

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

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**Objections of: VIRGIL E. JONES** )  
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 )  
**To the Nomination** ) **No.: 07-EB-ALD-154**  
**Papers of: TOMMIE GRAYER, SR.** )  
 )  
**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 TOMMIE GRAYER, SR., 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 Joseph Morris 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*; the Candidate, TOMMIE GRAYER, SR., by counsel, Chester Slaughter.

7. The Objector alleges in part that the Candidate's Nomination Papers are invalid because they refer to and identify the election as the "General Primary" and such reference and identification of the election is improper.

8. The Objector alleges in part that the Candidate's Statement of Candidacy has been "whited out" in several places with no initials to indicate agreement with the changes.

9. The Objector alleges in part that the Candidate's Statement of Candidacy is not bound with the nominating petition sheets as required by law.

10. The Objector alleges in part that the Candidate's Nomination Papers are not valid because the Candidate is alleged to be an ex-felon.

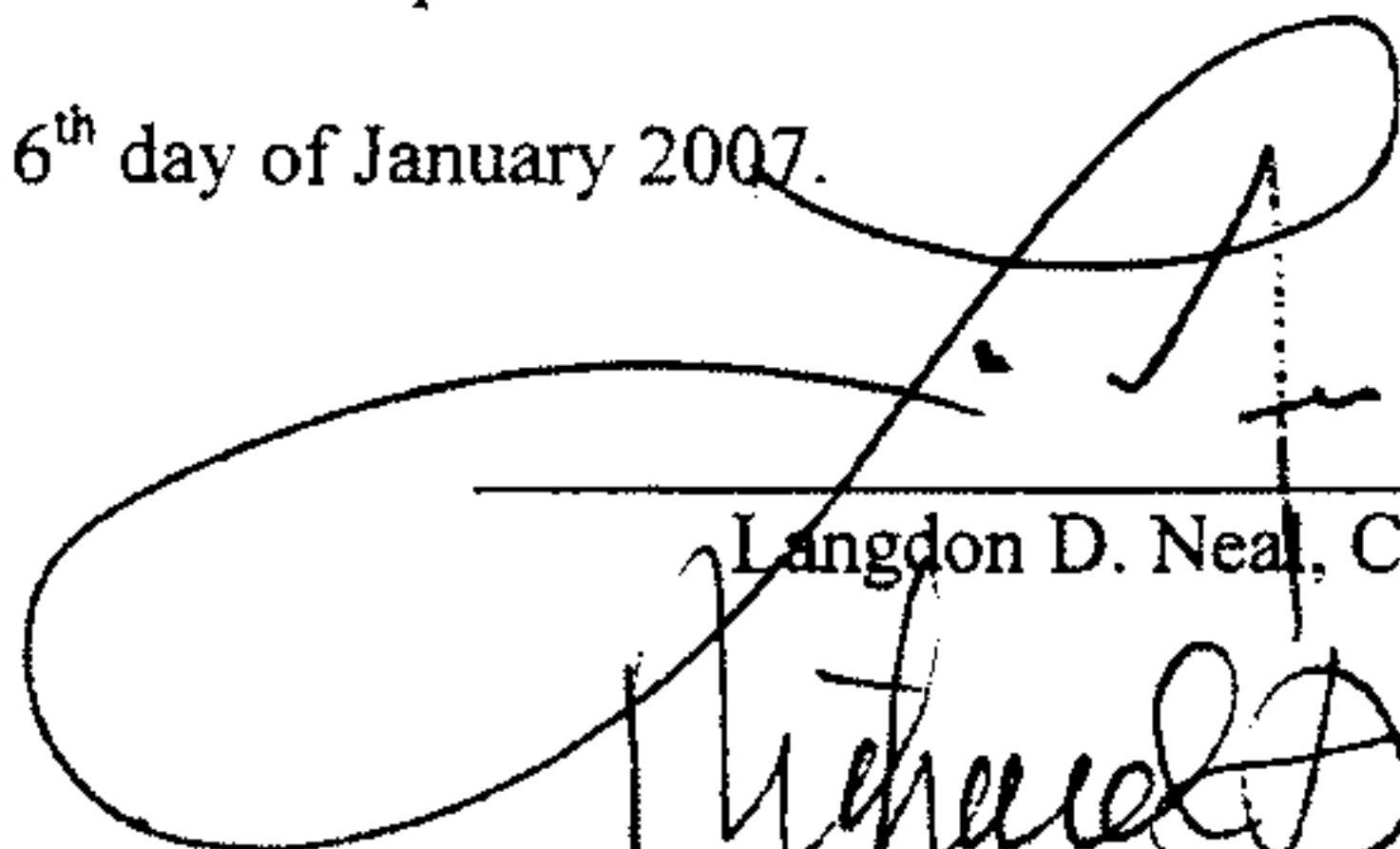
11. The Hearing Examiner has tendered to the Electoral Board his report and recommended decision. The Hearing Examiner recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be found valid.

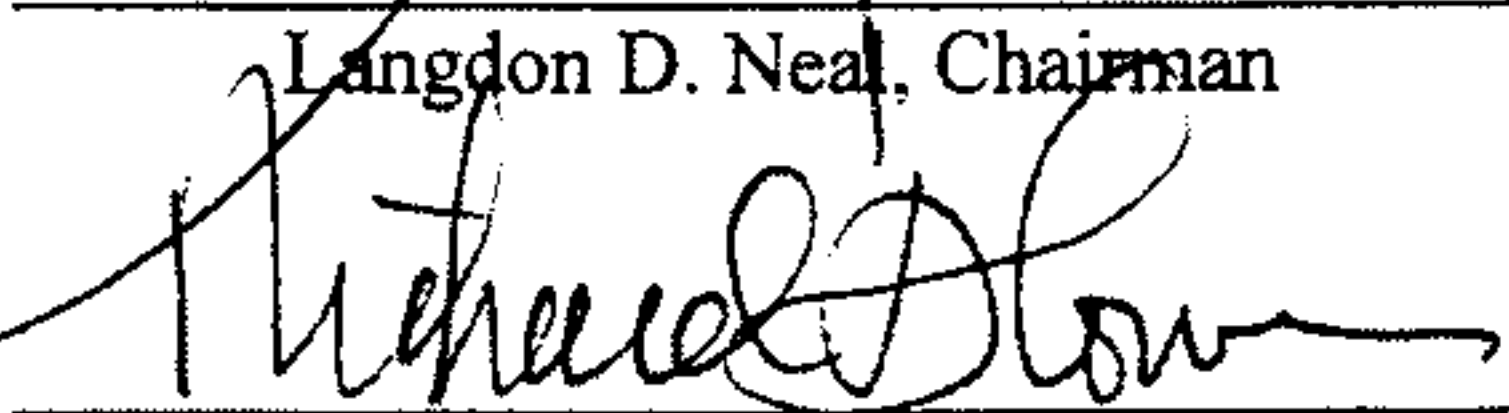
12. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Examiner, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Examiner's recommended findings and conclusions of law. A copy of the Hearing Examiner's Report and Recommended Decision is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

13. For the reasons stated above, the Electoral Board overruled 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 VIRGIL E. JONES to the Nomination Papers of TOMMIE GRAYER, SR., candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of TOMMIE GRAYER, SR., candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 27, 2007.

Dated: Chicago, Illinois, this 16<sup>th</sup> day of January 2007.

  
\_\_\_\_\_  
Langdon D. Neal, Chairman

  
\_\_\_\_\_  
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.**

BEFORE  
 THE BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO  
 AS THE DULY CONSTITUTED ELECTORAL BOARD  
 FOR THE HEARING AND PASSING UPON OBJECTIONS  
 TO NOMINATION PAPERS OF CANDIDATES  
 FOR THE FEBRUARY 27, 2007, MUNICIPAL GENERAL ELECTION  
 FOR MAYOR, CLERK, TREASURER, AND ALDERMAN  
 IN THE CITY OF CHICAGO

VIRGIL E. JONES,	)		
	)		
	) <i>Objector,</i>		
	)		No. 07-EB-ALD-154
vs.	)		
	)		Hearing Examiner Morris
TOMMIE GRAYER, SR.,	)		
	)		
	) <i>Candidate.</i>		

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**REPORT OF THE HEARING EXAMINER**

To the Board of Election Commissioners of the City of Chicago:

Hearing Examiner JOSEPH A. MORRIS reports as follows:

1. This matter came before the Hearing Examiner, pursuant to notice, for initial hearing on January 2, 2007. The Objector was present *pro se*. The Candidate was present by his counsel, Chester Slaughter of Chester Slaughter & Associates. No issue was raised as to sufficiency or timeliness of notice of the objection or of the hearing. Both parties filed written appearances.
  
2. Without objection, the Candidate's nomination papers for the office of Alderman of the 15th Ward of the City of Chicago were admitted into the record as Group Exhibit A; the Objector's Petition and attachments were admitted into the record as Group Exhibit B; the returns of service of process by the Sheriff of Cook County, Illinois, and written waivers were admitted into the record as Group Exhibit C; and the parties' written appearances were admitted into the record as Group Exhibit D.

3. Each party stated that he was in possession of the Rules of the Electoral Board. The Candidate stated that he intended to file a motion to strike and dismiss the objection. A filing, briefing, and hearing schedule was established for the motion to strike and dismiss, under which such a motion was to be filed by the Candidate on or before January 3, 2007, at 5:00 p.m.; a response, if any, was to be filed by the Objector on or before January 5, 2007, at 5:00 pm.; a reply, if any was to be filed by the Candidate on or before January 6, 2007, at 5:00 p.m.; and a hearing on the motion was set for January 8, 2007. The parties agreed that there was no issue as the number or sufficiency of petition signatures, and that no records examination was required.

4. The Candidate filed a timely motion to strike and dismiss. The Objector filed no response. A hearing on the motion to strike and dismiss was held on January 8, 2007.

5. The Objector's Petition presents five objections to the Candidate's nomination papers:

(a) In Paragraph 5 of the Objector's Petition, the Objector stated:

**TOMMIE GRAYER SR. NOMINATING PAPERS ARE NOT VALID BECAUSE THEY STATE GENERAL PRIMARY AND THERE, [sic] EXIST NO SUCH ELECTIONS. THE ELECTION IS THE MUNICIPAL GENERAL ELECTIONS...**

(b) In Paragraph 6 of the Objector's Petition, the Objector stated:

**THE STATEMENT OF CANDIDACY IS NOT THE PROPER STATEMENT FOR THE NON-PARTISAN ELECTION OF THE MUNICIPAL ELECTION THAT WILL BE HELD 27 FEBRUARY 2007. THE CANDIDATES HANDBOOK CLEARLY SHOWS THAT THE PROPER FORM IS CLEARLY LISTED AS SBE NO. P-1A WHICH SHALL CONTAIN NON-PARTISAN AT THE TOP AND CONTAIN ONLY THE NAME ADDRESS-ZIP CODE OFFICE CITY, VILLAGE, OR DISTRICT FAILURE TO FOLLOW THIS FORM AS SET OUT IN 10 ILCS 5/7(1).**

(c) In Paragraph 6 of the Objector's Petition, the Objector stated further:

**THE STATEMENT OF CANDIDACY HAS BEEN WHITED OUT IN SEVERAL PLACES WITH NO INITIALS TO INDICATE AGREEMENT WITH THE CHANGES.**

(d) In Paragraph 6 of the Objector's Petition, the Objector stated further:

THE STATEMENT OF CANDIDACY ... NOT BOUND TO THE NOMINATING PETITIONS AND REQUIRED BY LAW BECAUSE THE NOMINATING PETITIONS AND STATEMENT OF CANDIDACY ARE A PART OF THE NOMINATING PETITIONS.

(f) In Paragraph 5 of the Objector's Petition the Objector stated as follows:

TOMMIE GRAYER SR. NOMINATING PAPERS ARE NOT VALID BECAUSE ... GRAYER WAS ALLEDGED [*sic*] TO BE A FELON ... FOR MAN SLAUGHTER

6. The Candidate's motion to strike and dismiss addressed the first two of those issues, and the Hearing Examiner is prepared to recommend that the Board grant that motion with respect to those two issues. Examination of the statement of candidacy itself shows that it is precisely in the form (SBE No. P-1A) suggested for use in a non-partisan municipal election, and it otherwise conforms to the requirements of law for the form of a petition in such circumstances. Facial examination of the Candidate's petition signature sheets shows that they are also entirely suitable for use in a non-partisan municipal election, and both forms plainly state "nonpartisan" at the top. The circling of the word "nomination", rather than "election", on either document does not invalidate the nomination papers. *Arce v. Santos*, 96-EB-WC-34, CBEC (Jan. 29, 1996); *Jackson v. Davis*, 96-EB-WC-55, CBEC (Jan. 19, 1996); *Scianna v. Frederickson*, 94-EB-REP-7, CBEC (Jan. 24, 1994); and *Washington v. Williams*, 92-EB-REP-31, CBEC (Feb. 10, 1992). The petition signature sheets describe the election to be held on February 27, 2007, inaccurately as a "general primary election" when it will be, in fact, a municipal general election. This Board has previously held, however, that such a mis-naming of the election is not so confusing to voters or otherwise so fatally misdescriptive of the election as to invalidate the nomination papers. *Campos v. Rangel*, 95-EB-ALD-79, CBEC (Jan. 23, 1995).

7. The Hearing Examiner will recommend, therefore, that the motion to strike and dismiss the objections of the Objector's Petition as to the suitability of the form for use in a non-partisan municipal general election be overruled.

8. The next two objections, although not addressed in the Candidate's motion to strike and dismiss, are suitable for consideration by the Hearing Examiner *sua sponte*. Simple resort to a facial examination of the nomination papers as they appear in the record of this proceeding, where they are Board Group Exhibit A, shows no sign of "whiting-out" or other impermissible alteration of the documents, nor does it reveal any sign that they were not properly and securely bound, as required by law, at the time that they were filed. The Objector's Petition offers no specifics and proffers no evidence in support of these claims. The Hearing Examiner will recommend that they, too, be overruled.

9. The final objection was also not addressed in the Candidate's motion to strike and dismiss, but it, too, is susceptible of resolution by the Hearing Examiner and the Board acting *sua sponte*. The objection states, in its entirety, "TOMMIE GRAYER SR. NOMINATING PAPERS ARE NOT VALID BECAUSE ... GRAYER WAS ALLEDGED [*sic*] TO BE A FELON ... FOR MAN SLAUGHTER". Section 10-8 of the Election Code, 5 ILCS § 5/10-8, requires that "The objector's petition ... shall state fully the nature of the objections to the certificate of nomination or nomination papers or petitions in question." The final objection falls far short of that command. Who alleged the Candidate to be a felon? What gives such an allegation weight? In what court, on what date, of what felonious crime, if any, was the Candidate convicted? What punishment, if any, was imposed on the Candidate? Has such punishment, if any, been meted out, and has the Candidate fully concluded service of such a sentence? Assuming that any such allegations are true, what law



invalidates the Candidate's nomination papers on account of them? All these questions, and more, are demanded by the words of the Objector's Petition, and none of them is answered by it. This falls far short of the Objector's duty to "state *fully* the nature of the objections". That duty is imposed as a simple matter of fundamental due process: The Candidate is entitled to know, with reasonable specificity, the basis for a claim that his nomination papers are insufficient. This Board has held that an objector's petition must adequately and sufficiently apprise the Candidate of the specificity of each objection, thus making it possible to evaluate the objection and meaningfully respond to it. *Alschuler v. Feigenholtz*, 94-EB-REP-009, CBEC (Jan. 19, 1994). An objector's petition is, in effect, a pleading; it need not contain within it all the proof of its claims; but it must set forth its claims in sufficient detail and with sufficient clarity that both the adjudicator and the opposing party can understand what the controversy is about. *See, e.g., Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974) ("When a federal court reviews the sufficiency of a complaint, before the reception of any evidence either by affidavit or admissions, its task is necessarily a limited one. The issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims"). Electoral board proceedings cannot depend, of course, upon the rules of notice pleading which prevail under the Federal Rules of Civil Procedure. Timelines between the filing of nomination papers and the publication of ballots are very short, and objectors must therefore be prepared to state their cases amply and proceed to prove them with dispatch; hence the command of the Election Code that objections be stated "fully". For this very reason the electoral system cannot afford the luxury of pleading and re-pleading until claims are sufficiently well-stated; to the contrary, the Election Code does not permit the amendment of objections after deadline for the filing of objector's petitions has passed. Not only is the refusal of an electoral board to permit the post-

deadline amendment of an objector's petition *not* an abuse of its discretion, *Stein v. Cook County Officers Electoral Board*, 264 Ill.App.3d 447, 636 N.E.2d 1060 (1st Dist.), but its action in allowing the amendment of an objection is void. *Reyes v. Bloomingdale Township Electoral Board*, 265 Ill.App.3d 69, 638 N.E.2d 732 (2d Dist. 1994). The instant objection, however, fails to satisfy even the lenient standards of notice pleading. See, e.g., 2 James Wm. Moore, MOORE'S FEDERAL PRACTICE § 8.04[2], at 8-24.3 (3d ed. 2005) ("Pleading conclusory allegations of fact or law is permitted, provided the averments are 'short and plain' and give fair notice to the defending parties of the claim and the grounds alleged in support.") (*emphasis added*). The Hearing Examiner must recommend that this objection also be overruled.

#### **Recommended Findings, Conclusions, and Decision**

10. On the bases of a facial examination of the nomination papers, of the Objector's Petition and attachments, of the statements and stipulations of the parties, and of all other proceedings held herein, the Hearing Examiner recommends that the Electoral Board enter the following conclusions of law:

(a) The nomination papers filed by the Candidate sufficiently identify the election with respect to which the nomination papers were filed.

(b) The nomination papers filed by the Candidate substantially comply with the requirements of law pertaining to the forms required in non-partisan municipal general elections.

(c) The nomination papers were not tampered with or impermissibly amended.

(d) The nomination papers filed by the Candidate do strictly comply with the

requirement of law that a petition 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.

(e) The objection that the Candidate is ineligible for election on account of a prior felony conviction was not fully stated by the Objector and therefore may not be considered by this Board.

(f) The Objector's Petition is not well- founded and should be overruled, and the relief sought therein should not be granted.

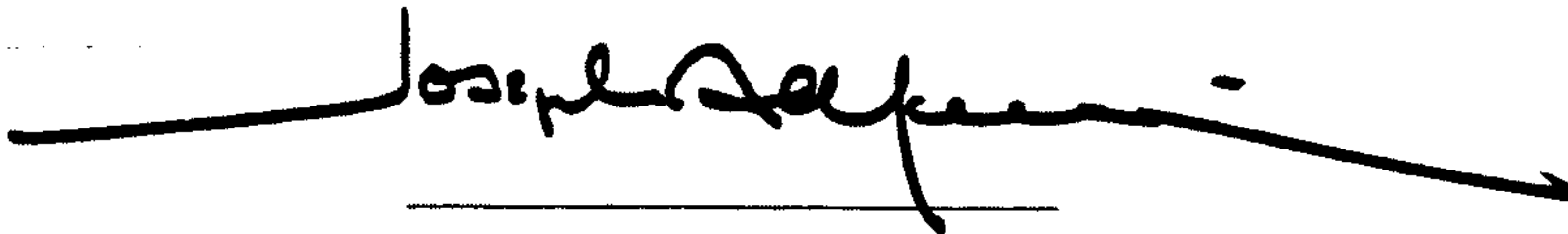
(g) The Candidate's motion to strike and dismiss is well-founded, and should be granted.

11. Accordingly, on the basis of the conclusions and report set forth herein, the Hearing Examiner recommends that the Electoral Board enter the following final administrative decision:

The name of Tommie Grayer, Sr., shall appear and shall be printed on the ballot for election to the office of Alderman of the 15th Ward of the City of Chicago to be voted for at the Municipal General Election to be held on February 27, 2007.

Dated: January 13, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph A. Morris", written over a horizontal line.

JOSEPH A. MORRIS  
Hearing Examiner