

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO  
AS A DULY CONSTITUTED ELECTORAL BOARD**

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Objections of: DAVID ROSA, PEDRO ROSA )  
JR. )  
)  
To the Nomination ) No.: 15-EB-ALD-005  
Papers of: CHRISTOPHER M VITTORIO )  
) Rel. ALD-092  
Candidate for the office of )  
Alderman of the 36th Ward, City of Chicago )

**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal, Richard A. Cowen, and Marisel A. Hernandez, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of DAVID ROSA and PEDRO ROSA JR. (“Objectors”) to the nomination papers (“Nomination Papers”) of CHRISTOPHER M VITTORIO, candidate for the office of Alderman of the 36th Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014, at 9:00 a.m., in Room 800, 69 West Washington Street, Chicago, Illinois, and having heard and determined the Objections to the Nomination Papers in the above-entitled matter, finds that:

1. Objections to the Nomination Papers of the Candidate herein were duly and timely filed.
2. The said Electoral Board has been legally constituted according to the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chairman of the Electoral Board and served upon the members of the Electoral Board, the Objectors and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing held on these Objections commenced on December 8, 2014 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Yolanda Sayre for further hearings and proceedings.

6. The Objectors and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objectors, DAVID ROSA and PEDRO ROSA JR., by their attorney, Thomas A. Jaconetty; the Candidate, CHRISTOPHER M VITTORIO, by his attorney, Steven M. Laduzinski.

7. The Candidate filed a Motion to Strike and Dismiss the Objector's Petition and the parties filed their briefs and argument on the motion. A hearing on the Candidate's Motion to Strike and Dismiss was held on December 13, 2014 and the Hearing Officer, after hearing argument, took the Motion under advisement.

8. The Hearing Officer has tendered to the Electoral Board her report and recommended decision. The Hearing Officer recommends that the Candidate's Motion to Strike and Dismiss the Objector's Petition be granted and the Objector's Petition be dismissed.

9. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer report and


recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

10. For the reasons stated above, the Electoral Board grants the Candidate's Motion to Strike and Dismiss the Objectors' Petition and finds that the Objectors' Petition should be dismissed.

11. The Electoral Board further finds that there is another set of objections to the Candidate's Nomination Papers in related case ALD-092 and the hearing officer in that case found that the results of the records examination of the Candidate's Nomination Papers revealed that such papers contain more than enough valid signatures of legal voters of the Ward to qualify for the ballot for the February 24, 2015 Municipal General Election and that Nomination Papers are, therefore, valid.

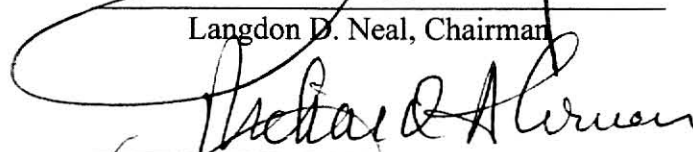
IT IS THEREFORE ORDERED that the Objections of DAVID ROSA and PEDRO ROSA JR. to the Nomination Papers of CHRISTOPHER M VITTORIO, candidate for election to the office of Alderman of the 36th Ward of the City of Chicago, are hereby DISMISSED and said Nomination Papers are hereby declared VALID and the name of CHRISTOPHER M VITTORIO, candidate for election to the office of Alderman of the 36th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

Dated: Chicago, Illinois, on December 19, 2014.



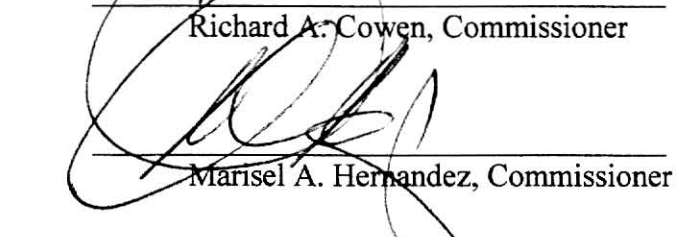
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Langdon D. Neal, Chairman



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Richard A. Cowen, Commissioner



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Marisel A. Hernandez, Commissioner

**NOTICE:** Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved of this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Cook County within 5 days after service of the decision of the Electoral Board.

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO  
AS THE DULY CONSTITUTED ELECTORAL BOARD**

<b>DAVID ROSA, PEDRO ROSA, JR.</b>	)	
<b>Objectors</b>	)	
	)	
<b>-v-</b>	)	<b>15-EB-ALD-005</b>
	)	
<b>CHRISTOPHER M. VITTORIO</b>	)	<b>Yolanda H. Sayre</b>
<b>Candidate</b>	)	<b>Hearing Officer</b>

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CHICAGO BOARD OF  
ELECTION COMMISSIONERS

**HEARING OFFICER'S REPORT AND RECOMMENDED FINDINGS**

This matter having come before the duly constituted Chicago Board of Election Commissioners ("the Board"), and before the undersigned Hearing Officer on December 9, 2014; the Hearing Officer hereby makes the following report and recommended findings:

1. The Candidate filed Nomination Papers for Alderman of the 36<sup>th</sup> Ward in the City of Chicago. Such Nomination Papers consisted of: a) a Statement of Candidacy; b) a Receipt for Statement of Economic Interests; and c) Nominating Petition Sheets numbered 1 through 86. Without objection, the Candidate's Nomination Papers were admitted into evidence and marked as Group Exhibit A.
2. The Verified Objector's Petition was timely filed on December 3, 2014. Such Petition was admitted into evidence and marked as Group Exhibit B.
3. A Call to the hearing on said objections was duly issued by the Chairman of the Board and served upon all parties. The Call, proof of service and / or waivers thereof were admitted into evidence and marked Group Exhibit C.
4. The matter was initially called on December 9, 2014. At that time, the Objectors, MR. DAVID ROSA and MR. PEDRO ROSA, JR., appeared through their attorney, Mr.

Thomas A. Jaconetty (collectively referred to as "the Objector"). The Candidate, MR. CHRISTOPHER M. VITTORIO, appeared through his attorney, Mr. Steven M. Laduzinski (collectively referred to as "the Candidate"). Both parties filed appearances and indicated they were present and ready to proceed. Such appearances, as well as Nondisclosure Agreements executed by each, were admitted into evidence and marked Group Exhibit D.

5. At the Initial Hearing the Candidate requested and was granted leave to file a Motion to Strike and Dismiss the Objector's Petition. The Hearing Officer granted leave to the Objector to file a response and to the Candidate to file a reply.
6. The parties stipulated there were no factual issues in dispute and that the matter presented purely legal issues. In addition, neither party indicated a desire to present any witnesses or other evidence.
7. The Candidate timely filed a Motion to Strike and Dismiss the Objector's Petition. The Objector timely filed a Response, and the Candidate then timely filed a Reply.
8. The matter was recalled December 13, 2014 for a Hearing on the Candidate's Motion to Strike and Dismiss the Objector's Petition. The parties each presented oral argument and agreed on the record that no further proceedings were necessary to resolve the matter.
9. After hearing all argument put forth by the parties, and there having been no other matters at issue, the Hearing Officer concluded the case and informed the parties she would issue a report and recommendation.
10. For the reasons set forth below, The Hearing Officer recommends the Board grant the Candidate's Motion to Strike and Dismiss the Objector's Petition and makes the following findings of law.

### **THE OBJECTOR'S ARGUMENT:**

The Objector's Petition states the Candidate's entire Nomination Papers must be voided under the "conflict, confusion, and inconsistency" standard. (Citations in Paragraph 11.) Specifically, the Objection, as put forth in both written and oral argument, is based on the following points:

- 1) The Candidate did not distinguish between nomination and election by including the phrase "Nomination/Election" in his Statement of Candidacy.
- 2) The Statement of Candidacy contains the phrase "Nonpartisan" in the heading.
- 3) The Petition sheets contain the heading "Consolidated Primary Petition" and below that in parentheses the phrase "(Nonpartisan-Municipality Other Than Commission Form)."
- 4) The use of the following phrases in the paragraph under the heading of the individual Petition Sheets: "nomination for office," "full term," "Consolidated Primary Election," and "provided that no primary election is required."
- 5) That "the substance of the petitioning language, taken as a whole, is that the Candidate seeks 'nomination' at a 'primary election' on February 24, 2015, 'provided that no primary is required', by placement on a ballot at the 'Consolidated Primary Election' for 'election' to an office."  
(Objector's Petition, page 3, (d), vi.)
- 6) The language used in the headings of the Statement of Candidacy and that used in the heading of the Petition Sheets is "inconsistent and contradictory," thereby resulting in confusion.
- 7) The combination of all of these terms together inevitably causes conflict, inconsistency, and confusion.

### HEARING OFFICER'S ANALYSIS:

11. The crux of the Objector's argument is that because of the use of incorrect or inconsistent terms by the Candidate in his Statement of Candidacy and Petition Sheets, the entire Nomination Petition "should be voided under the 'conflict, confusion, inconsistency' standard established in Lewis v. Dunne, 63 Ill. 2d 48, 344 N.E.2d 443, 447 (1976); Panarese v. Hosty, 104 Ill.App.3d 627, 432 N.E.2d 1333, 1336 (1<sup>st</sup> Dist. 1982); Stevenson v. County Officers Electoral Board, 58 Ill.App.3d 24, 373 N.E.2d 1043, 1044-45 (3<sup>rd</sup> Dist. 1978); and Lawlor v. Municipal Officers Electoral Board, 28 Ill.App.3d 823, 329 N.E.2d 436, 440 (1<sup>st</sup> Dist. 1975)." (See Paragraph 3 of Objector's Petition.)
12. In Lewis v. Dunne, Supra, the court ruled that nomination papers must be looked at as a whole in determining whether there is a basis for confusion as to the office for which the nomination papers were filed. Here, the Statement of Candidacy as well as the Petition Sheets both clearly designate the office sought as that of Alderman of the 36<sup>th</sup> Ward. It is written clearly in the box at the top of the Statement of Candidacy labeled "Office" as well as in the preamble language under the heading on the individual Petition Sheets.
13. As illustrated below, taken individually, the specific points that form the basis of the Objector's Petition have been addressed by the Board and / or by the Courts and deemed not significant enough to invalidate a candidate's nomination papers.

**The Candidate did not distinguish between nomination and election by including the phrase "Nomination/Election" in his Statement of Candidacy.**

14. The Board has held that the use of the terms "election," "nomination," or "election / nomination" in describing the office or the political subdivision on any of the nominating papers substantially complies with the provisions of the Election Code. *Slywczuk, et al.*



*v. Bank*, 04-EB-WC-77, January 17, 2004, affirmed, *Slywczuk et al. v. Board of Election Commissioners for the City of Chicago*, Cir. Ct. Cook Co., 04 COEL 0006, February 19, 2004 (Judge Susan Fox Gillis); citing *Arce v. Santos*, 96-EB-WC-34, CBEC, 1996.

Further, the Board held that even if these terms are used inconsistently throughout the nomination papers, it is not contradictory or confusing. Here, much like *Slywczuk*, the term "Nomination/Election" appears on the Statement of Candidacy; and the terms "election" and "nomination" appear on the Petition Sheets.

**The Statement of Candidacy contains the phrase "Nonpartisan" in the heading.**

15. The Candidate, citing 65 ILCS 20/21-1 *et seq.*, correctly points out that elections for alderman are required to be nonpartisan. In a similar case, a candidate included the phrase "non-partisan party" on her statement of candidacy. The Board held the use of that phrase did not invalidate her nomination papers. *Jones v. Mallory*, 07-EB-ALD-151, CBEC, January 16, 2007. Similarly, the Board has also held the use of the word "independent" on a statement of candidacy did not create confusion and did not invalidate the nomination papers. *Murray v. Burgoa*, 07-EB-ALD-008, CBEC, January 28, 2007.

**The Petition sheets contain the headings "Consolidated Primary Petition," "(Nonpartisan-Municipality Other Than Commission Form)," and refer to the "Consolidated Primary Election."**

16. In *Campos v. Rangel*, 95-EB-ALD-79, CBEC, January 23, 1995, the Board did not invalidate the candidate's nomination papers despite the fact that the statement of Candidacy referred to the election as the "Consolidated Primary (Aldermanic) Election." See also *Brown v. Mercado*, 07-EB-ALD-120, CBEC, January 16, 2007; *Strnad v.*

*Reboyras*, 07-EB-ALD-171, CBEC, January 16, 2007, where the Board refused to invalidate the nomination papers of candidates based on designation of the wrong election. Moreover, the Board held that a candidate's statement of candidacy that referred to "municipal general election" instead of "general primary" substantially complied with Section 7-10 of the Election Code; although it reasoned that voter/signer confusion would not result because it was not a document that would be reviewed by voters/signers." *Williams v. Thomas*, 08-EB-WC-17, CBEC, December 7, 2007.

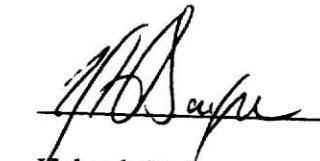
**The combination of all of these terms together inevitably causes conflict, inconsistency, and confusion.**

17. The Objector concedes that these issues have individually been addressed by the Board and / or the Courts and held not to be the basis for confusion. Rather, the Objector contends that it is the combination of these terms and their inconsistent use that make the Nomination Papers a " . . . . jumbled morass of terms which intertwine and inevitably cause conflict, inconsistency, and confusion." (See Response to Motion to Strike and Dismiss) This is perhaps the most compelling of the Objector's arguments because the Board has not in fact had occasion to consider all of these issues together. However, in *Slywczuk, et al., Supra*, the Board addressed and overruled objections regarding: 1) the use of the terms "election," "nomination," or "election / nomination" interchangeably; 2) the use of the term "registered voter" as opposed to "qualified voter"; 3) the use of the term "elective office" as opposed to "election"; 4) the terms above being used inconsistently in the nomination papers making them "inherently contradictory, confusing and inconsistent."

18. The Candidate is correct in his assertion that the Board and the courts have refused to invalidate a candidate's nomination papers absent a basis for confusion regarding the office being sought. Lewis v. Dunne, 63 Ill. 2d 48, 344 N.E.2d 443, 447 (1976); Pascente v. County Officers Electoral Board of the County of Cook, et al., 373 Ill.App.3d 871 (1<sup>st</sup> Dist. 2007); Stevenson v. County Officers Electoral Board, 58 Ill.App.3d 24, 373 N.E.2d 1043, 1044-45 (3<sup>rd</sup> Dist. 1978). The Illinois Supreme Court stated, in Lewis v. Dunne, that a candidate is entitled to have his name placed on the ballot if "there was no basis for confusion as to the office for which the nominating papers were filed." Id. at 53. See also Heabler v. Municipal Officers Electoral Board, 338 Ill.App.3d 1059,1061, 273 Ill.Dec. 680, 789 N.E.2d 854 (2003); Zapolsky v. Cook County Officers Electoral Board, 296 Ill.App.3d 731, 734, 231 Ill.Dec. 210, 695 N.E.2d 1329 (1998).
19. These cases, among others, illustrate that Illinois courts have consistently held that typographical or scrivener's errors, or other technical errors will not invalidate a candidate's nomination papers if unrelated to the particular office sought. See also, Siegel v. Lake County Officers Electoral Board, 385 Ill.App.3d 452, 460, 324 Ill.Dec 69, 895 N.E.2d 69 (2008) (Substantial compliance can satisfy mandatory provisions of the Election Code.)
20. Here, there was no objection related to any confusion regarding the particular office for which the Candidate is seeking election. In fact, the Candidate's Nomination Papers clearly state that he is running for the office of Alderman of the 36<sup>th</sup> Ward.
21. While the Objector's systemic reasoning regarding the basis for confusion—the whole being greater than its parts or the sum thereof—is compelling, it cannot prevail against the sanctity of ballot access. See Welch v. Johnson, 147 Ill.2d 40, 56, 588 N.E.2d 1119

(1992) ("Ballot access is a substantial right and not lightly to be denied.") For the Board to find otherwise would be contrary to the prevailing law.

22. Absent any evidence of confusion as to the office being sought or any evidence of confusion in general, the Hearing Officer finds that the objections are based on mere technical errors or violations and misnomers that do not create the type of confusion the Election Code seeks to prevent. Accordingly, the Hearing Officer finds the Nomination papers in question to be in substantial compliance with the requirements set forth in the Election Code.
23. In a related case, 15-EB-ALD-092, the Hearing Officer recommended that, based on the results of a Records Examination, that the objections be overruled and the Nomination Papers of MR. CHRISTOPHER M. VITTORIO be deemed VALID.
24. For the forgoing reasons, the Hearing Officer recommends that the MOTION TO STRIKE AND DISMISS BE GRANTED and / or the OBJECTIONS of MR. DAVID ROSA and MR. PEDRO ROSA, JR., be OVERRULED and that the NOMINATION PAPERS of MR. CHRISTOPHER M. VITTORIO be deemed VALID.



Yolanda H. Sayre

Hearing Officer