

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

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Objections of: GRACE CONTRERAS,	)	
MICHAEL ANTHONY RODRIGUEZ and	)	
WILLIAM E. ANSON SR.	)	
To the Nomination	)	No.: 19-EB-ALD-073
Papers of: FRANCISCO NUNEZ SR	)	
	)	
	)	
Candidate for the office of Alderman 12th	)	
Ward of the City of Chicago	)	

**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of the 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, Chair of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of GRACE CONTRERAS, MICHAEL ANTHONY RODRIGUEZ and WILLIAM E. ANSON SR. (“Objectors”) to the nomination papers (“Nomination Papers”) of FRANCISCO NUNEZ SR, candidate for the office of Alderman for the 12th Ward of the City of Chicago (“Candidate”) at the General Municipal Election to be held on Tuesday, February 26, 2019, having convened on Monday, December 10, 2018, at 8:30 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 were duly and timely filed.
2. The Electoral Board was legally constituted under the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chair 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 Monday, December 10, 2018 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer John Ashenden 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, GRACE CONTRERAS, MICHAEL ANTHONY RODRIGUEZ and WILLIAM E. ANSON SR., and/or their Attorney, JAMES P. NALLY; and the Candidate, FRANCISCO NUNEZ SR, and/or his Attorney SEAN M. HOFFMAN.

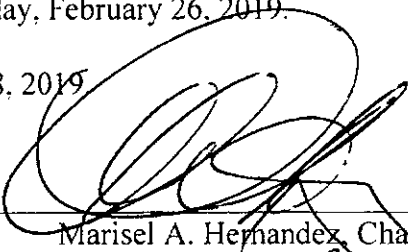
7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer recommends that the Objections be sustained in conformity with the results of the records examination. The Hearing Officer found, therefore, that the Candidate's 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 finds that the Objections filed in this matter should be sustained and that the Candidate's Nomination Papers are invalid.

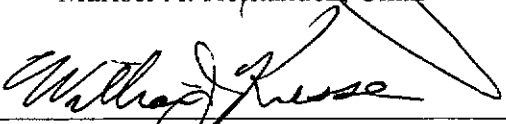
IT IS THEREFORE ORDERED that the Objections of GRACE CONTRERAS, MICHAEL ANTHONY RODRIGUEZ and WILLIAM E. ANSON SR. to the Nomination Papers of FRANCISCO NUNEZ SR, candidate for the office of Alderman for the 12th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of FRANCISCO NUNEZ SR, candidate for the office of Alderman for the 12th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

Dated: Chicago, Illinois, on Tuesday, January 8, 2019



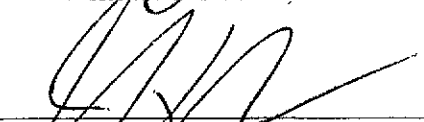
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Marisel A. Hernandez, Chair



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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.

**BEFORE THE CHICAGO BOARD OF ELECTION COMMISSIONERS**

GRACE CONTRERAS, MICHAEL )  
ANTHONY RODRIGUEZ, and )  
WILLIAM E. ANSON, SR., ) No. 19-EB-ALD-073  
Objectors, )  
vs. ) John Ashenden  
 ) Hearing Officer  
FRANCISCO NUNEZ, SR., )  
Candidate. )

**HEARING OFFICER'S FINDINGS AND RECOMMENDATION**

This matter having come before the Chicago Board of Election Commissioners ("CBOE") on the Objector's Petition of Grace Contreras, Michael Anthony Rodriguez, and William E. Anson, Sr., ("Objectors") to the nomination papers of Francisco Nunez, Sr., ("Candidate") for the Office of Alderman of the 12th Ward of the City of Chicago, John Ashenden, Hearing Officer, finds and recommends as follows:

December 10, 2018 Initial Hearing

1. Candidate appeared through Attorney Sean M. Hoffman. Objectors appeared through Attorney Bonnie Bumiller, for Attorney James P. Nally. Board Group Exhibits A through D were marked and admitted as Candidate Nomination Papers, Objector's Petition, Returns of Service, and Appearances, respectively.
2. Hearing Officer received and reviewed the Board's Initial Petition Summary Report, which stated that the total unchallenged signatures equaled 100 and that there were 450 signatures greater than the required minimum of 473. (89% objected)
3. Objectors' Petition alleges Candidate's Nomination Papers contain signatures that: are not genuine; are printed and not written in cursive; do not match the signature on voter registration record of the purported signer; names of persons not registered voters at the addresses listed; are of persons who do not reside within the 12th Ward, and others for whom addresses are missing or incomplete. The Petition also alleges duplicative signatures and that the Nomination Papers contain sheets where the purported circulator "did not actually circulate the petition sheet."
4. Candidate requested leave to file a Motion to Strike an Dismiss Objector's Petition. Hearing Officer instructed Candidate to file said motion by December 11, 2018. Objectors were given leave to file a response by December 13. Candidate was given leave to reply the following day. Schedules were agreed to and Candidate's hearing set for December 19, 2018 at 11:00 a.m.

### Candidate's Motion to Strike and Dismiss & Responses

5. Candidate's timely Motion to Strike Objector's Petition alleged the petition does not "demonstrate (Objector's) due diligence" prior to entering objections and asserts Objectors challenge "93%" (839) of the Respondent's 902 petition signatures, including objections to the signatures of Respondent Candidate and the Respondent Candidate's family members. According to the Motion, some objections fail to correspond to signatures and are "not pled in good faith...after reasonable inquiry". *Collins v Davis*, 16-EB-COM-01.

6. Objector's Response asserts all pleadings are construed in light most favorable to the non-moving party and Objectors maintain that their objections are "the result of a detailed and specific analysis of the nomination papers," including the use of "high-tech software" and a team of workers working over several days. The ultimate issue is factual, i.e. if the Candidate's nominating petitions have sufficient valid signatures for candidate's name to appear on the ballot.

7. Candidate's Reply asserts that Objector's Response does not demonstrate a reasonable inquiry or a petition that is the result of "detailed and specific analysis." Candidate states that the objectors themselves did not conduct the investigation and the "high-tech software" they used was not shown to be sufficiently reliable; no showing of a reasonable inquiry was made to determine whether a purported circulator circulated a sheet.

### December 19, 2018 Hearing- Recommend Denying Candidate's Motion to Dismiss

8. Candidate's Attorney Sean M. Hoffman agreed that pursuant to the Board's Initial Petition Summary Report 88% of Candidate's petition sheets were challenged, instead of 93%. After reviewing the Candidate's motion, the Objector's petition and hearing the arguments of counsel, Hearing Officer recommended denying the Candidate's motion to dismiss because insufficient evidence was presented of "shot gun" objections. Hearing Officer recommended the case be sent to records exam. The Records Exam was scheduled and status set for December 28, 2018.

### December 28, 2018 Hearing- Record Exam Status

9. On December 28, 2018, Attorney Sean M. Hoffman appeared for Candidate. Attorney Scott Erdman appeared for James P. Nally on behalf of Objectors. Objector's Counsel tendered the non-disclosure agreement to Hearing Officer. Parties noted the record examination was preliminarily completed and the case is in queue for the handwriting expert. Candidate's Counsel noted that Objectors' circulators themselves would not be affected by a record examination and Objectors' Counsel stated that the circulators objections are still "in play." A status date and a possible evidentiary hearing on the circulator issue with Candidate and his family member circulators to attend hearing set for January 2, 2018 at 3:00 p.m.

### Record Examination Report

10. On December 31, 2018, Hearing Officer received the Final Petition Summary Report detailing the Results of the Handwriting Expert. All 1,692 objections were ruled on, with 819 sustained and 873 overruled. Candidate has only 336 valid signatures, 137 fewer than the required minimum of 473.

### January 2, 2019 Evidentiary Hearing

11. On January 2, 2019, Attorney Sean M. Hoffman appeared on behalf of Candidate. Attorney James P. Nally appeared on behalf of Objectors. Both parties acknowledged receipt of the Final Petition Summary Report stating that at present Candidate has 137 fewer signatures than the required 473. Hoffman stated Candidate is already in the process of rehabilitation by affidavit of the signatures needed. Hoffman added Candidate is not prepared for an evidentiary hearing on the matter of the circulators. Attorney Nally notified the Board that Candidate did not file a Rule 8 motion on the day after receipt of the Record Examination, as required by Rule 8(c)(i)(1), which renders both the issues of resurrected signatures and circulators moot. Candidate was already four days past the deadline. Attorney Hoffman sought leave to file a Rule 8 motion late. Hearing Officer orally recommended that the motion be denied. Hoffman requested to speak to his client about the matter. A status hearing was set for January 4, 2019.

12. On January 3, 2019 Candidate filed a Motion Requesting Leave to file a Motion for a Rule 8 Evidentiary Hearing citing that he had been "very ill with the Flu." Candidate sought leave to rehabilitate 137 signatures.


13. On January 4, 2019 Objector's Counsel filed a response referencing Rule 8 requirements that Candidate's motion must be filed by 5 pm on the next business day after completion of the records exam. Objector cites Rule 4(a)'s strict adherence to time lines for fairness. These are expedited proceedings due to impending statutory deadlines for the certification of candidates and the preparation and printing of ballots. As such, proceedings before the Electoral Board must be conducted expeditiously.

### January 4, 2019 Hearing on Candidate's Motion for an Extension of Time

14. Attorney Sean M. Hoffman appeared on behalf of Candidate and Attorney James P. Nally appeared for Objectors. Both parties acknowledged receipt of the Final Petition Summary Report dated December 28, 2018. Counsel for Objector stated he was sick with the flu and wasn't able to file the Rule 8 motion. Counsel failed to email the parties and the Board about his sickness before the Rule 8 deadline. Hearing Officer recommends denying Candidate's motion to extend time since these are expedited proceedings with impending statutory deadlines for the certification of candidates and the preparation and printing of ballots. As such proceedings before the Electoral Board must be conducted expeditiously.

For all the foregoing reasons, the Hearing Office recommends that the name of Francisco Nunez, Sr., not appear on the ballot as a candidate for the office of Alderman of the 12th Ward of the City of Chicago, Cook County, Illinois.

Date: January 5, 2019



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John Ashenden, Hearing Officer ALD 073