

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

Objections of: Raymond A. Lopez)
)
)
To the Nomination) No.: 16-EB-WC-21
Papers of: Jesus "Jesse" Iniguez)
)
Candidate for the office of Democratic Party)
Ward Committeeman for the 15th 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 Raymond A. Lopez ("Objector") to the nomination papers ("Nomination Papers") of Jesus "Jesse" Iniguez, candidate for the office of Democratic Party Ward Committeeman for the 15th Ward in the City of Chicago ("Candidate") to be elected 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 Richard Zulkey for further hearings and proceedings.

6. 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, Raymond A. Lopez, by his attorney, James P. Nally PC; and the Candidate, Jesus "Jesse" Iniguez, by his attorney, Dan Johnson.

7. The Hearing Officer ordered that an examination of the voter registration records be conducted by clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

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

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

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

11. 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.

12. The results of the records examination indicate that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 262;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 566;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 385;

D. The remaining number of signatures deemed valid as a result of the records examination total 181.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Democratic Party Ward Committeeman for the 15th Ward of the City of Chicago.

14. The Hearing Officer conducted a hearing to allow the Candidate an opportunity to present evidence in support of his Rule 8 motion objecting to the Board's clerk's findings during the records examination. Following the conclusion of said hearing, the Hearing Officer found that the Candidate's Nomination Papers contained only 249 valid signatures.

15. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the

Candidate's Nomination Papers contained only 249 valid signatures, which is less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Democratic Party Ward Committeeman of the 15th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

16. The Candidate filed a motion pursuant to Rule 20 of the Electoral Board's Rules of Procedure to address the Electoral Board concerning the Hearing Officer's report and recommended decision. First, the Candidate requested that the Electoral Board reverse the Hearing Officer's denial of additional time to submit additional affidavits to support his contention that petition signatures were genuine. The Candidate submitted 15 additional affidavits with his Rule 20 motion, asking that the Electoral Board consider them. Second, the Candidate requests that the Electoral Board appoint its handwriting expert to review the signatures associated with the objections sustained by the Hearing Officer. Third, in the alternative, the Candidate requests that the Electoral Board itself review and reversed the objections sustained by the Hearing Officer.

17. Rule 20(d) provides that the hearing shall not be considered a trial de novo and the parties will be bound by the record of proceedings before the hearing officer unless the Electoral Board determines that the interests of fairness, equity or substantial justice requires new or additional evidence. Here, the Electoral Board finds that the affidavits that the Candidate wishes to submit for the Electoral Board's consideration were prepared after the date of the hearing before the Hearing Officer and it will not, therefore, consider them.

18. As regards the Candidate's other requests for relief, the Objector's Petition in part alleged that certain signatures on the Candidate's nominating petition sheets were not signed by individuals in their own proper person and are not genuine signatures.

19. Section 7-10 of the Election Code (10 ILCS 5/7-10) provides that candidate petitions “shall be *signed* by qualified primary electors residing in the political division for which the nomination is sought *in their own proper persons only*” That section further provides that at the bottom of each petition sheet shall be an affidavit signed by the circulator of that sheet certifying that “the signatures on that sheet of the petition were signed in his or her presence and certifying that *the signatures are genuine*” The purpose of this portion of section 7-10 is to prevent the filing of nominating petitions with fraudulent signatures. *Williams v. Butler* (1976), 35 Ill.App.3d 532, 536, 341 N.E.2d 394.) (1976).

20. Electoral boards have been permitted the flexibility to fashion their own rules of procedure and rules of evidence. See, e.g., *Carnell v. Madison County Officers Electoral Board*, 299 Ill.App.3d 419, 701 N.E.2d 548, 233 Ill.Dec. 698 (Fifth Dist. 1998). Of necessity, electoral boards are under significant pressure to settle all pre-election ballot access disputes as fairly and as quickly as possible. Time is of the essence.

21. If an objection is made that the signatures on a petition are not genuine, the customary practice of electoral boards in Illinois is to engage in an examination of the official voter registration records and make a comparison of the signature on the petition to the signature of the petitioner on his or her voter registration record. See, e.g., *Election Law* (HICLE, 2012), §§ 2.20, 2.43. This Electoral Board has adopted procedures for “records examinations” in Rule 6 of its Rules of Procedure. The procedure for conducting a records examination and making a comparison of the petition signer’s signature on the petition with that found on the signer’s voter registration record has found acceptance in the courts. See, e.g., *Daly v Stratton*, 215 F. Supp. 244, 245 (N.D. Ill. 1963) (“When a cursory comparison of a petition and the relevant voting lists reveals, as it does here, that fewer than the statutorily required number of signatories appearing

in the former also appear in the latter, the petition is not genuine and the candidate need not be certified"). In *In re Cook*, 122 Ill.App.3d 1068, 1072-73, 462 N.E.2d 557 (5 Dist. 1984), the court rejected an argument that the electoral board's method of authenticating signatures constituted reversible error. The court noted that the signatures were compared to each person's registration card. Likewise, a similar process was discussed in the *Bergman* case, *supra*, noting "the parties participated in a binder check, which is used to initially determine the validity of objections to individual signatures and circulators." 347 Ill.App.3d at 343. "The Cook County clerk sustained objections as to 'signatures not genuine signature of purported voter' where the petition signatures were printed or where the clerk believed the signature on the petition differed in any way from the signature on the voter registration signature cards." *Ibid*. The *Bergman* court found no disfavor with the process.

22. The Electoral Board's rules here provide that if any party to the records examination disagrees with a finding of the Board's records examiner made during the records examination, they may appeal that finding. See, Rule 6(h). In order to preserve such objection for future hearing, the party's "watcher" at the records examination is required to immediately inform the Board's records examiner of his or objection at the time such finding is made by the examiner and the objection shall be noted.

23. Rule 6(h) provides that "Any finding overruling or sustaining an objection that a signature appearing on the candidate's petition is not genuine that is timely and properly appealed by a party may be reviewed by a handwriting expert employed by the Board of Election Commissioners." If the handwriting expert reverses a finding or findings of the records examiner, the results of the records examination shall be amended accordingly and any such reversal shall be deemed to have been automatically appealed by both parties.

24. The parties are then “given an opportunity to address all such appeals properly taken and noted to the Electoral Board or to the hearing officer, if one has been assigned, at the evidentiary hearing on the merits of the objection scheduled and conducted pursuant to Rule 8 hereof.” Rule 8(h). “The party making the appeal bears the burden of producing evidence proving that the records examiner’s finding was in error.” Ibid.

25. When given the opportunity to contest the findings of the Electoral Board’s clerks made during the records examination, the burden is on the party wishing to reverse the clerks’ finding of “producing evidence proving that the records examiner’s finding was in error.” Rule 6(h). Ideally, this evidence would take the form of live testimony from the petition signer stating either that he or she did sign the candidate’s petition and that the signature that appears on the petition is his or her own or stating that the signature appearing on the petition is not genuine, as the case may be. The witness would then be subject to cross-examination.

26. Affidavits, however, are admissible as evidence under the Electoral Board’s rules and “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.” Rule 10(c). The purpose of allowing affidavits in evidence is to avoid the need to subpoena and require the attendance of petition signers at electoral board hearings. This tends to avoid disrupting the daily lives of people who sign nominating petitions who would otherwise be required to attend electoral board hearings. This also tends to enhance the orderly and expeditious conduct of electoral board proceedings. The use of affidavits by electoral boards has been approved by the courts. See, *In re Cook*, 122 Ill.App.3d 1068, 462 N.E.2d 557 (5 Dist. 1984) (the court rejected arguments that the electoral board there could not rely on affidavits); *Bergman v. Vachata*, 347 Ill.App.3d 339, 807 N.E.2d 558 (1 Dist., 2004). But see, *Moscardini v.*

County Officers Electoral Board, 224 Ill.App.3d 1059 (2 Dist., 1992) (use of affidavits in electoral board hearings was improper).

27. Here, the Plaintiff chose to attempt to prove that the findings of the Board's records examiner were in error by bringing in affidavits of certain individuals whose names were on the petition instead of subpoenaing or otherwise bringing in such individuals to testify subject to cross-examination. Such a decision was permitted by the Board's rules.

28. Supreme Court Rule 191 allows the use of affidavits in lieu of testimony so long as they set forth with peculiarity the fact upon which the claim, counterclaim or defense is based. The process employed in examining affidavits in the electoral board setting on issues concerning the genuineness of petition signatures is that where the objector objected to a signature, and such objection was sustained by the Board's records examiner and its handwriting expert, the hearing officer can accept the use of an affidavit to overrule that ruling, unless it is clear from the face of the affidavit that the requisite particularity is not present, the facts shown are not within the personal knowledge of the person, or a reasonable person could not believe the truth of the statements. The hearing officer then proceeds to review each and every affidavit submitted by the party by comparing the signature on the affidavit with the signature on the petition and with the signature on the voter registration record card for that petition signer, taking into account that the original objection was sustained by the Board's records examiner and, in most cases, also sustained by the Board's handwriting expert. See, e.g., *Fritchey v. Romanelli*, 08-EB-WC-37 (CBEC 2008), affirmed *Romanelli v. Fritchey*, No. 1-08-0031 (1st Ill. App. 2008) (unpublished order) (petitioner was afforded procedural due process when the board-appointed hearing examiner accepted the affidavits submitted in support of rehabilitating the stricken signatures and weighed the affidavits against all of the evidence presented).

29. Not only is it possible for people to lie in affidavits -- that is, not only can they be falsified -- it also possible that the affidavits themselves can be manufactured or forged by unscrupulous persons. Unfortunately, Illinois has a notorious reputation for election fraud. See, e.g., *Nader v. Keith*, 385 F.3d 729 (7th Cir. 2004), which notes the importance for a procedure for verifying that candidates submit petitions that have been actually signed by registered voters and to weed out forgeries. Therefore, there needs to be some reasonable means to assess the veracity and trustworthiness of the affidavits and to accord them only the weight they truly deserve.

30. Section 10-10 of the Code does not specify that affidavits are required or may be used in electoral board proceedings. The statute certainly does not state that affidavits used in electoral board settings constitute "prima facie evidence" of the truth of the matter asserted therein. Thus, the legislature left it to electoral boards to decide whether to allow affidavits and what weight, if any, must be accorded them.

31. The Board's Rules of Procedure do not specify that affidavits are to be accorded any particular weight nor do they presume that such affidavits are legally binding. The rules simply state that affidavits may be considered to establish that signatures are genuine.

32. The process employed by the hearing officers in electoral board cases is not unlike that found in Section 8-1501 of the Code of Civil Procedure (735 ILCS 5/8-1501), which provides a means for determining the genuineness of signatures. It provides as follows: "In all courts of this State it shall be lawful to prove handwriting by comparison made by the witnesses or the jury with writings properly in the files of records of the case, admitted in evidence or treated as genuine or admitted to be genuine, by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the court." Although section 8-1501 refers to "the witnesses or the jury," it is proper for a jury or a judge to form an opinion as to the genuineness

of handwriting based upon a comparison of proven and disputed handwriting samples. *1601 South Michigan Partners v. Measuron*, 271 Ill.App.3d 415, 417-18, 648 N.E.2d 1008 (First Dist. 1995). Thus, it is proper to attempt to prove the authenticity of a signature without expert testimony, by requesting that a trial court, or in this case a hearing officer, as trier of fact, compare the signatures on a disputed document to the purportedly genuine signature of a person on another document.

33. In this case, the hearing officer used a procedure similar to that found in section 8-1501 and found that, in some cases, the signatures were genuine. In other cases, he found, based upon a comparison of the signature on the petition, the signature in the Board's voter registration records, and the signature on the affidavit, that the signatures were sufficiently dissimilar and that he concurred with the finding of the Board's records examiner and the Board's handwriting expert that those signatures on the petition were not genuine. The hearing officer found that the reasons for the dissimilarities between these signatures were not adequately explained by the affidavits.

34. If the trier of fact (i.e., the hearing officer) is presented with evidence showing that the signatures on documents are dissimilar to each other, including the signature on the affidavit, the candidate may arguably require that the signature on the petition be found genuine simply because an affidavit says so. However, it is well settled that a fact finder is not bound to accept non-credible testimony, or testimony without a sufficient foundation, simply because it is uncontroverted. *Sorenson v. Industrial Commission*, 281 Ill.App.3d 373, 382-42, 666 N.E.2d 713 (1996). An affidavit may be contradicted by other documentary evidence. *Webb v. Mt. Sinai Hospital*, 347 Ill.App.3d 817, 826 (2004).

35. "It is the responsibility of the trier of fact to assess the credibility of the witnesses and the weight of their testimony, resolve conflicts in the evidence and draw reasonable inferences from the evidence" *People v. McCulloch*, 404 Ill.App.3d 125, 131-132, 936 N.E.2d 743 (2nd Dist. 2010). The administrative body, through its hearing officers, weighs the evidence, makes credibility determinations and resolves conflicting evidence. *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill.2d 76, 88, 606 N.E.2d 1111 (1992). Courts will not reweigh evidence or substitute their judgment for that of the hearing officer. *Abrahamson*, 153 Ill.2d at 88.

36. The weight a hearing officer chooses to give to evidence is left to his or her discretion as the trier of fact. *Sanchez v. Ryan*, 734 N.E.2d 920, 315 Ill. App. 3d 1079 (2000). A trier of fact abuses his discretion when he applies an improper legal standard. *Rockford Police Benevolent & Protective Ass'n v. Morrissey*, 398 Ill. App. 3d 145, 154 (2010). An abuse of discretion also occurs "when the trial court's ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court." *Blum v. Koster*, 235 Ill. 2d 21, 36 (2009).

37. A trier of fact's factual findings and conclusions are held to be prima facie true and correct and will be affirmed unless they are against the manifest weight of the evidence. "A factual finding is against the manifest weight of the evidence when the opposite conclusion is clearly evident or the finding is arbitrary, unreasonable, or not based in evidence." *Samour, Inc. v. Board of Election Commissioners of the City of Chicago*, 224 Ill. 2d 530, 544 (2007); *Cinkus v. Village of Stickney*, 886 N.E.2d 1011, 228 Ill.2d 200 (2008). The fact that opposite conclusion is reasonable or that reviewing court might have ruled differently based on same evidence will

not justify reversal of findings of electoral board upon judicial review. *King v. The Justice Party*, 284 Ill.App.3d 886, 672 N.E.2d. 900 (1996).

38. Here, the Hearing Officer's determinations as to the affidavits were made using the appropriate legal standards. He compared the signature on the affidavit with the signatures on the Candidate's nominating petitions and on the Board's voter registration record for the named petition signer to determine whether the signature on the Candidate's petition was made in proper person and was genuine. The Hearing Officer's findings as to the genuineness of the petition signatures were not unreasonable and were supported by the record. Thus, there was no abuse of discretion either in the legal standard employed in considering the evidence or in the weight given to the affidavits or other evidence before the Hearing Officer. Furthermore, such findings were not against the manifest weight of the evidence.

39. 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.

40. 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 Jesus "Jesse" Iniguez are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of Raymond A. Lopez to the Nomination Papers of Jesus "Jesse" Iniguez, candidate for the office of Democratic Party Ward Committeeman for the 15th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Jesus "Jesse" Iniguez, candidate for the office of Democratic Party Ward Committeeman for the 15th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 15, 2016.

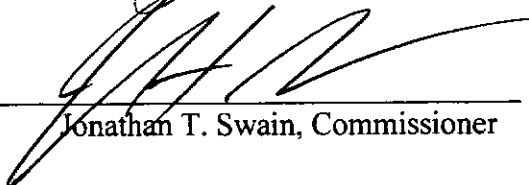
Dated: Chicago, Illinois, on January 15, 2016.



Marisel 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.

BEFORE THE BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO

RAYMOND A. LOPEZ		
Objector		
v.		No. 16-EB-WC-21
		15th Ward Democratic Committeeman
JESUS "JESSE" INIQUEZ		
Candidate		

SUMMARY AND RECOMMENDATION

This matter was heard, and the Rule 8 Motion hearing on the Record Exam was completed on January 4, 2016.

The summary and recommendations follow.

I. Parties:

Raymond A. Lopez, the Objector is represented by James Nally.

Jesus "jesse" Iniquez, the Candidate is represented by Dan Johnson.

II. Issues:

All things considered, the principle issues relate to the number and propriety of the signatures on the petition sheets filed by the Candidate.

For the office of 15th Ward Democratic Ward Committeeman, 262 signatures are required. A Record Exam was ordered.

In the Summary Report of December 28, 2015 of the Record Exam given to this Hearing Officer, it showed the candidate was 78 signature fewer than the required minimum. At the hearing of January 4, 2015, it was represented that the Candidate was 81 signatures fewer than required.

III. Pre-Hearing Issues:

The Hearing Officer advised the parties of the procedure he would follow. Upon presentation of the affidavit, the appropriate sheet and line would be examined along with the Board files. The affidavit alone is not the test. Rather, it is whether the Hearing Officer concludes the petition sheet and line were signed by the proper person. The Hearing Officer is no expert, but he will review the data and apply his

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experience as a layman. People sign their names in different ways at different time. Nonetheless, certain characteristics such as slants, letter styles as "e" or "E" are to be noted.

Upon a preliminary review of the affidavits, the Objector moved to strike certain affidavits because there was some jurat confusion.

The notary in some instances signed where the affiant should have signed. The affiants did sign the documents, however, and the intent of the affidavits was clear. This motion of the Objector was denied.

Although not directly on point, it has been held that where the affidavit is identified, courts will overlook clerical errors such as naming the wrong person in the jurat. See Cintuc, Inc. v Kozubowski, 596 N.E. 2d 101 (1992) and Riani v. Education Offices, (Cir. Ct. Cook Co. 456, Co 1993).

There being 81 signatures short, 106 affidavits were presented. They were marked in order of presentation. Candidate makes a standing objection on every **sustained** signature.

IV. Rule 8 Hearing:

Exhibit 1, Sheet 2, Line 5	David Rodriguez/ overruled
Exhibit 2, Sheet 2, Line 8	Alfredo Aviles/ sustained . Candidate objects.
Exhibit 3, Sheet 2, Line 17	Michelle Sanchez/ overruled
Exhibit 4, Sheet 3, Line 14	Octavia Chalon/ overruled
Exhibit 5, Sheet 3, Line 20	Augustine Sandoval/ overruled
Exhibit 6, Sheet 3, Line 2	Jazmin Panfilo/ overruled
Exhibit 7, Sheet 3, Line 3	Miroslava Vasquez/ overruled
Exhibit 8, Sheet 4, Line 6	Miguel Martinez/ overruled
Exhibit 9, Sheet 4, Line 16	Socorro Reyes/ overruled
Exhibit 10, Sheet 4, Line 5	Diana Sanchez/ overruled
Exhibit 11, Sheet 4, Line 11	Roman Godinez/ overruled
Exhibit 12, Sheet 5, Line 17	Filipe T. Weaver/ stricken . Objector objects. Already overruled at Record Exam and counted for candidate.
Exhibit 13, Sheet 5, Line 1	Maria Rodriguez/ overruled
Exhibit 14, Sheet 7, Line 10	Rolando Sandiago/ overruled

Exhibit 15, Sheet 7, Line 6	Ernesto Palacios/ sustained . Candidate objects.
Exhibit 16, Sheet 7, Line 8	Edith Daneras/ overruled
Exhibit 17, Sheet 7, Line 1	Maria Rodriguez/ overruled
Exhibit 18, Sheet 7, Line 2	Brenda Rodriguez/ overruled
Exhibit 19, Sheet 7, Line 3	Rubi Rodriguez/ overruled
Exhibit 20, Sheet 7, Line 11	Jisella Santoya/ overruled
Exhibit 21, Sheet 7, Line 17	Evelina Jimenez/ overruled
Exhibit 22, Sheet 8, Line 11	Rocio Ortega/ stricken . Objector objected. Candidate not registered
Exhibit 23, Sheet 8, Line 1	Melania Vega/ sustained . Candidate objects.
Exhibit 24, Sheet 8, Line 3	Emilia Novando Ramirez/ overruled
Exhibit 25, Sheet 8, Line 7	Jose Sanchez/ overruled
Exhibit 26, Sheet 8, Line 9	Marcano Dominguez/ stricken . Candidate objects.
Exhibit 27, Sheet 8, Line 13	Cristo Ortiz/ overruled
Exhibit 28, Sheet 8, Line 18	Marie Cobaxin/ overruled
Exhibit 29, Sheet 8, Line 20	Yessenio Rodriguez/ sustained . Candidate objects.
Exhibit 30, Sheet 10, Line 5	Jasmine Coronel/ overruled
Exhibit 31, Sheet 10, Line 15	Erick Garcia/ sustained . Candidate objects.
Exhibit 32, Sheet 11, Line 12	Emilio Hernandez/ overruled
Exhibit 33, Sheet 11, Line 14	Maria Luisa Rochel/ sustained . Affidavit error. Candidate objects.
Exhibit 34, Sheet 11, Line 18	Jorge Villolobos/ sustained . Affidavit error. Candidate objects.
Exhibit 35, Sheet 12, Line 7	Josefina Marquez/ sustained . Candidate objects.
Exhibit 36, Sheet 12, Line 8	Eduardo Marquez/ sustained . Candidate objects.

Exhibit 37, Sheet 12, Line 10 Uriel Reyes/**overruled**

Exhibit 38, Sheet 13, Line 6 Federico Padilla/**overruled**

Exhibit 39, Sheet 13, Line 14 Bertha Delaluz/**overruled**

Exhibit 40, Sheet 14, Line 11 Sarai Jimenez/**overruled**

Exhibit 41, Sheet 14, Line 12 Andrea Jimenez/**overruled**

Exhibit 42, Sheet 14, Line 13 Martha Jimenez/**overruled**

Exhibit 43, Sheet 14, Line 20 Maria J. Ordanez/**sustained**. Candidate objects.

Exhibit 44, Sheet 15, Line 8 Veronica Lozano/**sustained**. Candidate objects.

Exhibit 45, Sheet 15, Line 9 Guadalupe Muniz/**overruled**

Exhibit 46, Sheet 15, Line 10 Minerva Barragan/**overruled**

Exhibit 47, Sheet 15, Line 11 Jacqueline Barragan/**overruled**

Exhibit 48, Sheet 15, Line 12 Iliana Barragan/**sustained**. Candidate objects.

Exhibit 49, Sheet 15, Line 13 Alberto Barragan/**sustained**. Candidate objects.

Exhibit 50, Sheet 15, Line 14 Rene Tapia/**overruled**

Exhibit 51, Sheet 15, Line 15 Martina Tapia/**sustained**. Candidate objects.

Exhibit 52, Sheet 15, Line 17 Jose A. Sanchez/**overruled**

Exhibit 53, Sheet 15, Line 18 Estuardo Gamarro/**sustained**. Candidate objects.

Exhibit 54, Sheet 16, Line 5 Theresa Gonzalez/**sustained**. Candidate objects.

Exhibit 55, Sheet 16, Line 18 Marvin Hayes/**overruled**

Exhibit 56, Sheet 17, Line 1 Fank Yong Dai/**overruled**

Exhibit 57, Sheet 17, Line 2 Yolanda Morales/**sustained**. Candidate objects.

Exhibit 58, Sheet 17, Line 4 Obdulia Garcia/**overruled**

Exhibit 59, Sheet 17, Line 7 Elsa Espinoza/**overruled**

Exhibit 60, Sheet 17, Line 8 Esperanza Sanchez/**sustained**. Candidate objects.

Exhibit 61, Sheet 17, Line 11 Maria Chavez/**overruled**

Exhibit 62, Sheet 17, Line 17 Solomon Trujillo/**overruled**

Exhibit 63, Sheet 17, Line 20 Bernardo Silva/**stricken**. Already overruled at exam and counted for candidate.

Exhibit 64, Sheet 18, Line 2 Marciala Ramirez/**overruled**

Exhibit 65, Sheet 18, Line 3 Adam Ramirez/**overruled**

Exhibit 66, Sheet 18, Line 19 Crystal Licon/**stricken**. Already overruled at exam and counted for candidate.

Exhibit 67, Sheet 21, Line 4 Francesco Arellano/**stricken**. Already overruled and counted for candidate.

Exhibit 68, Sheet 21, Line 6 Roman Ascenico/**sustained**. Candidate objects.

Exhibit 69, Sheet 21, Line 10 Laura Martinez/**sustained**. Candidate objects.

Exhibit 70, Sheet 21, Line 11 Gregory Jones/**sustained**. Candidate objects.

Exhibit 71, Sheet 21, Line 15 Narcisso Bastian/**sustained**. Candidate objects.

Exhibit 72, Sheet 22, Line 1 Carol Stewart/**overruled**

Exhibit 73, Sheet 22, Line 3 George Feno/**sustained**. Candidate objects.

Exhibit 74, Sheet 22, Line 4 Marilyn Torres/**sustained**. Candidate objects.

Exhibit 75, Sheet 22, Line 8 Rudolfo Soria/**overruled**

Exhibit 76, Sheet 22, Line 9 Emmanuel Berrera/**overruled**

Exhibit 77, Sheet 22, Line 12 Miguel Pazano/**sustained**. Candidate objects.

Exhibit 78, Sheet 23, Line 9 Marida Flores/**sustained**. Candidate objects.

Exhibit 79, Sheet 23, Line 12 Nicholas Olofson/**sustained**. Candidate objects.

Exhibit 80, Sheet 24, Line 10 Francisco Gomez/**overruled**

Exhibit 81, Sheet 24, Line 11 Luis Echeverria/**overruled**

Exhibit 82, Sheet 24, Line 14 Vladimir Chavez/**sustained**. Candidate objects.

Exhibit 83, Sheet 26, Line 3 Juan J. Comocho/**overruled**

Exhibit 84, Sheet 26, Line 6 Ralph Melendez/**overruled**

Exhibit 85, Sheet 27, Line 7 Robert Amendonodo/**overruled**

Exhibit 86, Sheet 29, Line 2 Bernard Robinson/**overruled**

Exhibit 87, Sheet 30, Line 3 Maribel Robles/**stricken**. Candidate objects.

Exhibit 88, Sheet 30, Line 8 Teresa Quintana/**stricken**. Candidate objects.

Exhibit 89, Sheet 30, Line 10 Jose Quintana/**overruled**

Exhibit 90, Sheet 32, Line 5 Eustalia Vega/**overruled**

Exhibit 91, Sheet 33, Line 3 Agapito Llamas/**overruled**

Exhibit 92, Sheet 34, Line 2 Jose Hernandez/**overruled**

Exhibit 93, Sheet 34, Line 3 Lorena Hernandez/**overruled**

Exhibit 94, Sheet 34, Line 5 Yolanda Arcos/**overruled**

Exhibit 95, Sheet 34, Line 9 Gilbert Carda/**overruled**

Exhibit 96, Sheet 34, Line 13 Yvonne Ruiz/**overruled**

Exhibit 97, Sheet 35, Line 7 Husam Farraj/**sustained**. Candidate objects.

Exhibit 98, Sheet 35, Line 8 Tawfiq Farraj/**overruled**

Exhibit 99, Sheet 35, Line 14 Olegana Munoz/**overruled**

Exhibit 100, Sheet 36, Line 3 Maria Lozano/**overruled**

Exhibit 101, Sheet 36, Line 4 Esmeralda Navaretta/**overruled**

Exhibit 102, Sheet 39, Line 1 David Panfilo/**overruled**
Exhibit 103, Sheet 39, Line 2 Jasmin Panfilo/**overruled**
Exhibit 104, Sheet 39, Line 3 Ingrid Pinto/**overruled**
Exhibit 105, Sheet 40, Line 4 Leticia Gonzalez/**overruled**

V. Summary:

At the start of the hearing it was noted that there were 106 affidavits and that the Candidate had 81 signatures fewer than the required minimum. At the end of the hearing, it was noted that there were 67 signatures overturned, leaving the Candidate with 14 signatures fewer than required.

Upon engaging in this analysis, the count seems to show 105 affidavits with 68 signatures overturned.

This leaves the Candidate with 13 signatures fewer than required minimum.

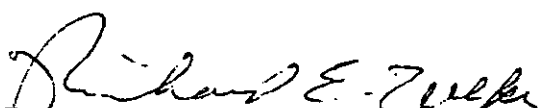
The Candidate maintained standing objections to all of the sustained signatures.

The Candidate moved to continue the hearing to obtain more affidavits. This motion was denied.

VI. Recommendation:

Because the Candidate is 13 signatures fewer than the required minimum, it must be recommended that this name not appear on the ballot for Ward Committeeman.

Respectfully submitted,


Hearing Officer, Richard E. Zulkey

Richard E. Zulkey
77 W. Washington (1300)
Chicago, IL 60602
(312) 372-5541
Attorney No: 20881

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Jesus "Jesse" Iniguez

v.

No. 2016 CO2 L 04

City of Chicago Board of Election Commissioners

ORDER

This cause can to be heard on the Petition For Judicial Review, and the Court having reviewed the pleadings and record and heard argument of counsel, IT IS HEREBY ORDERED:

- ① The Court finds that the Decision of the Electoral Board is not contrary to the manifest weight of the evidence
- ② The Court finds that the 3 prong procedure of the Electoral Board comparing the signature on the nomination petitions with the voter registration records and the affidavits offered, and weighing all the evidence as the finder of fact, is not an abuse of discretion
- ③ The Decision of the Electoral Board is AFFIRMED and the Petition For Judicial Review is DENIED
- ④ There is no just cause to delay enforcement or appeal of this Order.

Atty. No.: 55164

Name: J. P. Kelly R.

Atty. for: Respectful Lopez

Address: 25117 #3520

City/State/Zip: Chicago IL 60603

Telephone: 312 422 5560

ENTERED:
ENTERED
 JUDGE LAGUNA CLAY-HERRON - 1943
 FEB 25 2016
 DOROTHY BROWN
 CLERK OF THE CIRCUIT COURT
 OF COOK COUNTY, IL
 CLERK'S OFFICE

Judge

Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

No. 1-16-0535

15th Ward of the City of Chicago (City) for the March 15, 2016, general primary election. For the reasons which follow, we affirm the judgment of the circuit court.

¶ 3 The petitioner filed nominating petitions with the Board, seeking to be placed on the ballot for the March 15, 2016, general primary election as a candidate for the office of Democratic Committeeman for the City's 15th Ward. His nominating petitions contained 566 signatures of individuals purporting to be registered voters residing in the City's 15th Ward. Raymond A. Lopez filed 473 line-by-line objections to signatures contained on the petitioner's nominating petitions.

¶ 4 Following the filing of the objections, the Board assigned the matter to a hearing officer. Pursuant to Rule 6 of the Board's Rules of Procedure (Rules), a records examination was conducted by employees of the Board and a handwriting expert. As a result of that examination, objections to 385 of the signatures were sustained, leaving the petitioner 81 signatures short of the requisite 262 signatures necessary to be placed on the ballot.

¶ 5 The petitioner filed a motion with the Board pursuant to Rule 8 of the Board's Rules, seeking a hearing relating to the findings made during the records examination and to rehabilitate 105 of the signatures to which objections had been sustained. An evidentiary hearing was held on January 16, 2016, before the hearing officer. The petitioner submitted 106 affidavits purporting to have been signed by the voters for whom objections to their signatures had been sustained, attesting to the fact that they signed the petitions at issue. The hearing officer compared the signatures of the individuals on the petitions which the petitioner was attempting to rehabilitate with the signatures on the affidavits which the petitioner submitted and the Board's voter registration records. Following the hearing, the hearing officer issued his recommended

¶ 8 On appeal from an order of the circuit court confirming a decision of the Board, we review the Board's decision, not the decision of the circuit court. *Samuelson v. Cook County Officers Electoral Board*, 2012 IL App (1st) 120581, ¶ 11. Our standards of review of the Board's decision mirror those applicable to review of an administrative agency decision (*Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 209-10 (2008)) and, therefore, depend upon whether the determination at issue is one of law, one of fact, or a mixed question of law and fact (*AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 390 (2001)). The Board's decisions on questions of law are not binding on a reviewing court which reviews such questions *de novo*. *Cinkus*, 228 Ill. 2d at 210-11. The Board's findings of fact, however, are deemed *prima facie* true and correct and will not be overturned on appeal unless they are against the manifest weight of the evidence. *Id.* at 210. The Board's rulings on mixed questions of law and fact will not be disturbed on review unless they are clearly erroneous. *Id.* at 211.

¶ 9 The Board has the statutory authority to promulgate rules of procedure for the introduction of evidence at hearings held before it. 10 ILCS 5/10-10 (West 2014). In furtherance of that authority, the Board has, in fact, adopted rules of procedure. Generally, the Code of Civil Procedure (Code) (735 ILCS 5/1-101 *et seq.* (West 2014)) is inapplicable to administrative proceedings. *Desai v. Metropolitan Sanitary District of Greater Chicago*, 125 Ill. App. 3d 1031, 1033 (1984). However, Rule 10(a) of the Board's Rules provides that "[f]or matters not covered herein, the Electoral Board will generally follow rules of evidence and practice which prevail in the Circuit Court of Cook County, Illinois, including the Code of Civil Procedure and the Rules of the Illinois Supreme Court ***." Rule 10(c) provides that

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"[a]ffidavits 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."

The Board's Rules do not provide for the weight to be given to any affidavit submitted pursuant to Rule 10(c).

¶ 10 As noted earlier, the petitioner submitted 106 affidavits at the Rule 8 hearing in an effort to rehabilitate 105 signatures to which objections had been sustained at the records examination. He argues that the contents of those affidavits should have been taken as true in the absence of documentary evidence to the contrary, and as such, the sustained objections to all 105 signatures should have been overturned. We believe that the flaw in the petitioner's reasoning is his failure to recognize that there are other means by which an affidavit can be contradicted other than by counter affidavit. See *Webb v. Mount Sinai Hospital and Medical Center of Chicago, Inc.*, 347 Ill. App. 3d 817, 826 (2004). In this case, the hearing officer, whose findings the Board adopted, did, in fact, have evidence which contradicted the validity of 37 signatures for which the sustained objections were not overturned.

¶ 11 The record reflects that the hearing officer compared the signatures on the affidavits with the corresponding signatures on the petitions and the Board's voter registration records. Section 8-1501 of the Code provides that it is "lawful to prove handwriting by comparison made by the witness or jury with writings properly in the files or records of the case." 735 ILCS 5/8-1501 (West 2014). At the Rule 20 hearing held on January 15, 2016, the Board's chairwoman advised the parties that the Board followed section 8-1501 of the Code. And in its decision, the Board specifically found that it was proper for the hearing officer, as the trier of fact, to compare the signatures on a disputed document to the purportedly genuine signature of a person on another

document. To the extent that the Board's reliance upon section 8-1501 of the Code is based upon its interpretation of its own rules, and specifically Rule 10(a), we accord deference. *City of Washington, Illinois v. Illinois Labor Relations Board*, 383 Ill. App. 3d 1112, 1117-18 (2008). Furthermore, the admission of evidence before an administrative agency is committed to the agency's sound discretion and its resolution of the issue will not be disturbed on review absent an abuse of that discretion. *Aich v. City of Chicago*, 2013 IL App (1st) 120987, ¶ 12.

¶ 12 Based upon the Board's interpretation of its own rules and its adoption of section 8-1501 of the Code, we are unable to conclude that the Board abused its discretion in considering the hearing officer's signature comparison as evidence in this case. We are left then with the issue of the weight to be accorded the hearing officer's signature comparison and the petitioner's affidavits.

¶ 13 It was the function of the Board to determine the weight to be given to the evidence and resolve any conflicts (*Bergman v. Vachata*, 347 Ill. App. 3d 339, 347-48 (2004)), and we will not substitute our opinion for that of the Board on such matters (*King v. Justice Party*, 284 Ill. App. 3d 886, 888 (1996)). It is obvious from the Board's adoption of the hearing officer's recommended decision and the Board's own findings that the Board accorded greater weight to the hearing officer's signature comparison than it accorded to the affidavits submitted by the petitioner.

¶ 14 The question of whether the signatures on a nominating petition are valid is one of fact to be resolved by the Board, and its determination will not be disturbed on review unless it is against the manifest weight of the evidence. *Bergman*, 347 Ill. App. 3d at 347. The decision of an administrative agency is against the manifest weight of the evidence only if an opposite

conclusion is clearly evident. *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 88 (1992). The fact that an opposite conclusion is reasonable will not justify reversal of the agency's findings of fact. *Id.* "If the record contains evidence to support the agency's decision, it should be affirmed." *Id.*

¶ 15 In this case, the Board adopted the hearing officer's recommended decision. In so doing, it adopted the factual finding that only 68 of the sustained objections to the signatures which the petitioner sought to rehabilitate should be overturned. Based upon the hearing officer's signature comparison and the Board's reliance thereon, we are unable to find that a conclusion opposite to Board's on this issue is clearly evident.

¶ 16 At the conclusion of the records examination, the petitioner was left with 181 valid signatures on his petitions. Adding to that number the 68 signatures which were rehabilitated following the Rule 8 hearing and the Board's adoption of the hearing officer's recommended decision, the petitioner had a total of 249 valid signatures on his nominating petitions. He was, as the Board found, 13 signatures short of the requisite 262 signatures necessary to be placed on the ballot.

¶ 17 Based upon the foregoing analysis, we find no error in the Board's decision to refuse to place the petitioner on the ballot as a candidate for Democratic Committeeman of the City's 15th Ward for the March 15, 2016, general primary election. And we, therefore, affirm the decision of the circuit court which confirmed the Board's decision.

¶ 18 Affirmed.