BCCOFF

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

Objections of: JUAN CALDERON CUZA	)	
	)	
	)	
To the Nomination	)	No.: 23-EB-ALD-042
Papers of: KIRK J. ORTIZ	)	
	)	Rel.: 23-EB-ALD-008 and
	)	23-EB-ALD-023
Candidate for the office of	)	
Alderperson of the 26th 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 JUAN CALDERON CUZA ("Objector") to the nomination papers ("Nomination Papers") of KIRK J. ORTIZ, for the office of Alderperson of the 26th 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 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 Friday, December 9, 2022 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer Mary Celeste Meehan for further hearings and proceedings.

5. 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, JUAN CALDERON CUZA, through his attorney, MICHAEL J KASPER; and the Candidate, KIRK J. ORTIZ, 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 Objector and/or his 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 637;

C. The remaining number of signatures deemed valid as a result of the records examination total 192.

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 the office of Alderperson of the 26th Ward.

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. At issue in the Rule 8 hearing was whether certain signatures should be considered in district as a result of the recent redistricting. The Hearing Officer found that Candidate presented insufficient evidence in support of his position.

15. 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 192 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 26th Ward, and that the Candidate's Nomination Papers should be found invalid.

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 an insufficient number of valid signatures on his nominating petitions and that the Nomination Papers of KIRK J. ORTIZ are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of JUAN CALDERON CUZA to the Nomination Papers of KIRK J. ORTIZ, candidate for election to the office of Alderperson of the 26th Ward, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of KIRK J. ORTIZ, candidate for the office of Alderperson for the 26th 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.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATING PAPERS FOR THE CANDIDATES FOR THE OFFICE OF ALDERPERSON OF THE TWENTY-SIXTH WARD OF THE CITY OF CHICAGO, STATE OF ILLINOIS

Juan Calderon Cuza,	)	
Objector	)	
	)	**Case No. 23-EB-ALD-42**
vs.	)	
	)	
Kirk J. Ortiz,	)	**Hearing Officer Mary Celeste Meehan**
Candidate	)	

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

The above-named cause came to be heard before the Chicago Board of Election Commissioners ("CBOE") on Objection Petition ("Petition") of Juan Calderon Cuza ("Objector") to Candidate Kirk J. Ortiz's ("Candidate") nomination papers for the office of alderperson for the 26th Ward of the City of Chicago, in State of Illinois to be voted upon in the Municipal General Election on February 28, 2023. Mary Celeste Meehan, Hearing Officer, finds and recommends as follows:

BACKGROUND AND PRELIMINARY MOTIONS

The initial hearing on above matter came to be heard on December 12, 2022. Attorney for the Objector is Michael Kasper. Attorney for Candidate is Pericles Abbasi. The Objector's Petition including any factual and legal issues was briefly discussed. The Board's Exhibits were entered into evidence. Parties agreed the case required a records exam. The records exam was concluded on December 27, 2022 and a final petition summary report was issued. The parties met and stipulated to the results of the records exam. The Candidate filed a timely Rule 8 Motion ("Motion") and the Objector responded by resting on the results of the records exam.

RESULTS OF THE RECORDS EXAMINATION

The records exam was completed on December 27, 2022. The results, in relevant part, are as follows:

A. Signatures Required: 473

B. Total Signatures: 637

C. Total Objections: 1015

D. Total Ruled On: 1015

E. Total Sustained Lines: 445

F. Total Overruled Lines: 113

G. **281 Signatures fewer than the required minimum.**

CANDIDATE'S RULE 8 MOTION

The Candidate filed a timely Rule 8 Motion[1]. The Motion made objections to signature rulings as set forth in an attached appendix. The usual signature objections were made: not registered or not registered at the address; signer signature not found to be genuine or invalid; signer's address found not to be in district[2]; signer's address missing or incomplete; and signer found to have signed more than once. The Candidate's most important signature objection raised was related to "signer resides outside the district." The Candidate argued that considering the recent remap, signatures in the "old 26th Ward" should be considered in district and signatures from any areas from which one can reside and run for 26th Ward Alderman should be considered in district. The later part of this argument required explanation and authority which the Candidate did not provide. Regardless the below reasoning applies.

[1] The Candidate filed the same Rule 8 Motion in Ald-23, 08 and 42.

[2] Candidate's Motion stated 4th District which appears to be a scrivener's error as this matter concerns the 26th Ward, which is correctly stated elsewhere.

Candidate's Motion fails due to lack of authority for his position that signers who were residing in the "old 26th Ward" when they signed, should be considered "in district". 65 ILCS 20/21-28(a) requires that nominating petitions for candidates for Alderman must be signed by the number of legal voters of the ward in which the candidate is seeking election. There is no provision in the statute allowing legal voters residing outside the ward to sign nominating petitions for candidates inside the ward after redistricting even if they live in an area that was once part of the old ward prior to redistricting. *Sanchez v. Bocanegra*, 15-EB-ALD-053 (CBEC, 2015), affirmed, *Bocanegra v. Chicago Board of Election Commissioners,* et al., 2015 COEL 000008 (Cir. Ct. Cook Co., 2015).

The statute gives the City of Chicago the authority to redistrict by Ordinance and states, "all elections for alderman shall be held from the existing wards until a redistricting is had..." 65 ILCS 20/21-38. The Ordinance establishing the remap was complete and approved by the City of Chicago Council and went into effect May 31, 2022, long before the circulation period began which was August 30, 2022. *See* O2022-1318; *see also* 10 ILCS 5/10-4 and 65 ILCS 5/3.1-10-5[3]. Therefore, logically, none of the signers from the "old 26th Ward" could be in the 26th Ward at the time they signed the Petition.

The Candidate provided no evidence to support his other signature objections but for a spreadsheet identifying which signatures would be legitimate if his argument about signers from the "old 26th Ward" was correct. At the hearing after the records exam, the parties stipulated to the number of required signatures, 473, and to the results in the Final Petition Summary Report,

[3] The First day to circulate for signature candidate nominating petitions for the offices of Mayor, City Clerk, City Treasurer, Alderperson and member of a police District Council (not more than 90 days preceding last day for petition filing). Tuesday, August 30, 2022.

which found the Candidate had 281 signatures fewer than the required minimum. Without any rehabilitation evidence, this number stands.

FINDING AND RECOMMENDATION

This Hearing Officer finds and recommends to the Chicago Board of Election Commissioners, based on the foregoing, the Nominating Papers of Candidate Kirk J. Ortiz, for the Nomination to the Office of Alderman of the 26th Ward of the City of Chicago, State of Illinois, to be voted on in the Municipal General Election on February 28, 2023 are INVALID.

Entered this 7th Day of January 2023.

Mary C. Meehan
Hearing Officer