BCCON-ALD

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

Objections of: RICARDO MUNOZ	)	
	)	
To the Nomination	)	
Papers of: DEB GORDILS	)	No.: 03-EB-ALD-004
	)	
Candidate for the office of	)	
Alderman of the Thirty-third Ward,	)	
City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal, Theresa M. Petrone, and Richard A. Cowen, 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 RICARDO MUNOZ ("Objector") to the nomination papers ("Nomination Papers") of DEB GORDILS, candidate for the office of Alderman of the Thirty-third Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 25, 2003, having convened on December 30, 2002, at 10:00 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 was held on these Objections commencing on December 30, 2002 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner JOAN T. AGNEW 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 Examiner on the date and at the time designated in the

Trial Call. The following persons, among others, were present at such hearing; the Objector, RICARDO MUNOZ, by counsel; and the Candidate, DEB GORDILS, by counsel.

7. This matter was subsequently reassigned by the Electoral Board from Hearing Examiner Joan T. Agnew to Hearing Examiner BARBARA GOODMAN due to Ms. Agnew's unavailability to hear a preliminary motion.

8. The Hearing Examiner ordered that an examination of the registration records be conducted by its clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

9. The Hearing Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

10. The Candidate or her duly authorized representative was present during the examination of the registration records at all times.

11. The Objector or his duly authorized representatives was present during the examination of the registration records at all times.

12. 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 is available upon request of a party.

13. 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 240;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 721;

    c. The number of signatures deemed invalid because of objections sustained total 336;

    d. The remaining number of signatures deemed valid total 385.

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 Alderman of the Thirty-third Ward of the City of Chicago.

15. In addition to the objections to individual signatures on the Candidate's Nomination Papers, the Objector also made the following objections:

A. The Candidate's Nomination Papers were signed by individuals who had previously signed the nominating petitions of another candidate for the same office in violation of 10 ILCS 5/10-3 and that said signatures are invalid.
B. The Candidate's Nomination Papers contain the signatures of various individuals who signed the Papers more than once and such duplicate signatures are invalid.
C. The purported circulator of certain identified petition sheets did not in fact circulate said sheets and the circulator's affidavit of each sheet is false and perjurious.
D. There is substantial, clear and compelling evidence that the conduct of the Candidate personally evidences a pattern of fraud and false swearing requiring that the Electoral Board void the entire petition.

16. The Hearing Examiner conducted extensive hearings in this matter, receiving the evidence and testimony and observing the demeanor of the witnesses. The Hearing Examiner submitted to the Electoral Board a 21-page report summarizing the evidence and testimony and the Hearing Examiner's recommended findings and conclusions of law. In her report, the Hearing Examiner recommended that the Objections be overruled in part and sustained in part in conformity with her findings enumerated in the report and further recommending that the Candidate's Nomination Papers be deemed valid and that her name be printed on the ballot.

17. The Electoral Board, having reviewed the applicable law and having considered the evidence and argument submitted by the parties, as well as the Hearing Examiner's recommended findings and conclusions of law, hereby adopts the Hearing Examiner's recommended findings and conclusion of law in this matter and attaches and incorporates the Hearing Examiner's report as the Electoral Board's decision in this matter. Accordingly, the Electoral Board finds that the Objections are overruled in part and sustained in part as enumerated in the Hearing Examiner's report and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of RICARDO MUNOZ to the Nomination Papers of DEB GORDILS, candidate for election to the office of Alderman of the Thirty-third Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of DEB GORDILS, candidate for election to the office of Alderman of the Thirty-third Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 25, 2003.

Dated: Chicago, Illinois, this Tenth day of February, 2003.

Langdon D. Neal, Chairman

Theresa M. Petrone, Commissioner

Richard A. Cowen, 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 10 days after 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 FEBRUARY 25, 2003 MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER AND ALDERMAN
IN THE CITY OF CHICAGO

2003 FEB -7 A 11:38
CLERK OF CHICAGO

RICARDO MUNOZ
Objector)
)
-v-) **03-EB-ALD-004**
DEB GORDILS)
Candidate)

HEARING EXAMINER'S REPORT

This cause first came to be heard before Hearing Examiner Joan Agnew on January 2, 2003. Numerous preliminary motions were filed and the matter was later assigned to this Hearing Examiner for further consideration. The preliminary motions were then withdrawn after agreement was reached by the parties as to the issues set forth therein. Further hearings in the matter were held from time to time through January 29, 2003.

The matter was sent for a records examination. The results of the records examination were as follows:

Number of Signatures on Petition:	721
Number of Objections Overruled:	53
Number of Objections Sustained	336
Number of Signatures Invalid	
because of Circulator:	0

Valid Signatures	**385**
Minimum Signature Requirement:	240

After the records examination, the parties filed Rule 8 Motions and further proceedings were held on the matters raised in the motions and the remaining allegations in the Objector's Petition.

ORDER OF SIGNING OTHER PETITION FOR SAME OFFICE

Paragraphs 5a-c of the Objector's Petition alleged that certain petition signers previously signed the petition of another candidate running for the same office, Richard Mell, and all subsequently signed signatures contained in the instant petitions were invalid. The parties stipulated that the allegations regarding the signatures at the following sheets and lines should be sustained:

Sheet/Line -

4/21, 8/1,10/2,11/5,12/10,12/13,12/16,13/21,15/9,15/12,/15/18,

15/19,15/22,16/15,16/23,18/11,18/15,19/11,19/14,22/7,22/18,

23/5,23/19,24/5,24/12,24/13,,24/15,24/21,25/9,25/11,25/12,25/3

25/16,25/18,25/20,25/25,26/1,26/11,26/21,27/3,27/6,27/7,27/10,

27/14,27/15,28/2,29/2,29/3,29/8,29/9,29/10,30/4,30/5,31/2,31/3

31/4,31/5,31/8,32/1,32/3,32/5,32/10,32/14,33/1,33/11,33/20,34/5,

36/1,36/4,36/8,36/9,36/10,26/13,36/14,37/7,38/3,38/8,38/9,39/7,

40/2, 40/3

The parties further stipulated that the allegation regarding the order of signing should be sustained as to other signatures. However, the following

signatures were already stricken as a result of the records examination and, therefore, resulted in no change in the total number of valid signatures.

12/22,14/7,15/11,23/16,24/25,25/22,26/22,28/16,32/7,32/12[1]

As a result of the foregoing stipulations and one stipulation relative to a duplicate signature, the candidate's total valid signatures was, at this point, reduced to 302.

Objector offered the following affidavits of certain petition signers which indicated that they signed the petition of Richard F. Mell prior to the petition of Deb Gordils:

Exhibit #	Sheet/Line	Signer
1	32/3	Enrique Villanueva
3	3/7	Jose San Martin
4	3/22	Paula J. Patrick
5	3/5	Henrietta Kellermann
6	4/8	Jose Ayala
9	8/1	John T. Kennedy
19B	34/5	Martin Schmidt

Each of these affidavits states that the Mell petition was signed prior to the Gordils petition. In rebuttal, the candidate testified that the affiants were wrong and that she recalled circulating the sheets prior to the time specified in the affidavits. The candidate's denials were insufficient to rebut the affidavits of the petition signers and no affidavits or other testimony were offered in support of the candidate's position. Accordingly, based upon the

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[1]Stipulations were also submitted as to allegations that should be overruled. Inasmuch as they did not change the total number of valid signatures, they are not enumerated herein.

affidavits presented, the above referenced signatures, totalling 7, must be stricken.

The Objector also requested that, based solely upon evidence that the Mell sheets and Gordils sheets were signed on the same day, a finding be made that certain Gordils signatures were subsequently signed and therefore invalid. The only evidence in the record, however, is that the Mell and Gordils petitions were signed on the same day. Accordingly, the objections as to sheets 2/7,2/8,2/9,2/12,3/3,3/14, 6/4,9/6,9/12 and 18/4 were overruled.

FALSE CIRCULATORS OATHS

The Objector offered testimony and affidavits in support of his allegation in paragraph 8 of the Objector's Petition that the purported circulator of certain sheets did not, in fact, circulate the sheet. The affidavits of the following individuals were offered in support thereof:

Exhibit #	Sheet/Line	Signer	Statement
7	9/22	Jose A. Rodriguez	young lady lives across the street
8	9/23	Francesca Rodriguez	young lady circulated, she lives accross (sic) the street from me
10	23/6	Sheila Townsend	elc date the young lady had blond hair and was slim
11	22/12	Ileana Caraballo	a man
12	26/9	Ray Woodhouse	a man
18	37/1	Michele Collier	I sign this on election day in front of Immaculate Heart of Mary School. Pititioner (sic) said she was Deb girl friend
19A	34/5	Martin Schmidt	A man asked me to sign a petition to allow another candidate to run for office

The text of the affidavits, in pertinent part, specified that " the person whose photographs appear above and on the reverse side of this affidavit was not present when I signed the petition sheet and and (sic) I did not sign the petition sheet in her presence." This language is coupled with the explanation as to how each of these affiants recalls that it was not the candidate in whose presence the petition was signed.

Gordils testified that as to objector's exhibit 10 (re sheet 23),11(re sheet 22),12(re sheet26), 18(re sheet 18) and 19A(re sheet 34) which specified that she was not the circulator, those individuals were simply wrong. The only rebuttal offered by the candidate was a wholesale denial of the accuracy of each of the affiants' statements. Other than the candidate's denials, no affidavits or witnesses were submitted in rebuttal. Accordingly, the evidence supports a finding that the candidate did not, in fact, circulate the above referenced sheets and that they were not signed in her presence. The number of signatures remaining on these sheets that must be stricken is 37.

The candidate testified that the affidavits of Jose Rodriguez (Obj. Ex 9) and Francesca Rodriguez (Obj. Ex. 8) were also wrong. **Maria Gordils**, sister of the candidate, testified that she circulated three sheets, specifically sheets 2, 13 and 14. Those sheets were circulated with Deb Gordils and sheet 2 was also circulated with her mother. She further testified that Jose Rodriguez and Francesca Rodriguez are her neighbors and that they know each other well. In addition to the affidavits they signed as Objector's Exhibits 7 and 8, , Jose Rodriguez also signed an affidavit submitted as Candidate's Exhibit 2.

Candidate's Exhibit 2 specifies that Mr. Rodriguez signed in the presence of Deb Gordils. Objector's Exhibit 7 specifies that Mr. Rodriguez signed in the presence of the young lady who lives across the street. Maria Gordils testified that she did not circulate sheet 9 and was not with the candidate when it was circulated. Her explanation for the inconsistent affidavits from Mr. Rodriguez is that he speaks very little English and probably did not understand what he was signing. Her explanation for Mrs. Francesca's affidavit saying that she signed in front of the young lady who lives across the street from her (meaning Maria) is that Mrs. Rodriguez speaks almost no English and probably did not understand what she was signing. Given the inconsistent statements provided by Jose Rodriguez and the plausible explanation given by Maria Gordils, coupled with the testimony offered by both Maria and Deb Gordils, the evidence was insufficient to establish that Deb Gordils did not circulate sheet 9.

The Objector called witness **Nicholas Joseph Rosario, Jr.** who signed as circulator on four of the candidate's petition sheets. He testified that he was the nephew of the candidate and that he resides at 3150 N. Melvina, Chicago and that he has resided there for over two years. He further testified that he put another address in the circulator's affidavit, 4943 W. Dakin, because his father resides at that address. He indicated that a few old items that he no longer uses may be stored at that location. Rosario further testified that all of the belongings he uses in his day to day life are at 3150 N. Melvina and that while he sleeps at other places on occasion such as his mother's house, his

aunt's house and his father's house, he lives at the Melvina location. He has no mail box at the Melvina location, however, and uses his father's address in order to receive mail there and that he continues to be registered to vote there.

Rosario further testified that he circulated two sheets for the candidate. Although he signed as circulator on sheets 30,31,32,33, he did not actually circulate sheets 30, 31 or 33. He further testified that while the candidate Deb Gordils signed as circulator on sheet 36, he actually circulated that sheet.

Rosario stated that he and the candidate went to a currency exchange to have petitions notarized, that a stack of petition sheets were on the dashboard and that the candidate handed him four sheets and asked him to have them notarized. He made no effort to ascertain whether any of the sheets were the sheets he actually circulated and he did not review the sheets prior to having them notarized.

Without question, sheets 30, 31,33 and 36 must be stricken in their entirety inasmuch as the uncontroverted testimony and the admission of the candidate herself established that the purported circulator did not actually circulate the sheets. The total number of remaining signatures that must be stricken as a result of striking the sheets is 21.

The Objector offered the affidavit of **Enrique Villanueva (Obj. Ex. 1)** whose signature is contained on sheet 32, line 3. The affidavit indicated that Deb Gordils was the one who actually circulated the sheet. Rosario testified

that he did not, at any time, circulate with his aunt Deb Gordils Therefore he could not have been present when affiant Villanueva Villanueva signed.

For several reasons, sheet 32 must be stricken in its entirety as well. First, the Villanueva affidavits establishes that Rosario did not circulate the sheet and was not present when it was signed. Additionally, by Rosario's own admission, he does not reside at the address he specified in the circulator's affidavit and uses that address for mailing purposes only. Thus, he falsely swore to his residence address in each of the circulator's affidavits. While there is no longer a requirement that a circulator be a registered voter, the obligation to truthfully specify a residence address has not been eliminated. Finally, Rosario's testimony established that he made no attempt to ascertain which sheets he circulated prior to having the sheets notarized. The affidavit of Enrique Villanueva appears to corroborate this point. For these reasons, the remaining signatures on sheet 32, totalling 5, must be stricken.

Cheryl Gackowski testified that she signed at sheet 40, line 3 and that she recognized the signatures of her parents at lines 1 and 2 of the same sheet. She testified that she signed the petition outside her house and that a gentleman in his late 20's -early 30's handed her the petition. She further testified that there was a thin white woman with short brown hair with him. After being shown Objector's group exhibit 25, which consisted of photocopies of various pictures of the candidate, Gackowski testified that she did not recognize the candidate as the one who was with the man who gave her the petition to sign.

In response to this testimony, the candidate claimed that she specifically recalled being the circulator of the sheet and that the witness was mistaken. The candidate further testified that no one else circulated that sheet with her.

The allegation that sheet 40 was not circulated by the candidate must be sustained. The testimony of Gakowski was that two other people were present when she signed the petition. Her testimony was credible and she had no motive to lie. Judged against the self serving statements of the candidate, the weight of the evidence supports a finding that the candidate did not circulate the sheet signed by the witness and the candidate was not present when it was signed. Accordingly, the remaining signatures, totalling 2, must be stricken.

Maria E. Haz testified that she signed sheet 28, line 2 on election day at Immaculate Heart of Mary (IHM) in November and that she was approached by a woman pictured in Objector's Exhibit 26 to sign the petition. She could not specifically recall whether other people were outside. People were going in and out of the building because it was being used as a polling place. There was no one within ten (10) feet of her when she signed and she could not say whether anyone else saw her sign.

Sherlynn Flores testified that she was an election judge at IHM on election day and that she could see out the window all day long out the window and noticed that the candidate was present at the polling place because Flores, as an election judge, had to break up an argument an argument between the candidate and Rodney Sernick, a precinct captain. She could not

recall seeing the person in Objector's Exhibit 26 (Emilia Yosick) during the day.

Radosav Markovic testified that he voted in the afternoon at IHM and that he first arrived there in the afternoon and that he did not see anyone circulating petitions. He identified himself as the person pictured in a photograph in Objector's Exhibit 27 taken near the polling place.

Armando Castillo testified that he knows Maria Haz and that he was present and approximately 10 feet away on election day when Ms. Haz signed. He recognized the woman in Objector's Exhibit 26 as the woman who was circulating and that there was no one else with her. He further testified that he was a poll watcher on election day and that there was a man circulating petitions on Troy and Irving approximately 200 feet from where Emilia Yosick was circulating. He testified that he saw the candidate for approximately 10-15 minutes and that he neither saw her arrive nor depart that day.

Robert Sarlo testified that he was passing out literature at IHM on election day and that he knows Maria Haz and recognized her in the picture with Emilia Yosick. He saw Haz sign the petition and no one lest was there. He never saw Emilia circulating or standing with anyone else. He only saw the candidate when she was arguing with Rodney Sernick.

Steve Demos testified that he was a poll watcher at IHM and that he saw people with clipboards and saw Deb Gordils having a conversation with a man. He saw the man that was circulating, Emilia Yosick and Deb Gordils all leave together .

Edward Stasierowski testified that he was a poll watcher at IHM on election day and that he saw two circulators at different locations, an older man and Emilia Yosick and only saw Deb Gordils when she left with them at about noon. He saw both the man and woman arrive around 10:00 a.m. but did not see the candidate when she arrived and did not know what time she arrived.

The only evidence offered to rebut the testimony of these witnesses was that of the candidate. She testified that she was with Emilia Yosick at IHM and that Emilia Yosick is the one that handed the petition to Haz. Gordils further testified that she witnessed Haz sign the petition. Her testimony did reveal that she was not with Yosick for several minutes because she was inside the building having an argument with Rodney Sernick. No testimony by the candidate or others on her behalf was offered to establish that Gordils was present during the signing of all the signatures on sheet 28 and her absence creates the likelihood that she could have missed the signing of some of the petition signers. Moreover, without explanation, the one person who could have corroborated the testimony of candidate was not called by the candidate. There being no corroborating evidence to establish that Gordils witnessed Haz sign the petition and no evidence that she was present during the signing of each name, the objector's allegation as to sheet 28 must be sustained, resulting in the striking of 6 additional signatures.

Robert J. Fry testified that he was a poll watcher on election day at Bateman School. He arrived at 2:00 p.m. and left at 7:00 p.m. and that he

was outside the entire time. He was standing north of the school on Richmond a bout 100 feet from the entrance and two people were circulating petitions 100 feet south of the building within his line of sight. There was a tall, thin Caucasian male and a young Hispanic female about 18. The witness walked past them ten to twelve times. They each had a clipboard and they left between 6 and 7 p.m. He did not see how they left or when they left. He first noticed them around 2:00 p.m. He saw Michael Butler signing a sheet (31/1). The circulator was not Deb Gordils and the circulator did not match the description of Nick Rosario. He further testified that he works for the City of Chicago, City Council Committee on Rules and Ethics of which Richard Mell is chairman. At the time of Butler's signing, he was across the street, moving his car and there were several others around. Butler signed sometime between 2:30 and 3:00 and at that time, he did not see Deb Gordils although he could not rule out the possibility that she was there.

The candidate's testimony regarding the circulation at Bateman School was that she was with Roy Akers and Jennifer Gonzalez, Roy's fiancé. She had a clipboard with petition sheets and Roy Akers had a clipboard with sheets. Jennifer did not have a clipboard. Gordils testified that Roy handed Butler the petition sheet and that he signed it in her presence. There was insufficient evidence to establish that the signature of Michael Butler was not signed in the presence of Gordils. However, sheet 31 was previously stricken because it was signed by Nicholas Rosario as circulator and not Deb Gordils.

Gordils further testified that she witnessed Jennifer Gonzalez place a mark on petition sheet 33 but that she turned to another signer and did not see that Jennifer Gonzalez signed her name and the name of two of her family members. Gordils further testified that when she saw the sheet, she realized that Jennifer had signed more than her own name but that she instructed Roy not to strike the signature because the Board of Elections would make the determination. Candidate called no witnesses to corroborate her testimony and offered no affidavits of any signers or, more importantly, of Roy Akers, her "assistant" circulator. The candidate's testimony that she turned her attention elsewhere while a petition signer was signing, coupled with the wholesale lack of corroborating evidence, is sufficient to sustain the allegation relative to sheet 33. However, inasmuch as sheet 33 was stricken for other reasons, this finding resulted in no change in the total number of signatures.

The most recent pronouncement relative to the issue of what constitutes the act of circulation arises from the case of Moscardini v County Officers Electoral Board of DuPage County. In Moscardini, it was established that the candidate/circulator was not the person who handed the petition to the signer. In many instances, it was the candidate's husband, friend or son. However, the affidavit of the candidate, corroborated by affidavits from the three other circulators, established that because the candidate was disabled, she could not go to each of the houses to present the petitions. Rather, she stayed outside, no more than 20 feet away, and witnessed each of the signers put a mark on the petition. In reversing the decision of the electoral board and

circuit court, the appellate court determined that "signatures signed in my presence" means that it is sufficient to be present when the signatures are signed and that the circulator need not be the person who presents the petition to the signers.

The evidence relative to the above stricken sheets is significantly different than the evidence presented in Moscardini. In Moscardini, the affidavit of the circulator established that she saw all of the signers sign and her affidavit was corroborated by all of the other circulators. Here, **no** evidence was offered to corroborate the candidate's statements or rebut the evidence. In each instance, the objector's testimony and evidence established that Deb Gordils was not present when they signed the petition, not merely that she did not hand them the petition to sign. Although the candidate has raised objections regarding the wording of the affidavit, its plain language can leave no doubt, regardless of how it is phrased, that Deb Gordils was not there when they signed.

Additional testimony, not otherwise summarized above, was elicited from the candidate. **Deb Gordils**, the candidate, testified that while she signed sheet 36 as circulator, she did not in fact circulate the sheet. Rather, the sheet was circulated by Nicholas Rosario, her nephew. Her testimony corroborated that of Nicholas Rosario relative to the notarization of certain sheets. She indicated that she had placed his petition sheets on a stack along with her petition sheets and that she believed that the ones she asked him to have notarized were the sheets he, in fact, circulated. She also testified that

while he signed as circulator on sheets 30, 31 and 33, she actually circulated the sheets.

Gordils further testified that on election day in November, she had eight other circulators assisting her even though no other circulators signed the circulators' affidavits except her nephew Nicholas Rosario and her sister, Maria Gordils. On election day, she circulated at several locations, including Bateman School, Cleveland School, IHM and Irving and Troy. Gordils testified that she was present when all of the petition signers signed all of the sheets on election day and that she was assisted at each location by another circulator.

Gordils further testified that it was her understanding that all she had to do was see a person make a mark on a sheet in order to sign as circulator and that she did not have to be the one who actually handed the signer the petition sheet or actually witness what they were signing.

PATTERN OF FRAUD

The objector urged that the petitions were so permeated with fraud that they should be stricken in their entirety. In support of this allegation and in addition to the evidence regarding the notarization process and the issue of circulators not circulating certain sheets they purportedly circulated, the Objector offered the testimony and affidavits of other signers to establish that they did not sign the petition and that the signature that purports to be theirs is not their genuine signature.

Michelle Vasquez testified that although her signature was contained at sheet 9, line 20, she did not actually sign the petition. Additionally, the testimony and affidavits of other signers were submitted to establish that they did not sign the petition and that the signature that purports to be theirs is not their genuine signature. Those affidavits are:

Exhibit #	Sheet/Line	Signer
2	36/14	Allan Pitchan (s)
13	9/19	Kathryn McKenna
14	9/20	Michelle Vasquez
15	33/5	Giselle Gonzalez
16	33/6	Nellie Gonzalez
24	15/7	George T. Geminn[2]

The signatures of the foregoing individuals were already stricken in the records examination or via the stipulations of the parties. Therefore, the foregoing testimony and affidavits did not cause a change in the total and did not support a finding that entire sheets should be stricken because of the non genuine signatures.

The objector further introduced two instances where the candidate knowingly submitted signatures she knew were not genuine signatures, but instead had been signed by family members. The candidate's explanation for

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[2]Additional affidavits numbered 20, 21 and 23 were submitted but not moved into evidence as the signatures contained thereon appeared to match the petition signatures the affiants claims not to have signed. As to Exhibit 24, it is interesting to note that the printed name on the affidavit appears to match the printed signature on the petition.

knowingly submitting these non-genuine signatures and not deleting them was that she was advised by someone at the Chicago Board of Election Commissioners that the signatures would be reviewed by the Board and a decision would be made by the Board regarding the validity of the signatures. While she was incorrect as to the law and procedure, her explanation did negate a finding that her submittal of the signatures was with the intent to defraud.

Objector further offered the evidence, corroborated by the candidate's own testimony, that she altered the notarial jurat after the notary had signed the sheet. She did so at sheets 30 through 41. She put the name of the circulator in the notary jurat and stratched out the name of a currency exchange that had been placed in the jurat. Gordils testified that she made these alterations because she knew that the name of the currency exchange did not belong in the jurat. Because the jurat in both its original form or its altered form could not provide a basis to invalidate the sheet, this evidence does nothing to support the Objector's allegation that the act of altering the petition constituted fraud.

As further support for his argument relative to a pattern of fraud, Objector presented evidence, supported by the candidate's own testimony that in two instances, signers signed twice with two different addresses. Candidate's explanation was that both of neither of these signers could recall the address at which they were registered and listed both of the properties they owned on the petition. Candidate testified that she knew both could not

count but that she thought the Board would determine at which address the signers were registered.

The candidate testified that she did all of these things even though she read the 2003 Election Information Packet supplied by the Chicago Board of Election Commissioners (Obj. Ex. 30).

Te evidence did not support a finding that the petitions were so permeated with fraud and false swearing as to warrant the extraordinary measure of invalidating each and every sheet. The candidate's explanations in many cases, while self serving and evidencing a mistaken understanding of the law and the procedure, did not rise to the level of fraud.

CANDIDATE'S RULE 8 MOTION

Pursuant to the Candidate's Rule 8 Motion, the candidate offered affidavits to rehabilitate certain signatures and further offered the testimony of forensic document examiner James Hayes to assist in the rehabilitation process. Along with the affidavits, the registration record for the following signers was submitted except for exhibits 25 and 27 through 30.

Exhibit #	Sheet/Line	Signer
2	9/22	Jose Rodriguez
3& 17	2/16	Cesar Fuentes
4	3/7	Jose San Martin
5	23/24	Beena B. Mathew
6	3/2	Francisco Natividad
7	19/20	Fernando Malabehar
8	4/10	Brooke Noonan
9	22/20	Antonio Marinez, Jr.
10	23/17	Teresita Perez
11	11/18	Jorge S. Aguilar
12	3/9	Renee Bellinden
13	8/16	Elizabeth A. Ebert

14	14/1	Chris Baraszcz
15	21/12	Celia R. Parra
16	1/7	Adel Cruz
18	9/9	Gina Gonzalez
19	11/3	Susan J. Guzzi
20	15/14	Theresa L. Schranz (not in Rule 8)
21	16/8	Ester Q. Alegra
22	16/12	Kristen Johnson
23	19/10	Mirna M. Hernandez
24	22/19	Veronica I. Arreola
25	1/4	Saturinino Lagarola
26	24/20	Jose L. Leos
27	19/16	Melissa R. Moore
28	23/21	Felix Quercia
29	25/17	Alfonso Salazar
30	2/24	Jason A. Ramos
31	22/4	Cruz M. Allende
32	14/15	Nilda Rodriguez
33	14/14	Marta Rodriguez

The Objector raised objections to the form of the affidavit. Specifically, in many instances, the affidavit was submitted to rehabilitate a printed signature and the affidavit contained no sample of the printed signature. However, the text of the affidavit contained a statement that "I signed the block printing that appears on that sheet and line number". As to exhibits 4,5,6,7,11,14,15,16,18 expert Hayes was able to verify that the petition sheet, registration record and the affidavit signatures were signed by the same persons. Accordingly, these signatures were properly rehabilitated. The number of signatures rehabilitated in this manner was 8. Sheet 23 was previously stricken and Obj. 5 could not rehabilitate that signature.

Hayes testified that as to exhibits 13, 25,26 and 31, there were insufficient similarities with the signatures contained on the documents submitted to conclude that they were signed by the same person.

Accordingly, the 4 signatures referenced in those affidavits were not properly rehabilitated.

The testimony of Hayes indicated that while he could verify that the affidavit and the registration record were signed by the same individuals, there was an insufficient basis to make any conclusions regarding the petition signatures because the petition signature was printed and the other signatures were in cursive handwriting. This limitation notwithstanding, given the text of the affidavit affirming the printed signature as that of the registered voter in question, the signatures on Exhibits 2 &17 (same affidavit) 4,8,9,10,12,17 19,21,22,23,24, 32 and 33 were properly rehabilitated. However, the sheets corresponding to Exhibits 9, 10 and 24 were previously stricken. Therefore, the total net gain for the candidate as to signatures rehabilitated in this manner was 10. Additionally, the registration record foir Objector's Exhibit 28 was not available but the petition and affidavit matched. Therefore, the signature on that sheet was rehabilitated for an additional one (1) signature.

The candidate presented evidence regarding certain signers not being registered. The registration records for these individuals were offered as Candidate's Group Exhibit 38, all which indicated that the signer's registration status was "inactive-challenged".

Sheet/Line	Signer
2/17	Maria Guzman
3/15	Richard Trinidad
4/3	Jared Ortiz
6/5	Debra J. Brown
6/21	Jose Ramon Sr.
9/18	Kevin Norkus

In addition to evidence that the above signers were registered voters as that term has previously been defined by this electoral board, all of the signatures on the registration records matched those on the petition with the exception of Nadi Samhan whose signature was not available. However, inasmuch as the original allegation involved the registration and not the signature of these signers, the registration status of the above referenced individuals was rehabilitated. The total number of signatures rehabilitated in this category was 6.

Additionally, the registration records of Yvonne Armstrong (Sheet 6/15), Guadalupe Gutierrez (19/4) and Theodore Wilson (19/5 &6) were offered. However, the signatures on the registration records did not compare favorably to the signatures on the petition. Therefore, these signatures, totaling 3, were not rehabilitated.

As a result of all of the above findings, the candidate's nominating petitions contained 254 valid signatures.

For the foregoing reasons, it is my recommendation that the objections be overruled in part and sustained in part in conformity with the above enumerated findings. It is my further recommendation that the nominating papers of candidate Deb Gordils be deemed valid and that her name appear on the ballot at the February 25, 2003 Municipal General Election.

Respectfully submitted,

Barbara Goodman
Hearing Examiner