

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

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Objections of: Jacqueline Baez and Ezequiel Lopez )  
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 To the Nomination ) No.: 16-EB-RGA-02  
 Papers of: Joaquin Vazquez )  
 ) Rel.: 16-EB-RGA-03  
 Candidate for the nomination of the )  
 Democratic Party for the office of )  
 Representative in the General Assembly for the )  
 3rd Representative 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 Jacqueline Baez and Ezequiel Lopez (“Objectors”) to the nomination papers (“Nomination Papers”) of Joaquin Vazquez, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 3rd Representative District for 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 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 14, 2015 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Christopher 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, Jacqueline Baez and Ezequiel Lopez, by their attorneys, Thomas A. Jaconetty, Michael Kasper and Pericles Abbasi; and the Candidate, Joaquin Vazquez, by his attorney, John Spina.

7. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled; however, the Hearing Officer's recommendation (and the Electoral Board's final decision) in related case 16-EB-RGA-03 found that the Candidate's Nomination Papers are invalid.

8. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's

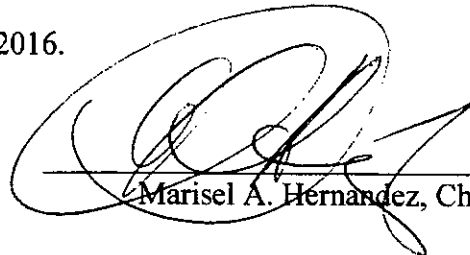
recommended findings and conclusions of law. A copy of the Hearing Officer report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

9. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers.

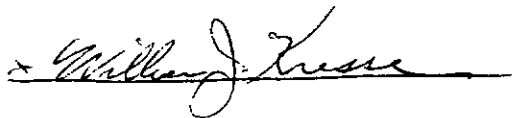
10. The Electoral Board finds that this case is mooted by virtue of the decision rendered by the Electoral Board in related case 16-EB-RGA-03, wherein the Candidate's Nomination Papers were found to be invalid.

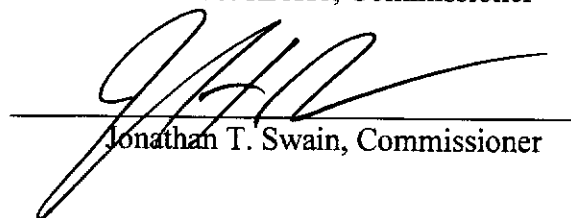
IT IS THEREFORE ORDERED the name of Joaquin Vazquez, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 3rd Representative District of the State of Illinois, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 15, 2016.

Dated: Chicago, Illinois, on January 19, 2016.

  
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Marisel A. Hernandez, Chairman

I DISSENT.

  
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William J. Kresse, Commissioner

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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**

Objections of	)	
Jacqueline Baez and Ezequiel Lopez	)	
	)	
To the Nomination Papers of	)	No. 16-EB-RGA-02
Joaquin Vazquez	)	
	)	Related Case
Candidate for the Nomination of the Democratic Party for the	)	16-EB-RGA-03
Office of State Representative in the General Assembly of	)	
the 3 <sup>rd</sup> Representative District, State of Illinois at the	)	
2016 Primary Election	)	

**HEARING OFFICER'S RECOMMENDED DECISION**

This matter came before the Chicago Board of Election Commissioners ("Board") sitting as the Duly Constituted Electoral Board on the Objectors' Petition ("Objections") of Jacqueline Baez and Ezequiel Lopez ("Objector") to the Nomination Papers of Joaquin Vazquez ("Candidate") Candidate for the Nomination of the Democratic Party for the Office of State Representative in the General Assembly of the 3<sup>rd</sup> Representative District, State of Illinois at the March 15, 2016 Primary Election. The Board appointed Attorney Christopher B. Cohen as Hearing Officer for this case. The Hearing Officer finds and recommends as follows:

1. The Candidate timely filed Nomination Papers with the Illinois State Board of Elections. The Objector timely filed Objections to the Candidate's Nomination Papers.
2. This Board is the duly constituted Electoral Board for hearing and passing on objections to Nomination Papers for the office that is the subject of these proceedings.
3. Objectors' Verified Petition in this matter alleged that the Candidate's Nomination Papers were insufficient in fact and law for the following reasons: (¶3) some signers were not registered at the address shown; (¶4) some signers' signatures were not genuine; (¶5) some signers resided outside the District; (¶6) the address of some signers was missing or incomplete; (¶7) some signers signed more than once (¶8) circulator Jonathan Delgado did not reside at the address shown; (¶9) circulator Antonio Gill did not reside at the address shown; (¶10) circulator Jerry Glenn did not reside at the address shown; (¶11) circulator Venicia Colbert did not reside at the address shown; (¶12) the signature of circulator Lawaune Bell was not genuine; (¶13) the signature of circulator Vanity Woods was not genuine; (¶14) the signature of circulator Timothy Norcross was not genuine; (¶15) the signatures of circulator Jerry Glenn were not genuine; (¶16) circulators Lawaune Bell, Vanity Woods, Timothy Northcross and Jerry Glenn did not appear before a notary; and (¶16) they contained fewer than the required minimum of 500 valid signatures.
4. On December 14, 2014, the Board's Hearing Officer began a public hearing regarding the Objections in the nature of a case management conference at 69 W. Washington, Chicago, Illinois. Those proceedings and subsequent proceedings held on December 18 and 28, 2015

and January 7, 12, 13 and 14, 2016 were all recorded for transcription by a court stenographer. Also present on each of those dates was this Board's Clerk.

5. At the December 14, 2014 hearing, the Candidate appeared not personally but by his attorney, John Spina and the Objector appeared not personally but by counsel, Thomas Jaconetty, Michael Kasper and Pericles Abbasi. The Board's official file contained the Nomination Papers of the Candidate and the Objections of the Objectors. The file also included Proofs of Service, Appearances, Non-Disclosure Agreements and Waivers of Service – all of those items from each party.
6. On their respective Appearance forms, each attorney agreed to accept service of pleadings and other documents and notices by email. The Hearing Officer made available to each party a copy of the Rules this Board had adopted earlier the same day as well as a one-page explanation of changes to those Rules.
7. During the December 14, 2014 hearing, the Candidate asked the Hearing Officer to require Objector to make a preliminary showing that certain of the Objectors' allegations in the Objections were pled in good faith. After oral argument, the Hearing Officer requested written pleadings. The Candidate announced he would be filing a preliminary motion. The Hearing Officer set the dates and times for filing pleadings in writing with argument on those pleadings to begin at 2 pm, December 18, 2015.
8. Each side requested a Records Examination pursuant to Board Rule 6. After conferring with Charles Holiday, the Board's Records Examination Assignment Officer, the Hearing Officer signed an order directing that a Records Examination be conducted by Board staff beginning 10 am, December 21, 2015 for both this case -- RGA-02 -- and also for related case RGA-03 where the Objectors are different but the Candidate is the same. Neither party requested subpoenas at this time. The Hearing Officer then continued the matter until 2 pm, December 18, 2015 for argument on the Candidate's Motion and for other appropriate proceedings.
9. At the reconvened hearing December 18, 2015, neither Objectors nor the Candidate appeared personally but each appeared by counsel.
10. The Candidate argued his previously filed Motion to Strike and for a preliminary showing that the Objections were pled in good faith.
11. The Candidate alleged that
  - 10 ILCS 5/10-8 mandates that Nomination Papers such as those of this Candidate shall be valid unless objections are made; and
  - Objectors' Petition failed to state fully the nature of the objections to the Candidate's Nominating Papers as required by 10 ILCS 5/10-8; and
  - The Board's Rule 8 states that the Objector has the burden of proving allegations in the Objectors' Petition; and
  - Objectors had not introduced any evidence contrary to the Candidate's Nomination Papers; and
  - Some of Objectors' allegations are unsupported and they must at a minimum provide a good faith factual basis for those allegations; and
  - It is the Objector, not the Candidate, who must submit sufficient factual evidence to sustain the Objection; and

- The Objector must make a preliminary showing that allegations are pled in good faith based on knowledge, information and/or formed after reasonable inquiry; and
- Objections in specific paragraphs should be stricken; and
- This Board's Rule 1 (b) (xv) states:

The Electoral Board may, on its own motion or upon motion of a party, require the objector to make a preliminary showing that certain of the factual allegations in the Objectors' Petition are pled in good faith based on knowledge, information and/or belief formed after reasonable inquiry and strike any objection or any portion of an objection if it determines that the objection does not meet the requirements set forth in 10 ILCS 5/10-8 or is not well grounded in fact and/or law. Objections to individual signers and/or circulators must consist of a specific objection or objections to that particular signer or circulator.

12. The Candidate's Motion further alleged that this Board's Rule 8 (b) reads, in pertinent part, as follows:

Burden of proof. With regard to the substance of the objections, generally the objector must bear the burden of proving by operation of law and by a preponderance of the relevant and admissible evidence ("the burden of proof") that the objections are true and that the candidate's nomination papers or the petition to submit a public question is invalid. If fraud is alleged, it must be proved by clear and convincing evidence.

13. The Objector argued that:

- In a motion to strike, pleadings are to be construed in the light most favorable to the non-moving party; and
- The Objections do fully state the nature of the objections as the statute requires; and
- The allegations in the objections are clearly stated; and
- The Board rule does not require a "showing" but rather a "stating"; and
- The Objections were verified under oath,
- The Objectors stated under penalty of perjury that each had read the Objectors' Petition and the information in it was true and correct to the best of his knowledge; and
- At the prior hearing, Objectors reiterated the good faith basis of their allegations and made an offer of proof to that effect; and
- The Objectors' investigation continues; and
- There is no evidence that Objector made any misrepresentations in the Petition or Verification; and
- Consequently, there is no reasonable basis to hold an Evidentiary Hearing on these issues; and
- The Candidate's Motion to Strike should be denied.

14. In evaluating the pleadings, the Hearing Officer considered each of the allegations and arguments as well as the offers of proof and the lack of other evidence. In overruling and dismissing the Candidate's Motion, the Hearing Officer found and concluded that

- The Objectors' Petition did not fail to state fully the nature of the Objections; and
- Under penalty of perjury, the Objectors verified that they had read the Petition and that the information in it was true and correct to the best of their knowledge; and

- An Objector does have the burden of proof at a Rule 8 Evidentiary Hearing which had not yet taken place; and
  - Whether the signatures in the Candidate's Nominating Papers are valid and are those of registered voters will be reviewed in the Records Examination and at the time when the Rule 8 Evidentiary Hearing takes place; and
  - As of this stage in the proceedings, no evidence has been presented that Objector's allegations were not made in good faith; and
  - No Rule 1 (b) (xv) hearing is required in this factual instance to show that allegations are pled in good faith based on knowledge, information and after reasonable inquiry.
15. In his analysis of the Candidate's argument regarding newly adopted Board Rule 1 (b) (xv), the Hearing Officer took official notice of a memorandum drafted by the Board's General Counsel and directed to All Electoral Board Parties entitled "Chicago Board of Election Commissioners' Electoral Board Rules of Procedure – Explanation of Changes. This Explanation dated December 14, 2015 states in part:
- Rule 1 (b) (xv) is amended to provide that the Electoral Board may require an objector to make a preliminary showing that certain of the factual allegations in the Objectors' Petition are pled in good faith based on knowledge, information and/or belief formed after reasonable inquiry. **This expressly states what has been the approach taken by the Board in prior electoral board proceedings.** (emphasis added).
16. From his own experience in ruling on preliminary hearing requests in prior electoral board proceedings and in evaluating prior Board decisions in factual situations similar to the instant one, the Hearing Officer concluded that the factual allegations in this Objectors' Petition met the Board's prior standard for being pled in good faith and that the Board had not found a lack of good faith in similar fact situations prior to amending the Rule. He concluded that the facts here did not require such an inquiry pursuant to Rule 1 (b) (xv) as amended.
17. The Hearing Officer found that the Objections in both RGA-02 and RGA-03 stated some grounds which, if accepted as true, would invalidate part or all of the Candidate's Nomination Papers.
18. As a consequence, the Hearing Officer denied the Candidate's Motions on the basis that there was insufficient legal and factual support for the Candidate's argument at this point in the proceedings. The Hearing Officer recommends that the Board overrule and dismiss the Candidate's Motions, that the Records Examination continue to its conclusion and that the parties be provided the opportunity to decide if either needs or wants to request a Rule 8 Evidentiary Hearing.
19. At this point on December 18, 2015, Board staff indicated that the Records Examination had not yet concluded. The Hearing Officer also reminded the parties that subpoenas would not be issued for Board Records, that Requests for Board Documents would have to be approved by the Hearing Officer and by the General Counsel, and that the Board did not serve subpoenas. The Hearing Officer continued the matter for further proceedings until 2:30 pm, December 28, 2015.

20. At the reconvened hearing December 28, 2015, neither Objectors nor the Candidate appeared personally but each appeared by counsel. The Hearing Officer and the parties confirmed receipt by the parties of a Final Petition Summary Report from the Rule 6 Records Examination. It showed the Candidate with 537 valid signatures in RGA-02 and 511 in RGA-03. Each number at this point was greater than the required minimum of 500.
21. The parties confirmed that each had requested a Rule 8 Evidentiary hearing for both 16-EB-RGA-02 and 16-EB-RGA-03 and that each had requested multiple subpoenas and Requests for Board Documents.
22. After discussions between the parties about how to proceed with the overlapping issues in these two related cases and challenges in the Rule 8 Hearings, the Hearing Officer continued the matter for an Evidentiary Hearing on January 13 and 14, 2016.
23. At 4 pm, December 29, 2015, a case management telephone conference call including Attorneys John Spina, Thomas Jaconetty and Pericles Abbasi took place with the Hearing Officer. The upcoming hearing dates for both 16-EB-RGA-02 and 16-EB-RGA-03 were discussed. Both cases were advanced and rescheduled to 3:30 pm, January 7, 2016 and 11:30 am, January 12, 2016. The January 13 and 14 dates were confirmed – each to begin at 9:30 am. Out of District allegations and signatures not signed before a notary will begin January 7. The Hearing Officer filed a report pursuant to Rule 4 (e) (vii) (2) (a).
24. At the first day of the Rule 8 hearing January 7, 2016, neither Objectors nor the Candidate appeared personally. Each appeared by counsel. Because of the amount of overlap, the parties and the Hearing Officer agreed that hearings would be consolidated in order to take evidence in both 16-EB-RGA-02 and 16-EB-RGA-03.
25. After discussion, the parties agreed and the Hearing Officer then ordered that the deadline for exchange of affidavits to rehabilitate or to attack signatures in both RGA-02 and RGA-03 was set as 10 pm, 1/11/16.
26. The parties then discussed the significance of the Board document entitled "Final Petition Detail Report Including the Results of the Handwriting Expert" hereinafter ("Detail Report"). This Detail Report was prepared after the Board's staff members and handwriting expert conducted a line-by-line examination of the nominating petitions. The parties and the Hearing Officer confirmed that if there are multiple final decisions by Board staff and the Handwriting Expert in the box entitled "New Ruling" which relate to one sheet and line number, the existence of only one or of more than one "Sustain" decision means the "Sustain" controls and the signature does not count towards the Candidate's total.
27. On January 7, Objectors presented evidence regarding their allegations that certain identified petition signers provided addresses which were outside the 3<sup>rd</sup> Representative District and therefore, if proven, the signatures would not count towards the Candidate's total needed to get on the ballot.
28. Charles Holliday testified regarding split precincts and the timing of corrections made to Board records on January 2, 2016 after the Board produced records on December 28, 2015. One of the Candidate's notaries, Notary Christopher Robinson, testified about the process by which he sought photo identification and identified circulators before notarizing their sheets.



29. At the end of the January 7 hearing day, after the Hearing Officer's rulings on Rule 8 out-of-district allegations and after challenges regarding signatures not signed in front of a notary, there were 14 fewer valid signatures in RGA-02 and 21 fewer valid signatures in RGA-03. The results were as follows:

Case number	<u>RGA-02</u>	<u>RGA-03</u>
Detail Report result after Rule 6 Exam	537	511
Change due to 1/7/16 Hearing Officer Rule 8 rulings	<u>-14</u>	<u>-21</u>
Valid signatures as of end of 1/7/16	523	490

30. The consolidated hearing was continued to 11:30 am, January 12, 2016 for further Rule 8 proceedings.
31. At the reconvened hearing January 12, 2016, neither Objectors nor the Candidate appeared personally but each appeared by counsel. By prior agreement among the parties, this day's affidavits were brought by the Candidate.
32. Each of several notaries including Conception Navarrete, Vera Bell, Madeline Sanders and Christopher Robinson testified about details of how s/he identified and verified the identity and residence of circulators of petition sheets prior to that particular notary notarizing the circulators' affidavits.
33. The Candidate also moved to introduce affidavits by signers for specific sheet and line numbers. Attached to each affidavit was a photocopy of the sheet on which the affiant's purported signature appeared. Objectors objected to introduction of Candidate affidavits as hearsay and because the affiants did not swear that they had signed in their own proper person.
34. In overruling Objectors' oral objection against admission of Candidate-offered affidavits, the Hearing Officer took official notice that Board Rule 1 (b) and sub paragraph (x) provide the Electoral Board with all powers necessary to conduct a fair hearing and to consider documents, affidavits and oral evidence. Attention was called to Rule 10 (c) which clearly states that the Board:

[m]ay consider all evidence relevant to the issues presented by the objections, including, but not limited to, documentary evidence, affidavits and oral testimony. Affidavits may be considered in determining whether signatures found not to be genuine during a records examination are, in fact, the genuine signatures of those signing the petition.

35. During the January 12 hearing, the Candidate submitted the affidavits one-by-one. They purported to be from registered voters in the 3<sup>rd</sup> Representative District who had signed the petitions. They were presented in order to rehabilitate signatures found to be not valid during the Records Examination or to counter the Objector's Rule 8 allegations. The affidavits contained the person's name, address, ward, precinct as well as sheet and line where s/he purportedly signed the Candidate's Petition. The affidavits contained a line for the affiant's printed name and a line where the affiant was to put his or her signature.
36. The Hearing Officer and the parties had before them the line-by-line findings of the Board's Detail Report. In conducting his factual inquiry, the Hearing Officer reviewed and considered

decisions by Board staff in the Detail Report, decisions by the handwriting expert also in the Detail Report, the signature and printed name on each affidavit, the signature and printed name on the Board's voter registration card or other signature document and the printed name and signature on the Candidate's Petition.

37. At the end of the January 12 hearing day, after the Hearing Officer's rulings on affidavits to rehabilitate individual signatures the Candidate gained 82 signatures in RGA-02 and 89 signatures in RGA-03. Results were as follows:

Case number	<u>RGA-02</u>	<u>RGA-03</u>
Detail Report result after Rule 6 Exam	537	511
Change due to 1/7/16 out-of-district rulings	<u>-14</u>	<u>-21</u>
Valid signatures as of end of 1/7/16	523	490
Signatures rehabilitated by affidavit	<u>+82</u>	<u>+89</u>
Valid signatures as of end of 1/12/16	605	579
Minimum signatures required	<u>500</u>	<u>-500</u>
Signatures more than minimum as of end of 1/12/16	105	79

38. The consolidated hearing for RGA-02 and RGA-03 was continued to 9:30 am, January 13, 2016 for further Rule 8 proceedings.
39. At the reconvened hearing January 13, 2016, neither Objectors nor the Candidate appeared personally but each appeared by counsel. Circulator Jerry Glenn was the first witness to testify. He testified credibly that the handwriting of the signatures on the petition sheets he circulated was his signature. Mr. Glenn swore that for all 23 of the circulator affidavits he signed, he was older than 18, a citizen of the United States and that the signatures on the 23 sheets were signed in his presence.
40. Jerry Glenn appeared pursuant to subpoena. He testified that at the time he circulated petition sheets for the Candidate and at the time he signed the circulator's affidavit before a notary – October 21 and November 4, 2015 – he resided at 180 Prairie Avenue Apartment B, Wilmette, Illinois 60091. He produced his state identification card and testified that he put his Wilmette address on all 23 of the circulator's affidavits because it was the address on his ID card. Mr. Glenn testified that since signing the circulator's affidavits before notary Christopher Robinson he renewed his state ID, again using the Wilmette address as his own.
41. Under cross-examination, circulator Glenn admitted that at one point his roommate had moved out, that his landlord had filed an eviction suit and that on October 21 and November 4, 2015, he was living with his mother in Matteson, Illinois. He testified under oath that he did not reside or sleep at the Wilmette address during a period that included September 1 through November 4, 2015 inclusive. He testified that his mother filed a change of address form for him with the US Postal Service.
42. Objectors introduced an Order of Possession entered in a Cook County Circuit Court eviction case dated May 28, 2015 which stayed until June 4, 2015 this Order for Mr. Glenn to be out of the Wilmette apartment. Witnesses subpoenaed by the Objectors including Gerald Buster and Charles Seigan testified that Glenn did not live at that address after the summer of 2015 including during the time period he circulated petitions or on the dates they were notarized. Mr. Seigan also testified that he has lived in apartment B since July 15, 2015. Objectors

introduced a certified copy of records from the Cook County Clerk showing that on May 8, 2014 Mr. Glenn registered to vote from 4300 Lindenwood, Matteson, Illinois 60443.

43. At Objectors' request, the Hearing Officer took official notice of the 2016 Election Calendar found on this Board's website that the first day for Established Political Party Candidates to circulate nominating petition sheets was Tuesday, September 1, 2015.
44. Circulator Vanity Woods did not appear to testify. The Hearing Officer compared an exemplar of her signature from this Board's records with the signature on her purported circulator's affidavit and made a finding that the latter signature was not valid. The Hearing Officer sustained ¶13 of Objectors' Objection in RGA-02 and recommends that the Board make the same finding and also sustain ¶13. The parties agreed that this ruling did not and would not result in changing the number of valid signatures for the Candidate, because objections to all 4 signatures on the one petition sheet she circulated had already been sustained in the Board's Detail Report.
45. Also at the January 13, 2016 hearing, the Objectors in RGA-02 announced they would not be proceeding on or presenting evidence regarding ¶15 of their Objection which challenged the genuineness of Jerry Glenn's signatures on the circulator's affidavits.
46. Circulator Timothy Northcross, a Chicago Fireman, testified in person. The Hearing Officer reviewed and compared the signature on his Illinois driver's license, the signatures on petition sheets Mr. Northcross swore he circulated and the computer-stored data on his voter records from this Board including his written and printed signature. Noting that the birth year on Mr. Northcross' driver's license differed from the birth year on his voter registration information, the Hearing Officer asked the Board for clarification. Board employee John Powell located and produced a record indicating that on a prior date the Board had corrected its records. The birthdate on the Board's current corrected record was the same as the birthdate on the current driver's license that Mr. Northcross had produced. The Hearing Officer made a finding contrary to and overruled ¶14 of the Objectors' Objection in RGA-02. It alleged that Mr. Northcross did not sign circulator affidavits for petition sheets 27, 39, 62 and 128 in his own proper person. The Hearing Officer recommends that the Board make a similar finding and overrule ¶14.
47. Objectors in RGA-02 also announced they would not be proceeding on or presenting evidence regarding the first ¶16 of their Objection (It contained two ¶¶16) which alleged that circulators Lawaune Bell, Vanity Woods and Timothy Northcross did not appear before a notary. The substance of this paragraph was not alleged in RGA-03.
48. At this point, the Candidate sought to introduce 13 affidavits in which petition signers swore that their signatures were genuine. These affidavits were similar in form to those the Hearing Officer had ruled on to rehabilitate 82 signatures in RGA-02 and to rehabilitate 89 signatures in RGA-03. The Objectors in RGA-02 and RGA-03 objected to these affidavits on the grounds that they were served and exchanged after the Hearing Officer's deadline of 10 pm, January 11, 2016.
49. The Candidate argued that there was no prejudice to the Objectors, that the Objectors had not tendered any affidavits of their own, that all sheet and line numbers to which the affidavits were a response appeared in the Candidate's timely filed Rule 8 Motion and that this is a ballot access issue. Objectors called attention to an email from the Candidate's

attorney at 10:10 pm on January 11, 2016 which remarked that the 10 pm deadline had passed and that he had not received any affidavits from Objectors in either RGA-02 or RGA-03.

50. In response to the Candidate, Objectors argued that fairness requires mutual exchange, that the deadline was agreed to by the parties on the record, that the order was entered by the Hearing Officer, that the purpose of the deadline was so that the opposing party could respond, that this was a case management decision and that each side has to obey deadlines equally. The Objectors also noted that unlike affidavits previously introduced by the Candidate, all blanks above the signature line on the form were filled in by the same hand. Objectors continued to object but made an oral motion that if admitted into evidence, these affidavits should not be given the same weight as those previously introduced by the Candidate.
51. Citing the 10 pm deadline on January 11, 2016, the Hearing Officer denied the motion to admit the Candidate's 13 affidavits in both RGA-02 and RGA-03.
52. The Candidate then noted that there were sheet and line numbers in his Rule 8 Motions for which he had not submitted affidavits and which had not been ruled on by the Hearing Officer. With respect to the sheet and line numbers not yet ruled on, the Candidate made a motion that the Hearing Officer review and compare the decisions by Board staff and the handwriting expert in the Detail Report with the signature and printed name on the Board's voter registration card and with the printed name and signature on the Candidate's petition sheets.
53. The Candidate argued that his affidavits had rehabilitated at least 90 signatures between both cases and that it was more likely than not that given the number of handwriting-expert decisions the Candidate had overturned previously, errors by that expert would be found based on these new reviews. The Candidate argued that Rule 8 does not prohibit his motion. The Objectors argued that because no new evidence was available, this would result in a *de novo* review of the same evidence previously available for the Rule 6 Records Exam and that such a "do over" was not appropriate.
54. After argument by the parties, the Hearing Officer denied the motion with respect to both RGA-02 and RGA-03. He stated that with no new evidence to consider, this would be a *de novo* Record Examination review, that a *de novo* review is not authorized or contemplated by Rule 6 or elsewhere by the Board Rules, that in the absence of affidavits or other extrinsic evidence there is no precedent for this "do over" type of review, that absent other new evidence that was not previously available to the handwriting expert, the Hearing Officer does not believe there is a compelling or sufficient basis to overrule the handwriting expert, that without new information, it is speculative how close or how far the Candidate would be from meeting the minimum signature requirement. The Hearing Officer concurred with the Recommended Decision in *Robinson v Jackson* 15-EB-ALD-112 (CBEC, 2015) which was adopted by this Board. In that Recommendation, the Hearing Officer found that

No basis was presented, either in fact or in law, that would have justified the request for either a) a re-review by the Board's independent signature expert or b) for a review by the Hearing Officer of the decision by that independent expert in which the Hearing Officer would have been asked to substitute his judgment for that of the Board's independent expert.

55. When making his recommended ruling, the Hearing Officer indicated that he agreed with the concept expressed elsewhere that filing deadlines, like statutes of limitations, can operate harshly and are inherently arbitrary with respect to individuals who are on the other side of them, but if the concept of a filing deadline is to have any content, it must be enforced. A less rigid standard could risk encouraging a lax attitude toward filing dates.
56. The consolidated hearing for RGA-02 and RGA-03 was continued to 10:30 am, January 14, 2016 for further proceedings.
57. At the reconvened hearing January 14, 2016, neither Objectors nor the Candidate appeared personally but each appeared by counsel. When reviewing the case status, the parties confirmed that the Candidate had 605 valid signatures in RGA-02 and 579 valid signatures in RGA-03.
58. Each of the parties requested the opportunity to provide legal memoranda regarding the validity of signatures collected by Jerry Glenn. The parties indicated that each agreed that the petition sheets circulated by Jerry Glenn contained 83 valid signatures. The Hearing Officer set the filing deadline as 7 pm, January 15, 2016. The in-person hearings were concluded. No new hearing date was set.
59. The Candidate and Objectors filed memoranda of law in RGA-02 and RGA-03 which the Hearing Officer reviewed in detail. After consideration of the arguments and citations in each memorandum, the Hearing Officer concludes that 10 ILCS 5/7-10 contains a mandatory requirement that the circulator provide the address at which he resides and certify to that information before some officer authorized to administer oaths in this State.
60. Evidence adduced in these proceedings establishes clearly and convincingly that Mr. Glenn knowingly signed a false statement before a notary – Christopher Robinson – above the notary's statement "Subscribed and sworn to before me..." The evidence in this fact situation does not allow for exercise of the Hearing Officer's discretion or permit a standard of substantial compliance. The Hearing Officer finds and recommends that the Board also find that Mr. Glenn's sworn certification was not truthful and was sworn to falsely. As a result, all of the signatures on all petition 23 sheets which contain his false certification are invalid.
61. This Board has faced a similar situation and held that evidence indicating that a circulator's affidavits are false and perjurious is evidence of a pattern of false swearing and invalidates all signatures on those petition sheets. See *Arrington v. Jenkins*, 91-EB-ALD-083, CBEC, February 5, 1991.
62. After subtracting the 83 previously valid signatures found on the petition sheets circulated by Jerry Glenn, the Hearing Officer finds that the Candidate's Nomination Papers contain 522 valid signatures in RGA-02 and 496 valid signatures in RGA-03.

## **ANALYSIS**

63. The Hearing Officer finds and recommends that after the Evidentiary Hearings the Candidate's Nominating Papers contained 522 valid signatures in RGA-02 which is 22 greater than the required minimum of 500 and 496 valid signatures in RGA-03 which is 4 fewer than the required minimum of 500.

## RECOMMENDATIONS

It is the Hearing Officer's recommendation that the Objections in this case, 16-EB-RGA-02, be overruled.

However, in light of the Hearing Officer's recommendations in related case 16-EB-RGA-03 that the Objections in that case be sustained and that the Candidate's Nomination Papers be declared invalid, the Candidate's name will not appear on the ballot for the Nomination of the Democratic Party for the Office of Representative in the General Assembly of the 3rd Representative District, State of Illinois, at the March 15, 2016 Primary Election.

Respectfully submitted,



Christopher B. Cohen  
Hearing Officer  
January 16, 2016