

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

Objections of: ANDREA HERNANDEZ)	
)	
)	
To the Nomination)	No.: 19-EB-ALD-125
Papers of: ANGELA CLAY)	
)	Rel.: 19-EB-ALD-095
Candidate for the office of)	
Alderman of the 46th 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 ANDREA HERNANDEZ (“Objector”) to the nomination papers (“Nomination Papers”) of ANGELA CLAY, candidate for the office of Alderman of the 46th 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 Objector 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 Joe Ponsetto 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 Call. The following persons, among others, were present at or filed appearances during such hearing; the Objector, ANDREA HERNANDEZ, and/or her Attorney, ANDREW FINKO; and the Candidate, ANGELA CLAY, and/or her Attorneys, MICHAEL KRELOFF and JOHN FOX.

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 her duly authorized representative was present during the examination of the registration records.

10. The Objector and/or her 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 615.

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 46th 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 615 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 46th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found valid.

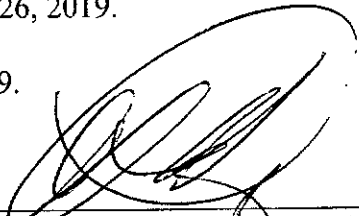
15. The Objector then filed a Rule 20 motion seeking additional argument before the Electoral Board, which provided the opportunity for additional argument in a hearing on Jan. 25, 2019. However, the Electoral Board did not find the additional argument persuasive. For the reasons stated in the Hearing Officer's report on the various issues addressed in the Rule 20 hearing, the Electoral Board denied the Rule 20 motion.

16. 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.

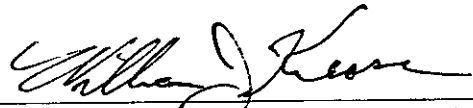
17. For the reasons stated above, the Electoral Board finds that the Candidate has a sufficient number of valid signatures on her nominating petitions and that the Nomination Papers of ANGELA CLAY are, therefore, valid.

IT IS THEREFORE ORDERED that the Objections of ANDREA HERNANDEZ to the Nomination Papers of ANGELA CLAY, candidate for the office of Alderman for the 46th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of ANGELA CLAY, candidate for the office of Alderman for the 46th 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.

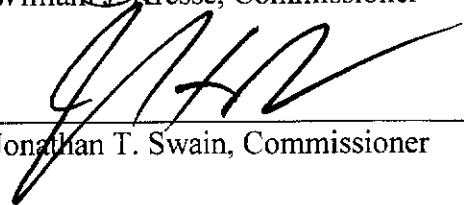
Dated: Chicago, Illinois, on Friday, January 25, 2019.



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.

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO

AS THE DULY CONSTITUTED ELECTORAL BOARD

Objection of Andrea Hernandez

Petitioner – Objector

No. 19 EB – ALD - 125

To the Nomination papers of:

Joseph L. Ponsetto-Hearing Officer

Angela Clay

Related to 19 EB ALD 095

Respondent - Candidate

RECOMMENED DECISION

This matter was first before the Hearing Officer on December 10, 2018. The Parties appeared, and Attorney Andrew Finko filed his appearance on behalf of the Objector Andrea Hernandez. Attorney Michael Kreloff filed his appearance on behalf of the 46th Ward City of Chicago Aldermanic Candidate Angela Clay. Both represented their Clients throughout the proceedings. Later Attorney John Fox filed an appearance as additional Counsel for the Candidate and participated.

Of note, is that as stated, Attorney Kreloff participated throughout the proceedings and even testified through an affidavit filed. The Objector filed a Motion to Disqualify Attorney Kreloff because he was actively involved as a notary on in the Candidates petition gathering efforts and would be a witness in the Objector's case in chief (which never happened). This issue was raised immediately and both sides were given the opportunity to argue their respective positions. It was determined that this appeared to be an attempt to force the Candidate to hire new counsel and have Attorney Kreloff defend himself against uninvestigated allegations that raised the specter of criminal activity in the gathering of the petitions. It was determined that if those issues needed to be addressed that Attorney Kreloff could testify and continue in his role as attorney. The Hearing Officer felt in no way misled or saw any conflict in proceeding in such a manner.

Further it was found that the harm to the Candidate in having to give up the attorney of her choice would be a hardship that would be unfair to her.

The Motion to Disqualify was denied.

The Board offered the following exhibits into evidence which the Hearing Officer admitted without objection:

Group Exhibit A – Nominating papers including statement of Candidacy, statement of economic interest and receipt, 92 petition sheets and all other attachments.

Group Exhibit B – Objectors Petition and attachments

Group Exhibit C – Proof of Service, The Call

Group Exhibit D – Appearances

It was agreed by both parties that based on the allegations in the Objector's Petition that a Record Examination of the signatures would be required, and a directive was issued.

On December 15, 2019 Objector filed a request to Subpoena nine circulators and their Notary Public who is also the attorney handling the challenge. Additionally, the objector has asked for a subpoena for the Candidate.

The only purpose listed on the request was that the circulators are aligned with the candidate and that the subpoenas are necessary to compel appearance. Nothing is submitted as to why this was relevant to the issues presented in her Petition.

A hearing was held on December 24, 2019 at the request of the candidate attorney who filed an objection to the request for subpoenas.

It was ruled that there had not been a showing of a need for the subpoenas and that the matter would be continued for the results of the record exam with the understanding that if other matters arise that show a need for Subpoenas or the need to compel appearance it will be addressed at that time

The Hearing Officer recommended that the Board deny the Objectors request for Subpoenas.

EVIDENTIARY HEARING

With the record exam still pending an evidentiary hearing was held on January 16, 2016 to address all other issues in the Objector's Petition. Paragraph's 14 15 and 16 allege, with no foundation, that the Candidate's Nominating papers were not bound pursuant to 10 ILCS 5/10 -4. The Hearing Officer had the Board produce a photo of the Papers at the moment of filing which clearly shows them bound and summarily disregarded these paragraphs. An inquiry into why this completely baseless allegation was contained in the Petition brought no adequate explanation from the Attorney Finko.

Paragraph's 17, 18,19, 20 and 21 allege that the Candidate's Statement of Candidacy was signed by a third party and not her. The only evidence brought forth was the Objector calling the Candidate to inquire as to her signature on the relevant documents. The Candidate testified, credibly and unimpeached that the signatures on her nomination papers were in fact hers and that that they were properly notarized by Attorney Kreloff. She further testified, again credibly and unimpeached as to

where she lived, both when the Petitions were being circulated and her residence when she filed the paperwork.

Absolutely no credible evidence was brought forth by the objector to support the allegations in these paragraphs and they are denied.

Paragraph 22 allege that Circulators Angela Clay, Carol Contreras , Marc Kaplan, Melody Gil, Paul Siegel, Yamani Freeman, Laurie Odell, Lois Ellington, Helen Thomas, Karen Thomas, Karen Zacor, and Joan Fadayiro all committed fraud in that they did not personally appear before attorney/Notary Michael Kreloff and sign in front of him.

Absolutely no evidence was brought forth by the objector to support the allegations in these paragraphs and they are denied. Of note is that In his response to the Objectors request for Subpoenas Attorney Kreloff does give a detailed statement as to the notarization process in this matter and the affidavit was in no way confronted or impeached.

In Paragraph 23 Petition sheets 31,58,59,60 and 61 were objected to because the Circulator Yamani Freeman failed to indicate his street number and address on the 5 sheets. However, Mr. Freeman also signed as a voter on line 1 of sheet 85 of the petitions disclosing his address as 4640 N. Sheridan, Chicago. This was not contested by the Candidate however a motion to Strike this paragraph was filed. The Candidate relies on *Sakonyl v Lindsey* 261 Ill. App 3rd 821, 634 N.E. 2d 444 (1994) which holds that missing address information in the circulator's affidavit is excused if it can be found anywhere else in the nomination papers. The purpose of including the circulators address is to enable the Board to locate the circulator of the need were to arise.

The Board in the last election cycle, in *Conner v. Holmes*, 15 EB ALD 110 concurred that Objections made based on missing circulators address, should be stricken.

Of note in addressing matters outside of the records exam is that there is another objection pending to these Nomination Papers. In case NO> 19 EB ALD 095, with these facts in full view the Objector saw no reason to even raise these issues.

Although not brought to the attention of the Hearing Officer by either party the case of *Nader v State Board of Election* 345 Ill App 335 (1st Dist 2004) was taken into consideration. It appeared that while the objector alleged a number of very serious allegations he was looking for the Board's assistance to investigate as he went along to. I do not think it is the role of Board or the hearing officer to bring potential witnesses in for the Objector to question through the subpoena process. Nor do I think it is the role of the Board of Hearing officer to allow wide open questioning of the Candidate with nothing to impeach with. *Nader* strongly indicates that the Board is not an investigative body. If an objector cannot prove the allegations made it is this hearing officers opinion that they should not be brought. Especially when making criminal allegations against both the Candidate and her attorney.

RECORD EXAM

The Record Examination was completed on January 19, 2019 and tendered to the parties.

No Rule 8 Motions are pending

Results:

Signatures required 473

No of pages: 92

Total signatures 871

Total objections 452

Total ruled on 452

Total sustained 256

Total overruled 168

Total valid 615

142 signatures greater

In light of the foregoing it is the recommendation of this Hearing Officer that Angela Clay be named on the ballot for the Office of Alderman of the 46th Ward City of Chicago in the February 26, 2018 Election.

Respectfully submitted

Joseph Ponsetto /s/

Hearing Officer

January 23, 2019

ENTERED THIS 26th day of December, 2014

Joseph Ponsetto

Hearing Officer