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

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| Objections of: ALFONSO VINAJA JR and HIRAM DE HOYOS | ) | |
| To the Nomination Papers of: ESTEBAN BURGOA ONTAÑON | ) | No.: 23-EB-ALD-014 |
| Candidate for the office of Alderperson of the 31st 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 ALFONSO VINAJA JR and HIRAM DE HOYOS ("Objectors") to the nomination papers ("Nomination Papers") of ESTEBAN BURGOA ONTAÑON, candidate for the office of Alderperson of the 31st Ward ("Candidate") at the Municipal General and Alderperson Elections to be held on Tuesday, February 28, 2023, having convened on 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 was held on these Objections commencing on December 9, 2022 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer Laura Jacksack 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 Call. The following persons, among others, were present at or filed appearances during such hearing; the Objectors, ALFONSO VINAJA JR and HIRAM DE HOYOS, through their attorney THOMAS A. JACONETTY; and the Candidate, ESTEBAN BURGOA ONTAÑON, and/or his attorney, ANDREW FINKO.

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 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 740.

C. The remaining number of signatures deemed valid as a result of the records examination total 493.

12. 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 the office of Alderperson for the 31st Ward.

13. The Hearing Officer scheduled a hearing to allow the parties an opportunity to present evidence in support of their Rule 8 motions objecting to the Board's clerk's findings during the records examination. At the hearing, it was agreed by the parties that there was insufficient evidence to change the final result of the records examination and no evidence was entered into the record in support of changing the final results of the records examination.

14. 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 493 valid signatures, which exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for the

office of Alderperson for the 31st Ward, and that the Candidate's Nomination Papers should be found valid.

15. The Hearing Officer further found that insufficient evidence was offered to establish that the Candidate had changed his name and that an update to his voter's registration in the last three years did not constitute a name change but rather a reflection of his full name.

16. 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.

17. For the reasons stated above, the Electoral Board finds that the Candidate has a sufficient number of valid signatures on his nominating petitions and that the Nomination Papers of ESTEBAN BURGOA ONTAÑON are, therefore, valid.

IT IS THEREFORE ORDERED that the Objections of ALFONSO VINAJA JR and HIRAM DE HOYOS to the Nomination Papers of ESTEBAN BURGOA ONTAÑON, candidate for the office of Alderperson for the 31st Ward, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of ESTEBAN BURGOA ONTAÑON, candidate for the office of Alderperson for the 31st Ward, SHALL 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 COMMISSIONERS OF THE CITY OF CHICAGO AS THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO THE NOMINATING PAPERS OF CANDIDATES FOR THE FEBRUARY 28, 2023 MUNICIPAL ELECTION FOR ALDERPERSON OF THE 31st WARD IN THE CITY OF CHICAGO**

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| **ALFONSO VINAJA, JR, and HIRAM DE HOYOS,** | ) | |
| **Petitioner-Objectors,** | ) | |
| | ) | **No. 23-EB-ALD-014** |
| **v.** | ) | |
| **ESTEBAN BURGOA ONTAÑON,** | ) | |
| **Respondent-Candidate.** | ) | |

## HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

This matter was first heard on December 12, 2022. The Objectors appeared through counsel Thomas Jaconetty and the Candidate initially appeared *pro se.* At all hearings following the records exam, the Candidate was represented by attorney Andrew Finko.

The Objectors lodged multiple objections, related to two overarching issues. First, Objectors assert that the Candidate's petitions contained fewer valid signatures than the required 740 signatures of duly qualified, legal, and registered voters of the 31st Ward. The Objectors also assert that the Candidate failed to properly sign his sworn Statement of Candidacy, as Candidate's signed "E. Burgoa" and he is not registered at that name, but as Esteban Burgoa Ontañon. Lastly, the Objectors assert that the Candidate changed his name within the last three years and failed to disclose this in his Nomination Papers.

The parties were given the opportunity to file preliminary motions. No preliminary motions were filed but each of the parties filed a Memorandum of Law following the evidentiary hearing.

## RECORDS EXAMINATION

The records exam took place and concluded on December 30, 2022 when the parties were provided the Final Petition Summary Report. The results of the records examination were as follows:

1. The minimum number of valid petition signatures for Alderperson of the 31st Ward is 473.
2. The Candidate's petitions contain 740 total signatures.
3. The total number of objections made and ruled upon is 521.
4. Objections were sustained to 247 signatures.
5. Objections were overruled to 202 signatures.
6. The total number of valid petition signatures following the records exam is 493, which is 20 signatures greater than the required minimum.

Following the records exam, both parties filed timely Rule 8 Motions. An evidentiary hearing was scheduled for the matters raised in the Rule 8 Motions as well as the remaining legal issues in the Objectors' Petition.

At the evidentiary hearing, the parties consulted and determined that, based on the affidavits and other evidence each was prepared to present at the hearing, the final number of valid signatures reported on the Final Petition Summary Report would not change materially. Therefore, the parties stipulated to the results of the records exam as set forth in the Final Petition Summary Report. The parties' affidavits were not offered or admitted, but each submitted them in the vein of an offer of proof. (Candidate's Ex. 1-20 and Objectors' Group Ex. 1). It is recommended the Candidate's petitions be found to contain 20 signatures greater than the required minimum.

## THE CANDIDATE'S NAME ISSUE

Prior to the evidentiary hearing, the Objectors served the Candidate with a Rule 237(b) Notice to Appear and Notice to Produce the Candidate's (1) State of Illinois Driver's license or Secretary of State Identification Card and (2) City of Chicago Voter Registration Card.

At the hearing, the Candidate testified and documentary evidence was submitted by both parties. Documentary evidence was admitted that established:

1. The Candidate is currently registered to vote as Esteban Burgoa Ontañon; on the certified printout of his voter registration, the voter's "status" is "Active" and the "reason" is "POVA name change." (Obj. Ex 2)
2. The Candidate was previously registered to vote since 2006 as Esteban Burgoa; this registration was cancelled on November 30, 2021 due to a name change. (Obj. Ex. 3)
3. The Candidate's CDL driver's license lists his name as Esteban Burgoa Ontañon. (Joint Ex. 1)
4. The Candidate's State of Illinois Identification Card lists his name as Esteban Burgoa Ontañon. (Joint Ex. 2)
5. The Candidate's Chicago Board of Election Commissioners voter registration card lists his name as Esteban Burgoa Ontañon. (Joint Ex. 3)
6. The Candidate's Certificate of Naturalization lists his name as Esteban Burgoa Ontañon. (Joint Ex. 4)
7. The Candidate's Mexican birth certificate provides the Candidate's name as Esteban Burgoa Ontañon. (Candidate's Ex. 21)
8. The Candidate's United States passport lists his name as Esteban Burgoa Ontañon. (Candidate's Ex. 22)

The Candidate's testimony established that his name since birth, as evidenced on his birth certificate, is Esteban Burgoa Ontañon. In Mexico, children obtain their first last name from their father, and the second from their mother. As reflected on the Candidate's birth certificate, his father's name is Esteban Burgoa Cortez and his mother's name is Teresa Ontañon de Burgoa. Once in the United States, the Candidate sometimes used only his first last name as that is the common way in the Anglo world. Most people here know him as Esteban Burgoa. His signature has always been "E. Burgoa" or "Esteban Burgoa." The date of his naturalization is April 25, 2006, which is the same date as his initial voter registration in Chicago. The Candidate testified that voter registration is immediate upon naturalization. He does not know why his name on his initial voter registration listed his name only as Esteban Burgoa. He does recall that he circled "Sr" for his initial voter registration, as he believed it had the same meaning as the abbreviation in Mexico and referred to "señor" – an adult male. Since 2006 and before 2021, the Candidate twice filed Nomination Papers to run for elected office in Chicago, both times listing his name as Esteban Burgoa. On November 23, 2021, Candidate renewed his driver's license and State Identification cards. At that time, he presented the required documents for a Real ID; these included his birth certificate and passport, among others (Joint Ex. 5). The Candidate did not request that his voter registration be changed when he obtained his license, and he never requested the name on his voter registration be changed at any other time. However, on November 30, 2021, the Candidate's name was changed on his voter registration from Esteban Burgoa to Esteban Burgoa Ontañon.

The Objectors make two objections to Candidate's name on his Nomination Papers. First, that Candidate swears he is a registered voter as Esteban Burgoa Ontañon but signs his Statement of Candidacy and throughout his Nomination Papers as E. Burgoa. As legal authority,

Objectors look to *Ruffin v. Feller*, 2022 IL App (1st) 220692 for support, but *Ruffin* involved an objection that a divorced woman had not changed her married name on her voter registration back to her maiden name, yet sought to run under her maiden name. There is no allegation here that the Candidate is not currently registered under the same name as on his Nomination Papers. As to his signatures, the Candidate has signed as "E. Burgoa" or "Esteban Burgoa" on every official government document – both State of Illinois and United States – entered into evidence, and all of them list his name as Esteban Burgoa Ontañon. There is no evidence that the Candidate at any time attempted to change his name through his signature. It is well-established that a Statement of Candidacy must be signed and sworn to by the Candidate. *Allen v. Serwinski, 87-EB-ALD-121* (Chicago Electoral Board 1987), affirmed *Serwinski v. Chicago Board of Election Commissioners*, 156 Ill.App.3d 257, 509 N.E.2d 509 (First Dist. 1987). However, how the Candidate signs his name on his Nomination Papers does not invalidate them. Accordingly, it is recommended that this objection be overruled.

Next, Objectors allege that Candidate changed his name and fails to disclose the name change to voters on his Nomination Papers or include an affidavit as required by 10 ILCS 5/10-5.1:

> Sec. 10-5.1. In the designation of the name of a candidate on a certificate of nomination or nomination papers the candidate's given name or names, initial or initials, a nickname by which the candidate is commonly known, or a combination thereof, may be used in addition to the candidate's surname. If a candidate has changed his or her name, whether by a statutory or common law procedure in Illinois or any other jurisdiction, within 3 years before the last day for filing the certificate of nomination or nomination papers for that office, whichever is applicable, then (i) the candidate's name on the certificate or papers must be followed by "formerly known as (list all prior names during the 3-year period) until name changed on (list date of each such name change)" and (ii) the certificate or paper must be accompanied by the candidate's affidavit stating the candidate's previous names during the period specified in (i) and the date or dates each of those names was changed; failure to meet these requirements shall be grounds for

> denying certification of the candidate's name for the ballot or removing the candidate's name from the ballot...
> 10 ILCS 5/10-5.1

The Objectors argue that the Candidate's name change on his voter registration record in 2021 triggers the requirements in 10 ILCS 5/10-5.1. As further evidence of a name change, the Objectors cite to a Facebook page registered to Esteban Burgoa, that the Candidate does not include Ontañon in his signature, and the Candidate's testimony that most people know him as Esteban Burgoa. The Objectors also offer case law in support of their argument, but those cases are distinguishable: *Shannon-DiCianni v. DuPage Cty Officers Electoral Bd.*, 2020 IL App (2d) 200027 (Candidate filed with surname of "Shannon-DiCianni" despite "Shannon" being only a nickname; hyphenating a nickname with her surname misleads voters that she has two surnames) *Oberholtzer v. Cook County Officers Electoral Bd.*, 2020 IL App (1st) 200218-U (Candidate sought to run for office using her maiden surname of Jamieson, despite having affirmatively changed her surname to her husband's surname of Golden, including petitioning the supreme court to change her name on the master roll of attorneys to Golden).

On the other hand, the Candidate cites to *Hernandez v. Byron Sigcho-Lopez* in which this Electoral Board overruled a name-related objection to the Nomination Papers of a Latino candidate whose name at birth was Byron Francisco Sigcho Lopez; who sometimes used only his first last name of Sigcho or a hyphenated form of Sigcho-Lopez; and who sought to run using both last names, hyphenated. *Hernandez v. Byron Sigcho-Lopez*, Chicago Bd. of Election Comm. No. 19-EB-ALD-126 (January 8, 2019). The difference in this case is that this Candidate's voter registration was updated within the past three years to reflect his full name, including both last names, rather than the

truncated version of only one last name. Nevertheless, the Candidate has not changed his name since birth, and his full name is on his Driver's License, State Identification Card, and United States passport. The update to his voter registration does not change these facts. Having not changed his name, Esteban Burgoa Ontañon has not triggered the requirements of 10 ILCS 5/10-5.1 and the Hearing Officer recommends the objection on this basis be overruled.

## CONCLUSION

In light of the foregoing, it is my recommendation that the objections of Alfonso Vinaja, Jr and Hiram De Hoyos to the Nomination Papers of Esteban Burgoa Ontañon be **overruled** and that the Nomination Papers of Esteban Burgoa Ontañon be deemed valid and that the name of ESTEBAN BURGOA ONTAÑON as a candidate for election to the office of Alderperson of the 31st Ward of the City of Chicago, be printed on the ballot at the February 28, 2023 Municipal Election.

Respectfully submitted,

Dated: January 4, 2023

Laura Jacksack, Hearing Officer