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

Objections of: PATRICK J. GIBBONS II	)	
	)	
	)	
To the Nomination	)	No.: 24-EB-SBD-041
Papers of: JASON C. DONES	)	
	)	
Candidate for the office of	)	
Member of the Chicago Board of Education,	)	
3rd District	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of the 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 PATRICK J. GIBBONS II ("Objector") to the nomination papers ("Nomination Papers") of JASON C. DONES, candidate for the office of Member of the Chicago Board of Education, 3rd District in the City of Chicago ("Candidate") at the General Election to be held on Tuesday, November 5, 2024, having convened on Tuesday, July 9, 2024, at 10:30 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 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 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 statutory service was waived and service by email was authorized.

4. A public hearing held on these Objections commenced on Tuesday, July 9, 2024 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer Daniel R. Hernandez for further hearings and proceedings.

5. 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. Appearances were filed by or on behalf of the following persons: the Objector, PATRICK J. GIBBONS II, by Attorney PERICLES ABBASI; and the Candidate, JASON C. DONES, by Attorneys KEVIN MORPHEW, STEVEN H. FINE, MICHAEL KRELOFF, AND MICHAEL J. KASPER.

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 or waived their right to do so.

9. The Objector and/or his duly authorized representative was present during the examination of the registration records or waived their right to do so.

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 1,000.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 2,352.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 1,078.

D. The remaining number of signatures deemed valid as a result of the records examination total 1,274.

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 Member of the Chicago Board of Education, 3rd District, City of Chicago.

13. The Electoral Board finds that the Objector filed a motion pursuant to Rule 8 of the Board's Rules of Procedure. The Electoral Board further finds that the Hearing Officer correctly found that the motion failed to contain the requested specificity and the Rule 8 Motion should therefore be denied.

14. The Electoral Board finds that the remaining issue in the Objector's Petition regarding the notarization of the Statement of Candidacy and the facts surrounding the notarization failed to establish a cognizable basis for invalidating the Nominating Papers. The fact that the Statement of Candidacy was notarized when it was signed by the Candidate and

further notarized by another notary after the Candidate made a nonessential change and initialed the change did not render the Nominating Papers invalid.

15. The Electoral Board finds that the Candidate placed himself under penalties of perjury when he signed his Statement of Candidacy before notary public Kreloff, who then notarized the document, and that no subsequent act invalidated that notarization in any way. Additionally, when the Candidate corrected the word "Avenue" to the word "Street" on the Statement of Candidacy, he placed his initials next to those corrections and he did so before a notary public who then placed the Candidate under penalties of perjury in relation to the corrections to his own address.

16. The Electoral Board further finds the case law cited by the Objector to be unpersuasive. In *Rau-Clauson v. Cianci,* 15-EB-ALD-166, the candidate totally failed to sign his Statement of Candidacy form, which is quite the opposite of what happened in the case at hand, there the Candidate bound himself to penalties of perjury by signing the form before notary public Kreloff. The case of *Davis v. Ervin,* 11-EB-ALD-109, appears to support the Candidate's position in the case at hand, because the *David* case stands for the notion that a Candidate can make corrections to his own Statement of Candidacy form, so long as the corrections are made in the presence of a notary public. Finally, in *Featherson v. Kowalski-McDonald*, 2017-COEB-CC-03, the candidate made changes to other peoples' addresses (not her own) on petition forms for which she was not the person who swore to or affirmed the original notarization, which is substantially different from the case at bar, where the Candidate corrected his own address on a Statement of Candidacy form for which he was the person who swore to or affirmed the original notarization.

17. 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 Statement of Candidacy was properly notarized and in compliance with the Illinois Election Code and that the Nomination Papers contained 1,274 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 Member of the Chicago Board of Education, 3rd District, City of Chicago and that the Candidate's Nomination Papers should be found valid.

18. The Objector requested pursuant to Rule 20, and obtained, an additional hearing before the Electoral Board, but the arguments presented were not convincing and did not appear to expand substantially upon those made before the Hearing Officer.

19. 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.

20. For the reasons stated above, the Electoral Board finds that the Nomination Papers of JASON C. DONES are, therefore, valid.

[Continued on next page.]

IT IS THEREFORE ORDERED that the Objections of PATRICK J. GIBBONS II to the Nomination Papers of JASON C. DONES, candidate for the office of Member of the Chicago Board of Education, 3rd District, City of Chicago are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of JASON C. DONES SHALL be printed on the official ballot for the General Election to be held on Tuesday, November 5, 2024.

Dated: Chicago, Illinois, on Tuesday, August 27, 2024.

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 by 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 FOR THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD

Objections of: Patrick J. Gibbons II NO. 24-EB-SBD-041

To the Nomination Papers of: Jason C. Dones Hearing Officer: Daniel R. Hernandez

Candidate for School Board Member, 3rd District

HEARING OFFICER'S FINAL RECOMMENDED DECISION

TO THE OBJECTOR'S PETITION

Procedural Posture

On July 1, 2024, the Objector, Patrick J. Gibbons II ("Objector"), filed an Objector's Petition against Jason C. Dones ("Candidate"). The first hearing before the hearing officer was on July 9, 2024, and a records examination was ordered on said date. The records examination began on July 16, 2024. On July 26, 2024, at 10:36 a.m., the Records Examination was completed. The results showed the Candidate had 1,274 valid signatures. On July 29, 2024, Objector filed a Rule 8 Motion (the "Motion") and a Rule 19(a)(1) Request for Board Records. The hearing officer requested a response from the Candidate and said response was timely filed. For the following reasons, on August 8, 2024, the hearing officer recommended that the Objector's Rule 8 Motion be denied.

While the Rule 8 Motion takes issue with the number of changes made as a result of the handwriting expert's review of the preliminary records exam rulings, the Motion fails to identify specific sheet and petition lines to be challenged as required by Rule 8 of the Board's Rules of Procedure. This hearing officer finds that this Electoral Board has repeatedly and consistently ruled that the failure to provide the required specificity renders a Rule 8 motion void. See, for example: *Tuck v. Ammons,* 07-EB-ALD-102 (Chi. Electoral Bd. 2007); *Sheppard v. Young*, 07-EB-ALD-123 (Chi. Electoral Bd. 2007); and *Salazar, et al., v. DeMay*, 15-EB-ALD-052 (Chi. Electoral Bd. 2015), affirmed, *DeMay v. Chi. Bd. of Elections,* 2015 COEL 000013 (Cook Cty. Cir. Ct. 2015), appeal dismissed, *DeMay v. Chi. Bd. of*

Election Commissioners, No. 1-15-0452 (1st Dist. App. Ct. 2015). Therefore, in accord with these and other prior rulings, the Objector's Rule 8 Motion must be denied.

On July 16, 2024, Objector filed a Rule 19(c) Motion and Request for Issuance of Subpoenas and a Supreme Court Rule 237 Motion for Candidate to Appear. The Objector requested subpoenas for the Candidate, Dorene M. Egan, and LaQuechia McKinney. The Candidate timely filed a Response to the Objector's Request for Subpoenas on July 17, 2024, at 4:08 p.m. Due to the nature of the Subpoenas, namely that they sought information that could be considered attorney-client privileged, the parties were asked to submit memoranda of law on the topic. On July 22, 2024, both parties filed a stipulation, clarifying how there is one Candidate signature with two notary signatures on the Statement of Candidacy form. On July 26, 2024, the hearing officer recommended the board deny the request for subpoenas, *see Recommended Decision on the Issuance of Subpoenas for more information*.

Additionally, On August 2, 2024, the Objector filed a Memorandum on Paragraph 13 of the Objector's Petition. On August 6, 2024, the Objector filed a Reply on Paragraph 13 of the Objector's Petition. The Candidate filed a Memorandum in Opposition to Paragraph 13 of the Objector's Petition in a timely manner. On August 8, 2024, a hearing was held on this allegation, and the hearing officer took it under advisement.

Analysis

Signature Count Allegation

Pursuant to the Illinois Election Code and the Illinois School Code, nomination papers for the Office to be voted for must contain signatures from no fewer than 1,000 duly qualified registered voters for the 3rd District of the Chicago Board of Education. Here, the Candidate obtained 1,274 valid signatures, according to the uncontested results of the Rule 6 records examination. The Candidate has 274 valid signatures over the amount required by the statute and, thus, has met the statutory requirement.

Statement of Candidacy Allegation

The Objector's petition also questioned the veracity of the Candidate's Statement of Candidacy. Paragraph 13 of the Objector's Petition challenges the legal validity of Candidate Jason Dones' Statement

of Candidacy. In particular, the Statement of Candidacy consists of a pre-printed form that the Candidate signed once. Despite his only signing the Statement of Candidacy once, it bears the seals and signatures of two different notaries – Michael Kreloff and Dorene M. Egan. Additionally, in two places, the pre-printed word "Avenue" was stricken and initialed by the Candidate, with the replacement "Street" handwritten by the Candidate. Further, the original "15th" in the date of notarization section was stricken and replaced with "17th" along with the initials DME – presumably by notary Dorene M. Egan, who is one of the two notaries on the Statement of Candidacy. The notary stamp (but not the signature) of notary Michael Kreloff has an X through it. The Nomination Papers were presented to and filed with the Chicago Board of Election Commissioners on June 17, 2024. The objector requested subpoenas for this allegation, which were denied in part. Candidate and Objector tendered a stipulation to the Hearing Officer on July 22, 2024, which explains the reasons for why the Statement of Candidacy appears as it does. The Candidate had initially signed his Statement of Candidacy before notary Michael Kreloff on June 15, 2024. While Candidate was in line to file his petitions, he realized that his address contained the incorrect "Avenue" instead of "Street." His attorney, who was with him in line, called his assistant, Dorene Egan, to come to the filing center, and when she was there, the Candidate struck the two "Avenues" and wrote "Street." Before her, the Candidate identified himself to Ms. Egan and showed her his Driver's License, after which she crossed out the "15th" in the date section and wrote "17th," affixing her initials next to the change. She also crossed out Mr. Kreloff's notary stamp. She then signed the notarial jurat on the Statement of Candidacy and affixed her seal. The candidate did not re-sign the Statement of Candidacy.

During the hearing the Objector argued that the Statement of Candidacy is invalid because there are two notary stamps and signatures, but only one candidate signature. The Objector provided three cases to review, however, none of them were analogous enough to these facts to be authoritative. During the hearing, the Objector argued that the Candidate must sign his signature before the second notary because the statute states, "be subscribed and sworn to … before some officer authorized to take acknowledgments of deeds in this state." The Objector did not provide any caselaw that defines "subscribed and sworn to."

The hearing officer found them to be persuasive and a guiding point. The Candidate argued that the Statement of Candidacy is valid and that the cases cited by the Objector are distinguishable. The Candidate argued that the rules and case law do not prohibit double notarizations, and that the Statement of Candidacy is valid under the De Facto Notary Rule. The de facto notary rule provides that when a person holds themselves out to the public as a valid notary public, any documents notarized by that person may be deemed valid, even if the person is not, in fact, a properly registered notary public. During the hearing, the Candidate argued that the Statement of Candidacy was valid because the Candidate followed proper notary protocol. Moreover, he argued that two signatures were not needed and that even if they were, the Candidate's initials on the Statement of Candidacy form were sufficient to qualify as his additional signatures.

Based on the foregoing, it is my recommendation that the Board should deny Paragraph 13 of the Objector's Petition and find that the notarized correction of the word "Avenue" to "Street," as initialed by the Candidate, does not invalidate an otherwise effective and legal valid document. According to the Illinois Election Code, a Statement of Candidacy form "shall be subscribed and sworn to by such candidate before some officer authorized to take acknowledgments of deeds in this State.". 10 ILCS 5/10-5. A notary public is an "officer authorized to take acknowledgments of deeds in this State," and the Candidate did execute the document in the presence of notary public Michael Kreloff. The Illinois Election Code does not define the terms "subscribed and sworn to;" thus, the only authority available to us in coming to this determination is the Notary Public Act. In taking verification upon oath or affirmation, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the acknowledgment is the person whose true signature is on the instrument. 5 ILCS 312/6-102. Both of the notaries here properly identified the Candidate before notarizing the document. A notary public shall not change anything in a written instrument after anyone has signed it (5 ILCS 312/6-104(g)), but notary Dorene Egan did not change anything in the document – she merely provided a second notarization on the document after the Candidate changed the word "Avenue" to "Street" and initialed those changes.

Here, once the Candidate recognized that the initial document required a correction, the Candidate corrected it in front of the second notary, who then validated his signature by looking at the Candidate's driver's license. The Candidate did not need to re-sign the Statement of Candidacy because notary Kreloff was present when the Candidate executed the document, and Illinois law does not require that the second notary who was present for the corrections had to also witness the original signature. It is a notary public's responsibility to verify that the signature is the Candidate's. Dorene Egan did just that -- to say that Dorene Egan is required to do more than simply verify the Candidate's signature would be incorrect according to the Notary Public Act.

Moreover, one notary public cannot "x" out another notary's signature or stamp. The hearing officer researched this and could not find any caselaw on this topic; however, 5 ILCS 312/6-104(g) states, "a notary public shall not change anything in a written instrument after it has been signed by anyone." The stipulated facts state that Dorene Egan crossed out Michael Kreloff's notary stamp. However, this act by Ms. Egan did not legally "erase" or invalidate Mr. Kreloff's original notarization. The Statement of Candidacy was valid with Mr. Kreloff's notarization, and that validity was not erased when Ms. Egan placed an "x" over his notary stamp.

Therefore, it is this hearing officer's opinion that the Statement of Candidacy was properly notarized by both Michael Kreloff for the Candidate's original execution of the document, and by Dorene Egan in relation to the Candidate's correction of a relatively minor error in the Candidate's address.

Finally, the correction at issue here is the difference between the words "Mozart Street" and "Mozart Avenue." Such an insignificant correction should not render the Candidate's entire Statement of Candidacy invalid. During the hearing, the parties were questioned about whether these words were even necessary in validating the Candidate's address –

> "Let's say it just said North Mozart, and nothing after that. Would that be an issue for this Statement of Candidacy?" Transcript of Hearing, August 8, 2024.

Counsel for the Candidate agreed that it would not be an issue and cited *Louis v. Dunn*, arguing substantial compliance. Counsel for the Objector agreed that such words were ultimately not controlling if

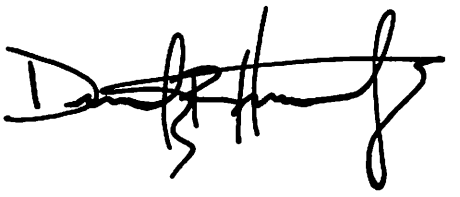
other factors were present and because there was only one Mozart in Chicago. The city of Chicago only has one Mozart, and thus, the delineation of street, avenue, or otherwise would not make the Candidate's Statement of Candidacy invalid or fraudulent.

This hearing officer finds that there is no evidence of any fraud or wrongdoing by the Candidate or his notaries in changing the word "Avenue" to "Street" on his Statement of Candidacy form so as to correct the information contained therein. The hearing officer also finds no threat to the integrity of the electoral process, since the Candidate has lawfully subjected himself to penalties of perjury by executing the document before notary public Kreloff.

Conclusion

Considering that the Candidate has complied with the Illinois Election Code by obtaining the required number of petition signatures, and by properly notarizing his Statement of Candidacy, the Electoral Board should overrule the Objector's Petition and enter a final decision finding that the Candidate's nomination papers are legally valid. Considering the preceding, I recommend that the Objector's Petition be DENIED.

Submitted,



Daniel R. Hernandez, Esq.
Hearing Officer

DATED: August 23, 2024