

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

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Objections of: Edward Alfred Fetters IV )  
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To the Nomination ) No.: 14-EB-RGA-25  
Papers of: Juan Antonio Diaz )  
 )  
Candidate for the nomination of the )  
Republican Party for the office of )  
Representative in the General Assembly of the )  
25th Representative 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 Edward Alfred Fetters IV (“Objector”) to the nomination papers (“Nomination Papers”) of Juan Antonio Diaz, candidate for the nomination of the Republican Party for the office of Representative in the General Assembly of the 25th Representative District in the State of Illinois (“Candidate”) at the General Primary Election to be held on March 18, 2014, having convened on December 16, 2013 at 9:00 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 December 16, 2013 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Barbara Goodman 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 Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, Edward Alfred Fetters IV, by his attorney, Michael J. Kasper; and the Candidate, Juan Antonio Diaz, by his attorney, Thomas G. Cosgrove.

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 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 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 500, with a maximum signature requirement of 1,500;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 582;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 183;

D. The remaining number of signatures deemed valid as a result of the records examination total 399.

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 the General Assembly of the 25th Representative District of the State of Illinois.

14. The Hearing Officer conducted a hearing to allow the Candidate an opportunity to present evidence in support of his Rule 8 motion objecting to the Board's clerk's findings during the records examination.

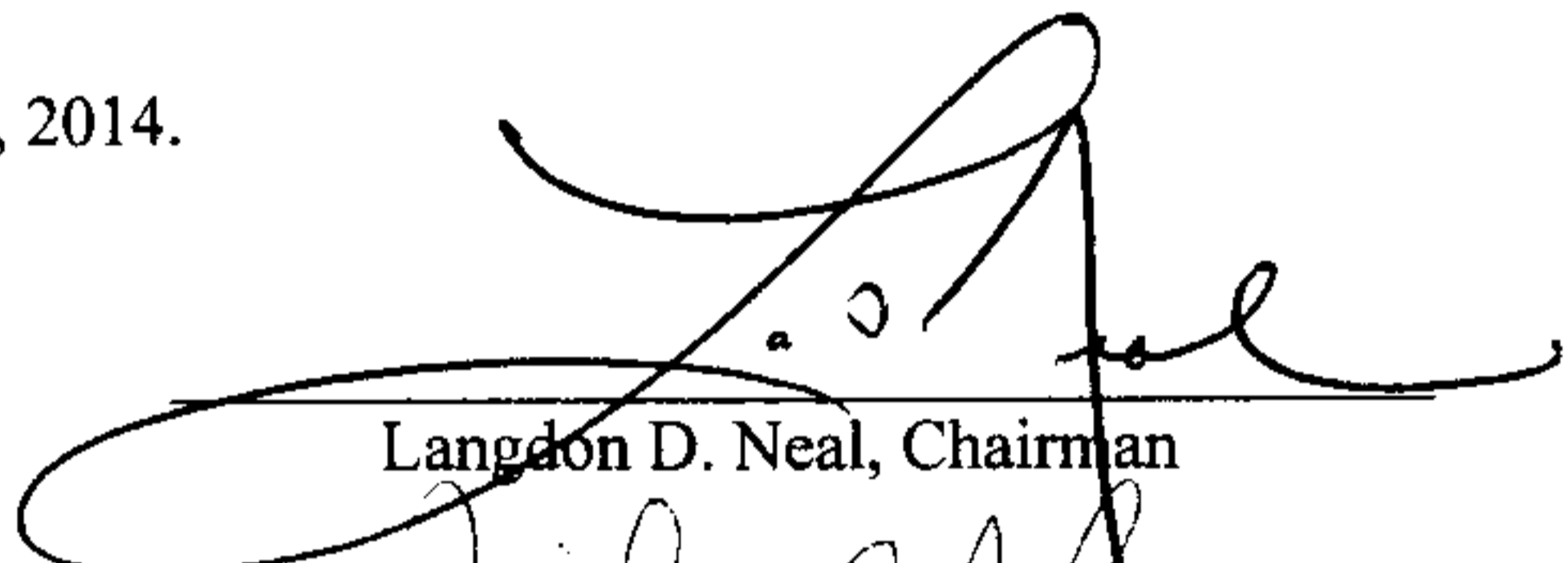
15. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate's Nomination Papers contained less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for nomination of the Republican Party for the office of Representative in the General Assembly for the 25th Representative 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 and recommended decision is attached hereto and incorporated herein as a part of the Electoral Board's decision.

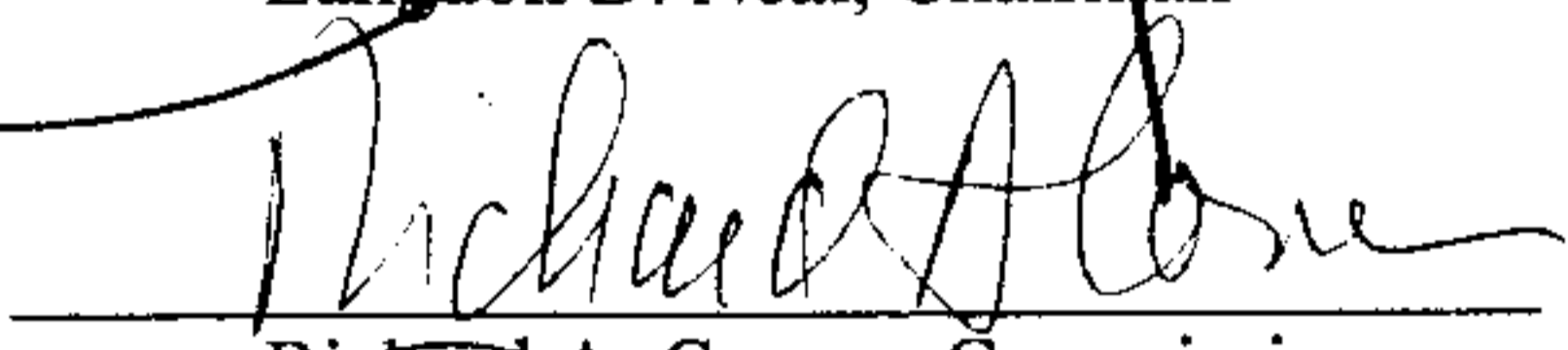
17. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on his nominating petitions and that the Nomination Papers of Juan Antonio Diaz are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of Edward Alfred Fetters IV to the Nomination Papers of Juan Antonio Diaz, candidate for the nomination of the Republican Party for election to the office of Representative in the General Assembly of the 25th Representative District of the State of Illinois are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Juan Antonio Diaz, candidate for nomination of the Republican Party for the office of Representative in the General Assembly for the 25th Representative District of the State of Illinois, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 18, 2014.

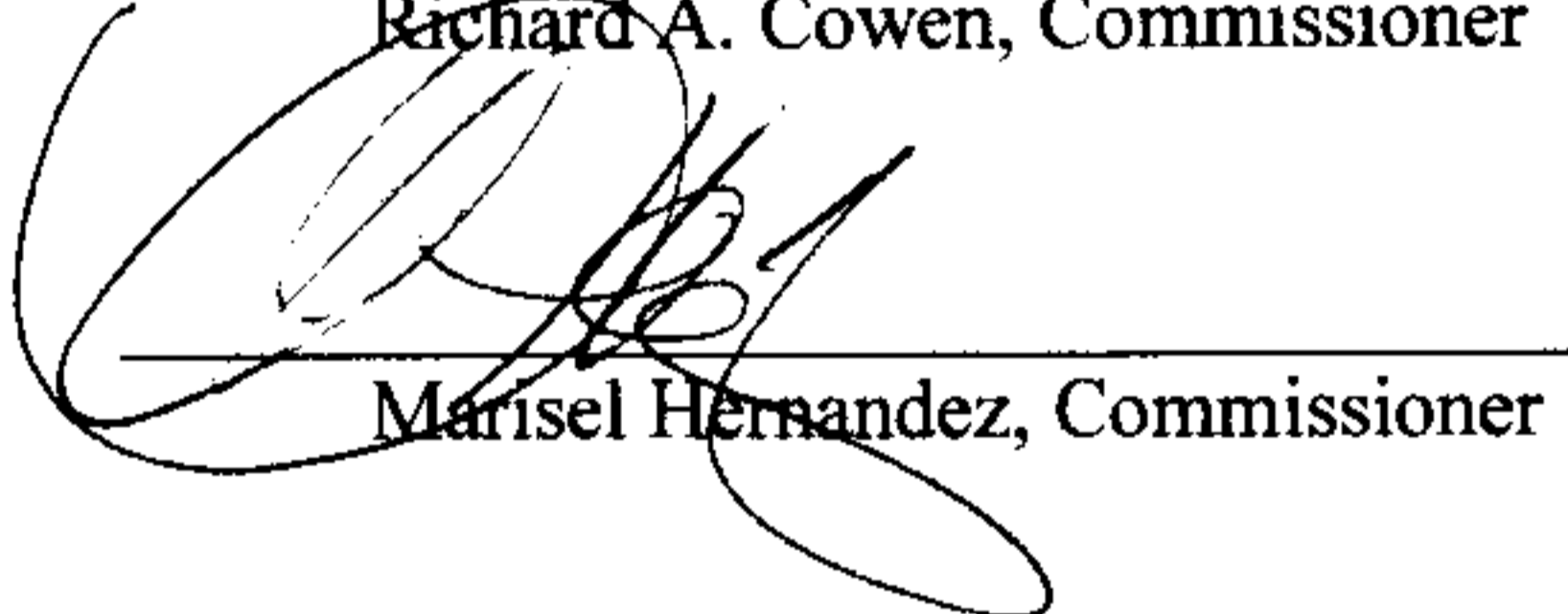
Dated: Chicago, Illinois, on January 6, 2014.



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.

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO  
AS THE DULY CONSTITUTED ELECTORAL BOARD FOR THE  
HEARING AND PASSING UPON OBJECTIONS  
TO NOMINATION PAPERS OF CANDIDATES  
FOR THE MARCH 18, 2014 GENERAL PRIMARY ELECTION**

Edward Albert Fretters IV                    )  
                                                          )  
          Objector                                    )  
                                                          )  
-v-                                                    )  
                                                          )  
Juan Antonio Dias                                )  
                                                          )  
          Candidate                                )

14 EB RGA 25

BOARD OF ELECTIONS  
COMMISSIONER

2014 JAN - 2 P 4: 56

**HEARING OFFICER’S REPORT AND RECOMMENDED DECISION**

This matter was first heard on December 16, 2013. The Objector appeared through counsel Courtney Nottage and subsequently through counsel Michael Kasper. The Candidate appeared through counsel Thomas Cosgrove. The parties were given the opportunity to file preliminary motions. No preliminary motions were filed. Thereafter, a records examination was conducted. The results of the records examination were as follows:

- A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 500;
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 582;
- C. The number of signatures deemed invalid because of objections sustained in the records examination total 183;
- D. The remaining number of signatures deemed valid as a result of the records examination total 399;

The results of the records examination established that the candidate had 101 signatures less than the required number of signatures for placement on the ballot.

On December 19, 2013, prior to the conclusion of the review by the handwriting expert, the Candidate filed a Rule 8 Motion. On December 26, 2013, five (5) days after the completion of the records examination, the Candidate filed an Amended Attachment A to his Rule 8 Motion. On December 27, 2013, the Candidate filed a Request for a Continuance of the Rule 8 Hearing on the basis that it was difficult to gather the necessary documentation and witnesses during the holidays and that additional time was needed. The Objector filed a response objecting to the continuance and arguing that the rules apply equally to all of the candidates and objectors and, further, that the Candidate agreed to the hearing date.<sup>1</sup> Additionally, the Objector noted that the date of certification required hearings to take place expeditiously. The Motion for Continuance raised an insufficient basis to postpone the hearing and was denied.

### **THE RULE 8 HEARING**

A hearing on the Candidate's Rule 8 Motion was held on December 28, 2013. The Candidate renewed his request for a continuance and the request was denied. It was agreed that the Candidate's Rule 8 Motion filed on December 19, 2013 was timely and that the subsequent filing on December 26, 2013 was not timely. Therefore, if the sheet and line was not raised in the December 19, 2013 Rule 8 Motion, it was agreed that it would not be considered.

The Candidate called Anthony Navarro who circulated thirteen (13) sheets of the Candidate's nomination petition. Mr. Navarro first testified regarding certain signatures that in the records examination were deemed to be invalid because they were not genuine. As to certain signers in that category, Mr. Navarro testified that he went to the address, asked the person at the

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<sup>1</sup> The Rule 8 hearing was originally scheduled for December 29, 2013 but was changed to December 28, 2013 at the request of the Candidate's attorney who had a personal matter on December 29, 2013.

address their name, asked if the person was a registered voter and witnessed the person sign the petition. He did not ask the signer for any identification. Mr. Navarro offered the aforementioned testimony in relation to the signers of the following sheets and lines:

<u>Sheet</u>	<u>Line</u>
3	5
3	10
14	2
14	8
14	9
14	10
25	8
34	2
34	3
35	4
36	6
36	7
38	1
38	5

Additionally, Mr. Navarro testified that after the records examination was concluded, he did his own review of certain signatures that were deemed invalid on the basis of the signer not being registered or being out of district. As to those certain signers, Mr. Navarro indicated that he found that the results of the records examination were incorrect. No registration records or other documents were offered along with the testimony.

The Objector objected on the basis that the testimony was hearsay. The Candidate contended that the testimony was not offered for the truth of the matter asserted but rather that it was being offered to support the contention that the records examination was generally flawed and should be redone. The objection was sustained in that it was hearsay offered to establish that the results of the records examination were incorrect and, therefore, offered for the truth of the matter asserted. Candidate then made an offer of proof that if allowed to testify, Mr. Navarro



would testify that the findings from the records examination for the following sheets and lines were incorrect:

<u>Sheet</u>	<u>Line</u>
10	1
14	8 <sup>2</sup>
16	10
17	7
18	4
29	1
31	8
32	1
33	4
34	2
34	10
43	3
43	10
44	1
44	7
45	1
45	4
46	2
46	3
46	5
46	6
47	9
48	2
48	4
48	10
54	5
55	4
57	10
58	4
59	3
59	6
59	9
60	1
60	5
60	7

The Candidate then rested.

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<sup>2</sup> The signature at this sheet and line was addressed in the first part of Mr. Navarro's testimony and only counted once in the total number of sheets and lines the Candidate attempted to rehabilitate.

The total number of specific sheets and lines for which testimony was offered or an offer of proof was made totaled forty-eight (48). Even if all of rulings for the sheets and lines addressed during the hearing were reversed, the Candidate would still have fifty-three (53) less than the minimum number of signatures needed for placement on the ballot and the Objector moved to sustain the objections.

### **RECOMMENDATION**

In light of the foregoing and in conformity with the results of the Records Examination, it is my recommendation that the objections of Edward Albert Fretters IV to the nominating papers of Juan Antonio Diaz be **sustained** and that the nominating papers of Juan Antonio Diaz for the Democratic nomination to the office of Representative in the General Assembly for the 25<sup>th</sup> Representative District be deemed **invalid** and that the name of Juan Antonio Diaz for said office **not be printed** on the ballot at the March 18, 2014 General Primary Election.

Respectfully submitted,

*Barbara Goodman /s/*

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Barbara Goodman, Hearing Officer  
1/2/13