

STATE BOARD OF ELECTIONS

STATE OF ILLINOIS

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EXECUTIVE DIRECTOR
Rupert T. Borgsmiller

BOARD MEMBERS
Jesse R. Smart, Chairman
Charles W. Scholz, Vice Chairman
Harold D. Byers
Betty J. Coffrin
Ernest L. Gowen
William M. McGuffage
Bryan A. Schneider
Casandra B. Watson

AGENDA

State Board of Elections
Sitting as the Duly Authorized
State Officers Electoral Board
Monday, July 21, 2014
10:30 a.m.

2329 S. MacArthur Blvd.
Springfield, Illinois
and via videoconference
James R. Thompson Center – Suite 14-100
Chicago, Illinois

Roll call.

1. Approval of the minutes from the June 17 and July 7 SOEB meetings.
2. Consideration of objection to resolution to fill a vacancy in nomination for the November 4, 2014 General Election;
 - a. *Peterson v. Kolber*, 14SOEBGE505.
3. Consideration of objections to Independent and New Party candidate petitions for the November 4, 2014 General Election;
 - a. *Sherman v. Davis*, 14SOEBGE507;
 - b. *Sherman v. Moore & Bourland*, 14SOEBGE508;
 - c. *Atsaves & Gale v. Davis*, 14SOEBGE512;
 - d. *Atsaves & Gale v. Moore & Bourland*, 14SOEBGE513;
 - e. *Allen v. Samuels*, 14SOEBGE517.
4. Consideration of subpoena requests;
 - a. *Atsaves & Gale v. Oberline*, 14SOEBGE514;
 - b. *Atsaves & Gale v. Grimm*, 14SOEBGE515 (Objector and Candidate);
 - c. *Yarbrough v. Lopez*, 14SOEBGE516;
 - d. *Flores v. Ward*, 14SOEBGE519.
5. Recess the State Officers Electoral Board until August 22, 2014 at 10:30 a.m. or call of the Chairman, whichever occurs first.

STATE OFFICERS ELECTORAL BOARD
Special Meeting
Tuesday, June 17, 2014

MINUTES

PRESENT:

Jesse R. Smart, Chairman
Charles W. Scholz, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
William M. McGuffage, Member
Bryan A. Schneider, Member
Casandra B. Watson, Member

ALSO PRESENT:

Rupert Borgsmiller, Executive Director
James Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The special meeting of the State Officers Electoral Board was called to order via videoconference with the Springfield office at 10:33 a.m. All Members were present in Chicago.

The Chairman briefly explained the procedures of the meeting and then called the cases and accepted appearances for the following objections to resolutions to fill vacancies in nomination for the November 4, 2014 General Election:

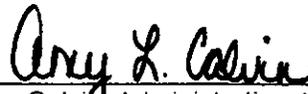
- a. *Farrar & Peters v. Chaplin*, 14SOEBGE500;
- b. *Venturi & Daniel v. Mains*, 14SOEBGB501;
- c. *Ramsey v. Granata*, 14SOEBGE502;
- d. *Crowder v. Ruocco*, 14SOEBGE503;
- e. *Rodriguez v. Russell*, 14SOEBGE504;
- f. *Peterson v. Kolber*, 14SOEBGE505.

The General Counsel presented the Rules of Procedure for the State Officers Electoral Board. Vice Chairman Scholz moved to approve the Rules as presented. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel announced the hearing officers and the cases to whom they were assigned as listed in his memo in the board packet. Member Coffrin moved to authorize the General Counsel to appoint the hearing officers as presented. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

With there being no further business before the State Officers Electoral Board, Vice Chairman Scholz moved to recess until July 7, 2014 at 3:00 p.m. or call of the Chairman, whichever occurs first. Member Coffrin seconded the motion which passed unanimously. The meeting recessed at 10:40 a.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert Borgsmiller, Executive Director

STATE OFFICERS ELECTORAL BOARD
Monday, July 7, 2014

MINUTES

PRESENT: Jesse R. Smart, Chairman
Charles W. Scholz, Vice Chairman (via phone)
Harold D. Byers, Member
Betty J. Coffrin
Ernest L. Gowen, Member (via phone)
William M. McGuffage, Member
Bryan A. Schneider, Member
Casandra B. Watson, Member

ALSO PRESENT: Jim Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Ken Menzel, Deputy General Counsel
Bernadette Harrington, Asst. General Counsel
Darlene Gervase, Administrative Assistant III

The State Officers Electoral Board of Elections convened at 3:07 p.m., with all members present.

General Counsel Steve Sandvoss called cases and accepted appearances for the objections to independent and New Party candidate petitions for the November 4, 2014 General Election.

2. a. *Sherman v. Hawkins & Kusch*, 14SOEBGE506 and accepted the appearance of Rob Sherman, present in the Chicago office. No one appeared for the candidate.
2. b. *Sherman v. Davis*, 14SOEBGE507; Rob Sherman, the objector, was present in Chicago and Candidate Roger Davis was present in the Springfield office.
2. c. *Sherman v. Moore & Bourland*, 14SOEBGE508; Rob Sherman, the objector was present in Chicago and no one appeared for the candidates.
2. d. *Mathews & Walker v. Parker*, 14SOEBGE509; John Fogarty, attorney for the objector was present in Chicago and Candidate Jonathan Parker was also present in Chicago.
2. e. *Caruthers v. Dill*, 14SOEBGE510; John Fogarty, attorney for the objector was present in Chicago and Candidate Josh Dill was present in Springfield.
2. f. *Atsaves & Gale v. Hawkins & Kusch*, 14SOEBGE511; John Fogarty, attorney for the objector was present in Chicago and no one appeared for the candidates.
2. g. *Atsaves & Gale v. Davis*, 14SOEBGE512; John Fogarty, attorney for the objector of was present in Chicago and no one appeared for the candidates.
2. h. *Atsaves & Gale v. Moore & Bourland*, 14SOEBGE513; John Fogarty, attorney for the objector was present in Chicago and no one appeared for the candidates.
2. i. *Atsaves & Gale v. Oberline, et al.*, 14SOEBGE514; John Fogarty, attorney for the objector and Ross Secler, attorney for the candidates were present in Chicago, candidate Joe Bell was present in Springfield.
2. j. *Atsaves & Gale v. Grimm, et al.*, 14SOEBGE515; John Fogarty, attorney for the objector; Ross Secler, attorney for the candidates and Ben Koyl, a candidate and attorney, for the candidates were present in Chicago.
2. k. *Yarbrough v. Lopez, et al.*, 14SOEBGE516; Michael Kasper and Bret Bender, attorneys for the objectors; and Andrew Finko, attorney for the candidates were present in Chicago.
2. l. *Allen v. Samuels*, 14SOEBGE517; Michael Kasper and Bret Bender, attorneys for the objectors; and Andrew Finko, attorney for the candidates were present in Chicago.
2. m. *Compton v. Shepherd*, 14SOEBGE518; Michael Kasper and Bret Bender, attorneys for the objectors; and Andrew Finko, attorney for the candidates were present in Chicago.

- 2. n. *Flores v. Ward*, 14SOEBGE519; Michael Kasper and Bret Bender, attorneys for the objectors; and Candidate Carl Ward were present in Chicago.
- 2. o. *Pavelonis v. Tripp*, 14SOEBGE520 Michael Kasper and Bret Bender, attorneys for the objectors; and Andrew Finko, attorney for the candidates were present in Chicago.

The General Counsel presented the Rules of Procedures. Member Byers moved and Member Coffrin seconded the motion to accept the Rules as presented. The motion carried unanimously by 8 voices in unison.

General Counsel Sandvoss requested authorization to appoint hearing examiners as required. Member Schneider so moved and Member Coffrin seconded the motion which passed unanimously by 8 voices in unison.

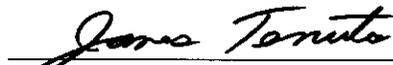
Mr. Sandvoss continued with consideration of objections to resolutions to fill vacancies in nomination for the November 4, 2014 General Election.

- 5. a. In the matter of *Farrar & Peters, III v. Chaplin*, 14SOEBGE500; the hearing officer recommended overruling the objection and based on the objection having been withdrawn, declaring the matter moot. Whereas the candidate should be certified and appear on the ballot. General Counsel Sandvoss concurred with the recommendation. Member Byers moved to adopt the Hearing Examiner and General Counsel's recommendation and the name of Candidate Chaplin be certified to the ballot. Member Coffrin seconded the motion which passed unanimously by roll call vote.
- 5. b. In the matter of *Venturi & Daniel v. Mains*, 14SOEBGE501 the objection was withdrawn and the recommendation was to have the matter declared moot. The Hearing Examiner further recommended and General Counsel Sandvoss agreed that the candidate be certified to the ballot. Member Byers moved to adopt the Hearing Examiner and General Counsel's recommendations and certify the candidate to the ballot. Member Schneider seconded the motion which passed unanimously by roll call vote.
- 5. c. As to *Ramsey v. Granata*, 14SOEBGE502, the Hearing Examiner recommended overruling the objection and further recommended the candidate be certified to the ballot. The General Counsel agreed with the recommendation. Member Coffrin moved to adopt the Hearing Examiner and General Counsel's recommendations and certify the candidate to the ballot. Member Schneider seconded the motion which was adopted by an 8-0 roll call vote.
- 5. d. The Hearing Examiner recommended sustaining the objection in *Rodriguez v. Russell*, 14SOEBGE504. Mr. Sandvoss concurred and recommended not to certify Candidate Russell to the ballot. Member Schneider moved and Member McGuffage seconded the motion to adopt the Hearing Examiner and General Counsel's recommendations to sustain the objection and not certify the name of the candidate to the ballot.

There being nothing further before the State Officers Electoral Board, Chairman Smart asked for a motion to recess until July 21, 2014 at 10:30 a.m. or until the call of the Chairman. Member Schneider so moved and Member Coffrin seconded the motion which passed unanimously by 8 voices in unison. The State Officers Electoral Board recessed at 3:20 p.m.

DATED: July 7, 2014

Respectfully submitted,



James Tenuto, Assistant Executive Director



Darlene Gervase, Administrative Assistant III

**Peterson v. Kolber
14 SOEB GE 505**

Candidate: Vince Kolber

Office: Representative in Congress, 5th District

Party: Republican

Objector: Verne Peterson

Attorney For Objector: Andrew Finko

Attorney For Candidate: John Fogarty

Basis of Objection: 1. The candidate was not properly nominated by the Congressional Committee of the 5th Congressional District (the "Committee") to fill a vacancy since the Committee was not properly and timely convened, did not timely submit a Certificate of Organization, Resolution to Fill a Vacancy in Nomination and Notice of Appointment, and did not otherwise comply with the requirements of Sections 7-61 and 7-8(e) of the Election Code, which would have required the Committee to be composed of the Cook and DuPage County Republican Chairmen and the Republican State Central Committeeman for the 5th Congressional District. 2. Even if properly constituted, there was no vacancy in nomination because there was a write-in candidate for the office at issue who was voted upon at the March Primary.

Dispositive Motions: Candidate filed a Motion to Strike and Dismiss, Objector filed a Response thereto, Candidate filed a Reply in Support of the Motion to Strike and Dismiss.

Binder Check Necessary: No

Hearing Officer: Kelly McCloskey Churf

Hearing Officer Findings and Recommendation: The disposition of the objection depends on the resolution of the following issues: 1) Whether proxy voting by the Committee members is permitted; 2) Whether consent by the Chairman of the Committee for another person to chair the meeting is permitted; and 3) whether the Resolution, Certificate and Notice referred to above comply with the Election Code.

The Hearing Officer noted that political parties, unlike public bodies, are generally free to conduct their affairs as they see fit, unless specifically regulated by the legislature. She further noted that the Election Code places very few regulations on the conduct of political parties, particularly with regards to designating a candidate to fill a vacancy in nomination. The Election Code does not prohibit proxy voting, as determined by at the Illinois Appellate Court and the Chicago Board of Election Commissioners sitting as an electoral board. Though the Objector cites to the by-laws of the Republican Party for authority for the notion that proxy voting is not permitted, the Hearing Officer determined that said by-laws are inapplicable to the proceedings of a Congressional Committee, since by its own terms, it applies to the functioning of the State Central Committee. Furthermore, the by-laws do not address the procedures involved in the making nominations to fill vacancies.

The Objector next argues that Section 7-8(i) prohibits the Chairman from delegating his authority to chair the meeting of the Committee to another. The Hearing Officer concluded that his reliance on the language prohibiting such delegation applies to the Committee as a whole, as opposed to individual members.

The Objector then argued that the Certificate, Resolution and Notice are legally insufficient since the designation of the Candidate was done in contradiction of the Statute and by-laws, and the documents

were not signed by the Chairman. The Hearing Officer first noted that there was no requirement that a Certificate or Resolution be filed. Only a "Notice of Appointment" need be filed in this situation. She then noted that the statute does not mandate the information included in the Notice, nor does it require any particular signature. Therefore, there is no basis for rendering the Notice void, based on it being signed by the person designated by the Chairman.

The final objections are based on the fact that a person filed for the office in question as a write-in candidate and the nomination was not timely. The Hearing Officer noted that though a person did run as a write-in candidate, said person was not in fact nominated, since he did not receive the required number of votes. Therefore, the nomination of the person chosen to fill the vacancy in nomination was not rendered invalid by the existence of the write-in candidate. The untimeliness of the nomination argument was also rejected by the Hearing Officer since the candidate filed his required documents within the time frame provided by the relevant statute.

Based on the above reasoning, the Hearing Officer recommends that the objection be overruled, and the candidate be certified for the 2014 General Election ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS OF CANDIDATES
FOR THE OFFICE OF U.S. REPRESENTATIVE IN CONGRESS FROM THE 5TH
CONGRESSIONAL DISTRICT IN THE STATE OF ILLINOIS

VERNE PETERSON,)	
)	
Petitioner-Objector,)	No. 14 SOEB GE 505
)	
v.)	
)	
VINCE KOLBER,)	
)	
Respondent-Candidate.)	

HEARING OFFICER’S FINDINGS AND RECOMMENDATIONS

This matter coming before the Illinois State Board of Elections as the duly constituted State Officers Electoral Board and the Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Findings and Recommendations:

I. PRELIMINARY FACTS

The Candidate, Vince Kolber (the “Candidate”), filed his Nomination Papers with the State Board of Elections on June 2, 2014 seeking to have his name placed upon the ballot as the Republican Party’s nominated candidate for U.S. Representative in Congress for the 5th Congressional District in Illinois on the November 4, 2014 general election ballot.

The Objector, Verne Peterson (the “Objector”), timely filed an Objector’s Petition on June 9, 2014. The Petition attaches the following documents: a) the Certificate of Congressional Committee Organization for the 5th Congressional District filed on May 12, 2014, and identifying May 10, 2014 as the date of the meeting (the “Meeting”) and signed by Chris Cleveland and William C. Miceli who are respectively identified as the Chairman and the Secretary (the “Certificate”); b) the Resolution to Fill a Vacancy in Nomination filed on May 12, 2014 nominating, designating and appointing the Candidate and signed by Chris Cleveland as Chairman and William Miceli as Secretary (the “Resolution”); c) the Statement of Candidacy filed on June 2, 2014 by the Candidate; d) the Notice of Appointment to Fill a Vacancy in Nomination filed on June 2, 2014 identifying the Candidate and signed by Chris Cleveland as Chairman and William Miceli as Secretary (the “Notice”); and e) records from the Chicago Board of Election Commissioners listing Fredrick K. White as a person who has been determined to be a qualified write-in candidate for the U.S. Representative for the 5th District (Republican).

In the Petition, the Objector argues: a) the Candidate was not properly nominated by the Congressional Committee for the Republican Party of Representative for the office in Congress

for the 5th Congressional District (the “Committee”) since the Committee was not properly convened, did not timely submit a Certificate, Resolution and Notice and did not otherwise comply with 10 ILCS 5/7-61 and 10 ILCS 5/7-8(c) because the Committee should have been composed of Aaron Del Mar, Chairman of the Cook County Republican Party, and Darlene Ruscitti, Chairman of the Dupage County Republican Party, and chaired by Jack Dorgan, the Republican State Central Committeeman for the 5th State Central Committee; b) there was no vacancy to fill since there was a write-in candidate (Fredrick K. White) who was voted upon at the March 18, 2014 Republican Party primary election; and c) the Candidate’s nomination was untimely.

An initial hearing and case management conference on this matter was held on June 17, 2014. Andrew Finko appeared on behalf of the Objector. John Fogarty and James Nally appeared on behalf of the Candidate.

On June 19, 2014, the Candidate filed a Motion to Strike and Dismiss. The motion attaches the affidavits of the following individuals: a) Darlene Ruscitti, the Chairman of the DuPage County Republican Party; b) Aaron Del Mar, the Chairman of the Cook County Republican Party; c) Jack Dorgan, the Republican State Central Committeeman for the 5th Congressional District; and d) Chris Cleveland, the 43rd Ward Republican Committeeman and Vice-Chairman of the City of Chicago Republican Party. In his motion, the Candidate argues that: a) the Committee was properly convened in order to designate the Candidate to fill the vacancy in nomination as the Committee Meeting was duly noticed, physically held within the 5th Congressional District and the Candidate was designated by the Committee by unanimous vote on May 10, 2104 by the DuPage County Republican Chairman (Ruscitti) and the Cook County Republican Chairman (Del Mar) via a proxy vote; b) The Chairmen of the Cook and DuPage Republican Parties ratified the actions taken at the Committee Meeting; c) the Committee substantially complied with Article 7 of the Election Code; d) a vacancy in nomination for the Republican Party in the 5th Congressional District did exist because the write-in candidate (Fredrick White) did not obtain the required amount of signatures at the general primary election; e) the Candidate was timely nominated pursuant to 10 ILCS 5/7-61; f) Illinois public policy favors ballot access; and g) disqualification of the Candidate would result in a deprivation of the constitutional rights of the Candidate and the Cook County and DuPage County Republican Parties.

On June 23, 2014, the Objector filed his Response to the Motion to Strike and Dismiss. The Response attaches the following documents: a) a page from the Chicago Republican Party website; b) a 43rd Republican Party facebook page; and c) “Bylaws of the Illinois Republican Party.” In his Response, the Objector argues: a) no agenda or minutes of a meeting were attached to the affidavits; b) the Bylaws of the Illinois Republican Party do not allow proxy voting or proxy chairing of committees by anyone other than a duly appointed Deputy Member; and c) 10 ILCS 5/7-8(i) does not allow proxy committee operation

On June 25, 2014, the Candidate filed his Reply to the Response to the Motion to Strike and Dismiss and argues: a) the Objector failed to controvert the sworn statements in the Candidate’s affidavits; b) minutes of a meeting are not required under the law to demonstrate that proper notice of a meeting has been given; c) there is no limitation under 10 ILCS 5/7-61

regarding proxy voting; and d) the Bylaws of the Illinois Republican Party are not applicable to the Republican Congressional Committee for the 5th Congressional District.

On July 1, 2014, the parties presented oral argument on the Motion to Strike and Dismiss.

II. MOTION TO STRIKE AND DISMISS

A. Burden of Proof

The Candidate's Motion to Strike and Dismiss is similar to a motion for summary judgment in that it relies upon evidence, namely affidavits, in order to prove that the objections should be dismissed. Under Rule 13 of the Board's Rules of Procedure, the Board will generally follow the provisions of the Code of Civil Procedure and the Rules of the Illinois Supreme Court regulating practice in trial courts, although the Board will not be strictly bound by the Code or Rules in all particulars.

In a summary judgment motion pursuant to 735 ILCS 5/2-1005(c), the burden of proof is on the moving party to either: (1) affirmatively disprove the nonmoving party's case through uncontroverted evidence or (2) establish that the nonmoving party lacks evidence to prove an essential element of his case. *Coburn v. Mario Tricoci Hair Salons and Day Spas, Inc.*, 2012 IL App (2d) 110624, ¶ 33. Once the moving party meets his burden, the burden then shifts to the nonmoving party to present some evidence and factual basis that creates a question of fact or entitles it to judgment as a matter of law. *Id.*

B. Findings of Fact

For his Motion to Strike and Dismiss, the Candidate relies upon Affidavits. Most of the statements in the Affidavits are uncontroverted by the Objector. Moreover, the parties also agree to some of the pertinent facts. The following facts are undisputed:

1. As of May 10, 2014, the Congressional Committee for the Republican Party in the 5th Congressional District (the "Committee") which should be convened for purposes of designating a candidate to fill a vacancy in nomination for the Republican Party for the office of Representative in Congress for the 5th Congressional District (the "Vacancy in Nomination") should have been comprised of: a) the Chairman of the DuPage County Republican Party (Ruscitti); b) the Chairman of the Cook County Republican Party (Del Mar); and c) the Republican State Central Committeeman for the 5th Congressional District (Dorgan) (See Objection at ¶ 17; Motion at pp.2-3).

2. The Chairman of the DuPage County Republican Party, the Chairman of the Cook County Republican Party and the Republican State Central Committeeman for the 5th Congressional District received notice of a May 10, 2014 Committee meeting to designate a Candidate to fill the Vacancy in Nomination (the "Meeting"). (See Motion at Exhibit A, Ruscitti Affidavit at ¶ 9, Del Mar Affidavit at ¶ 7, Dorgan Affidavit at ¶6).

3. The Republican State Central Committeeman for the 5th Congressional District, who was to function as a chairman of the Committee with no right to vote except in the case of a tie, was unable to attend the Meeting and consented to Chris Cleveland, the 43rd Ward Republican Committeeman and Vice-Chairman of the City of Chicago Republican Party, serving as the managing committee chair. (See Motion at Exhibit A, Dorgan Affidavit at ¶ 9).

4. The Chairman of the DuPage County Republican Party was unable to attend the meeting and therefore executed a proxy in favor of Mr. Cleveland to cast her weighted vote for Mr. Kolber. (See Motion at Exhibit A, Ruscitti Affidavit at ¶ 10).

5. The Chairman of the Cook County Republican Party agreed that Mr. Cleveland would cast his weighted vote for Mr. Kolber. (See Motion at Exhibit A, Del Mar affidavit at ¶ 7).

6. The Meeting took place on May 10, 2014. (See Motion at Exhibit A, Cleveland Affidavit at ¶¶ 7, 10, 11; Response at Exhibit 2).¹

7. The vote in favor of Mr. Kolber at the Meeting was unanimous. (See Motion at ¶11).

8. The Resolution, Certificate and Notice were signed by Mr. Cleveland as Chairman of the Committee and William Miceli as Secretary of the Committee (See Objection).

9. Fredrick White was a write-in candidate for U.S. Representative in Congress for the 5th Congressional District in the March 18, 2014 Republican Party primary election in Illinois and received 7 votes in DuPage County and 9 votes in Cook County. (See Objection).

10. The general primary election was March 18, 2014.

11. The Candidate filed his nomination papers on June 2, 2014.

C. Conclusions of Law

1. The Candidate was Properly Designated as the Vacancy in Nomination Candidate

As set forth above, most of the pertinent facts regarding the Committee Meeting and the Resolution, Certificate and Notice are undisputed. The viability of the objection that the Committee was not properly convened and the Candidate was not properly designated depends upon the resolution of the following legal issues: 1) whether proxy voting by the DuPage County and Republican Party Chairmen is permitted; 2) whether consent by the Chairman of the Committee Meeting to another individual to chair the Meeting is permitted; and 3) whether the Resolution, Certificate and Notice comply with the Election Code. For the reasons set forth

¹ Objector's argument that the Affidavits must attach the agenda or minutes from the meeting is without legal support.

below, I recommend that the Board find in the affirmative on all three issues and further find that the Candidate was properly designated as the Vacancy in Nomination Candidate.²

a. Proxy Voting

The Republican Party is a political body and not a public, governmental body. The right of political parties to make nominations for an office is a political privilege and in the absence of the legislature regulating this political privilege, the privilege “is exercised in accordance with the will of the members of the political party concerned, as that will is expressed through the rules, customs, conventions, or caucuses of such political organizations.” *Sutton v. Cook County Officers Electoral Bd*, 797 N.E. 2d 515, 519 (1st Dist. 2012) (citing to *People ex rel. Kell v. Kramer*, 328 Ill. 512, 519, 160 N.E. 60 (1928)). As correctly noted by the Candidate in his Motion, the Illinois Supreme Court has held: “[I]t was not the intention of the Legislature to take over and regulate all inherent rights and powers existing in political parties, but that, on the other hand, the parties are left to the exercise of those privileges not expressly regulated by the law. *Kell*, 328 Ill. at 520. See also *Totten v. State Board of Elections*, 79 Ill. 2d 288, 293-4, 403 N.E. 2d 225 (1980).

Article 7 of the Election Code sets forth very few requirements regarding the process by which a committee of a political party (and specifically a congressional committee) may designate a candidate for purposes of filling a vacancy in nomination. As acknowledged by both parties, 10 ILCS 5/7-8(e) requires that the congressional committee be composed of the chairmen of the county central committees of the counties composing the congressional district (*i.e.*, the Republican Chairmen for DuPage and Cook County) and the state central committeemen of the relevant district who will be the chairman and shall not vote except in case of a tie (*i.e.*, the Republican State Central Committeeman for the 5th Congressional District). 10 ILCS 5/7-8(e). Section 7-61 sets forth some additional requirements regarding the documents that need to be filed and the time for filing in order to fill the vacancy in nomination and also addresses weighted voting. Moreover, as acknowledged by the Candidate’s counsel at oral argument, a meeting and a notice of the meeting also are required under the applicable law. *Graham v. State Officer Electoral Broad*, 269 Ill. App. 3d 609, 646 N.E. 2d 1357 (4th Dist. 1995); *Harney v. Fernandez*, 12 EB-RES-14 (City of Chicago Board of Election Commissioners, Sept. 20, 2012).

Other than the foregoing requirements, the Election Code is silent regarding the methods by which to conduct a committee meeting and the methods of voting to be employed in filling a vacancy in nomination. The Election Code does not prohibit proxy voting. This tenet has been recognized by at least one Illinois Appellate Court and the City of Chicago Board of Election Commissioners who have found that use of proxy voting in filling vacancies by committee nominations is not prohibited. See *Sutton*, 797 at 519-520 (1st Dist. 2012); *Barton v. Evans*, 12-EB-RES-09 (City of Chicago Board of Election Commissioners, July 10, 2012).

² The Candidate also argues that the Chairmen of the Cook and DuPage Republican Parties ratified the action taken at the Committee meeting. In support of this argument, The Candidate relies upon the Affidavits of the Chairmen and the State Central Committeeman. I recommend that the Board reject this argument. I was unable to find any case law that support the Candidate’s position that the requirements in the Election Code can be satisfied by ratification.

The only “authority” cited to by Objector for his position that proxy voting should not be allowed in the vacancy in nomination setting are the “Bylaws of the Illinois Republican Party” attached to his Response. However, the Objector’s reliance on the Bylaws is misplaced. First, there is no evidence that the Bylaws attached to the Response govern the Committee. The Bylaws, by their own terms, govern the Illinois Republican State Central Committee. (See Response at Exhibit 3, Article I (A)). Second, even if the referenced Bylaws do apply, they do not address voting for vacancy in nominations. Although there are some Bylaw sections that allow proxy voting (*Id.* at Article II (D)) and some Bylaw sections that prohibit proxy voting (*Id.* at Article VIII (F)), none of these sections pertain to voting for vacancy in nominations.

For the foregoing reasons, I recommend that the Board find that proxy voting by the DuPage County and Republican Party Chairmen is permitted under the Election Code and applicable law.³

b. Consent to Chair

The Objector contends that the Chairman was not permitted to consent to another individual chairing the Committee Meeting. For this argument, the Objector first relies upon 10 ILCS 5/7-8(i) and specifically the language therein that states “[t]he several committees herein provided for shall not have power to delegate any of their power or function to any other person. . .” (Response at p. 3). The Objector’s reliance on this language is misplaced because it states that the Committee itself cannot delegate its power to another person. It does not state that the chairman (or anyone else on the Committee) cannot delegate his or her power. The Objector also relies upon the Republican Party Bylaws for his proxy-chair argument. However, for the reasons stated above, the Objector’s reliance on the Bylaws is misplaced.

As with proxy voting, the Election Code does not prohibit “proxy-chairing” or a chairman from consenting to another person chairing a committee meeting. For the foregoing reasons, I recommend that the Board find that Chairman of the Committee Meeting could consent to another individual chairing the Meeting.

c. The Certificate, Resolution and Notice

Attached to the Objector’s Petition are the Certificate, Resolution and Notice. All three documents were signed by Chris Cleveland as Chairman of the Committee. The Objector contends that these documents are void because the Candidate was not properly designated for the reasons addressed above (*i.e.* the proxy voting and proxy chairing issues). The Objector also seems to contend that the documents are void because they are factually insufficient in that the Chairman of the Committee (Dorgan) did not sign the documents and there is no indication on the documents that Mr. Cleveland signed on behalf of Mr. Dorgan.

³ In her Affidavit, the Chairman for the DuPage County Republican Party (Ruscitti) states that she executed a proxy. This testimony is not controverted by the Objector. In his Affidavit, the Chairman for the Cook County Republican Party (Del Mar) does not affirmatively state that he executed a proxy. However, I believe that the uncontroverted statements in Mr. Del Mar’s affidavit are sufficient to establish that a proxy was given. Moreover, even if the Board finds that the Affidavit does not establish Mr. Del Mar’s proxy, the designation of the Candidate would still be valid since all the parties received notice of the Meeting and Ms. Ruscitti’s weighted proxy vote in favor of the Candidate is sufficient on its own for purposes of nominating the Candidate.

There is no requirement that a Certificate or Resolution be filed in connection with the vacancy in nomination that occurs when the name of no established political party candidate was printed on the consolidated primary ballot and no person was nominated as a write-in candidate for such office (which is the situation in this case). 10 ILCS 5/7-61. Therefore, to the extent said Certificate or Resolution is incorrect or deficient, the Candidate's nomination papers are not affected.

The Election Code does require that the Candidate file a notice of appointment by the appropriate committee with his nomination papers. *Id.* However, the Code does not articulate the information that is required in the notice or the persons who are required to sign the notice. The Objector is correct that the Notice would be more accurate if it indicated that Mr. Cleveland signed the Notice as Chairman pursuant to the consent of Mr. Dorgan. However, there is nothing in the Code that suggests that Mr. Cleveland signing the Notice as Chairman (via the consent of Mr. Dorgan) is a basis for finding that the Notice is void.

For the foregoing reasons, I recommend that the Board find that: a) the Certificate and Resolution are not required by the Election Code and do not otherwise affect the Candidate's nomination papers; and b) the Notice complies with the Election Code.

2. There Was a Vacancy

The Objector argues that there was no vacancy under Section 7-61 for the office of U.S. Representative in Congress for the 5th Congressional District because Fredrick White nominated himself as a write-in candidate and received 16 votes at the March 18, 2014 Republican Party primary election.

Section 5/7-61 provides: "If the name of no established political party candidate was printed on the consolidated primary ballot for a particular office and if no person was *nominated* as a write-in candidate for such office, a vacancy in nomination shall be created" 10 ILCS 5/7-61 (emphasis added). For a write-in candidate to be *nominated* for an office, he must obtain at least as many votes as the number of signatures that would be required on a petition to that office. 10 ILCS 5/7-59(c)(1). In addition, 10 ILCS 5/7-58 states that the county clerk or board of election commissioners shall make a proclamation that states the name of each candidate of each political party so nominated at the primary election. 10 ILCS 5/7-58.

In the instant case, a write-in candidate for the Republican nomination for the 5th Congressional District would be required to obtain 455 signatures which is 0.5% of the qualified primary electors of the Republican Party in the 5th Congressional District. *2014 Candidate's Guide, State Board of Elections*, amended 11/26/2013. It is undisputed that Mr. White only received 16 votes. Accordingly, he was not nominated. In addition, the Chicago Board of Election Commissioners Proclamation of the Results for the March 18, 2014 General Primary Elections reflects that no Republican Party candidate was nominated for the office of U.S. Representative in Congress for the 5th Congressional District.

For the foregoing reasons, I recommend that the Board find there was a Republican Party vacancy for the office of U.S. Representative in Congress for the 5th Congressional District.

3. The Vacancy Nomination Was Timely

The Objector argues that the vacancy nomination was not timely pursuant to 10 ILCS 5/7-61. Section 7-61 provides that a candidate seeking to fill a vacancy nomination where no nomination occurred at the primary election must file his nomination papers “within 75 days after the day of the general primary.” 10 ILCS 5/7-61. The primary election was March 18, 2014. It is undisputed that the Candidate filed his nomination papers on June 2, 2014. Therefore, I recommend that the Board find that the vacancy nomination for the Candidate was timely.

III. CONCLUSION AND RECOMMENDATIONS

For the foregoing reasons, I recommend that the Board: a) grant the Candidate’s Motion to Strike and Dismiss; b) overrule the Objector’s Petition; and c) order that the name Vince Kolber be certified for the ballot as a candidate of the Republican Party for the Office of Representative in the General Assembly for the 5th Congressional District of the State of Illinois to be voted for at the General Election on November 4, 2014.

Dated: July 9, 2014



Kelly McCloskey Cherf
Hearing Officer

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR
CANDIDATES FOR THE OFFICE OF U.S. REPRESENTATIVE IN CONGRESS
FROM THE 5th CONGRESSIONAL DISTRICT IN THE STATE OF ILLINOIS

2014 JUN -9 PM 4:28
 STATE BOARD OF ELECTIONS
 CHICAGO

VERNE PETERSON,)		
)		
Objector,)		
v.)	No.	505
)		
VINCE KOLBER,)		
)		
Candidate.)		

OBJECTORS' PETITION

Now come the Objector, Verne Peterson, and files his Objectors' Petition pursuant to 10 ILCS 5/7-7, 10 ILCS 5/7-8(e), 10 ILCS 5/7-61 and 10 ILCS 5/10-8, challenging the legal and factual sufficiency of the nomination papers of Vince Kolber, as candidate for U.S. Representative in Congress from the 5th Congressional District in Illinois, and requests that the name of Vince Kolber not be printed upon the ballot for the general election to be held on November 4, 2014, for the following reasons.

Parties

1. Objector, Verne Peterson, is a resident and duly qualified and registered voter at 2942 W. Wilson Ave., Chicago, IL 60626, and his interest in filing this Objectors' Petition is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for a candidate for election to the office of U.S. Representative in Congress from the 5th Congressional District in Illinois are properly complied with and that only qualified candidates have their names printed upon the ballot as candidates for said office.
2. Candidate, Vince Kolber, submitted nomination papers on June 2, 2014 seeking to have his name placed upon the ballot as the Republican Party's nominated candidate for U.S. Representative in Congress from the 5th Congressional District in Illinois on the November 4, 2014 general election ballot.
3. The Objector, Verne Peterson, asserts that Candidate, Vince Kolber, was not properly and timely nominated by the appropriate Republican Party congressional committee, and such nomination is void, without authority, and factually and legally insufficient, because it is not in conformance with the Illinois Election Code, as stated further below.

Relevant Provisions of the Election Code

4. Section 7-8(e) of the Election Code, 10 ILCS 5/7-8(e), defines the Congressional Committee that would be vested with authority to nominate a candidate to fill a vacancy on the ballot for election of a candidate to the office of Representative to the U.S. Congress, which provides as follows (*emphasis added*):

Congressional Committee

(e) The congressional committee of each party in each congressional district shall be composed of the chairmen of the county central committees of the counties composing the congressional district, except that in congressional districts wholly within the territorial limits of one county, the precinct committeemen, township committeemen and ward committeemen, if any, of the party representing the precincts within the limits of the congressional district, shall compose the congressional committee. A State central committeeman in each district shall be a member and the chairman or, when a district has 2 State central committeemen, a co-chairman of the congressional committee, but shall not have the right to vote except in case of a tie.

In the organization and proceedings of congressional committees composed of precinct committeemen or township committeemen or ward committeemen, or any combination thereof, each precinct committeeman shall have one vote for each ballot voted in his precinct by the primary electors of his party at the primary at which he was elected. each township committeeman shall have one vote for each ballot voted in his township or part of a township as the case may be by the primary electors of his party at the primary election immediately preceding the meeting of the congressional committee, and each ward committeeman shall have one vote for each ballot voted in each precinct of his ward located in such congressional district by the primary electors of his party at the primary election immediately preceding the meeting of the congressional committee; and in the organization and proceedings of congressional committees composed of the chairmen of the county central committees of the counties within such district, each chairman of such county central committee shall have one vote for each ballot voted in his county by the primary electors of his party at the primary election immediately preceding the meeting of the congressional committee.

5. Section 7-61 of the Election Code, 10 ILCS 5/7-61, provides is relevant to determine when a vacancy occurs, and the procedure to nominate a candidate for such vacancy, excerpted in part as follows:

Sec. 7-61. [* * *]

Any vacancy in nomination under the provisions of this Article 7 occurring on or after the primary and prior to certification of candidates by the certifying board or officer, must be filled prior to the date of certification. Any vacancy in nomination occurring after certification but prior to 15 days before the general election shall be filled within 8 days after the event creating the vacancy. The resolution filling the vacancy shall be sent by U. S. mail or personal delivery to the certifying officer or board within 3 days of the action by which the vacancy was filled; provided, if such resolution is sent by mail and the U. S. postmark on the envelope containing such resolution is dated prior to the expiration of such 3 day limit, the resolution shall be deemed filed within such 3 day limit. Failure to so transmit the resolution within the time specified in this Section shall authorize the certifying officer or board to certify the original candidate. Vacancies shall be filled by the officers of a local municipal or township political party as specified in subsection (h) of Section 7-8, other than a statewide political party, that is established only within a municipality or township and the managing committee (or legislative committee in case of a candidate for State Senator or representative committee in the case of a candidate for State Representative in the General Assembly or State central committee in the case of a candidate for statewide office, including but not limited to the office of United States Senator) of the respective political party for the territorial area in which such vacancy occurs.

The resolution to fill a vacancy in nomination shall be duly acknowledged before an officer qualified to take acknowledgements of deeds and shall include, upon its face, the following information:

- (a) the name of the original nominee and the office vacated;
- (b) the date on which the vacancy occurred;
- (c) the name and address of the nominee selected to fill the vacancy and the date of selection.

The resolution to fill a vacancy in nomination shall be accompanied by a Statement of Candidacy, as prescribed in Section 7-10, completed by the selected nominee and a receipt indicating that such nominee has filed a statement of economic interests as required by the Illinois Governmental Ethics Act.

The provisions of Section 10-8 through 10-10.1 relating to objections to certificates of nomination and nomination papers, hearings on objections, and judicial review, shall apply to and govern objections to resolutions for filling a vacancy in nomination.

Any vacancy in nomination occurring 15 days or less before the consolidated election or the general election shall not be filled. In this event, the certification of the original candidate shall stand and his name shall appear on the official ballot to be voted at the general election.

[* * *]

If the name of no established political party candidate was printed on the consolidated primary ballot for a particular office and if no person was nominated as a write-in candidate for such office, a vacancy in nomination shall be created which may be filled in accordance with the requirements of this Section. If the name of no established political party candidate was printed on the general primary ballot for a particular office and if no person was nominated as a write-in candidate for such office, a vacancy in nomination shall be filled only by a person designated by the appropriate committee of the political party and only if that designated person files nominating petitions with the number of signatures required for an established party candidate for that office within 75 days after the day of the general primary. The circulation period for those petitions begins on the day the appropriate committee designates that person. The person shall file his or her nominating petitions, statements of candidacy, notice of appointment by the appropriate committee, and receipt of filing his or her statement of economic interests together. These documents shall be filed at the same location as provided in Section 7-12. The electoral boards having jurisdiction under Section 10-9 to hear and pass upon objections to nominating petitions also shall hear and pass upon objections to nomination petitions filed by candidates under this paragraph.

[* * *]

In the proceedings to nominate a candidate to fill a vacancy or to fill a vacancy in the nomination, each precinct, township, ward, county or congressional district, as the case may be, shall through its representative on such central or managing committee, be entitled to one vote for each ballot voted in such precinct, township, ward, county or congressional district, as the case may be, by the primary electors of its party at the primary election immediately preceding the meeting at which such vacancy is to be filled.

For purposes of this Section, the words "certify" and "certification" shall refer to the act of officially declaring the names of candidates entitled to be printed upon the official ballot at an election and directing election authorities to place the names of such candidates upon the official ballot. "Certifying officers or board" shall refer to the local election official, election authority or the State Board of Elections, as the case may be, with whom nomination papers, including certificates of nomination and resolutions to fill vacancies in nomination, are filed and whose duty it is to "certify" candidates.

(Source: P.A. 96-809, eff. 1-1-10; 96-848, eff. 1-1-10.)

6. Section 10-8 through Section 10-10.1 relating to objections to certificates of nomination and nomination papers, hearings on objections, and judicial review shall apply to and govern objections to resolutions for filling a vacancy in nomination, as provided by 10 ILCS 5/7-61.

Relevant Facts

7. Candidate filed nomination papers, including a Statement of Candidacy and 209 signature petitions, with the State Board of Elections on June 2, 2014, and included a "Notice of Appointment to Fill A Vacancy In Nomination" dated May 10, 2014 ("Notice"), and filed with the State Board of Elections on June 2, 2014.

8. In addition, the Republican Party of Cook County also filed a purported "Certificate of Congressional Committee Organization" with the State Board of Elections on May 12, 2014, reflecting a meeting

of that purported Committee on May 10, 2014 ("Certificate"), as well as a "Resolution to Fill A Vacancy in Nomination" dated May 10, 2014, and filed with the State Board of Elections on May 12, 2014 ("Resolution").

9. The Certificate, Resolution and Notice (copies of which are attached hereto) are each signed by Chris Cleveland residing at 221 W. Wisconsin, Chicago, IL 60614 and William C. Miceli residing at 5157 N. Lowell, Chicago, IL 60630, who are both residents of Cook County, Illinois. The Certificate, Resolution and Notice state that a vacancy occurred on March 18, 2014, when the Republican Party failed to nominate a candidate for the office of Representative in Congress for the 5th Congressional District.

10. The Certificate, Resolution and Notice do not identify any member of the Republican Party as being from DuPage County, Illinois as being in attendance at the purported May 10, 2014 Committee meeting, or having their votes cast and counted in accordance with Section 7-8(e).

11. As of the most recent redistricting, and as the boundaries are defined for the November 4, 2014 general election, the 5th Congressional District currently includes areas of both Cook County and DuPage County, and such boundaries are a matter of public record.

12. Candidate circulated his petitions in DuPage County, and obtained the signatures of voters residing in Elmhurst, Itasca, Oak Brook, Hinsdale, Villa Park and other towns located in DuPage County, and knew or should have known that the 5th Congressional District included DuPage County.

13. The Chairman of the DuPage County Republican Party is Darlene Ruscitti, as identified by the DuPage Republican Party at its website, <http://www.dupagegop.com/contact-us-mainmenu.html>.

14. The Chairman of the Cook County Republican Party is Aaron Del Mar, as identified by the Cook County Republican Party at its website, <http://www.cookrepublicanparty.com/leadership>.

15. On May 10, 2014, the State central committeeman for the Republican Party in the 5th US Congressional District was Jack Dorgan. See http://www.cookrepublicanparty.com/state_central_committeemen.

Factually and Legally Insufficient Nomination

16. The Candidate was not nominated by the appropriate committee to fill a vacancy, since the proper congressional committee was not timely constituted, did not timely meet, did not timely vote, did not timely submit a Certificate of Organization, Resolution and Notice, and did not otherwise comply with the requirements of the Election Code, 10 ILCS 5/7-61 and 10 ILCS 5/7-8(e).

17. The 5th Congressional Committee should have been composed the chairmen of the county central committees of the counties composing the congressional district. Based upon information publicly disseminated by the Republican Party, the county central committee representatives should have been Aaron Del Mar from Cook County and Darlene Ruscitti from DuPage County, and the congressional committee would have been chaired by Jack Dorgan as the 5th State Central Committeeman on May 10, 2014, who would not have voted except for a tie.

18. The appropriate congressional committee was not constituted, and did not meet and vote and take action in accordance with the requirements of the Election Code. As such, the Certificate, Resolution and Notice are void because they are factually and legally insufficient, and do not properly fill a purported vacancy by the appropriate committee, in violation of Section 7-8(e) and Section 7-61 of the Election Code.

No Vacancy

19. Even if properly constituted, a Republican Party congressional committee would not have been authorized to nominate candidate under the provisions of Section 7-61, 10 ILCS 5/7-61, since a nomination may only be made "[i]f the name of no established political party candidate was printed on the general primary ballot

for a particular office and if no person was nominated as a write-in candidate for such office.”

20. There was no vacancy under Section 7-61 for the office of US Congress for the 5th Congressional District, since as a matter of public record, Frederick White, nominated himself as a write-in candidate, filed his declarations to be a write-in candidate in DuPage County and with the Chicago Board of Election Commissioners (see copy attached), and was voted upon at the March 18, 2014 Republican Party primary elections in DuPage County and Cook County (Chicago). Frederick White received seven votes in Dupage County, and nine votes in Cook County (Chicago), which is a matter of public record. In addition, on information and belief, Frederick White nominate himself as a Republican write-in candidate for the November 4, 2014 general election.

21. There was no vacancy, since there was a write-in candidate who was voted upon at the March 18, 2014, Republican Party primary election. The Candidate's purported nomination is therefore void and without authority, since does not comply with the provisions of Section 7-61, which allows a vacancy to be filled only if two conditions exist: (a) the name of no Republican candidate was printed upon the ballot, and (b) no person was nominated as a write-in candidate for such office.

Untimely Nomination

22. The Certificate, Resolution and Notice all uniformly state that the purported vacancy occurred on March 18, 2014, when a ballot was printed with no Republican candidate for the 5th Congressional District.

23. Under the provisions of Section 7-61, the Republican Party congressional committee for the 5th Congressional District would have had fill a vacancy occurring “on or after the primary and prior to certification of candidates by the certifying board or officer, must be filled prior to the date of certification.” Candidate's Certificate, Resolution and Notice do identify a meeting that occurred prior to certification of the March 18, 2014 primary election, but rather, show a meeting date almost 60 days later.

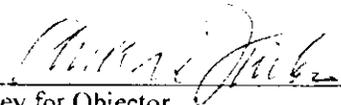
24. In the alternative, if the vacancy was deemed to have occurred on the date of certification of the March 18, 2014 primary election, then such vacancy “shall be filled within 8 days after the event creating the vacancy.” Candidate's Certificate, Resolution and Notice do identify a meeting that occurred within 8 days of certification of the March 18, 2014 primary election, but rather, show a meeting date on May 10, 2014.

Conclusion

WHEREFORE, Objector respectfully request (a) a hearing on the objections set forth herein, (b) an examination by the duly constituted Electoral Board of the of the nomination papers and other records filed with the State Board of Elections (c) a determination that the nomination papers submitted by Candidate as the Republican Party's Candidate for U.S. Representative in Congress from the 5th Congressional District in Illinois do not comply with the requirements of the Election Code, Sections 7-7, 7-8(e), 7-61, and are insufficient in fact and law, and be stricken in their entirety, and (d) a decision declaring that the name of Candidate, Vince Kalber, **NOT BE PRINTED** on the general election ballot for the election to held on November 4, 2014.

Respectfully submitted:

By:


Attorney for Objector

Andrew Finko PC
PO Box 2249
Chicago, IL 60690-2249
Tel (773) 480-0616
Fax (773) 453-3266

CERTIFICATE OF CONGRESSIONAL COMMITTEE ORGANIZATION

5TH CONGRESSIONAL DISTRICT

STATE OF ILLINOIS
COUNTY OF COOK

This is to certify that, in accordance with 10 ILCS 5/7-7 and 10 ILCS 5/7-61, the Congressional Committee of the Republican Party for the 5th Congressional District met on May 10, 2014,
(insert Month, Day, Year)
in the City of Chicago, County of Cook, and organized by electing the following officers in conformity with the Election Laws of this State.

Chris Cleveland
Name of Chairman

William C. Miceli
Name of Secretary

221 W. Wisconsin
(Address)

5157 N. Lowell
(Address)

Chicago, IL 60614
(City, State, Zip)

Chicago, IL 60630
(City, State, Zip)

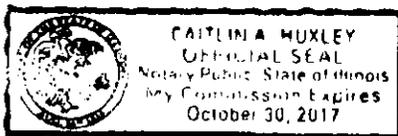
[Signature]
(Signature of Chairman)

[Signature]
(Signature of Secretary)

Signed and sworn to (or affirmed) by Chris Cleveland & William Miceli before me,
(Names of Chairman AND Secretary)
on May 10, 2014
(month, day, year)

(SEAL)

[Signature]
(Notary Public's Signature)



STATE BOARD OF ELECTIONS

2014 MAY 12 PM 3:10

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RESOLUTION TO FILL A VACANCY IN NOMINATION
(Failure to nominate candidate at primary election)

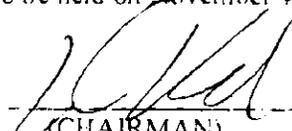
WHEREAS, a vacancy in the nomination of the Republican Party for the Office of Representative in Congress in and for the 5th Congressional District of Illinois exists due to the failure to nominate a candidate for the Office of Representative in Congress in and for the 5th Congressional District of Illinois at the General Primary Election conducted on March 18, 2014;

WHEREAS, the Congressional Committee of the Republican Party in and for the 5th Congressional District of Illinois has voted to nominate a candidate of the Republican Party to fill said vacancy as required by 10 ILCS 5/7-61 therefore:

BE IT RESOLVED, that the Congressional Committee of the Republican Party in and for the 5th Congressional District of Illinois hereby nominates, designates and appoints:

Vince Kolber

who resides at 2245 N. Magnolia, Chicago, Illinois, 60614, as its nominee and candidate for the Office of Representative in Congress in and for the 5th Congressional District of Illinois to be voted upon at the General Election to be held on November 4, 2014.



(CHAIRMAN)
Congressional Committee of the Republican
Party in and for the 5th Congressional District

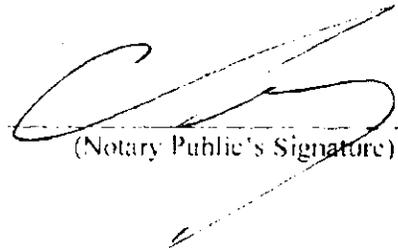


(SECRETARY)
Congressional Committee of the Republican
Party in and for the 5th Congressional District

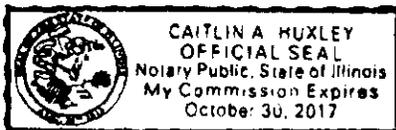
Date of designation meeting and appointment: May 10, 2014

Signed and sworn to (or affirmed) by Chris Cleveland + William Miceli before me.
(Names of Chairman AND Secretary)
on May 10, 2014
(month, day, year)

(SEAL.)



(Notary Public's Signature)



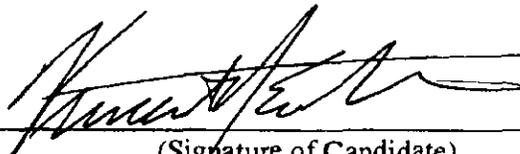
STATE BOARD OF ELECTIONS
2014 MAY 12 PM 3:10

**STATEMENT OF CANDIDACY
To Fill Vacancy in Nomination**

NAME	ADDRESS-ZIP CODE	OFFICE	DISTRICT	PARTY
Vince Kolber	2245 N. Magnolia Chicago, IL 60614	Representative in Congress	5 th Congressional District	Republican

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

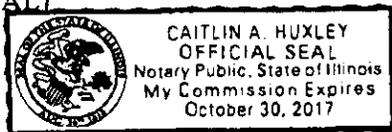
I, **Vince Kolber**, being first duly sworn (or affirmed), say that I reside at **2245 N. Magnolia**, in the City of **Chicago**, Zip Code **60614**, in the County of **Cook**, State of Illinois; that I am a qualified voter therein and am a qualified Primary voter of the **Republican** Party; that I have been designated to fill a vacancy in nomination for the office of **Representative in Congress** in and for the **5th** Congressional District of the State of Illinois, to be voted upon at the General Election to be held on **November 4, 2014**; that I am a candidate for election to that office; that I am legally qualified (including being the holder of any license that may be an eligibility requirement for the office to which I seek to be elected) to hold such office; and that I have filed (or I will file before the close of the petition filing period) a Statement of Economic Interests as or if required by the Illinois Governmental Ethics Act and I hereby request that my name be printed upon the official ballot for election to such office.

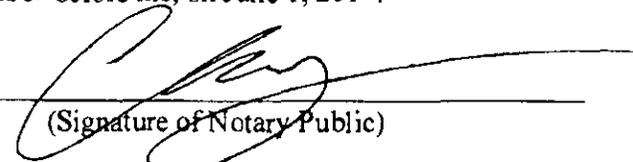


(Signature of Candidate)

Signed and Sworn to (or affirmed) by **Vince Kolber** before me, on June 1, 2014.

(SEAL)





(Signature of Notary Public)

14 JUN -2 PM 1:28
PRINCIPAL OFFICE
STATE BOARD OF ELECTIONS

NOTICE OF APPOINTMENT TO FILL A VACANCY IN NOMINATION
(Failure to nominate candidate at primary election)

WHEREAS, a vacancy in the nomination of the Republican Party for the Office of Representative in Congress in and for the 5th Congressional District of Illinois exists due to the failure to nominate a candidate for the Office of Representative in Congress in and for the 5th Congressional District of Illinois at the General Primary Election conducted on March 18, 2014;

WHEREAS, on May 10, 2014, the duly constituted Congressional Committee of the Republican Party in and for the 5th Congressional District of Illinois designated and appointed the person named herein below as the candidate of the Republican Party to fill said vacancy as required by 10 ILCS 5/7-61;

THEREFORE, TAKE NOTICE THAT:

Vince Kolber

who resides at 2245 N. Magnolia, Chicago, Illinois, 60614, was designated and appointed to be the Republican Party candidate for the Office of Representative in Congress in and for the 5th Congressional District of Illinois to be voted upon at the General Election to be held on November 4, 2014.


(CHAIRMAN)

Congressional Committee of the Republican Party in and for the 5th Congressional District

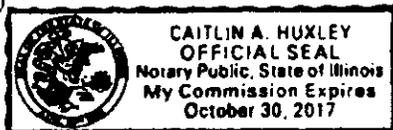

(SECRETARY)

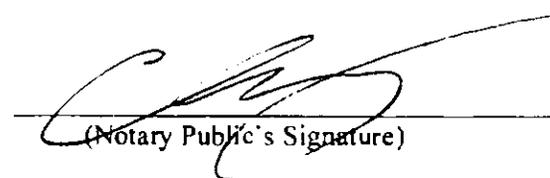
Congressional Committee of the Republican Party in and for the 5th Congressional District

Date of designation and appointment meeting: May 10, 2014

Signed and sworn to (or affirmed) by Chris Cleveland + William Miceli before me,
(Names of Chairman AND Secretary)
on May 10, 2014
(month, day, year)

(SEAL)




(Notary Public's Signature)

This Notice must be accompanied by nominating petitions containing the requisite number of signatures, a Statement of Candidacy and a receipt for filing a Statement of Economic Interests as required by the Illinois Governmental Ethics Act.

14 JUN -2 PM 1:28
PRINCIPAL OFFICE
STATE BOARD OF ELECTIONS

Commissioners
Langdon D. Neal, *Chairman*
Richard A. Cowen, *Secretary/Commissioner*
Mansel A. Hernandez, *Commissioner*
Lance Gough, *Executive Director*



Board of Election Commissioners

**CITY OF CHICAGO, ILLINOIS
GENERAL ELECTION
TUESDAY, MARCH 18, 2014**

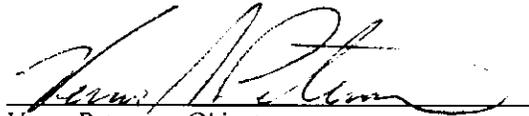
Listed below are those persons who have been determined to be a qualified Write-In Candidate.

United States Senator (Republican)	Sherry Procarrone
United States Representative, 5th District (Republican)	Fredrick K. White
State Representative, 3rd District (Democrat)	Enid Martinez-Gonzalez
State Representative, 40th District (Democrat)	Melanie "Mel" Ferrand
Judge of the Circuit Court - Vacaney of Burke (Republican)	John Michael Dugan
Judge of the Circuit Court – Vacancy of Lowrance (Republican)	Janet Elizabeth Dugan

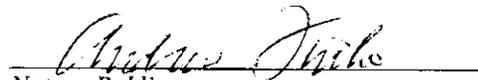
County of COOK)
) ss
State of ILLINOIS)

VERIFICATION

The undersigned, Verne Peterson, having been first duly sworn, certifies and affirms that he is a registered voter in the 5th Congressional U.S. Representative District in the State of Illinois at 2942 W. Wilson Ave., Chicago, Illinois 60626, and that he is filing an objection to the nomination papers of Vince Kolber because he is desirous of seeing the election laws of the State of Illinois enforced, so that only duly qualified candidates appear on the ballot for the November 4, 2014 general election ballot, and that the allegations in the foregoing Objector's petition are true and correct to the best of his knowledge, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


Verne Peterson, Objector

Subscribed and sworn to (or affirmed) by
VERNE PETERSON before me on June 9, 2014.


Notary Public (seal)



**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS OF
CANDIDATES FOR ELECTION TO THE OFFICE OF REPRESENTATIVE IN
CONGRESS FOR THE 5TH CONGRESSIONAL DISTRICT OF THE STATE OF
ILLINOIS**

Verne Peterson,)	
)	
Petitioner-Objector,)	
)	14 SOEBGE 505
v.)	
)	
Vince Kolber,)	
)	
Respondent-Candidate.)	

MOTION TO STRIKE AND DISMISS

Now comes the Candidate, Vince Kolber (hereinafter the “Candidate”), and moves to strike and dismiss Objector’s Petition and states as follows:

INTRODUCTION

A vacancy in nomination was created when no Republican candidate was nominated at the March 18, 2014 General Primary Election for the office of Representative in Congress for the 5th Congressional District (“the Vacancy” or “the Vacancy in Nomination”). On May 10, 2014, Vince Kolber, the Candidate herein, was designated by the Congressional Committee for the Republican Party in the 5th Congressional District (“the Committee”) to fill that Vacancy pursuant to § 7-61 Of the Election Code. 10 ILCS 5/7-61. Having been so designated, the Candidate proceeded to collect nearly 2,000 petition signatures from residents of the 5th Congressional District in support of his candidacy. On June 2, 2014, the Candidate filed his nomination papers (consisting of a Notice of Appointment, Statement of Candidacy and Nominating Petitions) seeking to fill the Vacancy in Nomination.

Verne Peterson (the “Objector” herein) has filed an Objector’s Petition in which he makes three meritless claims in the hopes of barring the Candidate from the General Election ballot. None of the grounds raised by the Objector are legally sufficient, nor could they possibly justify such a sanction. The Objector alleges: (1) that the Candidate was not properly designated by the Committee; (2) that there actually was no vacancy to fill because a write-in candidate was nominated at the General Primary Election; and (3) that the Candidate’s nomination was somehow untimely. For a number of reasons that follow, the Objector’s Petition must be stricken and dismissed.

I. The Objector’s Claim That The Congressional Committee Was Not Properly Convened Is Without Merit.

The Objector’s main claim is that the Committee was not properly convened in order to designate the Candidate to fill the Vacancy in Nomination. The Objector seems to base this claim solely on the fact that the Notice of Appointment, by which the Committee designated the Candidate, was signed by Chris Cleveland and William Miceli, two Republican Ward Committeemen in the 5th Congressional District. The Objector apparently believes that this document needed to be signed by the Republican County Chairmen in the 5th Congressional District and the State Central Committeeman for the 5th Congressional District to have effect. The Objector is incorrect.

The meeting of the Committee to designate the Candidate was duly noticed, was physically held within the 5th Congressional District, and the Candidate was designated by the Committee by unanimous vote on May 10, 2014. See the affidavits of Darlene Ruscitti (the DuPage County Republican Chairman), Aaron Del Mar (the Cook County Republican Chairman), Jack Dorgan (the Republican State Central Committeeman for the 5th Congressional

District) and Chris Cleveland (the 43rd Ward Republican Chairman and Vice Chairman of the Chicago Republican Party) attached hereto and made part hereof as Exhibit A.

The 5th Congressional District encompasses portions of both DuPage and Cook Counties. Therefore, the Committee is composed of the County Chairmen of those two counties. 10 ILCS 5/7-8(e). The State Central Committeeman is also a member of the Committee, and is to function as the chairman of the Committee, but has no right to vote except in case of a tie. *Id.*

As the attached affidavits demonstrate, each of the members of the Committee – DuPage County Chairman Darlene Ruscitti, Cook County Chairman Aaron Del Mar and State Central Committeeman Jack Dorgan -- participated in planning the meeting at which the Candidate was designated. All were aware of the meeting, all supported the Candidate, and the voting members of the Committee cast their vote for the Candidate. As such, there can be no question that the Committee duly designated the Candidate to be the Republican Party nominee in the 5th Congressional District.

A. All of the Committee Members Had Notice of the Committee Meeting

The Election Code requires that members of a managing committee in a particular district receive notice of proceedings at which a candidate is selected to fill a vacancy in nomination. *Carlasare v. Will County Officers Electoral Board*, 977 N.E.2d 298 (3rd Dist. 2012); *Graham v. State Officers Electoral Board*, 269 Ill.App.3d 609, 646 N.E.2d 1357 (4th Dist. 1994). The requirement that each member of a managing committee receive notice of any slating meeting is the predominant, fundamental requirement in designating a candidate to fill a vacancy in nomination. Once a committee member receives notice, he or she is empowered to participate or to not participate; to support a candidate or to not support a candidate.

The *Graham* case is particularly instructive. There, the issue was whether all members of a representative district committee had been provided notice of the meeting of that committee where a candidate was to be chosen to fill a vacancy in nomination. 269 Ill.App.3d at 610. The *Graham* Court found that notice of a meeting is the most basic prerequisite to ensure the right to vote. *Id.* at 612. The *Graham* Court also noted that “[w]hile a voter or group of voters may decide not to vote or, ultimately, may not possess sufficient numbers to control the outcome, the ability to exercise the right to vote cannot be denied by foreclosing participation in the process through withholding of notice.” *Id.* at 613.

Here, the affidavits of Chairman Ruscitti and Chairman Del Mar make clear that each had notice of the meeting – the most fundamental requirement. See Ruscitti Aff. ¶ 9; Del Mar Aff. ¶¶ 7, 8. Indeed, each participated in the planning of the meeting, and were further notified of the meeting by State Central Committeeman Dorgan and by Committeeman Cleveland. See Ruscitti Aff. ¶ 9; Del Mar Aff. ¶¶ 7, 8. Thus, both Chairman Ruscitti and Chairman Del Mar were free to decide whether or not to participate in the proceedings, and in the manner in which they chose. Even assuming *arguendo* that one of them had chosen not to participate in the meeting, so long as the other did participate, the requisite of § 7-61 is satisfied.

B. The Committee Members Voted To Designate The Candidate

Each of the voting members of the Committee supported the Candidate, and, via proxy, cast their weighted vote for the Candidate. The Election Code allows a political committee wide latitude in the manner in which it conducts its business, which includes the ability of a committee to utilize proxy votes to execute its business. As the Illinois Supreme Court noted in *Kell v. Kramer*, “it was not the intention of the Legislature to take over and regulate all inherent rights and powers existing in political parties, but that, on the other hand, the parties are left to the

exercise of those privileges not expressly regulated by the law.” 328 Ill. 512, 520 (1928). Similarly, the court in *Totten v. State Board of Elections*, 79 Ill.2d 288, 403 N.E.2d 225 (1980) reiterated the rule that a political party possesses inherent rights and wide latitude to conduct its internal management so long as there is no violation of statutory limitations or rights of voters.

Article 7 of the Election Code does not mandate the manner in which a meeting of the managing committee of a political party in a particular district must take place. For instance, members of a managing committee of a political party are permitted to act by proxy. *Barton v. Evans*, 12-EB-RES-08 (City of Chicago Board of Election Commissioners, July 10, 2012). Article 7 (and certainly §7-61) is silent on this point, and as such, the City of Chicago Board has determined that the use of proxy voting is not inconsistent with the powers that political committees possess under Article 7. Similarly, there is no specific provision establishing what constitutes a quorum for the purpose of a managing committee’s proceedings. *Harney v. Fernandez*, 12 EB-RES-14 (City of Chicago Board of Election Commissioners, Sept. 20, 2012).

A managing committee is even accorded wide latitude in how that managing committee is composed, and who participates in its deliberative process. For instance, in *Carlasare*, one of the issues was whether certain county board district committees were properly constituted, where those committees were comprised of party volunteers from each county board district. *Carlasare* at ¶ 21. The *Carlasare* Court found that the statutory section that governs the composition of a county board district committee does not set forth a specific procedure for making a designation under § 7-61, and that the composition chosen by the party satisfied § 7-61.

The *Carlasare* decision relied on and amplified the basic rule of law set forth in *Allen v. Electoral Board of St. Clair County*, 147 Ill.App.3d 782 (5th Dist. 1986). That is, that Section 7-8(i) of the Election Code imbues a managing committee and its officers with the power to

conduct its business in the manner it sees fit and expedient, so long as it is not done so in a manner that conflicts with a requirement of Article 7. In the *Allen* case, a central committee of a political party delegated the task of filling a vacancy in nomination to its executive committee.

These principles and precedents compel the conclusion that the Committee in this case properly convened and voted to designate the Candidate to fill the Vacancy. The members of the Committee planned the meeting to occur on May 10, 2014, in the office of the 43rd Ward Republican Organization. Ruscitti Aff. ¶ 9; Del Mar Aff. ¶¶ 7,8; Dorgan Aff. ¶¶ 6, 7. The meeting did take place on that date. Ruscitti Aff. ¶ 11; Del Mar Aff. ¶ 9; Dorgan Aff. ¶ 9, Cleveland Aff. ¶ 10. Each of the voting members of the Committee participated in the nomination planning process, each supported the Candidate, and each provided Committeeman Cleveland with the legal authority to act for them at the Committee meeting. Ruscitti Aff. ¶¶ 7-10; Del Mar Aff. ¶¶ 6-9; Dorgan Aff. ¶¶ 4-9, Cleveland Aff. ¶¶ 7-10. Committeeman Cleveland did, in fact, validly act for Chairman Ruscitti and Chairman Del Mar at this meeting. Cleveland Aff. ¶¶ 10-11.

Accordingly, the Candidate was duly and properly designated by the Committee.

C. The Chairmen of the Cook and DuPage Republican Parties Ratified The Actions Taken At The Committee Meeting.

By first assisting in the planning of the meeting, then participating by proxy vote, the Cook and DuPage Chairmen ratified the actions taken at the Committee meeting, making those actions the authorized acts of the Chairmen. Ratification is the equivalent of authorization, but it occurs after the fact, when a principal gains knowledge of an unauthorized transaction but then retains the benefits or otherwise takes a position inconsistent with nonaffirmation. *Hofner v. Glenn Ingram & Co.* 140 Ill. App.3d 874, 95 Ill. Dec. 90, 489 N.E.2d 311 (1st Dist. 1985). The ratification process has been applied to Illinois political committees. *Progress Printing Corp. v.*

Jane Byrne Political Comm., 235 Ill. App. 3d 292, 176 Ill. Dec. 357, 601 N.E.2d 1055, 1067 (1st Dist 1992). In the case at bar, Chairman Ruscitti, Chairman Del Mar and State Central Committeeman Dorgan each participated in planning the meeting at which the Candidate was designated. As is evident in the affidavits of each, the Chairmen expressly ratify the actions taken at the Committee meeting.

D. At A Minimum, The Committee Substantially Complied With Article 7 In Designating The Candidate.

It is well-settled that even mandatory requirements of the Election Code may be satisfied by substantial compliance. *Siegel v. Lake County Officers Electoral Board*, 385 Ill.App.3d 452, 895 N.E.2d 69 (2nd Dist. 2008). Literal compliance is not required with respect to the technical requirements of election laws, as opposed to those requirements intended to guarantee a fair and honest election. *Madden v. Schumann*, 105 Ill.App.3d 900, 435 N.E.2d 173 (1st 1982). A minor error in a candidate's nominating papers should not result in a candidate's removal from the ballot. *Sullivan v. County Officers Electoral Board*, 225 Ill.App.3d 691, 588 N.E.2d 475 (2nd Dist. 1992). Moreover, substantial compliance with the Code is acceptable when the invalidating charge concerns a technical violation that does not affect the legislative intent to guarantee a fair and honest election. *Madden*, 105 Ill.App.3d at 903; *Reynolds v. Champaign County Officers Electoral Board*, 379 Ill.App.3d 423 (2008).

In this case, the Objector alleges nothing more than technical defects in the appointment process, but not one fact or circumstance that has any bearing whatsoever on the conduct of a fair and honest election. Even assuming *arguendo* that the Candidate's nomination papers do not comply with every technical aspect of the Election Code, there can be no serious question that the Candidate and Committee have substantially complied with the requisites of § 7-61 of the Election Code in designating the Candidate to fill the Vacancy. Every member of the Committee

(and in fact all parties involved) desired that the Candidate fill the Vacancy, and all participated in an effort to meet and appoint the Candidate. There is no rational basis for barring the Candidate from the ballot, as the Objectors have not raised one point that would demonstrate that the actions of the Committee or the Candidate have any bearing on the integrity of the conduct of a fair election. As such, the Objection in this case should be stricken and dismissed.

II. The Objector's Claim That No Vacancy Existed In The 5th Congressional District Fails On Its Face.

In Paragraph 20 of the Objector's Petition, the Objector asserts that there was actually no vacancy in nomination for the Republican Party in the 5th Congressional District because a write-in candidate received 16 votes for that office at the General Primary Election. However, for a write-in candidate to successfully claim a party's nomination for an office, he or she must obtain at least as many votes as the number of signatures that would be required on a petition for nomination to that office. 10 ILCS 5/7-59(c)(1). In the case of the Republican nomination for the 5th Congressional District, a Republican nominee would be required to obtain 455 petition signatures (0.5% of the qualified primary electors of the Republican Party in the 5th Congressional District), and thus a write-in candidate would need to obtain 455 write-in votes in order to be validly nominated. 10 ILCS 5/7-10(b); See also 2014 Candidate's Guide, STATE BOARD OF ELECTIONS, amended 11/26/2013. Accordingly, this claim contained in the Objector's Petition must be stricken and dismissed.

III. The Objector's Claim That The Vacancy Was Not Timely Filled Makes No Sense And Must Be Stricken.

In Paragraphs 23 and 24 of the Objector's Petition, the Objector seems to argue that the Committee was required to fill the Vacancy prior to certification of the March 18, 2014 Primary Election results per §7-61 of the Election Code. The Objector misreads §7-61. In Paragraphs 23

and 24 of the Objector's Petition, the "certification" to which the Objector refers is of the General Election ballot (which occurs 74 days before the General Election), not the Primary Election results. The last paragraph of §7-61 clearly states that "certification" refers to "the act of officially declaring the names of candidates entitled to be printed upon the official ballot at an election and directing election authorities to place the names of such candidates upon the official ballot." 10 ILCS 5/7-61.

Section 7-61 quite clearly provides the mechanism and time frame for a candidate seeking to fill a vacancy in nomination where no nomination occurred at the Primary Election. 10 ILCS 5/7-61. Such a vacancy must be filled "within 75 days after the day of the general primary." *Id.* The Candidate did just that, filing his Nomination Papers on June 2, 2014. This claim fails on its face, and must be dismissed.

IV. Illinois Public Policy Favors Ballot Access And Compels The Dismissal Of This Objection.

It is well-settled that Illinois Courts recognize a strong policy interest in favor of ballot access. The public policy of this state is to provide legitimate candidates for office with access to the ballot, and therefore the citizenry an enhanced ability to participate. *Wisnasky-Bettorf v. Pierce*, 2012 IL 111253; *Hossfeld v. Illinois State Board of Elections*, 398 Ill.App.3d 737 (2010). Courts view the right of citizens to run for and hold political offices a valuable one. *McGuire v. Nogaj*, 146 Ill.App.3d 280 (1st Dist. 1986). "Ballot access is a substantial right and not lightly to be denied." *Reyes v. Bloomingdale Township Electoral Board*, 265 Ill.App.3d 69, 71, 638 N.E.2d 782 (2nd Dist. 1994), citing *Welch v. Johnson*, 147 Ill.2d 40, 56, 588 N.E.2d 1119 (1992).

As the Illinois Supreme Court cautioned in *Lucas v. Lakin*, 175 Ill.2d 166, 676 N.E.2d 637 (1997), "[w]e are mindful of the need to tread cautiously when construing statutory language which restricts the people's right to endorse and nominate the candidate of their choice." The

exercise of this right is not to be prohibited or curtailed except by plain provisions of the law, and statutes imposing disqualification should be construed liberally, resolving all doubts in favor of the Candidate's eligibility. *Id.* at 282; *McNamara v. Oak Lawn Municipal Officers Electoral Board*, 356 Ill.App.3d 961, 827 N.E.2d 996 (1st Dist. 2005).

Given Illinois' strong policy in favor of ballot access, that statutes imposing disqualification are to be construed liberally, and that all doubts must be resolved in a candidate's favor, there can be no question that the Objector's claims here cannot suffice to disqualify the Candidate in this case.

V. The Grounds Upon Which The Objector Seeks To Disqualify The Candidate Would Result In A Deprivation Of His Constitutional Rights, As Well As Those Of The Cook County, DuPage and Illinois Republican Parties.

The right to seek office, as a member of a political party, is protected speech, and any government entity has a heavy burden to justify the restriction on such political speech by showing not only that the limitation achieves a compelling state interest, but also that the limitation is no broader in scope than is necessary to achieve that purpose. *See, e.g., Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182 (1999); *Krislov v. Rednour et al.*, 226 F.3d 851 (7th Cir. 2000). In the context of the First Amendment, the Court must be vigilant to guard against undue hindrances to political association and the exchange of ideas. *Buckley*, 525 U.S. at 192; *Eu v. San Francisco County Democratic Cent. Comm.*, 489 U.S. 214, 224 (1989). To the extent this Electoral Board may interpret § 7-61 to prevent the Candidate from access to the ballot under these facts, the Electoral Board will have violated the Candidate's constitutional rights.

Moreover, a ruling in favor of the Objector will also result in constitutional deprivation to the Candidate's parties, the Illinois, Cook County and DuPage Republican Parties. A State's

broad power to regulate the time, place, and manner of elections “does not extinguish the State’s responsibility to observe the limits established by the First Amendment rights of the State’s citizens. *Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214, 222, 109 S. Ct. 1013, 103 L.Ed.2d 271 (1989). It is well settled that partisan political organizations enjoy freedom of association protected by the First and Fourteenth Amendments. *Ibid.* Freedom of association means not only that an individual voter has the right to associate with the political party of her choice, but also that a political party has a right to identify the people who constitute the association and to select a “standard bearer who best represents the party’s ideologies and preferences. *Id.* The U.S. Supreme Court has repeatedly recognized that “debate on the qualifications of candidates [is] integral to the operation of the system of government established by our Constitution.” *Buckley v. Valeo*, 424 U.S. 1, 14, 96 S. Ct. 612, 632, 46 L.Ed.2d 659 (1976). Indeed, the First Amendment “has its fullest and most urgent application” to speech uttered during a campaign for political office. *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 272, 91 S. Ct. 621, 625, 28 L.Ed.2d 35 (1971). This is because the “election campaign is a means of disseminating ideas as well as attaining political office.” *Illinois Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 184, 186, 99 S. Ct. 983, 990,991, 59 L.Ed.2d 230 (1979).

Undue limitations on slating of candidates directly hampers the ability of a party to spread its message and hamstring voters seeking to inform themselves about the candidates and the campaign issues. *Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214, 222, 109 S. Ct. 1013, 103 L.Ed.2d 271 (1989). Accordingly, a “highly paternalistic approach” limiting what people may hear is generally suspect, *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 770, 96 S.Ct. 1817, 1829, 48 L.Ed.2d 346 (1976). It is therefore the Objector’s burden to demonstrate that invocation of the rule relied on

in this case advances a compelling state interest. *Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214, 222, 109 S. Ct. 1013, 103 L.Ed.2d 271 (1989).

As a matter of law, the Objector cannot meet this burden, as the U.S. Supreme Court has already ruled that laws that laws that “prevent the parties from taking internal steps affecting their own process for the selection of candidate” do not pass strict scrutiny. *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208, 107 S. Ct. 544, 93 L.Ed.2d 514 (1986). Further, Objector cannot advance a credible argument in this case that the defects of which he complains advances any compelling interest. There is no argument that any member did not get notice, and the county chairmen themselves assisted in the planning of the meeting. The application of Article 7 as the Objector sees it is simply unconstitutional.

WHEREFORE, for all of these reasons, Respondent-Candidate respectfully requests that his Motion to Strike and Dismiss be granted.

Respectfully submitted,
Respondent-Candidate

By: /s/ John G. Fogarty, Jr. /s/
One of his attorneys

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AFFIDAVIT OF DARLENE RUSCITTI

1. Darlene Ruscitti, first being duly sworn, depose and state as follows:

1. I am of legal age, under no legal disability, and if called to testify could competently testify to the following.

2. I have personal knowledge of the matters stated herein.

3. I am the Chairman of the DuPage County Republican Party. I was re-elected to this post on April 18, 2014.

4. A portion of the 5th Congressional District lies within the bounds of DuPage County.

5. On or about April 23, 2014, I spoke with Jack Dorgan, the Republican State Central Committeeman for the 5th Congressional District regarding filling the vacancy in nomination in that congressional district.

6. Mr. Dorgan informed me that he had recently spoken with Vinee Kolber, a resident of the 5th Congressional District, who was interested in running for the Republican nomination in the 5th Congressional District. Mr. Dorgan promoted the idea that Mr. Kolber would be an excellent candidate to fill the vacancy in nomination in that district.

7. I informed Mr. Dorgan that I wholeheartedly supported Mr. Kolber, and would vote my portion of the 5th Congressional District in favor of designating Mr. Kolber to fill the vacancy in nomination.

8. I subsequently communicated with Mr. Kolber and informed him as well that he had my full support to fill the vacancy in nomination in the 5th Congressional District.

9. On or about May 2, 2014, I received a written notice from Mr. Dorgan that the meeting of the Republican Congressional Committee for the 5th Congressional District to



AFFIDAVIT OF AARON DEL MAR

I, Aaron Del Mar, first being duly sworn, depose and state as follows:

1. I am of legal age, under no legal disability, and if called to testify could competently testify to the following.

2. I have personal knowledge of the matters stated herein.

3. I am the Chairman of the Cook County Republican Party. I was re-elected to this post on April 18, 2014.

4. A portion of the 5th Congressional District lies within the bounds of Cook County.

5. In late April, I was informed that Vince Kolber, a resident of the 5th Congressional District and 43rd Ward in the City of Chicago, was interested in running for the Republican nomination in the 5th Congressional District. Jack Dorgan, the Republican State Central Committeeman for the 5th Congressional District was promoting the idea that Mr. Kolber would be an excellent candidate to fill the vacancy in nomination in that district. Chris Cleveland, the Republican Committeeman for the 43rd Ward was also actively promoting Mr. Kolber's candidacy.

6. I wholeheartedly supported Mr. Kolber, and I communicated this sentiment to Mr. Dorgan and others. I subsequently communicated with Mr. Kolber and informed him as well that he had my full support to fill the vacancy in nomination in the 5th Congressional District.

7. It was agreed that the meeting of the Republican Congressional Committee for the 5th Congressional District to designate Mr. Kolber was to take place on May 10, 2014 in the office space shared by the Chicago Republican Party and the 43rd Ward Republican Organization. I was aware of the meeting, and agreed that the Republican Ward and Township Committeemen within Cook County who comprise the 5th Congressional District would cast the weighted vote of the Cook County portion of the 5th Congressional District, so that broad party support would be assured. I was aware and agreed that those individuals who were unable to

AFFIDAVIT OF JACK DORGAN

I, Jack Dorgan, first being duly sworn, depose and state as follows:

1. I am of legal age, under no legal disability, and if called to testify could competently testify to the following.

2. I have personal knowledge of the matters stated herein.

3. I am the Republican State Central Committeeman for the 5th Congressional District. I was re-elected to this post on April 18, 2014.

4. On or about April 23, 2014, I spoke with Vince Kolber, a resident of the 5th Congressional District, who was interested in running for the Republican nomination in the 5th Congressional District. I have known Mr. Kolber, and I knew that he would be an excellent candidate to fill the vacancy in nomination in that district.

5. I reached out to Darlene Ruscitti (DuPage County Republican Chairman) and to Aaron Del Mar (Cook County Republican Chairman) regarding Mr. Kolber's filling the vacancy in nomination in the 5th Congressional District. I communicated my support for Mr. Kolber to both of them.

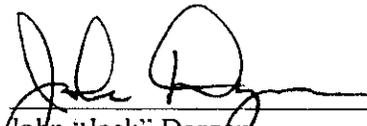
6. It was then agreed that a meeting of the Republican Congressional Committee for the 5th Congressional District would be convened on May 10, 2014 to formally designate Mr. Kolber to fill the vacancy in nomination in the 5th Congressional District. This meeting was to occur in the office space shared by the Chicago Republican Party and 43rd Ward Republican Organization. Chris Cleveland, the 43rd Ward Republican Committeeman and Vice-Chair of the City of Chicago Republican Party, was to host the meeting in conjunction with his regularly-scheduled 43rd Ward/Chicago Republican Party meeting.

7. On or about May 2, 2014, I, along with Mr. Cleveland, caused notice of this May 10th meeting to be sent to the requisite members of the Republican Congressional Committee for the 5th Congressional District and their designees.

8. In between May 2nd and May 10, I spoke with numerous individuals involved in the designation of Mr. Kolber in order to continue to promote his candidacy. I was assured that Chairman Ruscitti and Chairman Del Mar were in full support of Mr. Kolber's candidacy, as were Mr. Del Mar's designees.

9. I was unable to attend the May 10th meeting due to a scheduling conflict. I was aware and consented to Mr. Cleveland serving as the managing committee chair in my absence. I understand that the vote in favor of Mr. Kolber at the May 10th meeting was unanimous. This is expressly the outcome that I, as the Republican State Central Committeeman for the 5th Congressional District, desired.

10. Affiant further sayeth not.

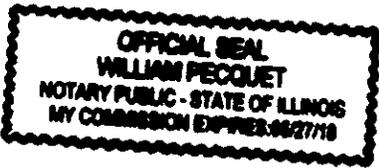


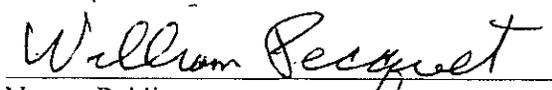
John "Jack" Dorgan
Republican State Central Committeeman for the 5th
Congressional District

State of Illinois)
) SS
County of Cook)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Jack Dorgan appeared before me this day in person, and signed this affidavit of his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official notarial seal this 17th day of June, 2014.

(Seal) 



Notary Public

AFFIDAVIT OF CHRIS CLEVELAND

I, Chris Cleveland, first being duly sworn, depose and state as follows:

1. I am of legal age, under no legal disability, and if called to testify could competently testify to the following.
2. I have personal knowledge of the matters stated herein.
3. I am the 43rd Ward Republican Committeeman and the Vice-Chairman of the City of Chicago Republican Party.
4. On or about April 23, 2014, I spoke with Vince Kolber, a resident of the 43rd Ward and the 5th Congressional District. Mr. Kolber indicated that he was interested in running for the Republican nomination in the 5th Congressional District.
5. I have long known Mr. Kolber, and I knew that he would be an excellent candidate to fill the vacancy in nomination in the 5th Congressional District.
6. I informed Mr. Kolber and many others that I supported his candidacy, and would be actively promoting his candidacy.
7. I offered to host the meeting of the Republican Congressional Committee for the 5th Congressional District on May 10, 2014 to formally designate Mr. Kolber to fill the vacancy in nomination in the 5th Congressional District. This meeting was to occur in the office space shared by the Chicago Republican Party and 43rd Ward Republican Organization, in conjunction with my regularly-scheduled 43rd Ward/City of Chicago Republican Party meeting.
8. I understood that State Central Committeeman Jack Dorgan, Cook County Republican Chairman Aaron Del Mar, and DuPage County Chairman Darlene Ruscitti were fully in support of Mr. Kolber's candidacy.

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9. It was agreed that the Republican Ward and Township Committeeman in Cook County whose areas comprised the 5th Congressional District would cast the weighted vote of his or her Ward or Township at the May 10th meeting. I also understood that I had Chairman Del Mar's approval to act for Cook County.

10. Chairman Ruscitti was unable to attend the May 10th meeting due to the passing of her mother. She executed a proxy in my favor. Committeeman Dorgan was not able to attend the meeting, and I therefore served as chair of the managing committee in his absence.

11. The vote in favor of Mr. Kolber at the May 10th meeting was unanimous.

12. Affiant further sayeth not.

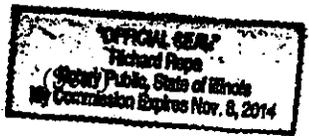

Chris Cleveland
43rd Ward Republican Committeeman
Vice-Chair, Chicago Republican Party

State of Illinois)
) SS
County of Cook)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Chris Cleveland appeared before me this day in person, and signed this affidavit of his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official notarial seal this 11 th day of June, 2014.


Notary Public



BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR
CANDIDATES FOR THE OFFICE OF U.S. REPRESENTATIVE IN CONGRESS
FROM THE 5th CONGRESSIONAL DISTRICT IN THE STATE OF ILLINOIS

VERNE PETERSON,)
)
Objector,)
v.) No. 14-SOEB-GE-505
)
VINCE KOLBER,)
)
Candidate.)

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

Now comes the Objector, Verne Peterson, through counsel, and files his response in opposition to Candidate's motion to strike and dismiss, as follows.

Factual Inconsistencies, Gaps and Omissions

Oddly enough, none of the people who were supposed be at the 5th Congressional Committee were actually in attendance, yet, the Chicago Republican Party at its own website, claimed that the "Chicago GOP files five more candidates" posted by 43rd Ward Committeeman, and Chicago GOP Vice Chair, Chris Cleveland. See PDF attached as Exhibit #1, from Chicago Republican Party's website, http://www.chicagogop.com/chicago_gop_files_five_more_candidates

The meeting on May 10, 2014, was actually announced on facebook and promoted as a 43rd Ward Republican Party meeting, and not announced as a 5th Congressional Committee meeting. See PDF attached as Exhibit #2 from facbook <https://www.facebook.com/43rdwardrepublicans>, and also at <http://us4.campaign-archive1.com/?u=55e8dcf2c716f5dbd176d2e&id=b3198d0497>

Other than the 5th Congressional nomination for Candidate, Kolber, the Chicago Republican Party also stated "The Chicago Republican Party has wrapped up its recruiting season, filing five more candidates for seats in the City of Chicago. This group is in addition to the eight candidates the Chicago GOP recruited last year." This statement, written by Chris Cleveland on June 4, 2014, indicates that all of the nominations were of, by and for the Chicago Republican Party, and did not include Cook County or DuPage County Republican party members. Given the press release, it is unlikely that Cook County or

DuPage County party members would have been invited or received notice for the purported May 10, 2014 meeting, since they were only nominating Chicago candidates.

The affidavits purport to reference a notice of a meeting, yet no such notice was provided. The affidavits purport to reference a meeting on May 10, 2014, yet no agenda, or minutes, from any such meeting were provided, as required by *Graham v. State Officers Electoral Board*, 269 Ill. App.3d 609 (1995).

The affidavits purport to reference written proxies, and/or other proxy designations, yet no such documents were provided.

The affidavits purport to reference a supposed “ratification” of actions by County Committee chairs, of the 43rd Ward Republican Committeeman, Mr. Chris Cleveland, at a committee meeting of one person.

At no point do any of the affidavits cite to or reference the Illinois Republican Party bylaws, which govern internal party operations.

At no point do the affidavits explain, if everyone knew about the meeting and had designated proxy chairs and proxy voters, how it was that these double-proxy designations were not listed on the Committee's Certificate, Resolution or Notice.

But for retroactive and creative re-interpretation of facts, bordering on perjury, one would have expected the Committee's Certificate, Resolution and Notice to have identified the actual members of the 5th Congressional Committee who were designated as the chairman, and the proxy voters, and their respective supposed “proxy” authorizations, if such were actually the case on May 10, 2014.

Otherwise, the affidavits are conclusory, without sufficient factual basis, or supporting documents, in violation of Supreme Court Rule 191, or explain why Ms. Ruscetti, Mr. Del Mar and Mr. Dorger could not attend by telephone or video conference device.

Election Code and Republic Party Bylaws Do Not Allow Proxy Committee Operation

The Illinois Republican Party bylaws are attached hereto as Exhibit #3, and govern Republican Party operations, proxy chairs for meetings, quorum, and voting, as well as the provisions of the Election

Code, Section 7-8(i).

Section 7-8(i) of the Election Code, 10 ILCS 5/7-8(i), provides as follows:

(i) Each committee and its officers shall have the powers usually exercised by such committees and by the officers thereof, not inconsistent with the provisions of this Article. The several committees herein provided for **shall not have power to delegate any of their powers, or functions to any other person**, officer or committee, but this shall not be construed to prevent a committee from appointing from its own membership proper and necessary subcommittees.

The provisions of Section 7-8(i) were reviewed in *Allen v. Electoral Board of St. Clair County*, 147 Ill. App.3d 782, 498 N.E.2d 878 (1986), which considered whether a State Central Committee had authority to delegate authority to an executive committee. Such is not the fact patten presented now.

The 5th Congressional Committee had no authority to delegate, nor could it do so under Section 7-8(i), or the Republican Party bylaws. Nor for that matter, has the Candidate established any action of the State Central Committee in this matter, either through delegation of authority to a different committee.

The supposed 5th Congressional Committee that nominated Candidate was essentially a committee of one – Mr. Chris Cleveland – who signed as the “Chairman” of the 5th Congressional Committee according to the Certificate, Resolution and Notice. The signature was in his own name, and not as a proxy, or Deputy Member, or on behalf of the proper Committee Chairman, Jack Dorger, “By: _____.” Regardless, Mr. Cleveland was not authorized to so act, since the Chairman of this committee should have been Jack Dorger (or female counterpart, as his Deputy Member).

The Republican Party bylaws do not allow proxy chairing of committees by anyone, but rather, only through a duly appointed Deputy Member.

That is, the Republican Party bylaws, at Article II, Section E provides for the nomination of “Deputy Members” of the Central Committee, and provides that “Each State Central Committeeman shall within 30 days of election nominate a person of the opposite sex residing in their district to serve as a Deputy Member of the Central Committee and such nominations shall be ratified at the next meeting of the Central Committee. * * * and in the absence of a State Central Committeeman from a meeting held pursuant to these Bylaws, the Deputy Member from an absent member's district shall serve and vote as

proxy.”

As such, Jack Dorger's Deputy Member would be a woman, and could not be Christopher Cleveland (http://www.43rdwardrepublicans.com/chris_cleveland). If Jack Dorger was unavailable, the Republican Party bylaws would have permitted the meeting to be chaired (and if necessary, voted) by Mr. Dorger's Deputy Member. There has been no indication, thus far in the Candidate's affidavits regarding a Deputy Member, acting on Mr. Dorger's behalf as the designated chair of the 5th Congressional Committee.

Neither the Election Code, nor the Republican Party bylaws, permit a proxy-chair for meetings, other than through a Deputy Member. The Election Code, using the mandatory word “*shall*” states that “a State central committeeman in each district shall be a member and the chairman, * * * of the congressional committee.”

The 5th Congressional Committee, chaired by Mr. Chris Cleveland, is derogation of both the Election Code, and the Republican Party bylaws. Furthermore, the Republican Party bylaws contradict the affidavits that Mr. Cleveland was designated as Mr. Dorger's proxy, to chair the meeting, specifically because only the State Chairman can nominate a Deputy Member for Mr. Dorger, if the position is not filled within 60 days of Mr. Dorger's appointment. There is no indication that the State Chairman so nominated Mr. Cleveland, who would nonetheless not be qualified to be Mr. Dorger's Deputy Member, since the Deputy Member must be a woman.

As such, the objector's petition should be granted, and the name of Vince Kolber shall not be printed upon the general election ballot, since Mr. Kolber was not appointed by the appropriately constituted committee.

Republican Party Bylaws Do Not Allow Proxy Voting

Although the Candidate places some reliance upon the Chicago Board of Election Commissioners' decisions, *Barton v. Evans*, 12-EB-RES-08, and *Harney v. Fernandez*, 12-EB-RES-14, those decisions are factually and legally distinguishable from the present matter.

Specifically, *Barton* relied upon the Democratic Party bylaws, which expressly allowed proxy

voting. Such is not the case for the Republican Party, which requires its members to show up and participate, in person, or by telephone or video conference device.

The only place proxy voting is allowed, is through a Deputy Member, who is duly appointed and of the opposite gender for each Central Committeeman. The Republican Party bylaws otherwise, at Article V, Section E and H, contradict Candidate's novel "proxy" voting theory.

Article V, Section E of the Republican Party bylaws provides:

E. Participation by Teleconference. A person entitled to attend or vote at a Central Committee, standing committee, committee, or temporary task force meeting may attend and vote either in person or by telephone or video conference device.

Article V, Section H of the Republican Party bylaws provides:

H. Standing Committee, Committee, or Task Force Quorum. The presence of a majority of the members of a standing committee, committee, or temporary task force shall be necessary to constitute a quorum to conduct business. A person is present for purposes of determining a quorum if physically present or if participating by telephone or video conference device.

As such, the Republican Party bylaws contradict Candidate's arguments both as to the lack of governing proxy or quorum provisions. The Bylaws permit voting only in person, or through telephone or video conference device, and not through proxy. The same provisions against proxy voting are contained in the bylaws for the Republican Party convention, which is in Article VIII, Section L.

A committee of one, chaired by the wrong person, voting in unison with himself, is hardly a quorum, and does not comply with either the Election Code, or the Republican Party's own bylaws.

Election Code is Mandatory

Election Code provisions set forth specific parameters, and time frames, within which an established party may fill a vacancy in nomination for the general election, and such requirements are to be strictly construed, as demonstrated by the legislature's use of the word "shall" in Sections 7-8(e) and 7-61.

Candidate argues for ratification of the actions of a Chicago Republican Committeeman, by the Chairs of the Cook County and DuPage County Republican party organizations, as if that will somehow

confer extra force or effect to the meeting, from which they were each absent. Candidate cites to a breach of contract action, *Progress Printing v. Jane Byrne Pol. Comm.*, for the concept of ratification; however, Candidate's argument would necessarily concede, or presume, that the underlying actions were indeed "unauthorized."

However, ratification does not apply where authority to act is endowed by statute for a limited or specific time. *Bessler v. Peoria Bd. of Education*, 296 N.E. 2d 89 (1973). There is no prior decision that extends the Election Code so dramatically, as Candidate suggests, that would allow after-the-fact affidavits, to somehow reach back in time, and correct an error in the committee notices, formation, quorum, and voting.

To allow Candidate such latitude through ratification would render virtually each and every objectors' petition correctable. Such action would remove all mandatory provisions of the Election Code, and render deadlines meaningless.

Ratification is not a legally supportable theory under the Election Code, nor has Candidate cited any precedent to warrant expansion of a contract theory to the Election Code.

Objector Stands on Remaining Arguments

Section 7-61 provides two criteria for a vacancy, namely, that the name of no candidate was printed, and there was no person was nominated as a write in candidate. It does not require a write-in candidate to necessarily win the election, or receive a sufficient number of votes.

The time frames in Section 7-61 are stated for different time periods, namely that after a primary election, but prior to the time at which the primary election results are certified by the election authorities. Thereafter, a second certification occurs for the general election.

Candidate was not timely nominated, in accordance with Section 7-61.

The Election Code has been written by the Democratic Party and Republican Party members of the General Assembly, for the orderly administration of elections. The provisions of Section 7-61 have been reviewed by appellate courts and the Supreme Court, and found to be a constitutional method for filling vacancies. Candidate's arguments about constitutional rights have no bearing upon the proceedings

herein, nor upon the countless candidates who have been removed by the State Board of Elections, for failure to strictly comply with the provisions for nomination of candidates.

Conclusion

WHEREFORE, Objector respectfully request entry of a finding and decision that the nomination papers submitted by Candidate as the Republican Party's Candidate for U.S. Representative in Congress from the 5th Congressional District in Illinois do not comply with the requirements of the Election Code, Sections 7-7, 7-8(e), 7-61, and are insufficient in fact and law, and be stricken in their entirety, and that the name of Candidate, Vince Kolber, **NOT BE PRINTED** on the general election ballot for the election to be held on November 4, 2014.

Respectfully submitted:

By: _____
Attorney for Objector

Andrew Finko PC
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**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS OF
CANDIDATES FOR ELECTION TO THE OFFICE OF REPRESENTATIVE IN
CONGRESS FOR THE 5TH CONGRESSIONAL DISTRICT OF THE STATE OF
ILLINOIS**

Verne Peterson,)	
)	
Petitioner-Objector,)	
)	14 SOEBGE 505
v.)	
)	
Vince Kolber,)	
)	
Respondent-Candidate.)	

REPLY IN SUPPORT OF MOTION TO STRIKE AND DISMISS

Now comes the Candidate, Vince Kolber (hereinafter the “Candidate”), and for his Reply in Support of his Motion to Strike and Dismiss, states as follows:

The Objector offers neither fact nor law that justify his request that the Candidate be barred from the General Election ballot. The Objector has utterly failed to meet *his* burden to proceed in this case, and does not even attempt to controvert any fact set forth in any of the four affidavits produced by the Candidate. He has produced no affidavits of his own. Instead, he seems to pin his case on Chicago GOP press statements and on the bylaws of the Illinois Republican Party. Neither have any relevance at all to the dealings of the Committee.

The bottom line in this case is that the uncontroverted affidavits of each of the Committee members confirm that each participated in the planning of the meeting to designate the Candidate, each supported the Candidate, each gave proxy authority to designate the Candidate, and a meeting was held at which the Candidate was unanimously designated. There is no prohibition in the Election Code against any of the actions taken by the Committee. To the

contrary, long-standing precedent makes clear that political parties may conduct their internal business in the manner they see fit. This Objection should be dismissed.

A. It is the Objector's burden to controvert the sworn statements of the Candidate's affiants.

The Objector has failed to controvert any fact set forth in the affidavits of Chairman Del Mar, Chairman Ruscitti, Committeeman Dorgan or Committeeman Cleveland. It is his burden to do so in the context of this Motion to Strike, and in the context of an Objection proceeding. As such, those sworn statements must control, and each make clear that the Candidate was properly designated unanimously by the Committee.

In his Response, the Objector attaches press statements of the Chicago Republican Party which publicize the candidates for office it has recruited. These statements are irrelevant to the functioning of the Committee and its designation of the Candidate. Indeed, even they were relevant, if those attachments demonstrate anything, it is that the Candidate was recruited by the Chicago Republican Party, which is perfectly in accord with the affidavits of Chairman Del Mar, Chairman Ruscitti, Committeeman Dorgan or Committeeman Cleveland. As the Objector has failed to meet his burden in controverting one single fact set forth by the Candidate's affiants, the Objection must be stricken and dismissed.

B. The Objector misrepresents *Graham* when he argues that *Graham* requires the Committee to produce an agenda or minutes.

The Objector concocts a rule of law in his effort to find that the Committee improperly conducted its proceedings. On page 2 of his Response, the Objector flatly misrepresents the holding of *Graham v. State Officers Electoral Board*, 269 Ill.App.3d 609 (4th Dist. 1995) when he argues that *Graham* requires that the Candidate produce an agenda or minutes from the Committee meeting. *Graham* requires no such thing. The *Graham* decision stands only for the proposition that the Election Code requires that members of a managing committee in a

particular district *receive reasonable notice* of proceedings at which a candidate is selected to fill a vacancy in nomination. *Id.* According to the *Graham* Court, it is notice that is fundamental, and not the production of minutes or an agenda. *Id.* In this case, it is uncontroverted that all of the Committee members received notice of the Committee meeting, in full compliance with *Graham*. The Objector's contention to the contrary must be rejected.

C. The Objector misreads the Election Code and erroneously relies on the bylaws of the Illinois Republican Party.

The bulk of the Objector's case seems to be that the Election Code and the Illinois Republican Party bylaws do not permit proxy voting in the operation of a nominating committee. The Objector is flat wrong.

First, as is made clear in *Barton v. Evans*, 12-EB-RES-08 (City of Chicago Board of Election Commissioners, July 10, 2012) and *Harney v. Fernandez*, 12 EB-RES-14 (City of Chicago Board of Election Commissioners, Sept. 20, 2012), members of a managing committee of a political party are permitted to act by proxy. In fact, the Election Code does not mandate the precise manner in which a managing committee of a political party in a particular district must conduct its proceedings. Section 7-61 of the Election Code is silent on the issue of proxy voting. As this Board cannot read such a limitation into the law, especially in the context of the internal management of a political party's affairs. *Carlasare v. Will County Officers Electoral Board*, 977 N.E.2d 298 (3rd Dist. 2012).

Second, the bylaws of the Illinois Republican Party have nothing whatsoever to do with the managing committee for the 5th Congressional District. The bylaws of the Illinois Republican Party -- by their own terms -- govern the State Central Committee of the Illinois Republican Party, nothing more and nothing less. The Committee at issue here is the Republican Congressional Committee for the 5th Congressional District -- a completely separate political

entity. The Committee is not somehow a subcommittee of the State Central Committee, or in any way subject to the State Central Committee. The proceedings of the Committee are not in any way the proceeding of the State Central Committee. The Objector's reference to these bylaws is completely misplaced, and therefore his conclusion that these bylaws control the workings of this Committee, or forbid the Committee's use of proxy voting is completely incorrect.

For all of these reasons, and for those set forth in the Candidate's Motion to Strike and Dismiss, this Objection must be dismissed.

Respectfully submitted,
Respondent-Candidate

By: /s/ John G. Fogarty, Jr. /s/
One of his attorneys

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Sherman v. Davis
14 SOEB GE 507

Candidate: Roger K. Davis

Office: U.S. Senator

Party: Independent

Objector: Robert I. Sherman

Attorney for Objector: Pro se

Attorney for Candidate: Pro se

Number of Signatures Required: 25,000

Number of Signatures Submitted: 1

Number of Signatures Objected to:

Basis of Objection: Candidate failed to submit a sufficient number of valid signatures.

Dispositive Motions: Candidate filed a Motion and/or Memorandum of Law, Objector filed a Motion for Judgement.

Binder Check Necessary: No

Hearing Officer: Jim Tenuto

Hearing Officer Findings and Recommendation: The objection should be sustained based on a lack of sufficient signatures. The candidate should not be certified to appear on the 2014 General Election ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer.

**BEFORE THE STATE BOARD OF ELECTIONS SITTING
AS THE DULY CONSTITUTED STATE OFFICERS ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO NEW POLITICAL PARTY
AND INDEPENDENT CANDIDATES SEEKING TO APPEAR ON THE BALLOT
FOR THE NOVEMBER 4, 2014 GENERAL ELECTION**

IN THE MATTER OF:

ROBERT I. SHERMAN,)
Petitioner(s) - Objector(s),)

v.)

14 SOEB GE 507

ROGER K. DAVIS,)
Respondent(s) - Candidate(s).)

HEARING OFFICER’S FINDINGS AND RECOMMENDATIONS

This matter coming before the Illinois State Board of Elections as the duly constituted State Officers Electoral Board and the Hearing Officer, pursuant to Appointment and Notice issued previously, the Hearing Officer make the following Findings and Recommendations:

I. Preliminary Facts

1. The Candidate, Roger K. Davis, (Candidate) timely filed nomination petitions to appear on the November 4, 2014, General Election ballot for the Office of United States Senator as an independent Candidate.
2. The minimum signature requirement is 25,000.
3. The staff count indicated a total count of ONE (1) signature was submitted by the Candidate.
4. An Objection was timely filed on June 26, 2014.
5. The basis of the Objection is that the Candidate failed to submit the minimum number of signatures required to appear on the ballot.
6. The case was called by the State Officer’s Electoral Board on July 7, 2014.
7. James Tenuto was appointed as Hearing Officer.
8. Appearances were filed by:
 - a. On behalf of the Objector – *Pro Se*; and
 - b. On Behalf of the Candidate – *Pro Se*.
9. A case management telephonic conference was held on July 7, 2014, with Objector present in the Chicago office and the Candidate present in the Springfield office.

II. Motions

The Candidate timely submitted a Motion and/or Memorandum of Law. The Candidate does not dispute the staff’s count of one (1) signature in his petition. The Candidate, however, does dispute the State’s ability to establish a signature requirement for a Federal office. He contends the qualifications are those set forth in the United States Constitution.

Objector timely filed a Motion for Judgment due to insufficient number of signatures on Nominating papers

III. Discussion

As set forth in the case management conference order dated July 7, 2014, the parties had until July 10, 2014 to dispute the staff count of 1 signature. The Objector has not disputed the staff count. The Candidate concedes the staff count is correct but contends State lacks legal authority to establish a signature requirement for a Federal office.

The Candidate's Motion raises constitutional issues. It is well established that an electoral board lacks authority to rule upon challenges to the constitutionality of a statute.

Accordingly, it is the Recommendation of the Hearing Officer that the Candidate's Motion and/or Memorandum of Law be denied.

The Objector's Motion for Judgment should be granted for the reasons set forth therein.

IV. Findings of Facts

1. The Preliminary Facts in Section I are hereby adopted as Findings of Facts.
2. For the reasons set forth above, the Objection should be sustained. The Candidate failed to file the minimum number of required signatures.
3. For the reasons set forth above, the Objector's Motion for Judgment should be granted.

V. Conclusions and Recommendation

Based on the Findings of Facts set forth in Section IV, it is the Recommendation of the Hearing Officer that the Motion for Judgment be granted and the objection be sustained and the name of Roger K. Davis not be certified for the office of United States Senator as an independent Candidate to be voted upon at the November 4, 2014 General Election.

DATED: July 18, 2014


James Tenuto, Hearing Officer

507

Sherman v. Davis

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Objector Pro Se

State of Illinois)
) SS.
County of Cook)

**Before the Duly Constituted Electoral Board for the Hearing and
Passing Upon of Objections to Nomination Papers of Independent
Candidates for the Office of United States Senator for the State of
Illinois**

**Objections of Robert I. Sherman to the Nomination Papers of
Independent Candidate Roger K. Davis for Election to the Office of
United States Senator for the State of Illinois, to be voted for at the
General Election to be Held on November 4, 2014**

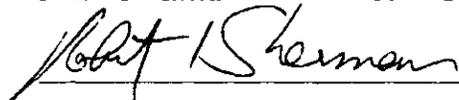
Verified Objector's Petition

Robert I. Sherman, residing and registered to vote at 778 Stonebridge Lane, Buffalo Grove, Illinois (hereinafter referred to as "Objector") states that the Objector's address is as stated, that the Objector is a legal voter of the State of Illinois, and that the Objector's interest in filing the following objections is that of a citizen desirous of seeing that the election laws governing the filing of nomination papers for Independent candidates for the office of United States Senator for the State of Illinois are properly complied with. Therefore, the Objector makes the following objections to the nomination papers of Roger K. Davis as an Independent candidate for the office of United States Senator for the State of Illinois, to be voted for at the General Election to be held on November 4, 2014 (hereinafter referred to as the "Nomination Papers").

The Objector states that said Nomination Papers are insufficient in fact and law for the following reasons:

1. Pursuant to Illinois law, nomination papers for Independent candidates for the office of United States Senator for the State of Illinois, to be voted for at the General Election to be held on November 4, 2014, must contain the true signatures of not fewer than 25,000 qualified and duly registered legal voters of the State of Illinois. In addition, said Nomination Papers must truthfully allege that the candidate is qualified for the office he seeks, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise must be executed in the form provided by law. The Nomination Papers herein purport, on their face, to contain far fewer than 25,000 signatures of such voters, but purport to truthfully allege that the candidate is qualified for the office he seeks, and purport to have been gathered, presented and executed in the manner required by the Illinois Election Code.
2. Because the Nomination Papers contain fewer than the statutory minimum number of 25,000 validly collected and presented signatures of qualified and duly registered legal voters of the State of Illinois, the Nomination Papers are invalid in their entirety.

Wherefore, the Objector requests a hearing on the Objections set forth herein, an examination by the aforesaid Electoral Board (or its duly appointed agent or agents) of the official precinct registers and binders relating to voters in the State of Illinois (to the extent that such examination is pertinent to any of the matters alleged herein), a ruling that the Nomination Papers are insufficient in law and fact, and a ruling that the name of Roger K. Davis **shall not appear** on the ballot as an Independent candidate for the office of United States Senator for the State of Illinois, to be voted for at the General Election to be held on November 4, 2014.



Robert I. Sherman

Objector

VERIFICATION

Sherman v. Davis

Objector Pro Se

The undersigned, being first duly sworn upon oath, states that he has read the foregoing Objector's Petition and to the best of his knowledge and belief the facts set forth therein are true and correct.

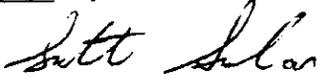


Robert I. Sherman

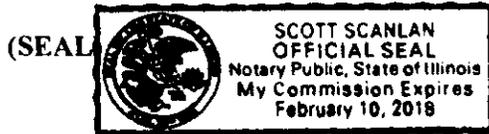
Objector

Subscribed and sworn to before me by Robert I. Sherman

this 25 day of June, 2014.



NOTARY PUBLIC



Objections prepared by the Objector Pro Se

Robert I. Sherman

P.O. Box 7410

Buffalo Grove, Illinois 60089

Telephone: (847) 870-0700

Email: rob@robsherman.com

Sherman v. Moore/Bourland
14 SOEB GE 508

Candidate: Gregg Moore / Caroline Bourland

Office: Governor / Lt. Governor

Party: Independent

Objector: Robert I. Sherman

Attorney for Objector: Pro se

Attorney for Candidate: Pro se

Number of Signatures Required: 25,000

Number of Signatures Submitted: 14,465

Number of Signatures Objected to:

Basis of Objection: Candidate failed to file a sufficient number of valid signatures. In addition, Caroline Bourland, candidate for the office of Lt. Governor, failed to file a Statement of Candidacy and failed to file a Statement of Economic Interest or a receipt indicating such a Statement had been filed.

Dispositive Motions: Objector filed a Motion for Judgment.

Binder Check Necessary: No

Hearing Officer: Jim Tenuto

Hearing Officer Findings and Recommendation: Motion for Judgment should be granted and the objection should be sustained. The candidates should not be certified to appear on the 2014 General Election ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer.

**BEFORE THE STATE BOARD OF ELECTIONS SITTING
AS THE DULY CONSTITUTED STATE OFFICERS ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO NEW POLITICAL PARTY
AND INDEPENDENT CANDIDATES SEEKING TO APPEAR ON THE BALLOT
FOR THE NOVEMBER 4, 2014 GENERAL ELECTION**

IN THE MATTER OF:

ROBERT I. SHERMAN,)
Petitioner(s) - Objector(s),)

v.)

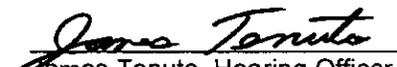
14 SOEB GE 508

GREGG MOORE and CAROLINE BOURLAND,)
Respondent(s) - Candidate(s).)

NOTICE

A copy of the Hearing Officer's Findings and Recommendations was served upon the parties on July 18, 2014 by email if provided. Exception to the Findings and Recommendations should be filed with the State Board of Elections by 3:00 p.m. on July 18, 2014. This matter will be presented to the State Board of Elections as the duly constituted State Officers Electoral Board at a hearing on July 21, 2014 at 10:30 a.m. at the principal office of the State Board of Elections, 2329 South MacArthur Blvd., Springfield, IL 62704 and via telephone conference call at the James R. Thompson Center, 100 West Randolph Street, Suite 14-100, Chicago, Illinois 60601.

DATED: July 18, 2014


James Tenuto, Hearing Officer

II. Motions

The Objector timely filed a Motion for Judgment based on the failure of the Candidates to file the minimum number of signatures necessary to have their names appear on the ballot as independent Candidates.

Candidate Moore sent a letter dated July 3, 2014, which was received in the principal office of the State Board of Elections on July 9, 2014. The letter appears to acknowledge receipt of notice of the July 7, 2014 meeting and further indicates the Candidate will be absent from the July 7, 2014 meeting.

The Candidate did not file any motions on his behalf by the July 10, 2014 deadline. Candidate did file a document on July 14, 2014, see below in Discussion.

Candidate Gregg Moore filed a *Pro Se* Appearance on July 11, 2014.

III. Discussion

The Candidate, by filing an Appearance on July 11, 2014, missed the deadline of July 10, 2014 to submit any motions challenging the staff count of 14,465 or attacking the legal sufficiency of the Objection.

On July 14, 2014, the Candidate did file a 2-page Response to Objectors. The Response to Objectors is identical in both matters, to wit, 14 SOEB GE 508 and 14 SOEG GE 513. The Response does not challenge either the legal sufficiency of the Motion or the Objection, but extols the virtue of his candidacy.

Assuming each signature submitted on behalf of Gregg Moore and Caroline Bourland is valid, nonetheless, the Candidates have not filed the minimum number of signatures that would entitle their names to appear on the ballot at the November 4, 2014 General Election.

On July 17, 2014, Bourland submitted a letter (see attached) explaining that she was never a candidate for Lieutenant Governor and asked to have her name removed from the public record as a candidate.

IV. Findings of Facts

1. The Preliminary Facts in Section I are hereby adopted as Findings of Facts.
2. For the reasons set forth above, the Objectors' Motion for Judgment should be granted.
3. For the reasons set forth above, the Objection should be sustained.

V. Conclusions and Recommendation

Based on the Findings of Facts set forth in Section IV, it is the Recommendation of the Hearing Officer that the Motion for Judgment submitted by the Objector be granted and the Objection sustained. Furthermore, the names of Gregg Moore and Caroline Bourland not be certified for the offices of Governor and Lt. Governor as independent Candidates to be voted upon at the November 4, 2014 General Election.

DATED: July 18, 2014


James Tenuto, Hearing Officer

July 17, 2014

Mr. Steve Sandvoss
General Counsel
Illinois State Board of Elections
2329 South Macarthur Blvd
Springfield, IL 62704-2999

RE: *Request to be Stricken as Candidate for Lieutenant Governor*

Dear Mr. Sandvoss:

I am writing to request that my name be stricken as a candidate for lieutenant governor in the 2014 election, and to have my name removed from the public record as a candidate for lieutenant governor.

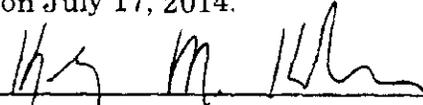
As we discussed on the phone, I am not and was never a candidate for lieutenant governor, and never intended or agreed to run as a candidate for lieutenant governor. The nominating petition which submitted my name as a candidate for the office, as the running mate of Gregg Moore, was filed without my consent.

Please do not hesitate to let me know if you have any additional questions or concerns, and thank you for your attention to this matter.

Sincerely,

Caroline Ellis Bourland
Assistant Appellate Defender
Office of the State Appellate Defender
203 N. LaSalle
24th Floor
Chicago, Illinois 60601
(312) 814-5472

SUBSCRIBED AND SWORN TO BEFORE ME
on July 17, 2014.


NOTARY PUBLIC



CHICAGO
2014 JUL 17 PM 2:16
STATE BOARD OF ELECTIONS

CHICAGO
2014 JUL 17 PM 2:16
STATE BOARD OF ELECTIONS

508

Sherman v. Moore and Bourland

Objector Pro Se

State of Illinois)
) SS.
County of Cook)

ORIGINAL ON FILE AT
STATE BD OF ELECTIONS
ORIGINAL TIME STAMPED
AT 2014 JUN 26 AM 8:58
LH

**Before the Duly Constituted Electoral Board for the Hearing and
Passing Upon of Objections to Nomination Papers of Independent
Candidates for the Offices of Governor and Lieutenant Governor for
the State of Illinois**

**Objections of Robert I. Sherman to the Nomination Papers of
Independent Candidates Gregg Moore and Caroline Bourland for
Election to the Offices of Governor and Lieutenant Governor for the
State of Illinois, to be voted for at the General Election to be Held on
November 4, 2014**

Verified Objector's Petition

Robert I. Sherman, residing and registered to vote at 778 Stonebridge Lane, Buffalo Grove, Illinois (hereinafter referred to as "Objector") states that the Objector's address is as stated, that the Objector is a legal voter of the State of Illinois, and that the Objector's interest in filing the following objections is that of a citizen desirous of seeing that the election laws governing the filing of nomination papers for Independent candidates for the offices of Governor and Lieutenant Governor for the State of Illinois are properly complied with. Further, Objector is interested that the Constitutional separation of State and Church be maintained. Therefore, the Objector makes the following objections to the nomination papers of Gregg Moore and Caroline Bourland

as Independent candidates for the offices of Governor and Lieutenant Governor for the State of Illinois, to be voted for at the General Election to be held on November 4, 2014 (hereinafter referred to as the "Nomination Papers").

The Objector states that said Nomination Papers are insufficient in fact and law for the following reasons:

1. Pursuant to Illinois law, nomination papers for Independent candidates for the offices of Governor and Lieutenant Governor for the State of Illinois, to be voted for at the General Election to be held on November 4, 2014, must contain the true signatures of not fewer than 25,000 qualified and duly registered legal voters of the State of Illinois. In addition, said Nomination Papers must truthfully allege that the candidates are qualified for the offices they seek, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise must be executed in the form provided by law. The Nomination Papers herein purport, on their face, to contain far fewer than 25,000 signatures of such voters, but purport to truthfully allege that the candidates are qualified for the offices they seek and purport to have been gathered, presented and executed in the manner required by the Illinois Election Code.
2. The candidate herein, Caroline Bourland, has not timely filed a Statement of Economic Interests pursuant to the Illinois Governmental Ethics Act in relation to the office she seeks with the Illinois Secretary of State as required by the Illinois Election Code.
3. The Nomination Papers do not contain, nor has candidate Caroline Bourland timely filed with the State Board of Elections, a Statement of Candidacy claiming the qualifications for the office she seeks as required by the Illinois Election Code. Indeed, such failure calls into question whether Caroline Bourland is a willing candidate.
4. The Nomination Papers do not contain, nor has candidate Caroline Bourland timely filed with the State Board of Elections, the original or a copy of a receipt for the filing of a Statement of Economic Interests showing that such Statement was timely filed with the Secretary of State as required by the Illinois Election Code.

5. Because of the above alleged deficiencies regarding the filing of the Statement of Economic Interests and its receipt, which are contrary to Illinois law and are violative of Illinois law, the Nomination Papers are invalid in their entirety.
6. Because the Nomination Papers contain fewer than the statutory minimum number of 25,000 validly collected and presented signatures of qualified and duly registered legal voters of the State of Illinois, the Nomination Papers are invalid in their entirety.

Wherefore, the Objector requests a hearing on the Objections set forth herein, an examination by the aforesaid Electoral Board (or its duly appointed agent or agents) of the official precinct registers and binders relating to voters in the State of Illinois (to the extent that such examination is pertinent to any of the matters alleged herein), a ruling that the Nomination Papers are insufficient in law and fact, and a ruling that the names of Gregg Moore and Caroline Bourland **shall not appear** on the ballot as Independent candidates for the offices of Governor and Lieutenant Governor for the State of Illinois, to be voted for at the General Election to be held on November 4, 2014.



Robert I. Sherman

Objector

Sherman v. Moore and Bourland

Objector *Pro Se*

VERIFICATION

The undersigned, being first duly sworn upon oath, states that he has read the foregoing Objector's Petition and to the best of his knowledge and belief the facts set forth therein are true and correct.



Robert I. Sherman

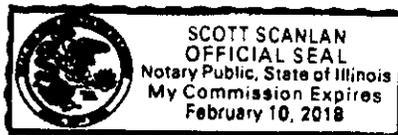
Objector

Subscribed and sworn to before me by Robert I. Sherman
this 25 day of June, 2014.



NOTARY PUBLIC

(SEAL)



Objector *Pro Se*

Robert I. Sherman

P.O. Box 7410

Buffalo Grove, Illinois 60089

Telephone: (847) 870-0700

Email: rob@robsherman.com

**Atsaves/Gale v. Davis
14 SOEB GE 512**

Candidate: Roger K. Davis

Office: U.S. Senator

Party: Independent

Objector: Lou Atsaves / Gary Gale

Attorney for Objector: John Fogarty

Attorney for Candidate: Pro se

Number of Signatures Required: 25,000

Number of Signatures Submitted: 1

Number of Signatures Objected to:

Basis of Objection: Candidate failed to submit a sufficient number of valid signatures.

Dispositive Motions: Candidate filed a Motion and/or Memorandum of Law.

Binder Check Necessary: No

Hearing Officer: Jim Tenuto

Hearing Officer Findings and Recommendation: The Candidate's Motion should be denied and the objection should be sustained based on a lack of sufficient signatures. The candidate should not be certified to appear on the 2014 General Election ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer.

however, does dispute the State's ability to establish a signature requirement for a Federal office. He contends the qualification are those set forth in the United States Constitution.

III. Discussion

As set forth in the case management conference order dated July 7, 2014, the parties had until July 10, 2014 to dispute the staff count of 1 signature. The Objector has not disputed the staff count. The Candidate concedes the staff count is correct but contends State lacks legal authority to establish a signature requirement for a Federal office.

The Candidate's Motion raises constitutional issues. It is well established that an electoral board lacks authority to rule upon challenges to the constitutionality of a statute.

Accordingly, it is the Recommendation of the Hearing Officer that the Candidate's Motion and/or Memorandum of Law be denied.

IV. Findings of Facts

1. The Preliminary Facts in Section I are hereby adopted as Findings of Facts.
2. For the reasons set forth above, the Objection should be sustained. The Candidate failed to file the minimum number of required signatures.

V. Conclusions and Recommendation

Based on the Findings of Facts set forth in Section IV, it is the Recommendation of the Hearing Officer that the objection be sustained and the name of Roger K. Davis not be certified for the office of United States Senator as an independent Candidate to be voted upon at the November 4, 2014 General Election.

DATED: July 18, 2014


James Tenuto, Hearing Officer

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OF OBJECTIONS TO THE PETITION PAPERS FOR
INDEPENDENT CANDIDATES FOR UNITED STATES SENATE IN AND FOR THE
STATE OF ILLINOIS**

Lou Atsaves and Gary Gale,)
 Petitioner-Objectors,)
)
 vs.)
)
 Roger K. Davis as a Candidate)
 For United States Senate;)
)
 Respondent-Candidate.)

512

STATE BOARD OF ELECTIONS
 1001 ILLINOIS ST. 2ND FL.
 SPRINGFIELD, ILL. 62762
 217-243-1100

VERIFIED OBJECTORS' PETITION

Now come Lou Atsaves and Gary Gale (hereinafter referred to as the "Objectors"), and state as follows:

1. Lou Atsaves resides at 745 E. Northmoor Road, Lake Forest, Illinois, 60045, in the County of Lake and State of Illinois. that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objection is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers of any person desiring to run as an Independent candidate for United States Senate in the State of Illinois are properly complied with and that only qualified Independent candidates appear upon the General Election ballot as candidates for said office.

2. Gary Gale resides at 481 Green Bay Road, Highland Park, Illinois, 60035, Lake County, in the State of Illinois; that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objection is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers of any person desiring to run as an Independent candidate for United States Senate in the State of Illinois are properly complied with

and that only qualified Independent candidates appear upon the General Election ballot as candidates for said office.

3. Your Objectors make the following objections to the nomination papers of Roger K. Davis, who purports to run as an Independent candidate for United States Senate in the State of Illinois (“the Nomination Papers”), and files the same herewith, and states that the said Nomination Papers are insufficient in law and in fact for the following reasons:

4. Your Objectors state that in the State of Illinois the signatures of not less than 25,000 duly qualified, registered, and legal voters of the State of Illinois are required to run as an Independent candidate for United States Senate. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

5. Your Objectors state that the Candidate has filed one (1) petition signature sheet containing a total of one (1) signature of an allegedly duly qualified, legal, and registered voter of the State of Illinois.

6. Your Objectors state that, on their face, the Nomination Papers do not contain enough valid signatures to permit Roger K. Davis to be a Candidate for Election to the Office of United States Senator for the State of Illinois to be voted upon at the General Election to be held on November 4, 2014.

7. Your Objectors state that the laws pertaining to the securing of ballot access require that certain requirements be met as established by law. Filings made contrary to such requirements must be voided, being in violation of the statutes in such cases made and provided.

WHEREFORE, your Objectors pray that the purported Independent candidate petition papers of Roger K. Davis as a candidate for United States Senate be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois; and that this Honorable Electoral Board enter its decision declaring that the name of Roger K. Davis as an Independent candidate for United States Senate in and for the State of Illinois BE NOT PRINTED on the OFFICIAL BALLOT of the General Election to be held on November 4, 2014.

Respectfully submitted,



OBJECTOR
Lou Atsaves



OBJECTOR
Gary Gale

VERIFICATION

The undersigned as Objector, first being duly sworn on oath, now deposes and says that he has read this VERIFIED OBJECTORS PETITION and that the statements therein are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true and correct.

[Signature]

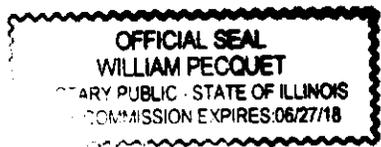
OBJECTOR
Lou Atsaves
745 E. Northmoor Road
Lake Forest, Illinois, 60045

County of Cook)
) ss.
State of Illinois)

Subscribed to and Sworn before me, a Notary Public, by Lou Atsaves, the Objector, on this the 30 day of June 2014, at Chicago, Illinois.

William Pecquet (SEAL)
NOTARY PUBLIC

My Commission expires: 6-27-18



VERIFICATION

The undersigned as Objector, first being duly sworn on oath, now deposes and says that he has read this VERIFIED OBJECTORS PETITION and that the statements therein are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true and correct.

[Handwritten Signature]

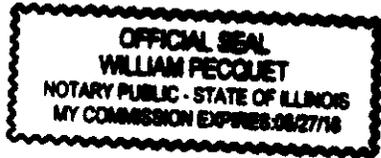
OBJECTOR
Gary Gale
481 Green Bay Road
Highland Park, Illinois 60035

County of Cook)
) ss.
State of Illinois)

Subscribed to and Sworn before me, a Notary Public, by Gary Gale, the Objector, on this the 30th day of June 2014, at Chicago, Illinois.

William Pecquet (SEAL)
NOTARY PUBLIC

My Commission expires: 6-27-18



**Atsaves/Gale v. Moore/Bourland
14 SOEB GE 513**

Candidate: Gregg Moore / Caroline Bourland

Office: Governor / Lt Governor

Party: Independent

Objector: Lou Atsaves / Gary Gale

Attorney for Objector: John Fogarty

Attorney for Candidate: Pro se

Number of Signatures Required: 25,000

Number of Signatures Submitted: 14,465

Number of Signatures Objected to:

Basis of Objection: Candidate failed to file a sufficient number of valid signatures. In addition, numerous petition sheets bear no page number making a review of such petitions impossible.

Dispositive Motions: None

Binder Check Necessary: No

Hearing Officer: Jim Tenuto

Hearing Officer Findings and Recommendation: The objection should be sustained and the candidates should not be certified to appear on the 2014 General Election ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer.

the July 7, 2014 meeting and further indicates the Candidate will be absent from the July 7, 2014 meeting.

The Objector did not file any motions on his behalf.

Candidate Gregg Moore filed a *Pro Se* Appearance on July 11, 2014.

III. Discussion

The Candidate, by filing an Appearance on July 11, 2014, missed the deadline of July 10, 2014 to submit any motions challenging the staff count of 14,465 or attacking the legal sufficiency of the Objection.

On July 14, 2014, the Candidate did file a 2-page Response to Objectors. The Response to Objectors is identical in both matters, to wit, 14 SOEB GE 508 and 14 SOEG GE 513. The Response does not challenge the legal sufficiency of the Objection but seems to extol the virtue of his candidacy.

On July 15, 2014, the Objector did file Objector's Response to Candidate's Filing. The Objector points out that many of the arguments raised by the Candidate are not relevant.

Assuming each signature submitted on behalf of Gregg Moore and Caroline Bourland is valid, nevertheless, the Candidates have not filed the minimum number of signatures that would entitle their names to appear on the ballot at the November 4, 2014 General Election.

On July 17, 2014, Bourland submitted a letter (see attached) explaining that she was never a candidate for Lieutenant Governor and asked to have her name removed from the public record as a candidate.

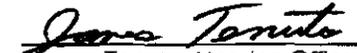
IV. Findings of Facts

1. The Preliminary Facts in Section I are hereby adopted as Findings of Facts.
2. For the reasons set forth above, the Objection should be sustained.

V. Conclusions and Recommendation

Based on the Findings of Facts set forth in Section IV, it is the Recommendation of the Hearing Officer that the objection be sustained and the names of Gregg Moore and Caroline Bourland not be certified for the offices of Governor and Lt. Governor as independent Candidates to be voted upon at the November 4, 2014 General Election.

DATED: July 18, 2014


James Tenuto, Hearing Office

July 17, 2014

Mr. Steve Sandvoss
General Counsel
Illinois State Board of Elections
2329 South Macarthur Blvd
Springfield, IL 62704-2999

RE: *Request to be Stricken as Candidate for Lieutenant Governor*

Dear Mr. Sandvoss:

I am writing to request that my name be stricken as a candidate for lieutenant governor in the 2014 election, and to have my name removed from the public record as a candidate for lieutenant governor.

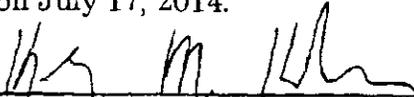
As we discussed on the phone, I am not and was never a candidate for lieutenant governor, and never intended or agreed to run as a candidate for lieutenant governor. The nominating petition which submitted my name as a candidate for the office, as the running mate of Gregg Moore, was filed without my consent.

Please do not hesitate to let me know if you have any additional questions or concerns, and thank you for your attention to this matter.

Sincerely,

Caroline Ellis Bourland
Assistant Appellate Defender
Office of the State Appellate Defender
203 N. LaSalle
24th Floor
Chicago, Illinois 60601
(312) 814-5472

SUBSCRIBED AND SWORN TO BEFORE ME
on July 17, 2014.



NOTARY PUBLIC



STATE BOARD OF ELECTIONS

2014 JUL 17 PM 2:16

CHICAGO

CHICAGO
2014 JUL 17 PM 2:16
STATE BOARD OF ELECTIONS

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OF OBJECTIONS TO THE PETITION PAPERS FOR
INDEPENDENT CANDIDATES FOR GOVERNOR AND LIEUTENANT GOVERNOR
IN THE STATE OF ILLINOIS**

Lou Atsaves and Gary Gale;)
Petitioner-Objectors,)
)
vs.)
)
Gregg Moore as a Candidate)
For Governor and Caroline)
Bourland as a Candidate for)
Lieutenant Governor,)
)
Respondent-Candidates.)

513

RECEIVED
 JUN 10 1998
 10:00 AM
 CLERK OF THE BOARD

VERIFIED OBJECTORS' PETITION

Now come Lou Atsaves and Gary Gale (hereinafter referred to as the "Objectors"), and state as follows:

1. Lou Atsaves resides at 745 E. Northmoor Road, Lake Forest, Illinois, 60045, in the County of Lake and State of Illinois, that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objection is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers of any person desiring to run as an Independent candidate for Governor or Lieutenant Governor of the State of Illinois are properly complied with and that only qualified Independent candidates for said offices appear upon the General Election ballot as candidates for said offices.

2. Gary Gale resides at 481 Green Bay Road, Highland Park, Illinois, 60035, Lake County, in the State of Illinois; that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objection is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers of any person desiring to run as an Independent candidate for Governor or Lieutenant Governor of the State of Illinois are properly

complied with and that only qualified Independent candidates for said offices appear upon the General Election ballot as candidates for said offices.

3. Your Objectors make the following objections to the nomination papers of Gregg Moore, who purports to run as an Independent candidate for Governor of the State of Illinois, and Caroline Bourland, who purports to run as an Independent candidate for Lieutenant Governor of the State of Illinois ("the Nomination Papers"), and files the same herewith, and states that the said Nomination Papers are insufficient in law and in fact for the following reasons:

4. Your Objectors state that in the State of Illinois the signatures of not less than 25,000 duly qualified, registered, and legal voters of the State of Illinois are required to run as an Independent candidate for Governor or Lieutenant Governor. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

5. Your Objectors state that the Candidates have filed 969 petition signature sheets containing, at most, 14,535 signatures of allegedly duly qualified, legal, and registered voters of the State of Illinois.

6. Even if every signature that the Candidates filed were valid, the Candidates have filed at most only 14,535 signatures, which is fewer than the 25,000 statutory minimum for said offices. On their face, the Nomination Papers do not contain enough valid signatures to permit Gregg Moore to be an Independent candidate for Election to the Office of Governor of the State of Illinois nor enough to permit Caroline Bourland to be an Independent candidate for Election to

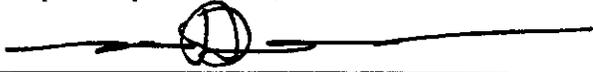
the Office of Lieutenant Governor of the State of Illinois to be voted upon at the General Election to be held on November 4, 2014.

7. Your objectors further state that in the State of Illinois, candidate petition sheets must be numbered consecutively. Your objectors state that numerous candidate petition sheets of Greg Moore as an Independent candidate for Governor and Caroline Bourland as an Independent candidate for Lieutenant Governor bear no sheet numbers whatsoever, making it impossible to review said petition sheets, in violation of this mandatory requirement of the Election Code.

8. Your Objectors state that the laws pertaining to the securing of ballot access require that certain requirements be met as established by law. Filings made contrary to such requirements must be voided, being in violation of the statutes in such cases made and provided.

WHEREFORE, your Objectors pray that the purported Independent candidate petition papers of Gregg Moore as an Independent candidate for Governor of the State of Illinois and Caroline Bourland as an Independent candidate for Lieutenant Governor of the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois; and that this Honorable Electoral Board enter its decision declaring that the name of Gregg Moore as an Independent candidate for Governor of the State of Illinois and Caroline Bourland as an Independent candidate for Lieutenant Governor of the State of Illinois BE NOT PRINTED on the OFFICIAL BALLOT of the General Election to be held on November 4, 2014.

Respectfully submitted,



OBJECTOR
Lou Atsaves



OBJECTOR
Gary Gale

VERIFICATION

The undersigned as Objector, first being duly sworn on oath, now deposes and says that he has read this VERIFIED OBJECTORS PETITION and that the statements therein are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true and correct.

[Handwritten Signature]

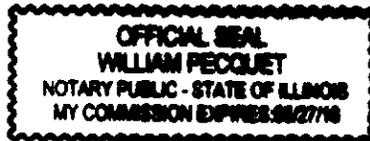
OBJECTOR
Lou Atsaves
745 E. Northmoor Road
Lake Forest, Illinois, 60045

County of Cook)
) ss.
State of Illinois)

Subscribed to and Sworn before me, a Notary Public, by Lou Atsaves, the Objector, on this the 30th day of June 2014, at Chicago, Illinois.

William Pecquet (SEAL)
NOTARY PUBLIC

My Commission expires: 6-27-18



VERIFICATION

The undersigned as Objector, first being duly sworn on oath, now deposes and says that he has read this VERIFIED OBJECTORS PETITION and that the statements therein are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true and correct.

[Handwritten signature]

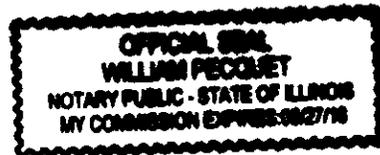
OBJECTOR
Gary Gale
481 Green Bay Road
Highland Park, Illinois 60035

County of Cook)
) ss.
State of Illinois)

Subscribed to and Sworn before me, a Notary Public, by Gary Gale, the Objector, on this the 30th day of June 2014, at Chicago, Illinois.

William Pecquet (SEAL)
NOTARY PUBLIC

My Commission expires: 6-27-18



**Allen v. Samuels
14 SOEB GE 517**

Candidate: Bruce Samuels

Office: 39th Senate

Party: Green

Objector: Hope Allen

Attorney for Objector: Michael Kasper/Bret Bender

Attorney for Candidate: Andrew Finko

Number of Signatures Required: 3,864

Number of Signatures Submitted: 169

Number of Signatures Objected to:

Basis of Objection: Candidate failed to submit a sufficient number of valid signatures.

Dispositive Motions: None

Binder Check Necessary: No

Hearing Officer: Jim Tenuto

Hearing Officer Findings and Recommendation: The objection should be sustained and the candidate should not be certified to appear on the 2014 General Election ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer.

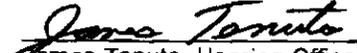
**BEFORE THE STATE BOARD OF ELECTIONS SITTING
AS THE DULY CONSTITUTED STATE OFFICERS ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO NEW POLITICAL PARTY
AND INDEPENDENT CANDIDATES SEEKING TO APPEAR ON THE BALLOT
FOR THE NOVEMBER 4, 2014 GENERAL ELECTION**

IN THE MATTER OF:
HOPE E. ALLEN,)
Petitioner(s) - Objector(s),)
)
)
v.) **14 SOEB GE 517**
)
)
BRUCE SAMUELS,)
Respondent(s) - Candidate(s).)

NOTICE

A copy of the Hearing Officer's Findings and Recommendations was served upon the parties on July 18, 2014 by email if provided. Exception to the Findings and Recommendations should be filed with the State Board of Elections by 3:00 p.m. on July 18, 2014. This matter will be presented to the State Board of Elections as the duly constituted State Officers Electoral Board at a hearing on July 21, 2014 at 10:30 a.m. at the principal office of the State Board of Elections, 2329 South MacArthur Blvd., Springfield, IL 62704 and via telephone conference call at the James R. Thompson Center, 100 West Randolph Street, Suite 14-100, Chicago, Illinois 60601.

DATED: July 18, 2014


James Tenuto, Hearing Officer

Assuming each signature submitted on behalf of Bruce Samuels is valid, the Candidate has not filed the minimum number of signatures that would entitle his name to appear on the ballot at the November 4, 2014 General Election.

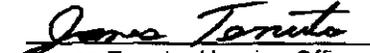
IV. Findings of Facts

1. The Preliminary Facts in Section I are hereby adopted as Findings of Facts.
2. For the reasons set forth above, the Objection should be sustained. The Candidate failed to file the minimum number of required signatures.

V. Conclusions and Recommendation

Based on the Findings of Facts set forth in Section IV, it is the Recommendation of the Hearing Officer that the objection be sustained and the name of Bruce Samuels not be certified for the office of State Senator in the 39th Legislative District as a Green Party Candidate to be voted upon at the November 4, 2014 General Election.

DATED: July 18, 2014


James Tenuto, Hearing Officer

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
 FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO
 NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE
 OFFICE OF STATE SENATOR FOR THE 39th
 LEGISLATIVE DISTRICT OF THE STATE OF ILLINOIS

Hope E. Allen,)
)
 Petitioner-Objector,)
)
 v.)
)
 Bruce Samuels,)
)
 Respondent-Candidate.)

517

2014 JUN 30 PM 3:29
 STATE BOARD OF ELECTIONS
 CHICAGO

OBJECTOR'S PETITION

INTRODUCTION

Hope E. Allen, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 2002 N. 19th Ave., Unit 4B, Melrose Park, Illinois, Zip Code 60160, in the 39th Legislative District of the State of Illinois, and is a duly qualified, legal and registered voter at that address.
2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of State Senator for the 39th Legislative District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of Bruce Samuels as a candidate for the office of State Senator for the 39th Legislative District of the State of Illinois ("Office") to be voted for at the General Election on November 4, 2014 ("Election"). The Objector states that the Nomination Papers are insufficient in fact and law for the following reasons:
4. Pursuant to State law, nomination papers of an independent candidate (or a new political party candidate) for the Office to be voted for at the Election must contain the signatures of not fewer than 3,864 duly qualified, registered and legal voters of the 39th Legislative District of the State of Illinois collected in the manner prescribed by law. In addition, nomination papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law.

5. The Candidate's Nomination Papers are invalid in their entirety because the Candidate's Nomination Papers contain do not contain, on their face, a sufficient number of signatures to qualify for the ballot. Assuming each and every signature contained within the Candidate's Nomination Papers is valid, the Candidate's Nomination Papers would still be hundreds of signatures short of the statutory minimum number necessary to qualify for the ballot.

6. The Candidate's Nomination Papers contain no more than 169 signatures, and assuming each and every one of those signatures is valid, the Candidate's Nomination Papers are nonetheless invalid in their entirety.

WHEREFORE, the Objector requests: a) a hearing on the objections set forth herein; b) an examination by the aforesaid Electoral Board of the official records relating to voters in the 39th Legislative District, to the extent that such examination is pertinent to any of the matters alleged herein; c) a ruling that the Nomination Papers are insufficient in law and fact, and d) a ruling that the name of Bruce Samuels shall not appear and not be printed on the ballot for election to the office of State Senator of the 39th Legislative District of the State of Illinois, to be voted for at the General Election to be held November 4, 2014.


OBJECTOR

Address:

Hope E. Allen
2002 N. 19th Ave., Unit 4B
Melrose Park, IL 60160

VERIFICATION

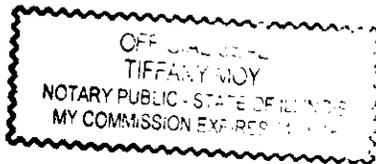
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Hope E. Allen, being first duly sworn upon oath, depose and state that I have read the above and foregoing OBJECTOR'S PETITION, and that the matters and facts contained therein are true and correct to the best of my knowledge and belief.

Hope E Allen

Subscribed and sworn to before me
By Hope E. Allen
this 21st day of June, 2014.

Tiffany Moy
Notary Public



STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

2329 S MacArthur Blvd
PO Box 4187
Springfield, Illinois 62708-4187
217/782-4141
Fax: 217/782-5959

James R. Thompson Center
100 W. Randolph Street, Ste 14-100
Chicago Illinois 60601-3232
312/814-6440
Fax: 312/814-6485



EXECUTIVE DIRECTOR
Rupert T. Borgsmiller

BOARD MEMBERS
Jesse R. Smart, Chairman
Charles W. Scholz, Vice Chairman
Harold D. Byers
Betty J. Coffrin
Ernest C. Gowen
William M. McGuffage
Bryan A. Schneider
Casandra B. Watson

MEMORANDUM

TO: Chairman Smart, Vice Chairman Scholz, Members of the Board
Executive Director Rupert T. Borgsmiller

From: Steve Sandvoss, General Counsel

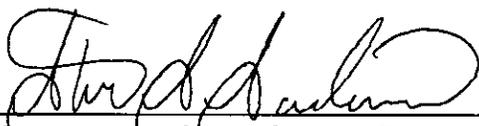
Re: Recommendations of the General Counsel

Date: July 18, 2014

Subpoena requests have been timely submitted in the following four cases:

Atsaves & Gale v. Oberline 14 SOEB GE 514 (Objector request)
Atsaves & Gale v. Grimm 14 SOEB GE 515 (Objector and Candidate request)
Yarbrough v. Lopez 14 SOEB GE 516 (Candidate Request)
Flores v. Ward 14 SOEB GE 519 (Objector request)

I have read the recommendations of the Hearing Officers for the request for subpoenas in the above cases and concur with said recommendations.



Steven S. Sandvoss, General Counsel

Gervase, Darlene

From: Barbara Goodman [barb@barbgoodmanlaw.com]
Sent: Friday, July 18, 2014 3:02 PM
To: Sandvoss, Steve
Cc: Gervase, Darlene
Subject: 14 SOEB GE 514

The Candidates have filed a request for subpoenas in anticipation of needing to obtain registration records from various election officials for purposes of proceeding, if necessary, with a Rule 9 hearing. At the time of the filing, the specific registration records needed were unknown. Therefore, I believe it was reasonable for the candidates to file a generic subpoena request to be modified with the list of records needed for a further hearing once the records are known.

Accordingly, it is my recommendation that the request for subpoenas be granted.

--

Barbara B. Goodman
Attorney at Law
400 Skokie Boulevard
Suite 380
Northbrook, IL 60062
Tel: 224-639-1400
Fax: 224-330-1356
Cell: 847-833-6844
e-Mail: barb@barbgoodmanlaw.com

THIS COMMUNICATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS CONFIDENTIAL, COVERED BY AN ATTORNEY-CLIENT PRIVILEGE OR OTHERWISE EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS BY MAIL. THANK YOU.

RE: 14 SOEB GE 514; *Atsaves and Gale v. Oberline, et al., (Constitution Party)*

Recommendation of Hearing Officer Barbara Goodman will be forwarded under separate cover

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OF OBJECTIONS TO THE PETITION PAPERS FOR
CANDIDATES OF NEW POLITICAL PARTIES IN THE STATE OF ILLINOIS**

LOU ATSAVES and)
GARY GALE,)
))
Petitioner-Objectors,)
))
vs.)
))
THE CONSTITUTION PARTY)
as a purported new political party)
in the STATE OF ILLINOIS, et al.,)
))
Respondent-Candidates.)

Case No. 14 SOEB GE 514

REQUEST TO ISSUE SUBPOENAS

NOW COME, Respondent-Candidates, The Constitution Party as a purported new political party in the State of Illinois; Michael L. Oberline as a Candidate for Governor; Don Stone as a Candidate for Lieutenant Governor; Joe Bell as a Candidate for Attorney General; Timothy Goodcase as a Candidate for Comptroller; Ted Stufflebeam as a Candidate for Secretary of State; Tim Percy as a Candidate for Treasurer; and Chad Koppie as a Candidate For United States Senate, by and through their attorney, Ross D. Secler, and hereby requests via electronic mail, that the Electoral Board authorize the issuance of subpoenas in the above-captioned matter pursuant to 10 ILCS 5/10-10 and Rule 8 of the Rules of Procedure adopted by State Board of Elections as the duly constituted State Officers Electoral Board (adopted and approved July 7, 2014). In support thereof, Respondent-Candidates state as follows:

1. On June 30, 2014, Petitioner-Objectors filed their Verified Objectors Petition with the Illinois State Board of Election. Objectors' Petition alleges, *inter alia*, that Respondent-Candidates' Nomination Petitions contain signatures that are not genuine and signatures of

individuals registered to a different address or out of state. Petitioner-Objectors have also alleged that entire nominating petition sheets circulated by certain individuals are deficient and/or fraudulent and should be stricken.

2. On July 7, 2014, an initial case management conference was held via telephone. A records examination has been scheduled for July 14, 2014.

3. Per Rule 8 of the adopted Rules of Procedure, Requests for Subpoenas must be filed by July 11, 2014, before the completion of the records examination.

4. The proposed subpoenas described herein seek to obtain information relevant to defend against Petitioner-Objectors' allegations. Respondent-Candidates anticipate that they will need the verified voting records of individuals whom have signed and/or circulated Respondent-Candidates' nominating petitions in order to rehabilitate and prove as genuine any signatures that the records examination declares invalid. The verified voting records will allow Respondent-Candidates to verify the registered address of petition signers as well as compare signature samples.

5. Specifically, Respondent-Candidates seek to subpoena the following election authorities throughout the State of Illinois:

- A. CHRISTIAN COUNTY CLERK
- B. COOK COUNTY CLERK
- C. CITY OF CHICAGO BOARD OF ELECTIONS
- D. DUPAGE COUNTY ELECTION COMMISSION
- E. KANE COUNTY CLERK
- F. CITY OF AURORA ELECTION COMMISSION
- G. KENDALL COUNTY CLERK

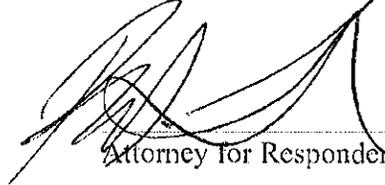
- H. LAKE COUNTY CLERK
- I. MACOUPIN COUNTY CLERK
- J. MADISON COUNTY CLERK
- K. MONROE COUNTY CLERK
- L. SANGAMON COUNTY CLERK
- M. ST. CLAIR COUNTY CLERK
- N. WILL COUNTY CLERK

6. Attached hereto and incorporated herein are copies of the requested subpoenas.

7. Respondent-Candidates will populate a list of which individuals' official voting records is to be produced pursuant to the subpoena upon completion of the records examination when Respondent-Candidates will know which signatures require rehabilitation. This list will be attached to the corresponding subpoena as the subpoena's "Schedule A."

WHEREFORE, for the reasons stated above, your Respondent-Candidates respectfully pray that the requested subpoenas be issued and for any such other and further relief as the Electoral Board may consider proper.

Respectfully Submitted,



Attorney for Respondent-Candidates

Ross D. Secler, Esq.
ARDC Number 6313944
30 North LaSalle Street, Suite 3124
Chicago, Illinois 60602
Telephone: (312) 853-8000
Facsimile: (312) 853-8008
rsecler@gmail.com

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OF OBJECTIONS TO THE PETITION PAPERS FOR
CANDIDATES OF NEW POLITICAL PARTIES IN THE STATE OF ILLINOIS

LOU ATSAVES AND GARY GALE;)
)
Petitioner-Objectors,)
)
v.)
)
THE LIBERTARIAN PARTY AS A)
PURPORTED NEW POLITICAL PARTY IN)
THE STATE OF ILLINOIS; CHAD GRIMM)
AS A CANDIDATE FOR GOVERNOR;)
ALEXANDER CUMMINGS AS A)
CANIDATE FOR LIEUTENANT)
GOVERNOR; BEN KOYL AS A)
CANDIDATE FOR ATTORNEY GENERAL;)
JULIE FOX AS A CANIDATE FOR)
COMPROLLER; CHRISTOPHER MICHEL)
AS A CANDIDATE FOR SECRETARY OF)
STATE; MATTHEW SKOPEK AS A)
CANDIDATE FOR TREASURER; AND)
SHARON HANSEN AS A CANDIDATE)
FOR UNITED STATES SENATE;)
)
Respondent-Candidates.)

Case. No.: 14 SOEB GE 515

**RECOMMENDATION REGARDING THE CANDIDATES' AND OBJECTORS'
REQUESTS FOR SUBPOENAS**

This cause coming before the hearing officer on the Objectors' and the Candidates' requests for subpoenas filed on July 11, 2014, the hearing officer makes the following recommendations:

I. Objectors' Request for Subpoenas

Objectors request that subpoenas be issued for the testimony of thirteen (13) of the thirty eight (38) individuals listed in paragraph 19 of the Objectors' Petition which alleges a pattern of

fraud with regard to several circulators on a variety of grounds. As the testimony of these individuals may be relevant to the Objector's pattern of fraud argument, I recommend that the Objectors' request be granted.

II. Candidates' Request for Subpoenas

Candidates request that subpoenas be issued to fifty one (51) voting authorities throughout the State of Illinois for purposes of obtaining voting records of individuals who have signed and/or circulated Candidates' nominating petitions in order to rehabilitate and prove as genuine any signatures that the records examination declares as invalid. The Candidates state that they will populate a list of which individuals' voting records are to be produced pursuant to the subpoena after completion of the records examination. As these voting records may be relevant to the Candidates' case for the purposes of verifying the registered address or petition signers as well as comparing signature samples, I recommend that the Candidates' request be granted.

Dated: July 18, 2014



Kelly McCloskey Cherk
Hearing Officer

LAW OFFICE OF JOHN FOGARTY, JR.
4043 North Ravenswood, Suite #226
Chicago, IL 60613
(773) 549-2647 (phone)
(773) 681-7147 (fax)
www.fogartylawoffice.com

July 11, 2014

Via E-mail

Kelly McCloskey Cherf
Illinois State Board of Elections
100 West Randolph, Suite 14-100
Chicago, Illinois 60601

Re: *Atsaves & Gale v. The Libertarian Party et al.*, 14 SOEB GE 515

Dear Ms. Cherf:

I respectfully request the Board's consideration of the enclosed subpoenas. Pursuant to Rule 8 of the Rules of Procedure adopted by the State Officers Electoral Board on July 7, 2014, attached please find a copy of each subpoena the Objectors propose to issue in this matter. In addition to signature objections, the Objector's Petition, in Paragraph 19 alleges a pattern of fraud with regard to several circulators on a variety of grounds. Each of these subpoenas seeks relevant information on those allegations.

1. The first proposed subpoena is to Toni Banks. As set forth in Paragraph 19(c), Toni Banks purportedly resides at 1645 West LeMoyné, Chicago, IL. Toni Banks purports to have circulated petition page nos: 1025, 1136, 1140, 1149, 1313, 1379, 1380, 1390, 1398, 1424, 1430, 1456, 1485, 1499, 1550, 1552, 1625, 1796, 1879. The proposed subpoena seeks to obtain information relevant to the allegations that Toni Banks did not circulate the petition sheets that she purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand, and that the names of signers who appear on Toni Banks' petition sheets also appear on the petition sheets purportedly circulated by other of the Libertarian Party circulators.

2. The second proposed subpoena is to Anthony Bonds. As set forth in Paragraph 19(d), Anthony Bonds has certified that he resides at 6500 South Bishop, Chicago, IL. Anthony Bonds purports to have circulated petition page nos: 390, 422, 805, 810, 819, 822, 830, 839, 850, 870, 894, 911, 923, 928, 1012, 1250, 1259, 1270, 1279, 1289, 1319, 1321, 1328, 1330, 1470, 1476, 1563, 1566, 1568, 1571, 1573, 1578, 1587, 1590, 1593, 1647, 1653, 1674, 1687, 1937. The proposed subpoena seeks to obtain information relevant to the allegations that Anthony Bonds does not reside at the address he has certified, that he did not circulate the petition sheets that he purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand, and that the names of signers who appear on his petition sheets also appear on the petition sheets purportedly circulated by other of the Libertarian Party circulators.

3. The third proposed subpoena is to Sarah Dart. As set forth in Paragraph 19(l), Sarah Dart purportedly resides at 4872 W. St. Paul, Chicago, IL. Sarah Dart purports to have circulated petition page nos: 155, 284, 288, 294, 296, 302, 308, 388, 415, 420, 450, 453, 466, 473, 480, 485, 490, 496, 502, 508, 518, 521, 527, 534, 544, 546, 550, 565, 608, 610, 616, 617, 619, 629, 634, 637, 639, 801, 804, 811, 826, 1005, 1006, 1050, 1065, 1070, 1073, 1077, 1081, 1086, 1092, 1163, 1167, 1179, 1184, 1199, 1232, 1246, 1247, 1249, 1251, 1255, 1257, 1264, 1268, 1281, 1287, 1290, 1322, 1327, 1337, 1341, 1354, 1357, 1362, 1388, 1392, 1426, 1435, 1447, 1448, 1460, 1462, 1467, 1469, 1471, 1473, 1477, 1479, 1482, 1492, 1502, 1513, 1565, 1575, 1577, 1583, 1588, 1592, 1596, 1606, 1610, 1620, 1634, 1638, 1646, 1654, 1662, 1667, 1678, 1680, 1693, 1704, 1709, 1711, 1713, 1716, 1726, 1730, 1734, 1742, 1744, 1758, 1759, 1764, 1777, 1782, 1788, 1790, 1798, 1805, 1806, 1808, 1811, 1813, 1815, 1816, 1818, 1819, 1821, 1822, 1823, 1824, 1825, 1830, 1835, 1837, 1838, 1841, 1843, 1844, 1848, 1850, 1853, 1854, 1855, 1863, 1865, 1867, 1876, 1883, 1885, 1890, 1891, 1893, 1895, 1897, 1898, 1900, 1902, 1904, 1906, 1908, 1910, 1912, 1914, 1915, 1916, 1918, 1919, 1921, 1923, 1925, 1926, 1929, 1931, 1932, 1933, 1935, 1936, 1938, 1940, 1945, 1949, 2058, 2077, 2083, 2110, 2125, 2134, 2152, 2165, 2167, 2193, 2194. The proposed subpoena seeks to obtain information relevant to the allegations that Sarah Dart did not circulate the petition sheets that she purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand, and that the names of signers who appear on her petition sheets also appear on the petition sheets purportedly circulated by other of the Libertarian Party circulators.

4. The fourth proposed subpoena is to Derek Farr. As set forth in Paragraph 19(n), Derek Farr purportedly resides at 2506 E. 98th Street, Chicago, IL. Derek Farr purports to have circulated petition page nos: 328, 347, 723, 733, 1003, 1027, 1109, 1112, 1115, 1119, 1124, 1203, 1302, 1312, 1369, 1375, 1417, 1474, 1516, 1521, 1526, 1567, 1579, 1589, 1594, 1608, 1637, 1645, 1650, 1657, 1661, 1673, 1686, 1706, 1707, 1718, 1722, 1739, 1751, 1801, 1812, 1832, 1840, 1847, 1860, 1868, 1886, 1892, 1928. The proposed subpoena seeks to obtain information relevant to the allegations that Derek Farr did not circulate the petition sheets that he purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand, and that the names of signers who appear on his petition sheets also appear on the petition sheets purportedly circulated by other of the Libertarian Party circulators.

5. The fifth proposed subpoena is to Christina Frazier. As set forth in Paragraph 19(p), Christina Frazier purportedly resides at 8836 S. Indiana, Chicago, IL. Christina Frazier purports to have circulated petition page nos: 15, 45, 93, 119, 135, 143, 146, 153, 164, 412, 488, 523, 537, 552, 1036, 1182, 1537. The proposed subpoena seeks to obtain information relevant to the allegations that Christina Frazier did not circulate the petition sheets that she purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand, and that the names of signers who appear on her petition sheets also appear on the petition sheets purportedly circulated by other of the Libertarian Party circulators.

6. The sixth proposed subpoena is to Darren Heard. As set forth in Paragraph 19(q), Darren Heard purportedly resides at 11418 S. Longwood Drive, Chicago, IL. Darren Heard purports to have circulated petition page nos: 1026, 1047, 1060, 1063, 1072, 1096, 1101, 1110,

1125, 1131, 1180, 1196, 1271, 1314, 1351, 1440, 1442, 1451, 1455, 1495, 1505, 1510, 1525, 1533, 1538, 1710, 1768, 1839, 1861, 1871. The proposed subpoena seeks to obtain information relevant to the allegations that Darren Heard did not circulate the petition sheets that he purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand.

7. The seventh proposed subpoena is to Lemont Jackson. As set forth in Paragraph 19(s), Lemont Jackson purportedly resides at 3842 W. Ferdinand, Chicago, IL. Lemont Jackson purports to have circulated petition page nos: 1004, 1381, 1501, 1511, 1528, 1534, 1942, 1947, 1951, 1955, 1960, 1976, 1988, 1995, 2000, 2003, 2008, 2115, 2133, 2136, 2168, 2253. The proposed subpoena seeks to obtain information relevant to the allegations that Lemont Jackson did not circulate the petition sheets that he purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand.

8. The eighth proposed subpoena is to Andrew Jacobs. As set forth in Paragraph 19(u), Andrew Jacobs has certified that he resides at 525 Main Avenue E, West Fargo, North Dakota. Andrew Jacobs purports to have circulated petition page nos: 996, 998, 1051, 1067, 1083, 1104, 1165, 1181, 1198, 1201, 1209, 1212, 1213, 1222, 1227, 1243, 1265, 1335, 1342, 1345, 1352, 1356, 1367, 1374, 1384, 1389, 1394, 1397, 1400, 1405, 1410, 1422, 1431, 1432, 1439, 1457, 1461, 1508, 1518, 1522, 1524, 1532, 1535, 1543, 1551, 1558, 1633, 1642, 1649, 1660, 1669, 1671, 1691, 1696, 1714, 1725, 1779, 1783, 1786, 1793, 1817, 1836, 1845, 1852, 1862, 1864, 1888, 1901, 1905, 1922. The proposed subpoena seeks to obtain information relevant to the allegations that Andrew Jacobs does not reside at the address he has certified, that he did not circulate the petition sheets that he purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand.

9. The ninth proposed subpoena is to Albert Leon. As set forth in Paragraph 19(x), Albert Leon purportedly resides at 9524 Avenue M, Chicago, IL. Albert Leon purports to have circulated petition page nos: 167, 183, 188, 201, 204, 216, 227, 231, 239, 249, 251, 264, 266, 297, 303, 357, 361, 376, 380, 387, 437, 461, 477, 484, 489, 601, 640, 681, 685, 688, 698, 712, 724, 734, 736, 739, 750, 754, 762, 766, 780, 974, 1066, 1085, 1120, 1195. The proposed subpoena seeks to obtain information relevant to the allegations that Albert Leon did not circulate the petition sheets that he purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand, and that the names of signers who appear on his petition sheets also appear on the petition sheets purportedly circulated by other of the Libertarian Party circulators.

10. The tenth proposed subpoena is to Ryan Meszaros. As set forth in Paragraph 19(z), Ryan Meszaros has certified that he resides at 2988 S. Archer Avenue Apt. 2 Rear, Chicago, Illinois. Ryan Meszaros purports to have circulated petition page nos: 1234, 1771, 1774, 1799, 1894. The proposed subpoena seeks to obtain information relevant to the allegations that Ryan Meszaros does not reside at the address he has certified, that he did not circulate the petition sheets that he purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand.

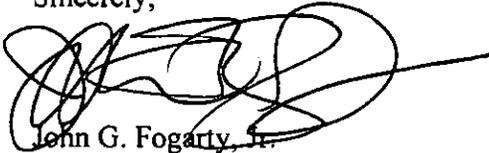
11. The eleventh proposed subpoena is to Yvette Moore. As set forth in Paragraph 19(aa), Yvette Moore purportedly resides at 851 E. 100th Street, Chicago, IL. Yvette Moore purports to have circulated petition page nos: 52, 63, 68, 70, 79, 84, 443, 676, 896, 899, 901, 905, 918, 924, 937, 945, 1038, 1042, 1078, 1087, 1106, 1135, 1139, 1148, 1151, 1154, 1188, 1205, 1210, 1223, 1238, 1294, 1296, 1303, 1310, 1315, 1338, 1343, 1408, 1419, 1429, 1436, 1441, 1450, 1454, 1465, 1488, 1496, 1498, 1559, 1600, 1607, 1609, 1621, 1623, 1692, 1702, 1737, 1746, 1748, 1753, 1757, 1761, 1767, 1778, 1789, 1795, 1814, 1828, 1831, 1878, 1884, 1889. The proposed subpoena seeks to obtain information relevant to the allegations that Yvette Moore did not circulate the petition sheets that she purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand, and that the names of signers who appear on her petition sheets also appear on the petition sheets purportedly circulated by other of the Libertarian Party circulators.

12. The twelfth proposed subpoena is to Debra Winkelman. As set forth in Paragraph 19(jj), Debra Winkelman purportedly resides at 9645 S. Harlem, Unit #H, Chicago Ridge, IL. Debra Winkelman purports to have circulated petition page nos: 665, 909, 997, 1137, 1172, 1252, 1254, 1260, 1266, 1275, 1284, 1323, 1333, 1364, 1373, 1376, 1428, 1437, 1443, 1453, 1464, 1472, 1481, 1500, 1582, 1604, 1616, 1681, 1690, 1723, 1727, 1732, 1752, 1803, 1820, 1873, 1896, 1913. The proposed subpoena seeks to obtain information relevant to the allegations that Debra Winkelman did not circulate the petition sheets that she purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand.

13. The thirteenth proposed subpoena is to Jacob Whitmer. As set forth in Paragraph 19(kk), Jacob Whitmer has certified that he resides at 6402 Hampton Drive, Anchorage, Alaska, when he actually resides at 1359 W. Chicago Avenue, Apt. C5, Chicago, Illinois. Jacob Whitmer purports to have circulated petition page nos: 58, 87, 510, 528, 570, 574, 591, 606, 612, 636, 641, 908, 1062, 1068, 1108, 1117, 1127, 1191, 1406, 1413, 1423, 1433, 1438, 2260, 2262, 2264, 2269, 2271, 2274, 2275, 2277, 2279, 2280, 2282, 2285, 2288, 2291, 2293, 2296, 2299, 2302, 2305, 2314, 2316, 2319, 2321, 2326, 2338, 2340, 2343, 2345, 2347. The proposed subpoena seeks to obtain information relevant to the allegations that Jacob Whitmer does not reside at the address he has certified, that he did not circulate the petition sheets that he purports to have circulated; that numerous signatures appear to be not genuine, and written in the same hand.

Thank you for your consideration. The Objector respectfully requests the issuance of the aforesaid subpoenas, and respectfully reserves the right to request the issuance of additional discovery requests, should the circumstances call for it, pursuant to Rule 8 of the adopted Rules of Procedure.

Sincerely,



John G. Fogarty, Jr.

cc: Ben Koyl
Ross D. Secler

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
OF THE STATE OF ILLINOIS**

In the Matter of:)	
Karen Yarborough)	
Objector)	
)	
vs.)	No, 14-SOEB-GE 516
)	
Omar Lopez, et al.)	
Candidate)	

RECOMMENDATION

This cause coming to be heard on the Candidate's Request for the issuance of subpoenas, the Hearing Officer makes the following recommendations to the Board:

The Candidates requests the Board issue subpoenas for the production of various election authorities in order to attempt to rehabilitate any signatures/registrations found to be defective at the scheduled binder check. Additionally, the Candidates request the "issuance of a subpoena to Karen Yarborough for her personal appearance at an evidentiary hearing to testify regarding her review of Candidates petitions and her preparation of her Objector's petition" as well as production of specified documents , which would be used to establish that "objector's review [of the petitions] was deficient and that the SBE's binder check is of no evidentiary value...".

Whether discovery should be allowed is dependent upon the relevance and materiality of the information to be discovered. Similarly, the issuance of a pretrial subpoena requires, among other things, that the documents sought be evidentiary and relevant. (See *People v. Shukovsky* (1988), 128 Ill.2d 210, 225, citing *United States v. Nixon* (1974), 418 U.S. 683, 699-700, 41 L. Ed. 2d 1039, 1059, 94 S. Ct. 3090, 3103; *People ex rel. Fisher v. Carey* (1979), 77 Ill.2d 259, 269.)

In determining the evidentiary and relevance of a subpoena in these proceedings, it is clear that, as a creature of statute, the Election Board possesses only those powers conferred upon it by law. Any power or authority it exercises must find its source within the law pursuant to which it was created. Under section 10-10 of the Election Code (10 ILCS 5/10-10 (West 2004)), an election board's scope of inquiry with respect to objections to nomination papers is limited to ascertaining whether those papers comply with the provisions of the Election Code governing such papers.

Under section 10-10, the Electoral Board has the power to "administer

oaths and to subpoena and examine witnesses and at the request of either party the chairman may issue subpoenas requiring the attendance of witnesses and subpoenas duces tecum requiring the production of such books, papers, records and documents as may be evidence of any matter under inquiry before" it. 10 ILCS 5/10-10 (West 2002). "The plain language of section 10-10 gives the chairman the discretion to issue subpoenas." *Craig v. Electoral Board of Oconee Township*, 207 Ill. App. 3d 1042, 1048, 556 N.E.2d 775 (1991). However, under section 10-10 of the Election Code, the Electoral Board's "inquiry" is limited to whether a candidate's nomination petition complies with the requirements of the Election Code. See *Kozel*, 126 Ill. 2d at 68; *Wiseman*, 5 Ill. App. 3d at 257.

The Objector does not object to the issuance of subpoenas to the various election authorities. However, the Objector does object to the issuance of subpoenas for the appearance of Karen Yarborough and specified documents. In support of its objection, the Objector cites *Nader v. Illinois State Board of Elections*, 354 Ill. App. 3d 335, 340 (2004).

Under *Nader*, the Candidates made a similar motion for the issuance of a subpoena in order to discern the manner in which the Objector compiled his objections. The Board rejected the subpoena request and the Candidate appealed. In affirming the Board's decision the court, at 354 Ill App 3d 344-345, noted as follows:

The Electoral Board, however, is no more required or empowered to conduct an investigation into how the Objector's petition was compiled than it is to do so into the methods employed by the Candidates in obtaining signatures in their petition. Rather, the Electoral Board can determine only whether the Candidates' nomination petition complies with the requirements of the Election Code. Here, the Electoral Board was required to determine how many of the signatures in the Candidates' petition were invalid based on the Objector's allegations, i.e., due to illegible signature, incomplete voter information, incomplete circulator verification, forgery, or voter fraud.

The Electoral Board's authority to do anything must either "arise from the express language of the statute" or "devolve by fair implication and intendment from the express provisions of the [statute] as an incident to achieving the objectives for which the [agency] was created." *Vuagnizux*, 208 Ill. 2d at 188, quoting *Schalz*, 113 Ill. 2d at 202-03. Nowhere in the Election Code is the Electoral Board allowed or required to conduct an investigation into the propriety of the methods used by the Objector in raising his objections to a candidate's nominating petition.

Moreover, under section 10-10, the investigatory power of the Electoral Board is specifically "limited to a consideration of objections to a candidate's nomination papers." *Kozel*, 126 Ill. 2d at 68; *Wiseman*, 5 Ill.

App. 3d at 257. In other words, its inquiry is limited to the validity of those objections; whether those objections were compiled by State employees in violation of article 9 of the Election Code or other sections of the Election Code is simply not relevant to the issues of whether the Candidates' nominating papers satisfied the formal requirements in section 10-4 and whether the petition contained enough valid signatures to be placed on the November 2 ballot.

Accordingly, based upon the above,

1) It is recommended that the Board issue subpoenas to various election authorities, which would be used to rehabilitate any signatures/registrations found to be defective at the scheduled binder check.

2). It is not recommended that the Board issue a subpoena for the appearance of Objector, Karen Yarborough, and requested documents, since the basis for the Candidate's request is irrelevant to these proceedings.

July 16, 2014

/s/Philip Krasny
Hearing Officer

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OBJECTIONS TO NOMINATION PAPERS FOR
CANDIDATES SEEKING ELECTION AT THE NOVEMBER 4, 2014 GENERAL ELECTION

KAREN YARBROUGH,)	
)	
Objector,)	
v.)	No. 14-SOEB-GE-516
)	
OMAR LOPEZ, SCOTT SUMMERS,)	
BOBBY J. PRITCHETT, JR.,)	
SHELDON SCHAFER, DAVID F. BLACK,)	
JULIE SAMUELS, TIM CURTIN,)	
)	
Candidates.)	

Request for Issuance of Subpoenas

Candidates, Omar Lopez, Scott Summers, Bobby J. Pritchett Jr., Sheldon Schafer, David F. Black, Julie Samuels and Tim Curton, request that subpoenas for documents only be issued to each election authority for voter registration records, for voter registration records of voters that were stricken from the petitions pursuant to the binder check process, but were indeed registered voters on the date they signed the Candidates' petitions.

The names, addresses and sheet/line numbers are not yet known, but would be listed in the riders to each of the subpoenas. The list of election authorities is not presently known, since the schedule is premature and imposes due process issues for Candidates, who are forced to submit this request before it is known what the Objector's allegations consist of.

Potential election authorities, include, but are not limited to City of Chicago, City of Peoria, Cook County, DuPage County, Will County, Lake County, McHenry County, Grundy County, Winnebago County, McDonough County, Warren County, Woodford County, Kankakee County, Jackson County, St. Clair County, Madison County, Union County, Massac County, Williamson County, Pope County, Johnson County, Alexander County, Perry County, Peoria County, Tazewell County, et al.

Candidates also request issuance of a subpoena to Karen Yarbrough for her personal appearance at an evidentiary hearing to testify regarding her review of Candidates' petitions and her preparatin of her Objector's petition.

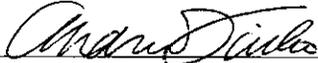
The subpoena to Karen Yarbrough also requests production of documents, including but not limited to all documents regarding her objector's petition, her copy of Candidates' petition sheets, notes, invoices, payments, her calendar, the dates on which she or her agents/employees reviewed Candidates' petition sheets, the names and addresses of each person who reviewed Candidates' petitions on behalf of or at the request of Karen Yarbrough, the actual voter database that Karen Yarbrough or her agents/employees used for the review of Candidates' petitions, and emails to/from Gov. Pat Quinn regarding her objector's petition.

As a matter of due process, it is necessary to issue subpoenas for information that is not within Candidates' control, but is necessary for their defense, to assert that Objector's review was deficient, and that the SBE's binder check is of no evidentiary value, since cannot, and would not affirm or deny voter status on the date on which each voter signed Candidates' petitions. In the event that the SBE goes forward with its binder check, records may be necessary from election authorities in order to rehabilitate voter registrations that might be stricken by the State Board of Elections binder check. In addition, it is necessary to Candidates' defense to hear from Karen Yarbrough regarding her preparation of the objector's petition, dates on which she reviewed Candidates' petitions, and the scope of her review, to determine if in fact she used a voter registration database that was in effect on the date(s) when the voters signed the Candidates' petition sheets.

Draft copies of the proposed subpoenas are attached hereto.

Respectfully submitted:

By:



Attorney for Objector

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Certificate of Filing and Service

The undersigned, an attorney, certifies that he filed and served (via email) upon opposing counsel, Mike Kasper, and the State Officers Electoral Board c/o: Steve Sandvoss, general counsel, a copy of the **Candidates' Request for Issuance of Subpoenas**, on July 11, 2014, at or before 5:00 pm.

By:



Attorney for Objector

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BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO
NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO
OFFICE IN THE STATE OF ILLINOIS

Karen Yarbrough,)	
)	
Petitioner-Objector,)	
)	
v.)	14 SOEB GE 516
)	
Scott Summers, Bobby L. Pritchett, Jr.,)	
Omar Lopez, Sheldon Schafer, David)	
Black, Julie Samuels, and Tim Curtin,)	
)	
Respondent-Candidates.)	

RESPONSE TO CANDIDATES' SUBPOENA REQUEST

NOW COMES Objector, through her attorneys, and in response to the Candidates' request for subpoenas states as follows:

1. The Objector has no objection to the Candidates' Request for Subpoenas from the various election authorities.
2. The Objector objects to the Candidates' request to subpoena the Objector on several grounds. First, the Objector has made several offers to enter a stipulation in lieu of compelling Objector's testimony. The Candidates' have not responded to this request, and therefore, the Objector concludes that the Candidates are seeking her testimony not for any probative testimony (which could be entered by stipulation), but instead are attempting to compel her testimony as a means of harassment and inconvenience.
3. For example, the Candidates claim that they wish to compel her testimony regarding "her review of Candidates' petitions" despite the fact that the Objector is willing to stipulate that she did not personally review the petitions. She is also willing to stipulate that she did not personally direct any individuals to review the Candidate's

petitions.

4. The Candidates also claim to want to inquire as to her “preparation of her Objector’s petition” all of which is subject to attorney client privilege.

5. Finally, Candidates seek any written communications with Governor Quinn regarding her Objector’s Petition. Needless to say, the Objector’s communications with any third party are not relevant to the disposition of the matters before this Electoral Board.

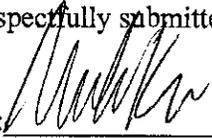
6. The Board has only the powers vested in it by statute, and those powers are limited to judging the sufficiency of the Candidates’ nomination papers. 10 ILCS /5/10-8.

7. This Board’s decision to deny exactly the same subpoena that the Candidates seek here was affirmed by the Appellate Court in *Nader v. State Board of Elections*, 354 Ill.App.3d 335, 819 N.E.2d 1148 (1st Dist. 2004). In *Nader*, the Court held that the electoral board was correct to deny subpoenas requested by candidate in an effort to determine whether the objector’s petition was compiled in violation of the Election Code. The *Nader* court held that the electoral board was not required or empowered to conduct an investigation into how the objector’s petition was compiled, noting that such issues were irrelevant to the issues of whether the candidate’s nominating papers satisfied the requirements of the Election Code and whether the candidate’s petition contained enough valid signatures to be placed on the ballot. *Nader* further supports the denial of subpoenas attempting to require objector to testify as to his “interest, basis, reasoning, intent, cause, motive or analysis.”

8. Here, as in *Nader*, the Candidates seek to subpoena the Objector for the purpose of determining how the Objector’s Petition was “compiled” and, presumably from the

reference to Gov. Quinn, to determine the Objector's "motive" in filing the Objector's Petition. As the Illinois Appellate Court has specifically ruled that both how the Objector's Petition is "compiled" and the Objector's "motive" in filing the petition are beyond the scope of the Electoral Board's authority, the request for her subpoena should be denied.

Respectfully submitted,

By:  _____

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312.704.3292
312.368.4944 (fax)

Gervase, Darlene

From: Barbara Goodman [barb@barbgoodmanlaw.com]
Sent: Friday, July 18, 2014 2:58 PM
To: Sandvoss, Steve; Gervase, Darlene
Subject: 14 SOEB GE 519

The Objector's request for subpoenas is directly related to the allegation contained in the Objector's Petition. Accordingly, it is my recommendation that the request be granted.

--

Barbara B. Goodman
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BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO
NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 29th
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Daniel Flores,)
)
Petitioner-Objector,)
)
vs.) No. 14 SOEBGE 519
)
Harold "Noonie" Ward,)
)
Respondent-Candidate.)

RESPONDENT-CANDIDATE'S MOTION TO STRIKE THE OBJECTOR'S PETITION

Now comes, Harold "Noonie" Ward ("Harold"), the Respondent-Candidate herein, and as his motion to strike and dismiss the objector's petition filed before this electoral board by Daniel Flores and in support of his motion states as follows:

1. The Petitioner-Objector herein, Daniel Flores ("Daniel"), has filed an objector's petition requesting as relief that Harold's name not be printed on the ballot for election to the Office of Representative in the General Assembly of the 29th Representative District of the State of Illinois.
2. Daniel's objector's petition is legally deficient for a number of reasons.
3. The right to file an objector's petition is governed by Illinois statute as no such right exists at common law. Daniel failed to cite the statutory authority for his petition in his

objector's petition. As a result Daniel's objector's petition should be stricken in total.

4. The numbered paragraph 4. of Daniel's objector's petition alleges the requisite numbers of valid signatures required and other nomination papers requirements but fails to allege that Harold's nomination papers are otherwise deficient in any respect. As such paragraph 4. of Daniel's objector's petition should be stricken.

5. In paragraph 7. of Daniel's objector's petition he makes reference to documents he alleges are attached as Exhibit A. However, Daniel's objector's petition fails to identify any attachment as Exhibit A and therefore any such document should be stricken and not considered incorporated into Daniel's objector's petition.

6. While, not waiving his objection to any of the attachments Daniel claims are part of his objector's petition, Harold alleges none of the attachments is evidence that Harold voted in Democratic Primary Election on March 18, 2014.

WHEREFORE IT IS PRAYED THAT this electoral board will strike and dismiss the objector's petition filed by Daniel Flores against Harold "Noonie" Ward and find that it is legally insufficient and overrule the objection.

Harold "Noonie" Ward

Harold Noonie Ward

Harold "Noonie" Ward
602 E. 133rdst
Chicago, IL 60827
(312) 371-2995



BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
 FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO
 NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE
 OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 29th
 REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Daniel Flores,)	
)	
Petitioner-Objector,)	
)	
v.)	14 SOEB GE 519
)	
Harold "Noonie" Ward,)	
)	
Respondent-Candidate.)	

RESPONSE TO MOTION TO STRIKE AND DISMISS

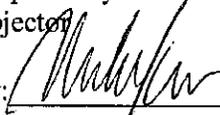
NOW COMES, Objector, by and through his attorneys, and in response to the Candidate's Motion to Strike and Dismiss, states as follows:

1. The Candidate's Motion asserts that the Objector's Petition should be dismissed for failure to "cite the statutory authority" for the Objector's Petition. Cand. Motion, ¶ 3.
2. Section 10-8 of the Election Code governs the requirements for an Objector's Petition and provides that an Objector's Petition must "state fully the nature of the objections" to the nomination papers. 10 ILCS 5/10-8.
3. In this case, the Objector's Petition could not possibly state the nature of the objections to the Candidate's nomination papers any more specifically. The Objector's Petition alleges that the Candidate's may not run as an independent candidate in the November, 2014 General Election because he voted in the March, 2014 Democratic Primary Election and cites the specific statutory authority prohibiting his candidacy. 10 ILCS 5/7-43.
4. As a result, the Objector's Petition fully complies with the requirements of

Section 10-8.

WHEREFORE, for the foregoing reasons, the Objector respectfully prays that the Motion to Strike and Dismiss be denied.

Respectfully submitted,
Objector

By:  _____

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