NBCOFF

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

Objections of: LISA GUILD	)	
	)	
	)	
To the Nomination	)	No.: 20-EB-WC-022
Papers of: WILLIAM J. KELLY	)	
	)	
Candidate for the office of REPUBLICAN	)	
Party Ward Committeeperson, 42nd Ward,	)	
City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the 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 LISA GUILD ("Objector") to the nomination papers ("Nomination Papers") of WILLIAM J. KELLY, candidate for the office of Republican Party Ward Committeeperson, 42nd Ward of the City of Chicago ("Candidate") 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 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 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 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 Edna Turkington 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, LISA GUILD, by Attorney ALAN SPITZ; and the Candidate, WILLIAM J. KELLY, by Attorney LAURA GROCHOCKI.

7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that while the Candidate's Motion to Strike and Dismiss was filed two minutes late, there was good cause shown for the late filing and allowed it to be considered. However, the Hearing officer then found that the Motion to Strike and Dismiss presented no cognizable basis to invalidate the Objector's Petition and recommended that it be denied. The Hearing Officer further found that the nominating papers, on their face, contained 74 signatures, said number being 359 signatures fewer than the statutory minimum of 433 signatures for placement on the ballot. No records examination was conducted as the nominating papers were deficient on their face.

8. 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.

9. For the reasons stated above, the Electoral Board finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of LISA GUILD to the Nomination Papers of WILLIAM J. KELLY, candidate for the office of Republican Party of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of WILLIAM J. KELLY, candidate for the office of Republican Party Ward Committeeperson, 42nd 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 7, 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.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE MARCH 17, 2020 GENERAL PRIMARY ELECTION
IN THE CITY OF CHICAGO

LISA GUILD	)	
	)	
Petitioner - Objector,	)	
	)	
vs	)	**Case No. 20-EB-WC-022**
WILLIAM KELLY	)	
	)	
Respondent -Candidate.	)	

Hearing Officer's Report and Recommended Decision

This matter first came before the hearing officer on December 16, 2019. The Objector, **LISA GUILD,** was represented in these proceedings by Attorney Alan Spitz. The Candidate, **WILLIAM KELLY,** was represented in these proceedings by Attorney Laura Grochocki. Both parties acknowledged receipt of

the Call to the meeting of the Electoral Board, Objector's Petition and the Rules of Procedure.

The parties stipulated as to the manner of service of documents to be made upon each other. Further, the parties acknowledged having read and understood the Rules of Procedure. The hearing officer stressed the importance of meeting filing deadlines, emphasized Rule 6 concerning the procedure and deadlines when the records examinations are completed and Rule 16 with respect to the necessity of redacting personal identity information in documents.

The Hearing Officer received into evidence the following documents:

1. **Group Exhibit A**, consisting of the Candidate's Nomination Papers, including a Statement of Candidacy for 42nd Ward Republican Committeeperson and Nominating petition sheets consisting of 10 sheets.
2. **Group Exhibit B**, consisting of Objector's Petition, including any exhibits, appendices or attachments thereto.
3. **Group Exhibit C**, consisting of proof of service of the Call to each Objector and of the Call and the Objector's Petition to the Candidate.

4. **Group Exhibit D,** consisting of the Appearance forms filed on behalf of the Objector and the Candidate.

The parties identified the factual and legal issues involved in the case. The objections to the Nomination Papers of **WILLIAM KELLY** for the office of Republican Ward Committeeperson of the 42nd Ward of the City of Chicago alleged that the nomination papers did not contain the signatures of 433 qualified, registered and legal voters of the 42nd Ward of the City of Chicago, State of Illinois. If true, the Nomination Papers were insufficient in law and fact thus prohibiting the name of **WILLIAM KELLY** from being printed on the ballot for election to the Office of Republican Ward Committeeperson of the 42nde Ward of the City of Chicago, State of Illinois, to be voted on at the General Primary Election to be held on March 17, 2020.

The hearing officer inquired if the Candidate intended to file any preliminary motions to strike and dismiss Objector's Petition. The Candidate indicated that a Motion to Strike or Dismiss Objector's Petition would be filed. The hearing officer stressed that the motion must be made in writing and filed with the Electoral Board and served upon other parties in the case by 5:00 p.m. on December 17, 2019. December 17, 2019 was the first business day following the

initial hearing. A response, if any, to the motion, must be made in writing and filed with the Electora Board and served upon the other parties in the case by 5:00 p.m. on December 18, 2019. December 18, 20190 was the second business day after the initial hearing. A reply in support of the motion, if any was to be filed by 5:00 p.m. on December 19, 2019. December 19, 2019 was the third business day following the initial hearing. The matter was then set down for hearing on December 23, 2019 at 1:00 p.m.

ISSUES PRESENTED

The Objector argues in the verified petition that the Nomination Papers are insufficient in fact and law for the following reasons:

(1) That the nomination papers for the Office of Republican Committeeperson of the 42nd Ward requires a minimum of 433 duly qualified, registered and legal voters of the 42nd Ward in the City of Chicago.

(2) That the Nomination Papers contain petition sheets with the names of persons who are not registered voters, or who are not registered voters at the address specified in the petition, as set forth specifically in the Appendix-Recapitulation attached to the Objector's Petition.

(3) That the Nomination Papers contain petition sheets with the names of persons who did not sign the papers in their own proper persons, and such

signatures are not genuine and are forgeries, as set forth specifically in the Appendix-Recapitulation attached to the Objector's Petition.

(4) That the Nomination Papers contain petition sheets with names of persons who are not registered voters in the 42nd Ward in the City of Chicago, as set forth specifically in the Appendix-Recapitulation attached to the Objector's Petition.

(5) That the Nomination Papers contain petition sheets with the names of persons for whom the addresses given are either missing entirely or are incomplete, as set forth specifically in the Appendix-Recapitulation attached to the Objector's Petition.

(6) That the Nomination Papers contain petition sheets with the names of persons who have signed the Nomination Papers more than one time, as set forth specifically in the Appendix-Recapitulation attached to the Objector's Petition.

CANDIDATE'S MOTION TO STRIKE AND DISMISS OBJECTOR'S PETITION

The Candidate filed a preliminary motion to challenge the legal sufficiency of the objector's petition in the nature of a motion to strike and dismiss the objector's petition in whole and was heard first. The Candidate's Petition to

Strike and Dismiss alleged the following:

1. That access to a place on the ballot is a substantial right that should not be denied lightly.

2. The Candidate also alleged that the Objector;'s Petition was vague and legally insufficient.

OBJECTOR'S RESPONSE TO CANDIDATE'S MOTION TO STRIKE AND DISMISS

The Petitioner-Objector filed a response to the Candidate's Motion to Strike and Dismiss Objector's Petition. In that Response, the Objector asked that the Candidate's Motion to Strike be stricken because the Candidate did not timely file the Motion to "Strike. The Candidate's Motion to Strike was filed at 5:02 p.m. on December 17,

Findings of Facts

Preliminary motions to challenge the legal sufficiency of the objector's petition in the nature of a motion to strike or dismiss the objector's petition may be filed and may be heard first. In this case, the objector's motion to strike the Candidate's motion to strike and dismiss was heard first.

The Candidate did not file the Motion to Dismiss the objector's petition

until 5:02 p.m on December 17, 2019. This was 2 minutes past the filing deadline given in Rule 5 of the Rules of Procedure for the Board of Election Commissioners of the city of Chicago as the duly constituted electoral board for hearing and passing upon objections to nomination papers and petitions for questions of public policy.

The Attorney for the Respondent-Candidate stated that she had made reasonable efforts to file in a timely manner. However, due to an emergency situation involving her family, she was unable to file at 5:00 p.m. She also indicated that she had a technical problem with her internet provider, AT&T. She was unable to complete the filing because the internet was not functioning properly. The Attorney for the Candidate states that she initiated the email transmission of the motion at 4:57 p.m. although not received until 5:02 p.m.

The hearing officer has determined that the 2 minute late filing was substantial compliance to the Rules of Procedure. Additionally, the hearing officer finds that the delay in filing was not within the reasonable control of the movant since it involved an unforseen family emergency. Further the delay in filing did not prejudice the non-moving party and the movant acted in good faith. The petition to strike and dismiss was legally sufficient to put the objector on notice and there was no ambiguity of the Candidate's motion to Strike and

Dismiss caused by the late 2 minute filing.

With respect to the Respondent-Candidate's Motion to Strike and Dismiss the Objector's Petition, the hearing officer made the following findings of fact. The hearing officer did not find the Objector's Petition to be vague. The Candidate and Petitioner-Objector agree that 74 signatures were filed. The minimum signature requirement for the Office of Republican Ward Committeeperson for the 42nd Ward of the City of Chicago requires that the nominating petitions of the Candidate contain 433 signatures of qualified and duly registered legal voters of the 42nd Ward in the City of Chicago. Assuming each and every signature contained in the nominating petitions of the Candidate are valid, the Candidate still has insufficient signatures.

The minimum number of valid signatures necessary for the candidate's name to appear on the ballot for the Office of 42nd Ward Republican Committeeperson in the City of Chicago is 433. The examination of the filed nominating petitions showed that the Candidate had 74 signatures. Therefore, the Candidate had 359 fewer than the required minimum.

RECOMMENDATION

Based upon the factual and legal findings outlined and discussed above, the Objector's Petition to the Candidate's Nomination Papers is granted. It is further recommended that the name of **WILLIAM J. KELLY** not be printed on the ballot for election to the Office of the 42ND Ward Republican Committeeperson in the City of Chicago, State of Illinois, to be voted on at the General Primary Election to be held March 17, 2020 , in the City of Chicago, State of Illinois.

_//S Edna Turkington_____

Edna Turkington

Hearing Officer

December 30, 2019