

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

Objections of: Evans G. Hernandez and)
Ricardo Rosario)
)
To the Nomination) No.: 12-EB-CON-1
Papers of: Hector Concepcion)
)
Candidate for the nomination of the)
Republican Party for the office of)
Representative in Congress for the 4th)
Congressional District District, State of Illinois)

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 Evans G. Hernandez and Ricardo Rosario (“Objectors”) to the nomination papers (“Nomination Papers”) of Hector Concepcion, candidate for the nomination of the Republican Party for the office of Representative in Congress for the 4th Congressional District District in the State of Illinois (“Candidate”) at the General Primary Election to be held on March 20, 2012, having convened on January 10, 2012 at 9:00 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 Objectors 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 10, 2012 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 Objectors 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 Hearing Schedule. The following persons, among others, were present at such hearing: the Objectors, Evans G. Hernandez and Ricardo Rosario, by attorney Thomas A. Jaconetty; and the Candidate, Hector Concepcion, pro se.

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 Objectors and/or their 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 Electoral 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 600;
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 788;
- C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 531;
- D. The remaining number of signatures deemed valid as a result of the records examination total 257.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for the nomination of the Republican Party for the office of Representative in Congress for the 4th Congressional District District of the State of Illinois.

14. Neither party timely filed a Rule 8 motion objecting to the Board's clerk's findings during the records examination.

15. 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

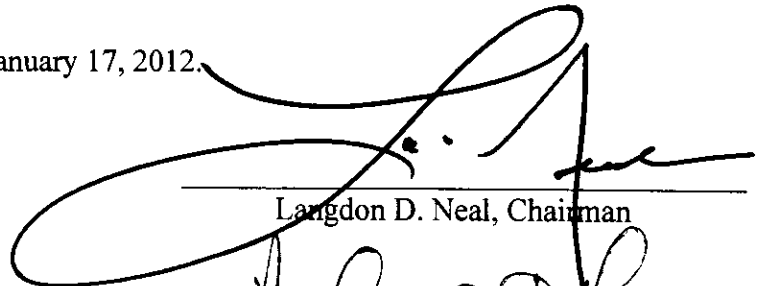
Candidate's Nomination Papers contained only 257 valid signatures, which is less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for nomination of the Republican Party for the office of Representative in Congress for the 4th Congressional District District of the State of Illinois, and that the Candidate's Nomination Papers should be found invalid.

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. 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.


17. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on his nominating petitions and that the Nomination Papers of Hector Concepcion are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of Evans G. Hernandez and Ricardo Rosario to the Nomination Papers of Hector Concepcion, candidate for election to the office of Representative in Congress for the 4th Congressional District District of the State of Illinois are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Hector Concepcion, candidate for nomination of the Republican Party for the office of Representative in Congress for the 4th Congressional District District of the State of Illinois, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 20, 2012.

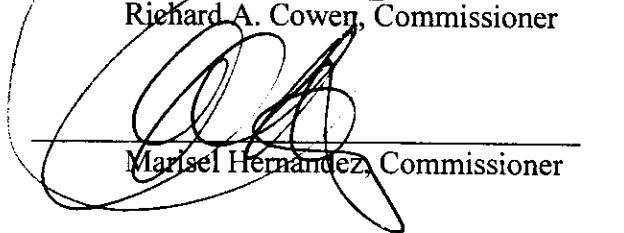
Dated: Chicago, Illinois, on January 17, 2012.



Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner



Marisel 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.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OF OBJECTIONS TO THE NOMINATION PETITIONS
OF CANDIDATES FOR THE MARCH 20, 2012, GENERAL PRIMARY ELECTION
IN THE CITY OF CHICAGO

EVANS G. HERNANDEZ and
RICARDO ROSARIO,

Objectors

v.

HECTOR CONCEPCION,

Candidate.

No. 12 EB-CON-01

BOARD OF ELECTIONS
COMMISSIONER

2012 JAN 14 A 11:25

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

This matter first came before the hearing officer on January 10, 2012, set on the call for 1:00 p.m., at which time it came on for hearing, with objectors appearing through counsel, Mr. Thomas Jaconetty, Esq. and the candidate appearing *pro se*, with each filing their appropriate appearances. Both sides acknowledged possession of a copy of the electoral board rules.

The file contained the original petition papers of the candidate, seeking to be placed on the ballot for election to the office of United States Representative for the 4th Congressional District of Illinois, to be voted upon at the March 20, 2012, General Primary Election in the City of Chicago, and the objections of the objector, which were marked as Board Group Exhibit A and Board Group Exhibit B, respectively. The proof of service of notice of the call was marked as Board Group Exhibit C, indication that all parties had been properly served, and the appearance of the parties this latter set of documents marked as Board Group Exhibit D. Board Group Exhibits A through D were accepted into evidence without objection.

The objection raised a line by line recapitulation sheet objection, incorporating an attached recapitulation exhibit.

The minimum signature requirement for this office is 600 valid signatures.

At that point the hearing officer inquired of the parties whether either side intended to file any preliminary motions. Informed by both sides that no such motion was expected, the matter was scheduled for a record examination on January 11, 2012, starting at 9:30 a.m., to be comprised of two teams. Both sides, objectors through counsel, and the candidate personally, received verbal and written notice of this record examination date and time prior to leaving the hearing room on January 10, 2012. Before adjourning on January 10, 2012, this case was also set down for January 13, 2012, at 11:00 a.m. for status of record examination.

The record examination of this candidate's nomination papers commenced on January 11, 2012, and concluded on the morning of January 12, 2012. Prior to noon on the morning of January 12, 2012, both sides received notice of the completion of the record examination and the tabulated results. At the conclusion of the record examination, the candidate, who had filed 788 signatures in total in support of his nomination, only had 257 valid signatures counted towards his nomination, and as such, was 343 signatures short of the 600 valid signatures required.

The hearing officer kept the previously set hearing date of January 13, 2012, and on said date, at 11:00 a.m., this matter was recalled.

Counsel for the objectors, Thomas Jaconetty, *Esq.*, appeared at that time. The candidate appeared, continuing to represent himself *pro se*, and the matter proceeded.

The case file contained a Petition Summary Report and Notice of Record Exam Results, the latter evidencing that both sides had received notice of the record exam results by phone on the morning of January 12, 2012, and both sides acknowledged receipt of the results at that time. The Petition Summary Report and Notice of Record Examination Results were marked as

Board Group Exhibit E, and the hearing officer accepted Board Group Exhibit E into evidence without objection.

At this juncture the hearing officer read the results of the record examination into the record, as follows:

Signatures Required:	600
Total Pages:	56
Total Signatures Filed by the Candidate:	788
Total Objections:	669
Total Objections Ruled On:	669
Total Remaining to be Ruled On:	0
Total Objections Sustained:	531
Total Objections Overruled:	138
Findings Preserved For Review (Candidate):	580
Findings Preserved For Review (Objector):	175
Total Valid Signatures:	257
Total Unchallenged Signatures:	119

343 Signatures fewer than the required minimum.

The case file at that point evidenced that no Rule 8 motion had been filed by either side seeking to review or to challenge the results of the record examination results, although the parties still had until 5:00 p.m. on January 13, 2012, in which to file such a motion.

The candidate, who was down a significant number of signatures, asserted that a Rule 8 motion was going to be filed on behalf of the candidate, and that the candidate would be putting on evidence at a hearing which would be sufficient to reverse the results.

To ensure that the candidate had every opportunity to continue in his nomination effort, the hearing officer set a specific hearing date for the anticipated Rule 8 proceeding, as well as setting certain evidence disclosure and other deadlines, however, further stating on the record

that if no Rule 8 motion was filed by either side by 5:00 p.m. January 13, 2012, the hearing officer intended to issue his recommendation based upon the state of the evidence to date, and that no further hearing would be required nor permitted.

There being nothing further, the matter was concluded at that juncture.

Neither side filed a Rule 8 motion by the 5:00 p.m. deadline on January 13, 2012, and as such, pursuant to the rules adopted by this board each side, and in particular the candidate, waived any right to seek review of the results of the record examination which had already been accepted into evidence by the hearing officer.

By separate directive served on the parties on January 14, 2012, the hearing officer informed the parties that the future proceedings which had been previously set were cancelled, and that a recommendation would be issued in writing without convening any further proceedings.

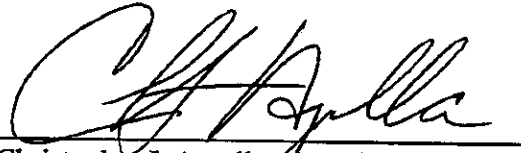
It is the hearing officer's recommendation that the results of the record examination be accepted and the objection be sustained, in that the evidence produced in the course of the record examination affirmatively proved that the candidate has less than the minimum number of valid signatures required (600) in his nomination papers to permit his name to be placed on the ballot, and that the nomination papers of the candidate be declared invalid and the candidate's name not appear on the ballot.

This hearing officer recommends to the Board that it adopt the above findings, decisions and recommendations of the hearing officer, that the Board further sustain the objection and declare that said nomination papers are insufficient and invalid in law and fact in that the nomination papers lack the minimum number of validly collected signatures of qualified and duly registered voters of the 4th Congressional District of Illinois as required by law (600) for said

office, and that this Board further declare that the name of the candidate, Hector Concepcion, not appear and not be printed on the ballot for election to the office of United States Representative for the 4th Congressional District of Illinois, to be voted upon at the March 20, 2012, General Primary Election in the City of Chicago.

Christopher J. Agrella
Hearing Officer
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Respectfully Submitted,


Christopher J. Agrella - Hearing Officer