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

Objections of: WEBER ANDERSON and CONNIE HERNANDEZ	)	
To the Nomination Papers of: RICHARD MPISTOLARIDES	)	No.: 23-EB-ALD-012
Candidate for the office of Alderperson of the 35th 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 June A. Brown, 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 WEBER ANDERSON and CONNIE HERNANDEZ ("Objectors") to the nomination papers ("Nomination Papers") of RICHARD MPISTOLARIDES, for the office of Alderperson of the 35th Ward ("Candidate") at the Municipal General and Alderperson Elections to be held on Tuesday, February 28, 2023, having convened on Friday, December 9, 2022 at 4:00 p.m. 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 Objectors 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 Friday, December 9, 2022 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer Yamil E. Colón for further hearings and proceedings.

5. The Objectors 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 Objectors, WEBER ANDERSON and CONNIE HERNANDEZ, through their attorney, ED MULLEN; and the Candidate, RICHARD MPISTOLARIDES, through his attorney, PERICLES ABBASI.

6. 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.

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

8. The Candidate and/or his duly authorized representative was present during the examination of the registration records.

9. The Objectors and/or their 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 473;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 956;

C. The remaining number of signatures deemed valid as a result of the records examination total 760.

12. The Hearing Officer conducted an evidentiary hearing to allow the parties an opportunity to present evidence in support of their motions filed pursuant to Rule 8 of the Board's Rules of Procedure and for the Objector to present further evidence in support of his objections. The Hearing Officer found that certain sheets of the nominating papers contained a false address of the Circulator and that all of said sheets should be stricken. The Hearing Officer further found that the affidavits submitted by Candidate were sufficient to rehabilitate 15 signatures.

13. The Hearing Officer has 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 468 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 the office of Alderperson for the 35th Ward, and that the Candidate's Nomination Papers should be found invalid.

14. 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 and incorporates the Hearing Officer's recommended findings and conclusions of law.

15. 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 RICHARD MPISTOLARIDES are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of WEBER ANDERSON and CONNIE HERNANDEZ to the Nomination Papers of RICHARD MPISTOLARIDES, candidate for election to the office of Alderperson of the 35th Ward, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of RICHARD MPISTOLARIDES, candidate for the office of Alderperson for the 35th Ward, SHALL NOT be printed on the official ballot for the Municipal General and Alderperson Elections to be held on Tuesday, February 28, 2023.

Dated: Chicago, Illinois, on Friday, January 13, 2023.

Marisel A. Hernandez, Chair

William J. Kresse, Commissioner

June A. Brown, 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 COMMISSIONER OF THE CITY OF CHICAGO AS THE DULY CONSITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO THE NOMINATNG PAPERS OF CANDIDATES FOR THE FEBRUARY 28, 2023 ELECTION FOR ALDERPERSON OF THE THIRTYFIFTH (35th) WARD OF THE CITY OF CHICAGO

ALLISON PILLAR and CONNIE HERNANDEZ,	)	
Petitioner-Objectors,	)	
v.	)	NO. 23 EB-ALD-012
RICHARD MPISTOLARIDES,	)	
Respondent- Candidate.	)	

HEARING OFFICER'S FINAL RECOMMENDATION

This matter came to be heard initially on December 12, 2022. The Objectors Weber Anderson and Connie Hernández appeared by counsel, Mr. Ed Mullen. The Candidate appeared by counsel, Mr. Pericles Abassi. After a preliminary discussion about the case issues with the attorneys, this Hearing Officer then issued a Record Examination Directive to be conducted on December 14, 2022. Both the Candidate and Objector filed timely Rule 5 Motion, response and reply, respectively. In addition, a motion briefing schedule was set with a hearing/status for December 19, 2022.

On December 16, 2022, the results of the Record Examination Report were published by the Election Board personnel. The Candidate submitted a total of 956 signatures. Of those, 760 signatures were found to be valid, leaving 287 signatures greater than the minimum number of 473 signatures required by law.

On December 17, 2022, the Petitioner-Objector requested a subpoena for John Gorges, a circulator for Candidate's nomination petitions. The Objectors allege in paragraph 13 of their petition, that Mr. Gorges engaged in a pattern of fraud by falsely swearing on the petitions that he resided at 5246 W. Cullom Ave., Chicago, Illinois 60641. It is further alleged by the Objectors, that Mr. Gorges did not reside at that address when he circulated

the petitions. The petition sheets in question are numbers: 22, 23, 24, 25, 26, 27, 33, 34, 35, 36, 37, 42, 43, 44, 51, 52, 53, 54, 55, 56, 57, 70, 71, 72, 73, 74, 75, 76, 77, 78 and 79.

No objection was filed by the Candidate to Objectors' Request for Subpoena. The request for the subpoenas was found to be relevant to allegations in Objectors' Petition relating to Mr. Gorges circulation of petition sheets; the request being reasonable and timely, the Hearing Officer recommended issuance of the subpoena.

At the December 19, 2022 hearing, the results of the Record Examination were read into the record. Objectors had filed a timely Rule 8 Motion Appealing Results of Records Examination. They sought to show two voters who each signed the Candidates petition sheets twice: at Sheet 45, Line 8 and Sheet 42, Line 5 for Odochi Nwaba; and at Sheet 61, Line 4 and Sheet 22, Line 5 for Katie Danto. Subsequently, the case was continued for hearing on all matters to January 4, 2023.

EVIDENCE AND ARGUMENTS PRESENTED BY THE PARTIES

At the final hearing, two witnesses were called by the Candidate. The first witness was circulator John Gorges. He produced a driver's license as proof of his identity. A review of the license showed his residence as 5246 W. Cullom ("Cullom") Ave., Chicago, Illinois, 60641. In addition, it indicated the date of issuance as June 27, 2019 and the expiration date of July 4, 2023. Mr. Gorges admitted listing the Cullom address on his circulated petition sheets even though he had not lived there for approximately two years.

In response to a question from Candidate's counsel, Mr. Gorges stated that he had no intent to mislead. He stated that he currently resides at 3102 N. Francisco ("Francisco"), Chicago, Illinois 60618. He also testified that he had moved out of the Cullom address in 2020. Gorges testified that he used the Cullom address on his petition sheets because he was told by notaries at the bank and currency exchange where he had the petitions notarized, that he had to use the address on his driver's license.

On direct examination by Mr. Abassi, Gorges further testified that he still has a connection with the Cullom address. He stated that his uncle owns the Cullom residency property and that he lived there for some years. He added that the Francisco address where he resides is owned by his parents. He said that they are going to be selling that property, and he will return to reside at the Cullom address.

Mr. Gorges testified that he continues to store some personal items at Cullom, such as audio equipment and a bicycle. He also testified that he helps his uncle do repair work around the Cullom property. Although he stated that he had been there 2 weeks ago, he could not remember the time before that. No other evidence was presented supporting a residential nexus with Cullom.

Testimony was elicited from Mr. Gorges about his own signature on the Candidate's petition. When shown petition sheet 14, line 1, he admitted that he had signed that petition as a voter and he listed his address there as 3210 N. Francisco, Chicago, Illinois 60618.

Ironically, this sheet that Mr. Gorges signed as a voter was circulated by the Candidate himself. The Candidate/Circulator swore on this sheet that "to the best of my knowledge and belief the persons so signing were at the time of signing the petitioner registered voters of the political division in which the candidate is seeking elective office, and their respective residences are correctly stated, as above set forth".

Interestingly, Gorges' Francisco address does not fall within the 35th Ward, but rather the 33rd Ward. Therefore his signature is invalid as belonging to a voter who resides outside the electoral district of the 35th Ward

Gorges was then cross-examined by Mr. Mullen on behalf of the Objectors, who introduced two exhibits. Exhibit 1 was identified by Mr. Gorges as his Voluntary Petition for Individuals Filing for Bankruptcy. This petition was filed on July 14, 2020 with the United States Bankruptcy Court for the Northern District of Illinois. Upon further

questioning from Mr. Mullen, Gorges acknowledged that he listed on his bankruptcy petition 3102 N. Francisco, Chicago, Illinois 60618 as his residence at the time of filing it.

Exhibit 2 was then produced to further examine Gorges. It was identified as Official Form 106Dec, Declaration About an Individual Debtor's Schedule. In Part 1 of this document Gorges listed his residences for the previous 3 years. They were:

3430 N. Leavitt, Chicago, Illinois, From: January 2016 To: January 2017
5246 W. Cullom, Chicago, Illinois, From: January 2017 To: 2020

Both Exhibit 1 and 2 were signed by Mr. Gorges under oath and penalty of perjury.

Mr. Gorges was then shown Exhibit 3 by Mr. Mullen. It was identified to be a driver's license record abstract from the Office of Secretary of State of Illinois. Gorges' testimony confirmed that the abstract contained the following correct information:

That his current address is 3102 N. Francisco, Chicago, Illinois, 60618
The driver's license was issued on March 5, 2020 and expires on July 4, 2023

Gorges admitted that he lived at the Francisco address, but denied voting from there.

Following Mr. Gorges' testimony, Candidate's counsel requested to proceed presenting affidavits of voters whom he intended to reinstate as lawful voters removed by the Record Examination. Mr. Abassi offered 32 affidavits for review against, petition sheets and voter registration sheets. There was some discussion among counsel, that if Mr. Gorges' circulated 31 sheets did not survive legal scrutiny, 306 total signatures from the 31 sheets would be subtracted from the Candidate's 760 valid signatures. This would leave 454 valid signatures, and the Candidate would be short 19 signatures. The affidavits appeared to be aimed at reviving those 19 signatures

The Hearing Officer began the review of affidavits one by one, while simultaneously listening to arguments from counsel for or against each voter. At the conclusion of this process the final tally produced 15 signatures found to be in compliance with the law and reinstated as valid.

The Candidate called as a witness, Mr. Nick Katsafdos, who was an observer present during the record examination. The essence of his testimony appeared to be that he observed errors by personnel conducting the record examination. However, he did not specify the person(s) alleged to have made mistakes, nor specifics of the voter who may have been mistakenly removed as invalid or any other specific wrong doing. Mr. Karsafdos' testimony did not move the scrimmage line.

At the conclusion of the hearing, Candidate requested leave to file a Memorandum of Law. He argued that this case had certain nuanced characteristics which might be cleared by such a memorandum. There being no objection from the opposition, leave was granted to file the memorandum by January 5, 2023 at 9:00 a.m. Objectors were granted leave to respond in kind by January 5, 20223 at 9:00 p.m. Both partied complied with this schedule.

LAW, ANALYSIS AND FINDINGS

The principal issue for resolution here is whether there is any merit to the allegations contained in paragraph 13 of the Objectors' Petition. It reads as follows:

> **"Objectors further state that John Gorges engaged in a pattern of fraud by signing the circulator affidavit under oath and swearing that he resided at the time of signing at 5246W. Cullom Ave., Chicago, lL,60641, on all the petition sheets he circulated. These are petitions sheet numbers:22, 23, 24, 25, 26, 27, 33, 34,35, 36,37, 42,43, 44,51,52,53,54,55,56,57,70,71,72,73,74,75,76,77,78,79. Because Gorges falsely swore that he resided at an address where he did not actually reside, all of these petition sheets are invalid."**

In support of the allegations contained in paragraph 13 of their petition, the Objectors primarily rely on the precedence of *Zaragoza v. Vazquez*, 16 EB-RGA-03 and *Cunningham v. Schaleflein*, 959 N.E. 861 (1st District Il App. 120529). In *Zaragoza*, certain candidate petition sheets were found invalid because the circulator listed a false address where he previously resided. The circulator there had been evicted in June of 2015 from the Wilmette Illinois address he had listed as his residence on his circulated sheets. He

circulated the petition sheets between October and November of 2015, all the time knowing he did not reside there. He had moved in with his mother in Matteson, Il. Even when he renewed his state I.D. card, he listed Wilmette as his current address.

In *Cunningham*, the Appellate Court found that the circulator affidavit is mandatory. However, in that case, the circulator had not omitted in total an address or listed a false address of residence. The circulator merely transposed two numbers in his address, from 9078 Emerson to 9708 Emerson. The court found this to be a minor mistake and deemed his efforts to be in substantial compliance with the statute. Substantial compliance has been found in other cases, See e.g., *Brennan*, 335 Ill.App.3d at 719, 269 Ill.Dec. 847, 781 N.E.2d 644; and *Nolan v. Cook County Officers Electoral Board*, 329 Ill.App.3d 52, 54, 56-57, 263 Ill.Dec. 456, 768 N.E.2d 216 (2002);

On the other hand, the Candidate argues that 10 ILCS 5/10-4 does not require that the circulator's address be certified under oath.

"The relevant circulator portion of the 10 ILCS 5/10-4 reads as follows: At the bottom of each sheet of such petition shall be added a circulator's statement, signed by a person 18 years of age or older who is a citizen of the United States; stating the street address or rural route number, as the case may be, as well as the county, city, village or town, and state; certifying that the signatures on that sheet of the petition were signed in his or her presence; certifying that the signatures are genuine; and either (1) indicating the dates on which that sheet was circulated, or (2) indicating the first and last dates on which the sheet was circulated, or (3) certifying that none of the signatures on the sheet were signed more than 90 days preceding the last day for the filing of the petition; and certifying that to the best of his knowledge and belief the persons so signing were at the time of signing the petition duly registered voters under Article 4, 5, or 6 of this Code of the political subdivision or district for which the candidate or candidates shall be nominated, and certifying that their respective residences are correctly stated therein. Such statement shall be sworn to before some officer authorized to administer oaths in this State. Except as otherwise provided in this Code, no petition sheet shall be circulated more than 90 days preceding the last day provided in Section 10-6 for the filing of such petition.

The Candidate contends that the language of this statute only requires that the circulator states his/her address, not certify. In support thereof, he cites the case of

O'Connor v. Cook County Officers Electoral Board, 281 Ill. App.3d 1108, 667 N.E.2d 672 (1st Dist. 1996). But O'Conner was interpreting the language of Section 7/10 not 5/10-4. The precise statement of the O'Conner court is: "The dispositive issue here is whether the form of the circulator's affidavit contained in section 7-10 is mandatory. We hold that it is not."

The Candidate also relies on the finding in the fifth district court case of *Sakonyi v. Lindsey*, 634 N.E.2d 444 (1994). In that case, the court was interpreting the language of 10 ILCS 5/28-3 with similar, but not identical language to 10-4. In addition, the court there allowed a substantial compliance concession. Of the apparent 4 circulated sheets circulated by the circulator, three did not have her address on the affidavit portion of them. One sheet contained the circulator's name signed as a voter. By virtue of this one voter-circulator signature, the court deemed compliance. And found sufficient notice to find the circulator if needed to verify the signatures.

The case of Mr. Gorges is significantly different from those cited above. His situation is more aligned with the circulator in *Zaragoza* then in the substantial compliance sanctuary. In this case the following admissions and evidence of repeated falsehoods is unmistakable.

1. Mr. Gorges admitted that he resided at the Francisco address before he circulated petitions for the Candidate.
2. Gorges admitted at the hearing that he was still residing at the Francisco address
3. At the hearing, Gorges presented a valid driver's license with the Cullom address, not his current Francisco address.
4. An abstract of Gorges' driving record was presented showing a license had been issued to him in March of 2020 with his Francico address. These two facts present a reasonable inference that Gorges currently holds two valid licenses with two different addresses at this time.
5. Two separate Federal Bankruptcy forms were presented where Gorges certified under oath he was living at the Franciso address and had not lived at Cullom since 2020
6. On 31 different petition sheets Gorges repeatedly falsely stated his address at Cullom.

7. It was argued that the Sherriff's Deputies were not able to serve Gorges at Cullom, and residents there were said to confirm that he didn't live there.

8. The Candidate himself circulated the petition sheet that Gorges signed as a voter listing his residential address at the Francisco property. The Candidate knew or should have known then and there that Gorges was falsely representing his address.

Illinois courts seem to allow substantial compliance in narrow, mistaken or transposed circumstances. However, any consideration for substantial compliance here is far outweighed by repeated falsehoods, whether known before or after the fact.

Since no arguments or evidence was presented in support of claims of a showing of good faith pleading and appealing alleged double signature voters, are hereby deemed waived.

In light of the foregoing facts and law, the Hearing Officer finds that a pattern of fraud has been sufficiently proven to invalidate all 306 signatures contained in the 31 sheets circulated by Mr. Gorges. Afte subtracting 306 signatures from the total of 760 valid signatures, there is a remaining balance of 454 signatures. The 15 signatures that were revived with supporting affidavits brings the Candidate's total to 469 valid signatures. Lastly, the signature of Mr. Gorges must also be subtracted from the Candidates 469, as he signed the Candidates petition while residing out of the district at the Francisco property. The Candidate is then left with a total of 468 valid signatures.

CONCLUSIONS AND RECOMMENDATION

The Candidate has 468 valid signatures, 5 less than the 473 valid signatures required to qualify for placement on the ballot. Consequently, the Hearing Officer's recommendation is that the name of Richard Mpistolarides not be placed on the ballot for the February 28, 2023 election for Alderperson of the 35th Ward.

Respectfully Submitted,

s/ _____
Hearing Officer
January 10, 2023