

BEFORE THE DULY CONSTITUTED
DU PAGE COUNTY OFFICERS' ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO PETITIONS
FOR CANDIDATES FOR THE OFFICE OF COMMISSIONER,
LISLE LIBRARY DISTRICT, DU PAGE COUNTY, ILLINOIS

IN RE: THE MATTER OF THE OBJECTION)
OF THOMAS HUMMEL, OBJECTOR, TO)
THE NOMINATION PAPERS OF JUN YU)
AS CANDIDATE FOR THE OFFICE OF) Docket No. 2013 C-11
TRUSTEE OF THE LISLE LIBRARY)
DISTRICT TO BE VOTED ON AT THE)
APRIL 9, 2013, CONSOLIDATED)
GENERAL ELECTION)

DU PAGE COUNTY OFFICERS' ELECTORAL BOARD DECISION

NOW COMES the DuPage County Officers' Electoral Board, consisting of Cathy Terrill, Chair; Arthur Ludwig, Member; and Christopher Hage, Member, organized and existing pursuant to law, and states as follows:

PREFATORY REMARKS

The County Officers' Electoral Board (hereinafter referred to as the "ELECTORAL BOARD"), pursuant to the Election Code, 10 ILCS 5/10-9, *et seq.*, and in accordance with the County Officers' Electoral Board Rules of Procedure (hereinafter referred to as the "RULES"), which were duly promulgated, approved, implemented and adopted on January 11, 2013, convened for the hearing and passing upon objections to Nomination Papers filed with the Lisle Library District.

The ELECTORAL BOARD convened for the purpose of hearing and passing upon the Objector's Petition (hereinafter referred to as the "PETITION") filed by Thomas Hummel, (hereinafter referred to as the "OBJECTOR"), to the Nominating Papers of Jun Yu (hereinafter referred to as the "CANDIDATE"), Candidate for the Office of Trustee of the Lisle Library District (hereinafter referred to as the "OFFICE"), to be voted upon at the Consolidated General Election to be held April 9, 2013, (hereinafter referred to as the "ELECTION").

Within the time frame set forth by statute, the CANDIDATE filed with the Local Election

Official for the Lisle Library District, Nominating Papers for the OFFICE to be voted on at the ELECTION. A copy of the Nominating Papers is attached hereto and incorporated herein by reference as Exhibit "A." An Objection to the Nominating Papers was timely filed with the Local Election Official for the Lisle Library District, who in turn filed them with the DuPage County Election Commission on January 4, 2013, as required by law. A copy of the Objection is attached hereto and incorporated herein by reference as Exhibit "B."

A Call Notice for Hearing was issued on January 7, 2013, by Cathy Terrill, Chair of the ELECTORAL BOARD. A copy of the Call Notice is attached hereto and incorporated herein by reference as Exhibit "C." The Call Notice was issued and served upon the OBJECTOR and the CANDIDATE, by certified mail, in accordance with the Election Code, 10 ILCS 5/10-10, as evidenced by copy of the Certified Mail Receipt to both CANDIDATE and OBJECTOR, copy attached hereto and incorporated herein by reference as Exhibit "D." The CANDIDATE and the OBJECTOR were also served by the DuPage County Sheriff's Office, in accordance with the Election Code. A copy of the proof of service to both CANDIDATE and OBJECTOR is attached hereto and incorporated herein by reference as Exhibit "E." The OBJECTOR appeared and filed a written Appearance. A copy of the Appearance is attached hereto and incorporated herein by reference as Exhibit "F." Based on the Objection filed herein, the DuPage County Election Commission Staff conducted an Examination of the Official Voter Registration Records, and provided a copy of the results of this Records Examination accompanied by the Affidavit of Rocky Lofendo, Supervisor of Registration. A copy of the Affidavit and Records Examination is attached hereto and incorporated herein by reference as Exhibit "G."

On January 11, 2013, the ELECTORAL BOARD convened the Hearing on the Objection, which Hearing was held before the full and legally constituted ELECTORAL BOARD, in accordance with the Election Code, 10 ILCS 5/10-9(2), and the laws of the State of Illinois for hearing and passing on the objections to the CANDIDATE for said OFFICE. Notice of such Hearing was given in conformance with

provisions of the Election Code and the Illinois Open Meetings Act and acknowledged by the OBJECTOR. At hearing, the CANDIDATE failed to appear, and did not file an appearance in this cause. Pursuant to the RULES, the Hearing commenced on the OBJECTION in the absence of the CANDIDATE.

PROCEEDINGS

The OBJECTOR challenges the Nominating Papers based on the CANDIDATE’S failure to designate the term of OFFICE sought on Page 2 of his Nominating Petitions, and as to signatures for being that of voters not registered to vote; that of voters not residing in the District; and being signatures which are invalid due to illegibility. The CANDIDATE must submit fifty (50) valid signatures to have his name placed on the Ballot. The CANDIDATE submitted fifty (50) signatures on his Nominating Papers.

A. SIGNATURE OBJECTIONS

In regard to challenges to signatures contained in the CANDIDATE’S Nominating Petitions, the law is as follows:

a. Required Number of Signatures

In order to be a Candidate for election to Office, the Election Code requires the Candidate to file Nominating Petitions containing a prescribed minimum number of valid signatures, which must be duly authenticated and attested to as provided by law. *See* 10 ILCS 5/10-3. The signature requirement is a mandatory requirement of the Election Code. *See Brisco*, 435 F.2d 1046, 1054 (7th Cir. 1970); *Merz*, 94 Ill. App. 3d 1111, 419 N.E.2d 628 (1st Dist. 1981). The *Briscoe* Court held that the “purpose of the signature requirement is to reduce the electoral process to manageable proportions by confining ballot positions to a relatively small number of candidates who have demonstrated initiative and at least a minimal appeal to eligible voters.” *Id.* Failure to comply with mandatory provisions of the Election Code mandate the removal of a candidate’s name from the ballot. *Bowe v. Board of Election Commissioners of*

the City of Chicago, 614 F.2d 1147 (7th Cir. 1980); *see also Fortes v. Dixon*, 122 Ill. App. 3d 697, 462 N.E.2d 615 (1st Dist. 1984); *Huskey v. Municipal Officers Electoral Board*, 156 Ill. App. 3d 201, 509 N.E.2d 555 (1st Dist. 1987).

b. Signature in Own Proper Person/Genuine/Illegible/Incomplete

The signature of the Signator must be written in the hand of the voter. *See* 10 ILCS 5/010-4. Thus, individuals must sign the Petition in his/her own proper person. *Id.* The requirements of Section 5/10-4 are mandatory, and the failure to follow those requirements will render the signature invalid. *Id.*; *Greene v. Board of Election Commissioners*, 112 Ill. App.3d 862, 445 N.E.2d 1337 (1st Dist. 1983).

When signatures are challenged for reasons of illegibility or incompleteness, the ELECTORAL BOARD, through a Records Check and the hearing of testimony, has the authority to determine whether a signature is genuine. A signature will be deemed genuine if it is **substantially similar** to the signature identified in the Official Voter Registration Records, or if testimony is adduced from which the ELECTORAL BOARD can make such determination. *See Bergman v. Vachata*, 347 Ill. App. 3d 339, 807 N.E.2d 558 (1st Dist. 2004). If the ELECTORAL BOARD determines there is a substantial similarity between the signature on the Nominating Petition and of the signature on the registration card, the signature should be deemed valid. The ELECTORAL BOARD can also hear testimony by a witness or expert as to the genuineness of the challenged signature. *See Canter v. Cook County Officers' Electoral Board*, 170 Ill. App. 3d 364, 523 N.E.2d 1299 (1st Dist. 1988). In the event the signatures are deemed dissimilar, and there is no testimony of the voter that he/she signed in his/her own proper person, the ELECTORAL BOARD may sustain the objection as to those signatures.

c. Printed Signatures.

Nothing in the Election Code or under the common law of Illinois renders a printed signature invalid *per se*. *See Bergman*, 347 Ill. App. 3d 339, 807 N.E.2d 558, thus the mere printing of a signature,

rather than “signing” in cursive, is not necessarily fatal; particularly where there is evidence that the signer did in fact sign in their own proper person.

Instructive in this regard, in determining whether a stamped signature of an attorney constituted a valid signature on a Summons for Forcible Entry and Detainer the Second District found, “[I]n a variety of contexts, the law has consistently interpreted ‘signed’ to embody not only the act of subscribing a document, but also anything which can reasonably be understood to symbolize or manifest the signer’s intent to adopt a writing as his or her own and be bound by it. This may be accomplished in a multitude of ways, only one of which is a handwritten subscription.” *Knolls Condominium Association*, 321 Ill. App. 3d 916, 748 N.E.2d 1259, 1261 (2d Dist. 2001), *citing*, *Just Pants v. Wagner*, 247 Ill. App. 3d 166, 173-74, 617 N.E.2d 246 (1st Dist. 1993)(the type-written name of an arbitrator on an Arbitrator’s Award constituted a signature). The *Just Pants* Court cited Black’s Law Dictionary, which defines “sign” as:

To affix one’s name to a writing or instrument, for the purpose of authenticating or executing it, or to give effect to one’s act. To attach a name or cause it to be attached to a writing by any of the known methods of impressing a name on paper. To affix a signature to; to ratify by hand or seal; to subscribe in one’s own handwritten. To make any mark, as upon a document, in token of knowledge, approval acceptance, or obligation.” Black’s Law Dictionary 1239 (5th Ed. 1979).

d. Illegible Signatures

As to signatures which are objected to as “illegible,” the ELECTORAL BOARD must study the signature and compare it to Voter Registration Records to determine whether the signature is legible and matching that of a Registered Voter. If it is deemed substantially similar to the signature contained in the Voter Record, or can be determined to be the signature of the registered voter identified at the address given, the mere fact that the signature is illegible will not invalidate it.

e. Not Registered

The Election Code requires that, in order for an individual to be determined eligible to sign a Nominating Petition, his or her signature must appear on the Nominating Petition, along with his or her proper address. 10 ILCS 5/10-4. Section 5/3-1.2, which pertains to determining the eligibility of an individual to sign a Nomination Petition, provides:

For the purpose of determining eligibility to sign a nominating petition or a petition proposing a public question the terms "voter", "registered voter", "qualified voter", "legal voter", "elector", "qualified elector", "primary elector" and "qualified primary elector" as used in this Code or in another Statute *shall mean a person who is registered to vote at the address shown opposite his signature on the petition or was registered to vote at such address when he signed the petition. . . .*

10 ILCS 5/3-1.2 (West 2012) (Emphasis added). In *Greene v. Board of Election Commissioners*, 112 Ill.App.3d 862, 868, 445 N.E.2d 1337 (1st Dist. 1983), the court held that persons signing Nomination Petitions must be registered to vote at the residence set forth on the petition. The court concluded that requiring strict compliance with the signature requirement was necessary to facilitate the verification procedure and to preserve the integrity of the election process. *Id.* at 869; *see also Benjamin v. Board of Election Commissioners*, 122 Ill. App. 3d 693, 462 N.E.2d 626 (1st Dist. 1984).

RULING AS TO SIGNATURE OBJECTIONS

Based on the legal analysis set forth herein, the ELECTORAL BOARD rules as follows on the following specific objections:

1. In response to specific signature objections, the ELECTORAL BOARD considered the findings of Staff of the DuPage County Election Commission as set forth in Exhibit "G," and adopted the findings therein, and rules consistent with those findings as to those signature challenges which were not deferred; therefore, the ELECTORAL BOARD

Sustains the Objection to:

Page 3, Line 1

Page 3, Line 6

Page 3, Line 9

Page 5, Line 9

Page 5, Line 10

Overrules the Objection to:

Page 3, Line 7

Concerning those signatures deferred for ruling by the ELECTORAL BOARD, the Board rules as follows:

Sustains the Objection as to the following:

Page 1, Line 8

B. FAILURE TO PROPERLY DESIGNATE THE TERM OF OFFICE

The OBJECTOR asserts that the CANDIDATE failed to properly designate, in his Nominating Petitions, the OFFICE Sought, wherein on Page 2 of his Nominating Petitions, he failed to properly set forth the term of the OFFICE. In the Consolidated Election to be held, the voters shall be eligible to elect three persons to full, four year terms and one person to fill the remaining two years of an unexpired term of office. Therefore, proper designation of the OFFICE is critical to avoid voter confusion. Because the term of office is essential to designate office sought, the voters signing the Petition could not know the proper office being sought by the CANDIDATE, particularly when both “full, four year” term and one, two-year term is to be on the Ballot. This is not a defect as set forth in *Sullivan v. County Officers Electoral Board*, 225 Ill.App.3d 691, 693, 588 N.E.2d 475 (2nd Dist. 1992), where the Court held that a minor error in a candidate's nominating papers should not result in a candidate's removal from the ballot. As to this challenge, ELECTORAL BOARD **sustains** the Objection, finding that the failure to properly designate the OFFICE on Page 2 of the Nominating Petitions invalidated this Page of the Nominating Petitions, and, therefore, invalidated the ten (10) signatures set forth on that Page.

CONCLUSION

Based on the rulings made herein as to the Objections set forth in the Objector's Petition, the

ELECTORAL BOARD finds that the CANDIDATE'S Nominating Petitions contain thirty-four (34) valid signatures. Therefore, the Petitions do not have the requisite minimum number of signatures required to have his name placed on the Ballot. Accordingly, the name of JUN YU shall not be printed on the Official Ballot as a Candidate for the Office of Trustee of the Lisle Library District for the Consolidated General Election to be held on April 9, 2013.

REVIEW OF ELECTORAL BOARD DECISION

Any party seeking to review the decision and determination of the ELECTORAL BOARD shall do so in accordance with the provisions and time frame set forth in the Election Code, 10 ILCS 5/1-1 *et seq.*, and other pertinent statutory provisions, by filing a petition for judicial review within five (5) days from the date of this order with the Clerk of the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

DU PAGE COUNTY OFFICERS' ELECTORAL BOARD,
SITTING IN ITS CAPACITY TO HEAR AND PASS ON
OBJECTIONS IN THE LISLE LIBRARY DISTRICT

/s/ Cathy Terrill
CATHY TERRILL, CHAIR

/s/ Art Ludwig
ART LUDWIG, MEMBER

/s/ Christopher Hage
CHRISTOPHER HAGE, MEMBER

Dated: January 18, 2013

Prepared by:

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