

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

Objections of: DANIEL J. STEARNS)	
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To the Nomination)	No. 08-EB-RGA-12
Papers of: SHARON LATIKER)	
)	
)	
Candidate for the office of Representative)	
in the General Assembly, 25th District,)	
State of Illinois, Democratic 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 DANIEL J. STEARNS ("Objector") to the nomination papers ("Nomination Papers") of SHARON LATIKER, candidate for nomination of the Democratic Party to the office of Representative in the General Assembly for the 25th District, State of Illinois ("Candidate"), having convened on November 20, 2007, at 10:00 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 November 20, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Richard E. Zulkey 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, DANIEL J. STEARNS, appearing by counsel, Michael J. Kasper; and the Candidate, SHARON LATIKER, appearing by counsel, Sidney B. Smith and Bruce Nash.

7. The Candidate filed a motion to strike and dismiss the Objections, in part attacking objections that were made to certain signatures on the petition on the grounds both that the signature was not genuine and the signer was not a registered voter (referred to herein as "dual" objections). The Candidate argued that the both these allegations cannot be true and are inherently inconsistent. The Candidate contended that the only source from which the validity of a signature can be measured is the voter registration record on file. No determination of the genuineness of a petitioner's signature can be

made if a voter registration record is not on file with the Board, the Candidate contended. Therefore, the Candidate argued that the Objector “knowingly made a false assertion that the signature ‘is not genuine’ when they also assert that the signor is not registered.”

Motion to Strike, ¶3.

8. The Candidate also argued that the Objector’s practice of objecting both to the lack of registration and the genuineness of the signature was evidence of a bad faith or “shot gun” objection.

9. The Hearing Examiner agreed with the Candidate insofar as the Objector’s practice of “dual” objections was concerned, ordering that the 177 objections where the Objector alleged both that the “Signer not registered at address shown” (appearing on the Objector’s Appendix-Recapitulation exhibit under column “a”) and that “Signer’s signature not genuine”) (appearing on the Objector’s Appendix-Recapitulation exhibit under column “b”) be stricken from the Objections “as they are inconsistent.” Hearing Examiner’s “Memorandum on Motion to Strike Objector’s Petition,” at 2. On the record, the Hearing Examiner also remarked that “I’m confused by them myself. I just think that if I were a Candidate and I’m trying to determine what the objection is on those points, I’m not giving clear and adequate notice.” Transcript of hearing of December 3, 2007, at 24.

10. The Objector filed an emergency motion to be heard by the Electoral Board on the issue whether the Hearing Examiner’s decision to strike the “dual objections” from his Objector’s Petition was proper. The Electoral Board agreed to hear the Objector’s emergency motion and suspended the previously ordered records examination pending the Board’s ruling on the motion.

11. The Objector, in opposing the Candidate's motion to strike and dismiss the Objector's Petition, argued that while duplicative or "dual" objections *may* indicative of a bad faith or "shot gun" objection, it is not necessarily dispositive or irrefutable evidence of such.

12. The Objector also argued that the Candidate is wrong when she says that the "only source form [sic] which the validity of these signatures can be measured is the voter registration record of the signer on file" with the election board. The Objector argued that there are any number of methods by which an objector could obtain the factual basis for challenging the validity of a signature, citing, as examples, a petition sheet where (a) all the signatures are plainly signed by the same person because of distinct patterns of common authorship, (b) where one spouse signs for the other, (c) or a person could be a witness to a forgery on the petition.

13. After hearing from both parties, the Electoral Board reversed the decision of the Hearing Examiner with regard to the issue of "dual" objections. Rule 6 of the Electoral Board's Rules of Procedure provides that when the objection is that the signature of a signer of a petition sheet is not genuine and is not that of the person whose name appears on the petition sheet, "[I]f no registration record can be found for the person in question, or the registration record does not contain a computer-stored image of the person's signature, the objection shall be overruled at the records examination." The reason for this rule is that if no registration record exists and there is no sample of the person's handwriting in the registration system against which to compare petition signatures, it is physically impossible to make such a comparison. Accordingly, the objection will be overruled at the records examination. If an objector has independent

evidence (i.e., other than the Board's registration records) to support such an objection, the objector is free, of course, to present such evidence to the Board during an evidentiary hearing conducted under Rule 8 of the Rules of Procedure. If there is an objection that the same person is not a registered voter, that objection will be sustained. However, the Board will not, on its own, nor can it on its own, sustain an objection that the person was not registered if such objection was not first presented in the objector's petition. See, e.g., *Delay v. Board of Election Commissioners of the City of Chicago*, 312 Ill.App.3d 206, 209, 726 N.E.2d 755, 758 (1st Dist. 2000).

14. However, the Electoral Board finds that overruling an objection that a signature is not genuine at the records examination and striking both "dual" objections at the preliminary motion stage are two entirely different matters.

15. If the genuineness objection is overruled at the records examination, the objector is not precluded from bringing in independent evidence of the non-genuineness of the signature at a Rule 8 evidentiary hearing if the objector has such evidence. Thus, the objector is not necessarily foreclosed from pursuing the objection even if no voter registration record is found. But if both objections (genuineness and registration) are stricken at the outset by the hearing examiner on a motion to strike, the objector is foreclosed from presenting any evidence as to the genuineness of the signature (or of lack of registration, for that matter) during the evidentiary phase of the case.

16. The Electoral Board finds that there is no "*per se*" rule invalidating "dual" objections. Such objections are not necessarily "inconsistent" as the Candidate and the Hearing Examiner contend here, nor are they necessarily evidence of a bad faith or "shot gun" objection.

17. Accordingly, the Electoral Board reversed the Hearing Examiner's decision granting the Candidate's motion to strike and striking the "dual" objections and ordered that the case be sent immediately to a records examination for a check on all objections, including the so-called "dual" objections.

18. A record examination of the registration records was 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.

19. The Candidate or her duly authorized representative(s) was present during the examination of the registration records.

20. The Objector or his duly authorized representative(s) was present during the examination of the registration records.

21. 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.

22. The Electoral Board has considered all evidence and arguments tendered by the parties.

23. 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 2,230;

C. The number of signatures deemed invalid because of objections sustained total 1,653;

D. The remaining number of signatures deemed valid total 577.

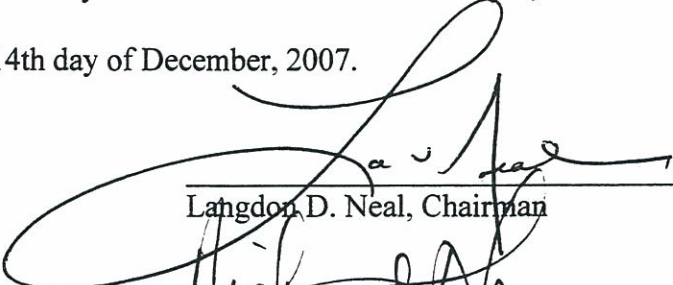
24. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for nomination of the Democratic Party to the office of Representative in the General Assembly for the 25th Representative District, State of Illinois.

25. The Electoral Board finds, therefore, that the objections to signatures appearing on certain sheets and lines of the Objector's Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

26. For the reasons stated above, the Electoral Board overrules the Objections and finds that the Nomination Papers of SHARON LATIKER are valid.

IT IS THEREFORE ORDERED that the Objections of DANIEL J. STEARNS to the Nomination papers of SHARON LATIKER, candidate for nomination of the Democratic Party, to the office of Representative in the General Assembly for the 25th Representative District, State of Illinois, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of SHARON LATIKER, candidate for nomination of the Democratic Party, to the office of Representative in the General Assembly for the 25th Representative District, State of Illinois, SHALL be printed on the official ballot for the General Primary Election to be held on February 5, 2008.

Dated: Chicago, Illinois, this 14th day of December, 2007.



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.