

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

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Objections of: DAVID HERRERA )  
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To the Nomination ) No.: 19-EB-ALD-152  
Papers of: ANGEE GONZALEZ )  
 ) Rel.: 19-EB-ALD-048, 19-EB-ALD-093  
Candidate for the office of )  
Alderman of the 26th 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 DAVID HERRERA (“Objector”) to the nomination papers (“Nomination Papers”) of ANGEE GONZALEZ, candidate for the office of Alderman of the 26th 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 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 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 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 Lynne Ostfeld 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, DAVID HERRERA, and/or his Attorney ED MULLEN; the Candidate, ANGEE GONZALEZ, and/or her Attorney ANDREW FINKO.

7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled. Following a records examination, it was found that the Nomination Papers contain 574 valid signatures, which is 101 more than the required minimum of 473. No party filed any Rule 8 motion.

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 overrules the Objections to the Candidate's Nomination Papers.

10. The Electoral Board further finds that objections to the Candidate's Nomination Papers were filed in related case(s) Rel.: 19-EB-ALD-048, 19-EB-ALD-093, that such objections are still pending and they will determine whether the Candidate's Nomination Papers are valid or invalid.

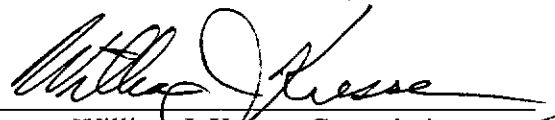
IT IS THEREFORE ORDERED that the Objections of DAVID HERRERA to the Nomination Papers of ANGEE GONZALEZ, candidate for election to the office of Alderman of the 26th Ward of the City of Chicago, are hereby OVERRULED and dismissed.

Dated: Chicago, Illinois, on January 02, 2019.



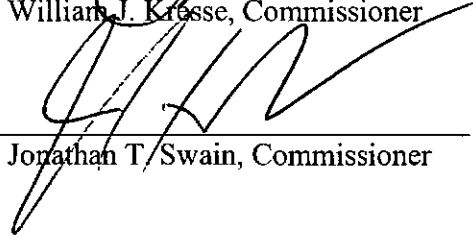
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Marisel A. Hernandez, Chair



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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.



respond, and the candidate to reply, with the next hearing set for December 17, 2018.

4. The candidate filed a motion to dismiss the Objections on the basis that:

A. the candidate filed more nominating petition sheets than the objector objected to via his Appendix Recap sheets, leaving her with in excess of the 473 requisite signatures which had not been challenged, and, in the alternative;

B. the objector did not file two complete copies of the objector's petition, as required by 10 ILCS 5/10-8.

5. The objector responded that the motion to strike and dismiss should be denied because:

A. the objector filed three copies of his objector's petition, the original petition had all of the appendix pages attached, and that there is insufficient legal authority to dismiss a petition if some pages are inadvertently not copied;

B. the headings on certain petition sheets are not identical to other petition sheets as required by 10 ILCS 5/10-7 (*sic*) which puts the candidate below the requisite number of 473 valid signatures if these sheets are stricken.

6. The candidate did not submit a reply.

7. At the status hearing on December 17, 2018 the parties discussed the method to resolve the issues, given the complexity of proving and defending the absence of appendix sheets in the copy provided to the candidate.

8. The parties also discussed the issue of the lack of identical headings, that the petition sheets varied pursuant to an additional phrase on some sheets advising signers not to sign more than one candidate's petition, and whether this was fatal to the validity of any of the petition sheets.

9. The Hearing Officer requested the parties to submit a memo of law in support of their respective arguments. The schedule was set with a return date for a hearing on December 22, 2018.

10. The candidate did not submit a memo within the time allowed, nor within the time allowed after an extension of time was requested and granted.

11. After reflection about the time and cost involved in maintaining his objections, and the fact that there were other objections filed against the candidate, the objector withdrew his objections by a formal Motion to Withdraw filed on December 21, 2018.

12. The candidate did not object or otherwise respond to the motion.

13. The hearing was continued on December 26, 2018 at 1:00 P.M. The Hearing Officer had excused attendance by the parties and their attorneys and none of them appeared.

#### **Findings of Fact and Conclusions of Law**

14. The Hearing Officer read into the record the objector's Motion to Withdraw.

15. The Hearing Officer granted the objector's Motion to Withdraw.

16. The Hearing Officer finds that there are no objections extant to the validity of the candidate's signatures on her petitions. She has met the requirement of having 473 valid signatures on her nominating petitions.

17. The candidate's complaint that her copy of the Objections was incomplete is moot.

18. Although the type size, font, and arrangement of the required information were different in several petitions, the heading on the petition sheets provided the same information as to the name of the candidate, her address, and the office sought (i.e., Alderman of the 26th Ward in the City of Chicago). Because no adverse caselaw was cited or found on the issue, it appears that the petition

headings met the requirements of 10 ILCS 5/10-4 that the information be the same.


19. Some petitions had an additional qualifying phrase within the body of the introductory statement detailing the purpose of the petition: "...having signed no other nominating petitions for candidates seeking election to the same election,...".

20. The objector had orally argued that this extra phrase in some petitions violated the requirements that the heading of each sheet be the same. 10 ILCS 5/10-4. The candidate orally argued that this phrase was merely surplusage and did not void the petition sheets containing it, or not containing it. The objector did not make any allegations as to the phrase or lack of the phrase causing any confusion on the part of the voters. No argument was made as to the definition of a "heading" and whether the phrase was part of the "heading" or not. The logic of the Electoral Board in *Burgess v Mitchell* (11 EB ALD 041, 1/13/11) can be followed. Although that case had different facts, inasmuch as the candidate was running for alderman in the 16th Ward and reference was made on certain petitions to the 6th Ward, the Electoral Board looked at all that was available to the voters and determined to accept the petition sheets because the objector had failed to present any evidence that there was, in fact, voter confusion. In the instant case, the objector made no allegation of confusion by the voters.

21. The Hearing Officer recommends that this Board find that the Nomination Papers of ANGEE GONZALEZ be declared to be VALID for the reasons stated above.

22. The Hearing Officer recommends that this Board order that the name of ANGEE GONZALEZ BE printed on the ballot for the Aldermanic Election, 26<sup>th</sup> Ward, City of Chicago, to be held on February 26, 2019, for the reasons stated above.

Dated: Chicago, Illinois, this 31st day of December, 2018.

  
Lynne R. Ostfeld, Hearing Officer



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