

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE
OFFICE OF PRESIDENT OF THE FOREST PRESERVE DISTRICT OF
DU PAGE COUNTY, ILLINOIS**

JOHN C. SMITH, JR.,)	
)	
Petitioner-Objector,)	
v.)	No. 2013 P-06
)	
MARY LOU WEHRLI,)	
)	
Respondent-Candidate.)	

DU PAGE COUNTY OFFICERS' ELECTORAL BOARD DECISION

NOW COMES the DuPage County Officers' Electoral Board, consisting of Christopher Hage, Chairman; Art Ludwig, Member; and Kevin Millon, duly appointed Public 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 December 16, 2013, convened for the hearing and passing upon objections to Nominating Papers filed with the DuPage Board of Election Commissioners ("ELECTION COMMISSION").

The ELECTORAL BOARD convened for the purposes of hearing and passing upon the Objector's Petition (hereinafter referred to as the "PETITION") filed by John C. Smith, Jr. (hereinafter referred to as the "OBJECTOR"), to the Nominating Papers of Mary Lou Wehrli (hereinafter referred to as the "CANDIDATE"), Candidate for the Office of President of the

Forest Preserve District of DuPage County (hereinafter referred to as the "OFFICE"), to be voted upon at the General Primary Election to be held March 18, 2014, (hereinafter referred to as the "ELECTION").

Within the timeframe set forth by statute, the CANDIDATE filed with the ELECTION COMMISSION, 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 ELECTION COMMISSION, 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 December 10, 2013, by Christopher Hage, Chairman 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 a return receipt as required. Copies of the return receipt to both CANDIDATE and OBJECTOR are 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. Copies of the proof of service to both CANDIDATE and OBJECTOR are attached hereto and incorporated herein by reference as Exhibit "E." The Signature Requirement Sheet was made a part of the record and is attached hereto and incorporated herein by reference as Exhibit "F." The appointment of Public Member Kevin Millon by Chief Judge John T. Elsner is attached hereto and incorporated herein by reference as Exhibit "G." The CANDIDATE appeared and filed a written Appearance through

her attorney. A copy of the Appearance is attached hereto and incorporated herein by reference as Exhibit "H." The OBJECTOR appeared and filed a written Appearance through his attorney. A copy of the Appearance is attached hereto and incorporated herein by reference as Exhibit "I." A motion to Strike Objector's Petition (Exhibit "J"); Response to Motion to Strike Objector's Petition (Exhibit "K"); Supplement to Motion to Strike Objector's Petition (Exhibit "L"); Staff Summary (Exhibit "M"); and the Rules of the Electoral Board (Exhibit "N"), all made a part of this Decision and incorporated herein by reference.

On December 16, 2013, the ELECTORAL BOARD convened the Hearing on the Objection. Prior to commencing the evidentiary portion of the Hearing, the ELECTORAL BOARD voted to continue the Hearing in this cause to December 23, 2013, to allow staff to proceed to an examination of the objections using the records of the ELECTION COMMISSION. The determination of all matters in this cause was made and voted upon on December 23, 2013, at the Electoral Board's hearing, and adopted by this written Decision on December 30, 2013. The Hearing, on all dates, 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 Hearings were given in conformance with provisions of the Election Code and the Illinois Open Meetings Act and acknowledged by the CANDIDATE and the OBJECTOR.

PROCEEDINGS

The OBJECTOR challenges the Nominating Papers based on challenges to signatures of persons alleged not to be registered voters, signer not residing in the district, signer not proper

person and not genuine, signer not a registered Republican, signer signed petition twice, signer signed Cantore petition, and for other reasons. The CANDIDATE submitted Nominating Petitions containing 2,211 signatures.

1. General Case Law

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 5/7-10. The signature requirement is a mandatory requirement of the Election Code. *See Brisco v. Kusper*, 435 F.2d 1046, 1054 (7th Cir. 1970); *Merz v. Volberding*, 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); and *Huskey v. Municipal Officers Electoral Board*, 156 Ill. App. 3d 201, 509 N.E.2d 555 (1st Dist. 1987).

2. Signature Objections – Not Registered/Not Signed by Signer

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 5/7-10. Section 5/3-1.2, which pertains to determining the eligibility of an individual to sign a Nominating 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 Nominating 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). Therefore, to be valid, the signature must be that of a person registered to vote at the address next to his/her name. Failure to include a complete address is in violation of this Section, and if the address cannot be ascertained, the signature will be stricken.

3. Staff Summary

The Staff Summary (Ex. M) revealed that the CANDIDATE has more than sufficient signatures over the minimum of 1,449 to gain ballot access.

4. Evidence

Both parties accepted the results of the Staff Summary and rested their cases on the basis of the Staff Summary.

5. Motions

Although the CANDIDATE filed a Motion to Strike the Objector's Petition and the OBJECTOR filed a Response, because the CANDIDATE has sufficient signatures, the Motion is moot and no ruling is made by the Electoral Board.

RULING

The ELECTORAL BOARD overrules the Objection made by the Objector that the CANDIDATE submitted Nominating Papers which did not contain sufficient signatures. Based on the objections examined, the ELECTORAL BOARD holds that the CANDIDATE has more than the required minimum signatures needed of 1,449 for ballot access. The OBJECTOR and CANDIDATE presented no evidence other than the adopted findings of the staff which are found on Exhibit M, contained herein.

CONCLUSION

Based on the rulings made herein as to the Objections set forth in the Objector's Petition, the ELECTORAL BOARD denies the OBJECTOR'S Petition, finding that the CANDIDATE does have the requisite minimum number of signatures to have the CANDIDATE'S name placed on the Ballot. Accordingly, the name of MARY LOU WEHRLI **shall be** printed on the Official Ballot as a Candidate for the Office of President of the Forest Preserve District of DuPage County for the General Primary Election to be held on March 18, 2014.

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

[REDACTED]

CHRISTOPHER HAGE, CHAIR

[REDACTED]

ART LUDWIG, MEMBER

[REDACTED]

KEVIN MILLON, PUBLIC MEMBER

Dated: December 30, 2013

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