

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

Objections of: LAROY DAVIS)
)
)
To the Nomination) No.: 19-EB-ALD-018
Papers of: JULIUS MODELISTE)
) Rel.: 19-EB-ALD-038
Candidate for the office of Alderman for the)
21st Ward of the City of Chicago)

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of Election Commissioners for the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse and Jonathan T. Swain, organized by law in response to a Call issued by Marisel A. Hernandez, Chair of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of LAROY DAVIS (“Objector”) to the nomination papers (“Nomination Papers”) of JULIUS MODELISTE, candidate for the office of Alderman for the 21st Ward of the City of Chicago (“Candidate”) at the General Municipal Election to be held on Tuesday, February 26, 2019, having convened on Monday, December 10, 2018, at 8:30 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 were duly and timely filed.
2. The Electoral Board was legally constituted under the laws of the State of Illinois.
3. A Call to the hearing on said Objections was duly issued by the Chair 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 Monday, December 10, 2018 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Monica L. Llorente for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. On such date and time, the Hearing Officer called the case by calling aloud the case number, the name of the Objector and the name of the Candidate. The following persons, among others, answered and were present at such hearing: the Objector, LAROY DAVIS and/or his Attorney, ERIC M WHITE.

7. The Candidate, JULIUS MODELISTE, neither answered the call nor appear at the hearing. The case was called again no less than two additional times at least 15 minutes apart on December 10, 2018 and at no time did the Candidate or any person purporting to represent the Candidate appear.

8. The matter was continued to December 19, 2018, twice called within 15 minute intervals and the Candidate again failed to appear at the hearing.

9. The Electoral Board finds that personal service via the Sheriff's Office was made on the Candidate on December 6, 2018 and via certified mail on December 10, 2018.

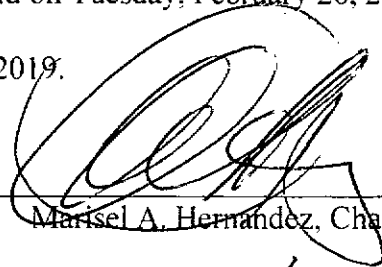
10. The Electoral Board finds that despite having properly served candidate JULIUS MODELISTE, he did not appear at any of the duly called meetings and hearings conducted in this matter.

11. The Electoral Board further finds that the Objector's petition, on its face, contains sufficient allegations, if accepted as true, to invalidate the Candidate's Nomination Papers.

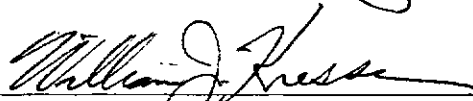
12. Therefore, the Electoral Board finds that the Candidate, JULIUS MODELISTE, is in default, that the Objections are sustained, and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of LAROY DAVIS to the Nomination Papers of JULIUS MODELISTE, candidate for the office of Alderman for the 21st Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JULIUS MODELISTE, candidate for the office of Alderman for the 21st Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

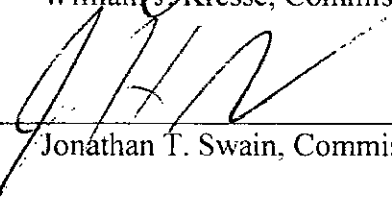
Dated: Chicago, Illinois, on Tuesday, January 8, 2019.



Marisel A. Hernandez, Chair



William J. Kresse, Commissioner



Jonathan T. Swain, 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 FOR THE HEARING AND
PASSING UPON OBJECTIONS TO THE NOMINATING PAPERS OF
CANDIDATES FOR THE FEBRUARY 26, 2019 MUNICIPAL ELECTION FOR
ALDERMAN OF THE 21ST WARD IN THE CITY OF CHICAGO**

)	
LAROY DAVIS,)	
Petitioner - Objector)	
)	
v.)	19-EB-ALD-018
)	(REL.: 19-EB-ALD-038)
JULIUS MODELISTE,)	
Respondent - Candidate)	
)	

HEARING OFFICER’S REPORT AND RECOMMENDED DECISION

Objector Laroy Davis (“Objector”) filed an objection petition challenging the nominating papers filed by the Candidate Julius Modeliste (“Candidate”) for election to The Office of Alderman of the 21st Ward of the City of Chicago in the State of Illinois. This matter was first heard on December 10, 2018. The Objector appeared through counsel, Eric M. White. The Candidate did not appear. The matter was continued twice with at least a 15-minute interval between each time the case was called. The case was called a total of three times in more than 45 minutes, and the Candidate failed to appear. There was no proof of service returned for the Candidate at that time, and, accordingly, the matter was continued for a hearing on December 19, 2018.

At the December 19, 2018 hearing, the Objector’s counsel appeared. The Candidate did not appear. Again, as at the initial hearing, the matter was continued twice with at least a 15-minute interval between each time the case was called. The case was called a total of 3 times in more than 45 minutes, and the Candidate failed to appear. The hearing moved forward.

Service of the Candidate

The matter was reviewed for proof of service. Service of the call stating the day, hour and place at which the electoral board will hear and pass upon the objections to the nominating papers shall be done by registered or certified mail and the sheriff. 10 ILCS 5/10-10. The record shows an effort to serve the Candidate via 1) the sheriff and 2) certified mail.

The Sheriff's Office of Cook County's Affidavit of Service, dated December 6, 2018 at 4:55 p.m. by Star #10912, shows that the Sherriff's Office of Cook County was able to serve the Candidate "by leaving a copy of the writ / order with the defendant / respondent personally, and informing defendant / respondent of contents."

The Certified Mail Receipt indicates that the Board of Elections sent the initial documents by certified mail on December 4, 2018 at 4:07 p.m. The Certified Mail Receipt shows that the delivery was made December 10, 2018 at 11:03 a.m. at 8044 S. Loomis Blvd., 1st Floor, Chicago, IL 60620, the same address listed by the Candidate in his nominating papers. The Certified Mail Receipt has a signature in the "Signature of Recipient" section and writing in the "Address of Recipient" section. The signature appears to be a cursive "J" cut off at the bottom and followed by "Mod" and the rest of the signature is not as legible. The address seems to be "8044 S Loomis." The markings indicate that the Candidate himself or, at the very least, someone at the address provided by the Candidate in his nominating papers signed for the documents.

Pursuant to Rule 18 of the Rules of Procedure for the Board of Election Commissioners of the City of Chicago, all objections and dates of hearings are made publicly available on the City of Chicago Board of Elections web site at:

<https://chicagoelections.com> and on or near the front door of its offices. Rule 18 explains that “the failure of a party to receive actual notice of an event in their case shall not prevent such event from proceeding as scheduled nor shall it invalidate any action taken at such event.” Furthermore, when candidates file their nominating papers, they are advised that objections may be filed and that they should monitor the web site.

Here, there was service by the sheriff and by certified mail, as required by law. There is no reason by which the Candidate would not know of objections filed against him and of the dates of the hearings, where he was given the opportunity to defend his nominating papers.

Based on the foregoing, a finding that proper service occurred is made.

Default Judgment

The Objector orally moved for the entering of a default judgment against the Candidate. The Objector presented his offer of proof, which included that: 1) the Candidate failed to appear at both hearings; 2) the Candidate’s nominating papers contain the names of persons who did not sign the nominating papers in their own proper person and the signatures are not genuine; 3) the Candidate’s nominating papers contain the names of numerous persons who are not qualified, registered, and legal voters at the addresses shown; 4) the Candidate’s nominating papers identify the candidate as being from the “Democratic Party”; and 5) the Candidate did not file a Receipt for Statement of Economic Interests.

In regards to the Candidate failing to file a Receipt for Statement of Economic Interests with the nominating papers, the Objector’s petition and offer of proof plead a

factual issue that does not require an evidentiary hearing, but, instead, can be determined by a review of the nominating papers on their face. It is clear that no Receipt for Statement of Economic Interests was filed with the nominating papers. This fact was corroborated by the entry of "No" for Receipt for Statement of Economic Interests on the Candidate's Receipt for Nomination Papers – City of Chicago for the February 26, 2019 Municipal Election, dated November 23, 2018.

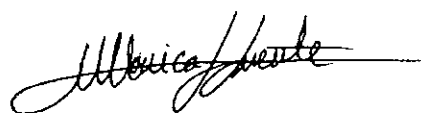
Failure to file a Receipt for Statement of Economic Interests invalidates the Candidate's nominating papers. 10 ILCS 5/10-5; *Bolger v. Electoral Board of City of McHenry*, 210 Ill.App.3d 958, 569 N.E.2d 628 (Second Dist. 1991); *Wojkowski v. Hamblet*, 95 CO 12 (Cir. Ct. Cook Co. 1995), affirmed 1-59-0374 (Ill.App.Ct. 1995); *Henning v. Lawrence* (Chicago Electoral Board 2007), affirmed, *Lawrence v. Board of Election Commissioners, et al.*, Cir. Ct. Cook Co., 2007 COEL 0008, affirmed Illinois Appellate Court, No. 1-07-0286 (unpublished order).

Therefore, a finding that the nominating papers are invalid is made. As the nominating papers are found to be invalid, the other objections are moot and there is no need to rule on them.

Conclusion

Based on the foregoing, it is my recommendation that: 1) the nominating papers for the Candidate, Julius Modeliste, be found invalid; and 2) the Candidate's name, Julius Modeliste, not be included on the ballot.

Respectfully Submitted,



Monica Llorente, Hearing Officer