, are properly complied with. Therefore, the Objector makes the following objections to the nomination

STATE BOARD OF ELECTIONS
12 JUN - 4 11 16

papers of Aloys Rutagwibira as a candidate for the Democratic Party Nomination for the office of Representative in Congress for the 10th Congressional District, to be voted for at the General Primary Election to be held on March 20, 2012 (hereinafter referred to as the "Nomination Papers").

The Objector states that said Nomination Papers are insufficient in fact and law for the following reasons:

1. Pursuant to Illinois law, nomination papers for the nomination of the Democratic Party for the office of Representative in Congress for the 10th Congressional District, to be voted for at the General Primary Election to be held on March 20, 2012, must contain the true signatures of not fewer than 600 qualified and duly registered legal voters of the Democratic Party for the 10th Congressional District. In addition, said Nomination Papers must truthfully allege that the candidate is qualified for the office he seeks, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise must be executed in the form provided by law. The Nomination Papers herein purport to contain the signatures of approximately 642 of such voters, and further purport to truthfully allege that the candidate is qualified for the office he seeks and purport to have been gathered, presented and executed in the manner required by the Illinois Election Code.
2. The Nomination Papers contain petition sheets, in fact each and every one of the 43 petition sheets filed, which contains the affidavit of circulator which affidavit has not been validly sworn to as provided by law. Specifically, the notary jurat in each such affidavit does not recite who it was who signed and swore to the affidavit before the notary, in violation of Illinois Election Code and therefore all signatures on all petition sheets submitted are invalid.
3. The Nomination Papers contain petition sheets numbered 15, 21, 23, 31, 36 and 37, which sheets contain a circulator's affidavit which fails to allege that the circulator knew and believed that the persons signing the petition sheet were qualified voters of the Democratic Party, in violation of the Illinois Election Code and therefore all such signatures on such petition sheets are invalid.

4. The Nomination Papers contain the names of persons, as petitioners, who are not duly registered as voters at the addresses shown opposite their respective names, as is set forth specifically (with an X or check mark) in Appendix A., attached hereto and incorporated herein, under the heading, Column A, "Signer not registered at address shown," in violation of the Illinois Election Code and therefore all such signatures are invalid.
5. The Nomination Papers contain the names of persons, as petitioners, who, at all times relevant hereto, did not reside within the boundaries of the 10th Congressional District, as is shown by the address written on the petition sheet and as is set forth specifically (with an X or check mark) in Appendix A., attached hereto and incorporated herein, under the heading, Column B, "Signer resides outside district," in violation of the Illinois Election Code and therefore all such signatures are invalid.
6. The Nomination Papers contain the names of persons, as petitioners, who did not sign said papers in their own proper persons, and said entries are not the genuine signatures of the registered voters indicated as is set forth specifically (with an X or check mark) in Appendix A., attached hereto and incorporated herein, under the heading, Column C, "Signer's signature not genuine," in violation of the Illinois Election Code and therefore all such signatures are invalid.
7. The Nomination Papers contain the names of persons, as petitioners, for whom the address appearing opposite said names is so incomplete or illegible as to render impossible the inquiry into whether such persons are registered voters within the 10th Congressional District as is set forth specifically in Appendix A., attached hereto and incorporated herein, under the heading Column P., "Signer's address so incomplete or illegible as to prevent checking," in violation of the Illinois Election Code and therefore all such signatures on such petition sheets are invalid.
8. Because the Nomination Papers contain fewer than the statutory minimum number of 600 validly collected and presented signatures of qualified and duly registered legal voters of the Democratic Party of the 10th Congressional District, signed by such voters in their own proper person with proper addresses, as alleged above and as is set forth specifically (with an X or check mark) in Appendix A., attached hereto and incorporated herein, the Nomination Papers are invalid in their entirety.

Wherefore, the Objector requests a hearing on the Objections set forth herein, an examination by the aforesaid Electoral Board (or its duly appointed agent or agents) of the official precinct registers and binders relating to voters in the 10th Congressional District, (to the extent that such examination is pertinent to any of the matters alleged herein), a ruling that the Nomination Papers are insufficient in law and fact, and a ruling that the name of Aloys Rutagwibira **shall not appear** on the ballot for the Nomination of the Democratic Party for the office of Representative in Congress for the 10th Congressional District, to be voted for at the General Primary Election to be held on March 20, 2012.

Kimberly A. Rodriguez

Kimberly A. Rodriguez

Objector

VERIFICATION

The undersigned, being first duly sworn upon oath, states that she has read the foregoing Objector's Petition and to the best of her knowledge and belief the facts set forth therein are true and correct.

Kimberly A. Rodriguez

Kimberly A. Rodriguez

Objector

Subscribed and sworn to before me by Kimberly A. Rodriguez

this 2nd day of January, 2012.

Lisa Rivera

NOTARY PUBLIC



Rodriguez v. Rutagwibira

ARDC Attorney #01874098

Objections prepared: January 2, 2012

Richard K. Means

Attorney for the Objector

806 Fair Oaks Avenue

Oak Park, Illinois 60302

Telephone: (708) 386-1122

Facsimile: (708) 383-2987

Email: rmeans@richardmeans.com

Cook County Attorney # 27351

ARDC Attorney #01874098

Philip Krasny
Hearing Officer
Illinois State Board of Elections

Richard K. Means
ARDC Attorney #01874098
Cook County Attorney
Representing Rodriguez Kimberly

Re: #:11-SOEB-GP-523

I maintain that the results of the records exam should be rejected by the Illinois State Board of Elections for additional reasons.

- 1) My absence did not hinder in anyway the examiners in conducting their work. It actually gave examiners the latitude to conduct their examination without any opposing party.
- 2) I am not challenging rules and procedures that were applied to the examination.
- 3) My Presence or absence at the examination has no bearing on what the examiners chose to report.
- 4) I am objecting to the accuracy of what the examiners chose to report as a results of their findings. And I cannot be held responsible for lack of caution on the part of the reporting entity.

I am asking Philip Krasny , the Hearing officer of this case to recommend the Illinois State Board of Elections to reject the results of the records exam on ground of lack of accuracy and negligence of the reporting party.

Thank you

Aloys Rutagwibira
308 Christine Lane
Hainesville, IL 60030

01/19/2011

Philip Krasny
Hearing officer
Illinois State Board of Elections
1400 N Randolph, Chicago

Re: 523 Aloys Rutagwibira

Dear Philip,

I am writing to ask you to recommend the Illinois State of Elections to disregard the results of the file examination on case 523 Aloys Rutagwibira for the following reasons:

- 1) The results of the file examination are for the wrong Candidate. My name is Aloys Rutagwibira and I am running for US Representative in the 10th Congressional district, I am not running in the 8th Congressional district as the examiners claim.
- 2) Gross Negligence of the Examiners, On every page of the 43 pages submitted it clearly states the office I am seeking for and in which district. For both the examiner and the proofreader to have missed that says a lot on other things they could have missed, and this makes questionable the results of this audit.
- 3) It is not clear when and how often this error has been present in my file, or what effect it has had in initiating the objection.
- 4) For the results to stand, the examiners would have to prove that switching any Candidate to any district would have no impact on the Candidate's petition.

Considering these objectionable issues on handling my file, I am asking that the Illinois State of Elections reject the Objection filed by Rodriguez Kimberly against my petition to appear on the Ballot for the March 20, 2012 primary elections.

Thank you.

Aloys Rutagwibira
308 Christine Lane
Hainesville, IL 60030

**BEFORE THE STATE OFFICERS
ELECTORAL BOARD**

Kimberly A. Rodriguez

Objector,

vs.

Aloys Rutagwibira

Candidate.

Case #: 11-SOEB-GP-523

**Motion To Strike and Dismiss Candidate’s Objections
To Registration Records Examination Results**

Kimberly A. Rodriguez, Objector herein, by and through her attorney, Richard K. Means, hereby moves pursuant to this Board’s Rule 9, to strike and dismiss the Candidate’s objections to the registration records examination results.

1. On Tuesday, January 17, 2012, the Board conducted a registration records examination of the line-by-line allegations in the Objector’s petition pursuant to Board Rule 9.
2. All parties had notice of the records examination and how many watchers and other party representatives would be permitted to attend and participate.
3. The Objector had a full complement of watchers and other party representatives in attendance and voiced objections to specific rulings with which they disagreed.
4. The Candidate had no watchers or other party representatives in attendance and therefore voiced no objections to specific rulings.
5. Later on Tuesday, January 17, 2012, the Board served on the parties a Microsoft Excel file memorializing the rulings made at the registration records examination which showed that the Candidate had presented less than half of the minimum number of valid petition signatures for the office he seeks.
6. On Thursday, January 19, 2012, Candidate Rutagwibira filed an undated, untitled document with the Board which apparently embody his objections to the results of the registration records examination.

7. Pursuant to Board Rule 9, a party is entitled to dispute and present evidence contradicting any specific registration records examination ruling if he or his representative was present at the examination and voiced a specific objection to any such ruling and those objections are thereafter filed in writing within 3 business days of the service of the rulings made at the registration records examination.
8. Since neither the Candidate nor any representative on his behalf were present at the registration records examination and since no one voiced objections at the registration records examination to the rulings about which he now complains, Board Rule 9 bars the objections he now has presented.

WHEREFORE, for the above reasons, the Candidate's January 19 objections to the records examination rulings must be stricken and dismissed.

Respectfully submitted,



Richard K. Means

January 19, 2012

Contact information for service and notices pursuant to Board Rules:

Richard K. Means
ARDC Attorney #01874098
Cook County Attorney #27351
24 hour 7 day contact information:
Email: Rmeans@RichardMeans.com
Web site: www.RichardMeans.com

806 Fair Oaks Avenue
Oak Park, Illinois 60302
Telephone: (708) 386-1122
Facsimile: (708) 383-2987
Cellular (312) 391-8808

**BEFORE THE STATE OFFICERS
ELECTORAL BOARD**

Kimberly A. Rodriguez)	
	Objector,)
)	
vs.	)	Case #: 11-SOEB-GP-523
)	
Aloys Rutagwibira)	
)	
	Candidate.)

NOTICE OF FILING AND PROOF OF SERVICE

To: Aloys Rutagwibira, Candidate *pro se*
Philip Krasny, Hearing Officer
Steven Sandvoss, General Counsel
Electoral Board staff

PLEASE TAKE NOTICE that, prior to 2:00 pm on January 19, 2012, I filed the attached **Motion To Strike and Dismiss Candidate's Objections To Registration Records Examination Results** a copy of which are hereby served upon you by email and/or fax transmission.



Richard K. Means
Attorney for Objector

January 19, 2012

Contact information for service and notices pursuant to Board Rules:

Richard K. Means	Web site: www.RichardMeans.com
ARDC Attorney #01874098	
Cook County Attorney #27351	
24 hour 7 day contact information:	
Email: Rmeans@RichardMeans.com	

Coyle/Bigger v. Miller
12 SOEB GP 524

Candidate: Darrell Miller

Office: Congress, 18th Dist.

Party: Republican

Objector: Katherine Coyle/Michael Bigger

Attorney For Objectors: John Fogarty

Attorney For Candidate: Darrell Miller, pro se

Number of Signatures Required: Not less than 600

Number of Signatures Submitted: 712

Number of Signatures Objected to: 292

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's Rule 9 Motion, Objectors' Rule 9 Motion

Binder Check Necessary: Yes

Hearing Officer: David Herman

Hearing Officer Findings and Recommendation: A records examination commenced and was completed on January 16, 2012. The examiners ruled on objections to 292 signatures. 146 objections were sustained leaving 566 valid signatures, which is 34 signatures below the required minimum number of signatures.

The Candidate filed a Rule 9 Motion attempting to rehabilitate 57 signatures. The Candidate submitted copies of the voter registration cards of individuals for which objections were sustained for signatures not being genuine. Since the Candidate essentially was asking the Hearing Officer for a second opinion on the genuineness of signatures without submitting any additional evidence (such as affidavits or a handwriting expert) to contest the staff rulings, the Hearing Officer finds that the Candidate failed to rehabilitate those objections sustained on the basis of the signature not being genuine.

The Candidate also submitted copies of the voter registration cards and one affidavit of individuals for which objections were sustained for signers not registered at the address shown. After reviewing these records, the Hearing Officer finds that the Candidate submitted sufficient evidence to rehabilitate 17 signatures. With the addition of the 17 rehabilitated signatures, the Candidate has submitted 583 valid signatures, which is 17 signatures less than the minimum number required.

Because the Candidate does not have the statutory minimum signature requirement, the Hearing Officer finds that there is no need to evaluate the Objectors' Rule 9 Motion that requested to have an additional 55 objections sustained.

Accordingly, the Hearing Officer recommends that the objection be sustained and the name of Darrell Miller not be certified for the ballot for the Republican nomination to the office of Representative in Congress for the 18th Congressional District for the March 20, 2012 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 NOMINATION OBJECTIONS TO
NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE
OFFICE OF REPRESENTATIVE IN CONGRESS FOR THE 18th CONGRESSIONAL
DISTRICT OF THE STATE OF ILLINOIS**

Katherine Coyle and Michael Bigger,)	
)	
Petitioners-Objectors,)	
)	
v.	)	File No. 12 SOEB GP 524
)	
)	
Darrel Miller,)	
)	
Respondent-Candidate.)	

RECOMMENDATION OF HEARING EXAMINER

This matter coming on for recommendation on the Verified Objection in this matter and the Hearing Examiner states as follows:

PROCEDURAL HISTORY

This matter commenced on January 4, 2012 when Katherine Coyle and Michael Bigger filed a "Verified Objectors' Petition" with the State Board of Elections. Coyle and Bigger (hereinafter "Objectors") alleged that the nomination papers of Darrel Miller as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 18th Congressional District for the State of Illinois (hereinafter "Candidate") were insufficient in that they were not in conformance with certain provisions of the Illinois Election Code. Specifically, 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 18th Congressional District, 3) whose signatures were not genuine, 4) who signed the nominating petitions twice, and 5) whose addresses were incomplete.

On January 16, 2012, a records examination was conducted by staff of the State Board of Elections. The records review revealed that Candidate had collected a total of 712 signatures. There were 292 line objections reviewed at the records examination. At the conclusion of the records examination, there were 566 signatures considered valid (146 line objections were sustained, while 146 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 review, Candidate did **NOT** have the required statutory minimum of not fewer than 600 signatures to be placed on the primary election ballot.

Both Candidate and Objectors submitted Rule 9 Motions contesting the finding of the records examination conducted by the staff of the State Board of Elections. Candidate has

attempted to rehabilitate 57 signatures with his Rule 9 filing. Objectors' filing attempts to have 55 objections that were overruled reconsidered and sustained.

Candidate's Rule 9 Motion Arguments

Candidate merely filed copies of the voter registration cards of individuals for which objections were sustained for Colum C objections challenging the genuineness of signatures. No other evidence (such as affidavits or handwriting expert) was submitted by Candidate to rehabilitate the signatures ruled by Board staff as not being genuine. Candidate's attempt to get the Hearing Examiner to conduct a second records examination essentially asking for a second opinion is insufficient to overturn a staff ruling as to the genuineness of a signature. Since no additional evidence was submitted to contest the Board staff rulings, Candidate's attempt to rehabilitate the following signatures relating to their genuineness fails: (page and line) 1-4, 1-6, 1-11, 1-14, 3-4, 4-13, 4-14, 5-4, 7-4, 7-7, 8-4, 8-7, 14-11, 18-6, 20-2, 20-6, 22-7, 22-15, 31-7, 32-1, 32-2, 33-5, 33-7, 33-13, 34-2, 34-13, 35-6, 35-10, 37-13, and 39-5.¹

The Candidate also submitted copies of the voter registration cards (and one affidavit) of individuals for which objections were sustained for Colum A objections asserting that signers were not registered at the address shown. A review of these records for the proper address shows that Candidate's attempt to rehabilitate the following signatures was successful to show that the signer was registered at the address shown: (page and line) 2-7, 7-15, 9-5, 18-10, 24-1, 26-1, 26-12, 26-15, 30-10, 34-8, 35-1, 35-14, 39-10, 42-11, 42-12, 44-6 and 44-15. Candidate's attempt to rehabilitate the following Column A objection signatures fails: (page and line) 3-2, 11-7, 16-4, 16-5, 27-5, 30-1, 31-6, 41-1, 42-2, and 43-8,

In Candidate's attempt to rehabilitate 57 signatures, he was only able to rehabilitate 17 signatures (if a second records review was proper, then he was able to rehabilitate 19 signatures). Adding his 17 (19) rehabilitated signatures to his other valid signatures of 566 results in Candidate having 583 (585) valid signatures. Candidate has failed to meet the minimum signature requirement.

Objectors' Rule 9 Motion Arguments

Because Candidate does not have the statutory minimum signature requirement, there is no need to evaluate the Rule 9 filing of Objectors requesting to have an additional 55 objections to signatures sustained as such arguments are mooted.

¹ If the Board believes it is within the scope of the Hearing Examiner's duties to conduct a second records examination as to the whether the genuineness objections should be overruled, the Hearing Examiner reviewed the voter registration cards submitted by Candidate and compared the same against the corresponding signatures on the petition sheets submitted and would only overrule two of the original Board staff rulings relating to the genuineness of the signatures (page and line: 18-6 and 35-6). The remaining staff rulings regarding genuineness of signatures were proper.

Conclusion

Because Candidate has submitted only 583 valid signatures and has **NOT** met the minimum signature requirement of not less than 600 set forth in the Election Code, the Hearing Examiner recommends that Candidate's name **NOT** be placed on the ballot as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 18th Congressional District for the State of Illinois in the general primary election to be held on March 20, 2012.

DATED: January 26, 2012



David A. Herman, Hearing Examiner

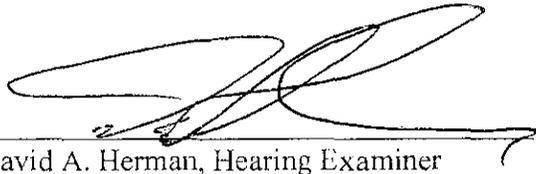
CERTIFICATE OF SERVICE

Service of the foregoing document was made by sending a copy via email to:

John G. Fogarty
Law Office of John Fogarty, Jr.
4043 N. Ravenswood, Suite 226
Chicago, IL 60613
john@fogartylawoffice.com

Darrel Miller
18636N 500E
Danvers, IL 61732
dmliller@frontiernet.net

and by mailing a copy thereof, in a sealed envelope, postage fully prepaid, addressed to all parties listed above by depositing same in the United States Mail from the office of the undersigned this 26th day of January, 2012.



David A. Herman, Hearing Examiner

Case Name: Coyle/Bigger v. Miller

Case Number: 12 SOEBGP 524

Office: 18th Congress

Signatures Required: Not less than 600

PAGE NUMBER	NUMBER OF SIGNATURES	PAGE NOTES	NUMBER SUSTAINED	NUMBER OVERRULED	*area to indicate if 2 pages are numbered the same, a number has been skipped, etc.
1	15		5	3	
2	15		9	1	
3	15		3	4	
4	14		7	3	
5	15		4	6	
6	15		4	2	
7	15		5	0	
8	15		2	0	
9	15		2	0	
10	15		2	1	
11	15		4	2	
12	15		0	4	
13	15		3	2	
14	15		3	4	
15	15		2	0	
16	15		4	3	
17	15		1	4	
18	15		2	0	
19	15		0	4	
20	15		3	2	
21	15		0	10	
22	15		4	2	
23	15		3	4	
24	15		6	3	
25	15		5	5	
26	15		4	4	
27	15		5	1	
28	15		3	3	
29	15		3	3	
30	15		5	1	
31	15		2	2	
32	15		3	5	
33	15		6	3	
34	15		5	3	
35	15		5	6	
36	15		0	2	
37	15		2	2	
38	15		0	7	

EXHIBIT
A

39	15		3	7	
40	11		0	2	
41	15		2	3	
42	15		6	7	
43	15		1	10	
44	15		6	1	
45	14		1	3	
46	15		1	2	
47	15	*	0	0	no recap sheet
48	13	*	0	0	no recap sheet
TOTAL	712		146	146	

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 Darrel Miller ("the Nomination Papers") as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 18th 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 18th Congressional District of the State of Illinois the signatures of not less than 600 duly qualified, registered, and legal voters of the said 18th 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 48 petition signature sheets containing a total of 713 signatures of allegedly duly qualified, legal, and registered voters of the 18th 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 18th 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 18th 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.

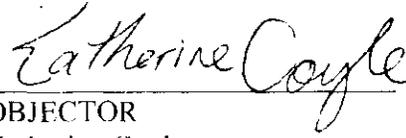
10. Your Objectors further state that said nominating petition contains the signatures of various individuals who have signed the petition more than once, and such duplicate signatures are invalid, as more fully set forth in the Appendix-Recapitulation, under the column designated "SIGNED PETITION TWICE (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 the address shown next to said voter's name is incomplete, as more fully set forth in the Appendix-Recapitulation, under the column designated "INCOMPLETE ADDRESS (E)" attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

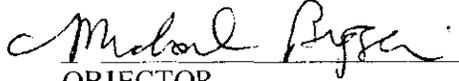
12. Your Objectors state that the nomination papers herein contested consist of various sheets supposedly containing the valid and legal signatures of 713 individuals. The individual objections cited herein with specificity reduce the number of valid signatures to below the statutory minimum of 600.

WHEREFORE, your Objectors pray that the purported nomination papers of Darrel Miller as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 18th 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 Darrel Miller as a candidate of the Republican Party for nomination to the Office of Representative in Congress for the 18th 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 20, 2012.

Respectfully submitted,



OBJECTOR
Katherine Coyle



OBJECTOR
Michael Bigger

Law Office of John Fogarty, Jr.
4043 N. Ravenswood, Suite 226
Chicago, Illinois 60613
(773) 549-2647
(773) 680-4962 (mobile)
(773) 681-7147 (fax)
john@fogartylawoffice.com

Schaefflein/Brezinski v. Cunningham
12 SOEB GP 525

Candidate: John A. "Jack" Cunningham

Office: Congress, 11th Dist.

Party: Republican

Objector: Henry Schaefflein, Edmund Brezinski

Attorney For Objector: John Fogarty

Attorney For Candidate: Deanna Mool

Number of Signatures Required: Not less than 600

Number of Signatures Submitted: 1265

Number of Signatures Objected to: 833

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 "Signatures printed and not written."

Objectors allege that Sheet 7 should be stricken on the basis of improper notarization because it was notarized by a notary whose commission was expired.

Objectors further allege that the nominating papers of the Candidate evidence a pattern of fraud and false swearing. Specifically, it is alleged that the sheets circulated by Charles Leslie are part of the pattern of fraud because each of his sheets contain a residence address (9708 Emerson, Des Plaines, IL) that does not exist, and also that several of his signatures appear not to be genuine and written by the same hand. It is also alleged that all of the sheets of Charles Leslie that were notarized by Lisa Hwang should be stricken because she notarized circulator affidavits which contained a false address. It is also alleged that the sheets circulated by Charles Weed should be stricken because many of the signatures on his sheets appear not to be genuine and written by the same hand.

Dispositive Motions: Candidate's Rule 9 Motion, Objectors' Rule 9 Motion

Binder Check Necessary: Yes

Hearing Officer: Barbara Goodman

Hearing Officer Findings and Recommendation: A records examination commenced and was completed on January 13, 2012. Both parties were present at the records exam. The examiners ruled on objections to 833 signatures. 464 objections were sustained leaving 801 valid signatures, which is 201 signatures more than the required 600 minimum number of signatures.

Both the Candidate and Objectors filed Rule 9 Motions. There was a stipulation that twenty-four (24) objections should have been sustained as the signer's addresses were outside of the district. Additionally, one (1) signature was rehabilitated.

Evidentiary hearings were held and testimony was given by Circulator Charles Leslie, Charles Leslie's sister, Circulator Lawrence Tweed, Forensic Document Examiner Lisa Hanson and Notary Lisa Hwang.

Based on the testimony of the circulators and the forensic document examiner, the Hearing Officer finds that, while signatures appearing to be of common authorship do raise questions regarding the circulation process and tend to suggest fraudulent conduct, there is no evidence sufficient to establish that circulators Leslie or Weed engaged in fraudulent conduct.

Although Circulator Leslie gave a false address on his sheets, the testimony clearly established that Notary Hwang asked for identification of those individuals who appeared before her. The Notary Act does not place upon a notary the obligation to confirm the signer's correct address; therefore, the Hearing Officer finds that the Objectors failed to establish that the notary engaged in a pattern of fraud by notarizing Leslie's sheets containing a false address.

Regarding the false address on Circulator Leslie's petition sheets, Section 7-10 of the Election requires that a circulator provide his or her address in a sworn statement on each petition circulated. This is a mandatory provision of the Election Code to enable a petition circulator to be located and to ensure the integrity of the electoral process. At the time of circulation, Leslie resided at 9078 Emerson, Des Plaines, IL and the address listed on the circulator affidavits (9708 Emerson) did not exist. The evidence established that the only way the circulator was eventually located was through someone working with the Candidate since Leslie periodically resides at various locations and his voter registration record lists a different address than his State ID. Leslie's mistake in transposing the house numbers of his residence in the circulator affidavits of all 31 sheets circulated by him resulted in an inability on behalf of the Objectors to locate the circulator without the assistance of the Candidate. The Hearing Officer finds that this failure to comply with the mandatory provisions of Section 7-10 requires every sheet circulated by Charles Leslie to be stricken. The total amount of signatures remaining on the Leslie sheets after the records examination was 254; therefore, the striking of those signatures results in the Candidate being 74 signatures below the minimum number of signatures required for placement on the ballot.

Although the testimony of the circulators and the notary established that Notary Hwang notarized the sheets of Leslie and Weed when they were not present, and even filled in the blanks in the circulators' affidavits for them, this circulator violation was not pled in the Objectors' Petition. Accordingly, the Hearing Officer finds that there is no authority to strike any sheets on the basis of the circulators' failure to appear before a notary.

The Hearing Officer also finds that the expired notary commission of the notary on Sheet 7 does not provide a cognizable legal basis to strike the signatures on that sheet; therefore, the objection to the expired notary commission should be overruled.

Based on the foregoing, the Hearing Officer recommends that the objection to the nominating papers of John "Jack" Cunningham be sustained in conformity with the results of the records examination and the subsequent hearings and the name of John "Jack" Cunningham not be certified for the ballot as a Republican candidate for the office of Representative in Congress for the 11th Congressional District for the March 20, 2012 General Primary Election.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer as to all elements of her Report, though I do so reluctantly with regard to her recommendation on striking

the 31 sheets containing an incorrect "residence" address. The statute clearly requires an address be included in the circulator's affidavit, and the case law seems to make this a mandatory requirement, as it bears on the integrity of the circulation process. That is, without a correct address of the circulator, it would be quite difficult, if not impossible in some situations, to locate the circulator in the event his or her testimony is needed to confirm (or refute) the assertions made in his or her oath. Clearly, the rationale for this requirement was illustrated in this case, regarding the difficulty the objector had in locating the circulator. In fact, if it wasn't for the assistance of the candidate, he may never have been found. Therefore, I concur with the Hearing Officer that the sheets must be stricken, though I am deeply troubled that the result is the candidate being disqualified, by what appears to be an inadvertent mistake on the part of the circulator.

BEFORE THE ILLINOIS STATE OFFICERS ELECTORAL BOARD

Henry Schaefflein and Edmund Brezinski)
)
 Objectors)
)
 -v-) 11 SOEB GP 525
)
 John "Jack" Cunningham)
)
 Candidate)

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

This matter was first heard on December 20, 2011 and assigned to this Hearing Officer. A case management conference was held on said date. The Objectors appeared through counsel John Fogarty and the candidate appeared through counsel Deanna. The parties were given the opportunity to file preliminary motions. No preliminary motions were filed.

In addition to other allegations, the objections concerned allegations regarding the sufficiency of the signatures contained in the nominating papers and required a records examination. A records examination was conducted and hearing. The results of the records examination, after the correction of the tallies on certain sheets, were as follows:

- A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 600.
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1265.
- C. The number of signatures deemed invalid because of objections sustained in the records examination total 464.
- D. The remaining number of signatures deemed valid as a result of the records examination total 801.

The results of the records examination established that the candidate had 201 signatures more than the required number of signatures for placement on the ballot. Each of the parties then filed motions pursuant to Rule 9 of the Board's Rules of Procedure.

A hearing was held on the Rule 9 motions filed by the parties and to address the other issues raised in the Objectors' Petition. Subsequent to the final day of hearing, the parties submitted written summations.

Paragraph 16 of the Objectors' Petition alleges, in pertinent part that the nominating papers of the Candidate evidence a pattern of fraud and false swearing with an utter and contemptuous disregard for the mandatory provisions of the Election Code. Paragraph 16(a) alleges that the sheets circulated by Charles Leslie are part of this pattern because each of his sheets contains a residence address that does not exist, and further that several of his signatures appear not to be genuine and written by the same hand. The residence address listed on each of Leslie's sheets was 9708 Emerson, Des Plaines, IL. Paragraph 16(b) of the Objectors' Petition alleges that all of the sheets of Charles Leslie that were notarized by Lisa Hwang should be stricken because she notarized circulator affidavits which contained a false address. Paragraph 16(c) of the Objectors' Petition alleges that the sheets of Circulator Charles Weed should be stricken because many of the signatures on his sheets appear not to be genuine and written by the same hand.

THE TESTIMONY OF PRIVATE INVESTIGATOR LYNN BAGLEY

In order to establish that Circulator's sheets contained a fictitious address, Objectors called private investigator, Lynn Bagley ("Bagley") to testify. Bagley testified concerning her exhaustive efforts to locate the address of 9708 Emerson, Des Plaines. The address could not be located by her GPS. She drove to Emerson Street in Des Plaines to the highest address on the street. She searched for the address in each direction and was unable to locate it. She called the Cook County Sheriff who also indicated that they could not locate such an address on Emerson. She also did a Google Earth search to locate the address and it appeared that the address would

have been in the middle of the expressway. The un rebutted testimony of Bagley clearly established that the address of 9708 Emerson, Des Plaines, IL. does not exist.

THE TESTIMONY OF ANGELA POTTS, SISTER OF
CIRCULATOR CHARLES LESLIE

When the hearing began, the circulator could not be located. However, the circulator's sister was located by someone working with the Candidate. Angela Potts ("Potts") testified that she resides at 9078 Emerson in Des Plaines, IL. and that her brother, Charles Leslie, lived there with her in the past. She testified that he recently left her residence because they got into an argument and she was uncertain as to his whereabouts. Potts further testified that Leslie sometimes stays with her uncle in Wilmette, sometimes stays at a shelter near Wilson and Broadway and that at the current time he is unemployed and it is hard for him to keep a job. According to Potts, Leslie is having a difficult time in his life because he is going through a divorce and it is hard for him to be away from his son. Candidate's exhibit 3 was identified as Potts' front door. Candidate's exhibit 4 was identified as Potts' street address of 9078. Candidate's Exhibit 5 was identified as a piece of mail addressed to Charles Leslie at 9078 Emerson, Des Plaines. Candidate's Exhibit 6 was identified as Leslie's State ID that he left at her house which was issued on August 23, 2011 and contained the address of 315 Ridge, Wilmette, IL.

Potts was also asked to identify Leslie's signature on various sheets of the petition and a stipulation was entered that Leslie's signature appeared on the sheets in question. Potts further testified that Leslie stays in the basement when he resides with her and that she first learned of the need for her to testify on the date of the hearing. Potts further testified that sometimes but rarely Leslie stays in Wilmette with his uncle who raised him. Potts indicated that Leslie

previously lived in a number of other places including Rockford and Tennessee. Potts identified Objectors' Exhibit 2 as Leslie's voter registration card with a Rockford address.

THE TESTIMONY OF CIRCULATOR CHARLES LESLIE

Days after the first hearing, Charles Leslie was located and he was called to testify. He confirmed that he was the circulator of thirty one (31) sheets contained in the Candidate's nominating papers. He testified that he mistakenly wrote the address of 9708 Emerson, Des Plaines on his nominating papers and that at the time he circulated the Candidate's nominating petition, he resided at 9078 Emerson, Des Plaines with his sister. According to Leslie, he got the address wrong on his sheets because he was under a lot of stress and he had resided in several locations. He transposed the numbers in the address simply by mistake. In terms of any indicia of residency at a particular location, Leslie testified that he did not own a cell phone but sometimes borrowed his sisters. He did not own property and no utilities were in his name. At the time of the hearing, Leslie was unemployed. As to Candidate's Exhibit 6, the State ID listing 315 Ridge, Wilmette as his address, Leslie indicated that Ridge is his uncle's address but not where he stays although he receives mail.

Leslie also testified about his process of circulation. He came to circulate for Candidate Cunningham because he knew people who were looking for circulators. He was paid 75 cents for each signature. He further testified that he never wrote in anyone else's name on the petition sheets, always witnessed the signer sign and that the only thing he wrote on the sheet other than the information in the circulator's oath was occasionally the city. He was driven to various locations to circulate by a person named Rod. He circulated at metra stations, malls and in other public places where there would be crowds of people. Leslie could not explain why the signatures on some sheets appeared to be of common authorship. He understood that the signing

of the circulator's oath meant that he witnessed the signers sign and that he was the one who had circulated the sheet. He further testified that he understood that to sign the names of petition signers was against the law.

Leslie also testified that his sheets were only notarized by one person who matched the description of Lisa Hwang. He testified that sometimes he would sign the sheets in front of her and when he did so, she asked for his identification. Other times, he would finish a sheet, sign it, and simply give it to Rod. He assumed Rod was getting the sheets notarized.

THE TESTIMONY OF CIRCULATOR LAWRENCE WEED

Circulator Lawrence Weed ("Weed") also testified. He had circulated for other candidates in the past but could not recall specifically who they were. For the circulation of the Candidate's petitions, he was working with an individual named Rod and that he had met Rod a few years ago. He was paid for circulating and was paid approximately \$10 per sheet. He circulated at Metra stations but could not recall which stations but he knew the signers had to be in Lisle, Will County and DuPage. When he was circulating, he was driven to the Metra stations by someone working with the campaign and driven back to a central location. He further testified that when he finished a sheet he would sometimes sign them and give them to Rod and that it was his understanding that Rod took the sheets to the notary. He recalled meeting Lisa Hwang, the notary at a McDonalds on Stony Island and she notarized his sheets on the occasions he was present.

Weed also testified that he never signed for anyone else and he never allowed forgeries. Weed had no explanation why some of the signatures on his sheets appeared to be in the same or similar handwriting.

THE TESTIMONY OF LISA HANSON, FORENSIC DOCUMENT EXAMINER

Objectors called Lisa Hanson, a forensic document examiner, to testify. Hanson testified that she was e-mailed copies of the Candidate's nomination papers and divided them into sheets circulated by Weed and sheets circulated by Leslie. She reviewed the sheets in an effort to find similar handwriting styles. When she found similar styles, she then looked for similar characteristics. She also looked for similar writing styles in the addresses as well. Hanson prepared reports where she found evidence of common authorship on the sheets of Leslie and Weed.

On cross examination, Hanson indicated that she never looked at any of the registration records for any purported petition signer whose signatures were contained in her Common Authorship reports. Her analysis was based solely on a review of a copy of the nominating sheets she received via e-mail as a PDF. She was unaware of the resolution of the scanner used to copy the sheets and was unaware of the resolution of her printer. She never reviewed the original nominating papers. She could not identify which, if any, of the signatures were genuine and was unaware of whether any were found to be genuine in the records examination. Hanson conceded that various circumstances could affect a person's signature such as stress, the cold, lack of focus, being in a hurry, the type of writing surface, whether the signer is sitting or standing, whether a signer is writing on a table or clipboard, their age, health, whether they are wearing gloves, whether they have had a stroke and whether they are tired.

THE TESTIMONY OF LISA HWANG, NOTARY

Lisa Hwang ("Hwang") the notary was called to testify in both the Objectors' and the Candidate's case. She testified that she does not work for the Candidate's campaign but was the

notary on several sheets of the nominating papers. Her procedure for notarization was when a circulator would appear before her, she would ask them for their ID and then check to see if their signature matched the signature on the ID. The types of IDs she was given were either state IDs or driver's licenses. She did not check the address on IDs because, according to Hwang, it is her job as a notary to confirm the identity of the individual appearing before her not to confirm their address. Once she knew the identity of the signer or became familiar with their signature, she did not ask to their ID on subsequent occasions of notarization. She conceded that she filled in the affidavits of the circulators when the circulators were in a hurry. When called a second time to testify, Hwang further conceded that she sometimes notarized sheets for circulators when the circulators did not appear before her to sign the affidavits. She did this on those occasions where she had already met the circulators in person, and was familiar with their signatures. Hwang's testimony is consistent with the testimony of circulators Leslie and Weed who indicated that sometimes they appeared before the notary and sometimes they signed the sheets and gave them to Rod before they were notarized.

DISCUSSION

Pattern of Fraud as a Result of Instances of Apparent Common Authorship

Objectors urge that the testimony offered by forensic document examiner Lisa Hanson conclusively establishes that the sheets of circulators Weed and Leslie evidence a pattern of fraud and false swearing. They base this conclusion on the incidences of handwriting that appears to be of common authorship identified by Hanson. Candidate urges that the testimony of the circulators in which they recounted their experiences of collecting signatures in detail as well as their understanding that the signatures had to be genuine serves to rebut the testimony of the

handwriting expert. These witnesses, according to the Candidate, appeared credible and honest when testifying about how they circulated petition sheets.

As the Candidate points out, the difficulty with the testimony of Lisa Hanson is that no original registration records were used in her analysis and many times, her conclusions were that there were “indications of common authorship” While significant time was spent on cross examination establishing that Hanson’s opinion did not meet FBI standards and more time was spent on identifying ranges of opinions and ASTM 9-step classifications, the fact remains that the testimony fell significantly short of establishing a pattern of fraud as identified in the *Fortas*, *Husky*, and *Cantor* cases. Indeed, pattern of fraud cases justify the striking of sheets of circulators only where there has been evidence of fraudulent conduct on the part of the circulators. In *Fortas v Dixon*, 122 Ill. App. 3d 697, 462 N.E.2d 615 (1st Dist. 1984) there was evidence that someone other than the purported circulators circulated certain sheets. In *Cantor v Cook County Officers Electoral Board*, 170 Ill. App. 3d 364, 523 N.E.2d 129 (1st Dist. 1988), there was evidence that certain sheets had signatures that appeared to have been written in the same hand and when the circulator was called to testify, he invoked the 5th amendment thereby allowing the electoral board to draw a negative inference regarding his circulation process. In *Huskey v Oak lawn Municipal Electoral Board*, 156 Ill. App. 3d 201, 509 N.e.2D 555 (1st Dist. 1987), the circulators admitted to allowing family members to sign for each other and admitted to signing sheets circulated by someone else. While signatures appearing to be of common authorship do raise questions regarding the circulation process and tend to suggest fraudulent conduct, there was simply no evidence that either Leslie or Weed engaged in fraudulent conduct. Therefore, it is my opinion that the apparent common authorship identified by Hanson was insufficient to establish a pattern of fraud or false swearing.

Pattern of Fraud as a Result of Notarization of Sheets Containing an Incorrect

Circulator's Address

Objectors further argue that all sheets notarized by notary Lisa Hwang must be stricken because Charles Leslie gave a false address on his sheets and therefore Hwang could not have properly notarized his sheets. Candidate argues that it is not the responsibility of the notary to determine where a person resides but rather it is the notary's role to properly identify the person whose signature is being notarized. The testimony clearly established that Hwang asked for identification of those individuals who appeared before her. Candidate's argument is well taken. The notary Act does not place upon a notary the obligation to confirm the signer's correct address. Therefore, it is my opinion that the Objectors failed to establish that the notary engaged in a pattern of fraud by notarizing Leslie's sheets containing an incorrect address.

Pattern of Fraud as a Result of Sheets Containing a Non-Existent Residence

Address of the Circulator

Section 7-10 of the Election Code provides, in pertinent part, as follows:

At the bottom of each sheet of such petition shall be added a circulator statement signed by a person 18 years of age or older who is a citizen of the United States, **stating the street address or rural route number, as the case may be, as well as the county, city, village or town, and state**; and certifying that the signatures on that sheet of the petition were signed in his or her presence and certifying that the signatures are genuine; and 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 and certifying that to the best of his or her knowledge and belief the persons so signing were at the time of signing the petitions qualified voters of the political party for which a nomination is sought. Such statement shall be sworn to before some officer authorized to administer oaths in this State. (emphasis added) 10 ILCS 5/7-10

As the Objectors point out, Section 7-10 requires that a petition circulator provide his or her address in a sworn statement on each petition circulated. The purpose of this requirement is to ensure the integrity of the electoral process. *Sakonyi v Lindsey*, 261 Ill. App. 3d, 821, 634 N.E.2d 444 (1st Dist. 1994) The evidence as to the issue of Circulator Charles Leslie's address was clear. Leslie did not reside at 9708 Emerson, Des Plaines, IL., the address specified in all thirty-one (31) of his circulator's affidavits. The address of 9708 Emerson, Des Plaines, IL. does not exist. At the time of circulation, Leslie resided at 9078 Emerson, Des Plaines, IL. Leslie made a mistake when he listed his address as he moves around a lot. Objectors, citing *Schumann v Kumarich*, 102 Ill. App. 3d, 454444, 430 N.E.2d 99 (1st Dist. 1981), argue that the requirement to provide a correct circulator's address in the circulator's affidavits as provided in Section 7-10 of the Election Code is a mandatory provision. Candidate argues that the fact that the address contains two transposed numbers constitutes substantial compliance. In support of his position, Candidate also cites *Sakonyi v Lindsey*, 261 Ill. App. 3d 821, 634 N.E.2d 444 (1st Dist. 1994).

Candidate's reliance on *Sakonyi* is misplaced in that the facts in *Sakonyi* are inapposite to the facts of the present case. In *Sakonyi*, the circulator failed to provide her address in her circulator's affidavit. However, her address could be gleaned from other parts of the petition because she had also signed as a petition signer and had provided her address on the line next to her name. Therefore, the *Sakonyi* Court found that the fact the address was missing in the circulator's affidavit was not fatal. In this case, the correct address of the Circulator appears *nowhere* in the petition. Instead, the wrong address appears thirty-one (31) times. Candidate makes the illogical argument in his written summation that "[I]f the Objectors truly thought there was fraud, they would have looked for the person that committed it. Rather, in this case, the

Objectors tried to find an address to attempt to remove a legitimate candidate from the ballot on a technicality...” The Candidate’s argument raises the precise point... for the Objectors. Where exactly were the Objectors expected to look for the Circulator when the Circulator listed an address that did not exist? How were the Objectors supposed to locate a person who not only provides a non-existent address but who also moves often and has little if any connections to the property he is using as his residence? Indeed, the evidence in this case indicates that the voter registration record for Leslie listed his address in Rockford. His State ID listed his address in Wilmette. Candidate makes no suggestion and it is entirely unclear how the Objectors were supposed to locate the Circulator under these circumstances. The evidence further established that the circulator was eventually located by the Candidate or someone working with the Candidate and not by the Objectors. Candidate argues that this result was by design of the Objectors. Such a conclusion is simply not supported by the evidence. A more accurate conclusion would be that it was impossible for the Objectors to locate the Circulator without the assistance of the Candidate.

The Candidate further argues that in this case Leslie’s address was simply a “typographical” error of two numbers and the result of a mistake. However, the number of mixed up digits is simply irrelevant. What is relevant is that the mix up resulted in the Circulator, 31 separate times, providing an address that did not exist which made it impossible for the Objectors to locate the Circulator without the assistance of the Candidate. It is also irrelevant that the Circulator was ultimately located and testified in this matter. There is no suggestion in the few cases on this issue that the trier of fact should engage in a results oriented analysis to determine whether the Circulator has complied with the mandatory obligation to provide a correct residence

address. In other words, if the Circulator is somehow located, then no harm, no foul. Candidate cites no case to support this conclusion and Candidate's argument is unpersuasive.

Moreover, both the *Sakonyi* and the *Schumann* clearly establish that substantial compliance can only be concluded when the Circulator's correct address is located somewhere in the petition. Here, the correct address for circulator Charles Leslie is located *nowhere* in the petition. Therefore, not only has there been no substantial compliance, there has been no compliance at all.

The Objectors' Petition alleged that the Circulator's inclusion of the non-existent address constituted fraud. However, such a conclusion is not supported by the evidence. What is supported by the evidence is that every sheet circulated by Circulator Charles Leslie fails to comply with the mandatory provisions of Section 7-10 of the Election Code and must be stricken. The number of signatures remaining on the Leslie sheets after the records examination was 254.

FAILURE OF THE CIRCULATORS TO APPEAR BEFORE THE NOTARY

The testimony of Hwang, Leslie and Weed, established that on several occasions, Hwang notarized the sheets of Leslie and Weed when they were not present. In fact, on some occasions, Hwang filled in the blanks in the circulator's affidavits. This testimony was extremely troubling and clearly established a violation of the Election Code's requirement that a circulator appear before a notary. However, this allegation was not plead in the Objectors' Petition. The sole issue raised in the Objectors' Petition regarding notarization was that the notary process was invalid because Hwang notarized sheets containing an incorrect circulator's address. Nowhere in the Objectors' Petition is there an allegation that any circulator failed to appear before the notary when they signed their sheets. Objectors do not address this failure in his written summation.

Candidate contends that this Board is without authority to consider allegations not raised in the Objectors' Petition and, in support thereof, cite the case of *Delay v Bd. Of Election Commissions of the City of Chicago*, 312 Ill. App.3d 206, 726 N.E.2d 755 (1st. Dist. 2000). It is my opinion that Candidate's position is correct. However troubling the testimony regarding the notarization process was, it was outside the scope of any issue raised in the Objectors' Petition and cannot now be used to invalidate the nominating papers. It should be noted that the handwriting of someone other than the circulator is contained in some of the circulator's affidavits notarized by Hwang.¹ Therefore, there was some indication from a simple review of the petitions that the circulators did not appear before the notary as there is no valid explanation as to why a notary would complete a circulator's affidavit if the circulator was actually present. However, Objectors failed to raise the allegation and the Board is precluded from considering matters not raised in the Objectors' Petition. Accordingly, inasmuch as the Objectors' Petition fails to contain an allegation regarding the circulator's failure to appear before a notary, there is no authority to strike any sheets on this basis.

EXPIRED NOTARY

Paragraph 13 of the Objectors' Petition alleges that Sheet 7 was not properly notarized because it was notarized by a notary whose commission was expired. On the face of the petition, the notary stamp of Jon Zahm indicates an expiration date of October 24, 2011. As a result, Objectors request that sheet 7 be stricken in its entirety. However, such a result is not consistent with the cases involving expired notary commissions. *Shipley v Stephenson Co. Electoral Board*, 130 Ill. App. 3d 900, 474 N.E.2d 905, (2^d Dist. 1985). The electoral board for the City of Chicago has addressed this issue on numerous occasions and has consistently held that an expired or defective notary commission is not a basis to invalidate the sheets notarized by such a

¹ It was later determine that the handwriting in the circulator's affidavits was Hwang's .

notary. While these cases are not binding on this Electoral Board, they are consistent with the *Shipley* case and serve as useful guidance on the issue. See, e.g. *Levine v Simms-Johnson*, 96-EB-WC-31, CBEC, January 29, 1996; *Gregory v Tines*, 95-EB-ALD 1367, CBEC , January 28, 1995; *Gilbert v Lavelle*, 80 CO 75 (Cir. Ct. Cook County, February 11, 1980). It is my opinion that the expired notary commission of the notary of sheet 7 does not provide a cognizable basis to strike all of the signatures on the sheet.

THE RULE 9 ISSUES

Both the Candidate and the Objectors filed motions pursuant to Rule 9 of the Board's Rules of Procedure ("Rule 9 Motions") and the issues presented therein were addressed. There was a stipulation that twenty-four (24) objections should have been sustained as the signer's addresses are outside the district. These signatures were contained at sheet/line 17/7, 15/14, 17/12, 21/13, 22/2, 23/6, 25/5, 26/7, 26/2, 27/5, 29/3, 29/10, 31/7, 44/8, 48/13, 50/15, 57/6, 57/14, 59/7, 70/12, 21/14, 27/7, 44/1 and 52/14. Additionally, sheet 26, line 10 was sustained on the basis that the address was incomplete. A review of that sheet and line indicated the ruling should be changed from sustained to overruled. Objectors withdrew certain requests to reverse the rulings on the basis of registration except with respect to sheet/line 32/15 and 37/6. However, a review of these sheets and lines indicates that there is no basis to change the ruling from overruled to sustained.

Each of the parties' Rule 9 motions contained requests to review signatures ruled not genuine (or genuine as the case may be) without offering any evidence beyond the registration record and the nominating petition. These requests were regarded as a request for a second records examination and, as such, the requests were denied.

At the conclusion of the Rule 9 hearing, the Candidate had 780 valid signatures. The striking of the 254 signatures contained on the Leslie sheets brings the total number of valid signatures to 526, said number being 74 below the minimum number of signatures required for placement on the ballot.

RECOMMENDATION

In light of the foregoing, it is my recommendation that the objections of Henry Schaefflein and Edmund Brezinski be **sustained** in conformity with the results of the records examination and the subsequent hearing. It is my further recommendation that the nominating papers of candidate John "Jack" Cunningham be deemed **invalid** and that the name of candidate John "Jack" Cunningham for the Republican nomination to the office of Representative in Congress for the 11th Congressional District **not be** printed on the ballot at the March 20, 2012 General Primary Election.

Respectfully submitted,

Barbara Goodman /s/

Barbara Goodman

Hearing Officer

1/31/12

**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
11th CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

Henry Schaefflein and Edmund Brezinski,)	
)	
Petitioner-Objectors,)	
)	
vs.	)	12 SOEBGP 525
)	
John "Jack" Cunningham,)	
)	
Respondent-Candidate.)	

OBJECTORS' SUMMATION

Now come Henry Schaefflein and Edmund Brezinski (hereinafter referred to as the "Objectors"), and for their Summation following the evidentiary hearings in this case, argue as follows:

The evidence offered in this case demonstrates conclusively the pattern of fraud pled in the Objectors' Petition, and calls for the invalidation of every petition sheet circulated by Charles Leslie, every sheet circulated by Lawrence Weed, and every sheet notarized by Lisa Hwang. .

In their Objectors' Petition, the Objectors alleged a pattern of fraud and that: (1) the petition pages circulated by Charles Leslie should be invalidated because he did not reside at 9708 Emerson, Des Plaines, Illinois, as set forth on his circulator's affidavits, and that several of the signatures on Leslie's petition pages appeared to have been written by the same hand; (2) petition pages notarized by Lisa Hwang should be invalidated because she could not have properly notarized Charles Leslie's petitions; and (3) petition pages circulated by Lawrence Weed should be invalidated because a number of signatures on those pages appeared to have been written by the same hand.

The testimony of the lay witnesses and of the handwriting expert witness in this case not only confirmed the Objectors' allegations, but provided additional grounds to invalidate the petitions circulated by Weed and Leslie, and those notarized by Hwang. Troublingly, Hwang admitted that she notarized petition pages for both Weed and Leslie on occasions when neither Weed nor Leslie was present. These pages were provided to Hwang by Rod McCulloch, a political consultant with whom Hwang worked. Weed and Leslie, who are paid circulators working for McCulloch, also admitted that they routinely submitted their signed petition pages to McCulloch to have them notarized, rather than appear before a notary themselves. Given the evidence offered, the petition pages submitted by Weed and Leslie, and those notarized by Hwang, must be stricken.

A. Both Lawrence Weed and Charles Leslie Testified That On Numerous Occasions, They Did Not Swear Their Circulator's Affidavits Before A Notary Or Other Officer Authorized To Administer Oaths.

Both Lawrence Weed and Charles Leslie readily testified that they did *not* always sign their circulator's affidavit before a notary. Rather, they often simply provided their petition pages to Rod McCulloch, who would take care of getting them notarized.¹ Weed was especially frank in his explanation of how he submitted his sheets to McCulloch to be notarized. When asked if he submitted his petition sheets to anyone before having them notarized, Weed said, "Yeah, before – sometimes, yes. . . I would give them to Rod or might have gave them to, like – yeah, no, I would give them to Rod, yeah." (Tr. p. 60, Lines 5-23.) After submitting his petition sheets to Rod, Weed confirmed that he did not get them back so that he could have them notarized, stating "[O]nce we finish with them, we give them up and that's it. I don't get them back." (Tr. p. 61, Lines 14-16.) When asked if the sheets may have somehow been waiting for

¹ Weed testified that he knew McCulloch as "Rod," and Leslie testified that he knew him as "Rob." Both identified McCulloch by photograph.

him with a notary, on the chance that they might possibly have been properly notarized, Weed emphatically answered, "No. How would the sheets be waiting for me at the notary?" and continued, "When they were complete, I would give them to Rod. . . . And he would take them to the notary." (Tr. p. 63, Lines 8-17.)

Weed testified that he submitted his petition sheets to Rod at the end of each day, stating "[W]hen we finish for the day, we give them to Rod, and we, like I say, I'm assuming then they're going to get notarized, then, you know, sent off to the process." (Tr. p. 69, Lines 11-15.) Weed also readily acknowledged that it was his practice to sign the circulator's affidavit on a number of petition sheets before obtaining any signatures on those sheets, and before his petition sheet was finished. (Tr. p. 70, Lines 5-23; p. 90, Lines 17-19.) He even provided a sample of a partially-completed petition sheet, that he had already signed, as the circulator. (Tr. p. 106 – 107, Candidate's Exhibit No. 1.) In trying to describe Hwang, who notarized all of the petition sheets that Weed purportedly circulated, Weed said, "Well, I think I met her once or twice . . ." (Tr. p. 101, Line 21.) When asked if she notarized anything for Weed, he replied, "I think she notarized a few of the papers that Rod had had." (Tr. p. 102, Lines 3, 4.) Weed's petition pages purport to have been notarized by Hwang on November 13th, November 17th, November 25th, December 1st, and December 4th, 2011.

Leslie also readily admitted that he did not swear all of his circulator's affidavits before any notary. He testified that he saw Hwang only twice. (Tr. p. 368, Line 22.) According to Leslie, he would submit his petitions to McCulloch at the end of each day, and he would have no more dealings with those pages. (Tr. p. 372, Line 15 – p. 373, Line 22.) Of the "setup," Leslie testified that if Hwang was not present, he would "just sign," and because she was familiar with him, "then she would sign off on them after I signed it." (Tr. p. 375, Lines 1-4.) When asked if

Hwang was present every time he submitted his petitions, Leslie could not say with certainty, because “we would just be in a rush to turn in our petitions and go. We don’t look and see, you know – who all is there.” (Tr. p. 377, Lines 20-24.) The petitions Leslie purportedly circulated for Candidate are apparently notarized on November 20th, December 1st, and December 16th, 2011.

B. After First Denying The Fact, Hwang Admitted That She Notarized Petition Sheets For Weed And Leslie Without Them Being Present.

The notary, Lisa Hwang, reluctantly confirmed that she did, in fact, notarize the petitions of individuals who did not appear before her. Ms. Hwang notarized every sheet purportedly circulated by Weed and Leslie, in addition to many others. Ms. Hwang was called to testify in the Objectors’ case-in-chief, and was the first witness to testify in this matter. On that first day of testimony, Ms. Hwang testified that Charles Leslie appeared before her “each and every time” she notarized his petition pages. (Tr. p. 34, Line 9.) She even stated that she would not have notarized a petition page if the circulator did not appear in front of her, and testified that she always watches them sign their name. (Tr. p. 34, Line 12, p. 35, Line 12.)

Four days later, Hwang was called to testify by the Candidate, and did testify a second time. By this time, Weed and Leslie had both testified to signing some of their affidavits outside of Hwang’s presence. Hwang’s testimony her second time around was markedly different than her first. This second time, when Hwang was asked if she would notarize petitions when the circulator was not present, she responded, “If they were familiar to me and knew them.” (Tr. p. 399, Line 16.) Hwang then testified that she would notarize a petition page even if the circulator was not present if she was “familiar with their signature.” (Tr. p. 399, Line 22.) Hwang then confirmed that for some of the sheets she notarized for the Candidate, the circulator did not personally appear before her. (Tr. p. 401, Line 17.) Hwang also flatly contradicted her earlier

testimony by saying that she does not always watch a circulator place their signature on their petition. (Tr. p. 403, Line 6.)

Hwang corroborated Weed and Leslie by testifying that some of the Candidate's petition sheets were provided to her having already been signed by a purported circulator. (Tr. p. 402, Lines 5 – 24.) These "pre-signed" petitions were purportedly circulated by Weed and Leslie, and provided to her by Rod McCulloch for notarization. (Tr. p. 405, Line 12 – p. 406, Line 13.)

Section 7-10 of the Election Code requires that a circulator's affidavit "shall be sworn to before some officer authorized to administer oaths in this State." 10 ILCS 5/7-10. There is no provision in § 7-10 for a circulator to not be present when swearing his oath as to his or her petition sheet. This direct statutory directive has long been enforced by Illinois courts. It is well-settled that the requirement that the individual who circulated a nominating petition personally appear before a notary public to validate the petition is a mandatory requirement of the Election Code, and a failure of that requirement invalidates the petition sheet. *Bowe v. Chicago Electoral Board*, 79 Ill.2d 469, 404 N.E.2d 180 (1980); *Shipley v. Stephenson County Officers Electoral Board*, 130 Ill.App.3d 900, 474 N.E.2d 905 (2nd Dist. 1985); *Williams v. Butler*, 35 Ill.App.3d 532, 341 N.E.2d 394 (4th Dist. 1976); *Moreno v. Delgado*, 08-EB-SS-01, CBEC, December 17, 2007; *Harris and McDaniel v. Hubbard*, 99-EB-ALD-088, CBEC, January 12, 1999.

This issue was addressed squarely and conclusively by the Illinois Supreme Court in 1980 in *Bowe v. Chicago Electoral Board*, *supra*. In *Bowe*, the sole issue was the validity of a petition sheet whose circulator did not appear personally before a notary public who acknowledged his signature. *Bowe*, 404 N.E.2d at 181. The *Bowe* Court approved the then-recent ruling of the Fourth District in *Williams v. Butler*, *supra*, holding that § 7-10 does require

a circulator to personally appear before a notary in making his or her sworn statement. The *Bowe* Court plainly stated:

“The statute requires that the circulator swear to the petition before an officer authorized to administer oaths. The Appellate Court, Fourth District, has held that the failure of the circulator to personally appear before the notary public invalidates the petition. *Williams v. Butler* (1976), 35 Ill.App.3d 532, 341 N.E.2d 394. In our opinion this is a correct interpretation of the statute.”

Bowe, 404 N.E.2d at 180-181.

The proper notarization of a petition sheet provides an important safeguard against fraud by subjecting the circulator to the penalty of perjury. Without a proper notarization, a circulator’s affidavit is not properly sworn, and cannot therefore comport with § 7-10 of the Election Code. See *Heneghan v. Barry*, 06-COEL-07 (Cook Cty. Cir. Ct. 2006).

Further, the Notary Act plainly requires the presence of one making the sworn statement. According to the Notary Act, “[i]n taking a verification upon oath or affirmation, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the verification is the person whose true signature is on the statement verified.” 5 ILCS 312/6-102.

The First District in *Vancura v. Katris*, 907 N.E.2d 814 (1st 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. The *Vancura* Court, among other things, found that relying on a signature that appears similar is an improper basis upon which to notarize a document. 907 N.E.2d at 823. In its discussion, the *Vancura* Court cited the Illinois Notary Handbook, which is published by the Illinois Secretary of State, as an appropriate source of information on proper notary procedure. On the very first page of the Notary Handbook, included in the 5 basic rules for proper notarization practice is the directive

“[d]o not notarize a signature unless the signer is present at the time of notarization.” On page 25 of the Notary Handbook, the question of notarizing the signature of someone not personally present is again addressed:

Must the person sign the document in my presence?

If the document requires an oath (for example, the certificate reads “signed and sworn/affirmed before me. . .”), then an oath or affirmation must be administered to the person, and the person must sign the document in your presence. If the document requires acknowledgment, it is sufficient for the person to appear before you and acknowledge execution of the document. Never notarize an unsigned document. You may not take an acknowledgment because someone else assures you that the signature is genuine. You may not take an acknowledgment even when you recognize the signer’s signature unless that person appears before you.

ILLINOIS NOTARY PUBLIC HANDBOOK, Illinois Secretary of State, December 2010, p. 25.

In addition to being contrary to law, Hwang’s claimed requisite familiarity with Weed and Leslie is illusory. She knew neither of them before notarizing their petition sheets. She met with them only twice, or perhaps three times, while hurriedly notarizing “thousands” of petition pages submitted to her by the numerous campaigns for whom she was working.

There is no question that both Weed and Leslie did not appear before a notary for many of the nominating petitions they each purportedly circulated for the Candidate. Moreover, their failure to appear each time they executed their petition was deliberately orchestrated, and repeatedly executed plan to circumvent the safeguards in the Election Code. Pursuant to the clear direction of the statute, and to well-settled caselaw, the sheets submitted by both Leslie and Weed must be invalidated.

C. Both Weed’s Petition Pages And Leslie’s Petition Pages Contained Signatures That Were Written By The Same Hand.

The rationale behind requiring a circulator to make a sworn statement is to preserve the integrity of the petition-gathering process. Very obviously, those safeguards were not adhered to

in this case. Not surprisingly, here, there is significant evidence that numerous signatures on the Weed and Leslie petitions were made by the same hand. The Objectors presented the expert testimony of Lisa Hanson. Ms. Hanson heads up the Questioned Document Section of the State of Minnesota Crime Lab. (Tr. p. 181, Line 9.) She is a certified forensic document examiner, and not only is certified by the American Board of Forensic Document Examiners, she is vice president of that organization. (Tr. p. 181, Line 11 – p. 182, Line 6.) Ms. Hanson chairs the testing committee for the ABFDE, and is charged with evaluating candidates for certification. (Tr. p. 182, Line 14.) Ms. Hanson has previously testified as an expert, and has been accepted as an expert by a number of courts. (Tr. p. 185, Line 9.)

Ms. Hanson reviewed the Candidate's petitions, and in particular, those circulated by Weed and Leslie. (Tr. p. 191, Lines 5-24.) Ms. Hanson reviewed the petitions to determine whether any of the signatures that appeared on those sheets appeared to have been from a common author. (Tr. p. 192, Lines 11-21.) Ms. Hanson reviewed the Candidate's petition signers for individual handwriting characteristics that would demonstrate common authorship, such as "intro stroke," similar style, the use of the signing space, connecting strokes, ending stroke, roundness, slant, garland or sawtooth connectors, and the like. (Tr. p. 193, Line 6 – p. 194, Line 17.) Ms. Hanson also reviewed the handwriting used for some of the address, city and county information set forth on the Candidate's petitions to match with signature styles. (Tr. p. 195, Lines 5-18.)

Ms. Hanson opined that numerous of the signatures submitted by Weed and Leslie bore characteristics of common authorship. (Tr. p. 195, Line 21.) She testified in great detail as to a total of 84 signatures that came from a number of common authors, and produced Objector's Exhibit # 3 demonstrating the groups of signatures that, in her opinion, were written by the same

hand. (Tr. p. 198, Lines 12-23.) As well, Ms. Hanson testified that certain address, city and county information (such as on Page 45, Line 9) appeared to have been written by as many as three different authors. (Tr. p. 207, Line 17 – p. 209, Line 6.) While all parties agree that it is not necessarily improper for address, city, and county information to be written by someone other than the petition signer, it is highly unusual to have three distinct writers produce that information on a single line. Ms. Hanson found at least one common author among both Weed and Leslie's petitions. (Tr. p. 259, Line 2 – p. 273, Line 8.)

Ms. Hanson's testimony was convincing and unrebutted by the Candidate. Given this evidence of forgery, and the admitted, systematic failure of the circulators and notary to execute petition sheets that were properly sworn, the Candidate's petitions here demonstrate a "pattern of fraud," that calls for the invalidation of the entire petition set, or at least all of the petition sheets circulated by Weed and Leslie, and all those notarized by Hwang. The decisions of *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1st Dist. 1984); *Huskey v. Municipal Officers Electoral Bd. for Village of Oak Lawn*, 156 Ill.App.3d 201, 509 N.E.2d 555 (1st Dist., 1987), and *Canter v. Cook County Officers Electoral Bd.*, 170 Ill.App.3d 364, 523 N.E.2d 1299 (1st Dist. 1988), all stand for the proposition that where there is clearly evidenced a pattern of fraud, false swearing, and total disregard for the mandatory requirements of the Election Code, even if beyond the specific objections made in the objector's petition, an electoral board "cannot close its eyes and ears if evidence is relevant to the protection of the electoral process." *Fortas*, 462 N.E.2d at 618. Here, we have evidence of "false swearing" from two circulators and a notary, and evidence of systematic, blatant disregard for the Election Code, and evidence of numerous signatures on the Candidate's petition sheets that were authored by the same hand. Under the *Fortas-Huskey-Canter* line of cases, the petition sheets at issue must be invalidated.

D. Because Charles Leslie Failed To Provide His Correct Residence Address On Any Of The Petitions That He Circulated, His Petitions Must Be Stricken.

In the circulator's affidavit on each of the 31 petition pages purportedly circulated by Charles Leslie on behalf of the Candidate, he states that he resides at 9708 Emerson, Des Plaines, Illinois, 60101. The record in this case demonstrates conclusively that (1) Mr. Leslie does not reside at that address, and (2) no such address exists. Because Mr. Leslie has not provided his proper residence address anywhere on any petition that he circulated, the petitions that he circulated must be stricken.

Section 7-10 of the Election Code requires that a petition circulator provide his or her address in a sworn statement on each petition circulated. 10 ILCS 5/7-10. The purpose of this requirement is to ensure the integrity of the electoral process. *Sakonyi v. Lindsey*, 261 Ill.App.3d 821, 634 N.E.2d 444 (1st Dist. 1994). That the circulator must provide a valid address is a mandatory requirement of the Election Code. *Schumann v. Kumarich*, 102 Ill.App.3d 454, 430 N.E.2d 99 (1st Dist. 1981). Having a circulator provide a correct address protects the integrity of the petition process by enabling the Board to locate that person, question that person about the signatures they have submitted, and to hold that person responsible for their oath. *Sakonyi*, 261 Ill.App.3d at 826. It is without question that Leslie did not reside at 9708 Emerson, in Des Plaines, Illinois. Further, the testimony of private investigator Lynn Bagley established that no such address even exists. As Leslie has not provided a valid address by which he could be located and questioned as required by the Election Code, Leslie's petition sheets must be declared invalid.

The Candidate will surely argue that Leslie's petition sheets substantially comply with the statute, because the address at which he was staying at the time of circulation was 9078 Emerson, Des Plaines, Illinois, which is where his sister resides. Leslie testified that he

transposed the digits of his sister's address number on each of the sheets he purportedly circulated. However, substantial compliance is appropriate only where the circulator's true address is evident elsewhere in the petitions, as was the case in *Schumann v. Kumarich*, 102 Ill.App.3d 454, 430 N.E.2d 99 (1981). There, objections were raised to nominating petitions of two candidates on the grounds that the circulator's affidavit on the bottom of each petition failed to include the circulator's address. The *Schumann* Court held that substantial compliance with the statute was achieved, though, because the circulator's address happened to appear at the top of the petition, even though it was not provided in the circulator's affidavit. Similarly, in *Sakonyi*, while the affidavit of the circulator in question did not include her address, the circulator had signed one of the petitions she had circulated, therefore providing her correct address, and attesting to residing at that address.

In this case, by contrast, Leslie's correct address is nowhere to be found on the Candidate's petitions. While Leslie was eventually found in this case, and eventually did testify, locating him was not without great expense and difficulty. Moreover, the evidence in this case does not demonstrate Leslie's substantial compliance, as a factual matter. Leslie's address, according to the State of Illinois ID that he had issued on August 23, 2011, is at 315 Ridge, in Wilmette. (Tr. p. 382, Line 10.) Leslie acknowledged that he moves around quite a bit, and that address is where he can reliably get his mail. (Tr. p. 382, Line 18.) This Wilmette address is that of Leslie's uncle, who raised Leslie, and where Mr. Leslie has resided periodically over the years. (Tr. p. 144, Line 6 – p. 145, Line 12.) Leslie's sister's residence, by contrast, was a place Leslie may have been staying, but only temporarily. Indeed, at the commencement of the hearing in this case, Leslie was no longer staying with his sister, and had temporarily left the

State. Leslie candidly admitted that he did not ever know how long he was going to stay with his sister. (Tr. p. 382, Line 20.)

The decision in *Ryan v. Landek*, 159 Ill.App.3d 10, 512 N.E.2d 1 (1st Dist. 1987), addresses a “typographical” issue that is similar to the case at bar, but is distinguishable on many levels. In *Ryan*, a candidate’s address on his nomination petitions contained a typographical error, and was one digit off. For this reason, the objector there sought to invalidate all of the candidate’s nominating papers. The *Ryan* Court found that the purpose for requiring a candidate to list his residence address is to prevent a candidate from running for an office in a district in which he does not reside, and the candidate in *Ryan* clearly resided in the proper district. The typographical error therefore, did not invalidate the candidacy.

This case involves a different portion of the nominating petition, and the Objectors here seek a different remedy than that sought in *Ryan*. This case deals with information provided by the circulator in his affidavit, rather than information placed on the top of the petition form by the candidate. The purpose of the information provided by the circulator is wholly different than the purpose of requiring the candidate to provide his address information. As noted in *Sakonyi*, the purpose of the circulator’s address is to protect the integrity of the petition-gathering process. The *Ryan* rationale, on the other hand, went to ensuring that the candidate was duly qualified for the office he was seeking. The Objectors here seek only to disqualify the offending petition pages, not to completely disqualify the Candidate’s nominating papers, as was the case in *Ryan*. Finally, the “typographical error” in *Ryan* was made only once, whereas the error in this case was made 31 times. While it is understandable that a typographical error in a candidate’s address on his petition would not disqualify his candidacy, it is another matter entirely for a petition circulator to repeatedly provide an incorrect address in his circulator’s affidavit. Given

the purpose of requiring a circulator's address in a circulator's affidavit, the Objectors contend that a finding of "substantial compliance" here is incorrect, and bad precedent. This circulator's "correct" address is found nowhere in the petitions, the address affirmatively listed by the circulator is incorrect, and the evidence shows that the so-called "correct" address was a place where the circulator was staying only temporarily. Accordingly, based on the prevailing caselaw, and the evidence provided in this case, the petition sheets of Charles Leslie should be stricken for his failure to provide a valid residence address in his circulator's affidavits.

Conclusion

Because the evidence elicited clearly demonstrates a pervasive pattern of false swearing, an orchestrated disregard for the Election Code, and numerous forged petition signatures, the Candidate's entire petition set should be stricken. At a minimum, the petition sheets submitted by Lawrence Weed and Charles Leslie, and those notarized by Michelle Hwang, must be invalidated, thereby leaving the Candidate with an insufficient number of valid signatures to earn a place on the ballot.

Respectfully submitted,

/s/ John G. Fogarty, Jr.
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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
11th CONGRESSIONAL DISTRICT
OF THE STATE OF ILLINOIS**

Henry Schaefflein and Edmund Brezinski,)
Petitioner-Objector,)
v.	) 12-SOEB-GP-525
John A. "Jack" Cunningham,)
Respondent-Candidate.)

Candidate's Written Summation

Respondent-Candidate John A."Jack" Cunningham, by and through his attorneys, Mool Law Firm, LLC, Deanna S. Mool, pursuant to direction of the hearing officer, hereby submits his written summation and in support thereof, states as follows:

I. Statement of the Case

1. The Petitioner-Objectors, Henry Schaefflein and Edmund Brezinski (hereinafter, "Objectors"), made various allegations against the nominating petitions of John A. "Jack" Cunningham, (hereinafter, "Candidate) as set forth in the Objections to the Nominating Petitions of John A. "Jack" Cunningham filed January 4, 2012. Such objections were made on the following basis:

(1) invalid signatures due to the fact that certain individuals were not properly registered to vote; (2) invalid signatures due to signers residing outside of the district; (3) invalid signatures due to signatures that were not genuine; (4) invalid signatures in that there were duplicate signatures; (5) invalid petition pages based on an allegation that a circulator gave an address which doesn't exist; (6) invalid signatures due to an alleged pattern of fraud; (7) an invalid petition page due to the expiration of a notary's stamp; (8) invalid petition pages based upon an allegation that a Notary Public accepted an invalid address;. Additionally, over the objection of Candidate, an

additional complaint was heard that was not alleged in the Objector's Petition in that (9) Objector is attempting to question the notarization process of Ms. Lisa Hwang, the primary Notary Public of the Nomination Petitions.

2. A Candidate for Representative in Congress is required to have 600 signatures. 10 ILCS 5/7-10(b).

3. The Objector's have the burden of proof on all matters as the Election Code requires that petitions are presumed valid. 10 ILCS 5/10-8, Bergman v. Vachata, 347 Ill. App. 3d 339, 347; 807 N.E.2d 558, 565; 282 Ill. Dec. 934, 941 (1st Dist. 2004).

4. It is an extraordinary remedy to remove a candidate's name from the ballot is a substantial right which should not be lightly denied. Sullivan v. County Officers Electoral Bd. of DuPage County, 167 Ill. Dec 834; 588 N.E.2d 475; 225 Ill.App.3d 691, *citing* Welch v. Johnson, 147 Ill.2d 40, 56; 167 Ill. Dec. 989, 588 N.E. 2d 1119 (Ill. 1992).

II. Argument

A. Results of Records Review by Staff of the State Board of Elections. After review of the official voter registration records, Candidate was held to possess 801 valid signatures. The Rule 9 Motions Analysis still leaves the Candidate with 780 valid signatures.

1. The State Board of Elections conducted an official records review to investigate the first four allegations of Objectors' Petition, specifically (1) invalid signatures due to the fact that certain individuals were not properly registered to vote; (2) invalid signatures due to signers residing outside of the district; (3) invalid signatures due to signatures that were not genuine; (4) invalid signatures in that there were duplicate signatures. Objectors' Petition, para. 5-11.

2. Objector made various challenges to specified page and line numbers as set forth in their recapitulation. Objections to the Nominating Petitions, Jan. 4, 2012.

3. Candidate submitted 1,265 signatures. See, Candidates Nomination Papers, a copy of which is marked as Joint Exhibit 1.
4. Following the initial records review by State Board of Elections Staff, Candidate possessed 801 valid signatures.
5. Pursuant to State Officers Electoral Board Rules, both parties filed Rule 9 Motions and submitted evidence said Motion regarding the initial records review by Staff. At the conclusion of the Hearing Officer's decisions regarding the Rule 9 Motions of both parties, the Candidate still possessed 780 valid signatures.
6. Regarding the Hearing Officer's Rule 9 Motion decisions, Objector believes the genuineness of 89 signatures should still be at issue in the case. Objector argued that objections to the genuineness of signatures which were previously overruled should be subjected to additional review by the Hearing Officer of State Electoral Board. However, Objector did not present any additional evidence other than that previously seen by the Board staff in their official records review on the specific issue of the genuineness of these signatures.¹ Further, in some instances, Objectors incorrectly argued different voter registration records should be applied to signatures that had been previously compared and validated. This attempt to redefine the identity of valid voters that signed Candidate's petitions must be rejected.
7. Regarding the Hearing Officer's Rule 9 Motions decisions, Candidate argues that he has more than 780 valid signatures, as the Hearing Officer also declined to further review the Candidate's Rule 9 Motion. Candidate argued that Staff's sustaining objections to 24 printed signatures were

¹ With respect to Objectors' handwriting expert's testimony, her testimony went to the Objectors' pattern of fraud argument. The handwriting expert was not disclosed in the Rule 9 Motion as providing opinions on this issue. She did not review any voter registration cards to compare signatures to the petition and she admitted that every signature could be valid. The expert's opinion regarding the pattern of fraud will be addressed in Section C of this Written Summation.

required to be overruled according to State Officers Electoral Board Rules as set forth in App. A of the procedural rules. Candidate's Rule 9 Motion, p. 2.

8. Candidate also persists in its objection to the handling of allegations sustained that two voters had signed the petition twice, yet the Objector failed to disclose where the other alleged signature was contained in the objections.

9. On Page 70, line 15, the Hearing Officer sustained an objection to an individual not being registered at the address shown. Candidate believes this revisiting of the facts was in error as Candidate provided a voter registration card and board staff held the registration valid.

10. Based upon the foregoing, Candidate should have 805 signatures.

11. Even if the Board were to deny Candidate's arguments for additional signatures and grant all of Objectors' arguments to further reduce the valid signatures by all 89 of Objectors remaining objections, the Candidate will still possess 692 valid signatures which is more than the minimum number of signatures necessary to remain on the ballot.

B. Invalid Petition Pages Based on Nonexistent Circulator Address. Circulator's address contained a typographical error which does not hinder the integrity of the election process. Candidate's petitions actually comply with the circulator's affidavit requirement. In the absence of actual compliance, Candidate has still achieved substantial compliance.

1. Objectors alleges that the sheets circulated by Charles Leslie should be invalidated in para.

12, and 16a by pleading that the address listed on the circulator's affidavit does not exist.

2. First, Objector in fact, failed to prove that the address of 9708 Emerson does not exist.

Objectors' private investigator admitted the address is found on Google. Transcript, p. 156.

Further the private investigator admitted that she only searched at night, could not remember details of the street signs, and finally testified that Emerson street only reaches 6300 numbers.

Transcript, pp. 156, 160. In fact, testimony at the hearing clearly contradicted that fact as photos of house number 9087 were provided. Candidate's Exhibit 3.

3. However, in an attempt to provide full disclosure to the Hearing Office and the Board, at the hearing, Candidate admitted that Mr. Charles Leslie's address contained a typographical error. Mr. Leslie resided at 9078 Emerson at the time he circulated petitions, but accidentally wrote 9708 Emerson. Transcript, p. 363-364.
4. Mr. Leslie has not had an easy life. Since his divorce, he has been homeless, and lived with several individuals, and stayed at a homeless shelter. Transcript, p. 363-366. These facts do not mean he cannot circulate petitions. In fact, his personal circumstances contributed to the error in his address. *Id.* There is nothing in the election code to prohibit a homeless person from circulating petitions and putting the address of a shelter, or for that matter, a corner or park bench.
5. Candidate made Mr. Leslie available at hearing. Reasonable efforts to reach Mr. Leslie worked. Mr. Leslie appeared, gave his testimony, and stood for cross-examination. Transcript, p. 355. Mr. Leslie did not attempt to hide. He was located without the use of a private investigator. It is clear that the objectors never looked for him, they only sought to disprove the given address existed. Transcript, testimony of Lynn Bagley, p. 149-165. It can be inferred that the Objectors would have preferred he not show up to testify. Objectors never presented any testimony of a good-faith effort to actually find Mr. Leslie.
6. In fact, the Objectors were able to question Mr. Leslie about the signatures he obtained and to hold him responsible for his oath. Transcript, p. 370. Thus, the goal of the Election Code, as outlined in cases cited below regarding the circulator's oath has been met.
7. Further, case law has gone so far as to hold that no address in the circulator's affidavit portion of the petition may be sufficient to achieve substantial compliance. Sakonyi v. Lindsey, 634

N.E.2d, 444. In the Sakonyi case, the circulator was able to provide adequate testimony to satisfy the objector's inquiry into the process used to obtain the signatures.

8. Going further than what the Sakonyi court required, in this case, the circulator, Mr. Leslie, gave his address, albeit with two numbers reversed.

9. If the Objector truly thought there was fraud, they would have looked for the person that committed it. Rather, in this case, the Objector tried to find an address to attempt to remove a legitimate candidate from the ballot on a technicality. The Board should not throw a candidate off the ballot because a circulator mixed up two numbers on his address.

11. Panarese v. Hosty, 60 Ill.Dec. 434, 104 Ill.App.3d 627, 432 N.E.2d 1333 (1st Dist. 1982), wherein the circulator did not provide a street and address number, further illustrates that substantial compliance with the address requirement of a circulator is possible. Further, the Illinois Supreme court embraced the doctrine of substantial compliance with respect to the circulator's address by finding that circulator's affidavit need not contain the address where the individual is registered to vote. Lucas v. Lakin, 221 Ill.Dec. 834, 175 Ill.2d 166, 676 N.E.2d 637 (Ill. 1997).

12. The Hearing Officer suggested that two cases might be relevant to this analysis. The first case, Greene v. Board of Election Commissioners of the City of Chicago, 112 Ill.App.3d 862, 445 N.E.2d 1337, 68 Ill.Dec. 484 (1st Dist. 1983) provides that individuals who sign nominating petitions must be registered at the address shown. This case is primarily a discussion of the difference between whether a person is registered to vote versus being qualified (eligible to register) to vote. Greene, at 869, 1342, 489. Further, the First District has more recently held that the circulator's affidavit need not state that the individuals who signed the petition were even registered voters. Brennan v. Kolman, 335 Ill.App.3d 716, 781 N.E.2d 644, 269 Ill.Dec.

847 (1st Dist, 2002) Under Illinois law, a circulator is not required to be registered to vote. 10 ILCS 5/7-10. Thus, the Green case discussion about when individuals registered to vote and whether they moved after the circulation period is not dispositive of the issue at hand.

13. The second case that the Hearing Officer requested that the parties discuss relates to a candidate whose petitions indicated that the voters were residents of the political subdivision for which the candidate is “seeking election”. Ryan v. Landek, 159 Ill.App.3d, 512 N.E.2d 1, 111 Ill.Dec. 97 (1st Dist. 1987). The proper language would have been that the voters were residents in the political subdivision for which the candidate “shall be nominated”. The Court held that the error did not render the petitions defective and that the affidavits were sufficient. Similar to the other cases raised by Candidate, minor defects in the circulator’s affidavit do not serve to remove a Candidate from the ballot.²

14. There is actual full compliance with the law, absent a typographical error by an individual. At a minimum, there is substantial compliance sufficient to meet the intent of the law as the circulator has been fully vetted by the Objectors regarding his actions. Objectors have failed to meet his burden of proof that the circulator’s typographical error in his address somehow rendered the circulator’s affidavit inadequate.

C. Invalid Signatures Due to an Alleged Pattern of Fraud. Evidence did not disclose a pattern of fraud in the circulation of Candidate’s Petitions. In fact, the signatures on the petitions were properly obtained through the hard work of the circulators.

² Numerous cases hold substantial compliance with the circulator’s affidavit requirement to be sufficient. See, Nolan v. Cook Count Officers Electoral Bd, 329 Ill.App.3d 52, 768 N.E.2d 216, 263 Ill.Dec. 456 (1st Dist. 2002) (“for which the nomination is sought” can be omitted from the circulator’s affidavit when specifying that voters reside in the district); Bergman v. Vachata, 347 Ill.App.3d 339, 807 N.E.2d 558, 282 Ill.Dec. 934 (1st Dist. 2004) (circulator’s affidavit which stated voters were registered to the best of circulator’s “knowledge,” rather than “knowledge and belief” was sufficient.)

1. Objectors made claims of presenting “substantial, clear, unmistakable, and compelling evidence that establishes a pattern of fraud” and that “examination of the nominating petitions hereunder will reveal a pervasive and systematic attempt to undermine the integrity of the electoral process.” Objector’s Petition, para. 16. Objectors completely failed in this proof.
2. Objectors claim that this fraud is established by an assertion that the address of Mr. Charles Leslie does not exist. Objector’s Petition, para. 16a. A thorough discussion of this issue is contained in Section B of this Written Summation, *supra*.
3. Objectors also claim that an additional ground for this pattern of fraud lies with the petitions circulated by Mr. Charles Leslie and Mr. Lawrence Weed in that “the signatures on several of Mr. Leslie’s [Mr. Weed’s] petitions appear to be not genuine, and appear to have been written by the same hand.” Objectors’ Petition, para. 16a., 16c. ³
4. Objectors failed to provide ANY credible evidence of fraud. In fact, circulators Lawrence Weed and Charles Leslie were able to relate their experiences of collecting the signatures in detail, their long hours of standing at the Metra stops (Transcript, p. 44, 359-361), malls (Transcript, p. 359-361) and football games (Transcript, p. 359-361) to obtain these signatures, their understanding that all signatures had to be original, and their attention to controlling the petition pages so that no mischief occurred. (Transcript, p. 64-83; 103-104; 109-111; 391-392)
5. Any conclusion to the contrary would require this tribunal to ignore the record as it exists, to ignore the circulator’s honesty and credibility in outlining their efforts, and finally, to ignore the fact that Objectors were unable to provide any testimony or written affidavits to the contrary.

³ The Hearing Officer asked for total valid signatures from Mr. Charles Leslie and Mr. Lawrence Weed following inclusion of the Rule 9 figures. The Candidate believes these numbers are irrelevant as no pattern of fraud has been proven. However, in response to Hearing Officer’s request, Candidate believes the total valid signatures remaining for Mr. Leslie are 254 and the total valid signatures contained on pages circulated by Mr. Weed are 210.

6. Objectors presented hours of testimony by a handwriting expert who undertook no effort to identify whether any signature was an actual forgery. Transcript, pp. 171-295; 306-355. The expert never reviewed any original document. Transcript, pp. 306-308.

7. The expert flunked all three FBI tests to determine whether a handwriting comparison could be conducted. Transcript, at p. 314-319. The questioned writing was limited, the known writing was non-existent, and the writing was not naturally prepared (in other words it was a copy). *Id.* Under ASTM standards, the opinion was qualified and not an identification. *Id.*, at p. 315.

8. The expert testified to similar characteristics, frequently providing no conclusion. When reaching a conclusion her remarks were that there could be "indications of common authorship" meaning that it is also probable that there is NO common authorship. In re-direct questioning, the expert indicated that she used the 9-step ASTM standard for classifying her opinion, Transcript pp. 329-331, yet, the record on direct exam frequently does not reflect the use of this standard. At most, expert's testimony was that there "were indications" of common authorship. "Indications" is the weakest conclusion an expert could reach, and thus, the least reliable of the standards contained in the ASTM 9-step classification. Transcript, pp. 329-331.

9. Again, the expert failed to meet any established standards to offer an opinion on direct testimony. On cross, examination, the expert admitted that no original petitions were examined despite their availability. Transcript, p. 308. The Objector's expert never, not once, sought to find an original signature; either on the original petition pages, nor in the voter records. Transcript, p. 311-312. In fact, the expert admitted on cross examination that she could not rule out the fact that all 86 signatures on which she offered testimony, may, in fact, be genuine. Transcript, p. 322-324

10. The transcript reflects that the expert's testimony was frequently unclear with testimony resulting in no conclusion or the conclusion being provided as a question. *Generally*, Transcript, p. 242, line 3; p. 260 p. 273, ; 252, line 18-p. 253 (no opinion set forth); p. 257 (no opinion set forth); p. 258-9 (no opinion set forth); etc. Expert alleges there were indications of common authors, but appears to allege 31 different common authors. Transcript, p. 319, line 19- p. 320, line 10.

11. Expert testified that a maximum of 86 signatures out of 1,265 were involved. Of the 86 signatures where she made an allegation that there was an "indication" of a problem, 27 of those signatures were invalid due to the fact that 10 signers were not registered to vote, and 17 of the signatures were out of the district. Official Records Review Results, January 13, 2012, as amended.

11. In order to believe the scheme as she alleges it, we must find 31 unrelated forgers who randomly insert forged signatures of individuals who are not registered to vote or who don't live in the district. Further, we must accept this concocted scheme, while completely ignoring the fact that the Objector never sought to have the expert review readily available original documents which would prove or disprove this scheme. Transcript, p. 308. Further, the tribunal would need to ignore the testimony of two circulators who explained, in detail, exactly how the signatures were collected. *See*, Section C, para. 4, *supra*.

12. Should Objectors attempt to bolster their unsubstantiated pattern of fraud argument with their original page and line objections to individual signatures not being genuine, this argument also fails on factual and procedural grounds. The Objectors' Petition alleged that 335 signatures were not genuine. Objectors' Petition, Recapitulation Appendix , pp. 1-90. This issue was thoroughly researched at the records review held on January 13, 2012. In fact, 291 of those

objections were overruled as the signatures were found to be genuine. *See, generally*, Official Results of Records Review, Jan. 13, 2012, as amended. In contrast, to the expert's pattern of fraud testimony reflecting what Objector thinks may be "indications", this record exam occurred with the availability of the original petitions and voter registration records with a signature for comparison. It should be conclusively noted that no such examination was taken in the Objector's attempts to prove fraud. Transcript, p. 308-331.⁴

13. Objectors cite various cases in support of their pattern of fraud arguments. However, Objectors did not use any of the methods found to be adequate to prove fraud as found in the cases they cited. Objectors did not obtain affidavits of individuals who would swear to the fact that they did not sign the petition. Fortas v. Dixon, 122 Ill.App.3d, 697 at p. 699, 462 N.E.2d 615, at p. 616, 78 Ill.Dec. 496, at p. 497 (1st Dist. 1984). Objectors did not offer testimony by individuals who indicated their signature on the petition was not genuine, Canter v. Cook County Officers Electoral Board, 170 Ill.App.3d 364, 523 N.E.2d 1299, 120 Ill.Dec. 388 (1st Dist. 1988). Objectors did not present witnesses who testified that they signed for other members of their family. Huskey v. Municipal Officers Electoral Board for the Village of Oak Lawn, 156 Ill.App.3d 201, 509 N.E.2d 555, 108 Ill.Dec. 859 (1st Dist. 1987).

14. Objectors have failed to demonstrate a pattern of any fraud. None of the factors contained in the pattern of fraud case law Objectors cited are present in this case.

D. Invalid Petition Page Due to the Expiration of a Notary's Stamp. Petition Page 7 is valid as the the Circulator Reasonably Believed the Notary Public Possessed a Current License.

1. The Objector's petition indicates that page 7 of the petitions is not properly notarized.

Objector's Petition, para. 13. Candidate's counsel believes it was error to allow Objectors to revive this issue on January 26, 2012 during the Rule 9 Motions discussion. Objectors' counsel

⁴ Candidate again notes that any testimony by the handwriting expert relating to signatures in Objector's Rule 9 Motion must be disregarded as not having been addressed in Objector's Rule 9 Motion.

never offered any evidence regarding this issue at any other time during the trial despite the presumed ending of his case on Tuesday, January 24, 2012. Despite this objection and error, Candidate provides this argument in response to the issue.

2. Page 7 of the petitions contained in Joint Exhibit 1 contains 15 signatures and is notarized by Jon A. Zahm. On its face, the notary stamp indicates an expiration of October 24, 2011. The Candidate provided an Exhibit, refused by the hearing officer, as written documentation of Mr. Zahm to relay his state of mind in believing his notary stamp had been renewed. Further, the Candidate obtained an affidavit from Mr. Thomas M. Hartwell, circulator of p. 7 indicating that he believed Mr. Zahm possessed a valid Notary Public license when he presented p. 7 to Mr. Zahm.

3. Illinois cases indicate that the invalidity of a notary's stamp did not jeopardize the integrity of the political process where the circulators did believe the Notary Public was authorized to notarize the signature. Shipley v. Stephenson Co. Electoral Board, 130 Ill.App.3d 900, 474 N.E.2d 905, 85 Ill.Dec. 945 (2d Dist, 1985) (Public does not have a duty to investigate the underlying authority of notary publics. *Id.*, at 906, 910, 950)

4. Should the tribunal allow this objection to be sustained, despite the untimeliness of the evidence, the lack of a remand, or failure of Candidate's evidence to be persuasive, the 13 valid signatures contained on this page do not deprive the Candidate place of his earned place on the ballot.

F. Invalid Petition Pages Based Upon an Allegation that a Notary Public Accepted an Invalid Address. The Illinois Notary Public Act requires a Notary Public to properly identify an individual. There is no obligation to confirm the address of a petition circulator under either the Election Code or the Notary Public Act.

1. Objectors argued that all petition sheets notarized by Lisa Hwang should be invalidated because Ms. Hwang notarized pages signed by Mr. Charles Leslie when his address has a typographical error. Objectors' Petition, para 16b.
2. The duty of a Notary Public as contained in the Illinois Notary Public Act, 5 ILCS 312/6-102, is to identify an individual. An Illinois Notary Public has no duty to document the address of any person requesting a notarized document. *See*, 5 ILCS 312 *et.seq.*
3. Objectors provided no evidence or legal argument to support their contention that a Notary Public has a duty to ascertain the correct address of an individual.

G. Objector is Now Attempting to Question the Notarization Process of Ms. Lisa Hwang, the Primary Notary Public of the Nomination Petitions. The Candidate's Petitions were properly notarized under the Illinois Election Code and the Illinois Notary Public Act.

1. Objectors made one allegation relating to Ms. Hwang's notarization, that she should not have notarized a signature when the address contained a typographical error. It is clear Ms. Hwang had no duty to ascertain the correctness of the address as previously discussed in Section F.
2. Yet, at trial, Objector attempted to raise and repeatedly brought in other issues over the objection of Candidate's counsel. Transcript, p. 24, 31, 40, 42, 394. Candidate persists in his objection to the consideration of any issues not properly raised in the Objectors' Petition. Delay v. Bd. of Election commissioners of the City of Chicago, 312 Ill.App.3d 206, 726 N.E.2d 755, 244 Ill.Dec. 780 (1st Dist. 2000).
3. Any consideration of issues beyond the identity of Mr. Leslie regarding the notarization are not, in fact, at issue in this matter. *Id.*
4. With no success in having our objections sustained. Candidate found it necessary to respond to this improper allegation. Candidate further notes that unlike a courtroom trial, it is impossible, with the filing of simultaneous written summations to anticipate each and every point that the

Objectors will raise. Therefore, because of the specified trial procedures, we address the issue of notarization beyond the address of Mr. Leslie despite Candidate's ongoing position that the issue was not part of the objections and that to consider any such issues would constitute error.

Transcript, p. 24, 31, 40, 42, 394.

5. The Illinois Election Code states that each petition shall contain at the bottom of each sheet:

a circulators statement, signed by a person 18 years of age or older who is a citizen of the United States stating the street address...certifying that the signatures on that sheet of the petition were signed in his or her presence; and certifying that the signatures are genuine; and... 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; and certifying that to the best of his knowledge and belief the persons so signing were at the time of signing the petitions qualified voters ... of the political party for which a nomination is sought. Such statement shall be sworn to before some officer authorized to administer oaths in this State.

10 ILCS 5/7-10.

6. Candidate's petitions contain the appropriate certification, also referred to as the Circulator's Affidavit. Joint Exhibit #1.

7. In order to comply with the requirement that "Such statement shall be sworn to before some officer authorized to administer oaths in the State." The Illinois Election Code does not further define who is the proper "officer authorized to administer oaths." 10 ILCS 5/7-10. Therefore, one must look to the statute authorizing the person to give oaths in order to determine whether the act is properly executed. The Illinois Notary Act sets forth provisions to determine the responsibilities and duties of the "officer authorized to administer oaths."

8. The Illinois Notary Act defines a "Notarial Act" as follows:

"Notarial act" means any act that a notary public of this State is authorized to perform and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, and witnessing or attesting a signature.

5 ILCS 312/6-101(a).

9. The Illinois Notary Act provides for three notarial acts: (1) taking an acknowledgement; (2) verification upon oath or affirmation; or, (3) witnessing or attesting a signature. In each type of notarial act, identical provisions for ascertaining that the signature and identity of the person signing are provided. Sect. 6-102 (a)-(c) provide:

. . .the notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary and named therein.

5 ILCS 312/6-102(a)-(c).

10. So, the Notary can either perform notarial acts by “personal knowledge” or “satisfactory evidence.” 5 ILCS 312/6-102(a)-(c). In addition to “personal knowledge,” the Illinois Notary Act, 5 ILCS 312/6-102, provides three (3) methods for properly obtaining “satisfactory evidence” identifying an individual.

11. Section 6-102(d) sets forth in the requirements for “satisfactory evidence”:

A notary public has satisfactory evidence that a person is the person whose true signature is on a document if that person:

- (1) is personally known to the notary;
- (2) is identified upon the oath or affirmation of a credible witness personally known to the notary; or
- (3) is identified on the basis of identification documents.

5 ILCS 312/6-102(d).

12. In fact, Ms. Hwang’s testimony proves that both the letter and spirit of the Notary Act, and the Election Code were properly followed. Ms. Hwang testified that she received identification from the circulators. Transcript, p. 24, pp. 394-399.

13. Mr. Leslie testified under cross-examination that he could not testify that Ms. Hwang was not present when he turned in his petitions each time and that he assumes she was present. Transcript, p. 377. Mr. Weed indicates he met with Ms. Hwang and showed her identification, Transcript, p. 104. Ms. Hwang also testified that she had check Mr. Weed’s ID a few times and

that she had a familiarity with Mr. Weed, and that at times circulators would be in the car when petitions were presented for notarization. Transcript, p. 406. Ms. Hwang and the circulators also testified that she traveled to restaurants to obtain identification for notarizations. Transcript, p. 398-399. There was no clear testimony that notarization without presence occurred in the petitions of this Candidate and Objectors failed to elicit such testimony and provided no evidence of their own.

14. Further, Candidate was able to offer a complete chain of custody for the petitions from the circulator to the Notary Public. Transcript, p. 398-399; 405-407. *See, also*, Transcript, pp. 36-116; 358-370. Ms. Hwang further testified that only when she was able to meet the identity obligation of the Notary Act due to familiarity with the signatory or by affirmation of a credible witness, then, and only then, did she notarize petitions without the circulator being present. Transcript, p. 400. Therefore, any testimony purporting to question the notarization process was elicited from the circulators and Ms. Hwang and is only confusing, at best. In fact, there is no proof that anything improper was done relating to this Candidate. Objector has provided no evidence to contradict Ms. Hwang or the circulators. Further, Candidate has presented evidence to assure this tribunal that all notarization which occurred was proper. Transcript, p. 104, 377; 393-406.⁵

15. The reported case law concerning improper notarizations is wholly distinguishable from the case at bar. Reported cases only contain fact patterns in which the standards of the Notary Public Act were never met. Each of the cases concludes that no circulator identification was ever

⁵ If the tribunal disagrees and concludes that something about the notarization process relating to this Candidate has occurred, this conclusion would not invalidate the petitions of Candidate. Mr. Leslie believes he properly presented his sheets to Ms. Hwang. Mr. Weed knows he appeared before Ms. Hwang two or three times. Therefore, according to the dates of notarization, at least 50 of Mr. Weed's remaining signatures would be valid. Even if the other 160 were invalidated, Candidate would still have 620 valid signatures. Further, Candidate would still have enough signatures even if Mr. Zahm's Notary issue is held against the candidate leaving a total of 607 valid signatures.

shown and there was no testimony that the Notary Public ever attempted to become familiar with the circulators through the showing of identification, evidence of identity from a witness, or becoming personally known. Mitchell v. Cook County Officers Electoral Board, 399 Ill.App.3d 18, 924 N.E.2d 585; 338 Ill.Dec. 379 (1st Dist. 2010); Bowe v. Chicago Electoral Board, 79 Ill.2d 469, 404 N.E.2d 180, 38 Ill.Dec. 756 (Ill. 1980).

16. Objector has offered no evidence to contradict any of the testimony offered on this issue and served only to confuse the issue. Therefore, Objectors have not their burden of proof with respect to any issue of notarization.

III. Conclusion

All of the evidence in this case points to the fact that the Candidate has more than earned a place on the ballot. The Candidate produced all circulators for which the Objectors had questions. The evidence showed the circulators acted properly. The circulators were able to answer all of the Objectors' questions. There was not a single fact put in evidence to lead one to conclude that anything inappropriate was done.

The Objector made unjustified allegations with no factual basis. The Objector made no attempt to find Mr. Leslie, rather they hoped to eliminate the Candidate on a typographical error, a minor technicality. The Objector offered a handwriting expert who never looked to see if one signature of the 1,265 submitted was valid and then tried to convince the tribunal that there was fraud with a highly complicated, implausible scheme with a cast of 31 characters who only saw fit to try to add 59 valid signatures.

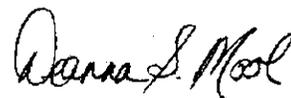
The credibility of witnesses all falls to the side of the Candidate. Based on the record, it is impossible to remove the Candidate from the ballot, even on a minor technicality. The Candidate believes he has achieved strict compliance with all requirements of the Election Code

despite the fact that substantial compliance would be sufficient. There is no threat to the integrity of the election process by his candidacy. There was no fraud.

The Objectors in this case present no set of facts which violate the Election Code or which serve to challenge the integrity of the electoral process. There was no violation of the Election Code. There was no violation of the Notary Public statute. There are not enough invalid signatures to put the candidate's totals below the statutory minimum. The only possible conclusion in this matter is that John A. "Jack" Cunningham has strictly complied, or substantially complied, with the Election Code. Further, you must find that John A. "Jack" Cunningham meets the minimum signature requirements. Finally, no further reductions should be taken from the signature totals given the lack of evidence in the record established by the Objectors.

To remove John A. "Jack" Cunningham from the ballot under these circumstances would be a drastic measure that would do nothing to protect the integrity of the process.

Respectfully submitted,

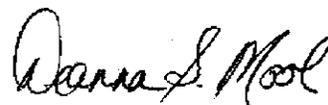


Deanna S. Mool
Attorney for Respondent, Candidate

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PROOF OF SERVICE

The undersigned hereby certifies that the above document was served by email on this 30th day of January, 2012, to the parties and the hearing officer in this matter.



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 John A. "Jack" Cunningham ("the Nomination Papers") as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 11th 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 11th Congressional District of the State of Illinois the signatures of not less than 600 duly qualified, registered, and legal voters of the said 11th 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 90 petition signature sheets containing a total of 1,269 signatures of allegedly duly qualified, legal, and registered voters of the 11th 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 11th 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 11th 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 the address shown next to said voter's name is incomplete, as more fully set forth in the Appendix-Recapitulation, under the column designated "INCOMPLETE ADDRESS (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 said Nomination Papers contain petition sheets containing the names of persons as circulators of said petition sheets who circulated petition sheets who do not reside at the address stated in their circulator's affidavit as is set forth specifically in the Appendix-Recapitulation, at the space designated "CIRCULATOR DOES NOT RESIDE AT ADDRESS SHOWN" attached hereto and made a part hereof, and as set forth in the following paragraphs, all of said petition sheets being in violation of the statutes in such cases made and provided.

13. Your Objectors state that said Nomination Papers contain petition sheets wherein the purported circulator's affidavit is not properly notarized as is set forth specifically in the Appendix-Recapitulation, at the space designated "SHEET NOT PROPERLY NOTARIZED" attached hereto and made a part hereof, and as set forth in the following paragraphs, all of said petition sheets being in violation of the statutes in such cases made and provided. This allegation is made specifically with respect to petition page number 7.

15. 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 (1st Dist. 1988); *Huskey v. Municipal Officers Electoral Bd. for Village of Oak Lawn*, 156 Ill.App.3d 201, 509 N.E.2d 555 (1st Dist., 1987) and *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1st Dist. 1984).

16. Your Objectors state that there will be presented substantial, clear, unmistakable, and compelling evidence that establishes a "pattern of fraud and false swearing" with an "utter and contemptuous disregard for the mandatory provisions of the Election Code." In addition, an examination of the nominating petitions hereunder will reveal a pervasive and systematic attempt to undermine the integrity of the electoral process. Consequently, your Objector states that this Electoral Board "cannot close its eyes and ears" but will be compelled to void the entire nominating petition, or significant parts thereof, as being illegal and void in its entirety. This allegation is made with specific reference to at least the following:

a. All petition sheets allegedly circulated by Charles Leslie. Mr. Leslie alleges to have circulated petition sheet numbers 14 - 19, 23 - 26, 40, 42 - 44, 50 - 61, 63-64, 66, 71, and 77 for the Candidate herein. On each of those petition sheets, Mr. Leslie certifies that he resides at 9708 Emerson, Des Plaines, Illinois, 60101. This address, however, does not exist. It is well established that a circulator must provide his or her address in order to ensure the integrity of the electoral process. *Sakonyi v. Lindsey*, 261 Ill.App.3d 821, 634 N.E.2d 444 (1st Dist. 1994). Disclosure of the circulator's address "enables the [Electoral] Board to locate her, question her about the signatures, and hold her responsible for her oath." *Sakonyi*, 261 Ill. App. 3d at 826, 634 N.E.2d at 447. By failing to provide a valid residence address, Mr. Leslie has failed to comply with the Election Code in such a manner that the integrity of the electoral process is impacted, and

as such, each of his sheets must be invalidated. Moreover, the signatures on several of Mr. Leslie's petitions appear to be not genuine, and appear to have been written by the same hand. Pursuant to the principles set forth by *Canter, Huskey and Fortas*, supra, each of his sheets must be invalidated.

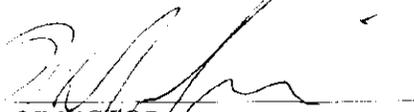
b. All petition sheets allegedly notarized by Lisa Hwang. Ms. Hwang apparently notarized all of the petition sheets allegedly circulated by Charles Leslie, in addition to other alleged circulators. Ms. Hwang appears to have notarized page numbers 11 - 66, 70 - 77, 80, 81, and 87 - 90. As Mr. Leslie did not provide a valid address on his circulator's affidavit, Ms. Hwang could not have properly notarized those sheets. By failing to properly notarize sheets circulated by Charles Leslie, Ms. Hwang has failed to comply with the Election Code in such a manner that the integrity of the electoral process is impacted, and as such, each of the sheets that she has notarized must be invalidated.

c. All petition sheets allegedly circulated by Lawrence Weed. Mr. Weed alleges to have circulated petition sheet numbers 11, 28 - 36, 41, 45 - 49, 65, 70, 75, 76, 80, 81, 87, and 88 for the Candidate herein. The signatures on several of Mr. Weed's petitions appear to be not genuine, and appear to have been written by the same hand. Pursuant to the principles set forth by *Canter, Huskey and Fortas*, supra, each of his sheets must be invalidated.

15. Your Objectors state that the nomination papers herein contested consist of various sheets supposedly containing the valid and legal signatures of 1,269 individuals. The individual objections cited herein with specificity reduce the number of valid signatures below the statutory minimum of 600.

WHEREFORE, your Objectors pray that the purported nomination papers of John A. "Jack" Cunningham as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 11th 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 John A. "Jack" Cunningham as a candidate of the Republican Party for nomination to the Office of Representative in Congress for the 11th 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 20, 2012.

Respectfully submitted:



OBJECTOR
Henry Schaefflein

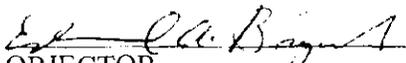
OBJECTOR
Edmund Brezinski

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john@fogartylawoffice.com

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Respectfully submitted,

OBJECTOR
Henry Schaefflein


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Billerman/Pettlon v. Harris
12 SOEB GP 526

Candidate: Diane M. Harris

Office: Congress, 11th Dist.

Party: Republican

Objector: John Billerman, Brian Pettlon

Attorney For Objector: John Fogarty

Attorney For Candidate: Pro se

Number of Signatures Required: Not less than 600

Number of Signatures Submitted: 652

Number of Signatures Objected to: 264

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

Binder Check Necessary: Yes

Hearing Officer: Barbara Goodman

Hearing Officer Findings and Recommendation: A records examination commenced and was completed on January 16, 2012. The examiners ruled on objections to 264 signatures. 183 objections were sustained leaving 469 valid signatures, which is 131 signatures below the required minimum number of signatures.

Accordingly, the Hearing Officer recommends that the objection be sustained in conformity with the results of the records examination and the name of Diane M. Harris not be certified for the ballot for the Republican nomination to the office of Representative in Congress for the 11th Congressional District for the March 20, 2012 General Primary Election.

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

BEFORE THE ILLINOIS STATE OFFICERS ELECTORAL BOARD

John Billerman and Brian Pettlon)	
)	
Objectors)	
)	
-v-	)	11 SOEB GP 526
	)	(related case GP 528)
Diane M. Harris)	
)	
Candidate)	

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

This matter was first heard on December 20, 2011 and assigned to this Hearing Officer. A case management conference was held on said date. The Objectors appeared through counsel John Fogarty and the candidate appeared pro se.

The parties were given the opportunity to file preliminary motions. Neither party submitted preliminary motions. The matter was set for further hearing.

The objections concerned allegations regarding the sufficiency of the signatures contained in the nominating papers and required a records examination. A records examination was conducted and the results were as follows:

- A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 600.
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 652.
- C. The number of signatures deemed invalid because of objections sustained in the records examination total 183.
- D. The remaining number of signatures deemed valid as a result of the records examination total 469.

The results of the records examination established that the candidate had 131 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.¹

RECOMMENDATION

In light of the foregoing, it is my recommendation that the objections of John Billerman and Brian Pettlon be **sustained** in conformity with the results of the records examination. It is my further recommendation that the nominating papers of candidate Diane M. Harris be deemed **invalid** and that the name of candidate Diane M. Harris for the Republican nomination to the office of Representative in Congress for the 11th Congressional District **not be** printed on the ballot at the March 20, 2012 General Primary Election.

Respectfully submitted,

Barbara Goodman /s/
Barbara Goodman
Hearing Officer
1/28/12

¹ Subsequent to the records examination, the Candidate filed a Motion to Strike Objector's Petition in which she asked that the Objector's petition be stricken because of the rate of sustained versus overruled objections. Said Motion was not a Motion filed pursuant to Rule 9 of the Board's Rules of Procedure and did not provide a sufficient basis to modify the results of the records examination or strike the Objector's Petition.

**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
11th CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

John Billerman and Brian Pettlon,)
)
Petitioner-Objectors,)
)
vs.)
)
Diane M. Harris,)
)
Respondent-Candidate.)

CHICAGO
12 JAN -4 11 17
STATE BOARD OF ELECTIONS

VERIFIED OBJECTORS' PETITION

Now comes John Billerman and Brian Pettlon (hereinafter referred to as the "Objectors"), and states as follows:

1. John Billerman resides at 2800 Ashtonlee Court, Naperville, Illinois, 60565. in the Eleventh 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 Eleventh 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. Brian Pettlon resides at 137 N. Lancaster Drive, Bolingbrook, Illinois, 60440, in the Eleventh 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 Eleventh

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 Diane M. Harris ("the Nomination Papers") as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 11th 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 11th Congressional District of the State of Illinois the signatures of not less than 600 duly qualified, registered, and legal voters of the said 11th 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 50 petition signature sheets containing a total of 652 signatures of allegedly duly qualified, legal, and registered voters of the 11th 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 11th 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 11th 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 the address shown next to said voter's name is incomplete, as more fully set forth in the Appendix-Recapitulation, under the column designated "INCOMPLETE ADDRESS (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 herein contested consist of various sheets supposedly containing the valid and legal signatures of 652 individuals. The individual objections cited herein with specificity reduce the number of valid signatures to 388, or 212 below the statutory minimum of 600.

WHEREFORE, your Objectors pray that the purported nomination papers of Diane M. Harris as a candidate for nomination of the Republican Party to the Office of Representative in Congress for the 11th 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 Diane M. Harris as a candidate of the Republican Party for nomination to the Office of Representative in Congress for the 11th 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 20, 2012.

Respectfully submitted,



OBJECTOR

John Billerman

OBJECTOR

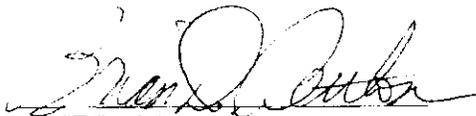
Brian Pettlon

Law Office of John Fogarty, Jr.
4043 N. Ravenswood, Suite 226
Chicago, Illinois 60613
(773) 549-2647
(773) 680-4962 (mobile)
(773) 681-7147 (fax)
john@fogartylawoffice.com

Respectfully submitted.



OBJECTOR
John Billerman



OBJECTOR
Brian Pettlon

Law Office of John Fogarty, Jr.
4043 N. Ravenswood, Suite 226
Chicago, Illinois 60613
(773) 549-2647
(773) 680-4962 (mobile)
(773) 681-7147 (fax)
john@fogartylawoffice.com

John Billerman and Brian Pettlon

CASE GP 526

Petitioner-Objectors,
Vs.
Diane M. Harris

MOTION
To strike the objector's petition

Diane M. Harris, states that John Billerman and Brian Pettlon, Petition Objectors, filed Petition Objections stating that the voters' signatures were not genuine, that the voters were not legal voters of their specific address and that the addresses were incomplete.

Diane M Harris states that out of the 183 signatures objected, over 44% of them were confirmed to be registered along with having genuine signatures, 25% were confirmed to be registered voters but residing outside of the newly created 11th Congressional District, 2% confirmed to have incomplete addresses and less that 29% were not confirmed to be registered voters through the records process, but were confirmed through verbal communication between the candidate herself, Diane M. Harris, and the signee during the time of solicitation. Diane M. Harris's oral testimony swears that the signers confirmed, when asked, that they are registered voters in the 11th Congressional District.

CONCLUSION:

Therefore, based on Rule 9, I, Diane M. Harris, asked that the Petition-Objectors, petition objections be found frivolous, and that all the signatures, excluding the 25% outside of the newly created 11th Congressional District, be reflected as valid signatures for the candidate, Diane M. Harris, and that the objectors petition be strike and that the candidate, Diane M Harris's name to remain on the ballot for the Primary Election March 20th, 2012 as intended.

Verification:

The undersigned has motioned and sworn that these statements are true and that based on Rule 9 the Objector's Petition be strike.

Diane M. Harris

Motioned by Diane M. Harris
424 Buell Ave.
Joliet, IL 60435

County of Will

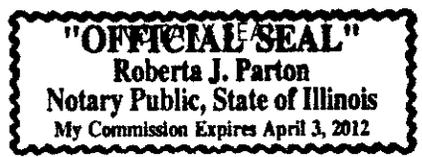
State of Illinois

Subscribed to and Sworn before me, a Notary Public, on this 18th day of January 2012, in

Joliet, Illinois.

Roberta J. Parton

NOTARY PUBLIC



Cunningham v. Biggert
12 SOEB GP 527

Candidate: Judy Biggert

Office: Congress, 11th Dist.

Party: Republican

Objector: John A. Cunningham

Attorney For Objector: John Duggan

Attorney For Candidate: John Fogarty

Number of Signatures Required: Not less than 600

Number of Signatures Submitted: 1192

Number of Signatures Objected to: 711

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."

It is further alleged that Candidate failed to file a proper Statement of Candidacy because the Candidate listed the office sought as "Congress" while her petition sheets indicate that she seeks nomination to the office of "Representative in Congress."

Dispositive Motions: Candidate's Motion to Strike and Dismiss the Objector's Petition, Objector's Motion for Summary Judgment, Candidate's Response to Objector's Motion for Summary Judgment

Binder Check Necessary: Yes

Hearing Officer: Barbara Goodman

Hearing Officer Findings and Recommendation: A records examination commenced and was completed on January 13, 2012. The examiners ruled on objections to 711 signatures. 335 objections were sustained leaving 857 valid signatures, which is 257 signatures more than the required minimum number of signatures.

The Hearing Officer finds that, when the Statement of Candidacy and the petition sheets are read together, the variations between the two descriptions of the office sought are not inconsistent, nor do they cause voter confusion regarding the office sought. Accordingly, the Hearing Officer finds that the objection to the Statement of Candidacy fails to provide a basis to invalidate the nominating papers.

Based on the foregoing, the Hearing Officer recommends that the objections be overruled in conformity with the results of the records examination and the evidentiary hearing, and the name of Judy Biggert be certified for the ballot as Republican candidate for the office of Representative in Congress for the 11th Congressional District for the March 20, 2012 General Primary Election.

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

D. The remaining number of signatures deemed valid as a result of the records examination total 857

The results of the records examination established that the candidate had 257 signatures more 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 was then held on the motions filed by the parties and to address the other issues raised in the Objector's Petition. Paragraphs 5 and 6 of the Objector's Petition seek to invalidate the Candidate's nominating papers because the Candidate purportently misnamed the office on her Statement of Candidacy. The Statement of Candidacy indicates that the Candidate seeks nomination to the office of "Congress" while her petition sheets indicate that she seeks nomination to the office of "Representative in Congress". Both documents contain the correct congressional district designation.

Objector argues that the Candidate failed to fulfill the mandatory requirement to file a sworn Statement of Candidacy under oath as required in 10 ILCS 5/7-10 and 5/8-8 in that there is no office of "Congress". As the Objector points out, "'Congress' under the United States Constitution refers to the entire 535 Member bi-cameral legislature which consists of the House of Representatives and the Senate." Objector further argues that because of the inconsistency in the name of the office on the petition sheets and on the Statement of Candidacy, there exists a conflict which renders the nominating papers void.

Candidate argues that the office is not mis-named on her Statement of Candidacy and that the nomenclature used by the Candidate on her Statement of Candidacy complies wholly with the requisites of Section 7-10. Candidate further argues that *Lewis v Dunne*, 63 Ill. 2d 48, 344 N.E.2d 443 (1976) which was cited by the Objector, actually supports the Candidate's position.

In *Lewis v Dunne*, the candidate's petition sheets described the office as "Judge of the Appellate Court of Illinois, First Judicial District, to fill the vacancy created by the retirement of the Honorable Robert E. English." The candidate's Statement of Candidacy described the office as "Judge of the Appellate Court of Illinois, First Judicial District," The *Lewis* Court determined that the petition sheets should be read together with the Statement of Candidacy and where there was no conflict between the description of the office on the petition sheets and the description of the office on the Statement Candidacy, there could be no basis for confusion as to the office sought and the candidate's nominating papers satisfied the requirements of the Election Code. Here, Objector concedes that there is no voter confusion because the office was correctly set forth on the petition sheets. Rather, the Objector argues that the failure of the Statement of Candidacy to correctly name the office, renders the nomination papers void as a matter of law.

The Objector's argument wholly ignores the ruling in *Lewis v Dunne* and its progeny. *Lewis v Dunne* unequivocally establishes that where there are variations in the petition sheets and in the Statement of Candidacy as to the description of the office that are not inconsistent and where no voter confusion is shown, the variations constitute an insufficient basis for invalidating the nominating papers. In the instant case, where the petition sheets describe the office as "Representative in Congress" and the Statement of Candidacy describes the office as "Congress", the two descriptions are not inconsistent. Moreover, the Objector conceded that no voter confusion exists regarding the office sought. Accordingly, Objector's paragraphs 5 and 6 fail to provide a basis to invalidate the nominating papers.¹

¹ Objector's Petition, par. 14 raised eight miscellaneous issues regarding the notarial jurat which the Objector did not pursue and all of which were insufficient to invalidate any sheet or the nominating papers as a whole.

RECOMMENDATION

In light of the foregoing, it is my recommendation that the objections of John A. Cunningham be overruled in conformity with the results of the records examination and the subsequent hearing. It is my further recommendation that the nominating papers of candidate Judy Biggert be deemed **valid** and that the name of candidate Judy Biggert for the Republican nomination to the office of Representative in Congress for the 11th Congressional District **be** printed on the ballot at the March 20, 2012 General Primary Election.

Respectfully submitted,

Barbara Goodman /s/

Barbara Goodman
Hearing Officer
1/28/12

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 CONGRESS FROM
THE 11th CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

IN THE MATTER OF THE OBJECTIONS)
OF JOHN A. CUNNINGHAM TO THE NOMINATING)
PETITION OF JUDY BIGGERT, AS A)
CANDIDATE FOR ELECTION TO THE OFFICE)
OF REPRESENTATIVE IN CONGRESS FOR THE 11th)
CONGRESSIONAL DISTRICT OF ILLINOIS TO BE)
VOTED ON AT THE MARCH 20, 2012 PRIMARY)
ELECTION.)

FILED
15
MAY 15 2012
KANE COUNTY, ILLINOIS

**VERIFIED OBJECTOR'S PETITION OF JOHN A. CUNNINGHAM
TO THE NOMINATING PETITION OF JUDY BIGGERT**

NOW COMES John A. Cunningham, hereinafter referred to as the "Objector," and respectfully represents that your Objector makes the following objections to the nominating petition of JUDY BIGGERT as a candidate for election to the office of Representative in Congress for the 11th Congressional District 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 218 S. Le Grande Blvd., within the City of Aurora, County of Kane, State of Illinois, 60506 located in the 11th Congressional District of Illinois; 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 Congress for the 11th Congressional District 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 Congress for the 11th Congressional District of Illinois require the signatures of not less than 600 duly qualified, registered, and legal voters of the 11th Congressional District 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 100 petition signature sheets containing a total of 1,192 signatures of allegedly duly qualified, legal, and registered voters of the 11 Congressional Representative District of the State of Illinois. The individual objections cited herein with specificity reduce the number of valid signatures by 790 or to 402 which is 198 below the statutory minimum of 600.

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.

MANDATORY DEFECTS IN THE STATEMENT OF CANDIDACY

5. Your Objector states that the candidate has filed a false and defective Statement of Candidacy and has made a statement contrary to this false and defective statement on each and every one of the petition signature sheets to the affect that she has stated on her Statement of Candidacy that she is seeking Nomination to the Office of Congress, while the Petition Sheets identify the correct office as Representative in Congress. The inconsistency between the designation of office sought in the Statement of Candidacy and on the Petition Sheets makes the candidate disqualified from, and ineligible to seek and serve in, the office for which the nomination papers were filed.

6. Your Objector states that the Candidate has failed to fulfill the mandatory requirement of 10 ILCS 5/7-10 and 5/8-8 that she signed the sworn Statement of Candidacy under oath and file the original with the nomination papers asking to be on the March 20, 2012 Primary Ballot for the office of Congress and not the March 20, 2012 Primary Ballot for the Office of Representative in Congress. There is no office of Congress, and the Statement of Candidacy wholly fails to designate an office to which the Candidate could be elected. The failure to comply with this mandatory requirement is a fatal defect. *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976); *Serwinski v. Board of Election Commissioners of City of Chicago*, 156 Ill.App.3d 257, 509 N.E.2d 509, 108 Ill.Dec. 813 (1st Dist. 1987); *Hacker v. Adamcik*, No. 04-EB-WC-069 (Chicago Electoral Board 2004). If a candidate's statement of candidacy with the section of the Election Code governing the form of petition for nomination, the candidate is not entitled to have her name appear on the primary ballot. *Goodman v. Ward*, 2011, 2011 WL 1074196.

MANDATORY DEFECTS IN THE PETITION SHEETS

7. 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 "A. Signer's Signature Not Genuine" 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 numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the 11TH 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 "B. Signer Not Registered At Address Shown" 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 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 11th Congressional District 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 "C. Signer Resides Outside District" 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 numerous 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 "D. Signer's address missing or incomplete." 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 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 "E. Signer Signed Petition More Than Once At Sheet/Line Indicated," 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 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 "F. Signer's signature printed and not written," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided, all of which signatures are not genuine.

13. 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 "G. Other" (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, or purported electors who signed petitions for both Democratic and Republican candidates in this March 20, 2012 Primary all of said signatures being in violation of the statutes in such cases made and provided.

MANDATORY DEFECTS IN THE NOTORIZATION OF THE CIRCULATOR AFFIDAVITS OF THE PETITION SHEETS

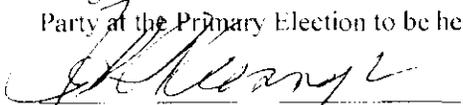
14. Your Objector further states that the said nominating petition contains petition signature sheets in which the notarization of the circulator of those particular sheets are defective with the effect that no oath was properly administered and the circulator therefore made no affidavit as additionally listed on the attached Appendix-Recapitulation "Specify Other Objections" hereto and made a part hereof, all of said signatures being in violation in the statutes in such cases made and provided, for one or more of the following reasons as indicated thereupon:

- a. The Notary Declaration on Petition Sheet 46 is defective because the jurat of the Notary Declaration does not list a County.
- b. The Notary Declaration on Petition Sheets 25, 50, 53, 75, 83, 88 do not list whether the place of residence of the Circulator is a City or Village or Unincorporated Area.
- c. The signature of the Notary on the Notary Declaration on Petition Sheets 50, 58, are defective because the Notary uses a name or initial in signing certificates other than that by which the notary was commissioned, in violation of 5 ILCS 312/6-104(a)
- d. The signature of the Notary on the Notary Declaration on Petition Sheets 16, has been rendered illegible by the intentional act of the Notary stamping over the signature, contrary to the Illinois Notary Handbook, page 22, 27, 28, 52 which provides, "Do not imprint your seal over your signature in a notarization. All information must be legible."
- e. The Notary on Petition Sheet 45 does not have a valid oath because the commission of Notary Karen Novak has expired on March 13, 2011 and the Petition Sheet 45 indicates the Circulator signed the sheet on September 20, 2011, and because Karen Novak, the Notary, uses a name or initial in signing certificates, KN, other than that by which the notary was commissioned, Karen Novak in violation of 5 ILCS 312/6-104(a).
- f. Petition Sheets 45 and 89 are not identical with the other petition sheets, in that it has a signature below the lines in the form and therefore has purported electors on the form without line numbers.
- g. The Notary on Petition Sheet 33 lists an incorrect residence address for the circulator as in the Village of Downers Grove, when the circulator resides in an unincorporated area of Downers Grove Township.
- h. The Notary on Petition Sheet 57, 88 does not have a legible seal and the expiration date of the purported Notary's commission cannot be ascertained.

CONCLUSION

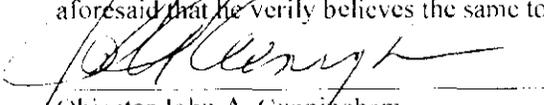
15. Your Objector states that the nomination papers herein contested consist of various sheets supposedly containing the valid and legal signatures of 1,192 individuals. The individual objections cited herein with specificity reduce the number of valid signatures by 790 or to 402, which is 198 below the statutory minimum of 600. In addition, the allegations contained in paragraphs 5 and 6 of this Objector's Petition render the entire nominating petition null and void. This Objector's Petition renders the entire nominating petition of Judy Biggert null and void.

WHEREFORE, your Objector prays that the purported nomination papers of nominating petition of JUDY BIGGERT as a candidate for election to the office of Representative in Congress for the 11th Congressional District 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 JUDY BIGGERT as a candidate of the Republican Party for nomination to the office of the Representative in Congress for the 11th Congressional District of Illinois BE NOT PRINTED on the OFFICIAL BALLOT for the Republican Party at the Primary Election to be held on March 20, 2012.


Objector John A. Cunningham
218 S. Le Grande Blvd.
Aurora, Illinois 60506

VERIFICATION

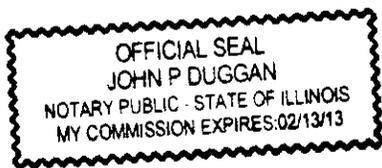
The undersigned as Objector, first being duly sworn on oath, now deposes and says that he has read this VERIFIED OBJECTOR'S PETITION and that the statements therein are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true and correct.


Objector John A. Cunningham
218 S. Le Grande Blvd.
Aurora, Illinois 60506

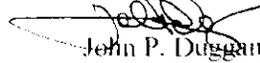
County of Kane)
) ss.
State of Illinois)

Subscribed to and Sworn before me, a Notary Public, by John A. Cunningham, the Objector, on this the 27th day of January 2012 at Aurora, Illinois.

 [notary seal]
NOTARY PUBLIC



My Commission expires: _____, 20__


John P. Duggan
Attorney for Objector John A. Cunningham
Duggan Law Offices
181 S. Lincolnway
North Aurora, Illinois 60542
630-264-7893
Mobile: 630-222-2223
FAX: 877-300-7451
Email: dugganjpd@aol.com

**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
11th CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

John A. Cunningham,)	
)	
Petitioner-Objector,)	
)	
vs.	)	12 SOEBGP 527
)	
Judy Biggert,)	
)	
Respondent-Candidate.)	

MOTION TO STRIKE OBJECTOR'S PETITION

Now comes Judy Biggert (hereinafter referred to as the "Candidate"), and for her Motion to Strike Objector's Petition, states as follows:

INTRODUCTION

John A. Cunningham (the "Objector" herein) has filed an Objector's Petition alleging that: (1) the Candidate's Statement of Candidacy is defective in that an incorrect office is sought, and (2) a number of *de minimis* issues with notarizations on particular petition pages.¹ None of the Objector's claims are legally sufficient, and, for reasons that follow, these claims should be stricken and dismissed.

A. The Candidate's Statement of Candidacy Comports With § 7-10 Of The Election Code.

In Paragraphs 5 and 6 of the Objector's Petition, the Objector asks that the Candidate's nominating papers be stricken because, he contends, the Candidate has mis-named the office she

¹ The Objector also claims that the Candidate has filed 100 petition sheets that contain only 402 valid signatures. While the Objector has mis-counted the number of petition sheets filed by the Candidate, and the Candidate has far more valid signatures than the statutory minimum of 600, this issue will be resolved by the records exam in this case, and not by this motion.

seeks on her Statement of Candidacy. The Objector's position is without merit in fact and in law.

Section 7-10 of the Election Code prescribes the format required for a candidate's nominating papers. 10 ILCS 5/7-10. The requisites of § 7-10 are considered mandatory requirements of the Election Code, and are not merely directory. *Bowe v. Chicago Electoral Board*, 79 Ill.2d 469, 404 N.E.2d 180 (1980); *Lawlor v. Municipal Officers Electoral Board*, 28 Ill.App.3d 823, 329 N.E.2d 426 (1st Dist. 1975). However, even mandatory requirements of the Election Code may be satisfied by "substantial compliance." *Courtney v. County Officers Electoral Board*, 314 Ill.App.3d 870, 732 N.E.2d 1193 (2000); *Panarese v. Hosty*, 104 Ill.App.3s 627, 432 N.E.2d 1333 (1982).

As an initial matter, the Candidate has not mis-named the office sought on her Statement of Candidacy. In the body of her Statement of Candidacy, the Candidate affirms that she is a qualified Republican Primary voter, and that she is "a candidate for Nomination/Election to the office of Congress in the 11th District," in the March 20, 2012 General Primary Election. There can be no genuine debate, or confusion, as to the office that the Candidate is seeking, solely reading the Candidate's Statement of Candidacy. The nomenclature used by the Candidate complies wholly -- and substantially -- with the requisites of § 7-10.

Further, though, as the Illinois Supreme Court established in *Lewis v. Dunne*, a candidate's nomination papers (statement of candidacy and nominating petitions) are to be read together, and so long as there is no conflict between the petitions and the statement of candidacy, and the petition leaves a signer free of confusion, the candidate will have complied with the Election Code. *Lewis v. Dunne*, 63 Ill.2d 48 (1976).

Here, the Objector actually concedes that the Candidate's nominating petition – which is the only paper that a voter might see – names the office correctly. Obj. ¶ 4. As such, there can be no argument that a voter might be confused as to the office the Candidate is seeking. In addition, there is no conflict between the office listed on the nominating petition, which is "Representative in Congress, of the State of Illinois, for the 11th Congressional District," and that set forth on the Statement of Candidacy, which is "Congress in the 11th District." There is only one 11th Congressional District, and thus there is no conflict between the Statement of Candidacy and the nominating petitions.

The decision in *Lewis v. Dunne* is instructive on this issue. In *Lewis*, the Court addressed the issue of whether a candidate's nominating papers were invalid when the statement of candidacy actually did not correctly describe the office that the candidate sought, and the statement of candidacy actually did conflict with the office listed on the candidate's nominating petitions. The *Lewis* Court found that a candidate's nominating papers were valid even where the candidate's statement of candidacy incorrectly named the office sought. The statement of candidacy in *Lewis* indicated that the office sought was "Judge of the Appellate Court of Illinois, First Judicial District," whereas the candidate's petitions more precisely, and correctly, indicated that he was running for "Judge of the Appellate Court of Illinois, First Judicial District, to fill the vacancy created by the retirement of the Honorable Robert E. English." The *Lewis* Court held that the candidate's statement of candidacy and nominating petitions were to be read together, and if there was "no conflict or inconsistency between the description of the office in the petitions signed by the electors and the statement of candidacy," and "there was no basis for confusion as to the office for which the nominating papers were filed," the candidate's nomination papers will have satisfied the requirements of the Election Code. *Lewis*, 63 Ill.2d at

53. See also, *Sullivan v. County Officers Electoral Board of DuPage County*, 225 Ill.App.3d 691 (2nd Dist. 1992)(Papers valid where statement of candidacy listed office that did not exist)

Here, the Candidate has correctly described the office sought on her Statement of Candidacy. Regardless, though, as set forth in *Lewis v. Dunne*, reading the Candidate's nomination papers together, there can be no question that the Candidate has described the office she seeks in accord with the requisites of § 7-10 of the Election Code. As such, the Objector's Petition on this point must be stricken.

B. The Notarization Issues Raised By The Objector Are *De Minimis*, And In No Event Could Invalidate The Candidate's Nominating Papers Nor Any Petition Sheet.

In Paragraph 14 of the Objector's Petition, the Objector has alleged a number of issues he describes as "mandatory defects in the notarization" of the Candidate's petitions. The Objector's claims, though, are neither legally sufficient, nor factually sufficient, and must be stricken as follows.

(1) The Objector claims that the "Notary Declaration" of page 46 is faulty because the "jurat of the Notary Declaration" does not list a County. However, there is no requirement that a notary jurat list a county, nor is there space for such a declaration. The Objector is apparently referring to the circulator's affidavit on page 46. However, having not properly alleged an objection on this basis, the Objector may not do so now, and the issue is waived.

(2) The Objector claims that the "Notary Declaration" on pages 25, 50, 53, 75, 83, and 88 is faulty because those sheets "do not list whether the place of residence of the Circulator is a City or Village or Unincorporated Area." However, the Objector again is apparently referring to the circulator's affidavit on these pages, and not the notary's certification. Not having properly made an objection on this basis, the Objector may not now do so, and the issue is waived.

(3) The Objector claims that the signature of the notary on pages 50 and 58 is faulty because on those sheets, the notary uses a "name or initial in signing the certificates" other than that by which the notary is commissioned. However, as the decisions of *Lewis v. Dunne, supra*, *Jakstas v. Koske*, 352 Ill.App.3d 861 (2nd Dist. 2004), and *Bergman v. Vachata*, 347 Ill.App.3d 338 (1st Dist. 2004) make clear, a candidate may satisfy even a mandatory requirement of the Election Code by substantial compliance. There exists no authority for striking a petition page for such a minor deviation as that alleged here. In fact, at least one court has even found that the failure of a notary to affix his or her seal is deemed only a technical violation that does not invalidate a petition sheet. *Young v. Cook County Officers Electoral Board*, Circuit Court of Cook County, January 24, 1990. Notably, the Objector makes no claim here that the circulator's affidavit was not "sworn to before some officer authorized to administer oaths in this State." 10 ILCS 5/7-10. As such, this claim should be stricken.

(4) The Objector claims that the notarization of pages 16, 22, 27, 28, and 52 is faulty because on each of those sheets, the notary's stamp is placed, at least in part, over the notary's signature. The Objector offers no legal basis for his objection on these grounds. Rather, he makes vague reference to the "Illinois Notary Handbook," which is apparently a handbook produced by the Illinois Secretary of State. The Illinois Notary Handbook does not carry the weight of law, and Objector's reference to it is unavailing. Again, the Objector makes no claim here that the circulator's affidavit on these pages was not "sworn to before some officer authorized to administer oaths in this State." 10 ILCS 5/7-10. As such, this claim should be stricken.

(5) The Objector claims that the notarization of page 45 is faulty because the notary's commission had expired, and because the notary used her initials in signing her jurat. This

instant Motion to Strike is not directed to these allegations. However, the Candidate expressly reserves her right to contest these allegations made to page 45 at the hearing on the merits of this matter.

(6) The Objector claims that Petition Sheets 45 and 89 are not identical to others because on each of those pages, a voter has signed below the lines on the form. Notably, and dispositively to this point, the Objector has not alleged that the *form* of pages 45 or 89 is any different than the *form* of any other petition sheet filed by the Candidate. Section 7-10 requires that petition sheets submitted by a candidate “shall be uniform of uniform size” and the heading of each sheet “shall be the same.” 10 ILCS 5/7-10. The form of each of the Candidate’s petitions is identical, and in accord with Section 7-10. Having not alleged otherwise, this claim must be stricken.

(7) The Objector claims that the “Notary” on page 33 is faulty because the circulator’s address should be listed as an unincorporated area of Downers Grove Township, rather than the Village of Downers Grove. Again, the Objector is apparently referring to the circulator’s affidavit on this page, and not anything to do with the notary. Having not properly alleged an objection on this basis, the Objector may not do so now, and the issue is waived.

(8) The Objector claims that the notarization of Petition Sheets 57 and 88 are faulty because he cannot read the notary’s seal. However, as the decisions of *Lewis v. Dunne, supra*, *Jakstas v. Koske*, 352 Ill.App.3d 861 (2nd Dist. 2004), and *Bergman v. Vachata*, 347 Ill.App.3d 338 (1st Dist. 2004) make clear, a candidate may satisfy even a mandatory requirement of the Election Code by substantial compliance. There exists no authority for striking a petition page for such a minor deviation as that alleged here. In fact, at least one court has even found that the failure of a notary to affix his or her seal is deemed only a technical violation that does not

invalidate a petition sheet. *Young v. Cook County Officers Electoral Board*. Circuit Court of Cook County, January 24, 1990. Notably, the Objector makes no claim here that the circulator's affidavit was not "sworn to before some officer authorized to administer oaths in this State." 10 ILCS 5/7-10. As such, this claim should be stricken.

WHEREFORE, the Candidate, Judy Biggert, prays this Honorable Electoral Board strike and dismiss the aforesaid portions of the Objector's Petition.

Respectfully Submitted.

Judy Biggert,
Respondent-Candidate

By: /s/ John G. Fogarty, Jr. /s/
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 FOR THE
11th CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

John A. Cunningham,)	
)	
Petitioner-Objector,)	
)	
vs.	)	12 SOEBGP 527
)	
Judy Biggert,)	
)	
Respondent-Candidate.)	

NOTICE OF FILING AND SERVICE

To: Barb Goodman, by email to barb@barbgoodmanlaw.com
State Board of Elections by email to ssandvoss@elections.il.gov
John Duggan, by email to dugganjpd@aol.com

Please take notice that on January 11, 2012, prior to 5:00 P.M., the undersigned e-mailed to the individuals listed above the Candidate's Motion to Strike the Objector's Petition, a copy of which is attached hereto and herewith served upon you.

/s/ John G. Fogarty, Jr. /s/
John G. Fogarty, Jr.

Proof of Service

The undersigned attorney certifies he served copies of this Notice and the attached pleading on the above persons by e-mail to them at the above addresses prior to 5:00 p.m. on January 11, 2012.

/s/ John G. Fogarty, Jr. /s/
John G. Fogarty, Jr.

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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 CONGRESS FROM
THE 11th CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

IN THE MATTER OF THE OBJECTIONS)
OF JOHN A. CUNNINGHAM TO THE NOMINATING)
PETITION OF JUDY BIGGERT, AS A)
CANDIDATE FOR ELECTION TO THE OFFICE) 12 SOEB GP 527
OF REPRESENTATIVE IN CONGRESS FOR THE 11th)
CONGRESSIONAL DISTRICT OF ILLINOIS TO BE)
VOTED ON AT THE MARCH 20, 2012 PRIMARY)
ELECTION.)

**JOHN A. CUNNINGHAM MOTION FOR SUMMARY JUDGMENT
TO STRIKE THE NOMINATING PETITION OF JUDY BIGGERT**

NOW COMES John A. Cunningham, hereinafter referred to as the "Objector," and respectfully moves this Honorable Board to enter Summary Judgment striking the nominating petition of JUDY BIGGERT as a candidate for election to the office of Representative in Congress for the 11th Congressional District of Illinois, and files the same herewith, and states that there is no question of fact or law that the nominating petition is insufficient in law and in fact for the following reasons:

1. Objector resides at 218 S. Le Grande Blvd., within the City of Aurora, County of Kane, State of Illinois, 60506 located in the 11th Congressional District of Illinois; 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 Congress for the 11th Congressional District 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 Congress for the 11th Congressional District of Illinois require the signatures of not less than 600 duly qualified, registered, and legal voters of the 11th Congressional District 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 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*,

John A. Cunningham Motion For Summary Judgment To Strike The Nominating Petition Of Judy Biggert

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.

MANDATORY DEFECTS IN THE STATEMENT OF CANDIDACY

4. Your Objector states that the candidate has filed a false and defective Statement of Candidacy and has made a statement contrary to this false and defective statement on each and every one of the petition signature sheets to the affect that she has stated on her Statement of Candidacy that she is seeking Nomination to the Office of Congress, while the Petition Sheets identify the correct office as Representative in Congress. The inconsistency between the designation of office sought in the Statement of Candidacy and on the Petition Sheets makes the candidate disqualified from, and ineligible to seek and serve in, the office for which the nomination papers were filed.

5. Your Objector states that the Candidate has failed to fulfill the mandatory requirement of 10 ILCS 5/7-10 and 5/8-8 that she signed the sworn Statement of Candidacy under oath and file the original with the nomination papers asking to be on the March 20, 2012 Primary Ballot for the office of Congress and not the March 20, 2012 Primary Ballot for the Office of Representative in Congress. There is no office of Congress, and the Statement of Candidacy wholly fails to designate an office to which the Candidate could be elected. The failure to comply with this mandatory requirement is a fatal defect. *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976); *Serwinski v. Board of Election Commissioners of City of Chicago*, 156 Ill.App.3d 257, 509 N.E.2d 509, 108 Ill.Dec. 813 (1st Dist. 1987); *Hacker v. Adamcik*, No. 04-EB-WC-069 (Chicago Electoral Board 2004). If a candidate's statement of candidacy with the section of the Election Code governing the form of petition for nomination, the candidate is not entitled to have her name appear on the primary ballot, *Goodman v. Ward*, 2011, 2011 WL 1074196.

6. There is no Office of "Congress." Congress under the United States Constitution refers to the entire 535 Member bi-cameral legislature which consists of the House of Representatives and the Senate. Candidate Biggert obviously understands this, because she has been Representative to Congress for many years, and she identified the office which is the subject of a Republican Primary on March 20, 2012 in the caption of the Petition Sheets.

7. Judy Biggert states in her Statement of Candidacy that she is seeking an office different that the office referred to in her Petition Sheets, a conflict which renders her nominating papers void.

8. The Objector incorporates the Verified Objection Petition herein by reference.

CONCLUSION

9. There is no question of material fact that there is no office of Congress, and the Statement of Candidacy wholly fails to designate an office to which the Candidate could be elected. The failure to comply with this mandatory requirement is a fatal defect. This Objector's Petition renders the entire nominating petition of Judy Biggert null and void.

John A. Cunningham Motion For Summary Judgment To Strike The Nominating Petition Of Judy Biggert

WHEREFORE, your Objector prays for an order of Summary Judgment that the purported nomination papers of nominating petition of JUDY BIGGERT as a candidate for election to the office of Representative in Congress for the 11th Congressional District 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 JUDY BIGGERT as a candidate of the Republican Party for nomination to the office of the Representative in Congress for the 11th Congressional District of Illinois BE NOT PRINTED on the OFFICIAL BALLOT for the Republican Party at the Primary Election to be held on March 20, 2012.

John A. Cunningham
Objector John A. Cunningham, 218 S. Le Grande Blvd., Aurora, Illinois 60506

VERIFICATION

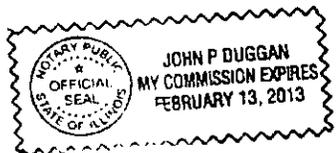
The undersigned as Objector, first being duly sworn on oath, now deposes and says that he has read this John A. Cunningham Motion For Summary Judgment To Strike The Nominating Petition Of Judy Biggert and that the statements therein are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true and correct.

John A. Cunningham
Objector John A. Cunningham, 218 S. Le Grande Blvd., Aurora, Illinois 60506

County of Kane)
) ss.
State of Illinois)

Subscribed to and Sworn before me, a Notary Public, by John A. Cunningham, the Objector, on this the 17th day of January 2012 at Aurora, Illinois.

[Signature]
[notary seal]
NOTARY PUBLIC



My Commission expires: 2/13, 2013

John P. Duggan
Attorney for Objector John A. Cunningham
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John A. Cunningham Motion For Summary Judgment To Strike The Nominating Petition Of Judy Biggert

**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
11th CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

John A. Cunningham,)	
)	
Petitioner-Objector,)	
)	
vs.	)	12 SOEBGP 527
)	
Judy Biggert,)	
)	
Respondent-Candidate.)	

RESPONSE TO MOTION FOR SUMMARY JUDGMENT

Now comes Judy Biggert (hereinafter referred to as the "Candidate"), and for her Response to the Motion for Summary Judgment filed by the Objector, states as follows:

The Objector herein has filed an Objector's Petition alleging that the Candidate's nomination papers should be voided because the office sought on the Candidate's Statement of Candidacy is incorrect. As set forth in the Candidate's Motion to Strike, the Objector's contention is wholly without merit. Nevertheless, the Objector has brought this Motion for Summary Judgment. It should be denied.

The Candidate's Statement of Candidacy Comports With § 7-10 Of The Election Code

For his supposed Motion, the Objector simply incorporates and repeats, nearly verbatim, his Objector's Petition. For the same reasons the Objector's faulty allegations should be stricken, this Motion should be denied.

The Candidate's Statement of Candidacy comports with § 7-10 of the Election Code. Section 7-10 of the Election Code prescribes the format required for a candidate's nominating papers. 10 ILCS 5/7-10. The requisites of § 7-10 are considered mandatory requirements of the Election Code, and are not merely directory. *Bowe v. Chicago Electoral Board*, 79 Ill.2d 469.

404 N.E.2d 180 (1980); *Lawlor v. Municipal Officers Electoral Board*, 28 Ill.App.3d 823, 329 N.E.2d 426 (1st Dist. 1975). However, even mandatory requirements of the Election Code may be satisfied by "substantial compliance." *Courtney v. County Officers Electoral Board*, 314 Ill.App.3d 870, 732 N.E.2d 1193 (2000); *Panarese v. Hosty*, 104 Ill.App.3s 627, 432 N.E.2d 1333 (1982).

As an initial matter, the Candidate has not mis-named the office sought on her Statement of Candidacy. In the body of her Statement of Candidacy, the Candidate affirms that she is a qualified Republican Primary voter, and that she is "a candidate for Nomination/Election to the office of Congress in the 11th District," in the March 20, 2012 General Primary Election. There can be no genuine debate, or confusion, as to the office that the Candidate is seeking, solely reading the Candidate's Statement of Candidacy. The nomenclature used by the Candidate complies wholly with the requisites of § 7-10. Even if that were not the case, there can be doubt that the Candidate's Statement of Candidacy substantially complies with § 7-10.

It is no coincidence that the Objector cites no case in which a candidate's nominating papers were voided under circumstances such as those present here. None exists. Rather, the Objector cites cases for general propositions that the Objector wishes would apply specifically here.

One case cited by the Objector conclusively demonstrates the validity of the Candidate's nomination papers. As the Illinois Supreme Court established in *Lewis v. Dunne*, a candidate's nomination papers (statement of candidacy and nominating petitions) are to be read together, and so long as there is no conflict between the petitions and the statement of candidacy, and the petition leaves a signer free of confusion, the candidate will have complied with the Election Code. *Lewis v. Dunne*, 63 Ill.2d 48 (1976).

The Objector here concedes that the Candidate's nominating petition – which is the only paper that a voter might see – names the office correctly. Obj. ¶ 4. As such, there can be no argument that a voter might be confused as to the office the Candidate is seeking. In addition, there is no conflict between the office listed on the nominating petition, which is "Representative in Congress, of the State of Illinois, for the 11th Congressional District," and that set forth on the Statement of Candidacy, which is "Congress in the 11th District." There is only one 11th Congressional District, and thus there is no conflict between the Statement of Candidacy and the nominating petitions.

The *Lewis v. Dunne* decision is instructive, and controls on the facts presented here. In *Lewis*, the Court addressed the issue of whether a candidate's nominating papers were invalid when the statement of candidacy actually did not correctly describe the office that the candidate sought, and the statement of candidacy actually did conflict with the office listed on the candidate's nominating petitions. The *Lewis* Court found that a candidate's nominating papers were valid even where the candidate's statement of candidacy incorrectly named the office sought. The statement of candidacy in *Lewis* indicated that the office sought was "Judge of the Appellate Court of Illinois, First Judicial District," whereas the candidate's petitions more precisely, and correctly, indicated that he was running for "Judge of the Appellate Court of Illinois, First Judicial District, to fill the vacancy created by the retirement of the Honorable Robert E. English." The *Lewis* Court held that the candidate's statement of candidacy and nominating petitions were to be read together, and if there was "no conflict or inconsistency between the description of the office in the petitions signed by the electors and the statement of candidacy," and "there was no basis for confusion as to the office for which the nominating

papers were filed." the candidate's nomination papers will have satisfied the requirements of the Election Code. *Lewis*, 63 Ill.2d at 53.

The Objector's claim that the Candidate has declared for a "non-existent" office is farcical, and would not serve to invalidate the Candidate's nomination papers at any rate. In *Sullivan v. County Officers Electoral Board of DuPage County*, 225 Ill.App.3d 691 (2nd Dist. 1992), the statement of candidacy of a candidate for precinct committeeman in precinct 129 in York Township listed the office sought as precinct committeeman in "precinct 129 in Oak Brook Township." Oak Brook Township did not exist. Following *Lewis v. Dunne, supra*, and *Ryan v. Landek*, 159 Ill.App.3d 10; 512 N.E.2d 1 (1st Dist. 1992), the *Sullivan* case further makes clear that where there is no voter confusion, and no conflict between the statement of candidacy and the nominating petitions, the candidate has complied with the Election Code.

Here, the Candidate has correctly described the office sought on her Statement of Candidacy. Regardless, though, as set forth in *Lewis v. Dunne* and progeny, reading the Candidate's nomination papers together, there can be no question that the Candidate has described the office she seeks in accord with the requisites of § 7-10 of the Election Code. As such, the Objector's Motion must be denied.

WHEREFORE, the Candidate, Judy Biggert, prays this Honorable Electoral Board deny the Objector's Motion for Summary Judgment.

Respectfully Submitted,

Judy Biggert,
Respondent-Candidate

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

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BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
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CANDIDATES FOR THE OFFICE OF REPRESENTATIVE IN CONGRESS FOR THE
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John A. Cunningham,)
)
Petitioner-Objector,)
)
vs.) 12 SOEBGP 527
)
Judy Biggert,)
)
Respondent-Candidate.)

NOTICE OF FILING AND SERVICE

To: Barb Goodman, by email to barb@barbgoodmanlaw.com
State Board of Elections by email to ssandvoss@elections.il.gov
John Duggan, by email to dugganjpd@aol.com

Please take notice that on January 13, 2012, prior to 5:00 P.M., the undersigned e-mailed to the individuals listed above the Candidate's Response to the Objector's Motion for Summary Judgment, a copy of which is attached hereto and herewith served upon you.

/s/ John G. Fogarty, Jr. /s/
John G. Fogarty, Jr.

Proof of Service

The undersigned attorney certifies he served copies of this Notice and the attached pleading on the above persons by e-mail to them at the above addresses prior to 5:00 p.m. on January 13, 2012.

/s/ John G. Fogarty, Jr. /s/
John G. Fogarty, Jr.

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Cunningham v. Harris
12 SOEB GP 528

Candidate: Diane M. Harris

Office: Congress, 11th Dist.

Party: Republican

Objector: John A. Cunningham

Attorney For Objector: John Duggan

Attorney For Candidate: Pro se

Number of Signatures Required: Not less than 600

Number of Signatures Submitted: 652

Number of Signatures Objected to: 299

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's Motion for Summary Judgment

Binder Check Necessary: Yes

Hearing Officer: Barbara Goodman

Hearing Officer Findings and Recommendation: A records examination commenced and was completed on January 16, 2012. The examiners ruled on objections to 299 signatures. 185 objections were sustained leaving 467 valid signatures, which is 133 signatures below the required minimum number of signatures.

Accordingly, the Hearing Officer recommends that the objection be sustained in conformity with the results of the records examination and the name of Diane M. Harris not be certified for the ballot for the Republican nomination to the office of Representative in Congress for the 11th Congressional District for the March 20, 2012 General Primary Election.

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

The results of the records examination established that the candidate had 133 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.¹

RECOMMENDATION

In light of the foregoing, it is my recommendation that the objections of John A. Cunningham be **sustained** in conformity with the results of the records examination. It is my further recommendation that the nominating papers of candidate Diane M. Harris be deemed **invalid** and that the name of candidate Diane M. Harris for the Republican nomination to the office of Representative in Congress for the 11th Congressional District **not be** printed on the ballot at the March 20, 2012 General Primary Election.

Respectfully submitted,

Barbara Goodman Esq.

Barbara Goodman
Hearing Officer
1/28/12

¹ In related case 11 SOEB GP 528, the candidate's nominating papers were already deemed invalid and therefore, it was unnecessary to address any of the other issues raised in the Objector's Petition.

reduce the number of valid signatures by 612 or to 24 which is 576 below the statutory minimum of 600. In addition, the allegations contained in paragraphs 5 and 6 of this Objector's Petition render the entire nominating petition null and void.

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.

MANDATORY DEFECTS IN THE STATEMENT OF CANDIDACY

5. Your Objector states that the candidate has filed a false and defective Statement of Candidacy and has made a statement contrary to this false and defective statement on each and every one of the petition signature sheets to the affect that she has filed to indicate on her Statement of Candidacy that she is seeking Nomination and not Election at the Primary Election, and she states that she seeks to be placed on the primary ballot for March 20, 2011. There was no primary election held on March 20, 2011, that date has passed, and the Republican Primary election is scheduled on March 20, 2012. Such false defective statements are violation of the Illinois Election Code, making the candidate disqualified from, and ineligible to seek and serve in, the office for which the nomination papers were filed.

6. Your Objector states that the Candidate has failed to fulfill the mandatory requirement of 10 ILCS 5/7-10 and 5/8-8 that she signed the sworn Statement of Candidacy under oath and file the original with the nomination papers asking to be on the March 20, 2011 Primary Ballot, and not the March 20, 2012 Primary Ballot. The failure to comply with this mandatory requirement is a fatal defect. *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976); *Serwinski v. Board of Election Commissioners of City of Chicago*, 156 Ill.App.3d 257, 509 N.E.2d 509, 108 Ill.Dec. 813 (1st Dist. 1987); *Hacker v. Adamcik*, No. 04-EB-WC-069 (Chicago Electoral Board 2004). If a candidate's statement of candidacy with the section of the Election Code governing the form of petition for nomination, the candidate is not entitled to have her name appear on the primary ballot. *Goodman v. Word*, 2011, 2011 WL 1074196.

MANDATORY DEFECTS IN THE PETITION SHEETS

7. 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 "A. Signer's Signature Not Genuine," 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 numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the 11th 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 "B. Signer Not Registered At Address Shown" 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 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 11th Congressional District 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 "C. Signer Resides Out of District." 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 numerous 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 "D. Signer's Address Missing or incomplete." 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 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 "E. Signer Signed Petition More than Once at Sheet/Line Indicated," all of said signatures 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 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 "F. Signer's signature printed and not written," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided, all of which signatures are not genuine.

13. 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 "G. Other" (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, or purported electors who signed petitions for both Democratic and Republican candidates in this March 20, 2012 Primary, all of said signatures being in violation of the statutes in such cases made and provided.

MANDATORY DEFECTS IN THE CIRCULATOR AFFIDAVITS OF THE PETITION SHEETS

14. The Election Code requires that the Circulator sign an affidavit certifying to the best of the Circulator's knowledge and belief the person so signing were at the time of signing the petitions qualified voters of the political party for which nomination is sought. Your Objector further states that the said nominating petition contains Petition Sheets 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 36, 39, 40, 42, 44, 45, 46, 47, 48, 49, 50 in which the circulator of those particular sheets certifies 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 Democrat or Republican Party..." These circulator affidavits on these enumerate Petition Sheets wholly fail to certify to the best of the Circulator's knowledge and belief the person so signing were at the time of signing the petitions qualified voters of the political party for which nomination is sought, that is the Republican Party, and this failure to so certify renders each and every one of the signatures on such Petition Sheets invalid, as more fully set forth in the Appendix-Recapitulation under the designation as "Specify Other Objections" attached hereto and made a part hereof, all of said signatures being in violation in the statutes in such cases made and provided.

15. The Election Code requires that the Circulator sign an affidavit certifying to the best of the Circulator's knowledge and belief the person so signing were at the time of signing the petitions qualified voters of the political party for which nomination is sought. Your Objector further states that the said nominating petition contains Petition Sheets 37, 38, 41 and 43 in which the circulator of those particular sheets certifies 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 _____ Party..." These circulator affidavits on these enumerate Petition Sheets wholly fail to certify to the best of the Circulator's knowledge and belief the person so signing were at the time of signing the petitions qualified voters of the political party for which nomination is sought, that is the Republican Party, and this failure to so certify renders each and every one of the signatures on such Petition Sheets invalid, as more fully set forth in the Appendix-Recapitulation under the designation as "Specify Other Objections" attached hereto and made a part hereof, all of said signatures being in violation in the statutes in such cases made and provided.

CONCLUSION

16. Your Objector states that the nomination papers herein contested consist of various sheets supposedly containing the valid and legal signatures of 652 individuals. The individual objections cited herein with specificity reduce the number of valid signatures by 612 or to 24 which is 576 below the statutory minimum of 600. In addition, the allegations contained in paragraphs 5 and 6 of this Objector's Petition render the entire nominating petition null and void.

WHEREFORE, your Objector prays that the purported nomination papers of nominating petition of DIANA M. HARRIS as a candidate for election to the office of Representative in Congress for the 11th Congressional District 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 DIANA M. HARRIS as a candidate of the Republican Party for nomination to the office of the Representative in Congress for the

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 CONGRESS FROM
THE 11th CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

IN THE MATTER OF THE OBJECTIONS)
OF JOHN A. CUNNINGHAM TO THE NOMINATING)
PETITION OF DIANE M. HARRIS, AS A)
CANDIDATE FOR ELECTION TO THE OFFICE) 12 SOEB GP 528
OF REPRESENTATIVE IN CONGRESS FOR THE 11th)
CONGRESSIONAL DISTRICT OF ILLINOIS TO BE)
VOTED ON AT THE MARCH 20, 2012 PRIMARY)
ELECTION.)

**JOHN A. CUNNINGHAM MOTION FOR SUMMARY JUDGMENT
TO STRIKE THE NOMINATING PETITION OF DIANE M. HARRIS**

NOW COMES John A. Cunningham, hereinafter referred to as the "Objector," and respectfully moves this Honorable Board to enter Summary Judgment striking the nominating petition of DIANE M. HARRIS as a candidate for election to the office of Representative in Congress for the 11th Congressional District of Illinois, and files the same herewith, and states that there is no question of fact or law that the nominating petition is insufficient in law and in fact for the following reasons:

1. Objector resides at 218 S. Le Grande Blvd., within the City of Aurora, County of Kane, State of Illinois, 60506 located in the 11th Congressional District of Illinois; 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 Congress for the 11th Congressional District 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 Congress for the 11th Congressional District of Illinois require the signatures of not less than 600 duly qualified, registered, and legal voters of the 11th Congressional District 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 50 petition signature sheets containing a total of 652 signatures of allegedly duly qualified, legal, and registered voters of the 11 Congressional Representative District of the State of Illinois. The objections cited herein as to the failure of the

**John A. Cunningham Motion For Summary Judgment To Strike The Nominating Petition Of
Diane M. Harris**

Circulator Affidavit to state that the electors identified themselves with the Republican party reduces the number of valid signatures by 608 or to 44 which is 556 below the statutory minimum of 600. In addition, the allegations contained in paragraphs 5 and 6 of this Objector's Petition render the entire nominating petition null and void, and there is no material question of fact that the Nominating Papers of Candidate Harris are insufficient as a matter of law.

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.

MANDATORY DEFECTS IN THE STATEMENT OF CANDIDACY

5. Your Objector states that the candidate has filed a false and defective Statement of Candidacy and has made a statement contrary to this false and defective statement on each and every one of the petition signature sheets to the affect that she has filed to indicate on her Statement of Candidacy that she is seeking Nomination and not Election at the Primary Election, and she states that she seeks to be placed on the primary ballot for March 20, 2011. There was no primary election held on March 20, 2011, that date has passed, and the Republican Primary election is scheduled on March 20, 2012. Such false defective statements are violation of the Illinois Election Code, making the candidate disqualified from, and ineligible to seek and serve in, the office for which the nomination papers were filed.

6. Your Objector states that the Candidate has failed to fulfill the mandatory requirement of 10 ILCS 5/7-10 and 5/8-8 that she signed the sworn Statement of Candidacy under oath and file the original with the nomination papers asking to be on the March 20, 2011 Primary Ballot, and not the March 20, 2012 Primary Ballot. The failure to comply with this mandatory requirement is a fatal defect. *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976); *Serwinski v. Board of Election Commissioners of City of Chicago*, 156 Ill.App.3d 257, 509 N.E.2d 509, 108 Ill.Dec. 813 (1st Dist. 1987); *Hacker v. Adamcik*, No. 04-EB-WC-069 (Chicago Electoral Board 2004). If a candidate's statement of candidacy with the section of the Election Code governing the form of petition for nomination, the candidate is not entitled to have her name appear on the primary ballot, *Goodman v. Ward*, 2011, 2011 WL 1074196.

MANDATORY DEFECTS IN THE CIRCULATOR AFFIDAVITS OF THE PETITION SHEETS

7. (10 ILCS 5/7-10) of the Election Code provides:

Sec. 7-10. Form of petition for nomination. The name of no candidate for nomination, ... shall be printed upon the primary ballot unless a petition for nomination has been filed in his behalf as provided in this Article in substantially the following form:

John A. Cunningham Motion For Summary Judgment To Strike The Nominating Petition Of Diane M. Harris

were signed in his or her presence and certifying that the signatures are genuine; * * * *and certifying that to the best of his or her knowledge and belief the persons so signing were at the time of signing the petitions qualified voters of the political party for which a nomination is sought. Such statement shall be sworn to before some officer authorized to administer oaths in this State." [emphasis supplied]

8. The purpose of this basic requirement for ballot integrity is to have a minimum showing that individuals who run for nomination for a candidacy of a political party are placed on the ballot by electors who are members of the political party.

9. Recall that the Nominating Papers are submitted in connection with the March 20, 2012 Republican Primary. The Election Code requires that the Circulator sign an affidavit certifying to the best of the Circulator's knowledge and belief the person so signing were at the time of signing the petitions qualified voters of the political party for which nomination is sought. Your Objector further states that the said nominating petition contains Petition Sheets 1, 2, 3, 4, 5, 6, 7 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 36, 39, 40, 42, 44, 45, 46, 47, 48, 49, 50 in which the circulator of those particular sheets certifies 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 Democrat or Republican Party..." These circulator affidavits on these enumerate Petition Sheets wholly fail to certify to the best of the Circulator's knowledge and belief the person so signing were at the time of signing the petitions qualified voters of the political party for which nomination is sought, that is the Republican Party, and this failure to so certify renders each and every one of the signatures on such Petition Sheets invalid, as more fully set forth in the Appendix-Recapitulation under the designation as "Specify Other Objections" attached hereto and made a part hereof, all of said signatures being in violation in the statutes in such cases made and provided.

10. The Election Code requires that the Circulator sign an affidavit certifying to the best of the Circulator's knowledge and belief the person so signing were at the time of signing the petitions qualified voters of the political party for which nomination is sought. Your Objector further states that the said nominating petition contains Petition Sheets 37, 38, 41 and 43 in which the circulator of those particular sheets certifies 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 _____ Party..." These circulator affidavits on these enumerate Petition Sheets wholly fail to certify to the best of the Circulator's knowledge and belief the person so signing were at the time of signing the petitions qualified voters of the political party for which nomination is sought, that is the Republican Party, and this failure to so certify renders each and every one of the signatures on such Petition Sheets invalid, as more fully set forth in the Appendix-Recapitulation under the designation as "Specify Other Objections" attached hereto and made a part hereof, all of said signatures being in violation in the statutes in such cases made and provided.

11. Objector hereby incorporates his Objection Petition and its attachments by reference.

John A. Cunningham Motion For Summary Judgment To Strike The Nominating Petition Of Diane M. Harris

CONCLUSION

12. Your Objector states that there is no question of material fact that the Petition Sheets 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 36, 39, 40, 42, 44, 45, 46, 47, 48, 49, 50 and Petition Sheets 37, 38, 41 and 43 of the nomination papers herein must be stricken because the circulator wholly failed to certify that to the best of his or her knowledge and belief the persons so signing were at the time of signing the petitions qualified voters of the Republican party. Just this objection reduces the number of valid signatures by 606 or to 44 which is 556 below the statutory minimum of 600. In addition, the allegations contained in paragraphs 5 and 6 of this Objector's Petition render the entire nominating petition null and void.

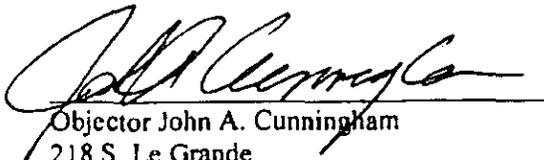
WHEREFORE, your Objector prays for an order of Summary Judgment that the purported nomination papers of nominating petition of DIANA M. HARRIS as a candidate for election to the office of Representative in Congress for the 11th Congressional District of Illinois be declared by this Honorable Electoral 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 DIANA M. HARRIS as a candidate of the Republican Party for nomination to the office of the Representative in Congress for the 11th Congressional District of Illinois BE NOT PRINTED on the OFFICIAL BALLOT for the Republican Party at the Primary Election to be held on March 20, 2012.



Objector John A. Cunningham
218 S. Le Grande Blvd.
Aurora, Illinois 60506

VERIFICATION

The undersigned as Objector, first being duly sworn on oath, now deposes and says that he has read this **JOHN A. CUNNINGHAM MOTION FOR SUMMARY JUDGMENT TO STRIKE THE NOMINATING PETITION OF DIANE M. HARRIS** and that the statements therein are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true and correct.

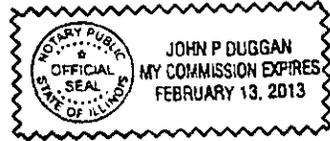


Objector John A. Cunningham
218 S. Le Grande
Aurora, Illinois 60506

County of Kane)
) ss.
State of Illinois)

Subscribed to and Sworn before me, a Notary Public, by John A. Cunningham, the Objector, on this the
11 day of January 2012 at Aurora, Illinois.

 [notary seal]
NOTARY PUBLIC



My Commission expires: 2/13, 2013.

John P. Duggan
Attorney for Objector John A. Cunningham
Duggan Law Offices
181 S. Lincolnway
North Aurora, Illinois 60542
630-264-7893
Mobile: 630-222-2223
FAX: 877-300-7451
Email: dugganjpd@aol.com

CERTIFICATE OF SERVICE

I, James Tenuto, Hearing Examiner, certify that I caused a copy of the Recommendation of Hearing Examiner to be sent to the following on January 26, 2012 by the methods set forth following the names:

I. Jefferie (Jeff) Deon Baker on behalf of himself and the remaining members of the slate:
Christopher Bennett, Theodore (T.J.) Joseph Crawford, Naomi Davis, Brittney Nicole Gault, Melvyna Gaynor, Brent R. Hamlet, Marc Loveless, Robert R. McKay, Janis Pass and Albert Sharp.

THECFABC@ Yahoo.com

Email

And

Mr. Jefferie (Jeff) Deon Baker

US Mail

8802 S. Emerald

Chicago, IL 60620

II. Mr. James Sutton Jr.

US Mail

7614 S. Aberdeen

Chicago, IL 60620

James Tenuto



Hearing Examiner

Tenuto, Jim

From: Tenuto, Jim
Sent: Tuesday, January 31, 2012 12:09 PM
To: 'THECFABC@Yahoo.com'
Cc: Sandvoss, Steve; Menzel, Ken; Harrington, Bernadette; Kios, Sue
Subject: Sutton v. Baker, et al 12 SOEB GP 501

TO: THECFABC@Yahoo.com
(Jefferie Baker, et al)

FROM: James Tenuto
Hearing Examiner

RE: Sutton v. Baker, et al.
12 SOEB GP 501

DATE: January 31, 2012

The State Board of Elections, acting as the State Officers Electoral Board, will consider the initial Objection at their meeting on February 2, 2012, at 11:00 a.m. The meeting will be held at the Office of the State Board of Elections, 100 West Randolph, Suite 14-100, Chicago, IL. with a video hook-up to the Board's Springfield Office.

Rule 12, Par. E of the Democratic Party's rules provides that non-approved delegates are ineligible to be elected. In addition, Par 1A – 8 (14) of the Illinois Election Code (10 ILCS 5/1A-8(14) mandates the State Board of elections to certify the candidates who are entitled, under Democratic Party rules, to appear on the ballot.

The State Board of elections has amended its certification to include the delegate candidates submitted by President Obama's campaign. The above-referenced Objection is moot. If you seek further relief, please consult with your attorney.

James Tenuto
Hearing Examiner

2012 Delegate Selection Rules for the Democratic National Convention

RULE
12

- uncommitted preference of the delegate candidate and a signed pledge of support for the presidential candidate (including uncommitted status) the person favors, if any, with the state party by a date certain as specified in the state's Delegate Selection Plan. Persons wishing to be elected as pledged party leader and elected official delegates shall comply with Rule 9.C.(3).
- C. All candidates considered for district-level alternate positions must meet the same requirements as candidates for district-level delegate positions, except that the state may allow candidates who were not chosen at the delegate level to be considered at the alternate level.
- D. Prior to the selection of national convention delegates and alternates, the state party shall convey to the presidential candidate, or that candidate's authorized representative(s), a list of all persons who have filed for delegate or alternate positions pledged to that presidential candidate. All such delegate and alternate candidates shall be considered bona fide supporters of the presidential candidate whom they have pledged to support, unless the presidential candidate, or that candidate's authorized representative(s), signifies otherwise in writing to the state party by a date certain as specified in the state's Delegate Selection Plan.
1. Presidential candidates shall certify in writing to the Democratic State Chair the name(s) of their authorized representative(s) by a date certain.
 2. In states where delegates are voted upon on the ballot, the date by which the presidential candidate, or that candidate's authorized representative(s), signifies approval or disapproval of the list of delegate and alternate candidates in writing to the state party as required by Rule 12.D., must allow sufficient time to ensure that names removed from the list do not appear on the ballot.
- E. National convention delegate and alternate candidates removed from the list of bona fide supporters by a presidential candidate, or that candidate's authorized representative(s), may not be elected as a delegate or alternate at that level pledged to that presidential candidate (including uncommitted status).
1. Presidential candidates may not remove any candidate for a district-level delegate or alternate position from the list of bona fide supporters unless, at a minimum, three (3) names remain for every such position to which the presidential candidate is entitled. Provided, however, that in states where individual district-level delegates and alternates are voted upon on the ballot, the presidential candidate, or that candidate's authorized representative(s), may approve a number of delegate candidates or alternate candidates equal to or greater than the number of delegates or alternates allocated to the district.
 2. Presidential candidates (including uncommitted status), in consultation with the state party, may remove any candidate for at-large and pledged party leader and elected official delegate or alternate position from the list of bona fide supporters as long as, at a minimum, one (1) name remains for every national convention delegate or alternate position to which the presidential candidate is entitled, except that a state may provide in its delegate selection plan, if the plan is approved by the Rules and Bylaws Committee, that presidential candidates (including uncommitted status), may remove any candidate for an at-large and party leader and elected official delegate or alternate position from the list of bona fide supporters as long as, at a minimum, two (2) names remain for every position to which the presidential candidate is entitled.

Note 2

tive challenge to it, such that Board was not required to reduce the fine to a final judgment. *Citizens to Elect Collins v. Illinois State Bd. of Elections*, App. 1 Dist.2006, 304 Ill.Dec. 521, 366 Ill.App.3d 993, 853 N.E.2d 53. Elections ⇐ 317.5

3. Standard of review

Review of an Election Board decision, where the decision has the vote of five members of the Election Board, is determined according to the manifest-weight standard. *Schober v. Young*, App. 4 Dist.2001, 256 Ill.Dec. 220, 322 Ill.App.3d 996, 751 N.E.2d 610. Elections ⇐ 153

5/1A-7.1. § 1A-7.1. Repealed by P.A. 80-1178, § 2, eff. Jan. 12, 1978

Historical and Statutory Notes

The repealed section related to tie votes and provided that the clerk should select by lot one board member who would be disqualified to vote, and was derived from Laws 1943, vol. 2, p. 1, § 1A-7.1, added by P.A. 78-918, § 1.

5/1A-8. Powers and duties

§ 1A-8. The State Board of Elections shall exercise the following powers and perform the following duties in addition to any powers or duties otherwise provided for by law:

(1) Assume all duties and responsibilities of the State Electoral Board and the Secretary of State as heretofore provided in this Act;

(2) Disseminate information to and consult with election authorities concerning the conduct of elections and registration in accordance with the laws of this State and the laws of the United States;

(3) Furnish to each election authority prior to each primary and general election and any other election it deems necessary, a manual of uniform instructions consistent with the provisions of this Act which shall be used by election authorities in the preparation of the official manual of instruction to be used by the judges of election in any such election. In preparing such manual, the State Board shall consult with representatives of the election authorities throughout the State. The State Board may provide separate portions of the uniform instructions applicable to different election jurisdictions which administer elections under different options provided by law. The State Board may by regulation require particular portions of the uniform instructions to be included in any official manual of instructions published by election authorities. Any manual of instructions published by any election authority shall be identical with the manual of uniform instructions issued by the Board, but may be adapted by the election authority to accommodate special or unusual local election problems, provided that all manuals published by election authorities must be consistent with the provisions of this Act in all respects and must receive the approval of the State Board of Elections prior to publication; provided further that if the State Board does not approve or disapprove of a proposed manual within 60 days of its submission, the manual shall be deemed approved.

(4) Prescribe and require the use of such uniform forms, notices, and other supplies not inconsistent with the provisions of this Act as it shall deem advisable which shall be used by election authorities in the conduct of elections and registrations;

(5) Prepare and certify the form of ballot for any proposed amendment to the Constitution of the State of Illinois, or any referendum to be submitted to the electors throughout the State or, when required to do so by law, to

the voters of any area or unit of local government of the State;

(6) Require such statistical reports regarding the conduct of elections and registration from election authorities as may be deemed necessary;

(7) Review and inspect procedures and records relating to conduct of elections and registration as may be deemed necessary, and to report violations of election laws to the appropriate State's Attorney or the Attorney General;

(8) Recommend to the General Assembly legislation to improve the administration of elections and registration;

(9) Adopt, amend or rescind rules and regulations in the performance of its duties provided that all such rules and regulations must be consistent with the provisions of this Article 1A or issued pursuant to authority otherwise provided by law;

(10) Determine the validity and sufficiency of petitions filed under Article XIV, Section 3, of the Constitution of the State of Illinois of 1970;

(11) Maintain in its principal office a research library that includes, but is not limited to, abstracts of votes by precinct for general primary elections and general elections, current precinct maps and current precinct poll lists from all election jurisdictions within the State. The research library shall be open to the public during regular business hours. Such abstracts, maps and lists shall be preserved as permanent records and shall be available for examination and copying at a reasonable cost;

(12) Supervise the administration of the registration and election laws throughout the State;

(13) Obtain from the Department of Central Management Services, under Section 405-250 of the Department of Central Management Services Law (20 ILCS 405/405-250), such use of electronic data processing equipment as may be required to perform the duties of the State Board of Elections and to provide election-related information to candidates, public and party officials, interested civic organizations and the general public in a timely and efficient manner; and

(14) To take such action as may be necessary or required to give effect to directions of the national committee or State central committee of an established political party under Sections 7-8, 7-11 and 7-14.1 or such other provisions as may be applicable pertaining to the selection of delegates and alternate delegates to an established political party's national nominating conventions or, notwithstanding any candidate certification schedule contained within the Election Code, the certification of the Presidential and Vice Presidential candidate selected by the established political party's national nominating convention.

The Board may by regulation delegate any of its duties or functions under this Article, except that final determinations and orders under this Article shall be issued only by the Board.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Research Unit, as required by Section 3.1 of "An Act to revise the law in relation to the General Assembly", approved February 25, 1874, as amended,¹ and filing such additional copies with the State Government Report Distribution Center for the Gener-

Tenuto, Jim

From: thecfabc@yahoo.com
Sent: Monday, January 30, 2012 4:07 PM
To: Tenuto, Jim
Cc: Sandvoss, Steve; Naomi Davis 20th Ward; Marlana Brooks-Baker; Robert Mckay Delegate; awareone7@yahoo.com; Joe Massie Inner City Studies Construction; Brittney Gault
Subject: Sutton v. Baker, et al Motion to sever
Attachments: Motion_to_hear_arguments_and_seperate_issues[1] - NAE EDITS.doc

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS

JAMES SUTTON, JR.) CASE NO.: . 12SOEB GP 501
PLAINTIFF,

VS.

JEFFERIE (JEFF) DEON BAKER, et al)
RESPONDENT.

Service To: See attached service list

Motion to Sever, Dismiss, And Certify To The Ballot

Now comes the Respondent, community-based candidates for public office, seeking a separation of two unrelated issues: requesting Summary Judgment on the original Motion To Dismiss Raised by the Respondent, and regarding the ruling that the Democratic Party has effectively removed Respondent from the ballot, Respondent does not concede that the Democratic Party has such jurisdiction.

Charge 1) The following statute, (10 ILCS 5/7-10.3) (from Ch. 46, par. 7-10.3), makes the Respondents' slate, an 'uncommitted slate' which should be allowed on the ballot as the 'Baker Uncommitted Slate.'

Charge 2) No statute exists that gives a candidate or a political party, jurisdiction over the right of 'uncommitted' candidates to appear on the ballot.

Charge 3) Without a ruling on the validity of the respondent being removed from the ballot, the original objection by James Sutton Jr., should not be rendered moot, and therefore, severed and dismissed , as the plaintiff has not appeared in a timely fashion.

Therefore the Respondent asks: that the issues be severed and adjudicated separately before an Illinois State Board of Election designated Hearing Officer; that Plaintiff's original objection be dismissed; and that Respondents be placed on the March 20, 2012 ballot as the 'Baker Uncommitted Slate.'

Respectfully Jefferie Baker et al, Respondent

Service List
Case # 12SOEB GP 501

I, Jefferie Baker, Respondent, certify that I have caused a copy of the motion to sever, to be forwarded to the following parties on January 30th 2012, by the methods set forth following the names.

James Tenuto (Hearing Officer)

Email: jtenuto@elections.il.gov

Mr. James Sutton Jr.
7614 S. Aberdeen
Chicago IL, 60620

U.S. Mail

Tenuto, Jim

From: Tenuto, Jim
Sent: Wednesday, January 25, 2012 9:01 AM
To: 'THECFABC@Yahoo.com'
Cc: Sandvoss, Steve
Subject: Sutton v. Baker, et al

Mr. Baker:

The State Board of elections has received a letter from the Democratic Party of Illinois listing the approved delegates submitted on behalf of President Obama's campaign. This action renders the pending Objection moot. I will include a copy of that letter to you in my Recommendation to the Board that the matter be dismissed. That Recommendation should be sent to you by e mail today. The Board will meet at 11:00 a.m. on February 2, 2012 in the Chicago Office at 14-100 and the Springfield office to act on the Recommendation. You may appear if you desire.

James Tenuto
Assistant Executive Director
(312) 814-6444



Democratic Party of Illinois

P.O. Box 518
Springfield, IL 62705
217-546-7404
fax: 217-546-8847
www.ildems.com

Michael J. Madigan
Chairman

First Vice-Chair
Constance Howard

January 20, 2012

Vice-Chairs
Barb Brown
Jerry Costello
Danny Davis
Ricardo Munoz
William Marovitz
Iris Y. Martinez
Bobby Rush

Secretary
Shirley McCombs

Chair Platform Committee
William Marovitz

State Central Committee

Bobby Rush
Constance Howard
Jesse Jackson, Jr.
Carrie Austin
Michael J. Madigan
Helen Ozmina-Barc
Ricardo Munoz
Iris Y. Martinez
James DeLeo
Cynthia M. Santos
Robert J. Wagner
Christina Cegelis
Danny Davis
Karen Yarbrough
Steven Powell
Nancy Shepherdson
William Marovitz
Carol Ronen
Daniel M. Pierce
Lauren Beth Gash
Patrick Welch
Debbie Halvorson
Jerry Costello
Barb Brown
Kyle Hastings
Julia Kennedy Beckman
Mark Guethle
Jennifer Downard Laesch
Terry Redman
Lynn Foster
John M. Nelson
Linda McNeety
Donald E. Johnston
Mary R. Boland
James K. Polk
Shirley McCombs
Jay Hittman
Jayne Mazzotti

General Counsel
Michael Kasper

William McGuffage
Chairman, Illinois State Board of Elections
1020 S. Spring St.
Springfield, IL 62704

Dear Chairman McGuffage,

Attached please find the list of approved delegate candidates submitted by President Obama's campaign.

If you have any questions, please contact Michael Kasper at (312) 704-3292.

Sincerely yours,

Michael J. Madigan
Chairman, Democratic Party of Illinois

MICHAEL KRELOFF

ATTORNEY AT LAW
1926 WAUKEGAN ROAD, SUITE 310
GLENVIEW, IL 60025

TEL (847) 657-1020

capitolaction@yahoo.com
FAX (847) 486-0230

January 17, 2012

Honorable Michael J. Madigan
Chairman, Illinois Democratic Party
1201 South Veteran's Parkway, Suite C
Springfield, IL 62704

RE: **Certified List of Obama Delegates**

Dear Chairman Madigan,

Pursuant to Section III A.5.b. of the Illinois Delegate Selection Plan for the 2012 Democratic National Convention, an authorized representative of Presidential Candidate Barack Obama must file with you a list of delegate candidates approved to appear upon the March 20, 2012 Democratic Primary Election Ballot. With this letter, I am certifying the following people to appear upon said ballot as Obama delegate candidates, listed by congressional district:

District 1 – 11 candidates

Montgomery
Howard
Miller
Chrisman
Betourney
Kelly
Walsh
Couch
Collins
Raoul
Bennett

District 2 – 10 candidates (certifying 11)

Manning
Jones
Gonzalez
Jordan
Hairston
Davis
Carreon
Kelly
Austin
Eaddy
Jackson

District 3 – 7 candidates

Jubeh
Salgado
Ramirez
Pesqueira
Madigan
Brousalis
Daley

District 4 – 6 candidates

Sum Chu Ma
Cardenas
Munoz
Raymundo
Perez
Roldan

District 5 – 8 candidates

Morse
Alvarez
Abraham
Feigenholtz
Iyer
Daley
Ruiz
Jerutis

District 6 – 6 candidates

Carroll
Williams
Heneghan
Walton
Garcia
Pitchford

District 7 – 10 candidates

Smith
Mitts
Sekhar
Lee
Lonstein
Quinn
Ford
Yarbrough
Fruth
Brazier

District 8 – 5 candidates (4 active remain)

Gump
Castro
Allen
Bhagwakar

District 9 – 9 candidates

Cameron
Montgomery
Lakshmanan
Shore
Morita
Valle
Lang
Steans
Tunney

District 10 – 6 candidates

Figueroa
Link
Sheffey
Gash
Nixon
Castillo

District 11 – 6 candidates

Atkinson
Wilhelmi
Guerrero
Byon
Weisner
Chapa Lavia

District 12 – 7 candidates

Campbell
Brown
Pistorius
Jimenez
Amizich
Meeks
Moore

District 13 – 6 candidates

Breckenridge
Mazzoti
Demuzio
Douglas-Joiner
Brown
Terven, Jr.

District 14 – 5 candidates

Pietrowski
Plata
Henry
Guethle
O'Connell

District 15 – 5 candidates

Zei
Dussard
Bigler
Scates
Ault

District 16 – 5 candidates

Puri
McDonald
Daniel
Tuite
Turner

District 17 – 6 candidates

Kurtenbach
Douglas
Harris
McNeil
Jefferson
Koehler

District 18 – 5 candidates

Halstead
Costa
Stocks-Smith
Trimmer
Carr

Very truly yours,

Michael Kreloff
Illinois Authorized Representative,
Obama for America

Attachment

Cong. District 1 – 11 candidates

Jim Montgomery	5026 South Greenwood Ave., Chicago, IL 60615
Rodney Howard	8209 S. Wentworth Ave., Chicago, IL 60620
Marchae Miller	7604 South Loomis Blvd., Chicago, IL 60620
Ashley Chrisman	8123 S. Rhodes, Chicago, IL 60619
Nicole Betourney	13092 Timber Trail, Palos Heights, IL 60463
Karletta Kelly	7949 S. Kedzie Ave., #2W, Chicago, IL 60652
Larry Walsh	18801 W. Brown Rd., Elwood, IL 60421
James Robert Couch	8548 S. Hermitage Ave., Chicago, IL 60620
Jacqueline Collins	7600 S. Loomis Blvd., Chicago, IL 60620
Kwame Raoul	855 E. Drexel Sq., Unit 1B, Chicago, IL 60615
Lisa Thompson Bennett	8055 S. Princeton Ave., Chicago, IL 60620

Cong. District 2-11 candidates (10 to be elected)

Jamie Manning	11824 S. Indiana Ave., Chicago, IL 60628
Lorrie Jones	1700 East 56 th Street, Apt. 1202, Chicago, IL 60637
David Gonzalez	15 Holbrook Cir., Chicago Heights, IL 60411
Mike Jordan	3617 Jackson Ave., Richton Park, IL 60471
Leslie Hairston	6858 S. Chappel Ave., Chicago, IL 60649
William Davis	1733 Maple Rd., 2A, Homewood, IL 60430
Abraham Carreon	1154 S. Ave. J, Chicago, IL 60617
Robin Kelly	4203 Cedarwood Ln, Matteson, IL 60443
Carrie Austin	500 W. 111 th St., Chicago, IL 60628
Michael Eaddy	10420 S. Forest Ave., Chicago, IL 60628
Sandi Jackson	2559 East 72 nd Street, Chicago, IL 60649

Cong. District 3-7 candidates

Hanah Jubeh	4317 W. 81 st St., Chicago, IL 60652
Juan Salgado	3403 W. 64 th Pl. Chicago, IL 60629
Jorge Ramirez	65 Ruffled Feathers Dr., Lemont, IL 60439
Maria Pesqueira	5227 S. Newland Ave., Chicago, IL 60638
Shirley Madigan	6400 S. Keeler Ave., Chicago, IL 60629
George Brousalis	10936 S. Keating Ave., Oak Lawn, IL 60453
John Daley	3754 S. Lowe Ave., Chicago, IL 60609

Cong. District 4-6 candidates

Sum Chu Ma	2148 S. Archer Ave., Chicago, IL 60616
George Cardenas	2107 S. Marshall Blvd, Chicago, IL 60623
Antonio Munoz	3211 S. Hamilton St., Chicago, IL 60608
Raul Raymondo	912 W. 19 th Place, Chicago, IL 60608
Suleyma Perez	241 Braddock Dr., Melrose Park, IL 60160
Celena Roldan	2651 N. Mozart St., Apt. 1, Chicago, IL 60647

Cong. District 5-8 candidates

Gail Morse	3739 North Wilton Avenue, Chicago, IL 60613
Michael A. Alvarez	6120 North Kirkwood Avenue, Chicago, IL 60646
Sabey Abraham	271 South Poplar Avenue, Elmhurst, IL 60126
Sara Feigenholtz	3213 North Wilton Avenue, Unit A, Chicago, IL 60657
Shankar Iyer	1249 West Eddy Street, Chicago, IL 60657
William R. Daley	3441 North Hoyne Avenue, Chicago, IL 60618
Jesse Ruiz	1741 West Ellen Street, Chicago, IL 60622
Sarah Jerutis	2421 West Dakin Street, Chicago, IL 60618

Cong. District 6-6 candidates

Zachary Carroll	1308 Laurie Lane, Burr Ridge, IL 60527
Sodiqa Williams	3 Wheaton Cntr., Apt. 314, Wheaton, IL 60187
Navreet Kaur Heneghan	402 South Ahrens Avenue, Lombard, IL 60148
Sue Walton	2508 Mill Creek Lane, Rolling Meadows, IL 60008
Moises Garcia	27W204 Vale Road, West Chicago, IL 60185
Markus Pitchford	301 East Sunset Avenue, Lombard, IL 60148

Cong. District 7-10 candidates

Charles Smith	40 E. 9 th St. #413, Chicago, IL 60605
Emma Mitts	4942 W. Rice St., Chicago, IL 60651
Mridu Sekhar	1335 S. Prairie Ave., #1605, Chicago, IL 60605
Susan Lee	1101 S. State St. #1403, Chicago, IL 60605
Carmen Lonstein	340 E. Randolph St., Chicago, IL 60601
David Quinn	1852 N. Nashville Ave., Chicago, IL 60707
La Shawn K. Ford	912 S. Mayfield Ave., Chicago, IL 60644
Karen A. Yarbrough	217 S. 2 nd Ave., Maywood, IL 60153
Matt Fruth	800 Washington Blvd., Oak Park, IL 60302
Byron Brazier	4740 S. King Dr., Chicago, IL 60615

Cong. District 8-5 candidates (4 on ballot)

Joe Gump	1824 Iris Dr., Palatine, IL 60074
Cristina Castro	940 N. Spring St., Elgin, IL 60120
Terry Allen	1123 E. Paddock Dr., Palatine, IL 60074
Sonia Bhagwakar	889 Clover Ridge Ln., Itasca, IL 60143

Cong. District 9-9 candidates

John Cameron	6555 N. Maplewood, Chicago, IL 60645
Dan Montgomery	904 Colfax St., Evanston, IL 60201
Lakshmi Lakshmanan	1510 Asbury Ave., Evanston, IL 60201
Debra Shore	9232 Avers Ave., Evanston, IL 60203
Josina Morita	4715 N. Malden St., #25, Chicago, IL 60640
Modesto Valle	824 W. Sunnyside Ave., Apt. 2, Chicago, IL 60640
Lou Lang	5123 Jerome St., Skokie, IL 60077
Heather Steans	5348 N. Lakewood Ave., Chicago, IL 60640
Tom Tunny	330 Diversey Pkwy, Apt. 1807, Chicago, IL 60657

Cong. District 10 – 6 candidates

Tony Figueroa	921 Oak Tree Ln., Waukegan, IL 60085
Terry Link	811 Sheridan Rd., Waukegan, IL 60085
Steve Sheffey	839 Sumac Rd., Highland Park, IL 60035
Lauren Beth Gash	1345 Forest Ave., Highland Park, IL 60035
Audrey Nixon	1925 Winter Ave., North Chicago, IL 60064
Paola Castillo	1705 Jenkinson Ct., Waukegan, IL 60085

Cong. District 11 – 6 candidates

John Atkinson	8417 Arrowhead Farm Drive, Burr Ridge, IL 60527
Arthur "AJ" Wilhelm	422 Whitney Avenue, Joliet, IL 60435
Lorraine Guerrero	625 West Jefferson Street, Joliet, IL 60435
Aesook Byon	511 Aurora Avenue, Unit 510, Naperville, IL 60540
Tom Weisner	1822 Prairie Street, Aurora, IL 60506
Linda Chapa Lavia	149 South 4 th Street, Aurora, IL 60505

Cong. District 12 – 7 candidates

Marcia Campbell	516 E. Jefferson St., O'Fallon, IL 62269
Barb Brown	1412 High St., Chester, IL 62233
Steve Pistorius	2515 Cleveland Blvd., Granite City, IL 62040
Gerardo (Jerry) Jimenez	825 Vines Rd., Cobden, IL 62920
Amy Amizich	212 S. Main St., Wood River, IL 62095
Dianne Meeks	597 S. Tower Rd., Carbondale, IL 62901
David Moore	301 Sumter Dr., Belleville, IL 62221

Cong. District 13 – 6 candidates

Ross Breckenridge	115 Bayhill Boulevard, Glen Carbon, IL 62034
Jayne Mazzoti	3016 Lincoln Trail, Taylorville, IL 62568
Deanna Demuzio	4 Valley Lane, Carlinville, IL 62626
Jennifer Douglas-Joiner	1520 East Glenn Avenue, Springfield, IL 62704
Jamar Brown	2009 South Prospect Avenue, Champaign, IL 61820
Rick Terven, Jr.	1111 South MacArthur Boulevard, Springfield, IL 62704

Cong. District 14 – 5 candidates

Mark Pietrowski	245 Judy Ln., Cortland, IL 60112
Mary Plata	302 Mulhern Ct., #1, Yorkville, IL 60560
Kasthuri Henry	9812 Bennington Dr., Huntley, IL 60142
Mark Guethle	1566 Hartsburg Ln., North Aurora, IL 60542
Michael O'Connell	1308 Chestnut Cir., Yorkville, IL 60560

Cong. District 15 – 5 candidates

Tom Zei	1120 Edgar Drive, Apt. 8, Charleston, IL 61920
Desiree Nicole Dussard	2151 4 th St., Charleston, IL 61920
Sarah Bigler	1050 7 th St., Apt. C, Charleston, IL 61920
Steve Scates	12347 McGuire Rd., Shawneetown, IL 62984
Becky Ault	702 S. Pine St., Centralia, IL 62801

Cong. District 16 – 5 candidates

Sunil Puri	5260 Guilford Rd., Rockford, IL 61114
Angela McDonald	409 W. Jackson St., Morris, IL 60450
John Daniel	1304 Shannon Ct., Mincoka, IL 60447
Mary Tuite	5106 Woodie Ranch Ln., Rockford, IL 61114
Travis Turner	5718 Jackie's Drive, Loves Park, IL 61102

Cong. District 17 – 6 candidates

Teresa Kurtenbach	905 14 th St., Silvis, IL 61282
Marshall Douglas	2108 13 th St., Moline, IL 61265
Bonnie Harris	184 Duffield Ave., Galesburg, IL 61401
Porter McNeil	4410 5 th Ave., Moline, IL 61265
Chuck Jefferson	1731 Montague Rd., Rockford, IL 61102
Maggie Koehler	512 Laveille St., Peoria, IL 61603

Cong. District 18 – 5 candidates

Bill Halstead	2210 W. Newport Ct., Peoria, IL 61614
Liliana Kalanik Costa	604 Woodland Pl., Jacksonville, IL 62650
Sheila Stocks-Smith	2235 Greenbriar Rd., Springfield, IL 62704
Toby Trimmer	4013 Old Mill Ln., Springfield, IL 62711
Belinda Carr	115 N. Clay Street, Macomb, IL 61455

Before the duly constituted Electoral Board
For the Hearing and Passing upon of Objections

) CASE NO:

' 1250EBGPS01

James Sutton, JR
Plaintiff

VS

Jefferie (Jeff) Deon Baker, et al)
Respondent

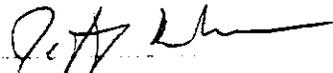
Service to: James Sutton, JR. 7616 S. Aberdeen Street,
Chicago, IL 60620

Motion to dismiss

Now Comes the Respondent A community based
candidate for public office seeking relief from
the original objection, due to the absence of
the plaintiff, James Sutton, JR. on January 24th
2012; for the initial hearing before MR. James
Tenudo, the hearing officer.

Respectfully Submitted by

Jefferie Baker

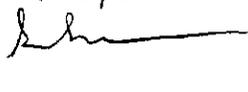

Pro Se

Statement of Certification

On this day 24th of January 2012 I certify that I will deposit in the mail box in Chicago ^{COPIES} of the motions to disavow the objections filed by James Sutton, Jr.

Jefferic (Jeff) Dean Baker, et al.

Respondent

Jeff 

January 24th, 2012

**BEFORE THE DULY CONSTITUTED ELECTROATL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS**

JAMES SUTTON, JR.)

CASE NO.: 1250EBGP501

PLAINTIFF,

VS.

JEFFERIE (JEFF) DEON BAKER, et al)

RESPONDENT.

Service To: James Sutton, Jr. 7616 S. Aberdeen Street, Chicago, IL 60620

MOTION TO DISMISS AND REFER

Now comes the Respondent a community based candidate for public office seeking relief from the original objection to have the objection struck and that the actions of the Plaintiff be referred to law enforcement authorities.

Count 1 The Plaintiff lacks personal jurisdiction and is not a Registered Voter in the jurisdiction where the Respondent Candidates reside.

Count 2 That the guidelines for filing objections require that the Objector be a Registered Voter of the jurisdiction.

Count 3 That the Plaintiff has committed fraud in violation of State of Illinois statute and the Federal Voting Rights Act.

Count 4 That the Plaintiff's malleolus objections are without merit and lack standing and an attempt to be disruptive and in violation to the rights of voters of the First Congressional District of Illinois.

Count 5 That the Voters of the First Congressional District of Illinois have indicated by petition that the Respondents are to be Candidates for the position of Democratic Party Delegate to the National Convention in support of Barrack Obama and be on the ballot for such selection on March 20, 2012.

Therefore the Respondent representing the intent of the Voters of First Congressional District seek the following:

1. That the Objection be struck and overruled.
2. That the Respondent/Candidates be placed on the ballot for the March 20, 2012.
3. That the fraudulent actions of the Plaintiff be referred to the Cook County State's Attorney Office, the Attorney General's Office, and the Federal Prosecutor for prosecution of their actions to suppress the rights of voters and the Illinois Compiled Statutes.

Respectfully Submitted by


Marc Loveless

4950 S. Vincennes 1N
Chicago, IL 60615
Pro Se

5-

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS

In the Matter of)
JAMES SUTTON JR)
Petitioner-Objector,)

V.)

No. _____

JEFFERIE (JEFF) DEON BAKER)
CHRISTOPHER BENNET)
THEODORE (T.J.) JOSEPH CRAWFORD)
NAOMI DAVIS)
BRITTNEY NICOLE GAULT)
MELVYNA GAYNOR)
BRENT R. HAMLET)
MARC LOVELESS)
ROBERT R. MCKAY)
JANIS PASS)
ALBERT SHARP)
Respondents-Candidates for the)
Office of Delegate to the National)
Nominating Convention, 1st)
Congressional District,)
Democratic Party)

CHICAGO
12 JAN 13 PM 4:53
STATE BOARD OF ELECTIONS

VERIFIED OBJECTOR'S PETITION

JAMES SUTTON JR., herein referred to as "Objector," states as follows:

INTRODUCTION

1. Objector resides at 7614 S. ABERDEEN STREET, Chicago, Illinois 60620, and is a duly qualified, registered and legal voter at that address during the year 2011.
2. The Objector's interest in the filing of this objection is that of a citizen desirous of seeing

that the election laws governing the filing of nomination papers for Delegate to the National Nominating Convention of the 1st Congressional District, State of Illinois, are properly complied with, and that only qualified candidates appear on the March 20, 2012, Democratic Primary Election ballot for this office.

OBJECTIONS

The Objector makes the following objections to the purported nomination papers filed by Jefferie (Jeff) Deon Baker, Christopher Bennett, Theodore (T.J.) Joseph Crawford, Naomi Davis, Brittney Nicole Gault, Melvyna Gaynor, Brent R. Hamlet, Marc Loveless, Robert R. McKay, Janis Pass, and Albert Sharp ("Candidates") for the office of Delegates to the National Nominating Convention of the 1st Congressional District, State of Illinois ("Nomination Papers"), to be voted on at the Democratic Primary Elections to be held on March 20, 2012 (the "Election"); specifically, the Objector states that the Nomination Papers filed by Candidate are insufficient in fact and law since for the following reasons:

1. The Nomination Papers contain the names of persons who did not sign the petition sheets in their own person and the signatures are not genuine, as specified in the Appendix-

Recapitulation attached hereto, under the heading Column A, "Signer's signature not genuine."

2. The Nomination Papers contain the petition sheets with the names of persons who were not validly registered to vote at the time of signing the petition at the addresses shown, as specified in the Appendix-Recapitulation attached hereto, under the heading Column B, "Signer Not Registered at Address Shown."
3. The Nomination Papers contain petition sheets with the names of persons whom reside outside of the boundaries of the 1st Congressional District, State of Illinois, and are there by not eligible to sign said Nomination Papers, as specified in the Appendix-Recapitulation attached hereto, under the heading Column C, "Signer Resides Outside District."
4. The Nomination Papers contain petition sheets of persons with incomplete address information, as specified in the Appendix-Recapitulation attached hereto, under the heading Column D, "Signer's Address Missing or Incomplete."
5. The Nomination Papers contain petition sheets of persons who have signed the Nomination Papers more than once and only one of the signature(s) may be deemed valid towards the minimum signature requirements, as is specified in the Appendix-Recapitulation attached hereto, under the heading

Column E, "Signer Signed Petition More Than Once At Sheet/Line Indicated."

6. The Nomination Papers contain petition sheets with "signatures" of persons that were printed and not signed and are not genuine, as specified in the Appendix-Recapitulation attached hereto, under the heading Column F, "Signer's Signature Printed Not Written Not Genuine."
7. The Nomination Papers contain petitions sheets with other violations of law as described in the Appendix - Recapitulation attached hereto, under the heading Column G, "Other."
8. The Nomination Papers contain petition sheets which bear circulators' affidavits which are signed by circulators who do not reside at the addresses claimed in their affidavits, and therefore every signature on such sheets is invalid, as specified in the Appendix-Recapitulation attached hereto with the description "Circulator does not reside at address shown."
9. The Nomination Papers contain petitions sheets which bear circulators' affidavits that were not lawfully sworn to before a Notary Public or other appropriate office, and every signature on such sheets is invalid, as specified in the Appendix-Recapitulation attached hereto with the

description "Circulator's affidavit not properly notarized" and/or "Purported Notary did not notarize sheet."

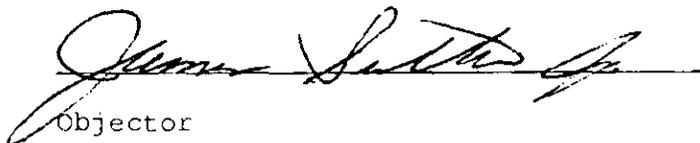
10. The Nomination Papers contain petition sheets which bear circulators' affidavits which the circulator did not personally appear before the Notary Public to subscribe or acknowledge their signatures as circulators and every signature on such sheets is invalid, as specified in the Appendix-Recapitulation attached hereto with the description "Circulator did not appear before Notary."
11. The Nomination Papers contain petition sheets with less than the minimum number of valid signatures required to be filed for candidates for the office of Delegates to the National Nominating Convention of the 1st Congressional District, State of Illinois. The minimum signature requirement is 500. The Candidates purportedly filed 698 total signatures, of which 519 are invalid for the reasons set forth herein, leaving the Candidates with only 179 valid signatures, 321 signatures below the minimum requirements.
12. The Appendix-Recapitulation is incorporated herein by this reference and all of the objections made therein are hereby made a part of this Petition, whether or not aforesaid. Each specific objection in the Appendix is

identified in the appropriate box or the appropriate line by an "X" or other mark.

13. The Candidates' Nomination Papers are deficient as matter of law, and the Candidates are ineligible to seek office as Delegates to the National Nominating Convention of the 1st Congressional District, State of Illinois.

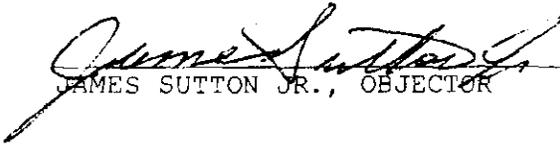
WHEREFORE, Objector prays that the Nomination Papers of Jefferie (Jeff) Deon Baker, Christopher Bennett, Theodore (T.J.) Joseph Crawford, Naomi Davis, Brittney Nicole Gault, Melvyna Gaynor, Brent R. Hamlet, Marc Loveless, Robert R. McKay, Janis Pass, and Albert Sharp ("Candidates") as candidates for the election to the office of Delegates to the National Nominating Convention of the 1st Congressional District, 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 Candidates' names be stricken and that the Electoral Board enter its decision that the name of Jefferie (Jeff) Deon Baker, Christopher Bennett, Theodore (T.J.) Joseph Crawford, Naomi Davis, Brittney Nicole Gault, Melvyna Gaynor, Brent R. Hamlet, Marc Loveless, Robert R. McKay, Janis Pass, and Albert Sharp as candidates for election to the office of

Delegates to the National Nominating Convention of the 1st
Congressional District, State of Illinois, be not printed
on the official ballot at the Democratic Primary election
to be held on March 20, 2012.


Objector

VERIFICATION

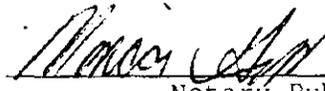
The undersigned as Objector, first being duly sworn on oath, deposes and says that he has read this VERIFIED OBJECTOR'S PETITION and that the statements therein are true and correct, to the best of his knowledge, information and belief.



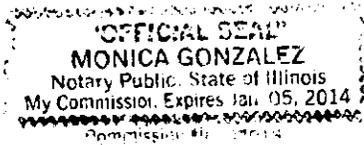
JAMES SUTTON JR., OBJECTOR

Signed and sworn to (or affirmed) by James Sutton Jr
before me this 13th day of January, 2012

(Notary Seal)



Notary Public



Candidate(s)	Office	Sheet Number
Jefferie (Jeff) Deon Baker Christopher Bennett Theodore (T.J.) Joseph Crawford Naomi Davis Brittney Nicole Gault Melvyna Gaynor Brent R. Hamlet Marc Loveless Robert R. McKay Janis Pass Albert Sharp	Delegate(s) – First (1 st) Congressional District, State of Illinois	1

An "X" indicates that the signature on the designated sheet and line is objected to for the reasons set forth above the column in which the "X" appears, in accordance with the Objector's Petition, of which this Appendix-Recapitulation is made a part.

Objection ----- LINE #	a. Signer's signature not genuine	b. Signer not registered at address shown	c. Signer resides outside District	d. Signer's address missing or incomplete	e. Signer signed petition more than once at Sheet/Line indicated	f. Signer's signature printed not written Not genuine	g. Other
1	X	X	X			X	
2		X					
3	X	X					
4	X						
5		X	X				
6							
7	X						
8		X					
9							
10	X	X					
11							
12	X		X			X	
13		X					
14							
15		X				X	

An "X" to the left of an objection below indicates that each and every signature on the designated sheet is objected to for reasons stated by the objection, in accordance with the Objector's Petition, of which this Appendix-Recapitulation is made a part.

- | | |
|---|---|
| <input type="checkbox"/> Circulator did not sign petition sheet | <input type="checkbox"/> Purported circulator did not circulate sheet |
| <input checked="" type="checkbox"/> Circulator does not reside at address shown | <input checked="" type="checkbox"/> Circulator did not appear before notary |
| <input type="checkbox"/> Circulator's signature not genuine | <input type="checkbox"/> Sheet not notarized |
| <input type="checkbox"/> Circulator's address is incomplete | <input type="checkbox"/> Dates of circulation not given |
| <input checked="" type="checkbox"/> Circulator's affidavit not properly notarized | <input type="checkbox"/> Dates of circulation incomplete |
| | <input checked="" type="checkbox"/> Purported notary did not notarize sheet |