

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS A DULY CONSTITUTED ELECTORAL BOARD**

Objections of: VASHON ALEXANDER)
BRISCOE, PRISCILLA L. YATES)
)
To the Nomination) No.: 15-EB-ALD-037
Papers of: GABE BEUKINGA)
)
Candidate for the office of)
Alderman of the 27th Ward, City of Chicago)

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal, Richard A. Cowen and Marisel A. Hernandez, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of VASHON ALEXANDER BRISCOE and PRISCILLA L. YATES (“Objectors”) to the nomination papers (“Nomination Papers”) of GABE BEUKINGA, candidate for the office of Alderman of the 27th Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014, at 9:00 a.m., in Room 800, 69 West Washington Street, Chicago Illinois, and having heard and determined the Objections to the Nomination Papers in the above-entitled matter, finds that:

1. Objections to the Nomination Papers of the Candidate herein were duly and timely filed.
2. The said Electoral Board has been legally constituted according to the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chairman of the Electoral Board and served upon the members of the Electoral Board, the Objectors and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing was held on these Objections commencing on December 8, 2014 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Barbara Goodman for further hearings and proceedings.

6. The Objectors and the Candidate were directed by the Electoral Board to appear before the Hearing Officer on the date and at the time designated in the Call. The following persons, among others, were present at such hearing; the Objectors, VASHON ALEXANDER BRISCOE and PRISCILLA L. YATES, by their attorneys, Steven M. Laduzinski, Aisling O'Laoire and Michael J. Kasper; and the Candidate, GABE BEUKINGA, by his attorney, James P. Nally.

7. The Hearing Officer ordered that an examination of the voter registration records be conducted by clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

8. The Hearing Officer directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

9. The Candidate and/or his duly authorized representative was present during the examination of the registration records.

10. The Objectors and/or their duly authorized representative were present during the examination of the registration records.

11. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination conducted by its clerks and agents. The written report of the result of the registration records examination is contained in the Board's file in this case and a copy has been provided or made available to the parties.

12. The results of the records examination indicate that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 473.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 3,843.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 2,829.

D. The remaining number of signatures deemed valid as a result of the records examination total 1,104.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for election to the office of Alderman of the 27th Ward of the City of Chicago.

14. The Hearing Officer conducted a hearing to allow the Objectors an opportunity to present evidence in support of their remaining objections concerning allegations of fraud, patterns of fraud and false addresses of some circulators.

15. "It is the responsibility of the trier of fact to assess the credibility of the witnesses and the weight of their testimony, resolve conflicts in the evidence and draw reasonable

inferences from the evidence” *People v. McCulloch*, 404 Ill.App.3d 125, 131-132, 936 N.E.2d 743 (2nd Dist. 2010). Here, the Hearing Officer, after hearing the testimony of the witnesses, adjudging their credibility, weighing their testimony and considering the evidence, concluded that the Objectors, while raising many unanswered questions, failed to provide clear and convincing evidence of a pattern of fraud. She also found that the Objectors failed to establish that any petition circulator provided a false residence address. Accordingly, the Hearing Officer found that there is an insufficient basis to warrant the striking of additional signatures or the striking of petition in its entirety. Thus, she concluded that the Candidate had at least 1,014 valid signatures on his petitions, in excess of the 473 valid signatures needed to qualify for the ballot.

16. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate’s Nomination Papers contained 1,014 valid signatures, which exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for election to the office of Alderman of the 27th Ward of the City of Chicago, and that the Candidate’s Nomination Papers should be found valid.

17. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer’s report of recommended findings and conclusions of law, hereby adopts the Hearing Officer’s recommended findings and conclusions of law. A copy of the Hearing Officer’s report is attached hereto and is incorporated herein and made a part of the Electoral Board’s decision in this case.

18. The Electoral Board notes that the Hearing Officer found that the Candidate’s petition and the evidence concerning circulators’ conduct very troublesome and disturbing.

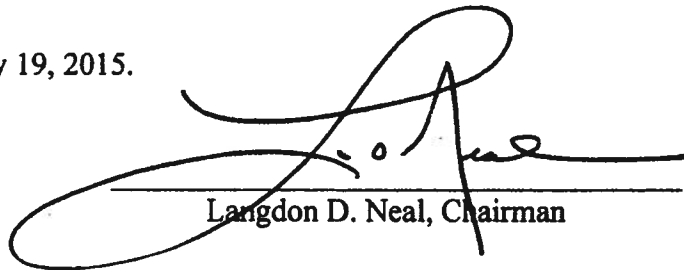
However, in the end, the Hearing Officer concluded that a pattern of fraud was not proven. Perhaps this case not too unlike the case of *Mitchell v. Cook County Officers Electoral Board*, 399 Ill.App.3d 18 (First Dist. 2010), where the electoral board was presented with evidence of irregularities as to signing petition sheets by a notary public without the circulators of those sheets present and the candidate, who was seeking election to the office of circuit court judge, was found to have engaged in “intolerable duplicity” and in conduct that was “particularly shocking.” 399 Ill.App.3d at 20. The objectors in *Mitchell* argued that “the conduct underlying the presentations of the petitions from the circulators to the notary for attestation without the circulators present warranted the termination of her candidacy and the removal of her name of the ballot.” 399 Ill.App.3d at 21. The appellate court found that the objector’s claim that the electoral board erred in not terminating the candidate’s candidacy “is not supported by the record or the statutes defining the function and powers of the Board.” 399 Ill.App.3d at 23. The court noted that while the record demonstrated a “pattern of irregularities” related directly to the candidate and the notary, “no such pattern was shown as to the entire universe of the nominating petitions.” 399 Ill.App.3d at 24. Moreover, the court noted that the function of the electoral board “is to determine whether the nominating petitions are valid and if the objections ought to be sustained.” *Id.* While the court agreed with the electoral board’s assessment of the “intolerable and shocking nature of the alleged misconduct,” the court also agreed that the electoral board “exercised only the measure of authority granted it by statute” when the board struck only the sheets where there was evidence of improper notarizations. 399 Ill.App.3d at 27.

19. Here, the Electoral Board finds that while the evidence presented concerning the conduct of certain petition sheet circulators is disturbing, it falls short of establishing a pattern of fraud or justifying the invalidation of the Candidate’s Nomination Papers.

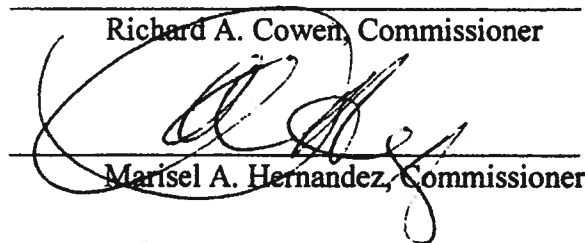
20. For the reasons stated above, the Electoral Board finds that the Candidate has a sufficient number of valid signatures on his nominating petitions and that the Nomination Papers of GABE BEUKINGA are, therefore, valid.

IT IS THEREFORE ORDERED that the Objections of VASHON ALEXANDER BRISCOE and PRISCILLA L. YATES to the Nomination Papers of GABE BEUKINGA, candidate for election to the office of Alderman of the 27th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of GABE BEUKINGA, candidate for election to the office of Alderman of the 27th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

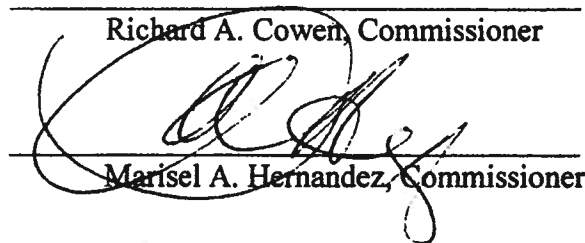
Dated: Chicago, Illinois, on January 19, 2015.



Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner



Marisel A. Hernandez, Commissioner

NOTICE: Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved of this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Cook County within 5 days after service of the decision of the Electoral Board.

In the reasons stated on the record I dissent.
Richard Alonzo

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD FOR THE
HEARING AND PASSING UPON OBJECTIONS TO NOMINATION
PAPERS OF CANDIDATES FOR THE FEBRUARY 24, 2015
GENERAL ELECTION IN THE CITY OF CHICAGO**

VASHON ALEXANDER)
BRISCOE AND PRISCILLA)
L. YATES)
)
Objectors)
)
)
-v-)
)
GABE BEUKINGA)
)
)
Candidate)

15 EB ALD 037

HEARING EXAMINER’S REPORT AND RECOMMENDED DECISION

This matter first came before this hearing officer on December 9, 2014. The Objector appeared through counsel Steven Laduzinsky and Ashley O’Laoire and the candidate appeared through counsel James P. Nally. The parties were given the opportunity to file preliminary motions. The Candidate filed a Motion to Strike and Dismiss the Objector’s Petition, the Objector filed a response thereto and the Candidate filed a reply. The Objector also filed a request for Subpoenas and the Candidate filed an objection to their issuance. A recommendation to grant the request for subpoenas was made by this Hearing Officer and the Electoral Board authorized their issuance.

THE CANDIDATE’S MOTION TO STRIKE AND DISMISS OBJECTOR’S PETITION

The Candidate filed a Motion to Strike and Dismiss Objector’s Petition in which he contended that the Objector failed to plead a proper basis for striking the nominating papers because paragraphs 1 and 20 identify the signature requirement as 500 when the actual signature

requirement is 473. As the Objector pointed out, merely misstating the signature requirement is not fatal. *Lockhart v Cook County Officers Electoral Board, et. al.* 328 Ill. 3d 838, 839-80 (1st Dist. 2002). Accordingly, Candidate's Motion was denied as to this issue.

The Candidate also alleged that paragraph 9 of the Objector's Petition must be stricken as failing to state a cognizable claim. Paragraph 9 alleges that certain circulators do not reside at the address shown in the circulator's affidavit. Because the law requires only that the circulator has to reside at the address in the circulators affidavit at the time of the execution of the affidavit, Candidate contended that paragraph 9 provides no basis to invalidate any part of the petitions. Objector argued that the use of the words "do not" rather than "did not" constitutes a typographical error and that typographical errors in an objector's petition do not render the objection void. *Novak v Miller*, 00-EB-WC-004, CBEC, January 28, 2000. The objection was sufficient to put the candidate on notice that the residence address of certain circulator's affidavit was being called into question. The proof, if any, would establish the timeframe regarding the validity of the address. Accordingly, the motion to strike paragraph 9 was denied.

Paragraphs 16, 18 and 19 are part of the Objector's allegations regarding a pattern of fraud. Candidate alleged that paragraphs 16, 18 and 19 must be dismissed as they fail to set forth a basis to establish a pattern of fraud. Paragraph 16 alleges that paid circulators were used. Paragraph 18 alleges that signatures were gathered from signers who did not reside in the 27th ward and paragraph 19 alleges that certain lines were blacked out or lined out. The Objector argued that the paragraphs must be read as a whole and in their entirety and when they are so read, they state a cause of action and place the candidate on notice that Objector intends to establish a pattern of fraud. Objector's argument is well founded. When each paragraph read in their entirety and together, the Objector states a cognizable claim regarding a pattern of fraud.

As a result, Candidate's Motion to Strike was denied as to paragraphs 16, 18 and 19.

THE RECORDS EXAMINATION

A records examination was ordered. The records examination was suspended pursuant to direction of Charles Holiday because the number of remaining objections were insufficient to invalidate the nominating papers. Objector filed a motion to resume the records examination and Candidate filed a response in which he objected to the resumption of the records examination. Because the Objector's Petition contained allegations of fraud and false swearing on the part of the candidate and circulators and in the interest of having a complete record, the records examination resumed at the direction of this Hearing Officer and was completed in its entirety. At the completion of the records examination, Objector filed a Motion to correct the results of the records examination and subsequently renewed the request relative to page 283 which had been missed in the records examination. When the records examination was completed, including findings relative to sheet 283, 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 473.
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 3,843.
- C. The number of signatures deemed invalid because of objections sustained in the records examination total 2,829.
- D. The remaining number of signatures deemed valid as a result of the records examination total 1,014.

The results of the records examination indicated that the candidate had 541 signatures more than the statutory minimum. The Objector filed a motion pursuant to Rule 8 of the Board's Rules of Procedure ("Rule 8 Motion"). No Rule 8 Motion was filed by the Candidate.

THE EVIDENTIARY HEARING

An evidentiary hearing was held to address the remaining allegations regarding a pattern of fraud and the allegedly false addresses of some of the circulators. In support of the allegations, Objector called 18 witnesses and introduced numerous exhibits.

Summary of the Testimony

The testimony of Sal De Franco

Sal De Franco testified that he was a full time police officer and an investigator for Jetty Security. In his role as investigator, he attempted to ascertain whether Timothy Anderson resided at 617 N. St. Louis, the address Mr. Anderson listed on the sheets he circulated. Mr. De Franco conducted a credit check as well as a criminal background check and found nothing linking Timothy Anderson to that address. He also conducted a credit check and criminal background check for Keith Campbell who circulated and listed his address on all but one sheet as 121 N. Wolcott, Chicago. On one sheet, the address was listed as 141 N. Wolcott. Mr. De Franco found 141 N. Wolcott to be a vacant lot and found nothing linking Mr. Anderson to 121 N. Wolcott. Mr. De Franco indicated that he went to 121 N. Wolcott, there were no names on the buzzers and no one came to the door. Mr. De Franco was shown a Homeless Affidavit for Keith Campbell in which the address of the Franciscan Outreach was listed as 1645 W. Le Moyne St., Chicago, IL. (Objector's Group Exhibit 3). Mr. De Franco testified that he had not seen the affidavit prior to his appearance at the hearing. Mr. De Franco was asked about his license and whether he was permitted to run credit and criminal background checks without a

license. He testified that he worked under the umbrella of Jetty Security's master license. Later in the hearing, an affidavit of Dan Shields from Jetty Security, evidencing the possession of a private detective license under which Sal De Franco worked was presented as Objector's Exhibit 44.

The testimony of David Ramos

David Ramos testified that he is Chicago Police officer. On November 6, 2014, he was travelling down Grand Ave., west of Ashland when he observed an African American male among others approaching cars with clipboards containing nominating papers. On November 6, 2014, he was also approached and declined to sign and after declining, the individual continued to encourage him to sign. Mr. Ramos testified that he lived in the 1st Ward. No evidence was offered to establish whether the location at which Mr. Ramos was asked to sign the petition was in the 27th Ward.

The testimony of Tina Martell Brown

Tina Martell Brown testified that she resides at 5458 W. Cortez in Chicago with her children and husband. She was a circulator and her son Ka'Ran Brown also circulated petitions for the candidate. She was asked to review the sheets she circulated (Objector's Ex. 4) and the sheets her son circulated (Objector's Exhibit 5). Approximately 10 signatures on Ka'Ran's sheets were also contained on her sheets. Ms. Brown testified that she started out circulating with her son Ka'Ran and others including Chiquita Davis and her other son Moncrieff Miller and then they split up, went where they wanted to circulate and met back together to get their petitions notarized. The office was somewhere near Madison and California. No explanation was offered or elicited as to how the same signatures appeared on both hers and her son's sheets.

The testimony of Andre Williams

Andre Williams lives at 2106 W. Washington, a three flat. He circulated door to door. His friend Mac (whose last name he could not remember), asked him to circulate. He received cash compensation per page but did not recall who paid him or how he was paid. He attended a meeting at Ricky Hendon's office in May or June and met other circulators there but did not know other circulators until that meeting. He did not receive written instructions. He was told that people had to be registered voters in order to sign the petition. He did receive a map of the 27th Ward. When shown three sheets of the petitions (Objector's Ex. 6), he acknowledged that he signed as a signer on two sheets and although his name appeared on a third sheet, it was not his signature. He did not know at the time he signed the petition that he was not a registered voter. He knew that signers could only sign once. No explanation was offered or elicited to explain why he signed more than once.

The testimony of Clinton Frazier

Clinton Frazier was asked to circulate for the candidate by his friend Theresa Gales. He went to Ricky Hendon's office on California and Madison to obtain sheets. He never circulated prior to circulating for this candidate. He was paid in cash per sheet. He received no instruction on how to circulate.

The testimony of Mack Weisinger

Mack Weisinger is currently employed by candidate Gabe Beukinga and performs odd jobs for him although he would not elaborate as to the nature of the jobs. In return, he receives "a hundred dollars here and there." He also circulated for the candidate. He was not in charge of putting the petitions together. He has been involved with petitions since he was 17 and did not receive instructions from anyone in the instant petition process. He circulated for other candidates running at this election as well. He understands that only one person can sign one

petition. He first testified that he may have received lunch for circulating petitions here and he then testified that he received cash. He did not circulate with Keith Campbell or anyone else but knows Mr. Campbell from high school and Beverly Perteet. He did not know any of the other circulators.

The testimony of Beverly Perteet

Beverly Perteet, a circulator, testified that she performs various tasks relative to Candidate's campaign and is paid \$3,000 per month. She circulated with Tamika Jackson, her daughter, and Audrey Harris. Her daughter, Tamika Jackson and Ms. Harris were to be paid \$10 per sheet. She mostly circulated at a restaurant called Turkey Chop in the 27th Ward. She also knows circulator Mitchell Harris who is Audrey Harris' brother.

The testimony of Tamika Jackson

Tamika Jackson circulated with her mother, Beverly Perteet, and her neighbor Audrey Harris. Although her sheets indicate that they were notarized at a currency exchange, her sheets were, in fact, notarized by Walter Barnett, who was working from Ricky Hendon's office. No explanation was given as to why signers, including herself, signed the petition more than once. She signed the petition sheets circulated by her mother and Audrey Harris as well as on her own. One signer, Rodney Bell, signed her petition sheets four times. She understood that signers were only supposed to sign a petition once. Ms. Jackson denied being paid although her mother testified that Ms. Jackson was, in fact, paid.

The testimony of Selena Dunbar

Selena Dunbar came to circulate for the candidate because she saw people circulating and asked how to get involved. She knows circulator Chanel Totty. She does not know Ricky Hendon. She went to Ricky Hendon's office to receive petition sheets. She was not

compensated for her service as a circulator. She did not receive any written instructions and she did not circulate with any other circulators. She denied knowing who the circulator was that asked her to sign the petition as a signer. She identified her signature as a signer at sheet 215/1. Sheet 215 was circulated by Chanel Totty.

The testimony of Kimberly Reeves

Kimberly Reeves testified that this was the first time she circulated petitions (which she identified as being for Mayor of the City of Chicago) and that she received no instructions as to what to do. She did not circulate with anyone. She did not turn in sheets that were incomplete. She was paid by the sheet depending on what was determined about the signatures. She was paid directly by Ricky Hendon.

The testimony of Sonya McHaffey

Sonya McHaffey was told by her neighbor Patricia Wright about circulating petitions. She went to Ricky Hendon's office to obtain petition sheets. She was paid \$25 in cash per page. She received no written instructions. She was not paid in full for each page because she was told she had a lot of mistakes on her pages. She circulated at Kedzie, Ashland and at the Daley Center on two days for a few minutes.

The testimony of Geraldine Young

Geraldine Young heard about the circulation process by one of her friends. She was paid \$20 to \$25 cash per petition sheet. She previously worked with Ricky Hendon and never circulated petitions before. She did not receive any instructions, either verbal or written. She did not know the boundaries of the 27th Ward.

The testimony of Christine Lutz

Christine Lutz is a neighbor of the candidate and lives in the same building as the candidate. She was given no written instructions. She circulated in her building and when circulating, she only asked signers whether they wanted to sign a petition for the candidate. She signed the petition at least twice. Although her name appears three times throughout the petition, she only identified two of the signatures as her own.

The testimony of Donald King

Donald King, a circulator, testified that he was asked to circulate by his cousin Geraldine Young, another circulator. Young was not present when he circulated. He was paid \$10 in cash per sheet that he turned in. He also circulated a sheet for Geraldine Young, his cousin, and when it was completed he gave it to Ms. Young. He received no written instructions.

The testimony of Timothy Anderson

Timothy Anderson, a circulator, testified that he was paid \$7-\$10 per page. He further testified that he worked alone and did not know Keith Campbell but knows Leroy Dinkins and Beverly Pertee. He testified that he lives at 617 N. St. Louis although he has a driver's license with a Maywood address.

The testimony of Ricky Hendon

Hendon is currently a political consultant to 19 candidates at this election cycle, including the candidate. He is also a former state senator and has been in 20-30 campaigns. The candidate paid him to date at least \$10,000 by check for his services to the candidate's campaign, including petition gathering services. When asked whether he hired circulators for this campaign, Mr. Hendon testified that he does not hire people. They are volunteers. According to Mr. Hendon, many just volunteered because they loved him. Sometimes he gave them gas, lunch, food, or

refreshments at the end of the night, and sometimes cash. He had no set amount and if he paid cash it depended on how much he had available. He did not keep track of which circulators were circulating for which campaigns. He kept no records on who was paid and the amount they were paid. He did not check the identity of the circulators. He claimed that he told circulators what to do, showed them a ward map on the wall and gave them small ward maps to take with them while they circulated. He provided no written instructions. He crossed off certain signatures on the petitions and inexplicably placed the initials of the candidate (G.B.) on the crossed out lines.

The testimony of candidate Gabe Beukinga

Gabe Beukinga testified that he is a candidate for office in the 27th Ward. He circulated petitions and asked that Callie Beukinga, his wife, Charles Stenger and his wife, Chris Robinson, Christine Lutz, Jodi Kirsch, Mack Weisinger and Rebekah Plec assist him by circulating petitions for his candidacy. He indicated that he gave the circulators written instructions but did not produce the instructions at the hearing. He indicated that he circulated with others including Mack Weisinger. He paid Ricky Hendon as a political consultant but denied paying for petition sheets obtained by Hendon and Hendon's "volunteers".

The testimony of handwriting expert Ellen Mulcrone

Handwriting expert Ellen Mulcrone was received as an expert over the initial objection of the candidate. She reviewed the petition sheets of the candidate, of candidates Jason Ervin and Willie Wilson. She identified numerous instances where the circulators signed more than once as signers, using their own names. She also testified that the petition sheets showed evidence of disguising which she described as signatures purposely made to look illegible or signatures that are slow and lacking fluidity, and signatures that are written with much pressure so as to create indentations. Ms. Mulcrane testified that evidence of disguising, tracing and overwriting was

present on sheets circulated by approximately 33 circulators. On cross examination, Ms. Mulcrane acknowledged that the circumstances of signing could impact a signature. She further testified that she never examined any registration cards, could not say if any of the traced, slow or overwritten signatures was a forgery or if any of the signatures on any sheet was forged.

After the testimony of the above witnesses, Objector moved to enforce the subpoenas as to additional circulators who were subpoenaed but did not appear. Objector indicated that the remaining number of signatures on all of these circulators' pages totaled 53. Inasmuch as the loss of an additional 53 signatures would not have changed the overall outcome and the testimony would have been repetitive, the motion was denied.

OTHER EVIDENCE AND OFFERS OF PROOF

Objector offered numerous exhibits. Among the exhibits offered was Exhibit 41A-G which is a list by circulator of the not registered and out of district sustained objections. Exhibit 42 A - B is a list of the percentages of sustained objections per circulator. Exhibit 43 and 43A is a listing of duplicate signers by circulator, organized by common circulator.

Objector sought to offer the petitions of two other candidates, Jason Ervan and Willie Wilson. According to the Objector, the circulators here circulated for other candidates and they engaged in the same pattern of misconduct with those petitions by signing multiple times. The Candidate objected to the admission of the petitions on the basis of relevance and the objection was sustained.

Objector further sought to offer the criminal records of Keith Campbell and Timothy Anderson. The Candidate objected to the admission of this record on the basis of relevance and, inasmuch as the criminal records had nothing to do with Election Code violations, the objection was sustained. Objector tendered Exhibits 47 and 50 as part of his offer of proof on this point.

The Objector also filed a Motion for Reconsideration in which he once asked that the conduct of the circulators relative to the Willie Wilson and Jason Ervan petitions be considered. The Motion was denied. At the end of the presentation of evidence, the Candidate moved for a directed finding and said motion was also denied. The Candidate offered Candidate's Exhibit 1 in his case in chief. Candidate's Exhibit 1 indicated that only 375 out of the 3,843 signatures were deemed invalid on the issue of lack of genuineness.

SUMMARY OF PARTIES' ARGUMENTS

Objector asks that the remaining signatures on the petition be stricken because the petition is permeated with fraud in which the circulators and the candidate engaged. Objector bases his argument on several factors. First, he points to the fact that paid circulators were used in the petition gathering process and that these circulators had an incentive to pad their petitions in order to receive additional compensation. Moreover, he points out that most of the circulators received little or no instructions on what to ask a signer or the requirements for a valid signature. Objector further points out that there was a staggering rate of sustained objections. Finally, the Objector points to the testimony of the handwriting expert who indicated that the petitions contained evidence of disguising, tracing, and overwriting. According to the Objector, "the circulators did not engage in 'careless or unintentional mistakes.' Rather, the circulators violated the Illinois Election Code by signing when not registered, signing when not residing in the 27th Ward, signing the petition multiple times and allowing others to sign the petitions multiple times (Objector's closing brief at page 24).

Candidate argues that the petitions were completed by inexperienced, untrained circulators who may have made mistakes. Candidate contends, however, that the record does not establish that any of the circulators committed fraud. He points to the fact that most of the

objections were sustained on the basis that the signer was not registered or was out of the district or that the signature was a duplicate or a printed signature. Candidate contends that proof of fraud must be based on the lack of genuine signatures or proof that the circulators did not circulate the page in question. Candidate further argues that the Objector had his remedy in the records examination and that there is no basis to invalidate the additional signatures or the entire petition, particularly in light of the judicial philosophy favoring ballot access.

DISCUSSION

It would be virtually impossible to view the petitions submitted in this case without concern. Approximately 73.6% of the signatures submitted were deemed invalid in the records examination. The rate of sustained objections alone is disturbing and raises questions about the overall conduct of the circulators. Additional evidence is equally disturbing. The evidence established that many of the circulators signed the petition as signers more than once and some did so without being registered to vote. The evidence further established that most of the circulators were not trained, and that no effort was made by any of the circulators to determine whether a signer was a registered voter in the 27th ward.

In order to determine whether further sheets or all of the sheets should be stricken, the case law dealing with patterns of fraud must be reviewed and the evidence weighed in light of these cases. Both parties point out that in each of the pattern of fraud cases, the circulators engaged in behavior leading to the striking of their sheets. 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.

The Objector contends that the high percentage of signatures stricken on each of the various circulators' sheets alone justifies the striking of each of the circulator's sheets as the Court did in *Harmon v Cicero Municipal Officers Electoral Board*, 371 Ill. App. 3d 111, 864 N.E. 2d 996. However, in the *Harmon* case, the Court relied on two bases in striking the sheets of certain circulators. The *Harmon* court relied on the high percentage of stricken signatures along with affidavits establishing that a particular circulator did not circulate the specific sheets in question. No such affidavits were submitted and Objector's reliance on *Harmon* is therefore misplaced.

There were a number of questions left unanswered after the presentation of the evidence. No explanation was ever given as to why each of the circulators in question signed the petition more than once and no explanation was ever offered as to how the signatures of so many signers were duplicated on so many pages of the petition. These unanswered questions actually serve to highlight the problem with the Objector's case. While the Objector presented evidence that *tended to suggest* that something more than mere mistakes on the part of the circulators in the circulation process occurred here, the Objector failed to present clear and convincing evidence that the circulators engaged in any conduct amounting to fraud, roundtabling or other conduct recognized as fraud in the *Fortas*, *Huskey*, *Cantor* or *Harmon* cases. Indeed, the record is devoid of any testimony in which any circulator admitted to having been instructed to pad the petitions with bad signatures. While the Objector made much of the fact that some of the circulators were

paid, no evidence was presented to establish that the payments had any impact on the circulation process. The record is further devoid of any testimony of any witness in which they admitted to having worked together with other circulators to obtain the signatures of the same signers.

Further, the record is devoid of any testimony of any circulator admitting to having attended a meeting or other gathering in which sheets were exchanged among the circulators so that each circulator could sign the petition more than once. While it would not require a far leap of logic to so conclude, particularly in light of the fact that no explanation was offered by the Candidate as to how the duplicate signing occurred, it would nonetheless require such a leap. Regardless of how reasonable any assumptions or suspicions might be, assumptions and suspicions do not constitute proof.

The same can be said of the testimony of the handwriting expert. While her testimony suggested that there was evidence of “disguising, tracing, overwriting” etc., she provided no testimony establishing that any signature was in fact a forgery. While her testimony may have raised questions, it did not amount to proof of misconduct as established in *Fortas, Canter, Huskey or Harmon*.

Likewise, the Objector’s Exhibits 41 through 43 raise concerns. It is without question that these lists and charts of the rate of sustained objections and number of duplicate signings are in many instances disquieting. They do not, however, constitute evidence of fraud or a summarization of fraudulent conduct.

Finally, as to the issue of false circulator addresses, the Objector raised questions about the address of Keith Campbell but the evidence failed to establish that Mr. Campbell did not reside at 121 N. Wolcott, Chicago, the address indicated in his circulator’s affidavit on the date he signed the oath. While the address of 141 N. Wolcott was determined to be an empty lot, this

address in Mr. Campbell's circulator's affidavits can be reasonably attributed to a scrivener's error. The evidence also failed to establish that any other circulator provided a false address.

The record in this case, while raising many unanswered questions, fails to provide clear and convincing evidence of a pattern of fraud. Accordingly, there is an insufficient basis to warrant the striking of additional signatures or the striking of the petition in its entirety. As a result, the number of valid signatures remains at 1,014, said number being 541 over the required minimum.

RECOMMENDATION

In light of the foregoing, it is my recommendation that the objections of Vashon Alexander Briscoe and Priscilla L. Yates to the nominating papers of Gabe Beukinga be **overruled** in conformity with the results of the record examination. It is my further recommendation that the nominating papers of Gabe Beukinga for the office of Alderman of the 27th Ward of the City of Chicago be deemed **valid** and that the name of Gabe Beukinga for said office be printed on the ballot at the February 24, 2015 General Election.

Respectfully submitted,

Barbara Goodman /s/

Barbara Goodman, Hearing Examiner
January 15, 2015

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD

VASHON ALEXANDER BRISCOE

4 PRISCILLA L. YATES
Objector (s)

vs.

Case No. 15-EB-ALD - 037

Gabe BEUKINGA
Candidate

PROOF OF SERVICE OF FINDINGS AND DECISION

I, Betty Horton, certify that on JAN. 19, 2015

served a copy of the Electoral Board's written Findings and Decision issued in the above-captioned case (a copy of which is attached) on the Objector(s) and/or the Candidate listed on the attached document and/or their attorney(s) of record ("Party" or "Parties") by

personally handing a copy of the document to

STEVEN M. LADUZINSKY
LADUZINSKY & ASSOCIATES, P.C.
216 S. JEFFERSON ST., STE 301
CHICAGO, IL 60661

or

ATTY OBJ: #ALD-037

depositing a copy of the document in the United States mail, first class postage prepaid, addressed to _____

at the address(es) on record on the such Party's Appearance on file with the Board or on the Party's nomination papers or objector's petition if no Appearance is on file.

Dated: 1-19-15 Betty Horton

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD

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x PRISCILLA L. YATES
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_____ AISLING O'LAOIRE
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216 S. JEFFERSON ST., STE 301
CHICAGO, IL 60661

GIVE COPY TO
STEVEN M. LADUZINSKY

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Dated: 1-19-15

Betty Horton

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prepaid, addressed to _____
MICHAEL J. KASPER
222 N. LaSALLE ST, STE 300
CHICAGO, IL 60601

_____ ATTY OBJ: #ALD-037 _____

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Gabe BECKINGA
Candidate

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_____ JAMES P. NALLY PC
8 S. MICHIGAN #3500
CHICAGO, IL 60603 _____

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Dated: 1-19-15

Betty Horton