

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

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Objections of: GEORGE BROWN )  
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To the Nomination ) No.: 15-EB-ALD-018  
Papers of: HAROLD "NOONIE" WARD )  
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Candidate for the office of )  
Alderman of the 9th 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 GEORGE BROWN ("Objector") to the nomination papers ("Nomination Papers") of HAROLD "NOONIE" WARD, candidate for the office of Alderman of the 9th 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 Objector 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 William P. Jones for further hearings and proceedings.

6. The Objector 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 Objector, GEORGE BROWN, by his attorneys, Luke J. Keller and Lauren Glennon; the Candidate, HAROLD "NOONIE" WARD, by his attorney, Frank Avila.

7. Among his Objections, the Objector contends that the Candidate's Statement of Economic Interests is a nullity because it was not filed in relation to any unit of government and does not specify the office in a particular unit of government, that the Statement does not contain the address or unit of government, that the receipt for the Statement was not filed in compliance with the Election Code and that the State was not filed in conformity with the Governmental Ethics Act and the Election Code.

8. The Candidate filed a motion to strike and dismiss the Objector's Petition contending that he is in full compliance with the Election Code.

9. The Hearing Officer recommends that the Candidate's motion to strike and dismiss the Objector's Petition be granted, citing *Requena v. Cook Co. Officers Electoral Bd.*,

295 Ill.App.3d 728, 692 N.E.2d 1217 (1998); *Lenzen v. Orozco*, 01-EB-ALD-04 (2001); and *Klostad v. Humphrey*, 99-EB-ALD-075 (1999).

10. The Objector filed a request under Rule 20 of the Electoral Board's Rules of Procedure contending that cases like *Purnell v. Municipal Officers Electoral Board for the City of Chicago*, 275 Ill.App.3d 1038, 657 N.E.2d 55 (1995) and *Jones v. Municipal Officers Electoral Board*, 112 Ill.App.3d 927, 446 N.E.2d 256 (1983) compel a finding that the Candidate be removed from the ballot for failing to properly identify on his Statement of Economic Interest the office he is seeking and failing to specify the unit of government for which he is attempting to qualify.

11. First, the Electoral Board finds that nothing in the Code requires that a receipt for an economic interests statement must contain a specific description of the office the candidate is seeking. *Cardona v. Board of Election Commissioners for the City of Chicago*, 346 Ill.App.3d 342, 344, 805 N.E.2d 360, 362 (2004). Section 10-5 of the Election Code provides only that if the nomination papers are not required to be filed with the same officer with whom the statement of economic interest is to be filed, the candidate must file with the officer with whom the nomination papers are to be filed "a receipt from the officer with whom the statement of economic interests is file showing the date on which was statement was filed." 10 ILCS 5/10-5.

12. Second, the Electoral Board finds that the cases cited by the Objector do not, as a matter of law, compel the result that Objector is seeking.

13. *Purnell* is distinguishable in that the candidate there relied upon a Statement of Economic Interest Statement he previously filed in the same calendar year in relation to his employment as a police officer for the City of Chicago. The court held that such statement was defective and could not be relied upon by the candidate in relation to his candidacy.

14. *Jones* was essentially overruled by the Illinois Supreme Court in *Welch v. Johnson*, 147 Ill.2d 40, 53, 167, 588 N.E.2d 1119 (1992). In *Welch*, the Court noted that Section 10-5 provides in relevant part: "Nomination papers filed under this Section are not valid if the candidate named therein fails to file a statement of economic interests *as required in the Illinois Governmental Ethics Act* in relation to his candidacy with the appropriate officer by the end of the period for the filing of nomination papers \* \* \*." 10 ILCS 5/10-5. The Court interpreted the "as required" language above not as a reference to the substantive requirements of the Ethics Act, but merely a reference to the fact that the Ethics Act, and not the Election Code, requires the filing of statements of economic interests. Moreover, the Court held, Section 10-5 refers to and is applicable only where there is a *complete* failure to file such a statement. It does not refer to the filing of a statement that is untrue, incorrect or incomplete. 147 Ill.2d at 53-54. Thus, Section 10-5 of the Election Code provides no authority for the court to order the removal of a candidate's name from the ballot and removal from the ballot is not a permissible sanction for the filing of a statement of economic interests which is not true, correct or complete when filed with the appropriate officer merely due to an inadvertence on the part of the person filing the statement. *Welsh v. Johnson*, 147 Ill.2d 40, 51, 588 N.E.2d 1119 (1992), citing *Crudup v. Sims*, 292 Ill.App.3d 1075, 1077-1078, 686 N.E.2d 714, 71, 226 (1997) and *Requena v. Cook County Officers Electoral Bd.*, 295 Ill.App.3d 728, 733, 692 N.E.2d 1217, 1220 (1998).

15. Referring to *Jones*, the Supreme Court said, "We find *Jones* of no avail to the plaintiffs for the simple reason that we disagree with them as to what exactly the Election Code, when construed in light of the Ethics Act, mandates of a candidate in relation to the filing of an inadvertently untrue, incorrect and incomplete economic interests statement. Because of that difference, the *Jones* court's conclusion that removal from the ballot is the only possible remedy

for the taint upon the nomination process caused by the candidate's violation of the Election Code is inapplicable here." 147 Ill.2d at 55.

16. Thus, even if the Candidate's Statement of Economic Interests and the receipt therefor were deficient for failing to properly identify the office sought and the unit of government involved, *Welsh* underscores that the appropriate remedy for such deficiency does not involve removal from the ballot.

17. For the reasons stated above, the Electoral Board dismisses the Objections to the Candidate's Nomination Papers as regards the Statement of Economic Interests receipt.

18. Next, Objector contends that the Candidate's Statement of Candidacy is false because the Candidate was not registered to vote at the address listed as his residence on such Statement at the time the Candidate signed the Statement and he was not a qualified voter or elector at such address when he signed Statement.

19. The Hearing Officer found that although the Statement of Candidacy lists a residence address of 1047 E. 132<sup>nd</sup> Street, at the time the Statement was signed and notarized on August 26, 2014, the Candidate was actually registered to vote at another address in the 9<sup>th</sup> Ward. He did not change his voter registration to the 132<sup>nd</sup> Street address until September 23, 2014, after he signed his Statement of Candidacy.

20. The Hearing Officer concluded that under Section 7-10 of the Election Code (10 ILCS 5/7-10), the form of the Statement of Candidacy "does not require that a candidate be registered to vote at the residence stated on his statement of candidacy so long as the candidate is registered to vote at some address within the district in which he seeks to be nominated or elected," citing *Sutor v. Acevedo*, 06-EB-RGA-01 (2006), and *Henderson v. Miller*, 228 Ill.App.3d 260, 592 N.E.2d 570, 573 (1992). The Hearing Officer discounted the applicability of

the case cited by the Objector, *Sanders v. Riles*, 92-EB-WC-12 (1992), finding that it must be interpreted consistent with the finding that the candidate there “was not a registered voter at the time of signing and attestation on October 19, 1991.” The Hearing Officer found in the instant case that the Candidate was a resident in the 9<sup>th</sup> Ward for the appropriate time period and it is uncontested that the Candidate was registered to vote at all times relevant in the 9<sup>th</sup> Ward. The Hearing Officer concluded, therefore, that the Candidate’s Statement of Candidacy substantially complies with the statutory requirements.

21. The Objector contends in his Rule 20 motion that the Hearing Officer committed error in his interpretation of *Sanders v. Riles*, *supra*, which he contends favors his position. However, in *Sanders* the Electoral Board’s decision found only that the candidate was not a registered voter at the address indicated on the statement of candidacy at the time of signing – there was no indication that he was not registered elsewhere in the city or ward. *Sanders* was also decided before *Henderson*, *supra*, which held that a candidate is not required to be registered to vote as the residence in his statement of candidacy so long as the candidate is registered to vote at some address within the district in which he seeks nomination or election. Subsequent to the Illinois Appellate Court’s decision in *Henderson*, this Electoral Board found it controlling in *Brown v. Ivory*, 95-EB-ALD-106 and 95-EB-ALD-129 (1995), where it held that the candidate did not fraudulently misrepresent that he was registered to vote at the address he listed as his residence on this statement of candidacy at the time he signed such statement. He was, at the time of signing such statement, registered to vote at another address in the ward in which he was seeking election as alderman and no statute requires that a candidate be a voter at his place of residence.

22. The Electoral Board finds, therefore, that the Hearing Officer was correct in concluding that the Candidate's Statement of Candidacy substantially complies with the statutory requirements.

23. The Objector notes, correctly, that the Hearing Officer's recommendation concluded that the Candidate's Statement of Candidacy comports with case law and Section 7-10 of the Election Code. The Electoral Board agrees that Section 7-10 is not applicable to the Candidate's Nomination Papers and his Statement of Candidacy; however, the Hearing Officer's reliance on Section 7-10 does not change the outcome in this case because the correct statute – Section 10-5 (10 ILCS 5/10-5) – is, insofar as the statutory language set forth for the form of the Statement of Candidacy insofar as it relates to being a "qualified voter therein," is identical to the language in Section 7-10 ("I ....., being first duly sworn, say that I reside at ..... street, in the city (or village) of ..... in the county of ..... State of Illinois; and that I am a qualified voter therein .....""). Thus, the fact that the Electoral Board's decision in *Sutor v Acevedo, supra*, relied on Section 7-10 of the Code does not change the outcome here because the applicable statutory language here and in *Sutor* is identical.

24. Finally, paragraph 12 of the Objector's Petition alleges a pattern of fraud and false swearing to the Circulator's affidavit, the effect of which is to invalidate each and every petition sheet of the Candidate's Nomination Papers. Having heard the Candidate's testimony and the evidence presented by the Objector, the Hearing Officer concluded that the Objector did not meet his burden of proving false swearing.

25. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's

Nomination Papers be dismissed in part and overruled in part and that the Nomination Papers be declared valid.

26. 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.

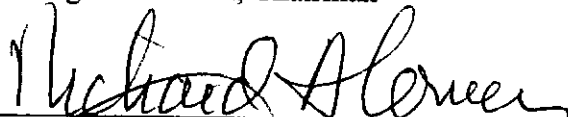
27. For the reasons stated above, the Electoral Board dismisses in part and overrules in part the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.



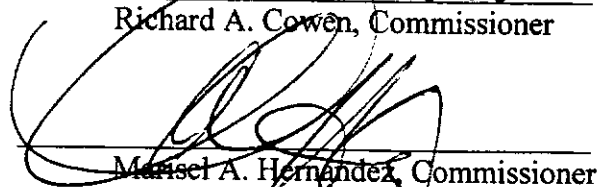
IT IS THEREFORE ORDERED that the Objections of GEORGE BROWN to the Nomination Papers of HAROLD "NOONIE" WARD, candidate for election to the office of Alderman of the 9th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of HAROLD "NOONIE" WARD, candidate for election to the office of Alderman of the 9th 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 January 5 2015.

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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.

BEFORE THE CHICAGO BOARD OF  
ELECTION COMMISSIONERS

Hearing Officer's Report

GEORGE BROWN,

Objector.

vs.

HAROLD "NOONIE" WARD,

Candidate.

No. 15-EB-ALD-018

CHICAGO BOARD OF  
ELECTION COMMISSIONERS  
2014 DEC 29 P 1:41

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

1. The initial hearing commenced at noon on December 10, 2014, before Hearing Officer Colon. Pursuant to a motion to substitute, this matter was ordered re-assigned to Hearing Officer Jones. Parties and counsel appeared at approximately 1:00 p.m. on December 10, 2014 before Hearing Officer Jones.
2. The Objector was represented by Attorney Keller. The Candidate was present and was represented by Attorney Avila.
3. Board Group Exhibits A, B, C and D were marked and admitted, respectively being, the Candidate's Nomination Papers, the Objector's Petition, the Sheriff's Return, etc., and the appearances and non-disclosure statements.
4. No record examination / signature issues are raised in Objector's Petition. Counsel for the Candidate sought to file a Motion to Strike the Objector's Petition. A briefing schedule was ordered and a hearing date on the Motion to Strike was set for December 18, 2014, at 1:00 p.m.

5. At 1:00 p.m. on December 18, 2104, a hearing was commenced and counsel for the parties presented arguments based upon the Candidate's Motion to Strike, the Objector's Response and the Candidate's Reply.

6. After full argument, the Hearing Officer granted Candidate's Motion in Part and denied Candidate's Motion in Part.

7. The Objector's Petition essentially asserts three (3) issues:

- a. Validity of Candidate's Statement of Economic Intent (¶¶ 8, 9, 10);
- b. Residency of Candidate (¶¶ 5, 6, 7); and
- c. Pattern of Fraud relative to the Circulator's Affidavit ((¶ 12).

8. The Hearing Officer granted Candidate's Motion on the Statement of Economic Intent issue finding substantial compliance and principally relying upon Requena v. Cook Co. Offices Elec. Bd., 295 Ill.App.3d 728, 692 N.E. 2d 1217 (1<sup>st</sup> Dist. 1998); Lenzen v. Orozco, 01-EB-ALD-04 (1/23/01) (¶ 24); and Klovstad v. Humphrey, 99-EB-ALD-075 (2/23/99) (¶ 19). Therefore, Paragraphs 8, 9 and 10 of the Objector's Petition were struck.

9. On the issue of residency, the Hearing Officer ruled that this is an issue of fact that must be contested with an evidentiary hearing and that Objector's Petition legally sufficiently raises this issue. Therefore, the Hearing Officer denied Candidate's Motion to Strike relative to Paragraphs 5, 6 and 7 of the Objector's Petition.

10. On the issue of "pattern of fraud" raised in Paragraph 12 of Objector's Petition, the Hearing Officer ruled that there existed legally sufficient factual allegations and therefore denied Candidate's Motion to Strike Paragraph 12.

11. The Evidentiary Hearing was scheduled for 1:00 p.m. on December 22, 2014. The parties are to exchange exhibits, witness lists, etc. no later than 1:00 p.m. on Saturday, December 20, 2014.

12. The next hearing commenced at approximately 1:00 p.m. on December 22, 2014. The Objector was represented by Attorney Odelson (who filed his appearance and non-disclosure statement, which were added to Board Group Exhibit D), Attorney Glennon and Attorney Keller. The Candidate was present and was represented by Attorney Avila. The parties had previously exchanged proposed exhibits and witness lists. The hearing commenced by addressing the pre-hearing exchange of information.

#### **A. PRELIMINARY HEARING**

The Objector objected to Candidate's Witness List containing the names and addresses of 11 proposed Candidate's witnesses on the grounds that the List did not contain the corresponding sheet and line numbers. Objector also objected to the exchanged 9 Affidavits on the grounds that these documents were legally insufficient and did not constitute valid affidavits.

The Hearing Officer ruled that the Witness List containing the names and addresses were sufficient and thus these witnesses could be called.

At the time, counsel for the Objector stipulated that if the 11 witnesses were called, they would testify that they signed a petition in the presence of the Circulator/Candidate.<sup>1</sup> Additionally, the Objector stipulated to the admission of the exchanged 9 Affidavits, acknowledging that these 9 people signed the petition in the presence of the Circulator/Candidate at the Rosebud Farm Grocery area on 525 E. 130<sup>th</sup> Street. Notwithstanding Objector's

<sup>1</sup> Except for Sheet 83, the balance of the total 106 nominating petitioners were circulated by the Candidate. Sheet 83 was circulated by Curtis Davis, Candidate's father-in-law. Additionally, all of the 106 sheets of the Nomination Papers were notarized by Theresa Bradley.

stipulation, the Hearing Officer ruled that these 9 Affidavits were legally sufficient. These Affidavits were marked and admitted as Candidate's Group Exhibit #1 during Candidate's case.

## **B. EVIDENTIARY HEARING**

### **1. Objector's Case in Chief**

Counsel for Objector called as his first witness, the Circulator/Candidate<sup>2</sup> as an adverse witness pursuant to Section 2-1102 of the Code of Civil Procedure. The Circulator/Candidate testified that he has resided at 1047 E. 132<sup>nd</sup> Street since approximately August 18, 2014. He resides there with his wife, his daughter and his father-in-law. Candidate admitted that his name was not on the lease at this CHA property. Candidate further testified that immediately prior to August 18, 2014, he had resided with the same people at 602 E. 133<sup>rd</sup> Street for approximately 18 months. Candidate testified that Theresa Bradley notarized all of the 106 Nomination Petitions and, that notary Bradley was not a relative.

Among other things, Candidate testified that he circulated all of the Petitions, except for Sheet 83. Candidate testified that the people listed on the 105 sheets signed before him. Candidate testified that on August 26, 2014, he spent about 8-9 hours circulating his Petitions and during the middle of that day completed his Statement of Candidacy and filed his papers downtown at the Board. Candidate testified that he circulated about 21 Sheets (315 signatures) on August 26, 2014 by starting at about 8:00 a.m. and going to the Grocery on "check" day where he stood by the store and collected the signatures. He worked about 4 hours in the morning, went downtown to file his Statement of Candidacy and returned to the 9<sup>th</sup> Ward Grocery area and collected signatures for another 4-5 hours.

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<sup>2</sup> Objector did not provide a witness list and provided one exhibit on the pre-hearing exchange. Objector exchanged the 21-page Board of Election pamphlet which ultimately was marked and admitted as Objector's Exhibit #4.

During this adverse examination, Objector marked as OBJ #1 and OBJ #2, each being a Sheet (Sheets 40 and 41, respectively) of the Nomination Papers. Counsel represented that these documents were exchanged by the Candidate as part of the pre-hearing exchange. Counsel for the Candidate acknowledged this exchange. OBJ #1 and OBJ #2 appear to be the same as those Sheets 40 and 41 (part of Board Group Exhibit A) except for the fact that, although notarized, they do not contain the Circulator's information, nor the Circulator's signature. The Circulator/Candidate testified that these were "practice" sheets that the notary notarized in part because the ink on the notary's seal was running out. Candidate testified that these incomplete sheets were copies. These exhibits have "y" or "n" in the left margin and had a number written and circled on the upper left.<sup>3</sup>

Referring to the two pages attached as exhibits to the Candidate's Motion to Strike, the Candidate admitted that he was not registered to vote at 1047 E. 132<sup>nd</sup> Street until September 23, 2014.<sup>4</sup> Objector's Exhibit #3 was marked, this being the one-page Statement of Candidacy now part of Board Group Exhibit A. (OBJ #3 attached and incorporated to this Findings and Recommendations). The Candidate testified that with respect to the Statement of Candidacy, which was completed and filed on August 26, 2014, the Candidate on August 26, 2014 was not a registered voter at 1047 E. 132<sup>nd</sup> Street, but that he was on that date, still a registered voter at 11337 Martin Luther King Drive.<sup>5</sup> Additionally, the Candidate was referred to a number of Sheets and Lines and asked whether the individuals signed before

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<sup>3</sup> Ultimately, these two exhibits were admitted into evidence.

<sup>4</sup> These documents are the certified records of the Chicago Board of Elections and are admissible pursuant to Judicial Notice of Public Documents. Further, it is uncontested that the Candidate's registered voting address at 1047 E. 132<sup>nd</sup> Street commenced at September 23, 2014.

<sup>5</sup> This third address was the same address on the driver's license produced by the Candidate at the hearing. The Candidate testified that the produced driver's license was not his "current" license. The "current" license was in his car. However, it is uncontested that the three (3) addresses all are in the 9<sup>th</sup> Ward.

him. Except for minor corrections, the Candidate testified that these individuals signed before him as Circulator.

2. Candidate's Case

Counsel for the Candidate called the Circulator/Candidate as a witness for re-direct testimony.<sup>6</sup> The Candidate testified that all the individual signers in 105 of 106 sheets appeared and signed personally before him. He testified that he signed the Circulator's Affidavit before a notary on the dates listed in the Circulator Affidavits. The Candidate referred to Sheet 6 of Board Group Exhibit A as an example of the notary's ink running out.

As part of Candidate's case, in addition to Candidate's Group Ex. #1 (9 Affidavits), the Candidate identified as Ex. #2 the driver's license in the possession of the Candidate, listing an address on Martin Luther King, Jr. Drive. Candidate's counsel also marked and identified as Candidate Ex. #3, the 2015 Illinois Secretary of State Registration Identification Card (corrected) that listed the address of 1047 E. 132<sup>nd</sup> Street for Candidate's 2001 BMW passenger vehicle. Candidate's Exs. #1 and #3 were admitted, the driver's license, though identified, remained in possession of the Candidate. As stated previously, the Candidate testified that his "current" driver's license was in his car and thus, Candidate's "current" license was not produced.

3. Objector's Rebuttal

Counsel for Objector introduced, identified and marked as Objector's Group Exhibit #4, a copy of the Board of Election's 21-page "2015 Election Information Pamphlet & Calendar." Referring to page 11 of the Pamphlet, the Candidate admitted that the first day to circulate candidate nomination papers was August 26, 2014, the same day that the Candidate had

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<sup>6</sup> Based upon the Witness Stipulation, the 11 witnesses were excused and the only witness who testified was the Circulator-Candidate.

circulated 21 Sheets (#14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 39, 48 and 49, containing approximately 315 signatures) in an 8-9 hour period and having gone downtown to file his Statement of Candidacy. The Candidate denied signing any Circulator Affidavits after the notary notarized the Affidavit. The Candidate acknowledged that he had not produced his current driver's license.

13. The parties rested and all exhibits having been admitted, counsel for the parties gave closing summaries:

**A. Objector's Summary**

Counsel for Objector emphasized two points:

1. The Statement of Candidacy was fatally defective because on August 26, 2014 (date of Statement of Candidacy), Candidate was not registered to vote at 1047 E. 132<sup>nd</sup> Street. Candidate was duly registered to vote at 1047 E. 132<sup>nd</sup> Street beginning September 13, 2014. Therefore, it was asserted that the Statement of Candidacy was false, perjurious and fatally invalidated the entirety of the Nomination Papers.
2. Secondly, Objector argued that the Nomination Papers, including the Statement of Candidacy and the Circulator Affidavits, evidenced a "pattern of fraud" that invalidates the Nomination Papers. Specifically, Objector referred to Objector's Exhibits #1 and #2 as examples of the Notary pre-notarizing sheets without the Circulator's signature. Additionally, Objector described as incredible the ability of the Circulator/Candidate to complete 21 sheets (315 signatures) and file his Statement of Candidacy all on August 26, 2014. Counsel for Objector cited the opinion of Fortas v. Dixon, 122 Ill.App.3d 697, 462 N.E.2d 615 (1<sup>st</sup> Div. 1984) as authority for concluding a "pattern of fraud" to vitiate the Candidate's Nomination Papers.



### **B. Candidate's Summary**

Among other points, counsel for the Candidate argued that the Statement of Candidacy substantially complied with the statutory requirements. Counsel acknowledged that registration at 1047 E. 132<sup>nd</sup> Street did not occur until September 23, 2014. Counsel acknowledged that the Candidate was unsophisticated and maybe some errors might have occurred, but counsel insisted that the Candidate had properly circulated all of the sheets except one. Counsel distinguished the Fortas opinion as pertaining to signature fraud and impliedly not to Statement of Candidacy or Circulator issues. Counsel argued that it was possible to complete 21 sheets on August 26, 2014. Counsel minimized the significance of Objector's Exhibits #1 and #2.

### **C. Objector's Final Summary**

Counsel argued that contrary to the contents in the Statement of Candidacy, Candidate was not a registered voter at 1047 E. 132<sup>nd</sup> Street on August 26, 2014 and therefore, there was no compliance with the statutory requirements.

14. After all the preliminary hearings, there remained three (3) issues asserted by the Objector:<sup>7</sup>

- A. Was Candidate a resident of the 9<sup>th</sup> Ward for the appropriate time period pursuant to statute?
- B. Does Section 10-5 of the Election Code, 10 ILCS 5/7-10 (2012), require that the Statement of Candidacy contain the correct registration address at the time the Statement was completed and filed, as long as the Candidate is legally registered at some address within the district he seeks?

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<sup>7</sup> Reflected in Paragraphs 5, 6, 7 and 12 of "Verified Objector's Petition".

C. Do the Nomination Papers and the activities of the Circulator/Candidate establish, in a clear and convincing manner, that a pattern of fraud existed with respect to the circulation of the petitions and the completion of the Circulator's Affidavits?

15. The Hearing Officer finds as a matter of fact that at all times relevant the Candidate was a resident of the 9<sup>th</sup> Ward in the City of Chicago, pursuant to 65 ILCS 20/21-14(a) (2012).

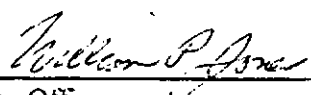
16. The Hearing Officer concludes as a matter of fact and law that, although the Statement of Candidacy lists an address (1047 E. 132<sup>nd</sup> Street) which on August 26, 2014 was not the address of registration on the date, case law and Section 7-10 of the Election Code, 10 ILCS 5/7-10 (2012), provides that the form of the Statement of Candidacy "does not require that a candidate be registered to vote at the residence stated on his statement of candidacy so long as the candidate is registered to vote at some address within the district in which he seeks to be nominated or elected." Sutor v. Acevedo, 06-EB-RGA-04 (1/30/06); Henderson v. Miller, 228 Ill.App.3d 260, 592 N.E.2d 570, 573 (1<sup>st</sup> Dist. 1992). Any purported holding found in Sanders v. Riles, 92-EB-WC-12 (1/22/92), ¶6 must be interpreted consistent with the finding that the Candidate "was not a registered voter at the time of signing and attestation on October 19, 1991." In the instant case, the Hearing Officer finds that Candidate was a resident in the 9<sup>th</sup> Ward for the appropriate time period and it is uncontested that the Candidate was a registered voter at all times relevant in the 9<sup>th</sup> Ward. In summary, the Hearing Officer concludes that the Statement of Candidacy substantially complies with the statutory requirements.

17. Paragraph 12 of the Objector's Petition alleges a "pattern of fraud and false swearing to the Circulator's Affidavit, invalidating each and every sheet of the Nomination

Papers.” Although Paragraph 12 alleges that the Candidate circulated each and every one of the 106 sheets, it was established at the hearing that the Candidate circulated 105 of 106 sheets. As stated above, Objector points to the completion of 21 sheets and the filing of the Statement of Candidacy all on one day, August 26, 2014. Secondly, Objector points to the two (2) sheets (OBJ #1 and #2) that each contain 15 signatures and notarization without the completion of the Circulator’s information and the Circulator’s signature i.e. improper notarization. Quite simply, the Objector asserts that the Candidate’s testimony is incredible on this point. Unlike the facts in Fortas, there is no direct testimony in the instant case impeaching and contradicting a number of the Circulator’s Affidavits. In the instant case, no witness has testified that a circulator other than Mr. Ward had circulated the sheet they signed. Also, although OBJ #1 and #2 raise questions, any such evidence of a pattern is circumstantial and a pattern of fraud cannot be inferred merely by OBJ #1 and #2, especially since the Objector’s burden of proof is clear and convincing evidence. See Durr v. Love, 03-EB-ALD-101, CEBC (2/5/03), affirmed, Durr v. Chicago Board of Election Commissioners, 03 CO E2 028 (Cir.Ct. Cook Cty., February 20, 2003). Objector has not met his burden of proof.

18. For all the foregoing reasons, the Hearing Officer recommends that the name of Harold “Noonie” Ward appear on the ballot as Alderman of the 9<sup>th</sup> Ward, City of Chicago.

Dated: December 29, 2014

  
\_\_\_\_\_  
Hearing Officer

ATTACH TO PETITION

BOARD OF ELECTION COMMISSIONERS  
FOR THE CITY OF CHICAGO  
9:00 A.M. PETITION  
Suggested  
Revised May, 2007  
SBE No. P-1A

STATEMENT OF CANDIDACY NOV 17 2014  
NONPARTISAN

NAME	ADDRESS-ZIP CODE	OFFICE	CITY, VILLAGE OR SPECIAL DISTRICT
HAROLD "NOONIE" WARD	1047 E. 132 <sup>ND</sup> STREET CHICAGO, IL 60827	ALDERMAN	9 <sup>TH</sup> WARD

If required pursuant to 10 ILCS 5/10-5.1, complete the following (this information will appear on the ballot)

FORMERLY KNOWN AS \_\_\_\_\_ UNTIL NAME CHANGED ON \_\_\_\_\_  
(List all names during last 3 years) (List date of each name change)

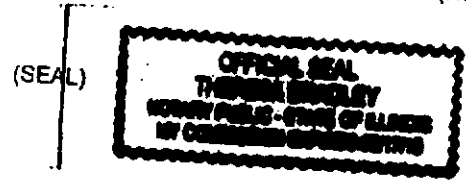
STATE OF ILLINOIS )  
County of COOK ) SS.

I, HAROLD "NOONIE" WARD being first duly sworn (or affirmed), say that I reside at 1047 E. 132<sup>ND</sup> STREET in the City, Village, Unincorporated Area (circle one) of CHICAGO, ILLINOIS (if unincorporated, list municipality that provides postal service) Zip Code 60827 in the County of COOK State of Illinois; that I am a qualified voter therein, that I am a candidate for Nomination/Election to the office of ALDERMAN in the 9<sup>TH</sup> WARD Name of City, Village or Special District to be voted upon at the election to be held on FEBRUARY 24, 2015 (date of election) and that I am legally qualified to hold such office and that I have filed (or I will file before the close of the petition filing period) a Statement of Economic Interests as required by the Illinois Governmental Ethics Act and I hereby request that my name be printed upon the official ballot for Nomination/Election to such office.

Harold Noonie Ward  
(Signature of Candidate)

Signed and sworn to (or affirmed) by Harold Noonie Ward before me, on 8-26-14  
(Name of Candidate) (insert month, day, year)

Sharon Bradley  
(Notary Public's Signature)



OBJ# 3

