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

Objections of: LAUREN WEBER	)	
	)	
	)	
To the Nomination	)	No.: 20-EB-WC-001
Papers of: JAY RAMIREZ	)	
	)	
Candidate for the office of Democratic Party	)	
Ward Committeeperson, 1st Ward of the City	)	
of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners for 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 LAUREN WEBER ("Objector") to the nomination papers ("Nomination Papers") of JAY RAMIREZ, candidate for the office of Democratic Party Ward Committeeperson, 1st Ward in the City of Chicago ("Candidate") to be elected at the General Primary Election to be held on March 17,2020, having convened on December 16, 2019 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 Candidate's Nomination Papers were duly and timely filed.

2. The Electoral Board was constituted according to 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 its members, the Objector and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute or service was waived.

4. A public hearing held on these Objections commenced on December 16, 2019 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Demetrius Carney 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, LAUREN WEBER, *pro se*; and the Candidate, JAY RAMIREZ, through his Attorney PERICLES ABBASI.

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. The Objector and/or her duly authorized representative was present during the examination of the registration records.

10. 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.

11. 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 1,032;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,443;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 547;

D. The remaining number of signatures deemed valid as a result of the records examination total 896.

12. 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 election to the office of Democratic Party Ward Committeeperson, 1st Ward for the 1st Ward of the City of Chicago.

13. 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.

14. The Hearing Officer tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate's Nomination Papers contained only 896 valid signatures, which is less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for

election to the office of DEMOCRATIC Party Ward Committeeperson, 1st Ward of the 1st Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

15. 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 and incorporates them herein by this reference.

16. Specifically, and in response to Candidate's Rule 20 Motion, the Electoral Board agrees with its Hearing Officer that paragraph 8 of the Objector's Petition, in conjunction with Column C of the Appendix-Recapitulation, contains an adequately pleaded objection under the "nature of the objection" requirement in 10 ILCS 5/10-8. The Board finds that the Election Code requires petitions be signed *only* by "qualified primary electors **residing in the political subdivision** for which the nomination is sought." 10 ILCS 5/7-10 (emphasis added). Furthermore, the Election Code requires that "opposite the signature of each signer, his **residence address** shall be written or printed." *Id.* To be qualified to sign a nominating petition, the signer must be "registered to vote at the address shown opposite his signature on the petition." 10 ILCS 5/3-1.2. Candidate argues incorrectly that the signers could have more than one lawful residence, therefore having one lawful residence within the proper election district, despite showing a different address on the petition (which must be the voter's registration address) from outside the district. Such argument fails as a matter of law. See, for example, *Maksym v. Bd. of Election Commissioners,* 950 N.E.2d 1051, 1067 (2011), where the Illinois Supreme Court reiterated the longstanding law governing legal residence by defining "residency for all purposes" as "domicile *plus* a permanent abode" (italics in the original). If the Supreme Court had followed the Objector's logic in the *Maksym* case, then the candidate in that case

(Rahm Emanuel) would have been allowed to claim two lawful residencies – one in the home he owned in Chicago and the second at the home he rented in Washington, DC. But, as is well established in Illinois law, a person may have only one lawful residence at any moment, regardless of how many other temporary abodes or domiciles the person may have.

17. The Electoral Board further finds that it has properly interpreted Section 7-10 of the Election Code (10 ILCS 5/7-10) and has accurately determined the signature requirements for the political party office of Ward Committeeperson. The most recent election in which an officer was elected from (as compared to for) the wards was the November 2018 general election. In defining the term "primary electors" for the purpose of determining signature requirements under Section 7-10, that section states, "For wards or districts of political subdivisions, the number of primary electors shall be determined by taking the total vote cast for the candidate for such political party who received the highest number of votes in such ward or district at the last regular election at which an officer was regularly scheduled to be elected *from* that ward or district." (Italics added) It is axiomatic that in interpreting a statute the language used by the legislature must be given its plain and ordinary meaning. *People v. Bryant* (1989), 128 Ill.2d 448, 455, 539 N.E.2d 1221. The language in Section 7-10 states that you look to an election where party candidates are elected *from* that ward.

18. The next preceding election at which Democratic and Republican candidates were elected *from* wards would be the preceding November general election. In the Rule 20 Motion in the case at hand, Candidate interprets this portion of Section 7-10 as though it involves the election of officers "for" the ward, despite the plain language of the law being that any officer elected "from" the ward qualifies for this calculation. Moreover, Illinois courts have held that Ward Committeepersons are not elected for a ward and they do not represent the ward or its

residents in any capacity. Rather, Ward Committeepersons are political party officers that are elected *from* the wards *for* their respective political parties.

19. 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 JAY RAMIREZ are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of LAUREN WEBER to the Nomination Papers of JAY RAMIREZ, candidate for the office of DEMOCRATIC Party Ward Committeeperson, 1st Ward for the 1st 1st Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JAY RAMIREZ, candidate for the office of DEMOCRATIC Party Ward Committeeperson, 1st Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 17, 2020.

Dated: Chicago, Illinois, on January 21, 2020.

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.

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS A DULY CONSTITUTED ELECTORAL BOARD
For the Hearing and Passing upon Objections
To Nomination Papers of Candidates
For the March 17, 2020 General Primary Election
In the City of Chicago

Objections of: **LAUREN WEBER**	)	
	)	
	)	
To the Nomination	)	
Papers of: **JAY RAMIREZ**	)	**No. 20-EB-WC-001**
	)	
	)	
Candidate for the Office of	)	
DEMOCRATIC COMMITTEEMAN of the	)	**DEMETRIUS CARNEY**
1st Ward of	)	**HEARING OFFICER**
The City of Chicago,	)	
County of Cook, State of Illinois	)	

HEARING OFFICER'S FINDINGS AND RECOMMENDATION

This matter coming before the Board of Election Commissioners of the City of Chicago (CBEC or the Board) on the verified objections (Objection or Objections) of LAUREN WEBER (Objector or Petitioner) to the nomination papers (Nominating Papers) of JAY RAMIREZ candidate for the DEMOCRATIC

COMMITTEEMAN OF 1st Ward for the City of Chicago (Candidate). The hearing having convened on December 16, 2019. Demetrius E. Carney, Esq., the duly appointed Hearing Officer, hereby makes the following findings:

1. The Candidate filed Nomination Papers with the CBEC for Democratic Ward Committeeman of the 1st Ward of the City of Chicago, State of Illinois, for the General Primary Election to be held on March 17, 2020. Such Nomination Papers consisted of:

   a) A Statement of Candidacy; b) Loyalty Oath; and c) 168 Nominating Petition Sheets containing a total of 1443 signatures. The Candidates' Nomination Papers were admitted into evidence.

2. Objections to the Nomination Papers of the Candidate were duly and timely filed.

A public hearing held on the Objections commenced on December 16, at 10:00 AM. The Objector Lauren Weber appeared pro se. The Candidate Jay Ramirez was represented by his attorney Pericles Abbasi. The Objector and the Candidate each filed their respective appearance. The parties stipulated as to the manner of service of documents to be made upon each other. Further, the parties acknowledged receipt of the Board's Rules of Procedure and completed and submitted the Non-disclosure and Confidentiality Agreement. All documents have been entered into the record. December17, 2019 was

scheduled for the Candidate to file any preliminary motion or provide notice to the Objector that no motion will be filed. December 18, 2019 was scheduled for Objector to file a reply to Candidate's Motion. A Records Examination was ordered and the matter was scheduled for further hearing on December 19, 2019.

I. HEARING ON DECEMBER 19, 2019 FOR PRELIMINARY MOTIONS

1. The Candidate and Objector were present.
2. The Candidate timely filed a Rule 5 Motion to Strike and Dismiss the Petitioner's Objection.
3. The Objector timely filed a Reply Motion to Candidate's Rule 5 Motion to Dismiss.
4. Pursuant to the Board's Rules of Procedure, the Candidate was given leave to file a timely response to the Objector's Reply Motion.
5. The matter was scheduled for a hearing on December 28, 2019 on the Preliminary Motions.

II. THE RECORDS EXAMINATION

The results of the records examination were as follows:

1. The minimum number of valid signatures required by law for placement on the ballot for the office – **1032.**
2. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total – **1443.**
3. The number of signatures deemed invalid because of objections sustained in the records examination total – **547.**
4. The remaining number of signatures deemed valid as a result of the Records Examination total – **896.**

The results of the Records Examination indicated that the candidate has **136** signatures less than the required minimum.

III. HEARING ON DECEMBER 28, 2019 FOR PRELIMINARY MOTIONS

1. The Candidate and Objector were present.
2. The Candidate timely filed a Response Motion to the Objector's Reply Motion.
3. The Candidate's Rule 5 Motion to Strike and Dismiss and Reply-Response Motion addressed the following: a) the Objector's petition was improperly addressed to the Cook County Officers Electoral Board and therefore must be dismissed and b) paragraph 8 and all allegations in *Column C* of the Appendix – Recapitulation Sheets must be stricken for stating a conclusion

without fully stating the nature of the Objection as required by the Illinois Election Code.

4. In response, the Objector stated that all the requirements of the Illinois Election Code (10 ILCS 5/10-8) for an Objection Petition were satisfied. The Objection was filed on time and in the right place. The Objection is being heard in front of the appropriate election Board, so the heading of the Objection in its entirety is invalid. The Objector further stated that the Candidate was adequately apprised that the Objector was objecting to petition signers that did not live within the 1st Ward of the City of Chicago. The Board and the assigned reviewer also fully understood this allegation during the signature examination of the Nominating Papers of the Candidate, which is further evidence that the Candidate was sufficiently apprised of the objection contained on the Appendix Recapitulation sheets. Thus, the Objection to strike *Column C* of the Appendix- Recapitulation Sheets and the Objection in its entirety should not be granted.

DISCUSSION

The Candidate's Motion to Strike and Dismiss made reference to section 10-8 of the Illinois Election Code which expressly requires that the Objector's Petition be filed in the same office in which the Candidate filed his nomination papers.

> *"Any legal voter of the political subdivision or district in which the candidate or public question is to be voted on having objection to any*

> *certificate of nomination or nominations papers or petitions shall file an objection's petition, together with two copies thereof,* ***in the office of the election authority or local election official with whom the certification of nomination, nomination paper or petitions are on file."*** *10 ILCS 5/10-8.*

The Candidate was well aware of the office with which he filed his Nomination Papers in the Cook County Clerk's office. Thus, Section 10-8 required the Objector to file the Objections in the same office. Sections10-8 and 10-10 then provide the procedures to be followed for the Clerk's office to transmit the Objections to the Chicago Board of Elections, which then served the parties and convened the Electoral Board.

In reference to the Candidate's Motion to Strike and Dismiss reference is made to the results of the Records Examination results and Paragraph 8 of the Objector's Petition which states:

> *The Nomination Papers contain petition sheets with the names of persons who reside outside of the 1st Ward of the City of Chicago, as is set forth in the Appendix-Recapitulation sheets attached and incorporated herein, under the heading "C Column". Signer resides outside Ward"' in violation of Illinois law.*

The Candidate alleges that the Objector fails to identify language anywhere in Paragraph 8 which fully states the nature of a specific objection identifying persons who are not a qualified primary elector of the Democratic Party residing in the 1st Ward. In support of the allegation the Candidate relies on *Elysee v. Patterson, 04-EB-RGA-14, January 20, 2004* which held that "An objection petition must

adequately and sufficiently apprise the candidate of the specificity of each objection, thus making evaluation possible".

The Candidate's primary issue is whether the Petitioner's Objection contained language that would adequately and sufficiently apprise the candidate of the specificity of each of the Petitioner's Objection. Since the Candidate's motion arguments relied on *Elysee v Patterson*, a review of the Electoral Board's finding and decision in the *Elysee* case can offer guidance on the Candidate's objection.

In *Elysee* the Electoral Board found that the nomination papers contain the name of persons who do not live in the 32nd District . . . The Objector's petition does not identify by petition sheet or line number, any specific signatures for which objections are made **nor does the Objector's petition contain any appendix, recapitulation, summary or other specification of objections that are typically filed along with an objector's petition.**

The Electoral Board held that where an objector's petition makes general allegations with regard to a candidate's nomination papers without specifically identifying which of the petition sheets or signature contain the alleged defects or irregularities and where **no** Appendix- Recapitulation is filed with the objector's

petition identifying the specific petition sheets and alleged defects therein, the objector's petition fails to fully state the nature of the objections and is invalid.

Reviewing paragraph 8 of the Objector's petition it specifically states that the Nomination Papers contained that names of persons who reside outside the 1st Ward..... to prove this allegation the Objector attached Appendix- Recapitulation sheets identified by Columns A through F. The heading of Column C – "Signer resides outside of the Ward". The Appendix – Recapitulation Sheets identified the Candidate, the Office – 1st Ward Democratic- Committeeperson, and specifically indicated that the signature on the designated petition sheet is objected to for the reason set forth in the Column which the "X" appears.

The Electoral Board decision in *Elysee* does not apply to the Candidate's arguments in the Rule 5 Motions. The Objector, in paragraph 8 and the attached Appendix –Recapitulation and incorporated by reference **did** identify, by petition sheet and line number, any specific signatures for which Objections are made.

The Recapitulation sheets adequately and sufficiently apprised the Candidate of the specificity of each objection, thus making the Records Examination possible.

The Electoral Board held in *Cardona & Collazo v. Zavala, 14-EB-CON-01, CBEC, December 26, 2013* that Appendix- Recapitulation sheets that fail to specifically identify specific page numbers for each objection will render it unlikely the records examination clerks will rule on such objections . . .

The Petitioner's Objections were clearly set forth by page and line number in the attached Appendix-Recapitulation sheets that were clearly referenced in paragraph 8 of the Petition. The records examination clerk was able to adequately conduct and provide specific findings for the Records Examination.

The decision in *Elysee* applies to Objectors' petitions that fails to specifically identify the particular signatures to which the Objector objects.

In the matter at hand, the Objector's Petition adequately and sufficiently apprised the Candidate as to the nature of each objection.

The Electoral Board's decision in *Elysee* clearly does not support the Candidate's Rule 5 motions arguments. Therefore the Candidate's Rule 5 Motions to Strike and Dismiss the Objector's Petition are **DENIED** as to each and every count.

IV. HEARING ON JANUARY 6, 2020 ON THE CANDIDATE'S RULE 8 MOTION.

1. The Candidate and Objector were present.
2. Michael Griffin filed an appearance as additional counsel for the Candidate.
3. The Objector had no objection to the appearance of Michael Griffin.
4. Rule 8 motion was timely filed. Attached to the motion was a list of sheet and line numbers of signatures for which the Candidate objects to the rulings made during the Rule 6 Records Examination as well as the Reason(s) for objecting.
5. Candidate presented arguments in support of Rule 8 Motion.
6. Rule 8 Motion granted and an evidentiary hearing was allowed.

First witness called by the Candidate was James Carli an employee of CBEC. Mr. Cali presented testimony as to the qualifications for a Democratic primary elector in the 1st Ward. Upon direct examination Mr. Carli testified a) that to be a qualified Democratic primary elector in the 1st Ward one must be a registered voter and have a permanent registered residence in the 1st Ward; b) there is a standard but no exact form for an objector's petition and the recapitulation sheets; c) the records examiner generally does not read the Objector's petition but relies on a software program which is employed by the Cook County Clerk and the City of Chicago to review the Objector's recapitulation sheets and d) the record examiner's supervisor generally reviews the body of the Objector's petition to determine if there are any legal issues.

There was no cross examination of Mr. Carli by the Objector.

The second witness called upon by the Candidate was the Objector. Upon direct examination the Objector answered oral interrogatories from the Candidate as to her background and involvement in prior elections registering voters, managing campaigns and serving as a records exam representative. There were further oral interrogatories addressed to the Objector on the multiple objections on the attached Appendix Recapitulation sheets of the Objector's petition. The Objector was unable to answer the interrogatories without examining the entire Petition Objection Recapitulation Sheets. The Candidate did not produce the Recapitulation Sheets for examination.

The final witness called by the Candidate was David Donahue a voluntary political consultant for the Candidate. Upon direct examination Mr. Donahue testified that he assigned a person to serve as a record exam representative. Mr. Donahue further stated that:

> "we determined that the objection C column referring back to Paragraph 8 simply indicated whether a person was a registered voter inside the 1st Ward. So standing by itself, we believed that it didn't establish that a signer was invalid. For that reason, therefore, we instructed the representative to object To every ruling that was sustained in Column C so that it can be used in this Rule 8 hearing as a legal objection by the attorney in the overall case".

Mr. Donahue further testified that he 1) circulated nomination petitions on behalf of the Candidate; 2) asked the person if they were a registered voter in the 1st Ward and 3) never asked the person if the residence the person disclosed on the Nominating Petition was their only residence of if the person had an additional residence outside the 1st Ward because it wasn't required by the petition either in the preamble or in the circulator's affidavit.

There was a cross examination of Mr. Donahue by the Objector.

After the conclusion of Mr. Donahue's testimony there were no further witnesses and the Candidate retired his oral interrogatories.

DISCUSSION

The Objector made an allegation that the signers reside outside the Ward in the Objection Petition in *Column C* of the Appendix –Recapitulation attached to the Petition. The facts alleged in the Objector's Petition are proven by the Records Examination. The record examiner sustained **547** objections made by the Objector. The Candidate made a timely appeal as to each decision of the record examiner pertaining *to Column C* objections.

The Candidate contends that there is no process available under the Board's Rules and Procedures (as to Rule 6) to challenge whether a signature is from a registered voter after the records examiner has sustained an objection that the signer has an address outside the 1st Ward.

Once the records examiner has sustained an objection that an address is outside the political subdivision or 1st Ward the signature on the Candidate's Nomination Petition is construed as invalid and cannot be counted as a valid signature. There has been no further objection by the Petitioner as to whether the signature is that of a registered voter therefore the record examiner cannot conduct a further review. Once the record examiner sustains an objection that the signature address is outside the 1st Ward the signature is deemed invalid and cannot be counted.

The Candidate further contends that *Column C* of the Objector's Petition states that "Signer resides outside the Ward" as opposed to correctly stating "the address stated on the petition sheet is out of the district".

The question - what is the intent of the language in the *Column C* heading "Signer resides outside of the Ward". To understand the intent of the language for the *Column C* heading the Candidate must again refer to Paragraph 8 of the Objector's Petition which clearly states that:

The Nomination Papers contain petition sheets with the names of ***persons***

> ***who reside outside of the 1st Ward of the City of Chicago, as is set forth in the Appendix-Recapitulation sheets*** *attached and incorporated herein, under the heading "C". Signer resides outside Ward"' in violation of Illinois law.*

The Candidate is "splitting hairs" on the meaning of the political terms Ward, 1st Ward, District, Political District and Political Subdivision. Said terms are for use in the disjunctive (Ward **or** 1st Ward **or** District **or** Political District **or** Political Subdivision).

> Sections 7-10 of the Illinois Election Code states:
>
> *Such petition shall be signed by qualified primary electors residing in the political division for which the nomination is sought in their proper persons only* ***and*** *opposite the signature of each signer, his residence address shall be written or printed.*

To be a qualified voter, one must be registered to vote **and** a person who signs a nominating petition must be registered to vote at the residence address set forth on the nominating petition. *Green v. Board of Election Commissioners of City of Chicago; Miranda v. Cummings, 06-EB- NPP-02, CBEC, August 9, 2006.* There does not appear that there was further evidence presented at the Rule 8 hearing to change the results of the Records Examination.

RECOMMENDATION

In light of the foregoing, it is my recommendation that the Objections of LAUREN WEBER to the Nominating Papers of JAY RAMIREZ candidate for Democratic Ward Committeeman for the 1st Ward of City of Chicago be **sustained** and the Candidate's Nominating Papers be deemed invalid and that the name of JAY RAMIREZ for said office **shall not be printed** on the ballot for the March 17, 2020 General Primary Election.

Respectfully submitted,

Demetrius Carney
Hearing Officer
January 16, 2020