RULES OF PROCEDURE

ADOPTED BY THE BOONE COUNTY OFFICERS ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO THE NOMINATION PAPERS OF CANDIDATES SEEKING TO APPEAR ON THE BALLOT FOR THE APRIL 7, 2015, CONSOLIDATED ELECTION

Pursuant to Section 10-10 of the *Election Code* (10 ILCS 5/10-10), the Boone County Officers Electoral Board, (the "Board"), a duly constituted electoral board under Section 10-9 of the *Election Code*, hereby adopts the following rules of procedure:

1. EXPEDITED PROCEEDINGS

On all hearing dates set by the Board, the objector and the candidate (at times individually referred to as "party" or collectively referred to as the "parties") shall be prepared to proceed with the hearing of their case. Due to statutory time constraints, the Board must proceed as expeditiously as possible to resolve the objection. Therefore, there will be no continuances or resetting of the initial hearing or future hearings except for good cause shown. If a party has received actual or constructive notice of a hearing and fails to appear, the failure to appear shall constitute acquiescence by such party as to any action taken at that hearing or any agreement made by and between the parties present at the hearing.

If an objector fails to appear at the hearing after having been given due notice, the Board may dismiss the objection for want of prosecution. If the candidate fails to appear at the hearing, he/she will be bound by any decisions made by the Board.

2. APPEARANCE

The candidate or objector may appear in person on his or her own behalf and participate in any proceeding before the Board or may appear by an attorney licensed to practice law in the State of Illinois. Non-attorneys other than a party appearing pro se shall not appear or participate (including the offering of any argument or advocating a position to the Board) in the Board's hearings on behalf of either the candidate or the objector, except that non-attorneys may participate as observers or coordinators at any records examination on behalf of any party. A party must file with the Board and other parties of the case a written appearance stating his or her name, address, telephone or cellular phone number, and, if available, a fax number and e-mail address as well as the name and contact information of his or her attorney, where appropriate.

3. AUTHORITY OF THE BOARD AND HEARING OFFICER

The Board shall conduct all hearings and take all necessary action to avoid delay, to maintain order, to ensure compliance with all notice requirements, and to ensure the development of a clear and complete record. The Board shall have all powers necessary to conduct a fair and impartial hearing including, but not limited to:

(a) Administer oaths and affirmations;

(b) Regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents, provide for the taking of testimony by deposition if necessary, and in general conduct the proceedings according to recognized principles of administrative law and the provisions of these Rules;

(c) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;

(d) Rule upon offers of proof and receive relevant evidence;

(e) Direct parties to appear and confer for the stipulation of facts or simplification of issues, and otherwise conduct case management conferences;

(f) Dispose of procedural requests or similar matters;

(g) Issue subpoenas and rule upon objections to subpoenas and discovery requests;

(h) Consider and rule upon all motions presented in the course of the proceedings. Unless otherwise directed by the Board, the hearing of the objection will proceed despite the filing of the above Motions;

(i) Consider such competent and relevant evidence as may be submitted, including, but not limited to, documentary evidence, affidavits and oral testimony; and

(j) Enter any order that further carries out the purpose of these Rules.

The Board may on its own motion, strike any objection if it determines that the objection does not meet the requirements set forth in 10 ILCS 5/10-8. Objections to individual signers and/or circulators must consist of a specific objection or objections to that particular signer or circulator. In addition, the Board on its own motion may strike any portion of an objection that it determines to be not well grounded in fact and/or law.

In view of the time limitations and the amount of evidence to be presented, the Board may appoint a hearing examiner in any case which the Board deems such an appointment necessary or expedient. Any hearing examiner so appointed shall have the duties and powers of the Board as set forth in these rules, except that a hearing examiner shall not have the power to rule upon any motion which would be dispositive of the objection or issue a final decision.

4. SERVICE OF DOCUMENTS

All briefs, notices, documents, pleadings, answers and correspondence shall be served upon the opposing parties, or their attorneys if represented by counsel, and filed with the County Clerk. All briefs, notices, documents, pleadings, answers and correspondence may be sent by telefax or e-mail

attachment if the other receiving party or his or her representative agrees. In those instances where a telefax or an unsigned e-mail communication is used, a hard copy shall also be sent by regular mail. The failure to send or receive a hard copy shall not negate or render invalid the contents of the original communication. The date the telefax or e-mail attachment is sent shall be deemed the date notice is given.

5. MOTIONS PRACTICE

The Board will decide all motions. Motions addressed to the Board shall be thoroughly briefed so as to minimize the time needed for oral argument. Such argument shall be permitted at the Board's discretion. Motions for continuance or requests for extension of time are discouraged and will be granted only in extreme circumstances. Preliminary motions not already ruled upon including motions for summary judgment (or similar motions) and objections to an objector's petition in the nature of a motion to dismiss or strike the objections will be heard prior to the case on the merits. The Board may, in its discretion, reserve rulings on preliminary motions and objections pending further hearing thereon.

6. RECORDS EXAMINATION

At the direction of the Board, the parties may be directed to appear at a "records examination." Notice of same shall be provided by the Board. At the records examination, the Board shall, in an orderly and expeditious manner, search for and examine the registration records for comparison to the names on the petition that have been objected to. The Board shall, based upon their examination of the relevant registration records, make and announce a finding as to whether certain objections in the objector's petition are sustained or overruled. Relevant issues include, but are not limited to, whether the signer is a registered voter; whether the signer is a qualified elector, if required; whether the signature is that of a registered voter whose signature purports to appear on the petition; whether the signer, or the candidate are residents of the political subdivision involved; and whether the signer is registered to vote at the address shown beside his or her signature on the petition in question.

Each party shall have the right to have designated and duly authorized representatives ("watchers"), including the party or the party's counsel, present during the records examination. No more than one watcher for each party may be assigned at which a records examination is being conducted. The failure of a watcher to timely appear at the examination shall not delay nor affect the validity of the examination and the records examination shall proceed.

Watchers are to participate as observers only. The Board shall not be required to solicit the opinion of any watcher as to any matter nor consider such opinions if offered. Arguing with Board or other abusive conduct will not be tolerated. A watcher may be ordered removed from the records examination proceedings for the conduct specified above and any other conduct that disrupts the orderly conduct of the proceedings and if necessary, this provision will be enforced by appropriate law enforcement. In the event of such removal, the Board may continue with the records examination in the absence of the removed watcher. A party may replace a removed watcher with another watcher; however, the records examination will not be delayed by the absence of a replacement watcher. Photography of any kind, including video recording, is prohibited in the records examination room.

The Board shall note their findings as to each objection on copies of the objected to petition sheets, indicating a sustained objection with the letter "s" and an overruled objection with the letter "o". Following the records examination, copies of the sheets containing the rulings shall be sent to the parties or their counsel. The parties will be given an opportunity to present all objections to said findings properly made at the records examination or prior thereto in the nature of a standing objection, to the Board at the evidentiary hearing on the merits of the objection scheduled by the Board. The party making the objection bears the burden of producing evidence proving that the Board finding was in error.

If at any time during the records examination it appears that (i) the number of valid signatures remaining on the petition is fewer than the number of valid signatures required by law or (ii) the number of valid signatures on the petition will exceed the number of valid signatures required by law even if all of the remaining objections to be decided were sustained, the Board may suspend the records examination and the results of the records examination shall be forwarded to the Board. If this is so ordered, the party adversely affected by the order will be afforded an opportunity to present evidence that there exists a sufficient amount of valid or invalid signatures as the case may be, to warrant resumption of the examination. Such evidence must be submitted no later than 5PM on the second business day following the order of suspension. The records examination may then be resumed or terminated at the discretion of the Board or the hearing examiner.

7. EVIDENCE

Evidence submitted by either party will be heard by the Board, including, but not limited to, documentary evidence, depositions, affidavits, and oral testimony. Documentary evidence shall be presented at a hearing, however service of such documentary evidence may be made by facsimile or e-mail. Any affidavits submitted must be original, and any voter registration records must be certified by the election authority that issued them.

Due to the fact that the Board must hear and pass upon objections within a limited time, extended examination and cross-examination of witnesses will be subject to the discretion of the Board, and the Board will not be bound by the rules of evidence which prevail in the circuit courts of Illinois. Where the Board is hearing the objection itself, the Chairman shall make all necessary evidentiary rulings, subject to appeal to the entire Board.

8. ARGUMENT

All arguments and evidence must be confined to the points raised by the objector's petition and objections, if any, to the objector's petition. The Board reserves the right to limit oral arguments in any particular case and will ordinarily allow not more than ten minutes per side for argument.

With regard to the substance of the objections, generally the objector must bear the burden of proving by operation of law and by a preponderance of the relevant and admissible evidence ("the burden of proof") that the objections are true and that the petition is invalid.

9. ORDER

If the objections are sustained in whole or in part, the Board will issue an Order declaring the remedy up to and including invalidation of the Petition. The Board will state its findings in writing noting the objections which have been sustained. If the objection is overruled, the Board will issue the appropriate Order; stating its findings in writing. In the event that the Board is sitting with only two members, and the two members do not agree as to the validity of any objection that objection shall not be sustained.

10. GENERAL PROCEDURES

For the matters not covered herein, the Board will generally follow the provisions of the Code of Civil Procedure of Illinois and the rules of the Illinois Supreme Court regulating discovery and practice in trial courts, provided however that the Board will not be strictly bound by the Code or rules in all particulars.

11. SESSIONS

After the Board convenes the initial hearing, it will be in continuous session until all objections arising out of that filing period have been considered and disposed of, and, in the discretion of the Board, its session may be extended or recessed for a period to be determined by the Board.

12. TRANSCRIPT AND RECORD OF PROCEEDINGS

A transcript of the proceedings will be made by a certified court reporter. Copies may be purchased from the reporter and will not be furnished by the Board. If a party aggrieved by the decision of the Board timely files and serves upon the Board a proper petition for judicial review pursuant to Section 10-10.1 of the Election Code, the Board shall, upon the written request of the petitioner or upon order of the Circuit Court, prepare and file with the Circuit Court the record of proceedings before the Board. The petitioner or the Court shall designate which portions of the record of proceedings are to be prepared and filed. The respondent or respondents in the judicial review proceedings may designate in writing additional portions of the record of proceedings to be prepared and filed if not included in the petitioner's designation of the record. The parties to a judicial review proceeding are encouraged to limit the record of proceedings to be filed with the Court to only those records material and relevant to the issues on judicial review so that the preparation and filing of unnecessary records is avoided.

13. HEARING OFFICERS

In view of the time limitations and the amount of evidence to be presented, the Board may appoint a hearing officer in any case for which the Board's deems such an appointment necessary. Any hearing officer so appointed shall have the following duties and powers: (a) to hold a full hearing and receive all evidence and argument, to prepare a record of the hearing including the asking of questions and clarification of points or issues by the Board;

Adopted, this _____ day of _____, 20___.

Matt Fuesting
Assistant State's Attorney

Linda Anderson
Circuit Clerk

Mary Steurer
County Clerk & Recorder