

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

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Objections of: MELVIN GUNN, CECIL )  
LYLES, JR. )  
 )  
To the Nomination ) No.: 15-EB-MUN-003  
Papers of: ROBERT SHAW )  
 )  
Candidate for the office of )  
Mayor of the 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 MELVIN GUNN and CECIL LYLES, JR. ("Objectors") to the nomination papers ("Nomination Papers") of ROBERT SHAW, candidate for the office of Mayor of the City of Chicago ("Candidate") to be elected at the February 24, 2015 Municipal General Election, having convened on December 8, 2014 at 9:00 a.m., in the 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 held on these Objections commenced on December 8, 2014 and was continued from time to time.
5. The Electoral Board assigned this matter to Hearing Officer Frederick H. Bates for further hearings and proceedings.
6. The Objectors and the Candidate were directed by the Electoral Board's Call to appear before the Hearing Officer on the date and at the time to be designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objectors, MELVIN GUNN and CECIL LYLES, JR., by their attorney, Andrew Finko; and the Candidate ROBERT SHAW, by his attorney, Mable Taylor.
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 registration records.
10. The Objectors and/or their duly authorized representative was present during the examination of the registration records.
11. The examination of the registration records was terminated just prior to the review by the Board's handwriting expert due to the fact that the Candidate had far fewer than the

minimum number of signatures. 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 Electoral 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 12,500.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 17,692.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 11,267.

D. The remaining number of signatures deemed valid total as a result of the records examination total 6,425.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Mayor, City of Chicago.

14. No motions were filed pursuant to Rule 8 of the Rules of Procedure objecting to the Board's clerk's findings during the records examination.

15. 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 only 6,425 valid signatures, which is less than the minimum number of valid signatures required by law to be placed upon the official ballot as a

candidate for election to the office of Mayor, City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

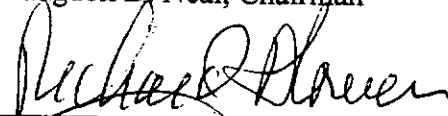
16. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report is attached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

17. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on his nominating petitions and that the Nomination Papers of ROBERT SHAW are, therefore, not valid.

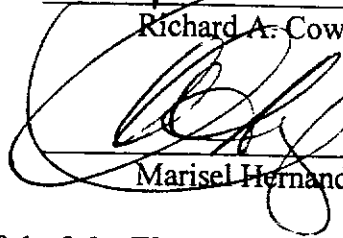
IT IS THEREFORE ORDERED that the Objections of MELVIN GUNN and CECIL LYLES, JR. to the Nomination Papers of ROBERT SHAW, candidate for the office of Mayor, City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of ROBERT SHAW, Candidate for the office of Mayor, City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

Dated: Chicago, Illinois, on January 5, 2015.

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Langdon D. Neal, Chairman



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Richard A. Cowen, Commissioner

  
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Marisel 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.

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO  
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To the Nomination	)	
Papers of: ROBERT SHAW	)	<b>No. 15-EB-MUN-003</b>
	)	
Candidate for the Office of Mayor of the City of Chicago.	)	Fredrick H. Bates
	)	Hearing Officer
	)	
	)	

**HEARING OFFICER'S FINDINGS AND RECOMMENDATION**

In the matter of MELVIN GUNN and CECIL LYLES, JR., (Objectors) regarding the Nomination Papers of ROBERT SHAW, candidate for the nomination to the Office of Mayor of the City of Chicago, State of Illinois, (Candidate), the hearing having convened on December 9, 2014. Fredrick H. Bates, Esq., the duly appointed Hearing Officer in this matter, hereby makes the following Report and Recommended Findings to the Board of Election Commissioners of the City of Chicago ("CBEC"):

1. The Candidate filed Nomination Papers with the CBEC for the nomination to the Office of Mayor of the City of Chicago, State of Illinois, for the Municipal General Election to be held on February 24, 2015. Such Nomination Papers consisted of: a) A Statement of Candidacy; b) Receipt for the Candidate's Statement of Economic Interest; c) Loyalty Oath; and d) 1,197 Nominating Petition Sheets containing a total of 17,692 signatures. The Candidate's Nomination Papers were marked as Board Group Exhibit A, and admitted into evidence.
2. The Verified Objectors' Petition was timely. Such Petition was marked as Board Group Exhibit B and admitted into evidence.

3. A Call to the hearing on said objections was duly issued by the Chairman of the CBEC and served upon all parties. The Call and proof of service thereof were marked and admitted into evidence as Board Group Exhibit C.
4. The initial public hearing concerning the Objections was scheduled to commence on December 10, 2014, at 11:30am. The Candidate appeared through his attorney Mable Taylor, and the Objectors appeared through their attorney, Andrew Finko, though Mr. Lyles also appeared in person. All Parties were provided copies of the Rules of Procedure of the CBEC, and were specifically instructed to become familiar with Rules, and the Hearing Officer specifically went over said Rules with the participants at the Hearing. At that status the Hearing Officer reminded counsel that this case was on an expedited basis, and that continuances would not be granted as a matter of course, but rather only for good cause shown, and in the interest of justice.
5. At that time the Hearing Officer was advised that the Candidate might file a Motion to Strike & Dismiss the Objection Petition, however no Rule 5 Motion was ever filed by the Candidate in this case.
6. A Record Examination Directive was provided in the Hearing, on the record, to both Parties advising that said Record Examination was to begin on Tuesday, December 16, 2014, at 1:45pm. This matter was set for status on Wednesday, December 17, 2014, at 9:30am. A written Order was issued by the Hearing Officer that day summarizing what had taken place at the initial status, including reminding the parties of the deadlines for Rule 5 motions, and of the new procedures and deadlines regarding the issuance of subpoenas pursuant to Rule 19(c).

7. On December 17, 2014, the parties appeared for status, and were again reminded that requests for subpoenas in the manner set forth in Rule 19 were due that day. At that status the Hearing Officer again reminded counsel that this case was on an expedited basis, and that continuances would not be granted as a matter of course, but rather only for good cause shown, and in the interest of justice.
8. The matter was set for further status on Friday, December 19, 2014, at 10:30am. A written Order was issued by the Hearing Officer summarizing what had taken place at the December 17, 2014 status.
9. On December 19, 2014, the parties appeared for status. It was noted by the Hearing Officer that neither Party had requested the issuance of subpoenas in accordance with Rule 19(c) of the Rules of Procedure of the Board of Election Commissioners of the City of Chicago, and in compliance with the Orders entered in this matter on the 10<sup>th</sup> and 17<sup>th</sup> of December, 2014.
10. The Parties were reminded that request for Board Records, stating the basis for why said records are needed, were to be submitted by the Parties as soon as possible, no later than the outset of the Pre-Hearing Conference, when scheduled, and that said Board Records should not be sought via subpoenas.
11. The Hearing Officer again reminded counsel that this case was on an expedited basis, and that continuances would not be granted as a matter of course, but rather only for good cause shown, and in the interest of justice.
12. Finally, the Hearing Officer issued a written Order that day summarizing what had taken place at the status. The December 19, 2014 Order stated in part that: "IF EITHER PARTY INTENDS TO FILE PURSUANT TO RULE 8, THEY MUST DO SO NOT



LATER THAN 5:00 P.M. ON THE 1st BUSINESS DAY AFTER THE PARTIES ARE NOTIFIED OF THE RESULTS OF THE RULE 6 RECORDS EXAMINATION. See Rule 8(c).”

13. The Record Examination in this matter was still ongoing at that time, and the Hearing Officer was advised by the Board’s Assignment Officer, Mr. Charles Holiday, that the Record Examination would not likely end before Wednesday, December 24, 2014, or even possibly Friday, December 26, 2014. After advising the Parties of this development, and confirming counsels’ availability, this matter was set for further status on Friday, December 26, 2014, at 8:45am. The Hearing Officer’s written Order issued that day summarized what had taken place at the status hearing.
14. On December 23, 2014, at 7:35PM, Ms. Taylor e-mailed the Hearing Officer to inquire about delaying the scheduled December 26, 2014, Status to Noon or later that day, or December 29<sup>th</sup> or 30<sup>th</sup>, because of “a scheduling conflict.” In said communiqué Ms. Taylor indicated that Mr. Charles Holiday indicated that the Record Examination would take another week to complete. She did not address her request to the Electoral Board Clerk’s e-mail address as set forth in Rule 16, nor did she copy Mr. Finko. Rather her communication was an *ex-parte* e-mail addressed to the Hearing Officer only.
15. At approximately 9:35PM the Hearing Officer first saw the communiqué from Ms. Taylor on his mobile device, and did not realize that Mr. Finko, nor the Clerk’s Office, had been copied on the e-mail, until after he had completed reading it. The Hearing Officer immediately forwarded the e-mail to the Clerk with a directive that it be forwarded to all counsel of record, and directed that counsel refrain from *ex-parte* communications with the Hearing Officer.

16. A written Order was subsequently issued advising the Parties that their attorneys should not engage in *ex-parte* communication with the Hearing Officer, as to do so is inappropriate. The Order also stated: "Neither Party to these proceedings should call the Hearing Officer. If an e-mail communiqué must be sent, it should be directed to the Clerk of the Electoral Board at the e-mail address listed above, as set forth in Rule 16, with a copy to opposing Counsel and the Hearing Officer."
17. The Hearing Officer treated Ms. Taylor's e-mail as a Motion to Continue the Status Hearing set for December 26, 2014, 8:45AM. Because Ms. Taylor offered no specifics as to the nature of the "scheduling conflict" that had arisen since she stated at the December 19, 2014 status that she was available for the December 26, 2014 scheduled status, the Hearing Officer ruled that she failed to demonstrate "good cause" for the requested delay, and denied the Motion.
18. Subsequently, at 9:36PM on December 25, 2014, Ms. Taylor sent an e-mail to the Hearing Officer, with Mr. Finko copied, stating her argument that she had good cause for the requested continuance. The Hearing Officer saw this communiqué at 10:22PM, and forwarded it to the Clerk's Office.
19. At the status hearing held on December 26, 2014, Ms. Taylor appeared, so the Hearing Officer deemed her Request moot. The Parties were reminded of the Hearing Officer's December 24, 2014, Order concerning *ex-parte* communications and the manner of communicating with the Hearing Officer: "Neither Party to these proceedings should call the Hearing Officer. If an e-mail communiqué must be sent, it should be directed to the Clerk of the Electoral Board at the e-mail address listed above, as set forth in Rule 16, with a copy to opposing Counsel and the Hearing Officer."

20. The Hearing Officer also advised the Parties that the Board's Assignment Officer, Mr. Charles Holiday, informed the Hearing Officer that the Record Examination would likely be completed by late in the day on Monday, December 29, 2014, or on Tuesday, December 30, 2014.
21. Mr. Finko suggested that the process should stop, i.e., the Record Examination, should be terminated, when and if it was determined that Mr. Shaw could not reach the 12,500 signatures needed<sup>1</sup> in order for his name to be printed on the official ballot for the Office of Mayor, of the City of Chicago, State of Illinois, in the Municipal General Election to be held on February 24, 2015.
22. Ms Taylor did not agree to proceed in that fashion, and indicated that she was monitoring the process and would like to see how it progressed and confer with her client. However she indicated that she did not intend to seek an evidentiary hearing pursuant to Rule 8 of the Rules of Procedure of the Board of Election Commissioners of the City of Chicago, but rather, would accept the results of the Rule 6 Record Examination.
23. The Hearing Officer declined to stop the Record Examination when it was so close to completion. The Hearing Officer advised the Parties that given Ms. Taylor's desire to see the process through, in the interest of protecting Mr. Shaw's right to due process, the Hearing Officer would allow the Record Examination to be completed.
24. Despite Ms. Taylor's indication that the Candidate was willing to rely on the results of the Record Examination in this case, the Parties were again reminded that Rule 8 Motions were due the first business day following notice of the completion of the Rule 6 Record Examination. (The Parties were previously advised regarding Rule 8 Motions via the written Order dated December 19, 2014, and at the status hearing held on that date).

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<sup>1</sup> 65 ILCS 20/21-28(b). See *Stone v. Board of Election Commissioners for the City of Chicago*, 750 F3d 678 (7<sup>th</sup> Cir. 2014).

There were also again reminded that requests for Board Records, stating the basis for why said records are needed, were to be submitted by the Parties as soon as possible. This matter was set for further status on Tuesday, December 30, 2014, at 4:30pm.

25. On December 29, 2014, the initial Record Examination was concluded, and the Petition Summary Report results were as follows (Board Exhibit "E"):

**Office of Mayor of the City of Chicago**

**Signature Required: 12,500**

Total Pages: 1,197

Total Signatures: 17,962

Total Objections: 14,376

Total Ruled On: 14,376

Total Remaining: 0

Total Sustained: 11,267

Total Overruled: 3,109

For Review (Candidate): 1,231

For Review (Objector): 124

Total Valid Signatures: 6,425

Total Unchallenged Signatures: 3,316

**6,075 Signatures fewer than the required minimum**

26. On December 29, 2014, Ms. Taylor filed a "Motion to Withdraw Nomination Papers" in the manner proscribed in Rule 16, and in compliance with the Hearing Officer's Orders that he be copied on all filings. Mr. Finko was also copied. The Hearing Officer advised Ms. Taylor that her filing did not comply with Rule 13 of the Board's Rules of Procedure concerning Withdrawals. Ms. Taylor was informed that the Candidate had to file a notarized statement in the officer where the Candidate filed his nomination papers, and then file a filed-stamped copy with the Electoral Board (See Rule 13 regarding Withdrawals), or the Candidate can do nothing, and the Hearing Officer would issue a Recommendation that the Candidate's name not appear on the ballot, which he would be doing in any event.

27. At the Case Management Status Conference held on December 30, 2014, the Petition Summary Report was taken judicial notice of by the Hearing Officer, and were marked and admitted into evidence as Board Exhibit E. Ms. Taylor did not appear though she was given notice of the hearing during the Status held on December 26, 2014, and in an Order entered on that date. (*See also* Rule 18 (b)). Mr. Finko agreed to notify Ms. Taylor that she had until 7:00pm (consistent with Rule 3(d)) to file a withdrawal compliant with Rule 13, but the Hearing Officer was not notified of any such notarized statement being filed by Ms. Taylor.<sup>2</sup>
28. The Objection to the Nomination Papers in this case must be sustained as a matter of law. The Nomination Papers only contain 6,425 valid signatures, well below the 12,500 signatures required by law to be included on the official ballot for the Office of Mayor of the City of Chicago in the Municipal General Election to be held on February 24, 2015. 65 ILCS 20/21-28(b). *See Stone v. Board of Election Commissioners for the City of Chicago*, 750 F.3d 678 (7<sup>th</sup> Cir. 2014). The failure to file a sufficient number of signatures renders the Candidate's Nomination Papers invalid. *See Miranda v. Cummings*, 06-EB-NPP-02, CBEC, August 9, 2006. *See also, Bowe v. Board of Election Commissioners of the City of Chicago*, 614 F.2d 1147 (7<sup>th</sup> Cir. 1980).
29. Accordingly, in the interest of judicial economy, and the expedited nature of these proceedings, the Board should declare the Nomination Papers in this case invalid.

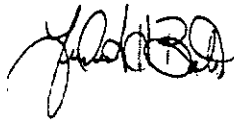
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<sup>2</sup> At 9:19PM, well after the 7PM deadline set by the Hearing Officer, the Candidate's Counsel submitted to the Clerk's Office a Motion to Withdraw Mr. Shaw as a candidate for Mayor that was signed by Mr. Shaw, and notarized in conformity with Board Rule 13.

**RECOMMENDED DECISION**

It is the recommendation of this Hearing Officer that the Nomination Papers in this case be declared invalid, and that the name of ROBERT SHAW, candidate for the nomination of the Office of Mayor of the City of Chicago, State of Illinois, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

RESPECTFULLY SUBMITTED,



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Fredrick H. Bates  
Hearing Officer

Dated: Chicago, Illinois, on December 31, 2014.