

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

Objections of: GRACE CONTRERAS,)	
MICHAEL ANTHONY RODRIGUEZ and)	
WILLIAM E. ANSON SR.)	
)	
To the Nomination)	No.: 19-EB-ALD-075
Papers of: JOSE RICO)	
)	
Candidate for the office of)	
Alderman of the 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 JOSE RICO, candidate for the office of Alderman of 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 was held on these Objections commencing 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 to appear before the Hearing Officer on the date and at the time designated in the Call. The following persons, among others, were present at or filed appearances during such hearing; the Objectors, GRACE CONTRERAS, MICHAEL ANTHONY RODRIGUEZ and WILLIAM E. ANSON SR., and/or their Attorney, JAMES P. NALLY; and the Candidate, JOSE RICO, and/or his Attorney, STEPHEN BERRIOS.

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 Objectors and/or their 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 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 473.

B. The remaining number of signatures deemed valid as a result of the records examination total 1,000.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for the office of Alderman for the 12th Ward of the City of Chicago.


14. 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 1,000 valid signatures, which exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for the office of Alderman for the 12th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found valid.

15. 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.


16. For the reasons stated above, the Electoral Board finds that the Candidate has a sufficient number of valid signatures on his nominating petitions and that the Nomination Papers of JOSE RICO are, therefore, valid.

IT IS THEREFORE ORDERED that the Objections of GRACE CONTRERAS, MICHAEL ANTHONY RODRIGUEZ and WILLIAM E. ANSON SR. to the Nomination Papers of JOSE RICO, candidate for the office of Alderman for the 12th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of JOSE RICO, candidate for the office of Alderman for the 12th Ward of the City of Chicago, SHALL be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

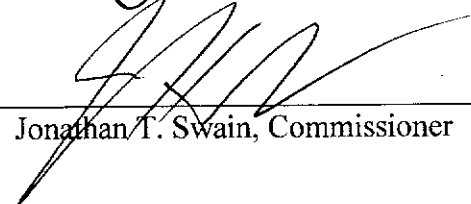
Dated: Chicago, Illinois, on Friday, January 18, 2019.



Marisel A. Hernandez, Chair



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 CHICAGO BOARD OF ELECTION COMMISSIONERS

GRACE CONTRERAS, MICHAEL)	
ANTHONY RODRIGUEZ, and)	
WILLIAM E. ANSON, SR.,)	No. 19-EB-ALD-075
)	
Objectors,)	
vs.)	John R. Ashenden
)	Hearing Officer
JOSE RICO,)	
)	
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 Jose Rico (“Candidate”) the office of Alderman of the 12th Ward of the City of Chicago, John R. Ashenden, Hearing Officer, finds and recommends as follows:

December 10, 2018 Initial Hearing

1. Candidate appeared through Attorney Stephen Berrios. Objectors appeared through Attorney Bonny 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 Petition Summary Report, stating that the total unchallenged signatures equaled 303 and that the Candidate had 1,586 signatures greater than the required minimum of 473.
3. Candidate requested leave to file a motion to strike and dismiss Objectors’ Petition. Hearing Officer set a briefing schedule with Candidate to file said motion by December 11, 2018 at 5:00 p.m. Objectors to file a response by December 12, 2018 at 5:00 p.m. Candidate was given leave to file a reply by 5:00 p.m. on the following day. Briefing schedules were agreed to and Candidate’s motion was set for a December 17, 2018 hearing date at 2:30 p.m.

Objectors’ Petition and Candidate’s Motion to Strike and Dismiss

4. Objectors’ Petition alleges that Candidate’s Nomination Papers contain signatures which are not genuine, signatures that are printed and not written in cursive, signatures that do not match the signature on the official voter registration record of the purported signer, the names of persons who are not registered voters at the addresses listed by their names, the names 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.

5. On December 11, 2018, Candidate filed a motion to strike and dismiss alleging Objectors had objected to 1,904 of the 2,018 signatures and that the Appendix-Recapitulation sheets contain “dual, triple, and even quadruple objections to a number of signatures.” Candidate argues that such triple and quadruple objections show Objectors did not make reasonable inquiry as to the validity of their claims. Furthermore, Candidate asserts that it is a “logical fallacy” for Objectors to object, where they have, to signatures on both bases that “signer is not registered at address shown” and that “the address is missing or incomplete.”

6. On December 12, 2018, Objectors filed their Response citing to *Stearns v. Latiker*, 08-EB-RGA-12 (CEB 2007), where Objectors asserted that there is no *per se* rule prohibiting “dual objections.” Objectors attached an affidavit from Juan Manzano stating he, along with other volunteers, devoted substantial time and effort in a line-by-line review of all the signatures over a period of 3 to 4 days and proprietary software program was also utilized in their review.

7. Candidate’s Reply asserts Objectors have “[t]he burden to make a reasonable inquiry” and the staff mentioned in Objectors’ affidavit will not suffice. Candidate also distinguishes *Stearns v. Latiker* on the grounds that the dual objections in *Stearns* were for “signer’s signature not genuine” and “signer not registered at address shown.” Candidate states their case is different because Objectors object to “signer not registered at address shown” and “signer address missing or incomplete,” which Candidate deems a “logical fallacy and impossibility.”

December 17, 2018 Hearing

8. The Candidate’s Motion to Strike the Verified Objectors’ Petition was argued after all briefs were timely filed. Attorney Stephen Berrios appeared on behalf of Candidate; Attorney Scott Erdman appeared for James P. Nally on behalf of Objectors. After argument on the Candidate’s Motion, Hearing Officer recommended that the Candidate’s Motion be denied on the grounds that dual objections do not necessarily indicate a bad faith objection. *Stearns v. Latiker*, 08-EB-RGA-12 (CEB 2007). Hearing Officer was likewise not convinced that the objections “signer not registered at address shown” and “signer address missing or incomplete,” were necessarily incompatible or impossible. A careful objector would preserve all objections they had to any given entry, and not hang their hat on a single objection. Thus, the dual objections cited to by Candidate may be interpreted to indicate care and effort rather than a “shotgun” objection. A records examination directive was ordered and status hearing scheduled for December 28, 2018 at 10:00 a.m.

December 28, 2018 Hearing

9. On December 28, 2018 at 11:00 a.m. Attorney Stephen Berrios appeared on behalf of Candidate and Attorney Scott Erdman appeared for James P. Nally on behalf of Objectors. Parties noted that the record examination in this case started earlier that day. A status date was set for January 4, 2019 at 11:00 a.m.

January 4, 2019 Hearing

10. On January 4, 2019, at 11:00 a.m., Attorney Stephen Berrios appeared on behalf of Candidate along with Candidate and Attorney James P. Nally appeared on behalf of Objectors. Parties noted that the record examination is finished and pending review by the handwriting expert. Hearing Officer received and reviewed the preliminary report, completed on December 30, 2018, and noted that candidate has 920 valid signatures, 447 signatures more than the 473 necessary. Attorney Nally stated he would like to wait to see what the handwriting expert report says. Candidate raised the issue that he believes Objectors are time barred by Rule 8(c)(1) because the 24 hour time constraint after the record examination has passed. Attorney Nally replied that the 24 hour deadline begins after completion of the handwriting expert's report. A status date was set for January 10, 2019 at 2:00 p.m.

Final Record Examination Report

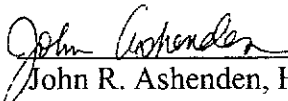
11. On January 9, 2019, Hearing Officer received the Final Record Examination Report. Candidate has 1,000 valid signatures, which is 527 more signatures than the required amount of 473.

January 10, 2019 Status Hearing

12. On January 10, 2019 at 2:00 p.m., Attorney Stephen Berrios appeared on behalf of Candidate along with Candidate and Attorney James P. Nally appeared on behalf of Objectors. Hearing Officer read the results of the Final Petition Summary Report aloud into the record and both parties acknowledged receipt of the document. Attorney Nally stated that Objectors would stand on the results of the record examination and would not be filing a Rule 8 Motion or otherwise pursuing the case any further.

For all the foregoing reasons, the Hearing Office recommends that the name of Jose Rico 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 11, 2019



John R. Ashenden, Hearing Officer
No. 19-EB-ALD-075