

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

IN RE: THE MATTER OF THE OBJECTION)
OF JOHN C. SMITH, JR., OBJECTOR, TO THE)
NOMINATION PAPERS OF BRIAN WOLTER,)
CANDIDATE FOR THE OFFICE OF PRESIDENT) Docket No. 2014 G-01
OF THE FOREST PRESERVE DISTRICT OF)
DU PAGE COUNTY)

DU PAGE COUNTY OFFICERS' ELECTORAL BOARD DECISION

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

PREFATORY REMARKS

Pursuant to the Election Code, 10 ILCS 5/1-1 *et seq.* and in accordance with the County Officers' Electoral Board Rules of Procedure (hereinafter referred to as the "RULES") duly promulgated, approved, implemented and adopted on June 27, 2014, as required by the DuPage County Election Commission (hereinafter referred to as the "COMMISSION"), the COMMISSION was duly constituted, convened and sitting in its capacity as the DuPage County Officers' Electoral Board (hereinafter referred to as the "ELECTORAL BOARD") for the hearing and passing upon Objections to Nominating Papers.

On June 27, 2014, the ELECTORAL BOARD conducted the hearing upon the Verified Objector's Petition (hereinafter referred to as the "PETITION") filed by John Smith, Jr. (hereinafter referred to as "OBJECTOR"), to the Nominating Papers of Brian Wolter (hereinafter referred to as the "CANDIDATE"), Candidate for the Office of President of the DuPage County Forest Preserve District, DuPage County, Illinois (hereinafter referred to as the

"OFFICE"), to be voted upon at the General Election to be held November 4, 2014 (hereinafter referred to as the "ELECTION").

Within the timeframe set forth by statute, the CANDIDATE filed with the COMMISSION, Nominating Papers for the OFFICE to be voted on at the ELECTION. See Exhibit "A," attached hereto and incorporated herein by reference. The PETITION was timely filed with the COMMISSION on June 9, 2014. See Exhibit "B," attached hereto and incorporated herein by reference.

A Call Notice for Hearing was issued on June 11, 2014, by Cathy Terrill, Chairperson of the ELECTORAL BOARD. See Exhibit "C," attached hereto and incorporated herein by reference. 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. See Exhibit "D," attached hereto and incorporated herein by reference. The CANDIDATE and the OBJECTOR were also served by the DuPage County Sheriff's Office, in accordance with the Election Code. See Exhibit "E," attached hereto and incorporated herein by reference. An Appearance was filed by counsel for the OBJECTOR. See Exhibit "F," attached hereto and incorporated herein by reference. An Appearance was filed by the CANDIDATE on June 16, 2014. See Exhibit "G," attached hereto and incorporated herein by reference. The Official Signature Requirement for the OFFICE is a minimum of nine hundred ninety-eight (998). See Exhibit "H," attached hereto and incorporated herein by reference.

PROCEEDINGS

The OBJECTOR challenges the CANDIDATE’S Nominating Papers on the grounds that the CANDIDATE’S Nominating Papers contain less than the minimum required number of valid signatures to be placed on the Ballot for the OFFICE, along with other signatures specific and other challenges. Specifically, the OBJECTORS allege that the CANDIDATE has filed Nominating Papers containing one thousand seventeen signatures of alleged duly qualified, legal and registered voters, which number, when reduced due to alleged irregularities falls below the required minimum.

LEGAL ANALYSIS OF ISSUES PRESENTED

WHETHER THE CANDIDATE’S NOMINATING PETITIONS CONTAIN THE REQUISITE NUMBER OF VALID SIGNATURES REQUIRED BY LAW

Candidate eligibility and ballot access is favored under Illinois law. *See Maksym v. Board of Election Commissioners of Cook County*, 242 Ill. 2d 303, 950 N.E.2d 1051, 1069 (2011); *Lucas v. Lakin*, 175 Ill.2d 166, 676 N.E.2d 637 (1997) (“We 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.”) However, a nomination petition that, on its face, lacks the number of signatures required for ballot access is not in conformity with the Election Code. *Druck v. Illinois State Bd. of Elections*, 387 Ill.App.3d 144, 155, 899 N.E.2d 437, 447 (1st Dist. 2008). The signature requirement is a mandatory requirement of the Election Code. *See Briscoe 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 requires 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). Therefore, a candidate shall not be placed on the ballot when their nomination petition lacks the requisite minimum number of signatures required for the office sought.

In this matter, the CANDIDATE is required to obtain a minimum of 998 valid signatures for the OFFICE. The OBJECTORS contend that the CANDIDATE'S Nominating Papers contain one thousand seventeen (1017) signatures. See Exhibits "A" and "B." OBJECTOR alleges that the Nominating Papers contain the signatures of persons who are not duly qualified, registered and legal voters at the address indicated; signatures of those whose residences are not within the boundaries of the Forest Preserve District of DuPage County; signatures of those who did not sign in their own proper persons; signatures of various individuals who voted in the Republican Primary Election on March 18, 2014 and are, therefore, alleged to be ineligible to sign the CANDIDATE'S Nominating Papers. See Exhibit "B." OBJECTOR additionally alleges that the CANDIDATE did not file a receipt for the required Statement of Economic Interest in the manner set forth by law; and last, that the CANDIDATE was not properly nominated to fill a vacancy in nomination.

A records check conducted by COMMISSION staff indicated that the CANDIDATE filed one thousand fifteen (1015) signatures, and based on their review, recommended sustaining objections to one hundred sixteen (116) signatures. See Exhibit "H." Upon the evidence submitted, and the acceptance of the Staff findings, the ELECTORAL BOARD finds that the CANDIDATE'S Nominating Papers contained eight hundred ninety nine (899) valid

signatures, and therefore, that they do not contain the requisite minimum number of signatures for inclusion on the Official Ballot. Finding this, the ELECTORAL BOARD did not rule on any other objection made by the OBJECTOR, as the CANDIDATE is not eligible to have his name included on the Official Ballot for the OFFICE.

CONCLUSION

Based upon the ruling made herein, it is the decision of the ELECTORAL BOARD, in regard to the objection filed against the Candidacy of Brian Wolter for the Office of President of the DuPage County Forest Preserve District, that the OBJECTION is hereby sustained.

Accordingly, the name of Brian Wolter shall not be printed on the Official Ballot as a Candidate for the Office of President of the DuPage County Forest Preserve District for the General Election to be held on November 4, 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 timeframe set forth in Section 10-10.1 of Illinois the Election Code. 10 ILCS 5/10-10.1.

DU PAGE COUNTY OFFICERS' ELECTORAL
BOARD

/s/ Cathy Terrill
CATHY TERRILL, CHAIRPERSON

/s/ Christopher Hage
CHRISTOPHER HAGE, MEMBER

/s/ Art Ludwig
ART LUDWIG, MEMBER

Dated: July 10, 2014
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