

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

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Objections of: KEVIN BAILEY )  
)  
)  
To the Nomination ) No.: 19-EB-ALD-148  
Papers of: JENNIFER O. MADDOX )  
) Rel.: 19-EB-ALD-123  
Candidate for the office of )  
Alderman of the 20th Ward of the City of )  
Chicago )

**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of the Board of Election Commissioners of the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse, and Jonathan T. Swain, organized by law in response to a Call issued by Marisel A. Hernandez, Chair of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of KEVIN BAILEY (“Objector”) to the nomination papers (“Nomination Papers”) of JENNIFER O. MADDOX, candidate for the office of Alderman of the 20th Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 26, 2019, having convened on December 10, 2018, at 8:30 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 were duly and timely filed.
2. The Electoral Board was legally constituted under the laws of the State of Illinois.
3. A Call to the hearing on said Objections was duly issued by the Chair 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 10, 2018 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer David J. Shestokas 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, KEVIN BAILEY, *pro se*; the Candidate, JENNIFER O. MADDOX, and/or her Attorney MICHAEL C. DORF.

7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be dismissed for lack of evidence that the Objections were pled in good faith based on knowledge, information and/or belief formed after a reasonable inquiry, and that affidavits submitted by the Objector are inadmissible for violating Rule 10(c), and that no law prohibits petition signers from using initials or a printed signature.

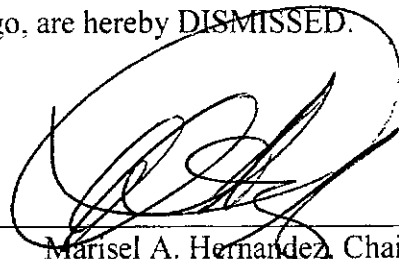
8. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. 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.

9. For the reasons stated above, the Electoral Board dismisses the Objections to the Candidate's Nomination Papers.

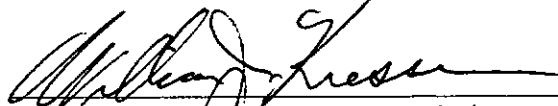
10. The Electoral Board further finds that objections to the Candidate's Nomination Papers were filed in a related case, Rel.: 19-EB-ALD-123, that such objections are still pending and they will determine whether the Candidate's Nomination Papers are valid or invalid.

IT IS THEREFORE ORDERED that the Objections of KEVIN BAILEY to the Nomination Papers of JENNIFER O. MADDOX, candidate for election to the office of Alderman of the 20th Ward of the City of Chicago, are hereby DISMISSED.

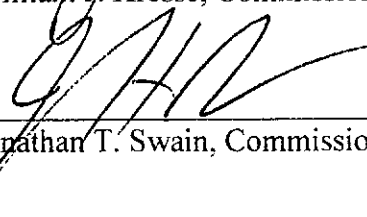
Dated: Chicago, Illinois, on January 08, 2019.



Marisel A. Hernandez, Chair



William J. Kresse, Commissioner



Jonathan T. Swain, 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 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  
ELECTION TO THE OFFICE OF ALDERMAN OF THE 20<sup>TH</sup> WARD OF THE CITY OF  
CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS TO BE VOTED UPON AT THE  
FEBRUARY 26, 2019 MUNICIPAL GENERAL ELECTION**

KEVIN BAILEY,	)	
Objector	)	Case No. 19-EB-ALD-148
	)	
-v-	)	
	)	
JENNIFER O. MADDOX,	)	
Respondent	)	

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

This matter was first heard on December 10, 2018. The Objector appeared *pro se* and the Respondent, in attendance, appeared through counsel. Board Exhibits A-D were entered into evidence and the parties were advised of the opportunity to file preliminary motions. On December 11, 2018 Respondent filed her *Motion to Strike and Dismiss*. On December 12, 2018 Objector filed his *Response to Motion to Strike and Dismiss*. On December 15, 2018 hearing was held on the *Motion to Strike*. Counsel for Respondent and Objector, appearing *pro se* presented arguments in support of their positions.

**RESPONDENT'S MOTION TO STRIKE AND DISMISS**

The December 11, 2018 *Motion to Strike and Dismiss* raised the following issues:

- The Objector's Petition is a "shotgun objection" in that there is an objection to every signature on the candidate's nominating petitions.
- Every page in the Objector's Appendix-Recapitulation originally contains objections to 20 signatures (the number of lines available for signatures on the nominating papers). The recapitulation sheets are then altered to conform with those nominating pages that contain fewer than 20 signatures by scratching out objections and altering the summary

on the recapitulation sheets to match the number of signatures on the nominating pages. The *Motion to Dismiss* argues this pattern to be evidence of “bad faith”.

- The *Motion to Dismiss* argues that the dual objections of “Not Registered At Address” and “Signer Not Proper Person and Not Genuine” appearing in tandem on nearly every objection that contains either is further evidence of bad faith.
- The *Motion to Dismiss* argues that the objection based on first to sign in Objector’s Paragraphs 6-13 should be stricken, pointing out that there are 120 first to sign objections in column D of the recapitulation sheets, but only 51 affidavits submitted with the objection, and of those only 35 are referenced in the recapitulation sheets, with 15 not matching the names on the respondent’s nominating papers.
- The *Motion to Dismiss* alleges that the 51 affidavits submitted do not comply with Rule 10(c) that requires:

“ALL AFFIDAVITS MUST BE SWORN TO, SIGNED, AND NOTARIZED BEFORE A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS IN THE STATE OF ILLINOIS – VERIFICATIONS UNDER SECTION 1-109 OF THE CODE OF CIVIL PROCEDURE (735 ILCS 5/1-109) ARE NOT ACCEPTABLE.”

- The *Motion to Dismiss* asks that Objector’s Petition paragraphs 15 and 16 based upon the signers’ use of initials or printing be stricken.

### **REPLY TO MOTION TO STRIKE AND DISMISS**

On December 12, 2018 Objector timely filed his *Reply to Motion to Strike and Dismiss*.

- The *Reply to Motion to Strike and Dismiss* consists principally of general denials of “bad faith” and the issues raised in the *Motion to Dismiss*.
- The *Reply* did not deny that every signature on every page of Respondent’s nominating papers received an objection.
- Paragraphs 4-11 of the *Reply* assert that there was an “extensive examination and extraordinary inquiry” regarding each objection found on the recapitulation sheets of Appendix A to the *Verified Objector’s Petition*.
- Paragraph 16 of the *Reply* points out that there are objections denoting that signers of candidate Maddox nominating papers had also signed candidate Kevin Bailey’s nominating papers. Paragraph 16 does not address the issues raised regarding the affidavits in support of the First to Sign objections by the *Motion to Dismiss*.
- Paragraph 19 of the *Reply* affirms that the submitted affidavits were signed under Section 109, but also asserts the affidavits were witnessed by a notary.
- Paragraphs 20-24 address the issue of objections to the use of initials and printed signatures.

- Paragraphs 25-26 argue that initially objecting to blank lines on the Maddox nominating papers was done in an “abundance of caution” and without authority asserts cases exist in which the Board has counted blank lines in favor of the candidate.
- The *Reply* has attached as Exhibit A an affidavit from Objector. The affidavit contains the same general assertion as in Paragraphs 4-11 of the *Reply* that an “extensive examination and extraordinary inquiry” was conducted of candidate’s nominating papers without describing the “extensive examination and extraordinary inquiry” in any detail.

### **THE HEARING OF DECEMBER 15, 2018**

On December 15, 2018 a hearing was held at which Respondent was represented by Counsel and Objector appeared *pro se*. During argument each side expanded upon the issues raised in the *Motion to Dismiss* and *Reply*.

During the course of the hearing, Respondent called attention to further issues involving the Objection:

- A suggestion that objection to 100% of the signatures should be considered “bad faith” *per se* was made.
- That candidate Maddox’s own signature, found on page 19 line 19 was the subject of an objection on the recapitulation sheets of Objector as “Signer Not Registered at Address” and “Signer Not Proper Person and Not Genuine”.

During the course of the hearing Objector argued the following:

- That crossing out the blank lines that earlier had objections marked had been done out of an abundance of caution.
- That problems arise when preparing 13 different objections.
- That it was easier and “expedient” to cross out objections to blank lines on recapitulation sheets that were checked in an “abundance of caution” following initial preparation of the recapitulation sheets.
- That failure to match “affidavits” with recapitulation sheets was not evidence of “bad faith” and argued that 90% of “affidavits” did match up.
- That Respondent provided no actual evidence in support of the *Motion to Dismiss*.

During the course of the hearing, both parties were questioned by the Hearing Officer regarding the arguments and evidence. It is of note that it was explained several times during the hearing to Objector that Exhibits A-D, entered into the record at the first Case Management Conference on December 10, 2018 were in fact evidence to be considered in the Hearing Officer’s recommendation in this case.

It was further explained that it was from applying the law to that evidence that a recommendation would be made to the Electoral Board. With a brief explanation of evidentiary rules governing this process to Objector, the Hearing Officer inquired of Objector if he had any additional evidence in support of his *Verified Objector's Petition*.

With that inquiry, the Hearing Officer explained that to that point in the hearing the parties had made arguments in support of their positions, but had not provided additional evidence. The Objector was advised, that if he wished, he could provide additional evidence by his own testimony under oath, that the oath would be administered by the court reporter, and that any testimony would be subject to cross examination by Respondent's Counsel and potential inquiry from the Hearing Officer.

Objector was provided with this explanation several times and the opportunity to consider providing testimony under oath. After due consideration, Objector declined to provide any further evidence.

### **OBJECTOR'S FIRST TO SIGN OBJECTION IN PARAGRAPHS 6-13**

Section IV of the *Motion to Strike and Dismiss* asks that Paragraphs 6-13 of Objector's Petition be stricken and offers calculations regarding the number of first to sign objections, the number of "affidavits" submitted, "affidavits" that are not referenced in the recapitulation sheets, and specific "affidavits" that do not correspond to the names on Respondent's petition sheets.

Respondent further objects to the form of the "affidavits" as in violation of Rule 10(c). As mentioned above, Rule 10(c) requires: "ALL AFFIDAVITS MUST BE SWORN TO, SIGNED, AND NOTARIZED BEFORE A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS IN THE STATE OF ILLINOIS – VERIFICATIONS UNDER SECTION 1-109 OF THE CODE OF CIVIL PROCEDURE (735 ILCS 5/1-109) ARE NOT ACCEPTABLE."

An examination of each of the "affidavits" submitted with the *Objector's Petition* reveals each to assert compliance with Section 1-109 of the Code of Civil Procedure, which Rule 10(c) explicitly states is unacceptable. Beyond that several "affidavits" fail to comply with Section 109 in that they are undated or the verification is unsigned.

Each "affidavit" has a notarial stamp and signature of a notary corresponding to the stamp. However, no "affidavit" has an acknowledgement by the notary that it was signed in the notary's presence or that the signer was either known by the notary or provided identification.

The submitted "affidavits" do not comply with Rule 10(c) and therefore are not acceptable evidence to support the allegations in Paragraphs 6-13 of *Objector's Petition*. Therefore, Objector has submitted no competent evidence in support of his First to Sign Objection.

Additionally, the submission of "affidavits" that do not match or correspond with names on Respondents' petition sheets provide some evidence of "bad faith" by the Objector in the preparation of the Objection.

While the Hearing Officer recommends that Paragraphs 6-13 of *Objector's Petition* and the Objection of First to Sign be stricken as Respondent requests, since there is no competent evidence in support of this objection this is an alternative recommendation in light of the final recommendation.

### **OBJECTOR'S OBJECTION TO THE USE OF INITIALS AND PRINTED SIGNATURES**

Section V. of the *Motion to Dismiss* asks that paragraphs 15 and 16 of the *Objector's Petition* that describe signatures using initials or are printed as "legally defective" be stricken. Respondent properly states that the Board has consistently allowed the use of initials and the printing of names by signatories when otherwise valid. The Objector has inartfully described the use of initials and printing of signatures as "legally defective".

During the hearing, Respondent argued this issue and the Hearing Officer queried whether despite that description, the issue of validity of such signatures is a questions of fact properly resolved through an evidentiary hearing following proper objections during a records exam. The question was not answered.

However, paragraphs 15 and 16 of *Objector's Petition* indicates that signatures employing initials and printed signatures are designated under Column E "Other" in the Recapitulation sheets. A review of *Objector's Petition* reveals that there is not a single entry under Column E indicating the use of initials or printed signatures. Paragraphs 15 and 16 therefore fail to put Respondent on notice of which signatures are objected to on the basis of the use of initials and printing.

Considering the foregoing the Hearing Officer recommends that Respondent's request to strike paragraphs 15 and 16 of *Objector's Petition* be granted. In light of the final recommendation in this case, this is an alternative recommendation should the Board not adopt the Hearing Officer's final recommendation.

### **OBJECTION TO CANDIDATE MADDOX'S SIGNATURE**

*Objector's Petition* Recapitulation Sheet 19 Line 19 contains x marks in columns A and C: "SIGNER NOT REGISTERED AT ADDRESS" and "SIGNER NOT PROPER PERSON AND NOT GENUINE". The signer on Sheet 19 Line 19 of Respondent's nominating papers is the candidate herself: Jennifer Maddox. A comparison of the signatures on the Receipt for Nominating Papers, Statement of Economic Interests, Statement of Candidacy and Loyalty Oath with that on Sheet 19 Line 19 of the nominating papers reveals all to be signed by the same person.



The address on Sheet 19 Line 19 is the same as the address on the Jennifer Maddox Statement of Candidacy, which contains both her signature and address and is properly notarized.

The fact that *Objector's Petition* contains an objection to the residence and signature of Candidate Maddox, both of which are easily subject to verification, indicates a lack of good faith based on knowledge, information and/or belief formed after reasonable inquiry in the preparation of the *Objector's Petition*.

Objector objected to the candidate's signature and address on the petition papers, yet failed to object to the Statement of Candidacy, which contained the same signature and address information objected to in the nominating petitions.

### **OBJECTOR HAS NOT MET GOOD FAITH STANDARD REQUIRED FOR OBJECTIONS**

Section III of the *Motion to Strike and Dismiss* asserts that Objector has not met the good faith standard required for objections.

#### **Facts Related To This Basis In the Motion To Strike And Dismiss**

- The *Objector's Petition* filed objections to all but one of the signatures in the candidate's nominating papers. (There is no objection box checked for Sheet 33, line 1)
- The *Objector's Petition* asserts in Paragraph 2 that the nominating papers of Respondent contain a maximum of 1,760 allegedly qualified, legal voters of the 20<sup>th</sup> Ward.
- The nominating papers contain multiple pages with less than 20 signatures.
- The Objector made no apparent effort to calculate the number of signatures contained in the nominating papers, although the recapitulation sheets indicate at least 340 lines on the nominating petitions without signatures.
- The Objector objected to the signature of the candidate herself despite readily available resources to verify that signature.
- The objections included allegations of "First to Sign" objections that included non-compliant "affidavits" which failed to relate to signatures on the candidate's nominating papers.
- No signature is identified in Column E of the Recapitulation sheets as using initials or being printed as asserted in Paragraphs 15 and 16 of *Objector's Petition*.
- Nearly every objection regarding "Signer Not Registered at Address" is a dual objection with "Signer Not Proper Person and Not Genuine". There are additional instances where a triple objection exists with "Address Not in 20<sup>th</sup> Ward".

- On the Recapitulation for EVERY nominating page that contained less than 20 signatures, EVERY BLANK SIGNATURE LINE contained an X for an objection to "Signer Not Registered at Address" and "Signer Not Proper Person and Not Genuine".
- Objector declined the opportunity to provide additional testimony under oath in support of his objections.

**Law Relating To This Basis to Strike and Dismiss**

Rule 1(xv) of the Electoral Board's Rules of Procedure recognizes the need for good faith objections by "requiring a preliminary showing that certain factual allegations in the Objectors' petition are pled in good faith based on knowledge, information and/or belief formed after reasonable inquiry."

As an initial matter, the objector to a nominating petition bears the burden of proof. *Carlasare v. Will County Officers Electoral Board*, 2012 IL App (3d) 120699. Electoral board rules may require the objector to make a preliminary showing that certain of the factual allegations in the objector's petition are pled in good faith based on knowledge, information and/or belief formed after reasonable inquiry. *Daniel v. Daly*, 2015 IL App (1st) 150544, ¶ 5 (Ill.App., 2015). It is permissible to draw a negative inference that an objector's testimony would be detrimental to the success of his objection when an objector refuses to testify. *Id.*, at 33.

Objections that have no basis in law or in fact and which are in the nature of what are commonly known as "shot gunned" objections will be dismissed. *Baker v. James*, 94 CO 99, Cir. Ct. Cook Co. (J. Kinnaird, February 28, 1994)(affirming decision of Cook County Officers Electoral Board granting motion to strike objections raising every conceivable objection against every signature on petition sheets); *Hoskins v. Collins*, 85 COEB RC-3, January 10, 1986; *Concepcion v. Juarez*, 93 COEB MWRD 1; *Baker v. James*, 93 COEB J 53 (CCOEB); *Arafat v. Shaw*, 91-EB-REP-81, CBEC, January, 1991.

The provisions of the Election Code (10 ILCS 5/10-8) are mandatory and require the objectors to "state fully" the nature of their objection. An objection petition must adequately and sufficiently apprise the candidate of the specificity of each objection, thus making evaluation possible. *Elysee v. Patterson*, 04-EB-RGA-14, January 20, 2004.

In *Derengowski v. Lamm*, 96-EB-RGA-1, CBEC, January 17, 1995, affirmed *Derengowski v. Electoral Board of City of Chicago*, 96 CO 16 (Cir. Ct. Cook Co., Judge Henry, February 9, 1996), where objector's petition objected to each and every of the nearly 1,100 signatures on the candidate's nomination petition on the grounds that the signatures are not genuine, the signers were not registered to vote at the address shown on petition and that the signer resides outside the district and each of these objections marked by computer-generated "X" next to the sheet and line for each petition signature, while other categories of objections are indicated by a handwritten "X", and the objector adduced no evidence to show what investigations were

made in preparing objector's petition, the objector's petition was not made as the result of a reasonable inquiry or investigation of the facts and are overruled as "shot gun" objections.

Where an Objector's petition contained objections to the genuineness of 749 of the 750 signatures on the candidate's petition, contending that each and every such signature was not genuine, the electoral board found that the objections were not made as a result of a reasonable inquiry or investigation of the facts and were not made in good faith. Therefore, the electoral board found that the petition had all the characteristics of a "shot gun" objection. *Xian v. Munoz*, 16-EB-WC-19 (Chicago Electoral Board 2016).

### **Application of the Law to the Facts**

In the instant case there is the initial consideration that all but one signature on the nominating petitions received an objection. This alone in line with *Derengowski* is evidence of "bad faith". The fact that almost every objection related to "Signer Not Registered at Address" is a dual objection with "Signer Not Proper Person and Not Genuine" and in some instances was a tripled objection belies a claim of due diligence.

While this board has found that dual objections standing alone are not necessarily evidence of "bad faith" in *Stearns v. Latiker*, 08-EB-RGA-12 (Chicago Electoral Board 2007), in *Stearns* there were only 177 dual objections out of 1,653 signatures. In the instant case, over 1,105 objections are the subject of dual and triple objections.

The signature of the candidate was objected to despite easy verification indicating there was no reasonable inquiry.

As all affidavits in support of Objector's "First in Time" Objection failed to comply with Rule 10(c) they are not considered as substantive evidence in support of that objection. However, the filing of documents purporting to support his First in Time Objection that failed to match signatures on the nominating petitions contributes additionally to a pattern of bad faith in the *Objector's Petition*.

Objector was given several opportunities to testify under oath at the hearing on December 10, 2018. The evidence available consisting of Exhibits A-D was explained to him, and it was explained that this evidence would be considered in rendering a decision. He declined to testify, allowing the reasonable inference that such testimony would be detrimental to his objection.

Objector presented no evidence as to the methods or persons utilized in generating the objections for the signatures, leaving his argument that an "extensive examination and extraordinary inquiry" took place without support.

The pattern of marking objections on sheets and lines for non-existent signatures and then altering Recapitulation sheets to reflect that less than 20 signatures were on a given page

gives inference that such sheets were marked in advance and not the result of a reasonable inquiry. At the Hearing, Objector argued that such an approach was "expedient" which undercuts a finding that a reasonable inquiry was made.

*Objector's Petition* argued that signatures with initials or printed were "legally deficient" and asserted such signatures were identified under column E of the Recapitulation Sheets and yet no such signatures are identified under Column E as having initials or being printed.

Beyond the "shotgun" nature of objecting to all but a single signature on the nominating petitions, there is a pattern of bad faith demonstrated by:

- the submission of unrelated "affidavits"
- objecting to the candidate's verifiable signature and address on the nominating papers yet not objecting to the statement of candidacy
- no apparent attempt to calculate the number of signatures submitted
- altering recapitulation sheets after marking objections for non-existent signatures, when each blank line on the nominating papers was originally marked by the same dual objection
- the failure to submit evidence regarding the methods or persons involved in arriving at signature objections
- objecting to but not identifying any signatures using initials or printed
- the Objector's decision to not testify under oath

Objector has failed to provide credible evidence to justify the sweeping allegation that all but one of the signatures on Candidate Maddox's nominating petitions are invalid on multiple bases and demonstrated a pattern of bad faith.

### **CONCLUSION AND RECOMMENDATION**

In light of the foregoing, it is my recommendation that Respondent's *Motion to Strike and Dismiss* be granted as to *Objector's Petition* in this case. The further relief requested as to a ruling on the validity of Candidate Maddox's Nomination Papers is to be reserved as there is a separate matter, 19-EB-ALD-123, which remains pending.



David J. Shestokas, Hearing Officer

12/17/2018