

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

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**Objections of: MICHAEL D. DANIELS** )  
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**To the Nomination** ) **No.: 07-EB-ALD-113**  
**Papers of: JAVIER DIAZ** )  
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**Candidate for the office of** )  
**Alderman of the Sixteenth Ward,** )  
**City of Chicago** )

**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal and Richard A. Cowen, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of MICHAEL D. DANIELS (“Objector”) to the nomination papers (“Nomination Papers”) of JAVIER DIAZ, candidate for the office of Alderman of the Sixteenth Ward in the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 27, 2007, having convened on January 2, 2007, at 10:00 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 herein 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 Chairman 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 January 2, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner David Tecson for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, MICHAEL D. DANIELS, pro se; and the Candidate, JAVIER DIAZ, pro se.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by its 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 Examiner 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 Objector and/or his 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 Electoral Board's file in this case and a copy has been provided to the parties.

12. The Electoral Board has considered all evidence and arguments tendered by the parties and the Hearing Examiner's report of recommended findings and conclusions of law.

13. 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 116;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 174;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 116;

D. The remaining number of signatures deemed valid as a result of the records examination total 58.

14. Based upon the evidence presented, the Hearing Examiner found that the Candidate's Nomination Papers contained only 58 valid signatures and that the Candidate's Nomination Papers should be found invalid.

15. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination is less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Alderman of the Sixteenth Ward of the City of Chicago.

16. For the reasons stated above, the Electoral Board sustains the Objections and finds that the Nomination Papers of JAVIER DIAZ are not valid.


IT IS THEREFORE ORDERED that the Objections of MICHAEL D. DANIELS to the Nomination Papers of JAVIER DIAZ, candidate for election to the office of Alderman of the Sixteenth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JAVIER DIAZ, candidate for election to the office of Alderman of the Sixteenth Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 27, 2007.

Dated: Chicago, Illinois, this 28th day of January, 2007.



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Langdon D. Neal, Chairman



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Richard A. Cowen, 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 10 days after the decision of the Electoral Board.

**BOARD OF ELECTION COMMISSIONERS  
OF THE CITY OF CHICAGO**

**MICHAEL D. DANIELS**  
**Petitioner-Objector,**  
**v.**  
**JAVIER DIAZ**  
**Candidate.**

No.07-EB-ALD-113

Hearing Examiner: David J. Tecson

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**RECOMMENDATION**

This cause coming to be heard on Michael D. Daniels' (the "Objector") Verified Objector's Petition to bar Javier Diaz (the "Candidate") from appearing on the ballot for election of Alderman for the 16<sup>th</sup> Ward in the General Municipal Election to be held on February 27, 2007, the hearing examiner finds as follows:

I. Allegations of the Objection

Objector brought this action challenging both the Statement of Candidacy and the nominating petitions filed by the Candidate for Alderman of the 16<sup>th</sup> Ward. With respect to the nominating petitions, Objector claims multiple violations of the Illinois Election Code. These objections were grouped into categories and labeled; 1) "Signer Not Registered At Address Shown," 2) "Signer's Signature Not Genuine," 3) "Signer Resides Outside of District," 4) "Signer's Address Missing or Incomplete, 5) "Signer Signed Petition More Than[k]sic Once at Sheet/Line Indicated," 6) "Not Genuine; Signer's Signature Printed and Not Written, and 7) "Circulator's Affidavit Not Properly Notarized." The Objector also raises an issue with the

language used in Candidate's Statement of Candidacy, specifically taking issue with the use of "qualified Primary voter of the non-partisan party", "General Election Ballot" and reference to the "primary election to be held on the 27<sup>th</sup> of February, 2007."

The Objector and the Candidate appeared before the hearing examiner on January 2, 2007. Both the Objector and the Candidate filed appearances and submitted to the jurisdiction of the Board of Election Commissioners. The Candidate and Objector agreed that a record examination should proceed.

## II. Record Examination

The Chicago Board of Election Commissioners conducted an independent examination of the signatures on January 6, 2007. The Board of Election Commissioners provided notice to the Objector and the Candidate of the record examination. However, only the Objector attended the record examination. No one on behalf of the Candidate appeared for the record examination.

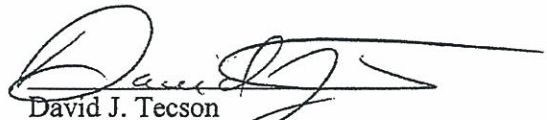
The Candidate submitted 174 signatures on his election petition. The record examination overruled 15 of the objections submitted by the Objector, but sustained 116 of the objections submitted by the Objector. The record examination results left the Candidate with only 58 valid signatures to support his candidacy. The minimum signature requirement for the office of Alderman of the 16<sup>th</sup> Ward is 116. Candidate has failed to obtain a sufficient number of signatures to appear on the ballot for the upcoming election on February 27, 2007 and therefore, Objector's petition with respect to said signatures is sustained.

III. Hearings Subsequent to the Record Examination

Hearing examiner set a status hearing for January 12, 2007 at 11:00 a.m. The Candidate filed a letter with the Board of Election Commissioners seeking a continuance of the hearing. In light of the expedited nature of these proceedings, the hearing examiner denied the request for continuance. The Candidate failed to appear on January 12, 2007. However, his son, Cezar Diaz appeared on January 12, 2007 and requested additional time to contest the findings of the record examination. In an effort to be fair to the Candidate, a final hearing was set for January 17, 2007 at 10:30 a.m. The Candidate and the Objector appeared on January 17, 2007 for the final hearing. At that time, the Candidate asserted that the record examination results were inaccurate. He also made certain legal arguments which were unsupported by motion or written citation to legal authority. The Candidate waived his ability to contest the record examination results when no one on his behalf attended the record examination.

IV. Recommended Findings of Fact and Decision

The record examination conducted by the Chicago Board of Election Commissioners demonstrates that Javier Diaz submitted only 58 valid signatures to support his candidacy. The minimum number of signatures required before the office of Alderman for the 16<sup>th</sup> Ward is 116. Therefore, hearing examiner recommends that the Objector's petition be sustained, and that Javier Diaz be stricken from the ballot as a candidate for the upcoming election on February 27, 2007.

  
David J. Tecson  
Hearing Examiner