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

Objections of: MARY RUSSELL GARDNER	)	
To the Nomination Papers of: JOUSEF M. SHKOUKANI	)	No.: 24-EB-SBD-002
Candidate for the office of Member of the Chicago Board of Education, 5th District, City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of the Election Commissioners for the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse and June A. Brown, organized by law in response to a Call issued by Marisel A. Hernandez, Chair of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of MARY RUSSELL GARDNER ("Objector") to the nomination papers ("Nomination Papers") of JOUSEF M. SHKOUKANI, candidate for the office of Member of the Chicago Board of Education, 5th District in the City of Chicago ("Candidate") at the General Election to be held on Tuesday, November 5, 2024, having convened on Tuesday, July 9, 2024, at 10:30 a.m., in Room 800, 69 West Washington Street, Chicago Illinois, and having heard and determined the Objections to the Nomination Papers in the above-entitled matter, finds that:

1. Objections to the Nomination Papers of the Candidate were duly and timely filed.

2. The Electoral Board was constituted according to the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chair of the Electoral Board and served upon the members of the Electoral Board, the Objector, and the

Candidate by registered or certified mail and by Sheriff's service, as provided by statute, or statutory service was waived and service by email was authorized.

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

5. The Objector and the Candidate were directed by the Electoral Board's Call to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. Appearances were filed by or on behalf of the following persons: the Objector, MARY RUSSELL GARDNER, by Attorneys KEVIN MORPHEW, STEVEN H. FINE, MICHAEL KRELOFF, and MICHAEL J. KASPER; and the Candidate, JOUSEF M. SHKOUKANI, a licensed attorney, *pro se*.

6. The Hearing Officer ordered that an examination of the voter registration records be conducted by clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

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

8. The Electoral Board finds that on July 10, 2024, the Candidate filed a *Motion to Strike for Objector's Failure to Follow Rules of Procedure* in which the Candidate alleged that Objector's attorney being twenty minutes late on the first day of hearings justified the striking of the Objector's Petition. The Hearing Officer found the Motion to be unpersuasive and the Electoral Board similarly finds that the Motion failed to state a sufficient basis for the striking of the Objector's Petition.

9. The Electoral Board finds that on July 19, 2024, Candidate filed a *Motion to Strike Objector's Untimely Petition Pursuant to 10 ILCS 5/10* based upon the Objector's Petition being filed on Monday, July 1, 2024, and not Saturday, June 29, 2024, as the Candidate alleged was the deadline. The Hearing Officer found the motion to be untimely and the Electoral Board agrees and finds that the Candidate's Motion was untimely.

10. However, to the extent that this allegation by the Candidate may be deemed a challenge to the Electoral Board's subject matter jurisdiction over the Objector's Petition, the Electoral Board further finds that Section 1-6(a) of the Election Code requires that: ***"If the first or last day fixed by law to do any act required or allowed by this Code falls on a State holiday or a Saturday or a Sunday, the period shall extend through the first business day next following the day otherwise fixed as the first or last day, irrespective of whether any election authority or local election official conducts business on the State holiday, Saturday, or Sunday."*** 10 ILCS 5/6-1(a).

11. Thus, even if the Candidate were correct that Saturday, July 29th, should have counted as a "business day" for the objection filing deadline set forth in 10 ILCS 5/10-8, this provision from Section 6-1(a) would have extended that deadline to Monday, July 1st, "irrespective of whether [the Board] conduct[ed] business on the State holiday, Saturday, or Sunday." *Id.* The Electoral Board also finds that the Illinois State Board of Elections designated Monday, July 1st, 2024, as the filing deadline for Objectors' Petitions in relation to the November 5, 2024, general election, as shown on page 35 of its 2024 Election & Campaign Finance Calendar (available online at www.elections.il.gov). The Electoral Board therefore finds that the proper statutory deadline for the filing of the Objector's Petition in this cause was

Monday, July 1st, 2024, this Objector's Petition was timely filed prior to the deadline, and the Electoral Board therefore was vested with subject matter jurisdiction over these objections.

12. The Electoral Board also finds no reasonable grounds for dismissing the Objector's Petition merely because the Objector named Candidate Jousef M. Shkoukani as "Jousef Shkoukani." The Election Code does not require an Objector's Petition to include the middle name, nor middle initial, of the candidate (See 10 ILCS 5/10-8) and the Electoral Board finds no basis for confusion as to precisely which candidate for Member of the Chicago Board of Education is the proper respondent in this action. This decision is in accord with several prior decisions of this Electoral Board, including but not limited to *Davis v. Hendon*, 02-EB-SS-09 (Chi. Elec. Bd. 2002) (Misspelling the name of the candidate does not invalidate the objector's petition); *Burgess v. Mitchell*, 11-EB-ALD-041 (Chi. Elec. Bd. 2011) (Objector's use of the name "Ron Mitchell" in the objector's petition instead of "Ronald Mitchell," the name used by the candidate on his voter registration, did not render the objector's petition legally insufficient); and *Thompson v. White*, 11-EB-MUN-054 (Chi. Elec. Bd. 2011) (the objector's petition was legally sufficient despite using the name "Frederick K. White" instead of "Fredrick K. White).

13. The Electoral Board finds that the Candidate and the Objector, and/or their duly authorized representatives, were present during the examination of the registration records or they waived their right to do so.

14. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination conducted by its clerks and agents. The written report of the result of the registration records examination is contained in the Electoral Board's file in this case and a copy has been provided or made available to the parties.

15. The results of the records examination indicate that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 1,000;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,061;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 732;

D. The remaining number of signatures deemed valid as a result of the records examination total 329.

16. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was fewer than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for the office of Member of the Chicago Board of Education, 5th District, City of Chicago.

17. The Electoral Board further finds that of the 785 petition signatures that were subject to line-by-line objections, 732 of the signatures were invalidated. That results in a 93.3% sustained-objection rate for this Objector, and it left the Candidate's Nomination Papers with 671 presumptively valid signatures *fewer than* the statutorily required minimum. As indicated in the Final Petition Summary Report, the Candidate preserved for further review a total of 638 invalidated signatures, which is 33 fewer than would be required restore a sufficient number of signatures to qualify for ballot access. Thus, any attempt to file and litigate a Rule 8 motion contesting the results of the records exam would have been futile.

18. The Hearing Officer tendered to the Electoral Board a final report and recommended decision. Following completion of the Rule 6 records exam, the Hearing Officer found that the Candidate failed to timely file any motion contesting the results of the records

exam prior to the motion-filing deadline set forth in Rule 8 of the Electoral Board's Rules of Procedure. The Hearing Officer recommends the Electoral Board therefore find that the Candidate waived his right to contest the records exam rulings. Additionally, the Hearing Officer found that the Candidate reserved for review fewer than the number of signatures that would be needed for rehabilitation of the Nomination Papers, as described in paragraph 17 above.

19. Based upon the evidence presented, the Hearing Officer found that the Candidate's Nomination Papers contained only 329 valid signatures, which is 671 fewer than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for the office of Member of the Chicago Board of Education, 5th District, in the City of Chicago. The Hearing Officer found that the Candidate failed to reserve for review a sufficient number of signatures (638) to overcome the deficit of 671 signatures fewer than the required minimum, and that the Candidate failed to timely file any motion contesting the records exam results, which Rule 8 required to be filed no later than 5:00 p.m. on July 23, 2024. For these and other reasons, the Hearing Officer found that the Candidate's Nomination Papers are legally invalid and his name is not entitled to be printed upon the ballot.

20. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law and incorporates them herein by this reference. A copy of the Hearing Officer's recommendation is attached to, and hereby made a part of, this Final Decision.

21. The Candidate also filed a Rule 20 Motion and the Electoral Board therefore provided the parties an opportunity to directly address the Board for arguments related to what was supposed to be the Candidate's opposition to the Hearing Officers recommended findings

and conclusions of law. Having provided an opportunity for such a hearing, the Electoral Board finds that none of the administrative and procedural complaints raised by the Candidate state a claim in fact or law that that suggest any error by the Hearing Officer or the Board's staff. The Electoral Board finds that its procedural rules are fair, unbiased and efficient for all candidates and objectors, even for those who are first-time litigants in this venue, as has been evidenced by thousands of prior cases and hearings in which ballot access rights have been adequately protected and ballot access laws have been properly enforced. Thus, having failed to state any claim in support of rejecting the Hearing Officer's final recommendations, the Electoral Board again adopts those recommendations and incorporates them herein, and the Candidate's Rule 20 Motion is hereby *denied.*

22. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on his nominating petitions and that the Nomination Papers of JOUSEF M. SHKOUKANI are, therefore, invalid.

[Continued on next page.]

IT IS THEREFORE ORDERED that the Objections of MARY RUSSELL GARDNER to the Nomination Papers of JOUSEF M. SHKOUKANI, candidate for election to the office of Member of the Chicago Board of Education, 5th District, City of Chicago, are hereby SUSTAINED, and said Nomination Papers are hereby declared INVALID, and the name of JOUSEF M. SHKOUKANI shall NOT be printed on the official ballot for the General Election to be held on Tuesday, November 5, 2024.

Dated: August 13, 2024

Marisel A. Hernandez, Chair

William J. Kresse, Commissioner

June A. Brown, Commissioner

NOTICE: Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved by this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Cook County within 5 days after service of the decision of the Electoral Board.

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 MEMBER OF THE CHICAGO BOARD OF EDUCATION, 5th DISTRICT

IN THE MATTER OF		
MARY RUSSELL GARDNER	)	
	)	
Petitioner-Objector	)	
	)	**Case No. 24-ED-SBD-002**
vs.	)	
	)	
JOUSEF M SHKOUKANI	)	
	)	
Respondent-Candidate	)	

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

The Respondent Candidate, Jousef M. Sckoukani, has filed Nomination Papers in support of his nomination for the position of Member of the Chicago Board of Education, District 5, City of Chicago, State of Illinois to be voted upon during the upcoming General Election on November 5, 2024 (Election). The Petitioner-Objector, **MARY RUSSELL GARDNER**, filed a Verified Objector's Petition Objecting to the sufficiency of the Candidate's nomination papers for various reasons stated in Paragraphs 5 through 10 of her Petition. The initial hearing on the matter was held on July 9, 2024. The Objector's Attorney, Kevin Morphew, was present and filed his Appearance. The Candidate, who is an attorney, was present and filed his Appearance, Pro Se.

At the outset of the Hearing, before we completed assembling the Board Exhibit, the Candidate objected to the fact that Mr. Morphew was delayed at an initial trial call for a different case even though he was in the same room and had an Appearance on file for the present case; but causing the hearing to begin at 2:20 instead of 2:05. He asserted that the delay *"could or may lead to grounds for dismissal."* (Trans. At 3), but did not make a Motion related to the assertion at that time, though asked. A few minutes later, the Candidate made *"a Motion for Default given the delay of time in between when Mr. Morphew came to the*

table and when this actual hearing was scheduled for. And I don't believe that him handling more cases than he can handle in a timely fashion constitutes a reasonable reason for being late." (Trans. At 4). I denied the Motion and explained that Mr. Morphew's behavior was not unreasonable; that he had not control over the way the cases were scheduled nor conducted, nor when they were concluded, especially on the date of the statutory initial trial call for all of the current cases coming before the Commissioners that day. (Trans. At 5)

The Objector gave a brief description of the sole issue alleged in the Objector's Petition, namely, that the Petitions that Mr. Shkoukani had filed with his Nomination Papers did not contain the required minimum number of valid signatures; and requested a Records Examination.

Mr. Shkoukani stated that he intended to file a Motion to Strike and Dismiss the objections that had been alleged against his Candidacy, so a briefing schedule was set, beginning Wednesday, July 10th and ending Friday, July 12th. A Record Examination Directive was issued. I urged Mr. Shkoukani to retain legal counsel to assist him to prepare his case and during the RE. The next hearing was scheduled for Wednesday, July 18th at 10:00 a.m.

On July 10, 2024, the Candidate filed a Motion To Strike For Failure To Follow Rules of Procedure requesting that the case against his Nomination be dismissed due to the allegation that Mr. Morphew's late arrival to the initial hearing was in violation of Rules 4, 5, and 14; and was unfair. The Motion did not include any request for review of or defenses against the enumerated Objections in the Objector's Petition. On July 11, the Objector filed a Response to the Motion to Strike, in which the attorney for the Objector reiterated that he was present in the hearing room at the time of the call, but was occupied before other Hearing Officers on other cases; that he had previously filed a written Appearance; and that, as such, the Objector had appeared at the initial hearing as required by the Rules. The Candidate filed a Reply in Support of Candidate's Motion To Strike For Objector's Failure to Follow Rules of Procedure which I did not find persuasive.

On July 18, 2024, the second hearing commenced at 10:00 a.m. with both parties present. At the outset, we received information that the RE had taken place on Monday and Tuesday, July 15th and 16th; but the results had not yet been reviewed by the handwriting expert. In an apparent objection to continuing the hearing so we could receive the RE Final Report, the Candidate asserted that the RE had been completed, citing Rule 6 which does not mention review by handwriting experts as a part of the process. His primary concern was that he did not want to miss the Rule 6 Motion filing deadline, which would be 5 pm on July 17th, if he was correct that the RE had been "completed" the day before, for Rule 6 purposes. I assured him that he did not have to file his Rule 6 Motion before 5 pm on July 17th; but rather it would be due before 5 pm on the day after the date of the RE Final Report, a date uncertain until after the handwriting expert had completed his review.

The Candidate then talked at length about being denied a copy of his petitions during the RE, which he believed was a violation of Rule 6. In addition, the Candidate alleged that the Objector's Petition was filed late. This allegation was based on his understanding that, under Rule 17, objections had to have been filed no later than Saturday, June 29th (5 days after Nomination Papers were filed on Monday, June 24, 2024); and that the Objector had filed her Objections on Monday July 1st, or 7 days after the Nomination Papers were filed. He based this analysis on the fact that the Electoral Board website contained information that it would be open on Saturday and Sunday, June 29th and 30th. Transcript pp 34-35. In response, Mr. Morphew countered that the Motion to Strike the Objector's Petition was untimely because it should have been made before 5 pm on July 10th, the day after the initial hearing on July 9th. I agree. I do not think that it is necessary to get to the issue of whether the Election Code or board rules govern whether June 29th and 30th were "business days" in this case. Nevertheless, I provided the Candidate with the opportunity to prepare a Motion or Brief (due before 5 pm on July 19th) on both of the issues to make sure I understood his points of view. (See Trans. pp 36). The third hearing was scheduled for 10:00 am on July 25, 2024.

Subsequently, the Candidate filed a Motion to Strike Objector's Untimely Petition Pursuant to 10 ILCS 5/10 and the Objector filed a Response to Candidate's Motion to Strike. Again, I agree that the allegations contained in this Candidate's Motion to Strike, filed on July 19th were untimely, to the extent that they were new and had not been included in the Motion to Strike that he had filed on July 10, 2024, following the initial trial call on July 9th.

On July 15th, the Candidate also filed a Rule 20 Request for Review by Electoral Board to which the General Counsel, Adam Lasker, replied to inform him that it was premature and, therefore, moot for purposes of this Report.

The third hearing commenced on July 25, 2024 at 10:00 am. Both parties were present. The RE Final Report results were available and were read into the record, as follows:

Signatures Required:	**1000**
5th Chicago Board of Education Fifth District	
Total Pages:	**111**
Total Signatures:	**1061**
Total Objections:	**1472**
Total Ruled On:	**1472**
Total Remaining:	**0**
Total Sustained Lines:	**732**
Total Overruled Lines:	**53**

For Review (Candidate):	**638**
For Review (Objector):	**702**
Total Valid Signatures:	**329**
Total Unchallenged Sigs:	**276**

671 Signatures fewer than the required minimum

According to these results, the Candidate cannot benefit from a Rule 8 Hearing insofar as he needs an additional 671 signatures, but only reserved the right to review 638 signatures which means that his number of valid signatures would still fall well below the required minimum even if all of the objections that are eligible for review under Rule 8 were overruled. Nevertheless, the Candidate disputed the results because he said that the second day of the RE had commenced at 8 am, instead of 9 am, and unfairly denied him the opportunity to raise objections for the first hour. I called John Powell as a witness who testified that he was unaware of any details of the RE in this specific case (Trans. pp 13-15), but that Jim Carli would be. I called a recess while we waited for Jim Carli to come to the hearing room. Mr. Carli was called as a witness and sworn in. He testified that he recalled the Candidate and the RE for his case on Monday and Tuesday, July 15th and 16th. He recalled that the Candidate was present on July 15th when he notified everyone that the start time for the second day was changed. *"So, the prior day I announced to everyone in the room on at least three occasions that all cases will resume at 8:00 a.m. the next day, So, yes, notices were made, and that was posted on our website...(that) 8:00 o'clock is when the cases would start."* (Trans p 16). The Candidate asked a series of questions that seemed designed to cast doubt on Mr. Carli's recollection of events and his veracity. Mr. Carli answered all of the questions in an open and forthright manner, in my opinion. I have no reason to doubt the witness' professionalism, procedures and veracity.

Moreover, the final RE report was time-stamped at 1:09 pm on July 22nd; but the Candidate had not filed a timely Rule 8 Motion requesting a hearing to rehabilitate signatures.

Based on the foregoing, I hereby submit the following recommendations to the Commissioners for their consideration.

1. That the results of the RE are such that the Candidate cannot rehabilitate a sufficient number of signatures to meet the minimum required number of valid signatures for the position of Member of the Chicago Board of Education, 5th District, City of Chicago. Any allegations related to the change to the start time of the second day of the RE are untimely insofar as they

should have been filed before 5 p.m. on July 23, 2025 along with a request to review the signatures for which objections were preserved during the hearing.

2. That both of the Candidate's two Motions to Strike were untimely insofar as neither was filed before 5 p.m. on July 10, 2024.
3. That the name of the Candidate not be added to the ballot for the upcoming Election as a Candidate for the position of Member of the Board of Education, District 5, City of Chicago, State of Illinois.

Respectfully,

Date: August 9, 2024

By: Linda R. Crane

Linda R. Crane, Hearing Officer