

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

Objections of: LARAINA JACKSON)	
)	
)	
)	
To the Nomination)	No. 08-EB-WC-19
Papers of: LONA LANE)	
)	
)	
Candidate for the office of Ward)	
Committeeman for the 18th Ward of the)	
City of Chicago, 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 LARAINA JACKSON ("Objector") to the nomination papers ("Nomination Papers") of LONA LANE, candidate for election to the office of Ward Committeeman for the 18th Ward of the City of Chicago, Democratic Party ("Candidate"), having convened on November 26, 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 26, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Joseph A. Morris 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, LARAINA JACKSON, appearing by counsel, David Rosenfeld; and the Candidate, LONA LANE, appearing by counsel, Burton S. Odelson.

7. The Objector alleges:

A. The Candidate is identified in her nomination papers by a name other than the name under which she is registered to vote;

B. The Candidate's statement of candidacy fails to properly identify the office to which she is seeking election;

C. The Candidate's Nomination Papers are not supported by a sufficient number of valid signatures of registered voters; and

D. The Candidate failed to file a Statement of Economic Interests or receipt therefore.

8. The Candidate filed a motion to strike and dismiss the Objector's Petition.

9. After considering the motions, pleadings, papers and exhibits submitted by the parties and having heard the arguments of the parties, the Hearing Examiner has submitted his report and recommended findings and conclusions of law.

10. The Hearing Examiner recommends that the Electoral Board enter the following findings and conclusions of law:

A. The Candidate's use of her name "Lona Lane" on her Nomination Papers, although it differs from the name of "Lona Mallory Lane" stated on her voter registration, results in no confusion to the public as to her identity and therefore her Nomination Papers are not invalid on those grounds;

B. The title of the office for which she seeks election is legally sufficient and proper;

C. There was no factual or legally justifiable grounds to invalidate certain petition sheets because of alleged infirmities with the circulators' registration status, their signatures, their appearance before a notary public or the acknowledgement of their signature on the petition sheets they circulated;

D. The Candidate's Nomination Papers are supported by the signatures of more than minimum number of registered voters of the 18th Ward of the City of Chicago required by law;

E. The Illinois Governmental Ethics Act does not require Ward Committeeman or candidates for Ward Committeeman to file Statements of Economic Interests, and the Candidate here was not required by law to

file such a statement or a receipt for such statement as part of her nomination papers; and

F. The Candidate's Nomination Papers substantially comply with the requirements of the law.

11. The Electoral Board hereby adopts the Hearing Examiner's recommended findings of fact and conclusions of law and a copy of the Hearing Examiner's report is attached hereto and incorporated as though fully set forth herein.

12. For the reasons set forth above, the Electoral Board finds that the Objections are overruled and that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of LARAINA JACKSON to the Nomination Papers of LONA LANE, candidate for election to the office of Ward Committeeman for the 18th Ward of the City of Chicago, Democratic Party, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of LONA LANE, candidate for election to the office of Ward Committeeman for the 18th Ward of the City of Chicago, Democratic Party, SHALL be printed on the official ballot for the General Primary Election to be held on February 5, 2008.

Dated: Chicago, Illinois, this 4th 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.

BEFORE
 THE BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
 AS THE DULY CONSTITUTED ELECTORAL BOARD
 FOR THE HEARING AND PASSING UPON OBJECTIONS
 TO NOMINATION PAPERS OF CANDIDATES
 FOR THE FEBRUARY 5, 2008, ELECTION
 FOR THE OFFICE OF DEMOCRATIC WARD COMMITTEEMAN
 OF THE 18TH WARD OF THE CITY OF CHICAGO

LARAINA JACKSON,)		
)		
	<i>Objector,</i>		
)		No. 08-EB-WC-19
vs.)		
)		Hearing Examiner Morris
LONA LANE,)		
)		
	<i>Candidate.</i>		

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REPORT OF THE HEARING EXAMINER

To the Board of Election Commissioners of the City of Chicago:

Hearing Examiner JOSEPH A. MORRIS reports as follows:

1. This matter came before the Hearing Examiner, pursuant to notice, for initial hearing on November 26, 2007. The Objector was present by her counsel, David Rosenfeld. The Candidate was present by his counsel, Burton S. Odelson. No issue was raised as to sufficiency or timeliness of notice of the objection or of the hearing. Both parties filed written appearances.

2. Without objection, the Candidate's nomination papers for the office of Democratic Committeeman of the 18th Ward of the City of Chicago were admitted into the record as Group Exhibit A; the Objector's Petition and attachments were admitted into the record as Group Exhibit B; the returns of service of process by the Sheriff of Cook County, Illinois, were admitted into the record as Group Exhibit C; and the parties' written appearances were admitted into the record as Group Exhibit D.

3. Each party stated that he was in possession of the Rules of the Electoral Board. The Candidate stated that he intended to file a motion to strike and dismiss the objection. By agreement, a filing, briefing, and hearing schedule was established for the motion to strike and dismiss, under which such a motion was to be filed by the Candidate *instanter*; a response, if any, was to be filed by the Objector on or before November 28, 2007, at 5:00 pm.; and a hearing on the motion was set for November 30, 2007, at 1:30 p.m.

4. The Candidate filed a timely motion to strike and dismiss. The Objector filed a timely response. A hearing was held on November 30, 2007, at which the Objector was not present, by counsel or in his proper person, and the Candidate was present by counsel. Counsel for the Candidate stated on the record that he had received a telephone call from counsel for the Objector in which counsel for the Objector stated that he would not attend the hearing, he waived the right of the Objector to be present and to participate in the hearing, and he had no objection to the hearing going forward in the absence of the Objector.

5. The Candidate proffered certified copies of the voter registration records, in each instance certified as of November 30, 2007, by the Executive Director of the Board, of the following persons: Mark J. Montgomery; George Hunter, Jr.; Derrick G. Curtin; Penelope A. Doyle; Eric Lavon White; Ivory Michelle Jenkins-Blaney (also known as Ivory Michelle Jenkins); and Albert C. Dickerson; and moved their admission into evidence. The same were received into evidence and were marked as Group Exhibit E.

6. The record was closed. Oral argument was waived. The matter was submitted.

7. Accordingly, consideration of the Motion to Strike and Dismiss the Objector's Petition will proceed on the basis of the written record.

8. The Objector's Petition raises four challenges to the Candidate's nomination papers. First, it is contended that the Candidate is identified in her candidacy papers by a name other than the name under which she is registered to vote; second, that her Statement of Candidacy fails properly to identify the office that she seeks; third that her nomination papers are supported by an insufficient number of signatures of registered voters; and fourth, that she failed to file a Statement of Economic Interests.

9. Name of Candidate. It appears from the record that the Candidate is registered to vote under the name of "Lona Mallory Lane." The name of Candidate as it appears on the nomination papers is "Lona Lane". The Objector contends that this is a fatal inconsistency. The Candidate, in her Motion to Strike and Dismiss, contends that the law permits the Candidate to state her name in her nomination papers as "Lona Lane." The Candidate is correct. It appears, and it is undisputed, that the Candidate is named, and is known as, both "Lona Mallory Lane" and as "Lona Lane". There is no evidence and, indeed, no suggestion, that the Candidate is not entitled to use the name, "Lona Lane"; that the use by her of the name "Lona Lane" is in any way false or fraudulent; or that the use by her in her nomination papers or on the ballot of the name "Lona Lane" would lead to any confusion as to her identity. In the complete absence of any issue as falsification or misappropriation of a name, fraud, or confusion, the decisional law is quite latitudinarian as to how a candidate may state her name, including the use or omission of first, middle, maiden, and successive married names, initials, and suffixes. *See, e.g., Morton v. State Officers Electoral Board*, 311 Ill.App.3d 982, 726 N.E.2d 201 (4th Dist. 2000); *Cole v. Andrews*, CBEC, No. 99-EB-ALD-47 (Feb. 2, 1999); *Newton v. Andrews*, CBEC, No. 99-EB-ALD-191 (Feb. 2, 1999); *O'Keefe v. Zurowski*, CBEC, No. 91-EB-ALD-54 (Jan. 8, 1991). "Lona Lane" and "Lona Mallory Lane" are

the same person; she is entitled to use each of those names; and there is no reason why she may not submit her candidacy papers, and appear on the ballot, under either of those two names as she may chose.

10. Sufficiency of Identification of Office in Statement of Candidacy. The Candidate seeks election, not to a public office, but to an office of a political party, that of Ward Committeeman (for the 18th Ward) of the Democratic Party. Candidate's Statement of Candidacy is prepared following a standard form suggested by the Illinois State Board of Elections for use in connection with candidacies for a wide array of offices, both public and party. At its head appear a series of boxes, one of which is labeled "Office". The Candidate filled in that box with the words, "Ward Committeeman". The Objector contends that this misstates the name of the office that the Candidate seeks, inasmuch as there is no office of "Ward Committeeman", but only offices such as "Democratic Ward Committeeman" or "Republican Ward Committeeman". Another box is labeled "District", and the Candidate filled that box with the words, "18th Ward / City of Chicago". The Objector contends that, because this omits a reference to the "County of Cook", it insufficiently identifies the district in which the Candidate seeks election. The Objector submits that these asserted defects are fatal to the nomination papers. In her Motion to Strike and Dismiss, the Candidate contends that the Statement of Candidacy is legally sufficient. The Candidate is correct. Among the boxes appearing at the top of the form is another labeled "Party", and the Candidate filled that box with the word, "Democratic". In the actual body of her Statement of Candidacy, the Candidate stated that she seeks to have her name placed as a candidate for election to the office of "Ward Committeeman" on "the official Democratic Primary ballot for Nomination / Election for such office." Taken as a whole, the Statement of Candidacy leaves no doubt as to the office to which the

Candidate seeks election: That of Ward Committeeman of the Democratic Party in the 18th Ward of the City of Chicago. We may administratively notice that, in all the State of Illinois, there is only one City of Chicago, and it is situated in Cook County. It should be noted that the petition sheets which accompany the Statement of Candidacy, and which were circulated among voters, identify the office that the Candidate seeks as that of "Democratic / Ward Committeeman / of the 18th Ward / City of Chicago / County of Cook". Even assuming, *arguendo*, that the Candidate had failed properly to designate the office that she seeks on her Statement of Candidacy, the Illinois Supreme Court has held that such a failure does not render her candidacy papers invalid if the office sought can be determined by reference to the face of the nominating petitions. *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976). Clearly, in the instant case, the nominating petitions leave no doubt as to the precise party whose committeemanship the Candidate seeks and the exact ward (including county) in which she seeks it. But the Statement of Candidacy, taken alone, itself sufficiently describes the office. The boxes at the top, read in combination with the body of the text, leave the public in no confusion whatsoever as to the office that the Candidate seeks. *Pascente v. County Officers Electoral Board*, 373 Ill.App.3d 871, 869 N.E.2d 802 (1st Dist. 2007).

11. Number of Signatures. It is undisputed that the Candidate must submit a minimum of 564 valid signatures of registered voters in the 18th Ward. A substantial number of the signatures challenged by the Objector are challenged solely on the basis that, in each instance, the signature of the circulator was not authentic; or that the circulator was not, himself, a duly registered voter; or that the circulator did not, in fact, appear before the notary public who acknowledge his signature. The circulators in question were Mark J. Montgomery, George Hunter, Jr., Derrick G. Curtin, Penelope A. Doyle, Eric Lavon White, Ivory Michelle Jenkins-Blaney (also known as Ivory Michelle

Jenkins), and Albert C. Dickerson. In addition, the Objector challenged a petition sheet circulated by the Candidate herself, who signed her name as circulator as "Lona Mallory Lane". The certified records of the Board, however, show that each of these circulators was, indeed, a registered voter of the 18th Ward and was duly registered at the address set forth in the Circulator's statement. The Hearing Examiner compared the signature of each circulator, as it appeared on the nomination petitions, with the signature of those circulators as they appeared on their respective voter registration records, and found no evidence that the signatures were other than genuine. Each of the circulators testified, by affidavit, as attached to the Candidate's Motion to Strike and Dismiss, that he signed the circulator's statement and that he appeared before a notary public to acknowledge his signature. Also submitted with the Candidate's Motion to Strike and Dismiss was the affidavit of the notary public in question, Susan A. Lombard, who testified in that affidavit that each of the circulators personally appeared before her to acknowledge their respective circulator's statements. All of this evidence is uncontroverted. For reasons discussed earlier in this report and recommendation, the signature of the Candidate herself, as circulator, should not be invalidated merely because she chose to use or to omit a middle or maiden name. With the circulator's statements of Mark J. Montgomery, George Hunter, Jr., Derrick G. Curtin, Penelope A. Doyle, Eric Lavon White, Ivory Michelle Jenkins-Blaney (also known as Ivory Michelle Jenkins), Albert C. Dickerson, and Lona Mallory Lane all thus rehabilitated, it is evident that, even if every other challenge made by the Objector to a petition signature were sustained, the Candidate's nomination papers would still be supported by a minimum of 564 valid signatures and, in fact, by a number of valid signatures substantially in excess of that minimum.

12. Statement of Economic Interests. In her Statement of Candidacy, using the standard

form of general applicability suggested by the Illinois State Board of Elections, the Candidate stated, in pertinent part, "I have filed (or I will file before the close of the petition filing period) a Statement of Economic Interests as required by the Illinois Governmental Ethics Act...." It is undisputed that, in fact, before the close of the petition filing period the Candidate did not file a Statement of Economic Interests. The Objector contends that this omission is fatal to the Candidate's nomination papers. In her Motion to Strike and Dismiss, the Candidate rejoins that she is not required to file a Statement of Economic Interests, and that her failure to do so is therefore without consequence. The Candidate is correct. Section 4A-101 of the Illinois Governmental Ethics Act, 5 ILCS § 420 / 4A-101, provides in its entirety as follows:

The following persons shall file verified written statements of economic interests, as provided in this Article:

- (a) Members of the General Assembly and candidates for nomination or election to the General Assembly.
- (b) Persons holding an elected office in the Executive Branch of this State, and candidates for nomination or election to these offices.
- (c) Members of a Commission or Board created by the Illinois Constitution, and candidates for nomination or election to such Commission or Board.
- (d) Persons whose appointment to office is subject to confirmation by the Senate.
- (e) Holders of, and candidates for nomination or election to, the office of judge or associate judge of the Circuit Court and the office of judge of the Appellate or Supreme Court.
- (f) Persons who are employed by any branch, agency, authority or board of the government of this State, including but not limited to, the Illinois State Toll Highway Authority, the Illinois Housing Development Authority, the Illinois Community College Board, and institutions under the jurisdiction of the Board of Trustees of the University of Illinois, Board of Trustees of Southern Illinois University, Board of Trustees of Chicago State University, Board of Trustees of Eastern Illinois University, Board of Trustees of Governor's State University, Board of Trustees of Illinois State University, Board of Trustees

of Northeastern Illinois University, Board of Trustees of Northern Illinois University, Board of Trustees of Western Illinois University, or Board of Trustees of the Illinois Mathematics and Science Academy, and are compensated for services as employees and not as independent contractors and who:

(1) are, or function as, the head of a department, commission, board, division, bureau, authority or other administrative unit within the government of this State, or who exercise similar authority within the government of this State;

(2) have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the State in the amount of \$5,000 or more;

(3) have authority for the issuance or promulgation of rules and regulations within areas under the authority of the State;

(4) have authority for the approval of professional licenses;

(5) have responsibility with respect to the financial inspection of regulated nongovernmental entities;

(6) adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration or decision of any judicial or administrative proceeding within the authority of the State;

(7) have supervisory responsibility for 20 or more employees of the State;
or

(8) negotiate, assign, authorize, or grant naming rights or sponsorship rights regarding any property or asset of the State, whether real, personal, tangible, or intangible.

(g) Persons who are elected to office in a unit of local government, and candidates for nomination or election to that office, including regional superintendents of school districts.

(h) Persons appointed to the governing board of a unit of local government, or of a special district, and persons appointed to a zoning board, or zoning board of appeals, or to a regional, county, or municipal plan commission, or to a board of review of any county, and persons appointed to the Board of the Metropolitan Pier and Exposition Authority and any Trustee appointed under Section 22 of the Metropolitan Pier and Exposition Authority Act, and persons appointed to a board or commission of a unit of local government who have authority to authorize the expenditure of public funds. This subsection does not apply to

members of boards or commissions who function in an advisory capacity.

(I) Persons who are employed by a unit of local government and are compensated for services as employees and not as independent contractors and who:

(1) are, or function as, the head of a department, division, bureau, authority or other administrative unit within the unit of local government, or who exercise similar authority within the unit of local government;

(2) have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the unit of local government in the amount of \$1,000 or greater;

(3) have authority to approve licenses and permits by the unit of local government; this item does not include employees who function in a ministerial capacity;

(4) adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration or decision of any judicial or administrative proceeding within the authority of the unit of local government;

(5) have authority to issue or promulgate rules and regulations within areas under the authority of the unit of local government; or

(6) have supervisory responsibility for 20 or more employees of the unit of local government.

(j) Persons on the Board of Trustees of the Illinois Mathematics and Science Academy.

(k) Persons employed by a school district in positions that require that person to hold an administrative or a chief school business official endorsement.

(l) Special government agents. A "special government agent" is a person who is directed, retained, designated, appointed, or employed, with or without compensation, by or on behalf of a statewide executive branch constitutional officer to make an ex parte communication under Section 5-50 of the State Officials and Employees Ethics Act or Section 5-165 of the Illinois Administrative Procedure Act.

This Section shall not be construed to prevent any unit of local government from enacting financial disclosure requirements that mandate more information than required by this Act.

Not named in the foregoing list of officials and candidates required to file a Statement of Economic Interests are ward committeeman of the political parties. The omission is surely not inadvertent. The Illinois Governmental Ethics Act is directed, as its very name no less than its provisions make clear, to the conduct of officers and employees of the government, at virtually all levels, of the State of Illinois. Although, in the interests of making electoral democracy function as efficiently and as transparently as possible, the State of Illinois accommodates established political parties by conducting at public expense their primary nominating elections and certain elections for their internal officers, political parties remain private institutions through which citizens exercise constitutionally-protected rights, including the freedom of speech and the freedom of association. Political parties are not arms of government. As private associations, and by their very natures, they are necessarily free from a great deal of regulation that a government might properly impose upon itself. The Illinois Governmental Ethics Act does not apply to political parties, and it does not require that ward committeeman of the parties, or candidates for ward committeemen, file Statements of Economic Interest. The wording of the standard form Statement of Candidacy utilized in this case by the Candidate may be infelicitous and somewhat confusing, but it is nonetheless literally true: Inasmuch as the Illinois Governmental Ethics Act required the Candidate to file no Statement of Economic Interests, the Candidate, by filing no such statement, acted "as required".

Recommended Findings, Conclusions, and Decision

13. On the bases of a facial examination of the nomination papers, of the Objector's Petition and attachments, of the Candidate's Motion to Strike and Dismiss, of the Objector's response thereof, and of the other exhibits submitted herein, the Hearing Examiner recommends that

the Electoral Board enter the following findings of fact:

(a) The Candidate is named "Lona Lane" and "Lona Mallory Lane", and the use by her of the name "Lona Lane" on her nomination papers results in no confusion of the public as to her identity.

(b) The Candidate seeks election to the office of Ward Committeeman of the Democratic Party for the 18th Ward of the City of Chicago in Cook County, Illinois, and the wording of her Statement of Candidacy and nominating petitions results in no confusion of the public as to the office that she seeks.

(c) At the time that they circulated petition sheets on behalf of the Candidate, Mark J. Montgomery, George Hunter, Jr., Derrick G. Curtin, Penelope A. Doyle, Eric Lavon White, Ivory Michelle Jenkins-Blaney (also known as Ivory Michelle Jenkins), Albert C. Dickerson, and Lona Mallory Lane were all duly registered voters; all signed the circulator's statements on the petition sheets that they circulated; and all appeared before a notary public and acknowledged their signatures on the circulator's statements on the petitions sheets that they circulated.

(d) The nomination papers submitted by the Candidate are supported by the signatures of more than 564 duly registered voters of the 18th Ward of the City of Chicago.

14. The Hearing Examiner recommends that the Electoral Board enter the following conclusions of law:

(a) "Lona Lane" is the true name of the Candidate and, as a matter of law, the Candidate is entitled to use that name in circulating and submitting her nomination papers and on the ballot.

(b) The office, that of Ward Committeeman of the Democratic Party for the 18th Ward of the City of Chicago in Cook County, Illinois, is sufficiently identified in the nomination papers.

(c) The nomination papers of the Candidate are supported by more than the minimum number required by law of signatures of persons duly registered to vote in the 18th Ward of the City of Chicago.

(d) The Illinois Governmental Ethics Act does not require Ward Committeemen or candidates for Ward Committeeman to file Statements of Economic Interests, and the Candidate was not required to file such a statement or a receipt for such a statement as part of her nomination papers in the instant case.

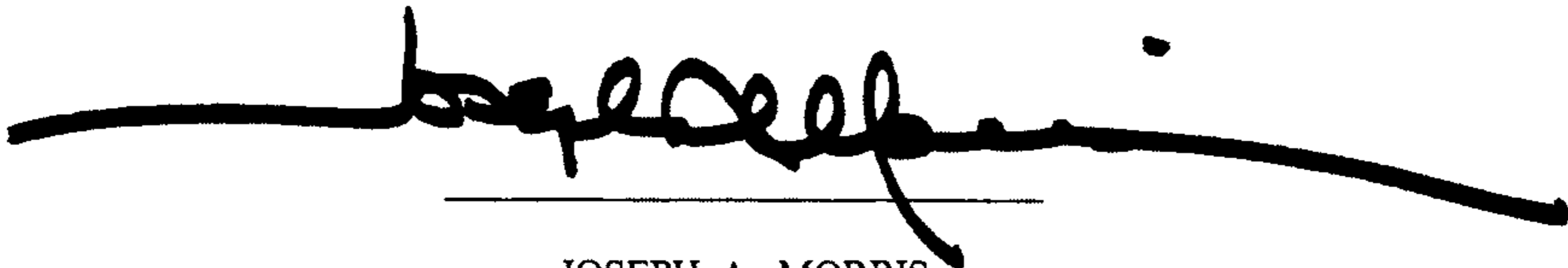
(e) The nomination papers filed by the Candidate substantially comply with the requirements of law.

15. The Hearing Examiner recommends that the Electoral Board enter the following final administrative decision:

The name of Lona Lane shall appear and shall be printed on the ballot for election to the office of Democratic Committeeman of the 18th Ward of the City of Chicago to be voted for at the Election to be held on February 5, 2008.

Dated: December 2, 2007.

Respectfully submitted,

A large, bold, handwritten signature in black ink, appearing to read 'Joseph A. Morris', is written over a horizontal line. The signature is highly stylized and spans most of the width of the page.

JOSEPH A. MORRIS
Hearing Examiner