

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

Objections of: GLORIA A. WILLIAMS)
and LARRY D. REID)
)
)
To the Nomination) No. 08-EB-RES-01
Papers of: SHAWN P. HEALY)
)
)
Candidate for the office of)
State Senator for the 3rd Legislative)
District, State of Illinois, Republican Party)

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Chicago Board of Election 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 GLORIA A. WILLIAMS and LARRY D. REID ("Objectors") to the nomination papers ("Nomination Papers") of SHAWN P. HEALY, candidate for the nomination of the Republican Party to the office of State Senator for the 3rd Legislative District, State of Illinois ("Candidate"), having convened on April 22, 2008, at 69 W. Washington Street, 8th Floor Conference Room, 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 Objectors 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 April 22, 2008 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner BARBARA GOODMAN for further hearings and proceedings.

6. The Objectors and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner for a hearing on the date and at the time designated on the Electoral Board's docket. The following persons, among others, were present Illinois such hearing: the members of the Electoral Board, the Objectors, GLORIA A. WILLIAMS and LARRY D. REID, appearing by counsel, MICHAEL C. DORF and the Candidate, SHAWN P. HEALY, appearing by counsel, STEPHEN F. BOULTON.

7. The Objectors raised two principal issues. First, the Objectors contend that the April 7, 2008 resolution nominates "Shawn P. Healey" as the candidate of the Republican Party for the office of State Senator for the Third Legislative District of Illinois, but voting record show that the Candidate's last name is actually spelled "Healy", and not "Healey" as indicated on the resolution. The same is true for the Statement of Economic Interests filed by or on behalf of the Candidate. The Objectors contend that because "Shaw P. Healey" is not the true name of the Candidate, the resolution and the

Statement of Economic Interests filed with the Illinois State Board of Elections are invalid.

8. Second, the Objectors contend that the entity purporting to be the "Legislative District Committee of the Republican Party in and for the 3rd Legislative District of Illinois" has not filed with the State Board of Elections any certification or other notification evidencing that it has organized as a legislative committee under the Election Code as required by Section 8-5 of the Code.

9. The Hearing Examiner has reported that the facts of the case are not in dispute. On April 7, 2008, a Resolution to Fill a Vacancy in Nomination Occurring after Primary Election was filed with the State Board of Elections. Prior and subsequent thereto, no Statement of Organization was filed with the State Board of Elections. It is a further undisputed that only a valid legislative committee may pass a resolution to fill a vacancy in nomination.

10. The Candidate filed a motion to dismiss the Objectors' objection petition on the grounds that the Objections failed to point to a requirement that exists as a matter of law. The Hearing Examiner denied the Candidate's motion to dismiss, concluding that the Objectors' Petition established the basis for invalidating nomination papers for a failure of a legislative committee to file a certificate of organization.

11. The Hearing Examiner noted that Section 8-5 on the Election Code (10 ILCS 5/8-5) sets forth the method by which a legislative committee must meet and organize. The section provides in relevant part:

"Within 180 days after the primary of each other even-numbered year, each legislative committee and representative committee shall meet and proceed to organize by electing from its own number a chairman, and either from its own number or otherwise such other officers as each

committee may deem necessary or expedient. Immediately upon completion of organization, the chairman shall forward to the State Board of Elections, the names and addresses of the chairman and secretary."

12. The Hearing Examiner framed the issue to be decided as whether Section 8-5 on the Election Code is mandatory and the failure to comply therewith is fatal, or whether the statutory requirement is merely directory with no consequences to the overall validity of the nominating papers.

13. The Hearing Examiner, based upon a reading of the Section 8-5 and Section 8-1 of the Election Code, as well as the decision in *Carnell v. Madison County Officers Election Board*, 299 Ill.App.3d 419, 701 N. E.2d 548 (Fifth District 1998), concluded the where Section 8-5 is violated, Section 8-1 dictates that the nominating papers be rendered invalid.

14. As regards the misspelling of the Candidate's name as "Healey" rather than "Healy", the Hearing Examiner found that no evidence was presented by the Objectors to establish that the person specified in the resolution and receipt for the Statement of Economic Interest - "Shawn P. Healey" - was not the same "Shawn P. Healy" who filed the Statement of the Candidacy. The Hearing Examiner further concluded that the Objectors failed to establish that the misspelling of the Candidate's name was anything more than a *de minimis* error having any effect on the overall validity of the nominating papers. Accordingly, the Hearing Examiner overruled the objection as to the spelling of the Candidate's name.

15. Based upon the failure of the Legislative Committee of the 3rd Legislative District for the Republican Party to file a certificate of organization with the State Board

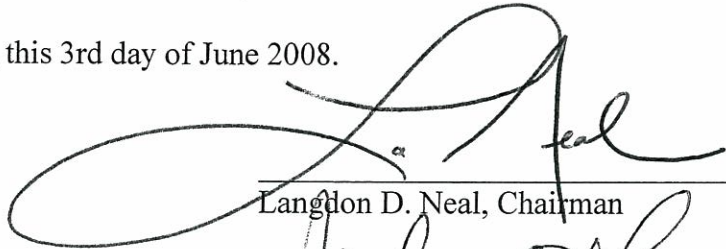
of Elections, the Hearing Examiner has recommended that the Candidate's Nomination Papers be deemed invalid.

16. The Electoral Board has reviewed the evidence and arguments of the parties in this case, as well as the Hearing Examiner's report and recommended decision, and the Electoral Board hereby adopts the Hearing Examiner's recommended findings of fact and conclusions of law in this matter.

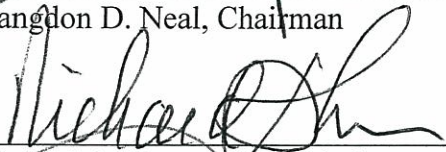
17. For the reasons set forth above, as well as for the reasons stated in the Electoral Board's decisions in case numbers 08- EB-RES-03 and 08-EB-RES-05, the Electoral Board finds that the Objections are hereby sustained insofar as they allege a violation of the mandatory requirement of Section 8-5 to file with the State Board of Elections the names and addresses of the officers of the Legislative Committee for the Republican Party in the Third Legislative District of Illinois. Accordingly, the Electoral Board finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED, that the Objections of GLORIA A. WILLIAMS and LARRY D. REID to the Nomination papers of SHAWN P. HEALY, candidate for the nomination of the Republican Party to the office of State Senator for the 3rd Legislative District, State of Illinois are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of SHAWN P. HEALY, candidate for nomination of the Republican Party to the office of State Senator for the 3rd Legislative District, State of Illinois, SHALL NOT be printed on the official ballot for the General Election to be held on November 4, 2008.

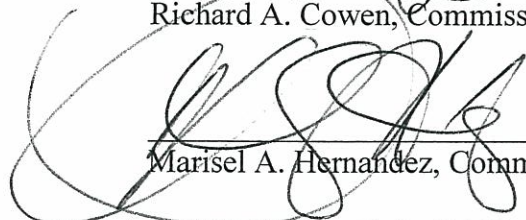
Dated: Chicago, Illinois, this 3rd day of June 2008.



Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner



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 10 days after the decision of the Electoral Board.