

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

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Objections of: Angela Caldwell )  
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To the Nomination ) No.: 12-EB-WC-08  
Papers of: Roderick T. Sawyer )  
 ) Rel. Case No.:  
Candidate for the office of Democratic Party )  
Ward Committeeman of the 6th Ward, City of )  
Chicago )

**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of Board of Election Commissioners for the City of Chicago Commissioners Langdon D. Neal, Richard A. Cowen, and Marisel A. Hernandez, 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 Angela Caldwell (“Objector”) to the nomination papers (“Nominating Papers”) of Roderick T. Sawyer, candidate for the office of Democratic Party Ward Committeeman for the 6th Ward of the City of Chicago (“Candidate”) at the General Primary Election to be held on March 20, 2012, having convened on December 19, 2011, at 8:30 AM, 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 was held on these Objections commencing on December 19, 2011 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Kelly Cherf 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 such hearing; the Objector, Angela Caldwell , by attorney, Andrew Finko; and the Candidate, Roderick T. Sawyer, by attorney, Paul J. Montes II.

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 Objector and/or her duly authorized representative were 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 870.
  - B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1768.
  - C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 776.
  - D. The remaining number of signatures deemed valid as a result of the records examination total 992.

13. Following the completion of the records examination and the handwriting expert's review of the same, it was discovered that the handwriting expert had reviewed objections for which neither party had appealed the finding of the records examiners. Rule 6(b)(iii)(2) of the Electoral Board's Rules of Procedure states, "The Board of Election Commissioner may employ forensic handwriting experts to review decisions of the records examiners and to make findings as to whether signatures were made by the same person and are genuine **when the decisions of the records examiners are appealed as provided below.**" Rule 6 (h) says in part, "Any finding overruling or sustaining an objection that a signature appearing on the candidate's petition that is not genuine **that is timely and properly appealed by a party** shall be reviewed by a handwriting expert employed by the Board of Election Commissioners." According to the rules, therefore, the handwriting expert should not have reviewed signature objections for which

neither party had filed a proper appeal. In this case, the Hearing Officer reduced the number of valid signatures by three (3).

14. 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 election to the office of Democratic Party Ward Committeeman for the 6th Ward of the City of Chicago.

15. The Hearing Officer conducted a hearing to allow the Objector and the Candidate an opportunity to present evidence in support of their respective Rule 8 motions objecting to the Board's clerk's findings during the records examination.

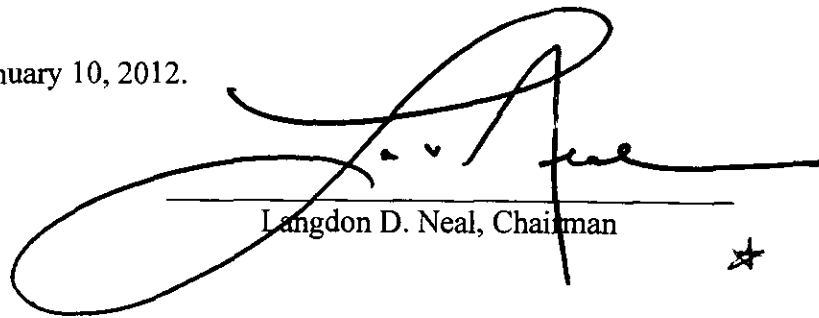
16. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate's Nomination Papers contained 992 valid signatures, which exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for the office of Democratic Party Ward Committeeman for the 6th Ward of the City of Chicago, and recommends that the Candidate's Nomination Papers be found valid.

17. 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. A copy of the Hearing Officer's report is attached hereto and is incorporated herein and made a part of the Electoral Board's decision in this case.

18. 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 Roderick T. Sawyer are, therefore, valid.

IT IS THEREFORE ORDERED that the Objections of Angela Caldwell to the Nomination Papers of Roderick T. Sawyer, candidate for the office of Democratic Party Ward Committeeman for the 6th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Roderick T. Sawyer, candidate for the office of Democratic Party Ward Committeeman for the 6th Ward of the City of Chicago, SHALL be printed on the official ballot for the General Primary Election to be held on March 20, 2012.

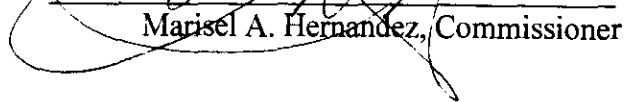
Dated: Chicago, Illinois, on January 10, 2012.



Langdon D. Neal, Chairman



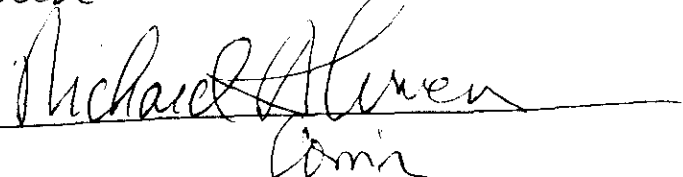
Richard A. Cowen, Commissioner



Marisel A. Hernandez, 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.

\* For the reasons stated on the record I dissent



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

Objections of:	)	
ANGELA CALDWELL	)	
	)	
To the Nomination Papers of:	)	No. 12-EB-WC-08
RODERICK SAWYER	)	
	)	
Candidate for the Office of	)	
Democratic Committeeman of the 6 <sup>th</sup> Ward	)	
of the City of Chicago.	)	

2012 JAN - 7 A 8 43  
BOARD OF ELECTIONS  
COMMISSIONER

**HEARING EXAMINER'S REPORT AND RECOMMENDATION**

This matter coming before the duly constituted Electoral Board, consisting of Chicago Board of Election Commissioners, and before the undersigned Hearing Examiner, the Hearing Examiner hereby makes the following Report and Recommendation:

**PRELIMINARY FACTS**

1. The Candidate filed Nomination Papers as a Candidate for the office of Democratic Committeeman of the 6<sup>th</sup> Ward for the City of Chicago. Such Nomination Papers consist of: a) Statement of Candidacy; b) Nomination Petition Sheets; and c) a loyalty oath.

2. The Objector's Petition to the Nomination Papers of the Candidate was timely filed on December 12, 2011. In the Petition, the Objector alleges the petition pages contain: a) name of persons who are not registered voters at the addresses shown opposite their respective names; b) signatures which are not genuine or are printed; c) the names of persons who reside outside the 6<sup>th</sup> Ward; d) missing or incomplete addresses; e) names of persons who signed the Nomination Papers more than once; and f) names of persons who signed the Nomination Papers of more than one candidate. The Objector further alleges that the Nomination Papers contain petition pages that do not properly contain the name and residence of a circulator who is at least 18 years of age and a U.S. citizen, a duly sworn and duly notarized circulator's affidavit and/or contain defects or missing information in the circulator's affidavit. In addition, the Appendix-Recapitulation pages allege that certain signatures of the circulators are not genuine. The Objector, citing to *Rosenzweig v. Illinois State Board of Elections*, 946 N.E. 2d 1113 (1<sup>st</sup> Dist. 2011), also alleges that the Candidate signed the Nomination Papers for a candidate of another party and that the signature has not been timely revoked from another candidate's nomination papers, indicating that the Candidate's oath in the statement of candidacy is false and defective because the Candidate is not a duly qualified voter of the Democratic Party, in violation of 10 ILCS 5/7-8. Attached to the Objector's Petition is an Appendix-Recapitulation.

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 certified mail or by Sheriff's service, as provided by statute.

4. The initial hearing on these Objections was called on December 19, 2011. Andrew Finko appeared on behalf of the Objector. Paul Montes appeared on behalf of the Candidate.

5. Board exhibits were marked as follows: a) Group Exhibit A consists of the Statement of Candidacy, loyalty oath, Nominating Petition sheets numbered 1 - 95; b) Group Exhibit B consists of Objector's Petition and the Appendix-Recapitulation sheets numbered 1 - 95; c) Group Exhibit C consists of the proof of service of the Call to the Objector and the Candidate; and d) Group Exhibit D consists of the Appearance forms filed by the Objector and the Candidate.

6. At the hearing, the Candidate requested the opportunity to file a Motion to Strike Objector's Petition. A briefing schedule was set pursuant to the Rules of Procedure for the Board of Election Commissioners of the City of Chicago. The Candidate timely filed a Motion to Strike. The Objector timely filed a Response. The attorneys for the parties agreed to waive oral argument on the Motion to Strike.

#### **THE CANDIDATE'S MOTION TO STRIKE**

7. For his Motion to Strike and dismiss, the Candidate argues that paragraphs 11 and 14 of the Objector's Petition be stricken. Paragraph 11 of the Objector's Petition alleges that "[t]he Nomination Papers contain petition sheets with the names of persons who have signed the Nomination Papers [stet] more than one candidate as is set forth specifically in the Appendix-Recapitulation . . . under the heading, Column F 'Signer signed for another candidate: Candidate-Sheet/Line . . .'" The Candidate argues that paragraph 11 is not in compliance with 10 ILCS 5/10-8 in that it fails to give the Candidate notice of specific deficiencies. Paragraph 14 of the Objector's Petition alleges "[i]t is also believed that the Candidate signed the nomination papers for candidate of another party, and that the signature has not been timely revoked from another candidate's nomination papers, indicating that Candidate's oath in the statement of candidacy is false and defective because Candidate is not a duly qualified voter of the Democratic Party, in violation of 10 ILCS 5/7-8." The Candidate again argues that paragraph 14 is not in compliance with 10 ILCS 5/10-8 in that it fails to give the Candidate notice of specific deficiencies. The Candidate also argues that paragraph 14 is insufficient as a matter of law and contains a misrepresentation of fact in that 10 ILCS 5/7-8 does not address the issue contained in paragraph 14.

8. For her Response, the Objector argues that paragraph 11 satisfies 10 ILCS 5/10-8 and provides the Candidate with sufficient notice of the alleged deficiencies as the Petition is read as whole with the Appendix-Recapitulation, as Column F in the Appendix-Recapitulation which is referenced in paragraph 11 alleges "[s]igner signed for another" and also includes the name of the other candidate and the sheet and line number of the other candidate's petition pages on which the signer signed. The Objector also argues that paragraph 14 provides sufficient

information about the nature of the objection as it specifically relies upon the holding in the *Rosenzweig* case which invalidated a candidate's statement of candidacy premised upon that candidate signing the nomination papers for a candidate from a different political party.

9. On December 28, 2011, I advised the parties that I agreed with the Objector that the allegations set forth in paragraphs 11 and 14 of her Petition state the nature of the objection and are otherwise in compliance with 10 ILCS 5/10-8 and that the issues set forth in these paragraphs must be resolved at an evidentiary hearing.

10. On December 28, 2011, the Candidate filed a Motion to Reconsider the Hearing Examiner's Recommendation to Deny the Candidate's Motion to Strike and Dismiss Objector's Paragraph 11. In the Motion to Reconsider, the Candidate points out that pursuant to the Objector's Appendix-Recapitulation, the dual signer objection in paragraph 11 refers to instances where "the signer signed for another candidate, Richard Wooten at the sheet/line indicated, prior to signing Candidate Sawyer's petition." (See Objector's Rule 8 Motion at para. 3). The Candidate argues that Richard Wooten, who also is running for Democratic Committeeman for the 6<sup>th</sup> Ward, is of the same political party as the Candidate. Therefore, paragraph 11 is not a viable objection.

11. On December 31, 2011, the Objector filed her Response in which she argues that 10 ILCS 5/10-3, which prohibits the signing of more than one independent candidate's petition, should apply to ward committeeman races as it is a "one-party race."

12. Under Rule 10 (b) of the Rules of Procedure for the Board of Election Commissioners, the Board may take judicial notice of matters of which Circuit Courts of this State may take judicial notice. There is no dispute that Mr. Wooten is a candidate for Ward Committeeman of the Democratic Party in the 6<sup>th</sup> Ward – the same political party of Mr. Sawyer. Although the Election Code prohibits a voter from signing petitions on behalf of multiple parties (10 ILCS 5/7-10) and also prohibits a voter from signing petitions on behalf of multiple independent candidates for the same office (10 ILCS 5/10-3), it does not prohibit a voter from signing multiple petitions on behalf of partisan candidates of the same party. The ward committeeman race, unlike an aldermanic race, is partisan and the candidates are not independent. 10 ILCS 5/10-3 does not apply. Accordingly, I recommend that the motion to reconsider be granted and that paragraph 11 and the 22 objections that refer to Mr. Wooten in the Appendix-Recapitulation be stricken. However, I recommend that the Motion to Strike and Dismiss be denied as to paragraph 14.

### **RECORDS EXAMINATION**

13. The Records Examination commenced on December 21, 2011 and was completed on December 27, 2011. Notice of the record examination results was served on both parties on December 27, 2011.

14. The Candidate needed 870 signatures to be on the ballot. The Candidate submitted 1768 signatures. There were 1083 objections. 776 objections were sustained leaving



992 valid signatures which is 122 signatures greater than the required signatures. The Candidate appealed 634 findings and the Objector appealed 439 findings.

## **EVIDENTIARY ISSUES**

### **The Objector's Rule 8 Motion**

15. On December 28, 2011, the Objector filed a Motion for Rule 8 Evidentiary Hearing on the Results of Rule 6 Records Exam. In her Motion, the Objector requests an evidentiary hearing for purposes of demonstrating that objections specifically identified by page and line number in her motion should have been sustained for the following general reasons: a) signer is not a registered voter at the address indicated on the petition; b) signature is not genuine or printed; c) signer's address is not located in the 6<sup>th</sup> Ward; d) signer's address is missing or incomplete; e) signature is invalid because the signer signed the Petition more than once; and e) signature is invalid because the signer signed for another candidate, Richard Wooten.

### **The Candidate's Rule 8 Motion**

16. On December 28, 2011, the Candidate filed a Rule 8 Motion. In his Motion, the Candidate states that he seeks to have overturned findings made at the Records Examination as identified by sheet and line number in her motion.

### **The Case Management Conference**

17. On December 28, 2011, there was a case management conference.

18. The evidentiary hearing was set to commence on January 4, 2012. The dates for the exchange of exhibits and witness lists among the parties were set as follows:

a. By December 30, 2011, the parties shall serve each other and the hearing examiner with the following for their case-in-chief:

i. copies of all exhibits/documents that each party intends to introduce at the evidentiary hearing and for each exhibit/document, the party shall identify the finding and/or objection for which the exhibit/document is being introduced; and

ii. a list of witnesses each party intends to call at the hearing and for each such witness, the address for the witness and the purpose for each witness' testimony.

b. By January 2, 2012, the parties shall serve each other and the hearing examiner with the following for their rebuttal:

i. copies of all exhibits/documents that each party intends to introduce at the evidentiary hearing and for each exhibit/document, the party shall identify the finding and/or objection for which the exhibit/document is being introduced; and

ii. a list of witnesses the party intends to call at the hearing and for each such witness, the address for the witness and the purpose for each witness' testimony.

(See Case Management Order dated Dec. 28, 2011).

**The Candidate's Exhibit List for His Case-in-Chief**

19. On December 30, 2011, the Candidate stated that he will provide upon request the affidavits of 46 individuals identified by name and page and line number.

**The Objector's Request for Subpoenas and Exhibits/Witness List for her Case-in-Chief**

20. On December 30, 2011, the Objector submitted a Request for Issuance of Subpoenas and witness list. The Objector made a request for subpoena on the Chicago Board of Election Commissioners for the following categories of documents: a) unredacted voter registration cards showing signatures for 17 listed circulators which are identified by name and address ("Request No. 1"); b) unredacted voter registration cards showing signatures for 14 voters which the Objector lists by street address (and not by name) and 9 voters which the Objector lists only by sheet and line number ("Request No. 2"); and c) "Application for Ballot, Application for Ballot for Early Voters, Grace Period Voters, and/or Absentee Voters . . . and/or Correction Reports" for the February 22, 2011 Municipal General Election, the April 5, 2011 General Runoff Election, the November 2, 2010 General Election and the February 2, 2010 General Primary Election for 28 voters identified by sheet and line number and name and address and approximately 88 voters identified only by sheet and line number ("Request No. 3"). The Objector also made a request for subpoena for the Cook County Clerk, David Orr for nomination papers submitted by Richard Wooten seeking nomination as ward committeeman of the Democratic Party in the 6<sup>th</sup> Ward ("Request No. 4").

21. With regard to Requests Nos. 1 and 2, with the exception of circulator Carlton Berdell (Sheet No. 66) who was not the subject of an objection regarding his status/signature as a circulator, the Board will provide copies of the signatures of the circulators listed on Objector's Request No. 1 and the signers listed on Request No. 2 as said information is relevant to the Objector's objections. With regard to Request No. 3, the request is denied. *See generally Kibort v. Westrom*, 371 Ill. App. 3d 247 (2<sup>nd</sup> Dist. 2007) (affirming the trial court's order that the DuPage County Election Commission did not violate the Illinois Freedom of Information Act by denying the plaintiff's request to examine ballot records). The Election Code does not authorize access to the records requested in Objector's Request No. 3 in proceedings on objections to candidates' nomination papers. Finally, Request No. 4 is denied for the reasons set forth in my recommendation on the Candidate's Motion to Reconsider (*supra* at para. 12). On January 2, 2012, I issued an order reflecting these recommendations. On January 3, 2012, the Board provided both parties with access to the information that the Board was able to locate pursuant to the Order.

22. For his witness list, the Objector listed circulators who circulated the petition papers for Mr. Wooten who "will testify regarding the dates on which they circulated the sheets

identified on Objector's Rule 8 motion for Richard Wooten, to establish that they obtained the signatures of registered voters on Richard Wooten's nomination papers prior to the date that the same votes signed the nomination papers for Candidate . . ." However, because I have recommended that this dual signature objection be stricken (supra at para. 12), the testimony of Mr. Wooten's circulators is not relevant to the proceeding.

23. For his exhibit list, the Objector states that she will rely upon the official file before the Electoral Board, including the Candidate's Nomination Papers and the documents produced pursuant to the subpoenas.

#### **The Candidate's Exhibits for his Rebuttal**

24. On December 31, 2011, the Candidate submitted the affidavits of his circulators for purposes of rehabilitation of the circulator's signatures.

25. The Objector did not submit any affidavits or list any witnesses for her rebuttal.

#### **HANDWRITING EXPERT'S REVIEW OF CERTAIN OBJECTIONS**

26. On January 2, 2012, the Board provided the parties with a memo which included the following: "Mr Holiday has determined that the handwriting expert generally took no action to reverse the original ruling of the records examiner on a signature objection unless either the candidate or the objector requested a review of such ruling. In those cases where the handwriting expert did reverse an original ruling even though neither party requested his review, the parties involved in such cases will receive a separate notice identifying the specific petition sheet and line numbers affected." Included with the memo to the parties in this case was the referenced notice which shows that the handwriting reviewed three sustained objections which were not appealed by either party and for which the handwriting expert made a ruling of overruled. As those three objections should not have been reviewed by the handwriting expert, and thus not overruled, I recommend that the total number of sustained objections be increased by three (3) and the total number of overturned objections be decreased by three (3). Thus, the records examination report should reflect that the Candidate has 119 (and not 122) signatures greater than the required minimum.

#### **EVIDENTIARY HEARING**

##### **I. The Objectors Rule 8 Motion and Other Evidentiary Objections**

##### **A. The Circulator Signature Objections**

##### **The Candidates' Motion in Limine**

27. Prior to the presentation of evidence by the Objector regarding the genuineness of signatures of certain circulators, the Candidate made an oral motion to strike any evidence submitted by the Objector on the grounds that the notary on each of the circulator's affidavit of

the respective petition pages provides conclusive and irrefutable evidence that the circulator's signature is genuine.

28. I recommend that the Candidate's motion in limine be denied as the genuineness of a circulator's signature may be objected to regardless of whether the signature is notarized. *See, e.g., Mitchell, Scheff & Suckerman v. McCann*, 99-EB-ALD-119, CBEC, February 2, 1999. However, notarization of a signature is evidence that may be considered in determining whether the signature is genuine. *See In re Alfaro*, 301 Ill. App. 3d 500, 510 (2d Dist. 1998).

### **The Evidence Introduced by the Parties**

29. For her case-in-chief on the circulator objections, the Objector introduced the registration cards that she requested and received from the Board. (*Supra* at para. 24). The registration cards regarding the circulators were marked as Objector's Exhibits 1- 16 and admitted into evidence.

30. For his defense, the Candidate relied upon the affidavits he provided to the Objector and the hearing officer pursuant to the case management order. Each affidavit follows the same format and states and/or provides: a) that the circulator circulated the nomination petitions on behalf of the Candidate at the particular petition page number; b) his or her address; c) examples of his/her printed and written signatures; and d) that the circulator's signature on the nomination petition is genuine. The affidavits regarding the circulators were marked as Candidate's Exhibits 2A-16A and with the exception of Exhibits 3A and 13A, were admitted into evidence.<sup>1</sup>

31. The Objector made a standing objection to the affidavits as none of the affidavits are dated. All of the affidavits are verified pursuant to Section 1-109 of the Illinois Code of Civil Procedure. Section 1-109 does not require that the verifications be dated. *See* 735 ILCS 5/1-109. The Board has previously accepted affidavits that are verified pursuant to Section 1-109. *Bright v. Bellaire*, 08-EB-WC-42, CBEC, December 14, 2007. Therefore, I recommend that the objection be overruled.

### **Recommendations for the Circulator Objections**

32. The Objector has the burden to demonstrate by the preponderance of the evidence that the circulator's signature is not genuine. Rule 8 (b) of the Rules of the Procedure for the Board of Election Commissioners.

33. After review of the nomination papers, the respective registration cards, the respective affidavits and upon consideration of each party's argument regarding all of the evidence in the records, I submit the following recommendations:

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<sup>1</sup> Exhibits 3A and 13A were not provided to the Objector or the hearing examiner in accordance with the case management order. The Objector objected to the admission of said evidence, and I recommend that the objection be sustained.

A. *Jacqueline Townsend, Sheets 3 and 63*: A registration card was submitted by the Objector (Objector's Exhibit 1). At the hearing, the Candidate admitted that an affidavit was not provided to the Objector or the hearing examiner in accordance with the case management order but sought to admit an affidavit by the circulator. The objector objected, and I recommend that the objection be sustained. I find similarity between the signature on the registration card and the circulator's notarized signatures on Sheets 3 and 63, and do not believe the objector has met her burden of proof in demonstrating that the signatures are not genuine. **Objection overruled.**

B. *Fernando Rivera, Sheets 15 and 64*: A registration card was submitted by the Objector (Objector's Exhibit 2). An affidavit was submitted by the Candidate (Candidate's Exhibit 2A). As I do find some similarities between the signature on the registration card and the circulator's notarized signature on Sheets 15 and 64, I do not believe the objector has met her burden of proof in demonstrating that the signatures are not genuine. **Objection overruled.**

C. *Nikia Childress, Sheet 17*: A registration card was submitted by the Objector (Objector's Exhibit 3). At the hearing, the affidavit for the circulator was marked as Exhibit 3A, but because it was never tendered to the hearing examiner or the objector pursuant to the case management order, I recommend that it not be admitted into evidence. The signature on the twenty eight (28) year old registration card is strikingly similar to the circulator's notarized signature at Sheet No. 17. The objector has not met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

D. *Novilla White, Sheet 18 and 67*: A registration card was submitted by the Objector (Objector's Exhibit 4). An affidavit was submitted by the Candidate (Candidate's Exhibit 4A). As I do find similarities between the signature on the registration card and the circulator's notarized signature on Sheets 18 and 67, I do not believe the objector has met her burden of proof in demonstrating that the signatures are not genuine. **Objection overruled.**

E. *Dawn Taylor, Sheet 22*: A registration card was submitted by the Objector (Objector's Exhibit 5). An affidavit was submitted by the Candidate (Candidate's Exhibit 5A). The signature on the registration card is nearly identical to the circulator's notarized signature on Sheet 22. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

G. *James Macklin, Sheet 25*: A registration card was submitted by the Objector (Objector's Exhibit 6). An affidavit was submitted by the Candidate (Candidate's Exhibit 6A). As I do find some similarities between the signature on the twenty five (25) year old registration card and the circulator's notarized signature at Sheet 25, I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

H. *Robert Lewis, Sheet 29 and 50:* A registration card was submitted by the Objector (Objector's Exhibit 7). An affidavit was submitted by the Candidate (Candidate's Exhibit 7A). The Objector's counsel acknowledged some similarities between the signature on the registration card and the notarized signatures on the petition pages. I too find similarities between the signature on the twenty (20) year old registration card and the circulator's notarized signature at Sheets 29 and 50. I do not believe the objector has met her burden of proof in demonstrating that the signatures are not genuine. **Objection overruled.**

I. *Troy Tyler, Sheet 31:* A registration card was submitted by the Objector (Objector's Exhibit 8). An affidavit was submitted by the Candidate (Candidate's Exhibit 8A). As I do find similarities between the signature on the registration card and the circulator's notarized signature at Sheet 31, I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

J. *Denby Barrow, Sheet 32:* A registration card was submitted by the Objector (Objector's Exhibit 9). An affidavit was submitted by the Candidate (Candidate's Exhibit 9A). The signature on the registration card and the circulator's notarized signature at Sheet 32 are substantially similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

K. *LaToya Lawson, Sheet 35:* A registration card was submitted by the Objector (Objector's Exhibit 10). An affidavit was submitted by the Candidate (Candidate's Exhibit 10A). I find the signature on the registration card to be dissimilar to the signature on Sheet 35. I find the signature on the affidavit to be nearly identical to the signature on Sheet 35. The Objector argued that the affidavit should have explained the discrepancies in the signatures between the signature card and Sheet 35 (*See Fritchey v. Romanelli*, 08-EB-WC-37, CBEC, December 16, 2007, affirmed, Cir. Ct. Cook County, No. 2007 COEL 0065, affirmed, Appellate Court of Illinois, First Judicial District, No. 1-1031 (February 11, 2008)). In *Fritchey*, the affidavits were used by the Candidate in an attempt to rehabilitate a voter's signature. In this instance, where I am reviewing circulator signatures, I believe the notarization of the circulator's signature is relevant. In considering all of the evidence, *i.e.*, a twenty one (21) year old registration card, an affidavit with similar signatures and a petition page that is notarized with no evidence that the notary is somehow defective, I believe that the objector has failed to meet her burden of proof in demonstrating that that signature is not genuine. **Objection overruled.**

L. *Henri Parkier, Sheet 37:* A registration card was submitted by the Objector (Objector's Exhibit 11). An affidavit was submitted by the Candidate (Candidate's Exhibit 11A). The signature on the registration card and the circulator's notarized signature at Sheet 37 are very similar. I do not believe the

objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

K. *Delton Pierce, Sheet 38:* A registration card was submitted by the Objector (Objector's Exhibit 12). An affidavit was submitted by the Candidate (Candidate's Exhibit 12A). The signature on the registration card and the circulator's notarized signature at Sheet 38 are strikingly similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

L. *Therriis Morris, Sheets 52 and 53:* A registration card was submitted by the Objector (Objector's Exhibit 13). At the hearing, the affidavit for the circulator was marked as Exhibit 13A, but because it was never tendered to the hearing examiner or the objector pursuant to the case management order, I recommend that it not be admitted into evidence. The signature on the registration card is dissimilar to the signature on Sheet No. 52. However, I do find some similarities between the signatures on the registration card and the notarized signature on Sheet 53. The objector has met her burden of proof in demonstrating that the signature is not genuine with regard to Sheet No. 52 but has not met her burden with regard to Sheet No. 53. **Objection sustained for Sheet No. 52 and objection overruled for Sheet No. 53.**

M. *Carlton Berdell, Jr., Sheet 66:* As noted above, the Objector did not have an objection with regard to the genuineness of this circulator's signature. At the hearing, the Objector argued that there was an objection noted in the Appendix-Recapitulation sheet on the grounds that that circulator also signed the nomination sheet that he signed. This is not an objection related to the genuineness of the circulator's signature. Moreover, nothing in the Election Code prohibits a circulator from signing the nomination paper he circulates. **Objection overruled.**

N. *Lester Deanes, Sheets 79 and 80:* A registration card was submitted by the Objector (Objector's Exhibit 14). An affidavit was submitted by the Candidate (Candidate's Exhibit 14A). The signature on the registration card and the circulator's notarized signature at Sheets 79 and 80 are strikingly similar. I do not believe the objector has met her burden of proof in demonstrating that the signatures are not genuine. **Objection overruled.**

O. *Marlon Mitchell, Sheet 87:* A registration card was submitted by the Objector (Objector's Exhibit 15). An affidavit was submitted by the Candidate (Candidate's Exhibit 15A). The signature on the registration card and the circulator's notarized signature at Sheet 87 are strikingly similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

P. *Shedrick Sawyer, Sheet 88:* A registration card was submitted by the Objector (Objector's Exhibit 16). An affidavit was submitted by the Candidate

(Candidate's Exhibit 16A). I find the signature on the registration card to be dissimilar to the signature on Sheet 88. I find the signature on the affidavit to be nearly identical to the signature on Sheet 88. In considering all of the evidence, *i.e.*, a twenty one (38) year old registration card, an affidavit with similar signatures and a petition page that is notarized with no evidence that the notary is somehow defective, I believe that the objector has failed to meet her burden of proof in demonstrating that that signature is not genuine. (See para 33 (k))  
**Objection overruled.**

34. In summary, the only petition page that I recommend be stricken because of a sustained circulator signature objection is Sheet No. 52. There are 20 signatures on Sheet 52. The final petition detail report (Exhibit 18) reflects that 13 objections on the signatures were sustained at the records examination. Therefore, I recommend that an additional 7 signatures be sustained.

## **B. Genuineness of Signatures on the Nomination Papers**

### **The Evidence Introduced by the Parties**

35. For her case-in-chief on the voter signature objections, the Objector introduced the registration cards that she requested and received from the Board. The Board was unable to locate many of the requested registration cards. Marked as Exhibit 17 is a copy of the Objector's Request for Issuance of Subpoenas and comments by the Board regarding whether the registration cards were found. Request No. 2 is the request that addressed the signer's registration cards, and I advised the parties the notation "none" next to the request indicates that the Board was unable to find the registration cards.

36. The Candidate did not introduce any documents into evidence for his defense with regard to the signer's objections although he was granted leave to provide an affidavit with regard to one of the signers as noted below since the registration cards were provided to the parties the day before the hearing.

### **Recommendations for the Genuineness of the Signer's Signature Objections**

37. As noted above, the Objector has the burden to demonstrate by the preponderance of the evidence that the signer's signature is not genuine and that the board examiner's and/or board's handwriting expert's rulings are incorrect. Rule 8 (b) of the Rules of the Procedure for the Board of Election Commissioners.

38. After review of the nomination papers and the respective registration cards and upon consideration of each party's argument regarding all of the evidence in the records, I submit the following recommendations:

A. *Julienne Jemison, Sheet 7/Line 2:* The objection to the signature was overruled by the Board and the handwriting expert. A registration card was submitted by the Objector (Objector's Exhibit 19). The signature on the



registration card and Sheet 7/Line 2 are strikingly similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

B. *Rhonda Jefferson, Sheet 23/Line 18:* The objection to the signature was overruled by the Board and was not reviewed by the handwriting expert. A registration card was submitted by the Objector (Objector's Exhibit 20). The signature on the registration card and Sheet 23/Line 18 are similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

C. *Michael Hamilton, Sheet 28/Line 17:* The objection to the signature was overruled by the Board and was not reviewed by the handwriting expert. A registration card was submitted by the Objector (Objector's Exhibit 21). The signature on the registration card and Sheet 28/Line 17 are substantially similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

D. *Marlon Mitchell, Sheet 35/Line 8:* The objection to the signature was overruled by the Board and the handwriting expert. Mr. Mitchell also was one of the circulators who was objected to by the Objector, and his registration card was relied upon again for this objection (Objector's Exhibit 15). The Candidate relied upon Candidate's Exhibit 15A – the previously submitted affidavit of Mr. Mitchell. The Objector objected to reliance upon the affidavit for this objection as it does specifically reference Sheet 35/Line 8. The Candidate asked for leave to submit another affidavit by Mr. Mitchell and over the Objector's objection, leave was granted to submit another affidavit by January 5, 2012. The affidavit was submitted into evidence and marked as Candidate's Exhibit 15B. Notwithstanding the foregoing, there are similarities in the signatures of the registration card and Sheet 35/Line 8. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

E. *Richard McCray, Sheet 69/Line 2:* The objection to the signature was overruled by the Board and the handwriting expert. The detail report reflects that there was nothing in the system. A registration card was submitted by the Objector (Objector's Exhibit 22 ). The signature on the registration card and Sheet 69/Line 2 are similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

F. *Roderick Williams, Sheet 69/Line 6:* The objection to the signature was overruled by the Board and the handwriting expert. The detail report reflects that there was nothing in the system. A registration card was submitted by the Objector (Objector's Exhibit 23). The signature on the registration card and Sheet 69/Line 6 are similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

G. *Bakiba Burke, Sheet 69/Line 19:* The objection to the signature was overruled by the Board and the handwriting expert. The detail report reflects that there was nothing in the system. A registration card was submitted by the Objector (Objector's Exhibit 24). The signature on the registration card and Sheet 69/Line 19 are similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

H. *Edward Kiner, Sheet 71/Line 1:* The objection to the signature was overruled by the Board and the handwriting expert. The detail report reflects that there was nothing in the system. A registration card was submitted by the Objector (Objector's Exhibit 25). The signature on the registration card and Sheet 71/Line 1 are similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

I. *LaConda Tatum, Sheet 71/Line 14:* The objection to the signature was overruled by the Board and the handwriting expert. The detail report reflects that there was nothing in the system. A registration card was submitted by the Objector (Objector's Exhibit 22 ). The signature on the registration card and Sheet 7/Line 2 are very similar. I do not believe the objector has met her burden of proof in demonstrating that the signature is not genuine. **Objection overruled.**

39. In summary, I recommend that none of the findings by the board on the objections regarding the genuineness of the signatures in the nomination papers as set forth in the Objector's Rule 8 Motion be overruled and that the findings be affirmed.

## II. The Candidate's Rule 8 Motion

40. On the Candidate's Rule 8 Motion, he has the burden to demonstrate by the preponderance of the evidence that the records examiner's finding is wrong. Rule 8 (b) of the Rules of the Procedure for the Board of Election Commissioners. With the exception of one, all of the objections that are the subject of the Candidate's Rule 8 motion relate to the genuineness of a signer's signature.

41. For his case-in-chief, the Candidate relied exclusively upon the affidavits he previously provided to the Objector and the hearing officer. Each affidavit follows the same general format and states and/or provides: a) that he/she is a registered voter and qualified Democratic Party voter in the City of Chicago at his/her address; b) that he/she signed the Candidate's nomination petitions at the particular petition page number and line number; c) examples of his/her printed and written signatures; and d) that the voter's signature on the nomination petition is genuine. The affidavits regarding the voters were marked as Candidate's Group Exhibit 27.

42. The Objector objected to the affidavits on the grounds that the documents were not provided to him in accordance with the deadlines set forth in the Case Management Order. Although the Objector did not receive the affidavits on the date provided for in the Case

Management Order, the Candidate did timely submit his notice and list of affidavits together with an email that stated "I am having difficulty in getting the actual exhibits/affidavits to be saved in a single file. I will produce any and all affidavits upon request . . ." A copy of this email is marked as Exhibit E. As the Candidate did attempt to provide copies of the affidavits, I recommend that the Objector's timeliness objection be overruled.

43. The Objector further objected to the affidavits consisting of Group Exhibit 27 in that the petition detail report shows that two of the signatures were never objected to by the Candidate, namely Rodney President (Sheet 5/Line 11) and Roderick Sawyer (Sheet 13/line 8). Accordingly, those two affidavits will not be included in Group Exhibit 27. I also noted that with regard to Elliott Powell (Sheet 5/Line 19), the objection was overruled and therefore, his affidavit also should be removed from Group Exhibit 27.

44. The Objector did not provide any evidence for his defense to Candidate's Rule 8 Motion but instead relied upon argument regarding the discrepancies in the signatures on the nomination papers and the affidavits.

45. After review of the nomination papers and the respective affidavits and upon consideration of each party's arguments regarding all of the evidence in the records, I submit the following recommendations:

A. *Marc Robertson, Sheet 2/Line 20:* The objection to the signature was sustained by the Board and the handwriting expert. The written signature in the affidavit is substantially similar to the signature on the nomination page. I do believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection overruled.**

B. *Dorothy Watts, Sheet 28/Line 6:* The objection to the signature was sustained by the Board and the handwriting expert. In Ms. Watts' affidavit, she explains that she is an amputee since 1968 and is left handed and her signature may change from time to time. Given this explanation and the similarities between the signature in the affidavit and the signature on the nomination page, I believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection overruled.**

C. *Adrienne L Macklin, Sheet 45,Line 11:* The objection to the signature was sustained by the Board and the handwriting expert. The written signature in the affidavit is not similar to the signature on the nomination page. I do not believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection sustained.**

D. *Cindy Johnson, Sheet 49/Line 8:* The objection to the signature was sustained by the Board and the handwriting expert. The printed signature in the affidavit is substantially similar to the signature on the nomination page. I do believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection overruled.**

F. *George Lockett, Sheet 49/Line 15:* The objection to the signature was sustained by the Board and the handwriting expert. The written signature in the affidavit is substantially similar to the signature on the nomination page. I do believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection overruled.**

F. *Rosalind Johnson, Sheet 49/Line 8:* The objection to the signature was sustained by the Board and the handwriting expert. The printed signature in the affidavit is substantially similar to the signature on the nomination page. I do believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection overruled.**

G. *Ronald Coley, Sheet 49/Line 18:* The objection to the signature was sustained by the Board and the handwriting expert. The written signature in the affidavit is substantially similar to the signature on the nomination page. I do believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection overruled.**

II. *Cathy Morris, Sheet 72/Line 11:* The objection to the signature was sustained by the Board and the handwriting expert. The written signature in the affidavit is not similar to the signature on the nomination page. I do not believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection sustained.**

I. *Tonia Duke, Sheet 78/Line 12:* The objection to the signature was sustained by the Board and the handwriting expert. The written signature in the affidavit is not similar to the signature on the nomination page. I do not believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection sustained.**

J. *Delanda Bryson, Sheet 88/Line 3:* The objection to the signature was sustained by the Board and the handwriting expert. The written signature in the affidavit is nearly identical to the signature on the nomination page. I do believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection overruled.**

K. *Gina Thomas, Sheet 88/Line 6:* The objection to the signature was sustained by the Board and the handwriting expert. Although there are some similarities between the signatures on the affidavit and the nomination papers, I do not believe it is sufficient for purposes of the Candidate meeting his burden. **Objection sustained.**

L. *Christen Hill, Sheet 92/Line 1:* The objection to the signature was sustained by the Board and the handwriting expert. There is too much variance in the printed signature in the affidavit and the signature on the nomination papers.

I do not believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection sustained.**

M. *Darla Meaders, Sheet 92/Line 5:* The objection to the signature was sustained by the Board and the handwriting expert. There is too much variance in the printed signature on the affidavit and the signature on the nomination papers. I do not believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection sustained.**

N. *Zedrick Braden, Sheet 93/Line 16:* The objection to the signature was sustained by the Board and the handwriting expert. The second written signature in the affidavit is substantially similar to the signature on the nomination page. I do believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection overruled.**

O. *Brion Sleet, Sheet 94/Line 16:* The objection to the signature was sustained by the Board and the handwriting expert. The written signature in the affidavit is substantially similar to the signature on the nomination page. I do believe the Candidate has met his burden in demonstrating the signature is genuine. **Objection overruled.**

P. *Shedrick Sawyer, Sheet 94/Line 9:* The basis for appeal on this objection is that the Board was incorrect in finding that the voter was not registered at address. However, the final detail report shows that she is registered at the same address listed on the nomination paper as well as her affidavit. Moreover, the voter's registration card which was submitted into evidence as Objector's Exhibit No. 16 is further evidence that the voter is registered at the address listed on the nomination paper. **Objection overruled.**

46. In summary, I find that the Candidate met his burden of proof and rehabilitated 10 signatures (including the registration objection).

### **III. Summary of Hearing Examiner's Findings from Evidentiary Hearing**

47. I find that the Objector met her burden of proof to demonstrate that one circulator signature is not genuine and therefore a total of 7 additional signature objections from that circulator's nomination page be sustained. I further find that the Candidate met his burden of proof and rehabilitated a total of ten 10 signatures.

### **CONCLUSION**

48. The Candidate needs 870 signatures to be on the ballot. At the records examination, 776 objections were sustained leaving the Candidate with 992 valid signatures which is 122 signatures greater than the required signatures. Based upon the Board's January 2, 2012 memo regarding the handwriting expert review (supra at para 26) which reduces the Candidate's valid signatures by 3 and my findings at the evidentiary hearing which increases the

Candidate's valid signatures by 3 (10 rehabilitated by the Candidate less 7 sustained as proven by the Objector), the Candidate still has 992 valid signatures which is 122 signatures greater than the required signatures. Accordingly, I recommend that the name of Roderick Sawyer be printed on the ballot for the office of Democratic Ward Committeeman for the 6<sup>th</sup> Ward of the City of Chicago for the Primary Election to be held on March 20, 2012.

Date: January 7, 2012



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Kelly McCloskey Cherf  
Hearing Officer

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

ANGELA CALDWELL

v.

BOARD OF ELECTION COMMISSIONERS, ET AL

No. 2012-COEL-002

ORDER

THIS MATTER HAVING COME BEFORE THE COURT FOR HEARING AND ORAL ARGUMENT ON OBJECTOR'S PETITION, DUE NOTICE GIVEN AND ALL PARTIES BEING <sup>RE</sup>PRESENTED AND PRESENTING ORAL ARGUMENT THROUGH COUNSEL; IT IS HEREBY ORDERED:

- ① THE COURT FINDS THAT MASHINI V. LASKI 351 ILL. APP.3D 927 APPLIES TO AFFIDAVITS SUBMITTED BEFORE THE ELECTORAL BOARD TO REHABILITATE SIGNATURES;
- ② CANDIDATE AFFIDAVITS OF VOTERS ARE STRUCKEN, BUT SINCE THE HEARING EXAMINER DID NOT CONSIDER <sup>REHABILITATION</sup> AFFIDAVITS OF CIRCULATORS, THAT PORTION OF ELECTORAL BOARD DECISION IS AFFIRMED;
- ③ COURT FINDS THAT §10-3 IS NOT APPLICABLE AND AFFIRMS ELECTORAL BOARD ON THAT ARGUMENT;
- ④ COURT AFFIRMS ELECTORAL BOARD REGARDING DENIAL OF SUBPOENA FOR DELEGATE VOTER EXEMPLARS;
- ⑤ SINCE CANDIDATE, RUDERICK SANKER, WOULD STILL HAVE SUFFICIENT SIGNATURES, THE COURT AFFIRMS THE ELECTORAL BOARD'S CERTIFICATION OF CANDIDATE'S NAME TO THE BALLOT FOR THE

Atty. No.: 30263  
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 Atty. for: OBJECTOR  
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 City/State/Zip: CHICAGO IL 60690  
 Telephone: 773-480-0616

ENTERED: 3/20/2012 GENERAL PRIMARY ELECTION.  
 ⑥ THIS ORDER IS FINAL + APPEALABLE.

Dated: \_\_\_\_\_  
 Judge \_\_\_\_\_ Judge's No. \_\_\_\_\_

**ENTERED**  
 JUDGE ALFRED J. PAUL - 0230  
 JAN 30 2012  
 DOROTHY BROWN  
 CLERK OF THE CIRCUIT COURT  
 OF COOK COUNTY, IL  
 DEPUTY CLERK