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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

STATE BALLOT LAW COMMISSION  
Docket No. 26-06

\_\_\_\_\_  
KEVIN GILNACK,  
Objector

v.

\_\_\_\_\_  
ANGIE AN-CHI TSO, et. al.,<sup>1</sup>  
Respondents

**STATEMENT OF REASONS**

**I. INTRODUCTION**

An initiative petition entitled “An Act to Restore Sensible Marijuana Policy” was timely filed with the Secretary of the Commonwealth containing 12,889 supplemental signatures, of which 12,551 were allowed.<sup>2</sup> Pursuant to Amendment Article 48, Part 5, § 1, the petition needed 12,429 supplemental signatures in order for the Secretary to print the question on the November 3, 2026, State Election ballot. Thereafter, an objection was filed with the State Ballot Law Commission challenging the validity of certain signatures appearing on the initiative petition.

The State Ballot Law Commission (Commission) has jurisdiction to determine whether, as a result of fraudulent or forged signatures, or any other objection relating to the signatures on such petitions, an initiative petition has been signed by the required number of registered voters to be printed on the State Election ballot. G. L. c. 55B, § 4 (2024 ed.).

**II. OBJECTION**

On July 8, 2026, an Objection was filed before the State Ballot Law Commission

<sup>1</sup> Brian Coffey Bilowz, Victoria A. Cudmore, Caroline Stewart Cunningham, Nassir Ghaemi, John Harrison Knowles, Brian Peter Latina, Dave H. Lunger, Kathleen Lynch and Jeffrey A. Morgan

<sup>2</sup> The remainder of the signatures were disallowed for either being contained on petitions that were not exact copies or on pages that were not certified.

(hereinafter “Commission”) by Kevin Gilnack (hereinafter “Objector”) challenging the signatures on the initiative petition naming Angie An-Chi Tso, et. al., (hereinafter “Respondents”) being the first ten signers of said petition as Respondents. The Objection alleged signatures on the petitions should not have been certified because they were: not signed substantially as registered; not registered voters within the city or town stated; not genuine; obtained through fraudulent means; and were from voters who requested that their names be removed. The Objector further alleged that numerous petitions should not have been accepted by the Secretary because they contain extraneous marks or are not exact copies of the petition form as provided by the Secretary. To be successful in this challenge, the Objector must prove that 123 signatures are invalid.

### **III. PRELIMINARY PROCEDURAL MATTERS**

#### **A. Objector’s List of Signatures**

On July 10, 2026, the Objector filed a “Specified Objection,” presumably to comply with the Commission’s regulations, 950 CMR 59.04(1)(f), which states in pertinent part:

“[N]ot later than the third weekday before the date of the hearing contained in the Secretary’s notice, the objector shall file and cause to be delivered to the respondent a list of all signatures on the respondent’s nomination paper or petition which are drawn in question by the objection, showing the page and line where each is located, and the reason why each is alleged to be improper.”

The “Specified Objection” listed the signatures being challenged by page, reflecting the page numbers added by the Secretary’s office, and line number with the specific reason. The reasons were limited to non-genuine, illegible, not certified by the clerk, should not have been certified because no address was provided, obtained through fraudulent means, missing the signatures or stamp of the registrars and were on petitions that contained stray marks.

#### **B. Objector’s Amendment to Specified Objection**

On July 15, 2026, the Objector filed an “Amendment to Specified Objection.” In this Amendment, the Objector withdrew the following Objections: Sheet 7 (2 signatures), Sheet 106 (1 signature), line 7 on Sheet 206 (1 signature), Sheet 223 (1 signature), Sheet 325 (2 signatures), Sheet 337 (1 signature) and Sheet 338 (1 signature), for a total of 9 signatures. The Amendment also sought to add an additional objection to a signature on Sheet 226 as illegible and identify stray marks on pages previously listed (Sheets 91 and 331). The Commission did not allow the addition of new signatures to the previously submitted list.

The Amendment also corrected the line numbers of two previously identified objections (Sheet 228 and 306), which the Respondent did not object to.

#### **C. Respondents Answer**

On July 15, 2026, the Respondent filed an Answer arguing that the Objector cannot meet the burden of proof and specifically addressed each of the challenged signatures.

#### **D. Objector’s Affidavits of Fraud**

At the end of his presentation on July 17, 2026, the Objector asked the Commission to add to the record affidavits of voters who state their signatures were obtained through fraud. The Respondent objected as these voters were not identified in the original Objection or in the List of Challenged Signatures. The Commission agreed and denied inclusion of such affidavits.<sup>3</sup>

### **IV. HEARING**

Evidence was received for two (2) days beginning on Wednesday, July 16, 2026. One (1) witness testified and three (3) exhibits were received. The matter having been heard and after consideration of the pleadings, stipulations, evidence and arguments of the Parties, the Commission finds, rules and concludes as follows:

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<sup>3</sup> Even if the voters had been identified in the Objection or List of Challenged Signatures, the Commission does not admit into evidence affidavits bearing directly on an ultimate fact in dispute. 950 CMR 59.05(1)(g)(c).

## **V. FINDINGS OF FACT**

The Commission finds the following facts:

1. The Respondents were required to submit 12,429 certified supplemental signatures in order for the Secretary to print the proposed ballot question on the November 3, 2026 State Election ballot.<sup>4</sup>
2. The Respondents filed 12,889 certified signatures on July 1, 2026, of which 12,551 were allowed; 318 certified signatures were disqualified for not being exact copies and/or containing extraneous marks and 20 certified signatures could not be counted because they failed to include the signatures of at least three local election officials as required by law.
3. The Objector must succeed on his Objections to at least 123 signatures to prevail in this action.
4. The Objector timely filed his “Specified Objection” containing the List of Challenged Signatures on July 10, 2026.
5. The Objector’s List of Challenged Signatures listed 231 certified signatures appearing on petition sheets that contain “stray marks.”
6. The Objector’s List of Challenged Signatures listed 99 certified signatures as being non-genuine. In each instance, the Objector alleges that one person signed multiple names, but did not dispute that one signature was genuine.
7. The Objector’s List of Challenged Signatures listed over 120 certified signatures as illegible arguing that they should not have been certified by the local election official.
8. The Objector’s List of Challenged Signatures listed five (5) signatures on which the local election official failed to mark a check (✓) next to the name in the appropriate column. These

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<sup>4</sup> The number of certified signatures required is determined in Amend. Art. 48, Initiative Pt. 5, § 1.

omissions were on Sheet 63, line 5, Sheet 64, line 5, Sheet 65, line 5, Sheet 193, line 5, and Sheet 194, line 5.

9. The Objector's List of Challenged Signatures included four (4) signatures on which no street address was included.

10. The Objector withdrew his challenges to a total of nine (9) signatures.

11. Jennifer L. Naso, a forensic document examiner employed by Riley, Welch, LaPorte & Associates, Frankenmuth, MI, since 2011, testified as a forensic handwriting expert on behalf of the Objector. She is a graduate of Yale University and has a Masters in Forensic Science from University of New Haven. Ms. Naso was previously employed as a documents analyst by the United States Secret Service from May 2006-2011. The Commission finds her qualified to testify about the matters before the Commission.

12. Ms. Naso presented testimony on the signatures being challenged in 2 categories: (1) illegible; and (2) non-genuine. Ms. Naso acknowledged that she had reviewed voter registration records containing signatures for some of the signatures she reviewed, but did not recall the specific names.

13. Ms. Naso stated that her testimony on illegible signatures was limited to a review of the name on the petition, without any further context. In many of the signatures she reviewed, she testified that she could identify one or more letters in the signature and that some of the signatures were potentially legible or partially legible. She further stated that just because a signature is "stylized," does not mean it is invalid.

14. For signatures challenged as non-genuine, Ms. Naso stated that she did not review any exemplars from voter registration records. For many of the signatures she reviewed, looking strictly at the signatures, she determined it was "inconclusive" whether they were signed by the same person, but her opinion was limited to the printed information accompanying the signature.

15. Ms. Naso testified that she is not familiar with the process used by local election officials when they certify signatures on nomination papers and petitions.

16. The Objector did not provide any evidence regarding “stray marks.”

17. The Respondent agreed that six (6) signatures should not have been certified by the local election officials. This includes Sheet 64 (1 signature), Sheet 195 (1 signature), Sheet 281 (1 signature), Sheet 301 (3 signatures).

18. The Objector withdrew his challenge to Sheet 44 (1 signature).

## **VI. ISSUES OF LAW AND CONCLUSIONS**

### **A. Jurisdiction of the Commission**

Under the provisions of General Laws chapter 55B, section 4, the Commission “may investigate upon objection made in accordance with the provisions of this chapter the legality, validity, completeness and accuracy of all nomination papers and actions required by law to give candidates access to a state ballot or to place an initiative or referendum on a state ballot.” G. L. c. 55B, § 4. That section further provides the Commission with the jurisdiction over and render decisions on an objection pertaining to “fraudulent or forged signing of statewide initiative petitions, or any other objection relating to signatures on such petitions.”

### **B. Evidentiary Standard Used By the Commission**

The Commission’s findings are based on substantial evidence, which is defined as “such evidence as a reasonable mind might accept as adequate to support a conclusion.” G. L. c. 30A, § 1(6) (1998 ed.); Capezutto v. State Ballot Law Commission, 407 Mass. 949, 952 (1990); Hershkoff v. Registrars of Voters of Worcester, 366 Mass. 570, 574 (1974); Labor Relations Commission v. University Hospital, Inc., 359 Mass. 516, 521 (1971); Almeida Bus Lines, Inc. v. Department of Public Utilities, 348 Mass. 331, 341 (1965).

In proceedings before the Commission, the objector has the burden of going forward.

Hamill v. Sawyer, SBLC 90-14 (June 27, 1990). The objector must meet his burden of proof by proving his allegations by a preponderance of the evidence. DeJong v. Owens, SBLC 90-10 (June 22, 1990); Hamill v. Sawyer, SBLC 90-14 (June 27, 1990).

### **C. Scope of Commission's Review of Challenged Signatures**

Under Massachusetts General Laws, Chapter 53, section 7, “every voter signing a nomination paper shall sign in person as registered or substantially as registered . . . .”

G. L. c. 53, § 7 (2024 ed.). The only exception to this requirement is that a voter who is physically disabled and therefore unable to sign may have another, in his presence, sign his name. G. L. c. 53, § 7 (2024 ed.). The registrars, or election commissioners, are limited, in substance, to a comparison of the signature as found on the nomination papers to the names of those persons listed on the official lists of registered voters. McCarthy v. Secretary of the Commonwealth, 371 Mass. 667, 687 (1977); 950 CMR 55.03(1)-(4).

However, unlike the local registrars, the Commission has consistently applied a broad and equitable standard when considering the validity of certified signatures so as to facilitate the will of the voter whenever justice and fairness allow. Auger-Collins v. Callahan, SBLC 90-8 (June 22, 1990); Lam v. Conner, SBLC 90-7 (June 20, 1990). The Commission has applied the standards analogous to those used by the courts given the nature of Commission proceedings. Id. Like a court, the Commission may receive extrinsic evidence which the registrars could not, and may declare a signature certifiable in exercising its equitable powers whenever it finds that the signer is an eligible voter of the proper district. Iacobucci v. Kelley, SBLC 90-15 (June 29, 1990); Auger-Collins v. Callahan, SBLC 90-8 (June 22, 1990); Lam v. Conner, SBLC 90-7 (June 20, 1990); McCarthy, 371 Mass. at 684. This principle is bolstered by the consistent judicial policy of resolving voting disputes, where at all possible, in favor of the voter. McCavitt v. Registrars of Voters of Brockton, 385 Mass. 833, 837 (1982). Thus, a voter's signature should be counted unless

there is “substantial doubt that the signer was a registered voter . . . eligible to sign a nomination petition.” McCarthy, 371 Mass. at 684.

The Objector alleges that numerous certified signatures, which appear on the initiative petition are not signed substantially as registered and should not have been certified. Local registrars may certify a signature as signed substantially as registered “if the registrars can reasonably determine from the form of the signature the identity of the duly registered voter . . . .” G. L. c. 53, § 7 (2024 ed.). The statute also states that, “[a] registered voter is one who, when signing a nomination paper, inserts a middle name or initial in, or omits a middle name or initial from, his name as registered.” Id. The regulations promulgated pursuant to the above statute set forth guidelines as to when a name is signed “substantially as registered.” 950 CMR 55.03(3). It should be noted that the certification process undertaken by local election officials to determine whether the signer is a registered voter is not limited to an examination of only the signature. Rather, the local election official has other information available to them in making the determination whether to certify a signature, which include, but is not limited to, reviewing the voter registration records containing addresses and voter signatures.

### **1. Illegible Signatures**

The Objector argues that the local election officials should not have certified numerous signatures that he alleges are “illegible.” In her testimony, the Objector’s expert witness categorized most of the signatures challenged as illegible as “stylized signatures.” For many of the illegible signatures, the expert was able to identify some initials.

However, both the Objector and his expert witness acknowledged that they are not familiar with the process undertaken by the local election officials when certifying names on nomination papers and initiative petitions. Additionally, the expert stated that her opinions were based *solely* on the review of the signature on the petition and did not take into account any additional

information that the local election official would have available to them, such as an address list.

While the Objector acknowledged that they had received voter registration records for some of the signatures he was challenging as illegible, he did not enter those into evidence

The Commission finds that the Objector did not meet his burden to prove by substantial evidence that the local election officials erred in certifying signatures because of illegibility. Accordingly, the Commission does not invalidate any signatures as being illegible.

## **2. Non-Genuine Signatures**

The Objector challenged 99 signatures as being “sufficiently similar to suggest they were signed by the same person.” To support their objection, the Objector offered testimony from their expert witness. The Commission has long accepted the testimony of an “expert witness,” where offered, as a tool to aid in the determination of whether certain challenged signatures are genuine. See, e.g., Perry v. Owens, SBLC 88-9 (June 24, 1988); Corliss v. Lopez, SBLC 90-1 (June 14, 1990); DiGiustini v. White, SBLC 90-11 (June 20, 1990); Corliss v. Donaldson, SBLC 92-2 (June 15, 1992). Although the members of the Commission are not handwriting experts, the members have the authority to decide questions of genuineness by comparing the signatures on the petition with the standards contained in the voter registration books, cards, and affidavits of voter registration or other reliable documents containing known signatures put into evidence. See Hannigan v. Board of Appeals, 328 Mass. 366, 370 (1952).

Despite this power, the Commission has in the past made its determination as to genuineness based on its own examination of the disputed signatures only when supported by other evidence introduced by the objector, which is usually in the form of expert handwriting testimony or testimony by purported signers. DiGiustini, SBLC 90-11 at 6-7. The general practice of the Commission, therefore, has been to listen to the testimony presented by the expert as to comparisons between the signatures on the petitions and signatures on various other official

records, affidavits and reliable documents.

In this case, the Objector's expert stated that she had not reviewed the voter registration records or any exemplars for the signatures challenged as non-genuine. Her review of non-genuine signatures was limited to what appeared on the petitions, namely the signature and other printed information such as the address. As such, much of her testimony, by her own admission, was "inconclusive" that the signatures themselves were signed by the same person, although some of the printed information contained of the petition was "similar."<sup>5</sup>

The Objector did not present any testimony from individuals who indicated either that they signed another person's name or that the signature being challenged was not their signature. The Objector did not present evidence showing or otherwise disputing whether a disability prevented a voter from signing. See G. L. c. 53, § 7 (2024 ed.) (requirement that voter sign in person as registered or substantially as registered but allows a voter who is physically disabled and unable to sign, to have another person sign his name in his presence).

The Commission finds that the Objector did not meet his burden to prove by substantial evidence that the signatures challenged as non-genuine were signed by the same person. Accordingly, the Commission does not invalidate any signatures as being non-genuine.

### **3. Not Certified by the Local Election Official**

The Objector challenged some signatures as being not certified by the local election official. This included five (5) signatures on which the local election official failed to mark a check (✓) next to the name in the appropriate column. These omissions were on Sheet 63, line 5, Sheet 64, line 5, Sheet 65, line 5, Sheet 193, line 5, and Sheet 194, line 5.

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<sup>5</sup> At the end of the hearing, the Objector submitted voter registration records for some of the voters identified as having "non-genuine" signatures on the petition for no specific reason, but rather for the Commission to consider, if helpful. The Objector left it up to the Commission to not only determine their weight but if they had any relevance at all. The Commission declines to characterize or view such evidence where the party offering it states no specific purpose or argument for which it supports.

On each of these sheets, however, the local election officials applied their signatures or stamp of their signatures, signifying they certified the name on the page. As such, the Commission declines to invalidate those signatures.

#### **4. Missing Address**

The Objector challenged four (4) signatures should not have been certified by the local election officials because they were not accompanied by an address or the address was insufficient. The regulations require the local registrars of voters not to certify a signature containing an incorrect address in the first instance, a different legal standard would be applied by the courts and is therefore applied by this Commission. See 950 C.M.R. 55.03(5)(b); see also Lam v. Connor, SBLC 90-7 (June 29, 1990).

The requirement that a signer's address on the petition match the one in the register of voters is intended for the convenience of the registrars, but is not binding on a court, or on the Commission, which may find from other extrinsic evidence that the signer is a voter. See, e.g., Iacobucci v. Kelley, SBLC 90-15 (June 29, 1990); Auger-Collins v. Callahan, SBLC 90-8 (June 22, 1990); see also Connolly v. Secretary of the Commonwealth, 404 Mass. 556, 569-70 (1989) (while "election officials . . . have no discretion as to the statutory requirements for a valid absentee ballot," courts, which have "benefit of testimony and findings . . . as to the circumstances of the ballots' execution," may reach different results).

The Commission applies a broad equitable standard when reviewing the signatures certified by the registrars, and may receive extrinsic evidence regarding the certification process. See, e.g., Auger-Collins v. Callahan, SBLC 90-8 (June 22, 1990). The Commission may receive extrinsic evidence tending to show that the signatures should not have been certified in the first instance given the above guidelines. Therefore, where the Commission determines that the Objectors have shown by substantial evidence that such signatures were improperly certified, the Commission will

invalidate such certifications.

The Objector identified missing or incorrect addresses on Sheet 43, line 1 (no street address), Sheet 46, lines 6 and 7 (use of a post office box and no street address) and Sheet 67, line 6 (no street address). The regulations are clear that the registrars shall not certify a signature if the address is different or if a post office box number rather than a street address appears. 950 CMR 55.03(4)(b). Accordingly, as there has been no extrinsic evidence provided by the Respondent, the Commission invalidates the certification on those four (4) signatures.

## **5. Stray Marks**

The Objector's largest challenge hinges on his argument that signatures on petitions containing "stray marks" must be disqualified under Hurst v. State Ballot Law Commission, 427 Mass. 825 (1998) and Walsh v. Secretary of the Commonwealth, 430 Mass. 103 (1999).

The Hurst and Walsh cases center around exact copy language contained in General Laws chapter 53, section 22A, which states in pertinent part, "[i]n no case . . . shall anyone be prohibited from making exact copies of such **blanks** provided by the secretary of state." G. L. c. 53, § 22A (2024 ed.) (emphasis added). The exact copy language relative to initiative and referendum petitions contemplates copies of "blanks" which is a direct reference and incorporates the constitutional requirements contained in Amend. Art. 48 of the Massachusetts Constitution. Amend. Art. 48 states in part, "[t]he secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a fair, concise summary of the proposed law as such summary will appear on the ballot, together with the names and residences of the first ten signers..." Amend. Art. 48, Ref., Pt. 3, § 4.

Amended Article 48 of the Massachusetts Constitution prescribes the manner in which the people can directly participate in the electoral process. As stated in Hurst:

Article 48 provides means for the public to participate directly in the lawmaking

process but also safeguards against abuse of those means by special interests to invalidate acts by the people's elected representatives in the Legislature. The State Constitutional Convention of 1917-1918 sought a balance between competing impulses toward direct versus representative democracy. The proper form and use of petitions is an important aspect of the balance Art. 48 represents, and our review must respect that balance.

Hurst v. State Ballot Law Commission, 427 Mass. 825, 828 (1998).

The Massachusetts Constitution further prescribes the manner and form by which the people may directly legislate. Article 48 requires, in part:

The secretary of the commonwealth shall provide blanks for use of subsequent signers, and shall print at the top of each blank a fair, concise summary of the proposed law as such summary will appear on the ballot together with the names and residences of the first ten signers.

Amend. Art. 48, Ref., Pt. 3, § 4.

This unusual particularity as to the content and format of the form is to preserve the neutrality of the direct lawmaking process and to “guard against the possibility the public will be misled” by those campaigning for the particular referendum or initiative. Id. at 829. Moreover, this constitutional particularity seeks to create a content neutral form free from advocacy for or against the proposal. Id.

It is against this constitutional and statutory backdrop that the Supreme Judicial Court was presented with referendum petitions in the Hurst that contained: a) a pre-printed box containing an organized campaign committee's name and address, which appeared to be printed by the Secretary; 2) highlighting which directed potential signers to particular portions of the summary; and 3) underlining in portions of the summary. Given these issues, the Court held that such alterations to the form, intending to draw voters' attention to particular portions, constituted impermissible advocacy that was in violation of Art. 48 and General Laws chapter 53, section 22A. Therefore, signatures appearing on such altered papers were stricken. The Court went on to state that “no

alterations—additions or deletions—of any sort may be made to the forms provided by the secretary under Art. 48 and § 22A.” Id. at 830. This decision was reaffirmed in Walsh v. Secretary of the Commonwealth, 430 Mass. 103 (1999). In Walsh, the Court restated the need for petition blanks to be neutral and free of advocacy.

The Respondent argues that the marks identified in the Objector’s List of Challenged signatures are immaterial and therefore should not disqualify the petitions. Respondent also argues that no evidence was presented regarding whether the stray mark was on the petition at the time of signing or could have occurred during the processing of the petition through its submission and certification process. The Respondent relies upon the analysis set forth in Robinson v. State Ballot Law Commission, 432 Mass. 145 (2000), for the proposition that such de minimis markings on the petitions do not mislead voters or present them with “improper” or “different amounts of information.” Id. at 151.

Per 950 CMR 48.07(2), the Secretary’s office reviews all petition sheets and will disqualify signatures on petitions that contain highlighting, underlining, scribbles, doodles, instructional language (i.e. “over” or “see other side”), the name or initials of the circulator, or the telephone number of the circulator. The Commission takes notice that the Secretary’s office has already disqualified 318 certified signatures based on the “exact copy” rule or that contained “extraneous markings.”

The “stray marks” identified by the Objector appear mostly on the back of the petition forms and appear to be just that—stray marks. They do not appear to be intentional markings and do not present voters with any information. Instead, they are errant pen marks that have no material effect on the remainder of the content of the petition.

After extensive consideration of the Court’s analysis in Hurst, Walsh, and Robinson, the Commission concludes that the underlying constitutional principles of balance, neutrality,

avoidance of advocacy and bias which safeguard the people's right to directly legislate are not undermined by such minimal, unintentional markings.

The Commission therefore declines to disqualify certified signatures on petitions containing de minimis stray marks.<sup>6</sup>

## **VII. CONCLUSION**

The Commission, therefore, finds, rules and concludes that the Objector has not met his burden of proof to disqualify enough signatures on the initiative petition. The Commission overrules Objector's challenges to the initiative petition and the Secretary is ordered to print the ballot question on the November 3, 2026, State Election Ballot.

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<sup>6</sup> The Commission notes that in some instances, even unintentional stray marks may be disqualifying if they appear in the summary or in the official information presented on the petition.