

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

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| Objections of: Rickey R. Hendon           | ) |                   |
|   | ) |                   |
|   | ) |                   |
| To the Nomination                         | ) | No.: 16-EB-CON-05 |
| Papers of: Frederick Collins              | ) |                   |
|   | ) |                   |
| Candidate for the nomination of the       | ) |                   |
| Democratic Party for the office of        | ) |                   |
| Representative in Congress of the 7th     | ) |                   |
| Congressional District, State of Illinois | ) |                   |

**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of Board of Election Commissioners for the City of Chicago Commissioners Marisel A. Hernandez, William J. Kresse and Jonathan T. Swain, organized by law in response to a Call issued by Marisel A. Hernandez, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of Rickey R. Hendon (“Objector”) to the nomination papers (“Nomination Papers”) of Frederick Collins, candidate for the nomination of the Democratic Party for the office of Representative in Congress of the 7th Congressional District in the State of Illinois (“Candidate”) at the General Primary Election to be held on March 15, 2016, having convened on December 14, 2015 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 Objector 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 14, 2015 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 Candidate filed a motion to strike and dismiss the Objector's Petition. The Hearing Officer granted the motion to strike and dismiss paragraph 6 of the Objector's Petition, but denied the remainder of the Candidate's motion.

7. The Objector 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 Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, Rickey R. Hendon, by his attorneys, Andrew Finko and Frank Avila; and the Candidate, Frederick Collins, pro se.

8. 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.

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

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

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

12. 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 Electoral Board's file in this case and a copy has been provided or made available to the parties.

13. 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 1,322;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 8,249;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 6,416;

D. The remaining number of signatures deemed valid as a result of the records examination total 1,833.

14. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was greater than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for the nomination of the Democratic Party for the office of Representative in Congress of the 7th Congressional District of the State of Illinois.

15. The Hearing Officer conducted a hearing to allow the Objector an opportunity to present evidence in support of his Rule 8 motion objecting to the Board's clerk's findings during the records examination and in support of the allegations in his Objector's Petition. The Candidate also filed a Rule 8 motion, but the Objector objected to the timeliness of the

Candidate's motion. However, when asked if he had any evidence to present in support of his Rule 8 motion, the Candidate answered he had none; thus, the timeliness of the Candidate's motion became a moot point.

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 966 valid signatures less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for nomination of the Democratic Party for the office of Representative in Congress for the 7th Congressional District of the State of Illinois, and that the Candidate's Nomination Papers should be found invalid.

17. The Candidate filed a motion pursuant to Rule 20 of the Electoral Board's Rules of Procedure requesting to address the Board regarding the Hearing Officer's report and recommendations. Among other issues, the Candidate alleged that the Objector was allowed to improperly amend his Petition, that he made statements with no facts, witnesses or evidence nor did the Objector provide any affidavits or request subpoenas, that the Candidate submitted a Rule 8 motion in a timely manner but the Hearing Officer did not accept it, and that he has 1,833 valid signatures, which exceeds the minimum required by law. The Candidate also questions why the Objector hired his own handwriting expert to testify.

18. The transcript of the January 15, 2016 hearing before the Hearing Officer and the Hearing Officer's Report and Recommended Decision ("Report") clearly demonstrate that the Objector was not allowed to amend his Objector's Petition. The Report, for example, explains that the Objector's arguments and evidence concerning alleged fraud committed by the

Candidate and by circulator Bishop Edward were not considered by the Hearing Officer and should not be considered as they were outside the scope of the Objector's Petition.

19. Regarding the Candidate's claim that the Objector made statements with no facts, witnesses or evidence and without affidavits or subpoenas, the Objector did call three witnesses without the need for subpoenas. Those witnesses testified at length and their testimony laid the foundation for the introduction and admission of numerous exhibits. Thus, the Candidate's instant claim has no merit.

20. Regarding the Candidate's argument that he submitted a Rule 8 motion in a timely manner but the Hearing Officer did not accept it, the record indicates that there was a question whether the Candidate's Rule 8 motion was timely filed; however, when asked by the Hearing Officer whether the Candidate had any evidence to present in support of his Rule 8 motion, the Candidate replied he had none. Transcript of proceedings, January 15, 2016, at pp. 161-162, 177-1768. Thus, the issue of whether the Candidate's Rule 8 motion was filed timely became moot because even if the Candidate were allowed to proceed with a presentation of evidence in the Rule 8 hearing, he had nothing to present.

21. Regarding the Objector's expert handwriting expert, the parties are not prohibited by the Electoral Board's Rules of Procedure from calling their own expert witnesses. The parties are not limited to the Board's handwriting expert. Thus, the Objector was entitled to call his own handwriting expert to testify in these proceedings.

22. Finally, the Candidate claims he has 1,833 valid signatures, which exceeds the minimum number of signatures required by law. While it is true that the results of the Rule 6 records examination revealed that, after considering the Objector's line-by-line objections to petition signatures, there were 1,833 valid signatures, the Candidate overlooks the fact that the

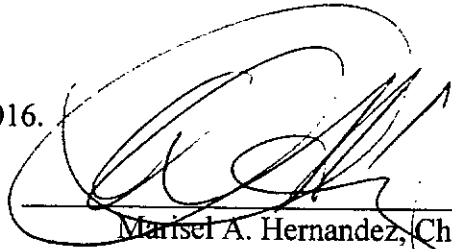
Hearing Officer found that, "It is abundantly clear from a simple review of the petitions, the results of the records examination and the unrebutted testimony of handwriting expert Spence that most, if not all of the sheets circulated by Thomas, Harvey and Rose evidence a pattern of fraud and false swearing and utter disregard for the requirements of the Election Code." Report, page 11. Moreover, the Hearing Officer concluded, correctly, that "all of the sheets of these circulators must be stricken in order to preserve the integrity of the electoral process." *Id.* See, *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1984); *Canter v. Cook County Officers Electoral Board*, 170 Ill.App.3d 364, 523 N.E.2d 1299 (1988); *Huskey v. Municipal Officers Electoral Board for the Village of Oak Lawn*, 156 Ill.App.3d 201, 509 N.E.2d 555 (1987); *Harmon v. Town of Cicero Municipal Officers Electoral Board*, 225 Ill.2d 632, 875 N.E.2d 1111 (2007). Thus, even though the Candidate may have had enough valid signatures at the completion of the records examination, the invalidation of entire petition sheets circulated by Gerald Thomas, Felicia Harvey and Vincent Rose and corresponding loss of signatures on those petition sheets brought the number of valid signatures on his petition sheets below the minimum required by law.

23. 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 Examiner's Report and Recommended Decision is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

24. 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 Frederick Collins are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of Rickey R Hendon to the Nomination Papers of Frederick Collins, candidate for the nomination of the Democratic Party for election to the office of Representative in Congress of the 7th Congressional District of the State of Illinois, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Frederick Collins, candidate for nomination of the Democratic Party for the office of Representative in Congress for the 7th Congressional District of the State of Illinois, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 15, 2016.

Dated: Chicago, Illinois, on January 22, 2016.



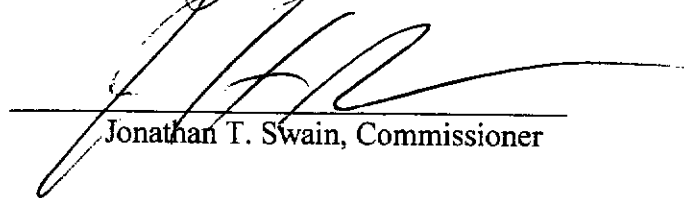
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Marisel A. Hernandez, Chairman



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William J. Kresse, Commissioner



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Jonathan T. Swain, 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 FOR THE  
HEARING AND PASSING ON OBJECTIONS  
TO NOMINATION PAPERS OF CANDIDATES  
FOR THE MARCH 15, 2016 GENERAL PRIMARY ELECTION**

Rickey R. Hendon )  
 )  
 Objectors ) 16 EB-CON-05  
 -v- )  
 )  
 Frederick Collins )  
 )  
 Candidate )

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

This matter was first heard on December 14, 2015. The Objectors appeared through counsel Frank Avila and subsequent to the first hearing by Andrew Finko as well. The candidate appeared pro se. The parties were given the opportunity to file preliminary motions. The Candidate filed a Motion to Strike or Dismiss Objector's Petition and Objectors filed a Response thereto.

**CANDIDATE'S MOTION TO STRIKE AND DISMISS**

Candidate's Motion to Strike and Dismiss seeks to strike a number of paragraphs of the Objector's Petition, including paragraph 6. Paragraph 6 provides:

*The Nomination Papers contain petition sheets with the names of persons who are registered outside of the applicable political division in the 7<sup>th</sup> Congressional District, County of Cook, State of Illinois namely the 7<sup>th</sup> District in the Congressional District/Member of House District, in cook[sic] County, State of Illinois as is set forth specifically in the Appendix Recapitulation sheets attached and incorporated herein, under the heading, Colum B. "Signer Not in District," where the term ward refers to the 9<sup>th</sup> Ward in the City of Chicago, in violation of the Illinois Election Code. There are numerous signers that are not in the 7<sup>th</sup>*



*Congressional District (the appendix-recapitulation sheets says "Signer not in Ward" but that is a scrivener's error meant to be for District instead of ward).*" Candidate corrected pointed out that the paragraph is contradictory and confusing and fails to adequately advise Candidate of the alleged defect. Accordingly, paragraph 6 was stricken.

There were no additional cognizable bases to strike additional paragraphs of the Objector's Petition and a records examination was ordered.

### **RECORDS EXAMINATION**

The results of the records examination were as follows:

- A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 1,322.
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 8,249.
- C. The number of signatures deemed invalid because of objections sustained in the records examination total 6,416.
- D. The remaining number of signatures deemed valid as a result of the records examination total 1,833.

Subsequent to the records examination but before the final results were available, Candidate filed a Motion to reinstate his Motion to Strike and Dismiss. Inasmuch as the preliminary results indicated that well over half of the objections were sustained, the Candidate's motion was denied.

At the conclusion of the records examination and the subsequent review by the handwriting expert, the candidate had 511 signatures greater than the statutory minimum. To fully understand the validity rate of the sustained objections, it should noted that 1,256 signatures

were not challenged. In other words, the Candidate started the records examination with 1,256 presumptively valid signatures and ended the records examination with 1,833 valid signature.

Each party filed motions pursuant to Rule 8 of the Board's Rules of Procedure ("Rule 8 Motion"). Objector objected to the submission of the Candidate's Rule 8 Motion on the basis of the timeliness of the filing. Because Candidate offered no evidence in support of his Rule 8 Motion at the evidentiary hearing, the issue of the timeliness of the filing was moot.

### **EVIDENTIARY HEARING – THE OBJECTOR'S CASE**

At the evidentiary hearing, three witnesses were called to testify, Charles Holliday, Rickey R. Hendon and Warren Spencer.

#### **Testimony of Charles Holliday**

Objector first called Charles Holliday as a witness. Mr. Holliday testified that he was Voter Registration Manger for the Chicago Board of Election Commissioners. He further testified about the general procedures for records examinations and testified that he had been involved in records examinations for approximately 34 years. He was asked numerous questions about the conclusions he could draw from the results and he indicated that it was not his job to draw conclusions about the results of records examination. Mr. Holliday did testify that the number of sustained objections in this case, based upon his experience, would be considered high.

#### **Testimony of Rickey R. Hendon**

Objector next called Objector Rickey R. Hendon to testify. Mr. Hendon reviewed Exhibit 1 which was a walk sheet from one of the precincts in the 7<sup>th</sup> Congressional District and he gave testimony about his knowledge of "walk sheets" printed by the Chicago Board of Election Commissioners. Mr. Hendon testified that walk sheets are prepared for each ward and

precinct and that they are ordered first by house number, next alphabetically by last name and then alphabetically by first name. All of the walk sheets for the 7<sup>th</sup> Congressional District were submitted as Objector's Group Exhibit 3A. Mr. Hendon testified that he had years of experience in the circulation of petitions and that in his experience there is no way that validly collected signatures would ever be signed alphabetically, first by last name and then by first name.

Thereafter, various sheets were handed to Mr. Hendon and he offered his observation that several of the sheets were signed in alphabetical order and in some instances in alphabetical order first as to last name and then as to first name as well, exactly the same way the walk sheets are ordered. Hendon testified about sheets 200, 201, 317, 33, 72, 73 and 34 (Objector's Group Ex. 7), Sheet 151 (Objector's Ex 8), and several others submitted as Objector's Group Ex. 11 and 12. As Mr. Hendon testified and as this Hearing Officer takes judicial notice of, in the "real world" signatures are simply not collected that way.

#### **Testimony of Warren Spencer**

Objector next called handwriting expert and forensic document examiner Warren Spencer to testify. The Candidate was provided a copy of Mr. Spencer's curriculum vitae and raised no objections as to his qualifications and no objection to having him admitted as an expert. However, Candidate did raise the general objection to Mr. Spencer's testimony claiming he had no knowledge that Mr. Spencer was going to be called as a witness. In actuality, the Candidate did have prior notice that a handwriting expert was going to be called in that counsel for Objector so advised at a previous hearing. The Candidate further received written notice on January 13, 2016 via email sent by Andrew Finko to the Candidate and to this Hearing Officer, advising of his intent to call Mr. Spencer as a witness. Accordingly, the general objection to Mr. Spencer's testimony was overruled.

**Spencer's Testimony regarding the sheets circulated by Gerald Thomas**

As to the sheets circulated by Gerald Thomas ("Thomas"), Mr. Spencer testified that Exhibit 21 which contained sheets 27,28,29,522,534,536,450,451,452,488,520,1,4,60,59,58, 57,56,70, 69,68,67,169,167,188,186,246,312,331,369,403,390,391,420,405,406 and 407 evidenced that the same handwriting was contained on each of these sheets and supported his conclusion that **all** the signatures on each sheet were signed by **one** person.

As to sheets 12,13,15,14,446,461,41,42,535,532 (constituting Objector's Group Ex. 22), sheets 533,518,521,531,519 (constituting Objector's Group Ex. 23), sheets 32,33,34,35,507,508,510,511,513,514,484,486,469,31 (constituting Objector's Ex. 24) and sheets 3,11,512,2,515,516,464,459,465, 458,453,449 (constituting Objector's Ex. 25), Mr. Spencer testified that the sheets were highly suspicious and evidenced that less than 15 signers affixed their signatures to the sheets. In other words, according to Mr. Spencer, the same person signed at least more than once on each of these petition sheets.

**Spencer's Testimony regarding the sheets circulated by Felicia Harvey**

As to sheets circulated by Felicia Harvey ("Harvey"), Mr. Spencer testified that Objector's Group Exhibit 26 containing sheets 544,541,552,551,550,547,292,291,10,81, 74,75,54,55,20 evidenced that the same handwriting was contained on each of these sheets and supported his conclusion that **all** the signatures on each sheet were signed by **one** person.

As to sheets 50,49,47,46,25,24,23,21,19,9,8,48 (constituting Objector's Group Ex. 27), sheets 73,72,85,104,40,39,38,37,36,18,17,16,7,6,316,317,318,319,548,549,543,545,103 (constituted Objector's Group Ex. 28) and sheets 22,51,53,52,71,84,83,82,103,102,101,320 (constituting Objector's Group Ex. 29) Mr. Spencer testified that the sheets were highly suspicious and evidenced that less than 15 signers affixed their signatures to the sheets. In other

words, as with the Thomas sheets, Mr. Spencer concluded that the same person signed more than once on each of the above enumerated sheets of circulator Harvey.

**Spencer's Testimony regarding the sheets circulated by Vincent Rose**

The testimony offered by Mr. Spencer regarding certain sheets circulated by Vincent Rose ("Rose") was at times confusing and contradictory. Specifically, as it related to sheet 491,490,492 and 494, Mr. Spencer testified there was more individuality in the signatures although it appeared that less than 15 signers signed each of these sheets.

Mr. Spencer further testified that Objector's Group Exhibit 19 containing sheets 223,271,272,273,307,299,296, 491,489,447,448,449,473,472,471,470,444,445, 441,495, 539 and 493 evidenced that the same handwriting was contained on each of these sheets and supported his conclusion that **all** the signatures and each sheet were signed by **one** person.

**Testimony regarding the Candidate's Participation in fraudulent conduct**

Through testimony of the handwriting expert, Objector sought to introduce sample signatures of the Candidate in an effort to establish that certain distinct letters of the Candidate's signature bore an obvious resemblance to the letters contained in numerous signatures on the petition. Candidate objected to the introduction of this evidence as no allegation regarding the Candidate or his participation in the fraudulent circulation or signing was raised in the Objector's Petition. A review of the Objector's Petition established that the Candidate was correct. Inasmuch as the Candidate had no notice regarding the allegations concerning his conduct and said allegations were made for the first time at the hearing, Candidate was not afforded an opportunity to prepare a defect and the objection to the introduction of this evidence was sustained.

Finally, Objector sought to introduce Exhibits 4 and 5 which were, respectively, the

decision of this electoral board and the Hearing Officer's recommendation in a prior case involving the candidate, 15 CBEC MUN 02 decided on December 31, 2014. Objector alleged that the purpose of the submission was to establish that the Candidate was or should have been familiar with the petition process from his past experience and also to establish that the same or similar issues regarding the validity of the signatures was present in the prior case. Objector objected to the admission of Objector's Exs. 4 and 5 and the objection was sustained on the basis of relevance and that the submission could be unduly prejudicial to the Candidate.

**Testimony regarding Circulator Bishop Edward**

Additionally, through the testimony of Mr. Spencer, Objector sought to introduce Objector's Exs. 30 and 31, said exhibits being the sheets circulated by Bishop Edward. Objector attempted to introduce the exhibits to establish that Bishop Edward engaged in the same pattern of fraud and false swearing as circulators Thomas, Harvey and Rose. An objection was raised to the admission of evidence regarding the sheets circulated by Bishop Edward because the Objector's Petition failed to set forth any allegations regarding Bishop Edward. Objector argued that the case law on pattern of fraud issues required that the Board not close its eyes and ears to evidence of fraud when it comes to light during the course of the proceedings. In light of the fact that no specific allegation regarding Bishop Edward was raised in the Objector's Petition and that allegations made against Bishop Edward were raised for the first time at the hearing, Candidate had no prior opportunity to prepare a defense against the allegation, and the objection to the admission of the evidence was sustained.

**EVIDENTIARY HEARING – THE CANDIDATE'S CASE**

Notably, Candidate presented no evidence or testimony at the evidentiary hearing either in support of his Rule 8 Motion or in rebuttal.

### DISCUSSION

It is hard to envision a set of nominating papers that evidence a more contemptuous, flagrant and utter disregard of the Election Code than those submitted by Candidate Collins and Objector seeks strike all of the sheets circulated by circulators Harvey, Thomas and Rose. In his Objector's Petition, Objector alleges that circulators Gerald Thomas (who circulated sheets containing a total of 2,235 signatures), Felicia Harvey (who circulated sheets containing a total of 2,205 signatures) and Vincent Rose (who circulated sheets containing a total of 1,635 signatures) engaged in a pattern of fraud and false swearing. While the testimony of handwriting expert Spencer was helpful in providing details concerning the pervasiveness of the fraud, it was not essential as to many of the sheets of these circulators. Even to this lay person, it was abundantly clear that each of these circulators submitted sheet after sheet of signatures signed by one person and other sheets signed by far less than the number of purported signers and in many instances in alphabetical order as organized in the walk sheets. Given the condition of these sheets, there is no possibility that the circulators could have attested, in good faith, to the genuineness of the signatures they submitted.

It is well settled that when the sheets of a circulator evidence a pattern of fraud, false swearing and total disregard for the mandatory requirements of the Election Code, the sheets circulated by that individual should be stricken in their entirety. *Fortas v Dixon*, 122 Ill. App. 3d 697, 462 N.E. 2d 615 (1984), *Canter v Cook County Officers Electoral Board*, 170 Ill. App. 3d 364, 523 N.E. 2d 1299 (1988), *Huskey v Municipal Officers Electoral Board for the Village of Oak Lawn*, 156 Ill. App. 3d 201, 509 N.E. 2d 555 (1987), *Harmon v Town of Cicero Municipal Officers Electoral Board*, 875 N.E.2d 1111, 225 Ill. 2d 632 (2007). Moreover, as this Board has determined, where a circulator's affidavit is false and perjurious, evidencing a pattern of

fraud and false swearing, all signatures on those petition sheets should be invalidated. *Arrington v Jenkins*, 91-EB-ALD-083, CBEC, February 5, 1991. Further, this Board has found that where signatures on numerous sheets are similar and of common authorship, it is appropriate to strike the sheet in its entirety. *Smith v Jennings*, 99 EB-ALD-121, CBEC, January 28, 1999.

Additionally, when the sheets of a nominating petition submitted by purported circulators evidence a pattern of fraud, false swearing and total disregard of the Election Code, *all* sheets circulated by that individual should be stricken in their entirety. *Catherine and Streeter v Goodloe*, 99-EB-ALD-105, CBEC, February 2, 1999.

The sheets of the three circulators at issue establish that the invalid signatures submitted were not the result of inadvertent error or slight oversight. Nor were they even the result of culpable ignorance. They were the result of a flagrant and obvious attempt to thwart the mandatory provisions of the Election Code and simply cannot be countenanced. As previously indicated, the evidence clearly and undisputedly established, that many of the sheets were signed in the same hand, other sheets were signed by far less than the number of the purported signers and many of these sheets were signed in alphabetical order. It is the opinion of this hearing officer that each and every one of the sheets circulated by circulators Thomas, Harvey and Rose are wholly unreliable and should be stricken.

#### **Candidate's Failure to Present a Defense**

From the day the objections were filed, Candidate was on notice that the sheets of circulators Thomas, Harvey and Rose were at issue and that these circulators were alleged to have engaged in a pattern of fraud and false swearing. Candidate had more than ample time to prepare a defense regarding these circulators by obtaining affidavits of voters who signed the sheets, by producing affidavits of the circulators or by presenting the circulators to testify at the



hearing in support of their circulation process and in rebuttal to the evidence presented by the Objector. Candidate chose to take none of those acts and instead was silent after the presentation of the Objector's evidence. Moreover, at the conclusion of the hearing, the parties were asked to submit a written closing argument as well as a summary of information regarding the number of remaining signatures of these circulators on all sheets (set out in a manner requested by this hearing officer). Objector timely submitted the requested document. Candidate failed to file any written document as requested by this Hearing Officer. Indeed, Candidate's silence in presenting any kind of defense after having been a vocal and active participant in earlier proceedings, is deafening.

It is permissible and appropriate in this case to draw a negative inference from Candidate's failure to offer any evidence in rebuttal. Although the circulators were not subpoenaed to testify, their testimony was perhaps the only way the evidence of their purported fraud and false swearing could be rebutted. Without their testimony, the evidence submitted by the Objector stood unchallenged. Having failed to offer their testimony, a negative inference can be drawn therefrom. See, *Daniel v Daly*, 2015 IL App (1<sup>st</sup>) 150544, *Canter v Cook Country Officers Electoral Board*, 170 Ill. App. 3d 364 (1988).

**Objector's Failure to Raise Issues Concerning Circulator  
Bishop Edward and the Candidate**

As indicated above, the Objector argued at the hearing and again urged in his final written argument that evidence regarding purported fraud engaged in by Bishop Edward and the Candidate should be considered in the decision to invalidate the Candidate's nominating papers. While consideration of such evidence would not change the ultimate outcome here, it would however exceed the Board's authority. As the Court in *Solomon v Scholefield*, 2015 Il App (1<sup>st</sup>)

150685 established, an electoral board exceeds its authority when it invalidates nominating papers on a ground never raised by the objector in his objections. Therefore, there is no basis for considering evidence regarding the alleged participation of fraudulent conduct by Bishop Edward and the Candidate.

**Relevance of no recapitulation sheets for petition Sheets 1-50**

Whether by design or inadvertence, Objector submitted no recapitulation sheets in the appendix for sheets 1-50 of the nominating papers. Candidate claims that the result of this omission is that all evidence must be confined to sheets 51 and beyond. Candidate is mistaken and most certainly cannot claim surprise here. The Objector's Petition specifically sets forth allegations regarding all of the sheets circulated by Thomas, Harvey and Rose and it is entirely up to the Objector as to what evidence the Objector uses to prove his case. As indicated above, the unrebutted testimony of Warren Spencer was offered to support a finding of a pattern of fraud on certain of the first 50 petition sheets circulated by Thomas and Harvey.

It is abundantly clear from a simple review of the petition, the results of the records examination and the unrebutted testimony of handwriting expert Spencer that most, if not all of the sheets circulated by Thomas, Harvey and Rose evidence a pattern of fraud and false swearing and utter disregard for the requirements of the Election Code. As Objector correctly and persuasively urged, all of the sheets of these circulators must be stricken in order to preserve the integrity of the electoral process.<sup>1</sup>

Whether the first 50 sheets of the circulators are considered, the ultimate result is the same. Without consideration of the remaining signatures in the first 50 sheets of the nominating papers, the total purportedly valid remaining signatures of each circulator was as follows: Of the

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<sup>1</sup> In Objector's written argument, he requests that "this matter and all transcripts be referred to the State's Attorney's Office and Police Inquiry Board for further investigation" Such request is beyond the scope of authority vested in this hearing officer and the request therefore could not be considered.

2,235 signatures circulated by circulator Thomas, 207 purportedly valid signatures remained. Of the 2,205 signatures circulated by circulator Harvey, 287 purportedly valid signatures remained. Of the 1,635 signatures submitted by circulator Rose, 233 valid signatures remained. For the reasons set forth above, all of the remaining signatures in sheets 51-552 should be stricken, leaving the candidate 216 below the statutory minimum number of signatures required for placement on the ballot.

In the first 50 pages of the nominating papers, 375 signatures remained on circulator Thomas' sheets, and 375 signatures remained on circulator Harvey's sheets. (No sheets in the first 50 sheets of the nominating papers were circulated by Vincent Rose.) Given the blatant, pervasive and egregious nature of the improprieties committed by circulators Thomas and Harvey, the remaining signatures submitted by Thomas and Harvey, totaling 750 should also be stricken, thus leaving the Candidate 966 below the statutory minimum for placement on the ballot.

### CONCLUSION

In light of the foregoing, it is my recommendation that the objections of Rickey R. Hendon to the nominating papers of Frederick Collins be **sustained** and that the nominating papers of Frederick Collins for the Democratic nomination to the office of U.S. Representative in the United States Congress for the 7<sup>th</sup> Congressional District be deemed **invalid** and that the name of Frederick Collins for said office **not be** printed on the ballot at the March 15, 2016 General Primary Election.

Respectfully submitted,



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Barbara Goodman, Hearing Officer  
1/19/16