NBCON-WC

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

Objections of: WILLIAM 'MR. D' DELAY	)
	)
	)
	)
To the Nomination	) No. 08-EB-WC-03
Papers of: CARLOS FERRAL	)
	)
	)
Candidate for the office of Ward	)
Committeeman for the 18th Ward of the	)
City of Chicago, 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 WILLIAM 'MR. D' DELAY ("Objector") to the nomination papers ("Nomination Papers") of CARLOS FERRAL, candidate for election to the office of Ward Committeeman for the 18th Ward of the City of Chicago, Republican Party ("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 William J. Cadigan 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, WILLIAM 'MR. D' DELAY, appearing by counsel, Ivan Tomic; and the Candidate, CARLOS FERRAL, appearing *pro se*.

7. The Objections allege:

A. The Statement of Candidacy did not properly identify the office sought in that the box reserved for the identification of the "office" did not indicate the political party.

B. The Statement of Candidacy indicated that the Candidate was seeking "nomination" to the office, instead of "election" to the office.

C. The Candidate's nominating petition sheets does not state the proper office and did not read exactly the same as the Candidate's Statement of Candidacy.

D. The Candidate's nominating petition sheets has a column for the printing of the signers' names, in addition to a column for their signatures, which, according to Objector, does not follow the proper form under 10 ILCS 5/10-4 and further creates confusion.

E. The Candidate's bound Nomination Papers included over 400 blank sheets of 8.5" x 11" typing paper which were not numbered.

8. The Candidate filed a motion to strike and dismiss the Objections.

9. The Hearing Examiner has filed with the Electoral Board his report and recommendations. For the reasons stated therein, the Hearing Examiner recommends that the Candidate's motion to strike the Objection be granted.

10. 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.

11. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of WILLIAM 'MR. D' DELAY to the Nomination Papers of CARLOS FERRAL, candidate for election to the office of Ward Committeeman for the 18th Ward of the City of Chicago, Republican Party, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of CARLOS FERRAL, candidate for election to the office of Ward Committeeman for the 18th Ward of the City of Chicago, Republican Party, SHALL be printed on the official ballot for the General Primary Election to be held on February 5, 2008.

Dated: Chicago, Illinois, this 7th 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.

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD 2007 DEC -5 P 4:21

Objections of: William " Mr. D. Delay	)	
	)	
To the Nomination of Papers of:	)	
Carlos Ferral	)	
	)	No. 08-EB-WC-03
Candidate for Republican Committeeman	)	
Of the 18th Ward	)	

HEARING EXAMINER'S REPORT AND RECOMMENDATION

This matter coming before the duly constituted Electoral Board, consisting of Chicago Board of Election Commissioners, and before the undersigned Hearing Examiner, the Hearing Examiner hereby makes the following Report and Recommendation:

1. The Candidate filed Nomination Papers as a Candidate for the Republican Committeeman of the 18th Ward in the City of Chicago. Such Nomination Papers consisted of: a) Statement of Candidacy; and b) Nominating Petition Sheets numbered 1 through 5.

2. The Objector's Petition to the Nomination Papers of the Candidate was timely filed on November 14, 2007.

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.

4. The initial hearing on these Objections was called on November 20, 2007 at approximately 11:30 a.m. at which time the Objector appeared on his own behalf. The Candidate appeared on his own behalf and indicated intended to be engage counsel to represent him in this matter.

5. At the initial hearing, the Candidate requested leave to file a Motion to Strike and Dismiss the Objector's petition. Leave was granted for Candidate to file the Motion to Strike

and Dismiss and Candidate filed it on Wednesday, November 21, 2007. Objector filed his reply on Friday, November 23, 2007.

6. The Objector's Petition asserts the following:

a. Candidate's Statement of Candidacy failed to properly designate the office sought. The Illinois Election Code requires that a candidate's nomination papers must specify the office to which the candidate seeks to be nominated. 10 ILCS 5/7-10.

b. Candidate's Nominating Petitions were not properly filed because in addition to the sheets numbered 1 through 5, the bound petitions as filed with the Chicago Board of Election Commissioners contained approximately 400 pages of blank pages.

c. Candidate's Nominating Petitions are invalid because each page contained signatures that were printed, not signed. Objector attached an Appendix –Recapitulation that objected to each signature of each page on these grounds.

7. A hearing was held on Candidate's Motion to Strike and Dismiss on November 27, 2007 at 10:00 a.m. Attorney Ivan Tomic filed his appearance and appeared at the hearing on behalf of the Candidate. The Objector appeared on his own behalf.

8. During the hearing, each side was given ample opportunity to argue their position as set forth in their written briefs.

9. The sum and substance of the Candidate's Motion to Strike is that the Candidate's Nomination Papers were filed in substantial compliance with the requirements of the Illinois Election Code.

STATEMENT OF CANDIDACY

10. The Hearing Examiner has reviewed the Objector's Petition and the Candidate's Nomination Papers and finds that the Candidate's Statement of Candidacy did not designate the office sought.

11. However, the Nominating Petitions filed by the Candidate, when read in their entirety, clearly state that the candidate seeks to be a candidate for Committeeman of the 18th Ward in the City of Chicago in the Republican Party primary to be held on February 5, 2007.

12. Illinois courts have held that the failure to designate the office the candidate is seeking on the statement of candidacy does not render the nomination papers invalid if the office sought by the candidate can be determined by looking at the nominating petitions. *Lewis v. Dunne*, 63 Ill. 2d 48, 344 N.E.2d 443 (1976).

13. In this matter, the Hearing Examiner finds that upon an examination of both the Candidate's Statement of Candidacy and Nominating Petitions as being part of the Nomination Papers, there is no confusion as to which office the Candidate is seeking and the Candidate's Nomination Papers are in substantial compliance with the Illinois Election Code.

PETITION BINDING

14. The Hearing Examiner reviewed the manner in which Candidates bound the Nominating Petitions and found that the filing did contain approximately 40 blank sheets behind the petition sheets numbered 1though 5.

15. While unorthodox and certainly a practice that should be encouraged, the Objector cited no authority for his allegation that filing of blank pages with the bound petition sheets is sufficient grounds to invalidate the other valid Nominating Petitions filed by the

Candidate. The Hearing Examiner recommends that these blank sheets be rejected as "surplusage" and not be used to invalidate the Candidate's Nominating Papers.

SIGNATURES PRINTED AND NOT SIGNED

16. The Chicago Board of Election Commissioners has previously ruled that objections alleging that signatures are invalid solely on the grounds that the signer's signature is printed and not written in cursive form does not state a sufficient basis on which to invalidate petition signatures. There is no statutory prohibition against printing one's name on a nominating petition. The statute only requires that the signature be the genuine signature of the person affixing their signature. Accordingly, a candidate's motion to strike and dismiss the objection alleging only that certain signatures on the petition are printed and not signed is to be granted. *Simms-Johnson v. Coordes*, 04-EB-WC-05, January 20, 2004.

Conclusion

17. Based on the foregoing, the Hearing Examiner recommends that the Candidate's Motion to Strike be granted and that his name be printed on the ballot as a candidate for election to the office of the Republican Ward Committeeman of the 18th Ward in the City of Chicago, County of Cook, State of Illinois for the General Primary Election to be conducted on February 5, 2008.

Date: December 5, 2007

William J. Cadigan
Hearing Examiner