

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

Objections of: JUDITH ROTHENBERG)	
)	
)	
To the Nomination)	No. 08-EB-RES-08
Papers of: DR. RICH CANER)	
)	
)	
Candidate for the office of Representative)	
in the General Assembly, 12th)	
Representative 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 JUDITH ROTHENBERG ("Objector") to the nomination papers ("Nomination Papers") of DR. RICH CANER, candidate for nomination of the Republican Party to the office of Representative in the General Assembly for the 12th Representative District, State of Illinois ("Candidate"), having convened on April 22, 2008, at 11:55 a.m., 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 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 MARIO CORREA 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 April 22, 2008.

7. The Hearing Examiner conducted an initial hearing of this case on April 22, 2008 at 11:55 a.m. The Objector's attorney, MICHAEL J. KASPER, was present. No one appeared on behalf of the Candidate. A review of the record revealed that the Candidate had not been served with a copy of the Electoral Board's Call to the hearing. The Hearing Examiner continued the hearing for April 28, 2008 at 2:00 p.m. to allow the Electoral Board another opportunity to serve the Candidate with a copy of the Call and notice of the hearing.

8. At the hearing on April 28, 2008, the case was called at 2:00 p.m. The Objector appeared through counsel, Michael J. Kasper. The Candidate did not respond to the call of the case. The case was recalled at 2:15 p.m., and again at 2:23 p.m. The

Candidate did not respond to the call of the case on three occasions and was not otherwise present.

9. The Electoral Board finds that the Candidate, DR. RICH CANER, was served with a copy of the Electoral Board's Call by certified mail on April 24, 2008 and a signed Domestic Return Receipt acknowledging receipt of the certified mail item was returned to the Electoral Board and was in the file. The Hearing Examiner confirmed that the address on the certified mail receipt matched the address on the nomination papers submitted on behalf of the Candidate and therefore found that proper serviced of the Electoral Board's Call had been tendered.

10. The Hearing Examiner has submitted a recommended decision finding that the Candidate was properly served with a copy of the Electoral Board's Call, that the Candidate failed to appear at the hearings scheduled in this matter, and is in default.

11. The Objector challenges the validity of the Candidate's Nomination Papers on two grounds: (a) that the chairman of the representative committee nominating the Candidate for the office sought did not comply with the requirements of Section 8-5 of the Election Code requiring that the chairman file with the State Board of Elections the names and addresses of the chairman and secretary of the committee immediately upon completion of the organization of the committee; and (b) that the Candidate's use of the title "Dr." preceding his name on the nomination papers violated Sections 7-10.2, 7-18 and 8-8.1 of the Election Code which provides that no other designation such as a political slogan, title, or degree or nickname suggesting or implying possession of a title, degree or professional status or similar information may be used in connection with the candidate's surname.

12. The Hearing Examiner also has recommended that the Candidate's Nomination Papers be found invalid for violating Section 8-8.1 of the Code in that the Candidate's Nomination Papers improperly included the title of "Dr." as part of the Candidate's name on said papers.

13. The Electoral Board hereby adopts the Hearing Examiner's report and recommended decision, a copy of which is attached hereto and incorporated herein.

14. The Electoral Board finds that the Candidate, DR. RICH CANER, did not appear at the duly called meeting of the Electoral Board nor at the initial hearing conducted in this matter after having been duly served with a copy of the Call and having been notified of the meeting and hearing in this cause as required by law.

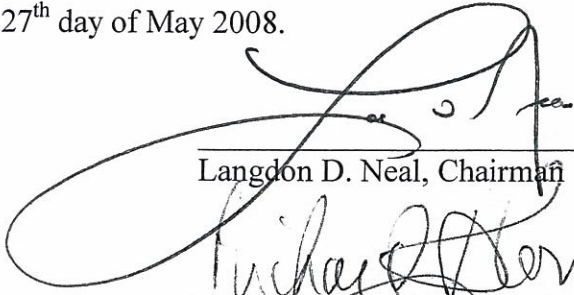
15. The Electoral Board further finds that the Objector's petition, on its face, contains sufficient allegations, if accepted as true, to invalidate the Candidate's Nomination Papers.

16. Therefore, the Electoral Board finds that the Candidate, DR. RICH CANER, is in default, that the Objections are sustained, and that the Candidate's Nomination Papers are invalid.


IT IS THEREFORE ORDERED that the Objections of JUDITH ROTHENBERG to the Nomination Papers of DR. RICH CANER, candidate for nomination of the Republican Party to the office of Representative in the General Assembly for the 12th Representative District, State of Illinois, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of DR. RICH CANER, candidate for nomination of the Republican Party to the office of Representative in the General

Assembly for the 12th Representative District, State of Illinois, SHALL NOT be printed on the official ballot for the General Election to be held on November 4, 2008.

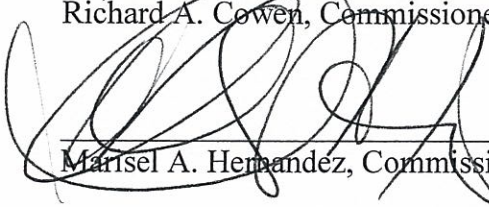
Dated: Chicago, Illinois, this 27th day of May 2008.



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 BOARD OF ELECTION COMMISSIONERS
FOR THE CITY OF CHICAGO

In Matter of)
)
DR. RICH CANER,)
Candidate,)
)
and) No. 08-EB-RES-008
)
JUDITH ROTHENBERG)
Objector.)

**HEARING EXAMINER'S REPORT
AND RECOMMENDED DECISION**

I, hearing examiner, Mario Correa ("Hearing Examiner") hereby recommends that the Chicago Board of Election (the "Election Board") enter a decision to remove the candidate DR. RICH CANER (the "Candidate") from the ballot for the following reasons:

1. On April 22, 2008, the Hearing Examiner called the hearing into session at 11:55 a.m. Appearing for the Judith Rothenberg ("Objector") was attorney Michael J. Kasper. No one appeared on behalf of the Candidate. A review of the record revealed that the Candidate had not been served. The Hearing Examiner scheduled the next hearing for April 28, 2008 at 2:00 pm.

2. On April 28, 2008, the case was called on three separate occasions, namely at 2:00 pm, 2:15 pm, and 2:23pm. The Candidate failed to appear. A review of the record showed that a certified mail receipt (#7007-2560-0001-1002-0694) had been signed and dated by the recipient on 4/24/2008. The Hearing Examiner confirmed that the address on the certified mail receipt matched that on the nominating papers (see Group Exhibit A) and therefore found that proper service had been tendered. Upon finding proper service, the Hearing Examiner found the Candidate in default then heard the Objector's argument based on the Objection Petition.

3. The Objector puts forth two arguments. First, the Objector, through his petition, argues that the Republican Party failed to comply with the Election Code by failing to file a

Certificate of Organization or other documentation demonstrating a representative committee was properly organized. Second, Objector argues that the use of the designation "Dr." was in violation of 7-10.2, 7-18, and 8-8.1 of the Election Code. Since the second argument is dispositive for the reasons detailed below, the first argument will not be addressed.

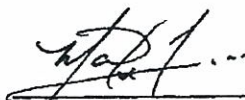
4. The Election Code at §8-8.1 expressly provides as follows:

In the designation of the name of a candidate on a petition for nomination, the candidate's given name or names, initial or initials, a nickname by which the candidate is commonly known, or a combination thereof, may be used in addition to the candidate's surname... No other designation such as a political slogan, title, or degree, or nickname suggesting or implying possession of a title, degree or professional status, or similar information may be used in connection with the candidate's surname.

5. Here, the Candidate included the term "Dr." in its candidates nominating papers. The title of "Dr." is a title that clearly implies Candidate is in possession of a "degree or professional status" and is therefore in violation of Election Code §8-8.1. In Rita v. Mayden, 364 Ill.App.3d 913 (1st Dist, 2006), the court addressed the remedy for violating Election Code §8-8.1 when it stated that "a candidate's use of an improper designation on his nominating papers in violation of section 8-8.1 of the Election Code requires the offending candidate's name be struck from the ballot." *Id.* at 922. In light of the clear precedence regarding the improper use of title, the Hearing Examiner recommends that the Candidate be removed from the ballot.

As a result of the foregoing, the Examiner recommends that the Board remove DR. RICH CANER from the ballot.

Respectfully Submitted,



Mario Correa, Esq.
Hearing Examiner