

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

Objections of: TORIANO SANZONE)
)
)
To the Nomination) No.: 19-EB-ALD-130
Papers of: MICHAEL SCOTT, JR.)
)
Candidate for the office of)
Alderman of the 24th Ward of the City of)
Chicago)

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of Election Commissioners of 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 TORIANO SANZONE (“Objector”) to the nomination papers (“Nomination Papers”) of MICHAEL SCOTT, JR., candidate for the office of Alderman of the 24th Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 26, 2019, having convened on 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 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 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 or service was waived.

4. A public hearing held on these Objections commenced on December 10, 2018, and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Christopher Agrella for further hearings and proceedings.

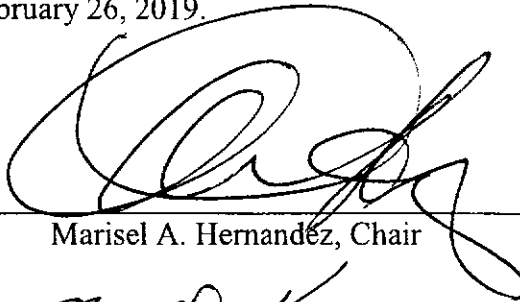
6. The Objector and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, TORIANO SANZONE and/or his Attorney, ANISH PARIKH; and the Candidate, MICHAEL SCOTT, JR. and/or his Attorney, MICHAEL J. KASPER.

7. The Electoral Board finds that on December 27, 2018 the Objector moved to withdraw his Objections against the Candidate's Nomination Papers. The Electoral Board grants the motion to withdraw the Objections and the Objections are withdrawn.


8. The Electoral Board further finds that there are no additional Objections filed against the Candidate's Nomination Papers.

IT IS THEREFORE ORDERED that, the Objections having been withdrawn and there being no other objections to the Candidate's Nomination Papers, the Nomination Papers are legally valid and the name of MICHAEL SCOTT, JR., candidate for election to the office of Alderman of the 24th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 26, 2019.

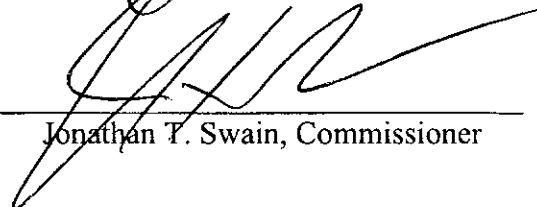
Dated: Chicago, Illinois, on January 2, 2019.



Marisel A. Hernández, 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 DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OF OBJECTIONS TO THE NOMINATION PETITIONS OF
CANDIDATES FOR THE FEBRUARY 26, 2019, MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER AND ALDERMAN IN THE CITY OF CHICAGO**

TORIANO SANZONE,)
)
 Petitioner-Objector,)
)
 v.) No. 19 EB ALD 130
)
)
 MICHAEL SCOTT)

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

This matter first came before the hearing officer on December 10, 2018, set on the Call for 10:15 a.m.

At 10:25 a.m. the first call of the case took place, at which time Mr. Anish Parikh, Esq. appeared on behalf of the objector, Mr. Michael Kasper on behalf of the candidate. Both sides filed their appearances and as well as tendering an executed non-disclosure agreement.

The candidate is seeking to appear on the ballot for election to the office of Alderman of the 24th Ward of the City of Chicago, to be voted upon in the February 26, 2019, Municipal General Election.

At this juncture the hearing officer marked the nomination petition of the, as Exhibit A, the objection as Exhibit B, the proof of service of the Call upon objector as Exhibit C, and the appearance of the candidate as Exhibit D. All were accepted into evidence without objection by either side.

The objection asserted three grounds for invalidating the candidate's nomination papers. First, a standard line by line challenge, incorporating an attached appendix-recapitulation sheet; second, a challenge to certain circulator sheets alternating between

allegations of improper notarizations and lack of genuine circulator signature(s)/false circulator addresses; and third, that the candidate had filed a second set of nomination papers approximately an hour after the first set was filed such that the second set invalidated the first filing and, the second set itself being deficient, required the nomination papers be held invalid and struck.

This hearing officer notes for the record that both filings by the candidate were accomplished within the filing period.

Upon inquiry, candidate indicated an intent to file a motion to strike certain portions of the objection, specifically related to paragraph 13, the dual filing of nomination papers allegation. As such the matter was set down for December 18, 2018, at 10:30 a.m. for hearing on the motion.

The parties filed a timely motion and response brief, and on December 18, 2018, at 10:30 a.m. the matter was recalled and counsel for both sides appeared and the hearing officer entertained argument.

Candidate's motion to strike sought to dismiss objector's paragraph 13 related to the dual filing of nomination papers.

In this allegation the objection cleverly characterized the candidate's second filing as a set of "nomination papers" which, objector also pointed out, lacked a Statement of Candidacy or any petition signing pages. Another way objector could have phrased this part of the objection was to state the candidate's second filing was the filing of a receipt for the filing of a Statement of Economic Interests.

The candidate's motion to strike correctly points out that the Election Code, specifically 10-5, permits the filing of a receipt for the filing of a Statement of Economic

Interests separate from the candidate's nomination papers, so long as the separate filing is accomplished within the time frame for the filing of nomination papers themselves. This would seem to be the only codified exception to the requirements contained in Section 10-4 of the Election Code (10 ILCS 5/10-4) which states, in part, that a petition, when presented or filed, shall not be withdrawn, altered, or added to. *Morrow v. Roby*, 02-EB-RGA-20 (Chicago Electoral Board 2002); *But see, Ballantine v. Bardwell*, 132 Ill.App.3d 1033, 478 N.E.2d 500 (First Dist. 1985); *Courtney v. County Officers Electoral Board*, 314 Ill.App.3d 870, 732 N.E.2d 1193 (1st Dist. 2000) (It is sufficient that the Statement of Candidacy, albeit not filed with the nomination papers, was filed after the nomination petitions were filed but during the filing period)

Objector's position in response was that the second filing, not only being improper and deficient as a replacement set of nomination papers, also engendered confusion in the electorate as to what office candidate was seeking.

This hearing officer granted candidate's motion to strike objector's paragraph 13 in regards to the "dual filing" allegation.

During argument it came out that because the originally filed receipt listed the office sought as "Alderman of the 24th Ward", without more, the second receipt was filed within which it listed the office sought as "Alderman of the 24th Ward, City of Chicago", which, per candidate, was filed out of an abundance of caution.

This hearing officer finds that the office sought was set out with sufficient specificity in the first filing, to wit, "Alderman of the 24th Ward", without more. *Brown v. Neely*, 91 EB ALD 163 (Chicago Electoral Board January 30, 1991).

In this case, the candidate, within an hour of filing his nomination papers, timely filed

a receipt of filing his Statement of Economic Interests wherein the candidate listed the office sought as "Alderman of the 24th Ward, City of Chicago", clearly sufficient as to designating the office sought.

Under the facts of this case, with the second filing in place and timely, even if this first receipt was to be deemed completely deficient, under the facts of this case it should properly be disregarded as surplusage. *Hendon v. Davis*, 02-EB-SS-10 (CBEC, 2002).

Further, there is no basis for confusion of the electorate, nor is the separate filing of a receipt evidencing the filing of a Statement of Economic Interests a basis for invalidating the nomination papers of this candidate.

Having dispensed with that issue the case turned to the remaining grounds in the objection. A review of the preliminary Petition Summary Report revealed the possibility that the objector had not raised sufficient line by line and other circulator /notary issues to bring the candidate's valid signature totals below the 473 signature minimum.

As a consequence, prior to formally scheduling this matter for a Rule 6 Record Examination, the hearing officer requested that both sides generate an approximation of the otherwise valid candidate signature totals under a "best case scenario" for objector, which, for purposes of the review, gives the objector a win on 100% of the line by line objections and 100% of the circulator/notary challenges, the latter issue which would strike all otherwise good and unchallenged signatures on the challenged sheets.

Both parties diligently worked up the numbers requested and it became apparent that the objection, even if 100% successful on all remaining issues, would not reduce the candidate's total valid signatures below the 473 signature minimum.


On December 27, 2018, faced with this outcome, objector filed a written motion to

withdraw the objection, which this hearing officer recommends the Board grants and permits the objection to be withdrawn or otherwise dismissed.

WHEREFORE your hearing officer recommends to this Board that it adopt the above findings, decisions and recommendations of the hearing officer and that the Board permit the withdrawal of the instant objection, that the Board further declare the candidate's nomination papers sufficient in law and fact, and that the candidate's name, Michael Scott, Jr. appear on the ballot for election to the office of Alderman of the 24th Ward of the City of Chicago, to be voted upon in the February 26, 2019, Municipal General Election.

Christopher J. Agrella
Hearing Officer
330 East Main Street
Suite 205
Barrington, Illinois 60010
Office: (847) 381-6800
Fax: (847) 381-6866
Email: agrellalaw@comcast.net

Respectfully Submitted,



Christopher J. Agrella – Hearing Officer