

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

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Objections of: GENEVA ROBERTS AND	)	
NINA JALIL	)	
	)	
	)	
	)	
To the Nomination	)	No. 08-EB-RGA-09
Papers of: ANTONNE 'TONY' COX	)	
	)	(rel. case RGA-08)
	)	
Candidate for the office of	)	
Representative in the General Assembly,	)	
9th District, State of Illinois, Green 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 GENEVA ROBERTS and NINA JALIL ("Objectors") to the nomination papers ("Nomination Papers") of ANTONNE 'TONY' COX, candidate for nomination of the Green Party to the office of Representative in the General Assembly for the 9th District, State of Illinois ("Candidate"), having convened on November 20, 2007, at 10:00 a.m., at 69 W. Washington Street, 8<sup>th</sup> 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 November 20, 2007 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 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 at such hearing: the Objectors, GENEVA ROBERTS and NINA JALIL, appearing pro se; and the Candidate, ANTONNE 'TONY' COX, appearing pro se.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

8. The Hearing Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during the records examination.

9. The Candidate or his duly authorized representative was present during the examination of the registration records.

10. The Objectors or their duly authorized representatives were present during the examination of the registration records.

11. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination conducted by its clerks and agents. The written report of the results of the registration records examination is contained in the Electoral Board's file in this case and is available for inspection upon request of a party.

12. 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.

13. 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.

14. The Electoral Board finds that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 500;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 694;



C. The number of signatures deemed invalid because of objections sustained total 476;

D. The remaining number of signatures deemed valid total 218.

15. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination is fewer than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for nomination of the Green Party to the office of Representative in the General Assembly for the 9th District, State of Illinois.

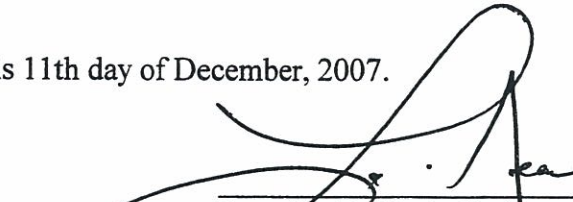
16. For the reasons stated above, the Electoral Board sustains the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are invalid.

17. The Electoral Board further finds that there were additional objections filed against the Nomination Papers of ANTONNE 'TONY' COX in case number 08-EB-RGA-08 and that the decision in that case was that the Candidate's Nomination Papers are not valid.

IT IS THEREFORE ORDERED that the Objections of GENEVA ROBERTS and NINA JALIL to the Nomination Papers of ANTONNE 'TONY' COX, candidate for nomination of the Green Party to the office of Representative in the General Assembly for the 9th Representative District, State of Illinois, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of ANTONNE 'TONY' COX, candidate for nomination of the Green Party to the office of Representative in the General Assembly for the 9th Representative District, State of Illinois, SHALL NOT be

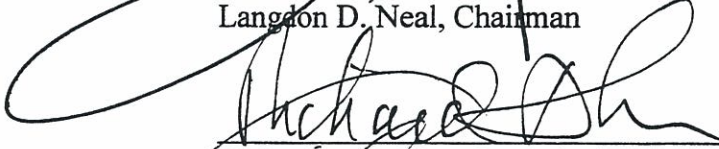
printed on the official ballot for the General Primary Election to be held on February 5, 2008.

Dated: Chicago, Illinois, this 11th day of December, 2007.



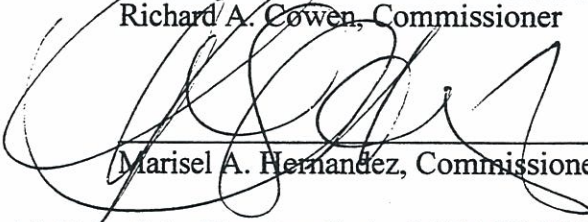
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Langdon D. Neal, Chairman



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Richard A. Cowen, Commissioner



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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 )  
)  
ANTONNE "TONY" COX, )  
Candidate, )  
)  
and ) No. 08-EB-RGA-09  
)  
GENEVA ROBERTS and )  
NINA JAIL )  
Objector. )

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

I, hearing examiner, Mario Correa ("Hearing Examiner") hereby state and recommend that the Board of Election enters a decision to remove the candidate ANTONNE "TONY" COX (the "Candidate") from the ballot for the following reasons and based on the following evidence:

1. On November 20, 2007, the Hearing Examiner opened hearings in the matter. The following persons, among others, were present at such hearing: GENEVA ROBERTS and NINA JALIL (collectively, the "Objector"), both appearing pro se; and the Candidate ANTONNE "TONY" COX, pro se. During said hearing the Candidate filed the following three motions: (a) Motion to Strike and Dismiss the Objector's Petition ("Motion to Strike"); (b) Motion for Discovery; (c) Motion for Discovery Deposition; and (d) Motion for Public Records. A record examination directive was issued.
2. On November 21, 2007, the Objector filed her response to the Motion to Strike.
3. On November 27, 2007, the Record Examination was completed. The Candidate did not appear at the record examination.

4. On November 28, 2007, a hearing was held on the Candidate's Motion to Strike. Said motion raised the following three issues: (a) that the Objector failed to state the "interest of the objector" in compliance with Election Code, 10 ILCS 5/10-8, (b) that the Objector failed to state the "nature of the objections" as also required under Election Code §10-8, and (c) the objector relies upon a signer not registered at the address shown.

a. The first to issues in the Motion to Strike are based on a passage in Election Code §10-8 wherein it provides that "The objector's petition... shall state the full nature of the objections... and shall state the interest of the objector..." As the court in Wollan v. Jacoby, 274 Ill.App.3d 388, 392 (1<sup>st</sup> Dist, 1995), stated Election Code §10-8 does not include a penalty provision for the objector's noncompliance with the above stated provision. "Although objectors are obligated to comply with all provisions of the Electoral Code, it does not follow that every noncompliance will invalidate an objection." Mortan v. State Electoral Board, 311 Ill.App. 982, 985 (4<sup>th</sup> Dist, 2000) *citing* Pullen v. Mulligan, 138 Ill.3d 21 (1990). "Where the effect of failure to comply with a particular statutory requirement is not specified, however, courts must consider the nature and object of the statutory provision and the consequences which would result from contruing it one way or another." *Id.*

b. The first issue is whether the objector's petition fails to state the interest of the objector as rquired by Election Code §10-8. Here, the Candidate alleges that the Objector failed to specifically state their interest in filing the Objection. However, in the Objector's Petitioner, the Objector stated that she was "seeking a hearing before the Board and ruling denying Candidate Antonee Cox



access to the... Primary Ballot.” Similar statements have been found to constitute a valid statement of an objectors interest. See Beiszczat v. Daley, 91-EB-ALD-094, CBEC, January 31,1991. Even assuming arguendo that the Objector fails to make an express statement of interest, the Hearing Examiner still found that the omission of a statement of interest is harmless error. This is based on the fact that objector’s motive is irrelevant. See Wollan, 274 Ill.App. at 392. Merely wanting to see that the elections laws are upheld has been found to be sufficient justification. *Id.* The fact that the Objector is seeking compliance with the election laws is implied from the fact that the objector’s petition was filed and listed several defects in the Nominating Papers. See Fulon v. Sanders, 91-EB-ALD-111, CBEC, January 30, 1991. Furthermore, the omission generic statement of objector’s interest does not thwart the effect of the Election Code nor does it adversely impact the Candidate.

c. The second issue raised was that the Objector allegedly failed to state the nature of the objections. The Candidate voluntarily withdrew this objection.

d. The third issue raised was that “the objector relies upon a signer not registered at the address shown, without consideration of 10 ILCS 5/5-2.” The Hearing Examiner did not understand this issue. The Candidate explained that the objections were based on old records and that 10 ILCS 5/5-2 only requires that registered voters live in a district for 30 days prior to registering. Therefore, if a signer recently moved into the area, the Boards records would not reflect that fact. The Hearing Officer ruled against the Candidate on this issue because it does not



address the legal sufficiency of the Objector Petition. The Candidate concedes that a signer not residing in his district is a valid objection. The issue of the methodology used is generally irrelevant. If old or unreliable data is used to prepare an Objector's Petition, then it will bear itself out in the Records Examination and at the hearing.

e. Since the Hearing Officer had already ruled on this issue, the underlying evidence that would be produced was moot. Put another way, even if the Candidate were able to prove that the records used by the Objector were outdated, it does not invalidate their objections. However, the Hearing Officer did give the Candidate an opportunity to make a record by allowing him to question objector Geneva Roberts. Ms. Roberts was sworn in and the Candidate asked her about the methodology she used to prepare the Petition. Ms. Roberts explained that she used the Board's computer to review the voter registration records of the signers listed in his Petition. Thus, Ms. Roberts sworn testimony established that she used a reasonable method.

f. The Record Examination was completed on November 27, 2007. On November 28, 2007, the Record Examination Results were entered into the record. Those results showed that 476 objections being sustained leaving 218 valid signatures. The Candidate was given leave to attempt to rehabilitate those signatures and a hearing was scheduled for December 5, 2007 at 1 p.m.

5. On December 1, 2007, the Record Examination was revised to correct an error on the number of signatures on the Petition. The correct number of signatures on the Petition was 694 signatures.

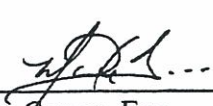
6. On December 5, 2007, a hearing was held to give the Candidate an opportunity to rehabilitate signatures. The Candidate failed to present any evidence rehabilitating any of the signatures on the Petition. The Record Examination was read into the record once again due to the revisions. During the hearing the Candidate attempted to raise several arguments attacking the Objector's Petition.

a. First, the Candidate attempted to reargue the third issue in his Motion to Strike regarding whether "the objector relies upon a signer not registered at the address shown, without consideration of 10 ILCS 5/5-2." This time the Candidate focused his argument on the Board's records rather than the Objector's process in using those records. In fairness, the Candidate had verbally alluded to this argument on the November 28, 2007, hearing. The central thrust of the Candidate's argument was that the Board failed to canvass his district as required by 10 ILCS 5/6-59. The Candidate indicated that the Board had not responded to his Freedom of Information Act ("FOIA") request regarding when the last canvassing was conducted. The Hearing Officer, on his own motion, requested a short recess to investigate. The Hearing Officer then recalled the case and presented two documents responding to the Candidate's FOIA request. Those documents were admitted into the record as Exhibits E and F. Exhibit E was a letter on Board letterhead that was signed by Joan T. Agnew, identified as the FOIA Officer, and it stated that the Board had conducted an NCOA canvass in May 2007 and September 2007. After hearing the additional argument, the Hearing Officer reaffirms his earlier decision to deny the Motion to Strike.

b. The Candidate then attempted to raise constitutional issues in his Motion to Recalculate Signature Requirements ("Motion to Recalculate"). The Hearing Officer received the motion but refused to hear argument on the grounds that it was untimely filed. Board Rule 10 limits argument to those issues raised in an objector's petition or a motion to strike. The Candidate argues that his Motion to Recalculate was timely since the issue of the number of minimum signatures was not ripe until Hearing Officer read the Record Examination into the record and ruled upon it. The argument is not persuasive since the Objector's Petition clearly states that the minimum signature requirement was 500 so the Candidate had an opportunity to raise an objection at that time he filed his Motion to Strike. Since Candidate failed to timely raise the issue of the minimum signature requirement, the Hearing Officer finds that the entire Motion to Recalculate Signature Requirement be stricken. Thus the Hearing Officer found that the Record Examination, including the minimum signature requirements, were valid, and that the Candidate failed to meet the minimum signature requirement.

As a result of the foregoing, the Examiner recommends that the Board remove ANTONNE "TONY" COX from the ballot.

Respectfully Submitted,

  
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Mario Correa, Esq.  
Hearing Examiner