

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

Objections of: Juan Antonio Diaz)
)
)
To the Nomination) No.: 14-EB-RGA-26
Papers of: Barbara Flynn Currie)
)
Candidate for the nomination of the)
Democratic Party for the office of)
Representative in the General Assembly for 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 Juan Antonio Diaz (“Objector”) to the nomination papers (“Nomination Papers”) of Barbara Flynn Currie, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 25th Representative District of the State of Illinois (“Candidate”) at the General Primary Election to be held on March 18, 2014, having convened on December 16, 2013, at , 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's Call served upon them to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, Juan Antonio Diaz, by his attorney Thomas G. Cosgrove; the Candidate, Barbara Flynn Currie, by her attorney, Michael J. Kasper.

7. The Candidate filed a motion to strike paragraphs 6, 7, 15 and 20 of the Objector's Petition. Objector withdrew paragraphs 15 and 20, leaving paragraphs 6 and 7 to dispute. Paragraph 6 sought to invalidate certain petition signatures on the basis that the signatures were "not legible or are incomplete." Paragraph 7 sought to invalidate certain petition signatures on the basis that the signature was "printed and not written."

8. The Hearing Officer has tendered to the Electoral Board her report and recommended decision. The Hearing Officer recommends that the Candidate's motion to strike paragraphs 6 and 7 of the Objector's Petition be granted and that such objections be stricken. Inasmuch as it was agreed by the parties that after paragraphs 6 and 7 are stricken and paragraphs 15 and 20 are withdrawn, the Objector's Petition contains an insufficient number of objections to invalidate the Nomination Papers, the Hearing Officer has recommended that the

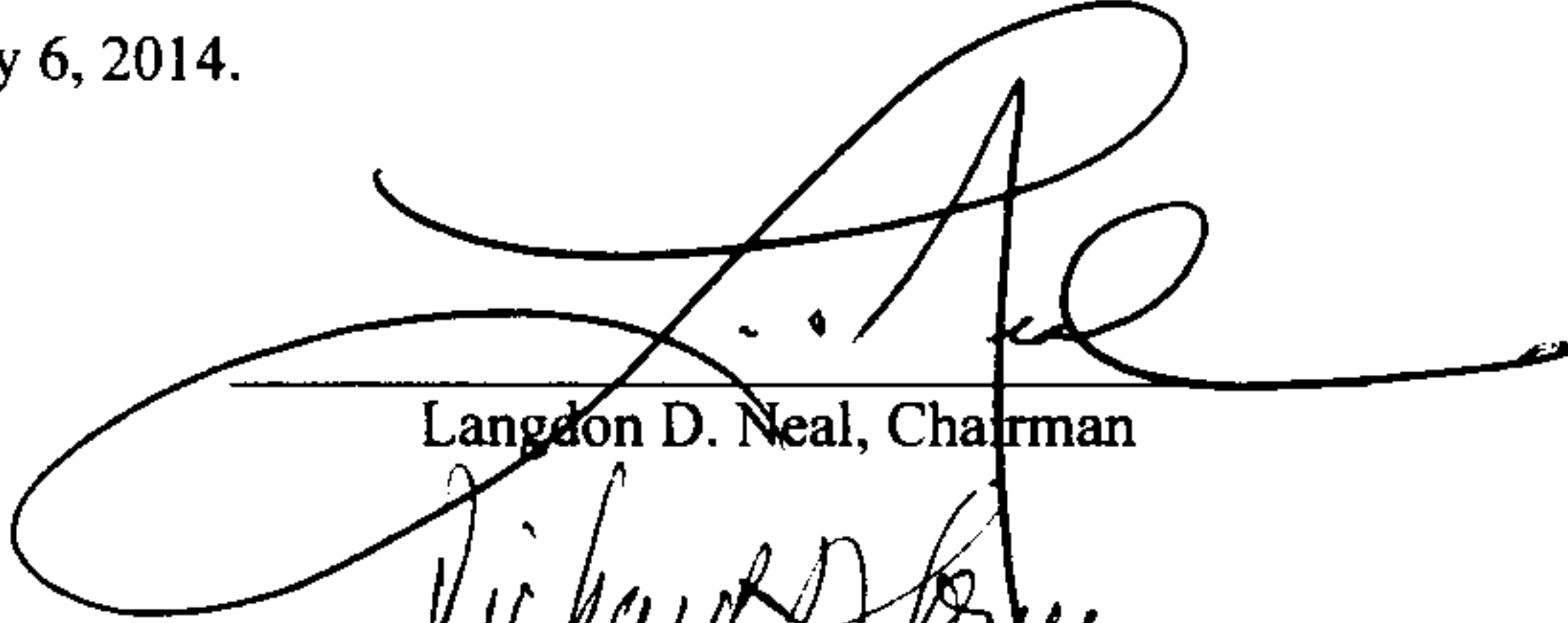
Objections to the Candidate's Nomination Papers be stricken and dismissed and that the Nomination Papers be declared valid.

9. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

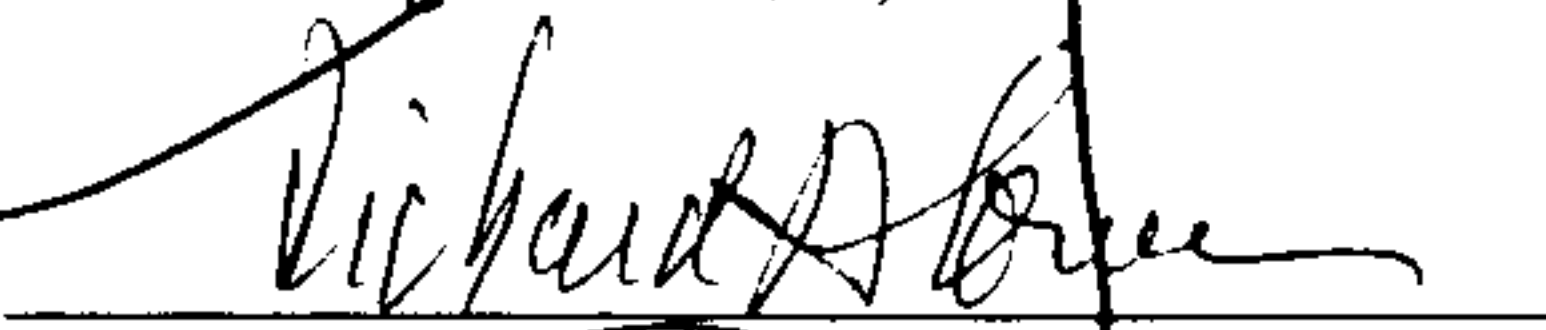
10. For the reasons stated above, the Electoral Board finds that the Objections to the Candidate's Nomination Papers should be, and the same are, dismissed and further finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Juan Antonio Diaz to the Nomination Papers of Barbara Flynn Currie, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 25th Representative District of the State of Illinois, are hereby STRICKEN AND DISMISSED and said Nomination Papers are hereby declared VALID and the name of Barbara Flynn Currie, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 25th Representative District of the State of Illinois, SHALL be printed on the official ballot for the General Primary Election to be held on March 18, 2014.

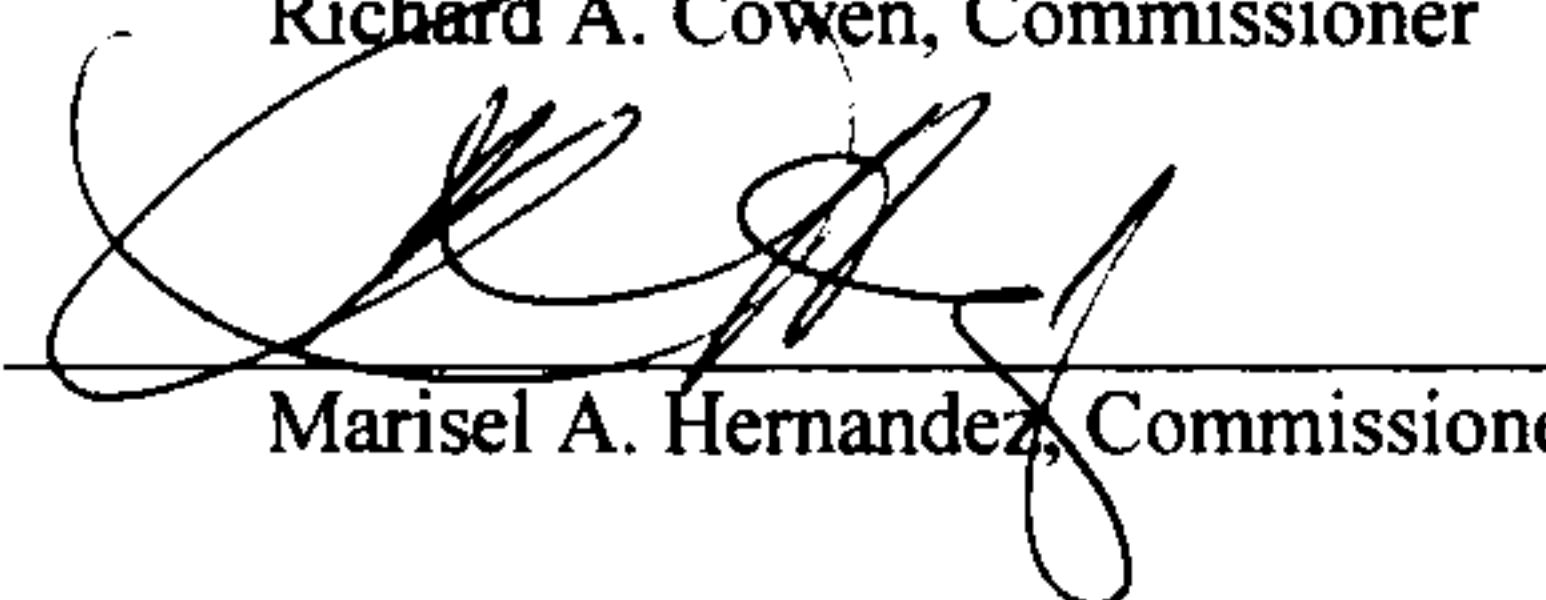
Dated: Chicago, Illinois, on January 6, 2014.



Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner



Marisel 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.

**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**

Juan Antonio Diaz)
)
Objector)
)
-v-)
)
Barbara Flynn Currie)
)
Candidate)

14 EB RGA 26

2013 DEC 24 A 5:52
 BOARD OF ELECTIONS
 COMMISSIONER

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

This matter was first heard on December 16, 2013. The Objector appeared through counsel Michael Kasper. The candidate appeared through counsel Thomas Cosgrove. The parties were given the opportunity to file preliminary motions. The Candidate filed a Motion to Strike and Dismiss, the Objector filed a response thereto and the candidate filed a reply. A hearing on the Motion to Strike and Dismiss was held on December 20, 2013.

THE MOTION TO STRIKE AND DISMISS

In her Motion to Strike and Dismiss, the candidate moved to strike paragraphs 6, 7, 15 and 20 of the Objector's Petition. In his response, the Objector withdrew paragraphs 15 and 20. Therefore, the remaining paragraphs at issue in the Motion to Strike were paragraphs 6 and 7 of the Objector's Petition.

Paragraph 6 of the Objector's Petition provides as follows:

The Petition Sheets contain the names of persons therein not legible or are incomplete and cannot be verified, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column B, "Signer's Signature not legible or incomplete," in violation of the Illinois Election Code

The Candidate moved to strike paragraph 6 in that it did not state a basis upon which signatures could be stricken. The Candidate contends that nothing in the Election Code requires a signature to be clearly written, only that the signature be the genuine signature of the registered voter signing the petition. It should be noted that in the instant Objector's petition, some of the signatures that were challenged on the basis of being illegible or incomplete were also challenged on additional bases. The Candidate seeks to strike only those objections that challenge the validity of the signatures solely on the basis of paragraph 6, that the signatures are illegible or incomplete.

In defense of the allegation in Paragraph 6, the Objector contends that if signatures are so illegible as to make them impossible to review in a records examination, the integrity of the electoral process is thwarted and that bad penmanship should not be rewarded in this way. In support of his position, Objector relies on the case of *Feuerstein v Phelan*, 12- EB-WC-03, CBEC, January 13, 2012.

In *Feuerstein*, a records examination was conducted on nominating papers that contained certain signatures that were illegible. However, it is significant that the illegible signatures were contested on the basis that the signer was not registered or that the signer's signature was not genuine. The signatures were not contested on the basis that they were illegible. As the Candidate points out, *Feuerstein* does not stand for the proposition that all signatures must be legible. Rather, the case simply contains an acknowledgement by this Board that illegible signatures can create difficulty in a records examination. The case does not create a new

category of invalid signatures or a new basis upon which signatures may be invalidated. Indeed, the Election Code has no requirements regarding good penmanship or the lack thereof.

Simply put, paragraph 6 of the Objector's Petition does not state a legally cognizable basis to invalidate signatures and the *Feuerstein* case does not support such an allegation.

Accordingly, paragraph 6 of the Objector's Petition should be stricken.

Paragraph 7 of the Objector's Petition provides as follows:

The Petition Sheets contain the names of persons who did not sign the papers but are printed and not written, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading, Column C, Signer's "Signature printed or not written," in violation of the Illinois Election Code.

The Candidate moved to strike paragraph 7 on the same basis as paragraph 6.

Specifically, Candidate argues that paragraph 7 does not state a basis upon which signatures can be invalidated. The Candidate points out that there is no legal prohibition against printed signatures. Candidate cites numerous cases where this board found that an allegation that signatures be stricken solely on the basis that they are printed did not state a cause of action to invalidate signatures. *Simms-Johnson v. Coordes*, 04-EB-WC-05, CBEC, January 20, 2004; *Prince v. Douyon*, 06-EB-RGA-10, CBEC, January 26, 2006; *DeLay v. Ferral*, 08-EB-WC-03, CBEC, December 7, 2007.

The Objector argues that a records examination should be conducted to determine whether the printed signatures match the signatures on the respective registration records in order to determine whether they are the genuine signature of the signers. Objector relies on the case of *Stewart v. Cruz*, 11-EB-MUN-032, CBEC, January 18, 2011 to support the argument that a records examination would be appropriate here and that it is a matter of proof as to whether the printed signatures are valid.

Objector's reliance on *Stewart* is misplaced. In *Stewart*, the allegation at issue was "Signature Printed and Not Written, Not Genuine". In the instant case, paragraph 7 contains no allegation that the printed signature is not the genuine signature of the signer. Rather, here, the Objector seeks to strike the signature solely on the basis of the type of writing the signer used. There being no prohibition against printed signatures in the Election Code, paragraph 7 fails to state a legally cognizable basis upon which to invalidate signatures. Accordingly, paragraph 7 should be stricken.

It was agreed by the parties that after paragraphs 6 and 7 are stricken and paragraphs 15 and 20 are withdrawn, the Objector's Petition contains an insufficient number of objections to invalidate the nominating papers.

CONCLUSION

In light of the foregoing, it is my recommendation that the objections of Juan Antonio Diaz to the nominating papers of Barbara Flynn Currie be stricken and dismissed. It is my further recommendation that the nominating papers of candidate Barbara Flynn Currie be deemed **valid** and that the name of candidate Barbara Flynn Currie for the Democratic nomination to the office of Representative in the 25th Representative District be printed on the ballot at the March 18, 2014 General Primary Election.

Respectfully submitted,

Barbara Goodman /s/

Barbara Goodman, Hearing Officer
12/23/13