

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

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**Objections of: VIRGIL E. JONES** )  
)  
**To the Nomination** ) **No.: 07-EB-ALD-144**  
**Papers of: ALFREDO CASTILLO** ) **(rel. ALD-019, ALD-141)**  
)  
**Candidate for the office of** )  
**Alderman of the Fifteenth 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 and Richard A. Cowen, 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 VIRGIL E. JONES (“Objector”) to the nomination papers (“Nomination Papers”) of ALFREDO CASTILLO, candidate for the office of Alderman of the Fifteenth Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 27, 2007, having convened on January 2, 2007, at 10:00 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 January 2, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner William 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 Examiner on the date and at the time designated in the Call. The following persons, among others, were present at such hearing; the Objector, VIRGIL E. JONES, pro se and the Candidate, ALFREDO CASTILLO, pro se.

7. The Objector alleges that the Candidate's Nomination Papers were not securely fastened as required by law.

8. Board Exhibit E, consisting of a photograph depicting that the Nomination Papers were not bound in any fashion at the time of filing, was admitted. Also, the Board's Receipt for Nomination Papers also indicates that these papers were not bound.

9. The Hearing Examiner found as a matter of fact that the Candidate's Nomination Papers were not securely bound or fastened in any fashion and concluded, as a matter of law, that 10 ILCS 5/10-4 was violated.

10. Section 10-4 provide that petition sheets shall be neatly fastened together in book form, by placing the sheets in a pile and fastening them together at one edge in a secure and suitable manner, and the sheets shall then be numbered consecutively. Section 10-4 further provides that noncompliance with its provisions "shall" invalidate the signatures on a nominating

petition. Specifically, the Code states: "No signature shall be valid or be counted in considering the validity or sufficiency of such petition unless the requirements of this Section are complied with." Based upon that language which imposes sanctions in the event the provisions of the Code are not complied with, coupled with the use of the word "shall," the requirements of section 10-4 are mandatory rather than directory. *Bendell v. Education Officers Electoral Board for School Dist. 148*, 338 Ill.App.3d 458, 463, 788 N.E.2d 173 (1<sup>st</sup> Dist. 2003). "Inasmuch as section 10-4 is mandatory, compliance with its provisions must be strict rather than substantial." (*Id.*)

11. In *Girot v. Keith*, 341 Ill.App.3d 902, 904, 793 N.E.2d 935, 937 (3<sup>rd</sup> Dist. 2003), reversed on other grounds, 212 Ill.2d 372, 818 N.E.2d 1232 (2004), the Third District found. "The purpose of requiring candidates to securely bind and number the petitions is to prevent tampering, thereby preserving not only the integrity of the petitions submitted, but also the election process in general," citing *Jones v. Dodendorf*, 190 Ill.App.3d 557, 562, 546 N.E.2d 92 (1989). The court found that these provisions are mandatory, and that failing to comply with even one of them will result in the petitions' invalidation. The court found that the candidate had made no effort to securely bind the pages of his petition in a way that would prevent tampering, stating that "Fastening the pages with a paper clip could not meet the purposes of the statute's requirements." Therefore, the candidate's actions did not constitute substantial compliance with the statute. The *Girot* court also rejected the candidate's argument that there was no need to fasten all of the pages together, since one page of signatures would have been sufficient to meet the requirements to be placed on the ballot. The court reasoned that because the statute prohibits any petition that has been filed from being withdrawn, altered, or added to, were the court to

allow the candidate to base his candidacy on only one of the several pages he filed with the city clerk, the petition would be impermissibly altered.

12. In *Jakstas v. Koske*, 352 Ill.App.3d 861, 817 N.E.2d 200 (2<sup>nd</sup> Dist. 2004), the court held that the Election Code provision, regarding signature sheets for public question referendum petitions being bound securely and numbered consecutively, is mandatory; provision imposes requirements by using "shall" and contains an express statement voiding the petition if the requirements are not fulfilled.

13. The Hearing Examiner has tendered to the Electoral Board his report and recommended decision. The Hearing Examiner recommends that the Objections to the Candidate's Nomination Papers be sustained and that the Nomination Papers be found invalid.

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

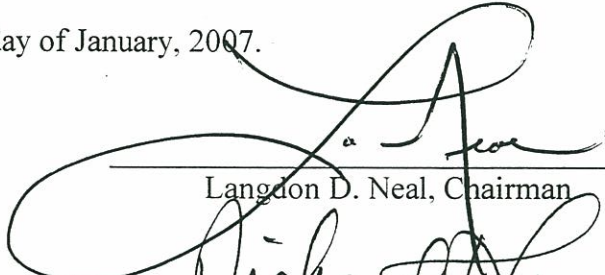
15. For the reasons stated above, the Electoral Board sustains the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are invalid.

16. The Electoral Board further finds that there were two other objections filed against the Candidate's Nomination Papers in cases 07-EB-ALD-019 and 07-EB-ALD-141. The objections in 07-EB-ALD-141 were withdrawn. The objections in 07-EB-ALD-019 were sustained and the Board found that the Candidate's Nomination Papers were invalid.

IT IS THEREFORE ORDERED that the Objections of VIRGIL E. JONES to the Nomination Papers of ALFREDO CASTILLO, candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago, are hereby SUSTAINED and said Nomination

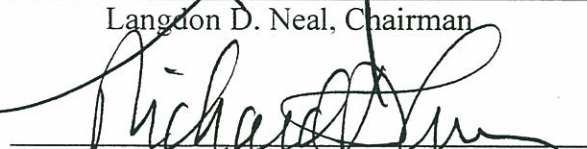
Papers are hereby declared INVALID and the name of ALFREDO CASTILLO, candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 27, 2007.

Dated: Chicago, Illinois, this 23rd day of January, 2007.



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Langdon D. Neal, Chairman



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Richard A. Cowen, 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 10 days after the decision of the Electoral Board.

Service Attached  
(over)

BEFORE THE CHICAGO BOARD OF  
ELECTION COMMISSIONERS

Hearing Examiner's Report

Virgil E. Jones,	)	
	)	
Objector,	)	
	)	No. 07-EB-ALD-144
vs.	)	
	)	(Related to No. 07-EB-ALD-019, ALD-141)
Alfredo Castillo,	)	
	)	
Candidate.	)	

1. This matter was first called for hearing on January 2, 2007 at 3:30 p.m. The Candidate appeared *pro se*. The Objector appeared *pro se*. Board Group Exhibits A through D were marked and admitted.

2. The Candidate was granted leave to file his Motion To Dismiss. The Objector was granted leave to file his Response. The matter was scheduled for further hearing on January 10, 2007 at 11:00 a.m.

3. On January 11, 2007 a hearing was conducted first upon Candidate's Motion to Dismiss and second upon Objector's Petition.

4. After presenting arguments on the Candidate's Motion To Dismiss which was primarily based upon the fact that Objector's Petition named the wrong Candidate in his "Wherefore" Clause, the Objector responded that the mistake was a typographical error and further that the Petition taken as a whole clearly was addressed to Mr. Castillo's Candidacy. The Hearing Examiner denied Candidate's Motion To Dismiss.

5. The hearing continued based upon the Objector's Petition. The Objector went forward only with respect to Paragraph 4 and Paragraph 8 of his Petition. Therefore, the

Objector abandoned or withdrew his objections contained in Paragraphs 5, 6 and 7 of the Objector's Petition.

6. Paragraph 4 of the Objector's Petition alleges that the Candidate had not been a registered voter at 6507 S. Kedzie at least one year. The Objector's Exhibit 1 was marked and admitted. This two-page document establishes that the Candidate became registered at 6507 S. Kedzie on December 12, 2006. The Candidate admitted that prior to December 12, 2006 he was registered in the 22<sup>nd</sup> Ward. The Hearing Examiner finds as a matter of fact that the Candidate resided in the City of Chicago at least one year next preceding the election. *Cole v. Murphy*, 99-EB-ALD-043 (CBEC, 1/19/99). Therefore, the Hearing Examiner overrules Paragraph 4 of the Objector's Petition.

7. Paragraph 8 of the Objector's Petition alleges that the Candidate's Nomination Papers were not securely fastened.

8. Board Exhibit E as admitted. This photograph depicts that the Nomination Papers were not bound in any fashion at the time of filing. Also the Board's Receipt for Nomination Papers also indicates that these papers were not bound. The Hearing Examiner finds as a matter of fact that the Candidate's Nomination Papers were not securely found or fastened in any fashion.

9. The Hearing Examiner concludes as a matter of law that 10 ILCS 5/10-4 was violated. As a matter of law, the requirement to securely bind the Nomination Papers is mandatory. *Bendell v. Education Officers Electoral Bd.*, 338 Ill.App. 458, 788 N.E.2d 173 (1st Dist. 2003).

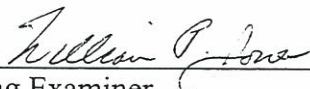
10. Further, as a matter of law, the opinion of *Wilson v. Rowans*, 03-EB-ALD-122 (CEBC, 01/01/03) stands that for the proposition that if the Nomination Papers are not bound in any fashion, then all the Nomination Papers are invalidated.

11. Therefore the Hearing Examiner, for all the above reasons, concludes that the Candidate's Papers are invalid and recommends that the name of Alfredo Castillo not appear on the ballot as a Candidate to the office of 15<sup>th</sup> Ward Alderman.

12. The related case of *Haynes v. Castillo*, ALD-019 went to hearing at 10:00 a.m. on January 10, 2007 and is subject to a separate written opinion.

13. The related case of *Silva v. Castillo*, ALD-141 is schedule for hearing on January 12, 2007 at 1:00 p.m.

Date: January 11, 2007

  
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Hearing Examiner  
William P. Jones