

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

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Objections of: MATTIE B. LACY )  
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To the Nomination ) No.: 19-EB-ALD-101  
Papers of: LEALAN M. JONES )  
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Candidate for the office of Alderman 3rd )  
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, Chairwoman of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of MATTIE B. LACY (“Objector”) to the nomination papers (“Nomination Papers”) of LEALAN M. JONES, candidate for the office of Alderman for the 3rd 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 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 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 Christopher Agrella 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, MATTIE B. LACY, by her attorney JAMES P. NALLY; and the Candidate, LEALAN M. JONES, pro se.

7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate filed an incorrect version of the Statement of Economic Interests ("SEI") form that was required to be timely filed in relation to her candidacy pursuant to 10 ILCS 5/10-5 and the Illinois Governmental Ethics Act, 5 ILCS 420/1, *et seq.* The Candidate filed the version of the SEI form created by and to be filed with the Illinois Secretary of State, whereas the Candidate was required to file the SEI form created by and to be filed with the Cook County Clerk's office. Filing the wrong version of the SEI form is a fatal flaw to a candidacy. *Cortez v. Municipal Officers Electoral Bd. for the City of Calumet City*, 2013 IL App (1<sup>st</sup>) 130442 ¶¶26-34. The Hearing Officer found, therefore, that the Candidate's Nomination Papers are invalid.

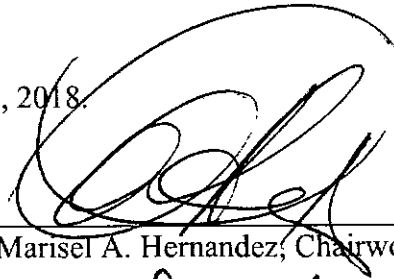
8. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law and incorporates them herein by this reference. The Electoral Board further denies the Candidate's "Motion to Vacate Objector's Petition for Violation of Board of Elections Commissioners Non-Disclosure and Confidentiality Agreement" and the Candidate's "Motion to Vacate Illegal and Fraudulent [sic] Objection Petition" for the reasons stated in the Hearing Officer's report and recommended decision.

9. For the reasons stated above, the Electoral Board finds that the Objections filed in this matter should be sustained and that the Candidate's Nomination Papers are invalid.

(continued on next page)

IT IS THEREFORE ORDERED that the Objections of MATTIE B. LACY to the Nomination Papers of LEALAN M. JONES, candidate for the office of Alderman for the 3rd Ward of the City of Chicago District of the State of Illinois, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of LEALAN M. JONES, candidate for the office of Alderman for the 3rd Ward of the City of Chicago District, SHALL NOT be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

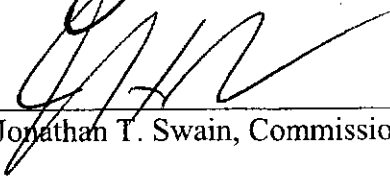
Dated: Chicago, Illinois, on Thursday, December 27, 2018.



Marisel A. Hernandez, Chairwoman



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.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO THE NOMINATION PETITIONS OF CANDIDATES FOR THE FEBRUARY 26, 2019, MUNICIPAL GENERAL ELECTION FOR MAYOR, CLERK, TREASURER AND ALDERMAN IN THE CITY OF CHICAGO**

MATTIE B. LACY,	)	
	)	
Petitioner(s) – Objector(s)	)	19 EB ALD 101
	)	
LEALAN M. JONES,	)	
	)	Hearing Officer: Christopher J. Agrella
Respondent – Candidate.	)	
	)	

**HEARING OFFICER’S REPORT AND RECOMMENDED DECISION**

This matter first came before the hearing officer on December 10, 2018, set on the Call for 10:30 a.m. The candidate is seeking to appear on the ballot for election to the office of Alderman of the 3rd Ward of the City of Chicago, to be voted upon in the February 26, 2019, Municipal General Election.

At 10:45 a.m. the first call of the case took place, at which time Mr. James Nally, Esq. appeared on behalf of the objector. The candidate appeared *pro se*. Both sides filed their appearances and as well as tendering an executed non-disclosure agreement.

At this juncture the hearing officer marked the nomination petition of the, as Exhibit A, the objection as Exhibit B, the proof of service of the Call upon objector as Exhibit C, and the appearance of the candidate as Exhibit D. All were accepted into evidence without objection by either side.

The objection asserted to grounds for invalidating the candidate’s nomination papers.

First, paragraph 2 alleged that the candidate was required, and failed, to file a receipt for the filing of his Statement of Economic Interest filed with the Cook County Clerk, which, *inter alia*, also asserted that what the candidate filed was an otherwise unfiled Statement of Economic

Interest used by candidates with State of Illinois filings.

Second, that the candidate filed an incorrect Statement of Candidacy that had not been stamped or filed with any office and that a failure to file a Statement of Candidacy receipt stamped to show the receipt was filed with the Cook County Clerk also invalidates the candidacy.

At this juncture the hearing officer reviewed the actual original nomination papers of the candidate, which revealed it contained no receipt for the filing of his Statement of Economic Interest filed with the Cook County Clerk. Rather, as alleged by the objector, the candidate had filed an otherwise unfiled Statement of Economic Interest that is utilized in filings with the Illinois Secretary of State and not in reference to units of local government.

In reference to the second objection, a review of the candidate's nomination papers evidences no irregularity in the candidate's Statement of Candidacy, it was properly completed, accompanied the candidate's other nomination papers, and duly filed stamped by the Chicago Board of Election Commissioners, and it is the recommendation of this hearing officer that this section of the objection be overruled.

At this juncture the hearing officer asked whether either side intended to file any preliminary motions, and the candidate tendered two documents, one captioned "Motion to Vacate Objector's Petition for Violation of Board of Elections Commissioners Non-Disclosure and Confidentiality Agreement", [Motion #1] the other "Motion to Vacate Illegal and Fraudulent [sic] Objection Petition". [Motion #2] Upon candidate responding that these had not actually been filed with the Board when asked the question, the candidate (and objector's counsel) were informed of the filing schedule for any motions, and a hearing date of December 16, 2018, at 10:30 a.m. was set down, assuming the proffered documents were actually filed.

Based on the hearing officer's review of the candidate's nomination papers, the hearing officer requested that the candidate also focus any filings specifically upon the claim of the

objector that the candidate's nomination papers failed to contain any receipt for the filing of his Statement of Economic Interest filed with the Cook County Clerk.

On December 16, 2018, the matter was recalled. Both sides appeared, objector by Mr. Nally, Esq., candidate *pro se*. In the interim the candidate had timely filed the aforementioned two motions with the Board, without more. On Thursday, December 13, 2018, the candidate also emailed the hearing officer, *ex parte*, five (5) computer screenshots of the City of Chicago website look-up for Statements of Economic Interest filings seeming to show that no Statement of Economic interest were on file for various board employees and appointed individuals. These screenshots were not filed with the Board in any fashion nor served on objector, and while these submissions were disregarded in reaching any recommendations herein, they were reviewed and also deemed irrelevant.

Objector chose not to file any written response to either motion, opting to argue orally.

Candidate's argument as to Motion #1 was: a) objector's objection, not being notarized, must be dismissed; b) that certain discussions and comments by certain individuals on social media after the candidate filed for office, referencing (albeit obliquely) certain disclosures and/or information in candidate's nomination papers, violated the Board's Non-Disclosure Agreement, requiring dismissal of the objection; and c) that an individual identified as Bamani Obadele was either the motivating individual (along with others) behind the objection and/or physically filed the actual objection with the Board on behalf of the objector, thereby requiring dismissal of the objection.

Objector's response was essentially a denial of each point as being a legal basis for the requested relief, i.e. dismissal of the objection.

This hearing officer recommends the Board deny candidate's Motion #1 in that none of the grounds cited in candidate's Motion #1 support dismissal of the objection.

Objections need not be verified. *Davis, et al. v. Reed*, 04 EB WC 81, February 6, 2004.

The fact that third parties, not named parties in the instant objection, had some insight into (and perhaps disclosed) information contained in a publicly filed document (the candidate's nomination papers) could in no way act as a violation of any NDA/Confidentiality Agreement required by this Board which, parenthetically, was not even in session to consider the objections at the time the alleged affront took place, was never executed by these individuals, and would not have encompassed the publicly viewable documents anyways.

Finally, the fact that objector may have additional, unstated motives or may be working in concert with other individuals, including other candidates, is irrelevant to a determination whether an objection should be sustained. *Havens v. Miller*, 102 Ill.App.3d 558, 429 N.E.2d 1292 (1<sup>st</sup> Dist. 1981). Section 10-8 of the Election Code requires that the objector's petition shall (a) give the objector's name and residence address; (b) state fully the nature of the objections to the certificate of nomination or nomination papers; (c) state the interest of the objector; and (d) state what relief is requested of the electoral board. If the objector's petition substantially complies with the requirements of Section 10-8 of the Election Code, it is a valid objector's petition. *Crosby v. Beavers*, 95-EB-ALD-202, CBEC, January 24, 1995. Objector's objection satisfies these Election Code requirements in the matter *sub judice*.

Candidate's argument as to Motion #2 was: a) objector's objection, not being notarized, must be dismissed; b) the intake "Receipt for Nomination Papers" filled out by the board personnel, checking off "Receipt for Statement of Economic Interests" box, is affirmative proof in the nature of an admission that the candidate had complied with the requirements of the Electoral Code; and c) (set forth in a somewhat disjointed fashion) that filing the actual Statement of Economic Interests that would rightfully be filed with the State of Illinois (versus the receipt for the filing of the correct Statement of Economic Interest intended for the county clerk for the unit



of local government wherein election is sought) is substantial compliance.

Objector's response to candidate's Motion #2 was, as before, essentially a denial of each point as being a legal basis for the requested relief, i.e. dismissal of the objection, with the further exposition that the candidate's filing of the aforesaid document was not any sort of compliance at all, much less substantial compliance.

This hearing officer recommends the Board deny candidate's Motion #2 in that none of the grounds cited in candidate's Motion #2 support dismissal of the objection.

As stated *supra*, objections need not be verified. *Davis, et al. v. Reed*, 04 EB WC 81, February 6, 2004.

The ministerial actions of the board clerk, seeking to do no more than to inventory the nomination papers of the candidate by checking certain boxes on a receipt based on a cursory scan of what was received, cannot act as any sort of admission in that these are not record checkers that are employed to verify the factual accuracy of the received documents or to make findings of fact.

This case is essentially "on all fours" with the facts found in *Henning v. Persons*, 07-EB-ALD 050, CBEC, January 16, 2007, wherein a candidate for alderman filed a document titled "City of Chicago 2006 Statement of Financial Interests" with her nomination papers instead of a statement of economic interests receipt as required by the Election Code and the Governmental Ethics Act.

Persons argued, citing *Preuter v. State Officers Electoral Board*, 334 Ill.App.3d 979 (1st Dist. 2002), that the Board should be estopped from removing her from the ballot for failing to file a Statement of Economic Interests receipt because the Board clerk who accepted her nomination papers check a box on the form the Board issued to candidate's as a receipt for the nomination papers indicating that a document titled "Receipt for Statement of Economic Interests" was filed with the nomination papers.

The Electoral Board found that *Preuter* was distinguishable and held that the Board's clerk did not have authority to bind the Board; accordingly, the Board was not estopped from apply Illinois law and found that the candidate's nomination papers were invalid because the candidate did not file a statement of economic interests receipt as required by law. *Henning v. Persons*, 07-EB-ALD050, CBEC, January 16, 2007. *See also, Tompkins v. Osborne*, 11-EB-ALD-163, CBEC, January 13, 2011.

Insofar as candidate's 'substantial compliance' argument, the cases are too numerous to cite, but are in accord one to another that in reference to the Statement of Economic Interests, a candidate for municipal office is required to do three things. 1) Execute a Statement of Economic Interest in relation to the unit of local government in which you seek election, in this case Chicago; 2) file the Statement of Economic Interest with the county clerk within which the unit of local government is found, in this case, the Cook County Clerk; and 3) file the Cook County Clerk receipt with the electoral authority governing your nomination papers within the timeframe for filing nomination papers, in this case, the Chicago Board of Elections.

Mr. Jones did not accomplish any of these acts. There was zero compliance such that Motion #2 on this issue should be denied.

Having stated his recommendation on the record to deny both of the candidate's motions, the hearing officer gave the parties, in particular the candidate, an opportunity to argue the issue presented in the objection regarding the failure of the candidate to file a receipt for the filing of the Statement of Economic Interests with his nomination papers.

The candidate, in defense of his nomination papers, essentially stuck to the same line of argument raised in Motion #2 regarding substantial compliance.

The candidate did not file a Statement of Economic Interests with the Cook County Clerk in reference to the City of Chicago and did not file a receipt from the Cook County Clerk with his

nomination papers (or within the time for filing his nomination papers).

The failure to file with the election authority with which nomination papers are to be filed a receipt evidencing that the candidate filed a Statement of Economic Interests with the appropriate official invalidates the nomination papers. *Henning v. Lawrence*, 07-EB-ALD-052, CBEC, January 16, 2007, *aff'd*, *Lawrence v. Board of Election Commissioners, et al.*, Circuit Court of Cook County, 2007 COEL April 2014, *aff'd* Illinois Appellate Court, No. 1-07-0286 (unpublished order).

The statutory requirement does not severely burden a candidate's constitutional rights nor is the deadline imposed by the statute for filing the receipt irrational. Accordingly, the statute does not violate a candidate's rights under the First and Fourteenth Amendment nor is it unconstitutional. *Lawrence v. Board of Election Commissioners*, 524 F.Supp.2d 1011 (N.D. Ill. 2007).

It is worth noting in passing that Mr. Jones didn't even include with his nomination papers, as fatal as that would be, the correct Statement of Economic Interests disclosing his interests in reference to the unit of local government, (Chicago) but rather, one which is used in reference to the State of Illinois. The underlying purpose of a sworn statement of economic interests is to inform the public of dealings the candidate has with the unit of local government, in this case, Chicago. The candidate could swear quite truthfully that he has no financial dealings with the State of Illinois, yet frustrate the purpose of the Governmental Ethics Act insofar as requiring his public disclosure of his financial dealings with the City of Chicago. *See e.g., Kellogg v. Cook County Illinois Officers Electoral Board*, 347 Ill.App.3d 666, 807 N.E.2d 1161 (1st Dist. 2004).


This hearing officer recommends that the objection, paragraph 2, should be sustained, the nomination papers of the candidate, LeAlan M. Jones, be declared insufficient in law and fact, and the name of the candidate, LeAlan M. Jones, not appear on the ballot for election to the office of

Alderman of the 3rd Ward of the City of Chicago, to be voted upon in the February 26, 2019,  
Municipal General Election.

WHEREFORE your hearing officer recommends to this Board that it adopt the above findings,  
decisions and recommendations of the hearing officer and that the Board sustain the objection of  
the objector, that the Board declare the candidate's nomination papers insufficient in law and fact,  
and that the candidate's name, LeAlan M. Jones, not appear on the ballot for election to the office  
of Alderman of the 3<sup>rd</sup> Ward of the City of Chicago, to be voted upon in the February 26, 2019,  
Municipal General Election.

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Respectfully Submitted,

  
Christopher J. Agrella – Hearing Officer