



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 April 22, 2008 and was continued from time to time.

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

6. The Objector 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 at such hearing: the Objector, FLAVIO GONZALEZ, appearing by counsel, MICHAEL J. KASPER; and the Candidate, JANET A. DELICH, appearing by counsel, STEPHEN F. BOULTON. The Candidate was represented in subsequent proceedings by additional counsel, Lori S. Yokoyama.

7. The Candidate was appointed to fill a vacancy in nomination for the Republican Party for the office of Representative in the General Assembly for the 2<sup>nd</sup> Representative District, State of Illinois, pursuant to a resolution to fill such vacancy that was filed with the Illinois State Board of Elections. Such appointment was purportedly made by the Republican Party's Representative Committee for the 2<sup>nd</sup> Representative District.

8. The Objector objects to the purported nomination of the Candidate to fill a vacancy in nomination alleging that the Representative Committee of the Republican Party for the Second District never filed a certificate of organization with the State Board of Elections indicating that it was organized as required by the Election Code. Specifically, the Objector claims that Section 8-5 on the Election Code requires that a representative committee meet and organize to elect a Chairman and a Secretary and then "immediately upon completion of the such organization," the chairman must forward to the State Board of Elections the names and addresses of the chairman and secretary of the committee. The Objector alleges that the Representative Committee for the Second Representative District for the Republican Party failed to fulfill the requirements of Section 8-5 of the Code.

9. Section 8-5 on the Election Code (10 I LCS 5/8-5) 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."

10. The Candidate filed a motion to dismiss the Objections asserting that a claim seeking to strike the name of the Candidate from the ballot based upon the purported failure of the Committee in question to tender the names and addresses of the Committee Chairman and Secretary under Section 8-5 of the Election Code must fail because such duty is merely "directory" and the failure to fulfill such requirement is not sufficient grounds for striking the Candidate from the ballot.

11. After considering the briefs and arguments submitted by the parties on this issue, the Hearing Examiner concluded that the requirement in Section 8-5 that the chairman of the representative committee forward to the State Board of Elections the names and addresses of the chairman and secretary of such committee "immediately upon completion of organization" of the committee is "mandatory" and not merely "directory" and that the failure to comply with the mandatory requirement operates to avoid the nomination. Accordingly, the Hearing Examiner recommends to the Board that the Candidate's motion to dismiss the objections be denied.

12. The Hearing Examiner set the matter down for an evidentiary hearing to be held on May 8, 2008 on the question of whether the Representative Committee for the Republican Party in the 2nd Representative District did, in fact, forward to the State Board of Elections the names and addresses on the chairman and secretary of the Representative Committee in question as required by Section 8-5 of the Code.

13. At the hearing on May 8, 2008, it was stipulated that the nomination of the Candidate to fill a vacancy in nomination for the office of Representative in the General Assembly for the 2<sup>nd</sup> Representative District occurred in a meeting held on April 4, 2008.

14. On May 8, 2008, the Objector filed a certificate under oath dated May 6, 2008 and executed by Mark Mossman, director of the Election Information Division of the Illinois State Board of Elections, stating that as of May 6, 2008, there was not on file with the State Board of Elections "any document from the Chairman of the Republican Party's 2nd Representative District Representative Committee so as to provide the names and addresses of the chairman and secretary of the said committee."

15. On May 8, 2008, the Candidate filed a document bearing a time stamp of May 8, 2008 (the day of the continued hearing) entitled "Certificate of Representative Committee Organization" for the Second Representative District Representative Committee containing the names and addresses of the chairman and secretary of the committee.

16. The Candidate contended that the filing of the Certificate of Representative Committee Organization May 8, 2008, satisfied Section 8-5 on the Election Code because the signatures of the Chairman and Secretary on the Resolution to Fill any Vacancy dated April 4, 2008, constituted substantial compliance with the provisions of the Election Code because so long as the signatures were provided, no addresses were necessary. Candidate further contended that since the committeemen are public officials it is relatively easy to determine whether they reside in the district, that the Election Code does not mandate that the names and addresses be submitted within the time period of time mandated to fill a vacancy, and that the submission of the addresses of the chairman and secretary of the committee within the time permitted to fill a vacancy (180 days after the primary) complies with the only time requirements of the Code.

17. The Objector contended that the filing of the addresses on May 8, 2008 did not cure the failure of the Committee's Chairman to file the addresses of the chairman and secretary immediately upon the organization of the committee and prior to the filing of the resolution to fill the vacancy in nomination in question. The Objector claims that absent an address on file with the State Board of Elections, it cannot be determined whether or not the elected committee chairman and secretary in fact resided in the Representative District, and therefore the ability to make an objection based upon

residency of the committee's officers cannot be made within the time allotted by the Election Code for filing objections.

18. The Hearing Examiner found that since the nomination of the Candidate occurred in a meeting on April 4, 2008, the organization of the Representative Committee for the Second Representative District would necessarily have occurred before the Candidate's nomination on April 4. Noting that Section 8-5 requires that "immediately upon completion of organization" the chairman must forward to the State Board of Election both the names *and addresses* of the new committee's chairman and secretary, the Hearing Examiner concluded that the clear meaning of the statute's language means that the filing with the State Board of Election occur "without delay, at once, instantly at the very moment," citing *Webster's New World Dictionary of the English Language, Second Edition*, World Publishing Co., 1970. The Hearing Examiner further concluded that the Committee's filing of a Certificate of Representative Committee Organization more than one month after the Candidate's nomination was not filed "without delay, at once, instantly" but rather was an attempt to correct a fatal error *nunc pro tunc*.

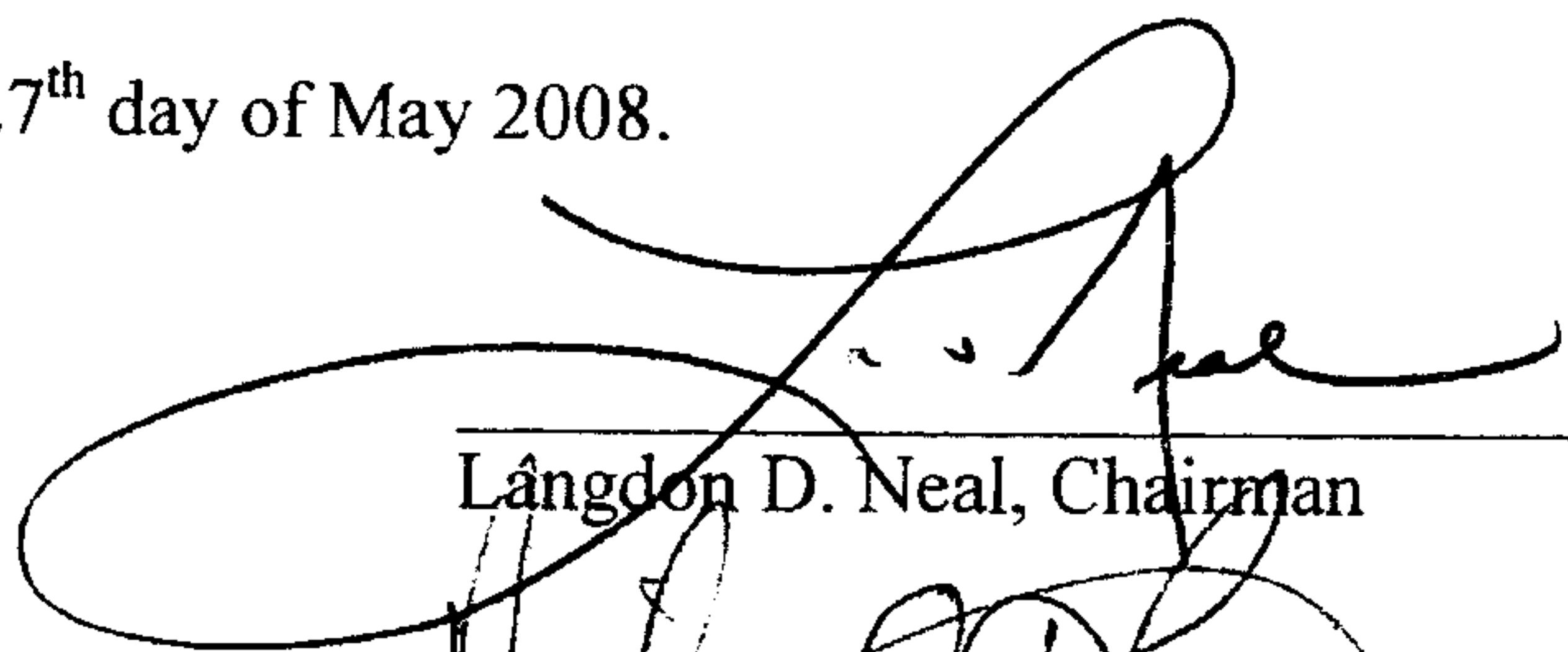
19. The Hearing Examiner further found that a plain examination of the signature of the chairman on the April 4, 2008 resolution nominating the Candidate to fill the existing vacancy in nomination was illegible and that one could not readily ascertain the identity of the chairman from the signature alone even if one were to accept the Candidate's argument that the chairman's signature alone and without an address satisfied the requirements of Section 8-5 of the Code.

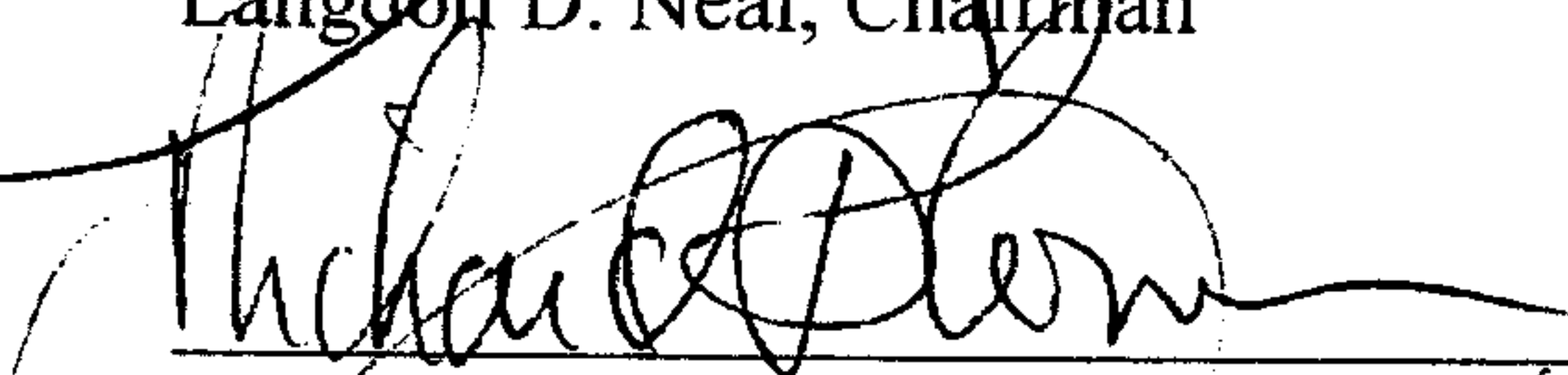
20. The Hearing Examiner has submitted his report recommending that the Electoral Board sustain the Objections to the Candidate's Nomination Papers and that the Electoral Board find that such Nomination Papers are, therefore, invalid.

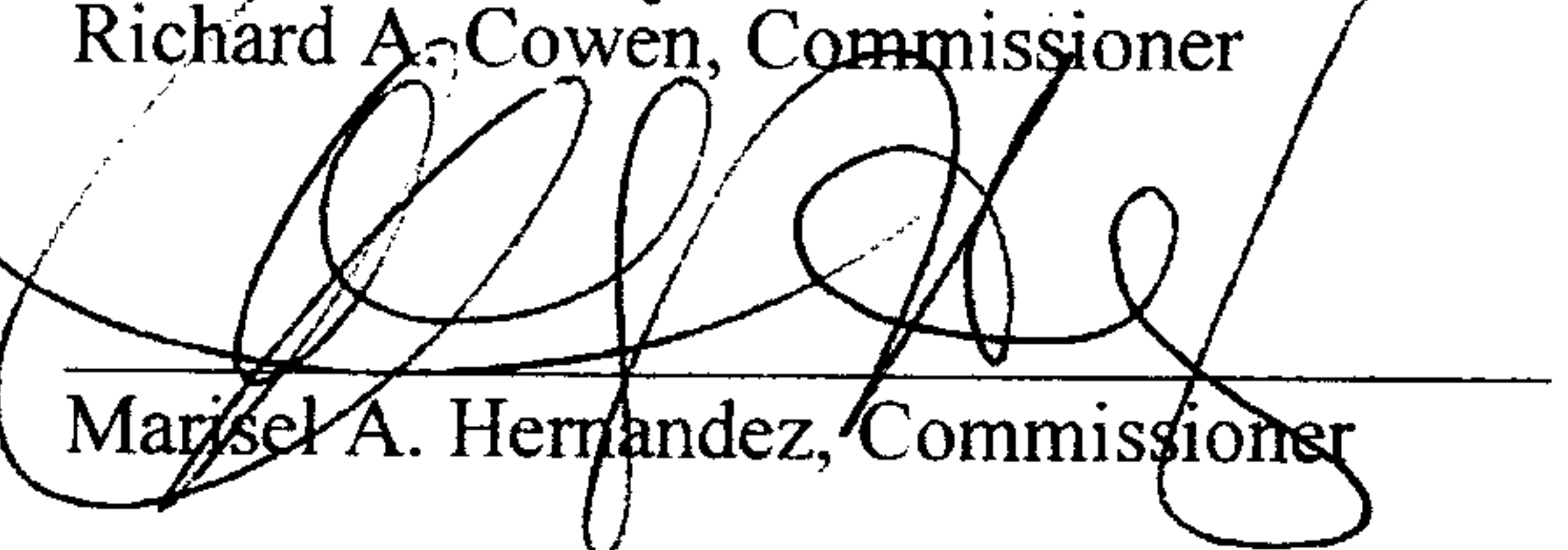
21. The Electoral Board has reviewed the record of proceedings in this case, the arguments of the parties and the recommended findings of fact and conclusions of law submitted by the Hearing Examiner. The Electoral Board hereby adopts the recommended findings and conclusions of law of the Hearing Examiner and copy of the Hearing Examiner's Recommended Order is attached hereto and incorporated herein. For the reasons stated above, the Electoral Board finds that the Candidate's motion to dismiss the Objections is denied, the Objections to the Candidate's Nomination Papers are sustained and that the Candidate's Nomination Papers are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of FLAVIO GONZALEZ to the Nomination papers of JANET A. DELICH, candidate for nomination of the Republican Party to the office of Representative in the General Assembly for the 2nd Representative District, State of Illinois, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JANET A DELICH, candidate for nomination of the Republican Party to the office of Representative in the General Assembly for the 2nd Representative 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 27<sup>th</sup> day of May 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.



BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON NOMINATION OBJECTIONS TO THE OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE SECOND REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Flavi Gonzales, )  
 )  
 Petitioner -Objector )  
 )  
 v. )  
 )  
 Janet A. Delich, )  
 )  
 Respondent Candidate )

08-EB-RES-03

2008 MAY 13 P 12:08

RECOMMENDED ORDER

On May 2, 2008, the Hearing Examiner filed a recommended order, a copy of which is attached, recommending to the Board that the Candidate-Respondent's motion to dismiss the Objection filed by Petitioner, be denied, based upon a finding the Section 8-5 of the Election Code requiring the names and addresses of the chairman and secretary be submitted to the State Board of Election immediately upon completion of organization was mandatory and not merely directory. The hearing Examiner requested the objector and the respondent to provide evidence by May 8, 2008 as to whether the names and addresses had been filed with the State Board of Elections.

On May 8, 2008 Objector filed a certificate under oath dated May 6, 2008 from the State Board of Elections, by Mark Mossman, director of the Election Information Division of the Illinois State Board of Elections. That document was admitted as Objector's exhibit 1. The exhibit certified that as of May 6, 2008, there was not on file with the State Board of Elections "any document from the Chairman of the Republican Party's 2<sup>nd</sup> Representative District Representative Committee so as to provide the names and addresses of the chairman and secretary of said committee."

Respondent-Candidate filed a document bearing a time stamp of May 8, 2008 (the day of the continued hearing) entitled "Certificate of Representative Committee Organization" for the 2<sup>nd</sup> Representative District Representative Committee containing the names and addresses of the chairman and secretary of

the committee. At the hearing on May 8, 2008, Respondent-Candidate contended that the filing of the Certificate of Representative Committee Organization on May 8, 2008 satisfied Section 8-5 of the Election Code because the signatures of the Chairman and Secretary on the Resolution to Fill a Vacancy (Respondent's Exhibit 2) dated April 4, 2008, but containing no addresses of the Chairman and Secretary was a substantial compliance with the provision of the Election Code, and that so long as the signatures were provided, no addresses were necessary. That document was admitted as Respondent-Candidate's Exhibit 2, and that exhibit provided that a vacancy was created on February 5, 2008 for failure to nominate a Republican candidate in the general primary election for Representative in the 2<sup>nd</sup> Representative District. It was stipulated (and so provided on Respondent's Exhibit 2) that the nomination of Janet A. Delich for the office of State Representative occurred in a meeting on April 4, 2008.

Objector contended that the filing of the addresses on May 8, 2008 was not in conformity with Section 8-5 and that the filing of the addresses was essential, and the attempted cure by filing the addresses on May 8, 2008 did not cure the defect. Essentially, Objector's argument is that absent an address, it cannot be determined whether or not the elected chairman and secretary in fact resided in the Representative District, and therefore the ability to make an objection based upon residency cannot be made within the time allotted by the Code for objection. Objector cited *Pochie v. The Cook County Officers Electoral Board*, 289 Ill. App. 3d 585, 682 N. E. 2d 258, (Ill. App. 1<sup>st</sup> Dist. 1997) as authority for the proposition that the addresses are essential.

The candidate filed a memorandum on May 12, 2008 contending that (1) since the committeemen are public officials it is relatively easy to determine whether or not they reside in the district (2) the Election Code does not mandate that the names and addresses be submitted within the period of time mandated to fill a vacancy; (3) the submission of the addresses of the chairman and secretary within the 180 days permitted to fill a vacancy complies with the only time requirement and consequently the Objector seeks to have the Board speculate about the intent of the Code; (4) no precedent or authority exists as to whether the addresses must be provided.

#### DISCUSSION

As noted above, it was stipulated (and so provided on Respondent's Exhibit 2) that the nomination of Janet A. Delich for the office of State Representative occurred in a meeting on April 4, 2008. It follows that the completion of organization of the committee would necessarily have occurred before the nomination of Janet A. Delich, and therefore, on April 4, 2008 or on some date before April 4, 2008. The words in issue of Section 8-5 of the Election Code provides: "Immediately upon completion of organization, the chairman shall

forward to the State Board of Elections the *names and addresses* of the chairman and secretary. (emphasis supplied)

It is clear that a residence address is essential to establish whether or not such person resides in the district. *Pochie*, cited by Objector, while relating to the requirement of Section 10-8 of the Code, establishes that, absent an address, a candidate whose nominating petitions are being challenged cannot readily determine that the objector resides in the district. Extending the logic of *Pochie*, it becomes clear that the residence requirement for an objector's petition should be equally applicable to a filing under Section 8-5 of the Code, since absent an address, the objector cannot readily determine whether the Chairman and the Secretary reside in the district. Insofar as whether a filing containing the names and addresses of the Chairman and the Secretary made more than a month after the nomination of the candidate satisfies the provision of Section 8-5, the word's ordinary meaning indicates:

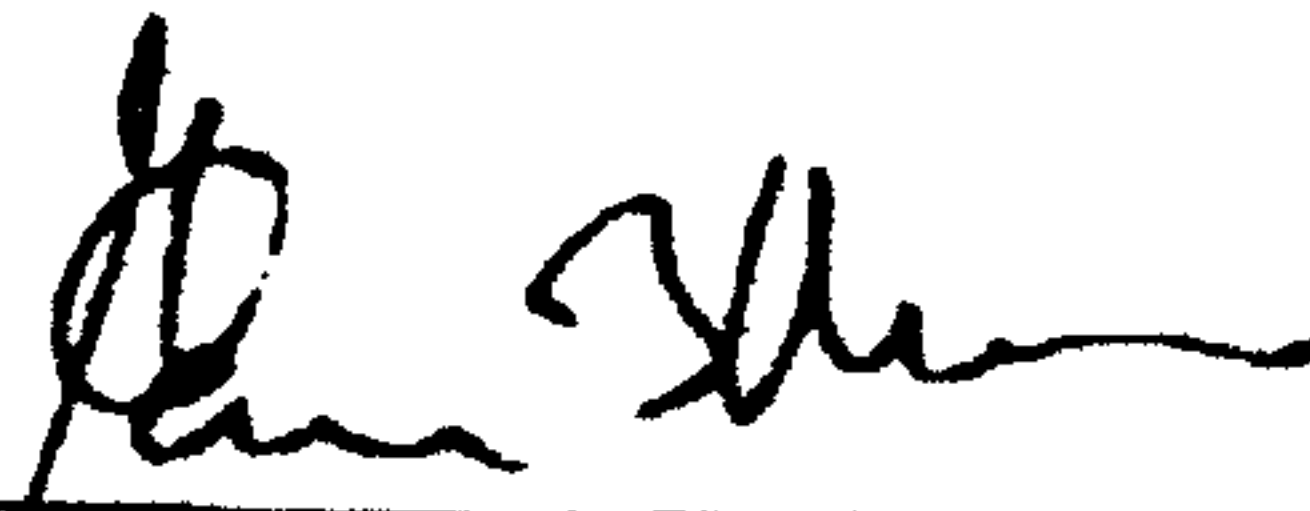
*Webster's New World Dictionary of the English Language, Second Edition, The World Publishing Co., 1970*: "Immediately: . . . without delay, at once, instantly, at the very moment that. . . ."

It appears that the document filed on May 8, 2008 was not filed "without delay, at once, instantly" but was an attempt to correct a fatal error *nunc pro tunc*.

One issue remains: the Candidate has argued that the signatures on the Certificate of Resolution to fill a vacancy timely filed, satisfies the requirement of Section 8-5 as to the names of the chairman and secretary. Visual appearance of the handwritten signature of the chairman on the nominating paper shows an illegible name. While visual appearance of signatures is a legitimate factor that may be considered in determining whether the names are in accordance with the requirements of the Election Code, *Morton v. State Officers Electoral Board*, 311 Ill. App. 3d 982, 726 N.E. 2d 201 (Ill. App. 4<sup>th</sup> Dist, 2000) a plain examination of the signature of the chairman indicates that one could not readily ascertain the identity of the chairman from that signature.

Based upon the foregoing, the Hearing Examiner recommends to the Board that the Objection be sustained and enter a finding that the Nominating Papers for Janet A. Delich are invalid.

Respectfully submitted,



Gerald B. Mullin

May 13, 2008

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON NOMINATION OBJECTIONS TO THE OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE SECOND REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Flavi Gonzales, )
Petitioner -Objector )
v. )
Janet A, Delich, )
Respondent Candidate )

08-EB-RES-03

2008 MAY 13 P 12: 08

RECOMMENDED ORDER

This contest involves a construction of whether a provision of 10 ILCS 5/8-5 is mandatory, or merely directory in its requirement that the chairman of a committee elected from a political party legislative and representative committee in filling a vacancy for nomination of a Representative to the General assembly shall "[I]mmediately notify the State Board of Elections, the names and addresses of the chairman and secretary" Article 8 of the Election Code, in its entirety. [10 ILCS 5/8-1 et seq.] provides the structure for the nomination of all candidates for the General Assembly by all political parties. That section of the Election Code further provides,

The name of no person nominated by a party required hereunder to make nominations of candidates for members of the General Assembly shall be placed upon the official ballot to be voted at general election as a candidate unless such person shall have been nominated for such office under the provisions of this article 8.

Section 8.5 [10 ILCS 5/8-5] provides the plan by which legislative or representatives committees must be organized. Insofar as relevant to the present controversy, the portion of that Section 8.5 provides:

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* The outgoing chairman of such committee shall notify the members of the time and place (which shall be in the limits of such district) of such meeting. *(emphasis supplied)*

The present controversy arises from an objection to the nomination of Janet A. Delich for Republican candidate for the office of Representative from the Second Representative District in the General Assembly, brought by Flavio Gonzales on April 14, 2008. Apparently, although not unambiguously alleged in the objection, Janet A. Delich was nominated to fill a vacancy. The relevant provision of the Election Code [10 ILCS 5/9-17] which supplies the requirements in the event of the death of a nominated candidate, also provides:

...should the nomination for any other reason become vacant, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy *(emphasis supplied)*

The objection, in relevant part, asserts that

7...the Representative Committee of the Republican Party for the 2<sup>nd</sup> District never filed a "Certificate Of Organization" (or any other documentation ) indicating it has organized as required by the Illinois Electoral Code.

8. The failure to file a Certificate of Organization, or any other documentation demonstrating that the committee has properly organized, has deprived both the election authorities and the public of any information indicating that it has organized as required by the Illinois Election Code.

9. The Certificate of Organization or other evidence of organization is necessary because it provides election authorities and the public with the information necessary to identify the names and addresses of the committee's officers, and allows verification that the vacancy was filed by appropriate officials.

The Respondent-Candidate Janet A. Delich, on April 25, 2008 filed a motion to dismiss the objection, asserting:

(1) that the objection is premised upon a duty that does not exist in the Election Code in that "Nowhere in the objection does objector ever "specifically raise" the ground that the committee in question failed to inform the Board of the names and addresses as required under Section 5-8."; (2) "In paragraph 10, Objector finally raises a specific ground of objection: "Due to the foregoing failure to file a Certificate of Organization or other evidence of organization, the Nomination Papers are invalid in their entirety." (*underlining in original*); (3) assuming, *arguendo*, the objection asserts a claim based upon the purported failure of the Committee in question to tender the names and addresses of the Committee Chairman and Secretary under Section 8-5 of the Election Code, that duty is merely "directory" and cannot be a ground for striking the Candidate from the ballot.

In the motion, the Candidate-Respondent asserts that the use of the word "shall" in the phrase,

Immediately upon completion of organization, the chairman *shall* forward to the State Board of Elections, the names and addresses of the chairman and secretary. (*emphasis supplied*)

can be mandatory resulting in a void nomination, or merely directory, for which non-compliance does not create a void nomination. Candidate-Respondent argues that the use of the word "shall" in Section 5-8 should be construed as merely directory, citing *Peoples Independent Party v. Petroff* 191 Ill. App 3d 706, 548 N.E. 2d 145, 138 IL Dec. 915 (Ill. App. 5<sup>th</sup> Dist., 1989). That opinion construed Section 10-5 [10 ILCS 5/10-5] of the Election Code, and held that the failure to attach to nominating petitions a certificate

stating the names and addresses of the party officers authorized to nominate or fill vacancies as required by Section 10-5 did not preclude that candidate's from being placed on the ballot. Accordingly, Candidate-Respondent argues,

Section 8-5 is, if anything even more "directory" than Section 10-5 because the tender of committee information under Section 8-5 is completely independent of the filing of a nominating petition. Unlike Section 10-5, under Section 8-5 the tender of information is not required to be attached to the nominating petition and no objective deadline is even set for compliance, since the Code requires only the tender "immediately" Under *Petroff*, as matter of law [sic] the failure to provide the names and addresses does not threaten the integrity of an election. No specific penalty for a committee's non compliance with Section 8-5 exists in the Code, and certainly the Code does not mandate the voiding of nominations.

On April 30, 2008, Objector filed a response to the motion to dismiss. In the Objector's Response, he argued:

(1) The purpose of the pleading requirement of Section 10-8 is to afford the Candidate an adequate opportunity to prepare a defense; after claiming the issue was not specifically raised, the Candidate was nonetheless able to defend the allegation in Section B of his motion; (2) that when the committee fails to satisfy the organizational procedure of Section 8-5, any attempts to fill a vacancy in nomination pursuant to Section 7-61 are invalid, citing *Carnell v Madison County Officers Elec. Bd.*, 299 Ill App 3d 419, 701 N.E. 2d 548 (5th Dist., 1998)

Objector apparently does not contest that the use of the word "shall" in the Election Code can at times be mandatory resulting in a void nomination, or merely directory for which non-compliance does not create a void nomination, but argues that the requirement of Section 8-5 is mandatory because Section 8-1 provides a penalty for noncompliance ("The name of no person ...shall be placed upon the official ballot to be voted at the general election as a candidate unless such person shall have been nominated for such office under the provisions of this Article 8 ) The Objector notes that in *Carnell*, the court affirmed the decision of the Electoral Board invalidating an attempt to fill a

vacancy because two of the members of the representative committee who should have been elected pursuant to Section 8-5 were not so elected but were appointed by the Chairman of the County Central Committee. Objector argues that disclosure of the names and addresses of the committee's officers is the only public disclosure, and without such disclosure, the public has no ability to determine if the actions taken by the committee were made by those individuals authorized to do so. Objector further argues that "it makes no sense that the public would be empowered to file an objector's petition against this nomination process if committee were to be excused from providing the public with the information necessary to determine whether a basis for such an objection exists."

#### DISCUSSION

The objection appears to be sufficiently clear so as to afford the Candidate-Respondent an adequate opportunity to prepare and assert a defense, and the pleading requirement of Section 10-8 has been met, although as the Candidate-Respondent notes, the objection could have been stated in better form. Respondent-Candidate does not suggest that the names and addresses of the chairman and secretary were, in fact "immediately" (or ever) forwarded to the Board of Elections. That assertion, if it were established that the names and addresses were forwarded to the Board, would end the controversy and avoid the extended discussion of the issues. Accordingly, evidence that the names and addresses of the chairman and the secretary of the committee were or were not forwarded to the Board of Elections, becomes an essential issue for the ultimate disposition of this objection.



A review cases involving the question of whether a provision in the Election Code is mandatory or directory is somewhat helpful, but by no means entirely uniform, see, e.g., *Graham v. State Officers Electoral Board*, 269 Ill. App. 3d 609, (app. 4<sup>th</sup> Dist., 1995) ("if the conduct is prescribed in order to safeguard a person's rights, which may be injuriously affected by a failure to act, the statute is mandatory") *Bergman v. Orr* 347 Ill. App. 3d 339 (First Dist., 2004) ("Substantial Compliance can satisfy even a mandatory provision of the Illinois Election Code") *Brennan v. Illinois State Board of Elections*, 336 Ill. App. 3d 749 (First Dist., 2002) ("When a statute prescribes the performance of an act by a public official, the question of whether it is mandatory or directory depends on its purpose") *Brennan v. Kolman* 335 Ill. App. 3d 716 (First Dist., 2003) ("the statute is directory if it merely provides certain procedures and does not declare the performance is essential to the validity of the proceeding") See also: *Wollan v. Jacoby*, 274b Ill. App. 2d 388 (First Dist., 1995) *Board of Library Trustees v. Mercer Carnegie Public Library Dist.* 237 Ill. App. 3d 836 (Third Dist., 1992) A comprehensive discussion of the issue can also be found in *Pullen v. Mulligan*, 138 Ill. 2d 21 (Ill. Sup. Ct., 1990)

The purpose of the provision in question Section 8-5 requiring the names and addresses of the chairman and secretary "immediately" to be forwarded to the Board of Elections, appears to be designed to allow the general public a method by which to promptly determine whether a person nominated as a Representative to the General Assembly has been so nominated in accordance with the Election Code. The notice to the Board of Elections is required in order to safeguard the rights of the public in determining whether the nomination was in accordance with the Election Code. The hearing examiner is

persuaded by the argument made by Objector that, "it makes no sense that the public would be empowered to file an objector's petition against this nomination process if committee were to be excused from providing the public with the information necessary to determine whether a basis for such an objection exists." The opinion in *Carnell v Madison County Officers Elec Bd*, 299 Ill. App 3d 419, 701 N.E. 2d 548 (5th Dist., 1998) cited by Objector is also persuasive, in that the court there construed Section 8-5, albeit not the identical provision as in issue here. The opinion in *Peoples Independent Party v. Petroff* 191 Ill. App 3d 706, 548 N.E. 2d 145, 138 IL Dec. 915 (Ill. App. 5<sup>th</sup> Dist., 1989) is inapposite in that it construes Section 10-5 of the Election Code. Substantial rights are involved here under Section 8-5 based upon the need to provide the public with the information necessary to determine whether a basis for objection exists, and accordingly the provision of Section 8-5:

Immediately upon completion of organization, the chairman *shall* forward to the State Board of Elections, the names and addresses of the chairman and secretary (*emphasis supplied*)

should be deemed mandatory and not merely directory, and the failure to comply with the mandatory requirement operates to void the nomination.

It is therefore recommended to the Board that the Candidate-Respondent's motion to dismiss the objections be **DENIED**

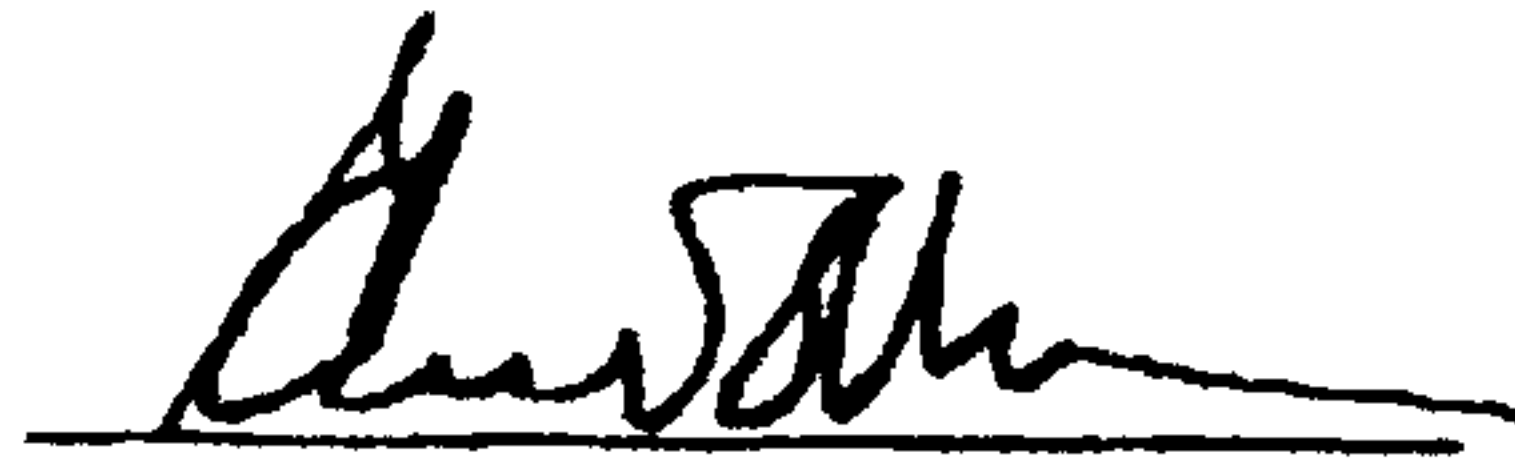
The Hearing Examiner directs the Candidate-Respondent prior to the next hearing date of May 8, 2008 to provide any evidence that the names and addresses of the chairman and secretary were, in fact, forwarded to the Board of Elections or in the alternative to

stipulate that the names and addresses of the chairman and secretary were, in fact, not forwarded to the Board of Elections

The Hearing Examiner directs the Objector prior to the next hearing date of May 8, 2008 to produce such evidence which may be available tending to establish that the names and addresses of the chairman and secretary were, in fact, not forwarded to the Board of Elections.

Respectfully submitted,

May 2, 2008



Gerald B. Mullin