

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

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Objections of: JONATHAN McCOY, )  
ADAM McMATH )  
 ) No. 15-EB-MUN-010  
To the Nomination Papers of: )  
SUSANA MENDOZA )  
 )  
Candidate for the Office of )  
City Clerk 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 JONATHAN McCOY and ADAM McMATH ("Objectors") to the nomination papers ("Nomination Papers") of SUSANA MENDOZA, candidate for the office of City Clerk 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 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 Christopher B. Cohen for further hearings and proceedings.

6. The Objectors and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objectors, JONATHAN McCOY and ADAM McMATH, pro se; and the Candidate, SUSANA MENDOZA, by her attorney, Michael J. Kasper.

7. 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 motion to strike and dismiss the Objectors' petition should be granted, that the Objections should be dismissed and that the Candidate's Nomination Papers be declared valid.

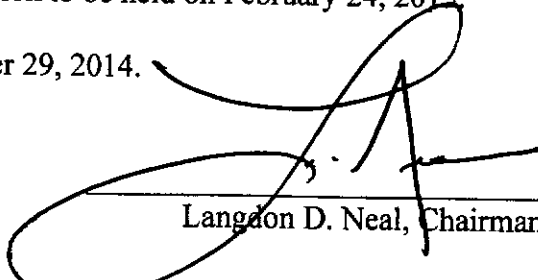
8. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report is attached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

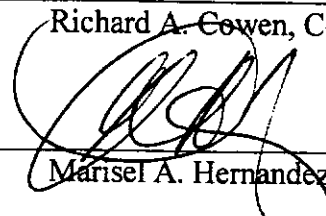
9. The Electoral Board grants the Candidate's motion to strike and dismiss the Objections filed in this matter, and such Objections are hereby dismissed.

10. For the reasons stated above, the Electoral Board finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of JONATHAN McCOY and ADAM McMATH to the Nomination Papers of SUSANA MENDOZA, candidate for election to the office of City Clerk of the City of Chicago, are hereby DISMISSED and said Nomination Papers are hereby declared VALID and the name of SUSANA MENDOZA, candidate for election to the office of City Clerk 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 December 29, 2014.

  
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Langdon D. Neal, Chairman

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Richard A. Cowen, Commissioner  
  
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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.

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

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Objections of )  
JONATHAN MCCOY and ADAM MCMATH )  
)  
To the Nomination Papers of: ) 15-EB-MUN-010  
SUSANA MENDOZA )  
)  
Candidate for Nomination to the Office of )  
City Clerk of the City of Chicago to be voted )  
upon at the February 24, 2015 Municipal )  
General Election )

**HEARING OFFICER'S RECOMMENDED DECISION**

This matter came before the Chicago Board of Election Commissioners ("Board") on the Objectors' Petition ("Objections") of JONATHAN MCCOY and ADAM MCMATH ("Objector") to the Nomination Papers of SUSANA MENDOZA ("Candidate"). The Board appointed Attorney Christopher B. Cohen as hearing officer for this case. The hearing officer finds and recommends as follows:

1. The Candidate on November 24, 2014 timely filed with the Board Nomination Papers for the office of City Clerk of the City of Chicago.
2. Objections to the Candidate's Nomination Papers were timely filed with the Board on December 3, 2014 by the Objectors.
3. This Board is the duly constituted Electoral Board for hearing and passing on objections to Nomination Papers for the municipal office which is the subject of these proceedings.
4. The Board's official file contained the original Nomination Papers of the Candidate and the original Objectors' Petition.
5. The Objectors' Petition alleged that the Candidate's Nomination Papers were insufficient in fact and law for the following reasons: (¶5) the notary on the Statement of Candidacy is no longer a commissioned notary; (¶6) pagination of 168 pages are notarized but not numbered; (¶7) 27 petition sheets are not notarized; (¶8) 137 or more petition sheets are incomplete in a way that causes the Objectors to not be able to confirm the circulators' addresses; (¶9) signatures of more than 8,000 signers are not authentic; (¶10) more than 5,000 signers addresses are incomplete and cannot be verified; (¶11) the Candidate's Statement of Economic Interest does not include all her board positions and is therefore incomplete.
6. On December 9, 2014, this hearing officer began a case management conference/hearing on the Objections at 69 W. Washington, Chicago, Illinois. Each Objector appeared in person and without counsel, that is *pro se*. The Candidate did not appear personally but appeared by attorney Michael Kasper.
7. During the hearing, Objectors and the Candidate's attorney each filed a written appearance as well as a Non-Disclosure and Confidentiality Agreement. Each of the three stated on the record that he had been personally served with the Board's Call and, in any event, each signed a waiver of statutory service.

8. The Candidate's attorney timely filed an oral motion to strike and dismiss the Objections and stated his intent to file a written motion pursuant to Board Rule 5(b). That Rule authorizes a Candidate to file preliminary motions to challenge the legal sufficiency of an Objector's Petition in the nature of a motion to strike or dismiss the Objector's Petition in whole or in part.
9. At the December 9, 2014 hearing, the Hearing Officer set a schedule for filing the written motion and responsive pleadings. No records examination was ordered and no subpoenas were requested by either party at the hearing. The hearing was continued to December 14, 2014 at 2 pm. Each of the parties received oral notice on the record of the date and time of the upcoming hearing.
10. At the reconvened hearing on December 14, the Candidate's attorney appeared. The Objectors both appeared *pro se*. Charles Holiday, the Board's Manager of Registration, testified that no Appendix or Recapitulation sheets were filed as part of the Objection when it was filed at the Board on December 3, 2014. Mr. Holiday indicated that because of the lack of details regarding specific signatures and names it would be difficult to perform a records examination.
11. The Hearing Officer confirmed that a copy of the Board's Rules and the Index of Electoral Board Decisions were available to each party and that the parties were aware these documents were also available on the Board's website at [www.chicagoelections.com](http://www.chicagoelections.com).
12. At the December 14 hearing, testimony was taken from the Objectors, from Marc Loveless who filed the Objections and from Board staff including Steve Cieslicki who received the Objections. After hearing all the evidence, the Hearing Officer on December 14 found that as a matter of fact no Appendix or Recapitulation sheets or work sheets were filed with the Objections.
13. The Hearing Officer concluded that 10 ILCS 5/10-8 requires Objections to fully state the nature of the Objections and that the Board's Rules do not permit Objections once filed to be amended or additional filings to be made by Objectors.
14. At the December 14 hearing, no Record examination was scheduled and no subpoenas were requested by either party. The matter was continued to 5:30 pm, December 17 for a hearing on the Candidate's Motion to Strike and Dismiss. Each of the parties received oral notice on the record of the date and time of the upcoming hearing.
15. At the reconvened hearing December 17, the Objectors both appeared *pro se* and the Candidate's attorney appeared. The Hearing Officer announced the timely filing with the Board of the Candidate's Motion to Strike and Dismiss the Objectors' Petition and a Response by Objector McCoy. The Board's Charles Holiday indicated that no records examination had commenced. He provided a Petition Summary Report and testified that the Candidate had filed 1551 pages containing 27,832 signatures of which 27,832 were unchallenged.
16. Regarding the Motion and Response, the Candidate's attorney and the Objector provided their reasoning orally and called attention to their written pleadings. They began with ¶5 of the Objection.
17. Regarding the individual who notarized the Candidate's documents and her Statement of Candidacy, the Hearing Officer considered three pieces of evidence. He reviewed the notary seal stamped in ink stating these words – "Official Seal, Gloria Salmeron, Notary Public, State of Illinois. My Commission Expires 01/14/18." Secondly, he reviewed an undated form letter from Cook County Clerk David Orr which stated "This Office cannot comply with your request for a Certificate of Authority for Gloria Salmeron for the following reason(s):" Below that a box was checked next to a sentence stating "The Notary Public was not registered as a Notary Public at the time the document was notarized." Thirdly, the Hearing Officer reviewed an exhibit attached to the Candidate's Motion that came from the website of Secretary of State Jesse White. Under the heading "Notary Public Search" were the words "Active Notary ... Salmeron, Gloria ... Chicago, IL, 60618, Cook ... Commission Number: 537325 ... Commission Dates Current 01-14-2014, Original 05-16-1997 ... Last Issued 01-14-2014." The

Hearing officer found by a preponderance of the competent evidence that the Notary did have a current valid commission issued by the Secretary of State for the relevant time period.

18. During the December 17 hearing, the Hearing Officer concluded that as a matter of law ¶5 of the Objection should be denied and overruled because it fails to state a basis for declaring the Candidate's Nomination Papers invalid. The Hearing Officer cites the following cases for the proposition that where a notary public's commission has expired or has otherwise become defective, this does not invalidate the petition sheets notarized by the notary. *Levine v. Simms-Johnson*, 96-EB-WC-31, CBEC, January 29, 1996; *Gregory v. Tines*, 95-EB-ALD-137, CBEC, January 28, 1995; *Gilbert v. Lavelle*, 80 CO 75 (Cir. Ct. Cook County, February 11, 1980); *Drake v. Stewart*, 90-EB-REP-11, CBEC, January 19, 1990. In addition, in the case of *Thompson v. Deville*, 03-EB-ALD-160, CBEC, January 24, 2003, this Board confronted the same fact situation found in the instant case and concluded that failure of a notary public to file his commission with the Cook County Clerk's Office does not invalidate pages of a candidate's Nomination Papers.
19. In making the above ruling as to ¶5 of the Objection, the Hearing Officer finds no facts establishing fraud on the part of the Candidate and finds no such allegation by the Objector. The de facto notary rule as applied in Illinois provides that in the absence of fraud, an election-related document executed before a notary public with an expired commission is nevertheless valid. The Hearing Officer concludes that this situation is controlled by the opinion in *Shipley v. Stephenson County Electoral Board*, 130 Ill. App. 3d 900, 906-07; 474 N.E.2d 905, 910 (1985) which states in part:

It is assumed that by his sworn statement the circulator is subjecting himself to possible perjury prosecutions; thus, this requirement is considered a meaningful and realistic method of eliminating fraudulent signatures and protecting the integrity of the political process. (*Williams v. Butler* (1976), 35 Ill. App.3d 532, 536, 341 N.E.2d 394.) In the instant case, the circulators did in fact take an oath before a person who they believed was authorized to administer oaths, supplying all the information required of them by the statute. Thus, it is clear that the circulators believed they could be subjected to perjury prosecutions if the statements they made proved to be false. Further, the Board in the instant case specifically stated that there was no evidence of fraud or corruption on the part of either the Dawsons or the circulators; nor was there any evidence that any of these parties knew of the violation of section 10 of the Act. Under these circumstances, we conclude that the integrity of the political process was not in jeopardy, and that the oath provision of section 28-3 of the Election Code was substantially, if not literally, complied with by the circulators of the petitions.

The Hearing Officer finds that because the notary's seal states "My Commission Expires 01/14/18," the Candidate had no reason to question the notary.

20. Regarding ¶6, ¶7, ¶8, ¶9 and ¶10 of the Objection, the Hearing Officer concludes that as a matter of law each of those paragraphs should be denied, overruled and stricken for failure to "state fully the nature of the objections..." as required by 10 ILCS 5/10-8.
21. The Hearing Officer found that ¶6 of the Objection fails to identify which particular sheets are allegedly not numbered or even where they appear in the stack of 1551 pages of signatures submitted. This lack of specificity is insufficient to comply with 10 ILCS 5/10-8. The Objections must adequately apprise the Candidate of the specificity of each Objection so the Candidate can prepare a defense. This Board has accepted substantial compliance regarding the numbering requirement. See *Prince v. Douyon*, 06-EB-RGA-10, CBEC, January 26, 2006; *Fowler v. Phelan*, 11-EB-ALD-055, CBEC, January 3, 2011; *Ziegler v. Lane*, 11-EB-ALD-058, CBEC, See also *Durr v. Chandler*, 03-EB-ALD-096, CBEC, February 5, 200 and *Martin v. Olivier-Harris*, 03-EB-ALD-034, CBEC, January 28, 2003. In the case at bar, the Hearing Officer finds that the Candidate was in substantial compliance. The Board's position is supported by *King v. Justice Party*, 284 Ill. App. 3d 886, 891, 672 N.E.2d 900, 904 (1996) which accepts substantial compliance with the following language:

Compliance was not strict, it was substantial; but it was compliance nonetheless.

22. In alleging that 27 petition sheets are not notarized, the Hearing Officer finds that ¶7 of the Objection fails to identify the offending sheets or to provide specificity adequate for the Candidate to prepare a defense. The lack of specificity is insufficient to comply with 10 ILCS 5/10-8 which requires the Objector to "state fully the nature of the objections..."
23. In alleging only that 137 or more petition sheets are incomplete regarding the circulators' addresses, ¶8 fails to identify the offending sheets or to provide specificity adequate for the Candidate to prepare a defense. Here too, 10 ILCS 5/10-8 requires the Objector to "state fully the nature of the objections..." The Hearing Officer finds that the Objector did not meet the statutory standard set by the Illinois General Assembly.
24. By alleging that signatures of more than 8,000 signers are not authentic, ¶9 of the Objection fails to specify which signatures do not comply so the Candidate can prepare a defense. Again, the Objector has failed to "state fully the nature of the objections..."
25. Objection ¶10 states, without any further detail, that more than 5,000 signers' addresses are incomplete. By not explaining which 5,000 of the 27,832 signatures are incomplete, the Hearing Officer finds this allegation fails to "state fully the nature of the objections..." In *Barton v. Evans*, 12-EB-RES-08, CBEC, July 10, 2012, this Board encountered a similar one-sentence objection stating in part that "...candidate Marcus C. Evans, Jr. does not have the amount of signatures, Forms, needed for his name to be printed in the above election." The Board held that this is not specific enough and does not state the full nature of the objections. The Hearing Officer recommends that the Board apply its prior ruling to the case at bar.
26. Objection ¶11 alleges that the Candidate's Statement of Economic Interest does not include all of her board positions and is therefore incomplete. The Board has repeatedly stated that it lacks jurisdiction to inquire into the truth and accuracy of statements of economic interest filed by candidates. The scope of inquiry for the Electoral Board extends to whether or not one has been filed. *Greer v. Johnson*, 95-EB-ALD-74, CBEC, January 13, 1995; *Greer v. McGowan*, 95-EB-ALD-75, CBEC, January 13, 1995; *Campos v. Munoz*, 95-EB-ALD-80, CBEC, January 23, 1995; *Troutman v. Keys*, 87-EB-ALD-195, CBEC, January 7, 1987, affirmed *Troutman v. Keys*, 509 N.E.2d 453 (1987); *Johnson v. Curley*, 88-EB-REP-24, CBEC, January 19, 1988; *Hendricks v. Hairston*, 11-EB-ALD-353, CBEC, December 29, 2010. The Board also lacks jurisdiction to determine the sufficiency of the responses
27. After hearing arguments from each party, the Hearing Officer on December 17, 2014 granted the Motion to Strike and Dismiss on the record and overruled each of the Objections.
28. With no other issues to be decided, the proceedings were concluded.

In light of the above findings of fact and conclusions of law, it is this Hearing Officer's recommendation that the Objectors' Petition filed by JONATHAN MCCOY and ADAM MCMATH be held to have been stricken and dismissed, that the Candidate's Nomination Papers be deemed valid in law and in fact and that the name of Candidate SUSANA MENDOZA appear on the ballot for the office of City Clerk of the City of Chicago to be voted upon at the March 20, 2015 Primary Election.

Respectfully submitted,



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Christopher B. Cohen  
Hearing Officer  
December 21, 2015