

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

Objections of: Eda Xian)	
)	
)	
To the Nomination)	No.: 16-EB-WC-19
Papers of: Antonio 'Tony' Munoz)	
)	
Candidate for the office of Democratic Party)	
Ward Committeeman for the 12th Ward, City)	
of Chicago)	

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 Eda Xian (“Objector”) to the nomination papers (“Nominating Papers”) of Antonio 'Tony' Munoz, candidate for the office of Democratic Party Ward Committeeman for the 12th Ward of the City of Chicago (“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 Eileen Letts for further hearings and proceedings.

6. The Objector 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 Objector, Eda Xian, by his attorney, James P. Nally PC; the Candidate, Antonio 'Tony' Munoz, by his attorneys, Michael Kasper and Kevin Morphew.

7. The Hearing Officer has tendered to the Electoral Board her report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be dismissed and that the Nomination Papers be declared valid in that the Candidate filed a motion to strike and dismiss the Objector's Petition, alleging that such petition is a "shot gun" objection lacking any factual basis and were not pled in good faith.

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.

9. The Electoral Board finds that the Candidate filed nomination papers with 58 petition sheets containing approximately 1,120 signatures. Due to the statutory maximum, only

the first 750 signatures may be considered. See Rule 11 of Electoral Board's Rules of Procedure. The Objector's Petition contained objections to the genuineness of 749 of the 750 signatures on the petitions, contending that each and every such signature is not genuine. The Electoral Board finds that these objections were not made as the result of a reasonable inquiry or investigation of the facts and were not made in good faith. The Electoral Board finds, that this Petition has all the characteristics of a "shot gun" objection. See, e.g., *Young-Curtis v. Lyle*, 03-EB-ALD-139 (CBEC 2003); *Prince v. Colvin*, 08-EB-RGA-33 (CBEC 2007); *McCarthy v. Pellett*, 04 EB-WC-04 (CBEC 2004); *Derengowski v. Lamm*, 96-EB-RGA-1, (CBEC 1996), affirmed *Derengowski v. Electoral Board of City of Chicago*, 96 CO 16 (Cir. Ct. Cook Co. 1996).

10. Objector has argues that she is not even required to plead a "pattern of fraud," citing *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1984). The Objector's entire "pattern of fraud" allegation is found in paragraph 6 of the Objector's Petition, wherein Objector states: "The Nomination Papers contain numerous sheets circulated by individuals whose sheets *may* [italics added] demonstrate a pattern of fraud and disregard of the Election Code to such a degree that every sheet circulated by said individuals in [sic] invalid, and should be invalidated in order to protect the integrity of the electoral process. Such circulators are those who circulated the sheets in which objections are made in Columns A and F of the Appendix-Recapitulation. Specifically, but without limitation, the disregard of the Election Code evidenced by the actions of those circulators includes the submission of voters' signatures which were not signed by the voters in their own proper persons, and signatures of persons that were not signed in the presence of the purported circulator. These actions also include, without limitation, persons signing petitions as duly qualified voters multiple times." Column A of the Objector's Appendix-Recapitulation is titled, "Signer's signature not genuine" and Column F is titled,

“Signer’s signature printed but not written Not genuine.” As noted earlier, the Objector objected to 749 of the Candidate’s first 750 signature by marking Column A.

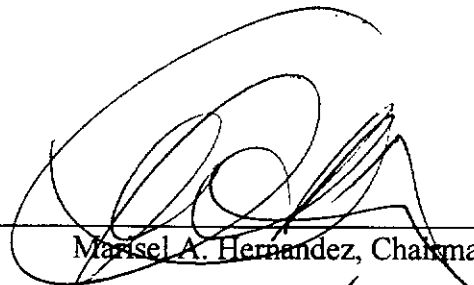
11. As explained in the Objector’s supplemental filing in support of her subpoena request, the Objector’s “pattern of fraud” argument is that for the three petition circulators for whom subpoenas were sought, a substantial number of signatures found to be NOT genuine during the records examination for the petition sheets they circulated “calls into question a pattern of fraud and false swearing on the circulators oath, that in fact the signatures were forged or not signed in their presence.” Objector points to the fact that 30% of the signatures on three petition sheets circulated by one circulator were found not genuine during the records examination, 40% of a second circulator’s four petition sheets were found not genuine, and 40% of a third circulator’s seven petition sheets were found not genuine. The Objector is attempting use these results of the records examination to bootstrap a pattern of fraud allegation.

12. This Electoral Board has previously ruled that objections that allege a “pattern of fraud” but fail to specify the conduct that gives rise to the pattern of fraud or what sheets and lines evidence the pattern lacks sufficient specificity to put the candidate on notice of the purported deficiency and as such deprives the candidate of an opportunity to prepare a defense. *Davis v. Hendon*, 02-EB-SS-09 (CBEC 2002). Moreover, the Electoral Board has in the past refused to find fraud or a pattern of fraud solely on the basis of record examination results even when the result of the record examination revealed that the number of sustained objections was almost 60%. See *Delk v. Brooks*, 07-EB-ALD-086 (CBEC 2007). See also, *Crossman v. Montes*, 12-EB-SS-07 (CBEC 2012), affirmed *Crossman v. Board of Election Commissioners of the City of Chicago*, 2012 IL App (1st) 120291.

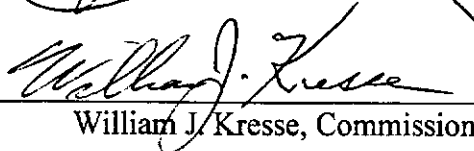
13. For the reasons stated above, the Electoral Board dismisses the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Eda Xian to the Nomination Papers of Antonio 'Tony' Munoz, candidate for the office of Democratic Party Ward Committeeman for the 12th Ward of the City of Chicago, are hereby DISMISSED and said Nomination Papers are hereby declared VALID and the name of Antonio 'Tony' Munoz, candidate for the office of Democratic Party Ward Committeeman for the 12th Ward of the City of Chicago, SHALL be printed on the official ballot for the General Primary Election to be held on March 15, 2016.

Dated: Chicago, Illinois, on January 5, 2016.



Marsel A. Hernandez, Chairman



William J. Kresse, Commissioner

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.