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

Objections of: STACEY RUBIN SILVER and WARREN SILVER	)	
To the Nomination Papers of: BRUCE LEON	)	No.: 24-EB-SBD-027
Candidate for the office of Member of the Chicago Board of Education, 2nd District	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of the Election Commissioners for the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse and June A. Brown, organized by law in response to a Call issued by Marisel A. Hernandez, Chair of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of STACEY RUBIN SILVER and WARREN SILVER ("Objectors") to the nomination papers ("Nomination Papers") of BRUCE LEON, candidate for the office of Member of the Chicago Board of Education, 2nd 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 Objectors 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 Terence Flynn for further hearings and proceedings.

5. The Objectors and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. Appearances were filed by or on behalf of the following persons: the Objectors, STACEY RUBIN SILVER and WARREN SILVER, by Attorney SCOTT B ERDMAN; and the Candidate, BRUCE LEON, by Attorney STEVEN M LADUZINSKY.

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

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

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

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

10. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination

conducted by its clerks and agents. The written report of the result of the registration records examination is contained in the Board's file in this case and a copy has been provided or made available to the parties.

11. The results of the records examination indicate that:

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

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,718;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 776;

D. The remaining number of signatures deemed valid as a result of the records examination total 942.

12. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was 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, 2nd District, City of Chicago.

13. However, the Electoral Board finds that the Candidate filed a motion pursuant to Rule 8 of the Board's Rules of Procedure and an evidentiary hearing was held to allow the Candidate an opportunity to present evidence in support of his Rule 8 motion objecting to the Board's clerk's findings during the records examination.

14. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that after

the Rule 8 hearing, the Candidate's Nomination Papers contained 1,045 valid signatures, which exceeds by 45 the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for the office sought, and that the Candidate's Nomination Papers should therefore be found valid.

15. The Electoral Board finds that the Objectors filed a Rule 20 Motion alleging, among other things, that the Hearing Officer failed to properly review the Affidavits submitted against the petition sheets and registration records. The Objector also alleged that the Hearing Officer erred in failing to conclude that the nominating papers evidence a pattern of fraud and false swearing. The Electoral Board finds that the transcript in this matter establishes that the Hearing Officer properly considered the affidavits submitted, weighed their persuasive value and made findings in accordance therewith. He rejected some of the affidavits and he accepted others. The Electoral Board further finds that Objector failed to provide any evidence of fraud but rather requested that the Hearing Officer review the petition sheets already in the record and conclude that fraud existed through speculation and conjecture. Having heard the additional argument by the Objectors' counsel, and for the reasons explained below, the Electoral Board finds that the Objectors failed to establish any basis to strike the nominating papers on the basis of a pattern of fraud or false swearing.

16. After analyzing the record of proceedings in response to the Objectors' filing of a Rule 20 Motion, the Electoral Board finds that this matter involved a records examination that resulted in the Candidate being 58 signatures below the 1,000 minimum required for placement on the ballot. The Objector did not submit a Rule 8 Motion and therefore waived his right to appeal any of the individual rulings made during the Rule 6 records exam. The Candidate filed a Rule 8 Motion and submitted 98 affidavits. Some of those affidavits were withdrawn by the

Candidate, and some were rejected by the Hearing Officer based on issues including being incomplete or internally inconsistent. At the end of the Rule 8 hearing, the Candidate had rehabilitated enough signatures to bring the Candidate's total over the required minimum.

17. Throughout the course of these proceedings, no witnesses were called, no subpoenas were requested, and no testimony was offered. Thus, the only purported evidence of fraud that the Objectors have allegedly produced was created by the Electoral Board proceedings themselves. The Objectors have presented no affirmative evidence beyond the Nomination Papers, the record exam results and the affidavits that were proffered by the Candidate. Based on past precedent of this Electoral Board, the lack of such evidence fails to support a finding of a pattern of fraud. See, for example, *Nelson v. Johnson*, 04-EB-WC-037 (Chi. Electoral Bd. 2004) (Per the Board's Index of Electoral Board decisions: "The objector had the right and opportunity to subpoena not only the circulator, but also the persons who signed the petition sheet; however, objector failed to do so. This proof falls short of the objector's burden of proving a pattern of fraud by clear and convincing evidence.").

18. Additionally, the Electoral Board finds that the Candidate filed a Motion to Strike and Dismiss in which he requested that certain paragraphs of the Objectors' Petition be stricken. Paragraph 9 alleged a pattern of fraud and false swearing and the Candidate correctly pointed out that the allegation failed to contain the specificity necessary to put the Candidate on notice as to the alleged defects so that candidate could prepare a defense. This Electoral Board has consistently ruled that allegations of fraud must be pleaded with specificity. See, for example, *Davis v. Hendon*, 02-EB-SS-09 (Chi. Electoral Bd. 2002). Other than a general reference to what the results of the records examination might eventually end up showing, the objection in Paragraph 9 was wholly devoid of any details or specifics. For these reasons, the Electoral Board

finds that the Hearing Officer properly granted the Candidate's Motion to Strike paragraph 9 of the Objectors' Petition.

19. The Candidate also sought to strike paragraph 10 of the Objectors' Petition, which contained an allegation that sheets 207 and 211 of the Nominating Papers evidenced fraud because the two sheets contained different headings, with sheet 211 containing no candidate information and sheet 207 containing candidate information, and with the same signatures appearing on both sheets. According to the Objector, the Candidate cut-and-pasted the signatures from the defective sheet 211 onto sheet 207 and this act was such an egregious act of fraud such that the sheets in question as well as the Statement of Candidacy should be stricken. However, as the Hearing Officer recommended, and as the Electoral Board now finds, the Objectors presented no evidence other than the sheets themselves. Although the Electoral Board agrees that a single petition sheet was duplicated, the relevant signatures were duly addressed and invalidated during the Rule 6 records examination. Without a finding of fraud by clear and convincing evidence, such is the only relief to which the Objectors are entitled. The Electoral Board finds no evidentiary basis for concluding that any pattern of fraud permeated the nominating papers, which could allow the drastic remedy of striking all sheets passed by that circulator, and the Hearing Officer properly granted the Motion to Strike paragraph 10 of the Objectors' Petition.

20. The Candidate's Motion to Strike and Dismiss further requested that paragraph 11 of the Objector's Petition be dismissed. Paragraph 11 alleges that certain petition sheets should be stricken as they did not contain the circulator's address. Although the Objector identified the sheets with specificity, the Electoral Board finds that the Candidate himself was the circulator of those specific petition sheets and a review of the Nomination Papers shows that the circulator's (the Candidate's) address appeared on other sheets multiple times within the petition. Thus, the

Electoral Board agrees with the Candidate and Hearing Officer that *Sakonyi v Lindsey*, 261 Ill. App 3d 821, (Ill. App. 5th, 1994), citing *Schumann v. Kumarich,* 102 Ill.App.3d 454 (Ill. App. 1st, 1981), and other past precedent establishes that the inclusion of the address on other sheets substantially satisfies the statute's mandatory requirements. This is well settled law in Illinois under the doctrine of substantial compliance with mandatory Election Code provisions. For this reason, the Electoral Board finds that the Hearing Officer properly granted the Motion to Strike paragraph 11 of the Objectors' Petition.

21. The Objectors' Rule 20 Motion also takes issue with a number of the Hearing Officer's rulings in relation to rehabilitative affidavits the Candidate submitted during the Rule 8 evidentiary hearing. The Rule 20 motion provides some examples but does not provide specificity as to which of the several other affidavits are specifically at issue. The Objectors argue that the Hearing Officer failed to properly consider whether the signatures on the affidavits compared favorably to the signatures on the corresponding petition sheets and registration records. However, the Electoral Board finds that there are several instances in the record that illustrate the Hearing Officer's consideration of all the applicable documents. Some examples of this are contained on pages 32 and 47 of the August 5, 2024, transcript. It is also clear that in several instances the Hearing Officer rejected affidavits after reviewing and considering them. Some examples of this are contained in the August 5, 2024, transcript at pages 96, 101, 102 and 105. Furthermore, the Hearing Officer expressly enunciated these procedures in paragraph b) on page 3 of his final Report and Recommendation: "Each and every affidavit's signature and printed name was reviewed and compared to both the petition sheet and the signature card [registration record] of the Board."

22. For these reasons, the Electoral Board finds that the Hearing Officer performed an adequate review of the Candidate's affidavits, and that no *de novo* review was warranted in the Rule 20 hearing. Per the Hearing Officer's Final Report and Recommendation, the parties stipulated at the conclusion of the Rule 8 hearing that the Hearing Officer found a total of 103 signatures that were restored to the Candidate's favor, thus bringing the number of total valid signatures to 45 over the required minimum of 1,000. In the course of the Rule 20 hearing, the Objectors offered no new evidence, argument or information to suggest that any one of the Candidate's affidavits deemed valid during the Rule 8 hearing was not actually signed by the proper voters.

23. Objector also argues in his Rule 20 Motion that the Hearing Officer ignored evidence of fraud. The record does not support such a finding. The Objector offered no proof of fraud. Instead, he presented copies of signatures that appeared to be written similarly, or by the same hand. In essence, he asked the Hearing Officer to draw conclusions from the signatures without further proof, a process that is wholly inconsistent with the Electoral Board's prior practices in dealing with allegations of fraud. See, for example, *Hendon v. Davis*, 02-EB-SS-10 (Chi. Electoral Bd. 2002) (Per the Board's Index of Electoral Board decisions: "Objector's allegation of a 'pattern of fraud' based only upon the results of the records examination and summarized in demonstrative exhibits and without any testimony from any signer, circulator, handwriting expert or other witness was overruled.").

24. The majority of these signatures highlighted in the Objectors' Rule 20 Motion involve small groupings of people with common last names who reside at the same addresses, thus suggesting that they are "mom-and-pop" signatures (where one family member signed the petition on behalf of another family member). The individual signatures that are not genuine

were either invalidated during the Rule 6 records exam, or the Objectors waived their right to appeal any such decisions by choosing to not file a Rule 8 motion. Either way, the Objector has brought forth no additional evidence to prove that any actual fraud was committed by the Candidate or his petition circulators in regards to these groupings of signatures. There is no evidence in the record that any of the circulators of those petition sheets actually forged any of those signatures. To the contrary, they appear to be "mom-and-pop signatures" that were placed on the petition by people other than the Candidate and his circulators. The Electoral Board has previously ruled that, while allowing individual voters to sign petitions on behalf of other family members is not proper, and the additional signatures should be invalidated, such evidence falls short of establishing a pattern of fraud by the necessary clear and convincing evidence. See, for example, *Lukowski v. Bradley,* 08-EB-RGA-07 (Chi. Electoral Bd. 2008).

25. The Objectors had the opportunity at the beginning of these proceedings to identify the allegedly fraudulent signatures by sheet and line numbers in the Objectors' Petition, where the purported fraud allegedly existed, and they chose not to do so. The Objectors had an opportunity to gather affidavits from those petition signers, or to request subpoenas for those signers, yet the Objectors chose not to do so. As the Board's rules indicate, the Rule 8 evidentiary hearing is not intended to be a *de novo* records examination, nor is a Rule 20 hearing intended to fulfill that purpose, and nothing in the Objector's Rule 20 Motion justifies the relief sought therein.

26. 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, and having thoroughly reviewed the record of proceedings in response to the Objectors' Rule 20

Motion, hereby adopts the Hearing Officer's recommended findings and conclusions of law and incorporates them herein.

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

IT IS THEREFORE ORDERED that the Objections of STACEY RUBIN SILVER and WARREN SILVER to the Nomination Papers of BRUCE LEON, candidate for the office of Member of the Chicago Board of Education, 2nd District, City of Chicago are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of BRUCE LEON SHALL be printed on the official ballot for the General Election to be held on Tuesday, November 5, 2024.

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

Marisel A. Hernandez, Chair

William J. Kresse, Commissioner

June A. Brown, Commissioner

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

BEFORE THE BOARD OF ELECTION COMMISSIONERS

OF THE CITY OF CHICAGO

AS THE DULY CONSTITUTED ELECTORAL BOARD

Silver & Silver,	)	
	)	
Objectors,	)	
	)	
	)	No. 24 – EB – SBD - 027
v.	)	
	)	
Bruce Leon,	)	
	)	
Candidate.	)	

REPORT AND RECOMMENDATION

Summary: The Rule 6 exam resulted in the Candidate being 58 signatures below the minimum requirement of 1,000 signatures. At the Rule 8 hearing, through a combination of voter affidavits, Board registration records and the Board's District map, Candidate rehabilitated 103 signatures. Though Objectors filed no Rule 8 motion nor presented any live or independent extrinsic evidence, they argued that this Hearing Officer, and the Board, cannot close its eyes and ears to manifest evidence of a "pattern of fraud". The simple yet insurmountable problem for Objectors' argument: the necessary evidence was neither presented nor otherwise in the Record and the case law does not authorize the extraordinary remedy requested. The Candidate's name should appear on the ballot.

Preliminary Matters and Motion to Dismiss

1) The initial hearing in this case occurred on July 9, 2024. Attorney Scott Erdman appeared for Objectors and Attorney Steven Laduzinsky appeared for the Candidate. The Petition was primarily, though not solely, directed to signature-

based objections (¶¶ 2-8) and therefore, with the agreement of Counsel, a Rule 6 directive was issued. Also, Candidate was granted leave to file a Motion to Dismiss directed to certain paragraphs of the Objectors' Petition. On July 23rd, arguments were heard on the Motion To Dismiss.

2) The Motion to Dismiss did not attack the totality of the Objectors' Petition but rather ¶¶9 – 11. Paragraph 9 alleged a "pattern of fraud" but, argued Candidate, with insufficient specifics. Paragraph 11 alleged circulator irregularities; again, argued the Candidate, with insufficient specifics that would allow him to mount a proper defense. Paragraph 10 alleged that two petition sheets (211 and 207), both circulated by the Candidate, were the same and copied and that was fraudulent.

Paragraph 9 stated in relevant part "there will be presented ... evidence that establishes a 'pattern of fraud'" ... and that the Board "cannot close its eyes and ears" to that alleged misconduct, citing the usual cases, but not specifying any evidence in that paragraph. That language would appear to run afoul of *Mitchell v. Cook County officers Electoral Board,* 399 Ill.App.3d 18 (1st Dist. 2010)

Objectors' essential argument was that the Rule 6 and 8 exams would show the fraud *and* the following paragraphs (10 and 11) were somehow incorporated into ¶ 9. The original documents of candidacy were not available as the Rule 6 exam was still on-going. As a result and given some level of factual review necessary to decide the motion regarding ¶¶ 10 and 11, the original documents needed to be consulted and the Motion was taken under advisement.

The Rule 6 Results

As of July 23rd, the Rule 6 Final Results were available. They showed in relevant part:

Total signatures: 1718
Total objections: 1721
Sustained lines: 776
Overruled lines: 360
Total valid signatures: 942
Total unchallenged: 582
58 signatures fewer than the required minimum

It is notable that more objections were filed than there were signatures – not unusual but still notable. It is also notable that no shotgun objection was filed by Candidate. Finally, it is notable that the sustained percentage of objections was 44%. That is not a particularly high number that in and of itself would raise "red flags". In any event, "low validity rates alone do not doom a nomination." *Alexander v. Beukinga,* 15-EB-ALD-037 (CBOE; 2015)

Synopsis of The Rule 8 Evidentiary Hearing

A timely Rule 8 motion was filed by Candidate. No Rule 8 motion was filed by Objectors. No party requested subpoenas. With agreement of the parties, the next hearing was scheduled for August 5th.

a) Prior to the 8/5 hearing, Candidate filed a Motion to Bar Evidence (both testimonial and documents) – at the hearing that was denied as moot given that Objectors' attorney stated he was not calling any witnesses nor relying on any documents/exhibits other than those already admitted into evidence.
b) Candidate filed a pleading titled "Candidate's Evidentiary Hearing Disclosures". In paragraph B, Candidate listed 98 affidavits purporting to be from signatories to Candidate's petition sheets that would rehabilitate those signatures. Each and every affidavit's signature and printed name was reviewed and compared to both the petition

sheet and the signature card of the Board. Thirteen (13) affidavits were withdrawn by Candidate. Ten affidavits were rejected on bases such as incomplete and internally inconsistent. Even with those detractions, one will note that Candidate is now above the minimum: 58 below at end of Rule 6 – 75 signatures were rehabilitated. So far.

c) Then Candidate offered affidavits at 99 to 122 of Candidate's Evidentiary Hearing Disclosures, with 10 withdrawn and 5 rejected, still adding 9 to Candidate's total. Candidate offered more evidence regarding out-of-district calls in the Rule 6, by use of the Board's own School Board District 2 map and targeting the addresses, as well as certain signatures that were "not found" but for which the Candidate offered the Board's registration records for the voters, and restoring two duplicates signatures that both stricken in the Rule 6 when, of course, only one signature should have been stricken.

d) There was a stipulation on the Record by counsel that this Hearing officer's rulings resulted in Candidate rehabilitating 103 signatures, of course over objections by Objectors' counsel. If sustained, that would be well more than necessary to be above the minimum signature requirement. Also, with the rehabilitated signatures, the sustained percentage of objections fell to 39%. *See, Beukinga, supra.*

e) The Candidate rested his case-in-chief, as said, over the minimum signature requirement. The Objectors' case began with counsel pointing out that two sheets – 211 and 207 – appeared to be photocopies and Objectors' counsel opined that only fraud, intention or some other nefarious purpose could be behind this "double" submission. Candidate's counsel responded that it could be a mere photocopying error and that duplicate signatures were already taken care of in the Rule 6 exam.

Objectors' counsel replied that this did not explain to separate signings of the circulator's affidavit by the circulator-candidate.

At this point the hearing which began at 9:00 a.m. was nearing 5:00 p.m. Given that the Objectors had no live witnesses to present (neither their own, nor by subpoena nor Rule 237(b)) nor any affidavits nor other affirmative evidence to present, this Hearing Officer offered to Objectors that they submit in writing an "offer of proof" regarding their remaining arguments on the evidence already submitted, with Candidate to reply if desired. That offer was accepted by Objectors' counsel and both Objectors and Candidate filed subsequent post-evidence briefs as part of the Rule 8 hearing entitled, respectively, "Objectors' Offer of Proof" (in 3 separate emailed submissions) and "Candidate's Brief in Opposition to Objectors' Offer of Proof".

Summary of the Parties' Main Arguments

In addition to the photocopied petition sheets (##211 and 207) argued as nefarious by Objectors and an innocent explanation through inadvertence or negligence by Candidate, Objectors' principal arguments were focused on the affidavits offered by Candidate (from 1 to 122 – 84 of which were entered into evidence) that directly sought to rehabilitate signatures.

A) Objectors attacked any affidavit that did not, in their counsel's view, have some semblance of similarity with the signature on the registration card. Objectors stated, repeatedly, not to do so would give no weight to the forensic handwriting expert's opinion. See Hearing Transcript ppgs. 9-12, 16-18, 21-23,38-40 and *passim*. Candidate responded that the purpose of the affidavit is to allow the signatory of the

disputed signature to rehabilitate his/her/their signature and that, of course, the forensic examiner did not have the exemplars provided in the affidavit.

One extreme example shows the fallacy in Objectors' argument. At Hearing Transcript page 109, line 11 to page 110, line 7, Candidate sought to rehabilitate a signature that showed in the registration record as a flat line, called a flat-line EKG at the hearing. It was Objectors' argument that an affidavit in support of rehabilitation must also have that self-same "flat line" to conform to the registration record. Clearly that is not the requirement. The affiant should not be tracing signature clips, but rather providing testimony that he/she/they did sign the Candidate's petition at the sheet and line number, no matter how closely or not that signature – for reasons of age, accident, haste or otherwise – resembled that on the signature card. Objector stated that the voter/signatory should go to the Board to change the Record signature. That clearly is not a requirement.

As discussed below, while Objectors state that the forensic examiner is being ignored, Objectors' position would essentially ignore the affidavit process and render the affidavits a nullity. Similarities with the signature card increase, of course, the comfort level of the trier-of-fact. But as shown repeatedly, the registration card cannot be the *sine qua non* of Rule 8, else the affidavit process is an exercise in futility.

B) Objectors also repeatedly noted, and again press the point in their Offer of Proof, that on occasion in the "printed signature" (optional) block on the petition sheet, it was clearly the same hand that filled-in that block. Somehow, argue Objectors, that would vitiate those cursive signatures in the signature (mandatory) block under examination.

Candidate pointed out that no rule prohibits someone other than the signatory from filling in the optional "printed signature" block. Candidate is correct.

C) Objectors also attacked the Candidate-as-Circulator for not having his address in every attestation before the Notary and that should cause the striking of the involved sheets. (¶11 of Objectors' Petition) However, Candidate responded by citing *Sakonyi v. Lindsey*, 261 Ill.App.3d 821 (1994) with its on-point quote: "The presence of the circulator's address on other petition sheets substantially satisfies the statute's requirements ...", stating that the reason for the requirement was administrative convenience, satisfied, *as here*, by other sheets having the address.

D) In their post-hearing "Offer of Proof" Objectors make a number of arguments, supposedly based on evidence only understood during the Rule 8 hearing, or in preparing therefore. The "Offer of Proof" is far afield of both Objectors' Petition and the Rule 6 exam that was held based, of course, on the Objectors' Petition. As a result, Candidate argues that the entirety of Objectors' presentation – without any live witnesses, without any affidavits of their own, without any affirmative exhibits offered by them, is nothing more than an unauthorized amendment of the Objectors' Petition which failed to put them on notice of the claims and therefore should be stricken. Objectors' respond that this Board cannot "close its eyes and ears" to intentional malfeasance and fraud whenever in the process it presents itself.

Further Discussion

There is often a tension between an Objection's specificity, or lack thereof, and the evidence that may be presented in a Rule 8 hearing. Certainly, calling circulators or the

Candidate can lead to areas not specified in the Objection but are fatal to the candidacy because of the violation of rules that first appears in the Rule 8 process.

That is not, however, the case here. The Objectors presented no *evidence* that was not available at the time the Objection was filed. Yet their Rule 8 "Offer of Proof" went far beyond the four corners of the Objection. Objectors are correct that the Board, and therefore this Hearing Officer, may not ignore *evidence* of fraud or other intentional flouting and violation of rules and statutes governing the nomination process. But the key word – and concept – is *evidence*.

Candidate's reliance on two principal cases – *In Re Bower*, 41 Ill.2d 277, 286 (1968) and this Board's decision in *Beukinga*, 15-EB-ALD-037, *supra*, is well placed. In *Bower*, a few "false signatures" were insufficient, in and of themselves, to make out a case for fraud. "Fraud or guilty knowledge will not be imputed to the circulator, but must be affirmatively established." *Bower, supra.* Reiterating that point, in *Beukinga* this Board stated that "Regardless of how reasonable any assumptions or suspicions might be, assumptions and suspicions do not constitute proof."

As highlighted above, there was no oral testimony presented by either side. No subpoenas were ever requested. Although Objectors raised circulator issues in ¶¶10 and 11 of the Objection, no circulator was called to testify, nor a subpoena requested. Similarly, no affidavits were offered by Objectors nor any other documentary evidence.

All the Objectors brought forth were "assumptions or suspicions", mere accusations without evidence. And many of the "assumptions or suspicions" were far from reasonable. Reasonable or not, these suspicions were rebutted by equally likely innocent

explanations, or leading to mere inadvertence and not the necessary intentional violation of the rules, much less fraud as proven by clear and convincing *evidence*. The skeletal presentation by Objectors was barebones at best and simply did not even approach the necessary quantum and quality of clear and convincing *evidence*.

Findings of Fact

1) At the conclusion of the Rule 6 exam, Candidate was 58 signatures below the required.
2) The sustained objections in the Rule amounted to 44% of signatures filed.
3) By introduction of affidavits from petition signers, signature clips showing registration and District map showing residency, Candidate rehabilitated 103 signatures in the Rule 8 hearing, placing him 45 signatures above the required minimum,
4) After the Rule 8 process, the sustained objection rate fell to 39%.
5) Neither at the evidentiary hearing nor in their post-hearing "Offer of Proof" did Objectors offer any affirmative evidence of fraud or intentional violation of the Election Code or the Rules of this Board. Rather, mere accusations, assumptions and suspicions were stated, but none were adequately supported by the Record.
6) Candidate Bruce Leon complied with the minimum signature requirement.

Conclusions of Law

A) The Motion to Dismiss ¶9 of the Objectors' Petition is granted for failure to allege a "pattern of fraud" with the required specificity. *Mitchell v. Cook County Officers Electoral Board*, 399 Ill.App.3d 18 (1st Dist. 2010)
B) The Motion to Dismiss ¶10 of the Objectors' Petition is denied but the inclusion of two identical petition sheets -- ##207 & 211 – did not rise to the level of intentional fraud and any duplicate signatures were excised in the Rule 6 exam.
C) The Motion to Dismiss ¶11 of the Objectors' Petition is granted as the presence of the circulator's address on other petition sheets "substantially complies" with the purpose of the requirement. *Sakonyi, supra.*
D) The Objectors' Petition fails in its entirety as their case was bereft of the quantity and quality of affirmative evidence of fraud necessary to prove-up intentional violations of the Election Code and this Board's Rules.

E) Notwithstanding the dismissal of ¶9 above, the Objectors were granted an "Offer of Proof" to argue and present evidence of fraud. This Hearing Officer, and therefore this Board, did not "close its eyes and ears" or otherwise ignore affirmative evidence of a pattern of fraud as none was presented.

Recommendation

It is the recommendation of this Hearing Officer that the name Bruce Leon should appear on the ballot for the office of Member of the Chicago Board of Education for the 2nd District in the November 5, 2024 general election.

Dated: August 15, 2024 s/ Terence E. Flynn

Hearing Officer