

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

Objections of: Wilbon Brown)
)
)
To the Nomination) No.: 11-EB-ALD-008
Papers of: Curtis "Jerome" Hinton)
) Related Case: 11-EB-ALD-264
Candidate for the office of)
Alderman of the 7th Ward, City of Chicago)

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago 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 Wilbon Brown ("Objector") to the nomination papers ("Nomination Papers") of Curtis "Jerome" Hinton, candidate for the office of Alderman of the 7th Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 22, 2011, having convened on December 6, 2010, at 9:00 a.m., in Room 800, 69 West Washington Street, 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 December 6, 2010 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer William J. Kresse 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 Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, Wilbon Brown, by attorney, Adam Lasker; and the Candidate, Curtis "Jerome" Hinton, pro se.


7. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be sustained and that the Nomination Papers be found invalid.

8. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

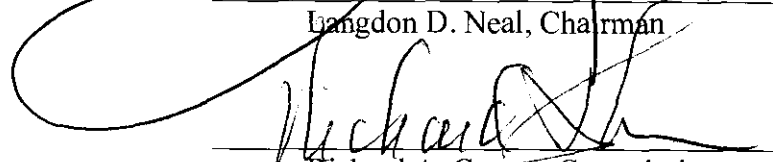
9. For the reasons stated above, the Electoral Board sustains the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are invalid. Objections in related case 11-EB-ALD-264 were withdrawn earlier.

IT IS THEREFORE ORDERED that the Objections of Wilbon Brown to the Nomination Papers of Curtis "Jerome" Hinton, candidate for election to the office of Alderman of the 7th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Curtis "Jerome" Hinton, candidate for election to the office of Alderman of the 7th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 22, 2010.

Dated: Chicago, Illinois, on January 13, 2011.



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 5 days after service of the decision of the Electoral Board.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE
HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATION
PAPERS OF CANDIDATES FOR ELECTION TO THE OFFICE OF
ALDERMAN OF THE 7th WARD, CITY OF CHICAGO TO BE VOTED UPON
AT THE FEBRUARY 22, 2011 MUNICIPAL GENERAL ELECTION**

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|-----------------------|---|-----------------------------------|
| WILBON BROWN, |) | |
| |) | |
| <i>Objector,</i> |) | |
| |) | No. 11-EB-ALD-008 |
| vs. |) | |
| |) | Hearing Officer William J. Kresse |
| CURTIS JEROME HINTON, |) | |
| |) | |
| <i>Candidate.</i> |) | |

Report and Recommended Decision of the Hearing Officer

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

Hearing Officer William J. Kresse reports as follows:

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BOARD OF ELECTIONS

1. This matter came before the Hearing Officer, pursuant to notice, for hearing on December 6, 2010. The Objector was present by counsel. The Candidate was present *pro se*. 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 Alderman of the 7th 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; and the return of service of process, and a copy of the Call and attachments were admitted into the record as Group Exhibit C.

The Claims of the Objector's Petition

3. The Objector's Petition, filed on November 29, 2010, asserted in substance that the Candidate failed to file with his nomination papers a legally sufficient "Statement of Candidacy" in violation of the Illinois Election Code.

Motion to Strike and Dismiss

4. At the December 6, 2010 status hearing, the Candidate requested leave to file a motion to strike and dismiss the Objector's Petition. The Hearing Officer set a briefing schedule and set a hearing on the motion for December 13, 2010.

5. At the December 13, 2010 hearing, the Hearing Officer, having considered the parties' briefs, allowed the parties to orally argue their positions on the motion. The Candidate offered several arguments in his two filings and in his oral argument in support of his motion to dismiss. In his "Verified Response to Objector's Objection and Motion to Dismiss" the Candidate offers "Responses" that are assertions of facts regarding the number of signatures contained in his nomination papers and the content of his Statement of Candidacy. As assertions of facts are not appropriate in a motion to dismiss, the Hearing Officer considers these "responses" to be simply that, responses to the Objector's Petition, and not related to the Candidate's motion to dismiss. Under the caption "Motion to Dismiss", the Candidate asserts two bases for dismissal of the Objector's petition: that the Petition did not specify sheet and line numbers, and the Petition did not adequately state the nature of the objection. In a second filing titled "Motion to dismiss", the Candidate asserts various factual allegations about the Objector, and contends that the Objector is not qualified to file his Petition.

6. As for the Candidate's argument to dismiss based on the failure of the Objector to specify sheet and line numbers, the argument is not well taken. The Objector's sole basis of

objection is the legal adequacy of the Candidate's Statement of Candidacy. As such, "sheet and line numbers" would be totally inappropriate to include in the Objector's Petition. As for the Candidate's assertion that the Objector's Petition did not adequately state the nature of his objection, the Candidate's assertion is also not well taken. The core of the Objector's objection is contained in Paragraph 5 of his Petition. Paragraph 5 not only asserts that the Candidate's Statement of Candidacy is not legally sufficient, but also gives a detailed list of the deficiencies, and, as such, adequately states the nature of his objection. As for the matters asserted in the Candidate's other filing, titled "Motion to dismiss", while the Candidate raises various allegations about the Objector (and others), none of these allegations go to the Objector's legal qualifications or standing for filing an objector's petition. 10 ILCS § 5/10-8 (*Any legal voter of the political subdivision or district in which the candidate ... is to be voted on ... shall file an objector's petition.*) (Emphasis added.)

7. Accordingly, the Hearing Officer denied the Candidate's Motion to Strike and Dismiss.

8. Additionally, at the December 13 hearing the Candidate asserted that he had filed with his nomination papers two pages for his "Statement of Candidacy": the first page (hereinafter referred to as the "First Page") being essentially an autobiography in narrative form (described by the Candidate as a statement of "who I am and what I've been doing I (sic) my life". Candidate's "Statement From Objector", filed December 16, 2010.), and a second page (hereinafter referred to as the "Second Page") that purportedly complied with the Statement of Candidacy requirements in Section 10-5 of the Illinois Election Code, 10 ILCS § 5/10-5. The Candidate, noting that Group Exhibit A did not contain this Second Page essentially alleged that the Chicago Board of Election Commissioners misplaced this Second Page.

9. Also at the December 13, 2010 hearing, the Hearing Officer requested, in the interest of justice, that the Candidate file a copy of the purported Second Page, and that the Objector then file a brief in support of the Objector's Petition; there being no objections, a briefing schedule was set and a hearing on the Objector's Petition was set for December 20, 2010.

Proceedings on the Objector's Petition

10. At the December 20, 2010 hearing, the Hearing Officer noted that on the evening of December 13 the Candidate filed with the Board a "Candidate Statement". The Candidate asserts that this "Candidate Statement" is the aforementioned Second Page.

11. Also at the December 20, 2010 hearing, the Hearing Officer, having considered the parties' briefs and filings, allowed the parties to orally argue their positions on the Objector's Petition.

12. Additionally at the December 20, 2010 hearing, the Hearing Officer inspected the Candidate's nomination papers (Group Exhibit A) for any evidence that may indicate that the Second Page was filed. (*See, generally, Reed v. Harrington*, 03-EB-ALD-103, CBEC, January 31, 2003.) During this inspection the Hearing Officer noted that on the Board's "Receipt of Nomination Papers" form, the "Yes" box was checked indicating inclusion of a "Statement of Candidacy"; however, the Hearing Officer also noted that there is no indication on the Receipt whether this was in reference to the now-allegedly-missing Second Page, or to the First Page (the autobiographic narrative) which is included in Group Exhibit A. The Hearing Officer also noted that the First Page makes no reference in its text to a Second Page, contained no pagination reference to a Second Page (*e.g.*, "Page 1 of 2"), contained no staple holes, or contained any other physical or written indication of a Second Page. Additionally, no other part of the

nomination papers in Group Exhibit A shows any indicia that would suggest that the Second Page was filed with the nomination papers. In addition, the Hearing Officer took judicial notice of, and viewed, the photographs of the Candidate's nomination papers taken by Board staff at the time of filing for any indication that the Second Page was filed (*See, generally, Haynes v. Castillo, 07-EB-ALD-019, CBEC, January 23, 2007*). However, the Hearing Officer noted that the photographs only show the Board's Receipt of Nomination Form and an external view of the black binder in which the Candidate filed his nomination papers.

Questions Presented

13. As thus submitted to the Board, this case presents the following questions:
 - a. Does the First Page (the autobiographic narrative), which the Candidate did undisputedly file with the Board, constitute a legally sufficient Statement of Candidacy in accordance with Section 10-5 of the Illinois Election Code? 10 ILCS § 5/10-5.
 - b. Did the Candidate file with the Board the Second Page, which purports to be a legally sufficient Statement of Candidacy, with his nomination papers?
 - c. If it is found that the Candidate did file the Second Page with his nomination papers, is the Second Page a legally sufficient Statement of Candidacy in accordance with Section 10-5 of the Illinois Election Code? 10 ILCS § 5/10-5.
 - d. If it is found that the Candidate did not file a legally sufficient Statement of Candidacy, are the Candidate's nominating papers rendered invalid?

Recommended Findings, Conclusions, and Decision

14. On the bases of the Objector's Petition and attachments; of the statements of the parties, both oral and written; of an inspection of the nomination papers; of an inspection of the

photograph of the nomination papers taken at the time of filing; and of all other proceedings held herein; the Hearing Officer recommends that the Electoral Board enter the following finding of fact: the Candidate did not file with the Board the Second Page, which purports to be a legally sufficient Statement of Candidacy, with his nomination papers.

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

- a) That, as the Candidate himself has essentially stated, the First Page is merely an autobiographic narrative, that, with perhaps the exception of stating the Candidate's name, does not contain any of the specific information or statements required of a Statement of Candidacy in accordance with Section 10-5 of the Illinois Election Code, the First Page does not constitute a legally sufficient Statement of Candidacy. 10 ILCS § 5/10-5.
- b) That having found that the Candidate did not file with the Board the Second Page with his nomination papers, the Board need not determine whether the Second Page is a legally sufficient Statement of Candidacy in accordance with Section 10-5 of the Illinois Election Code. 10 ILCS § 5/10-5.
- c) That having found that the Candidate did not file a Statement of Candidacy, the Candidate's nominating papers are rendered invalid. Delk v. Johnson, 07-EB-ALD-083, CBEC, January 9, 2007; Sumlin v. Elliott, 07-EB-ALD-172, CBEC, January 9, 2007; Somerville v. McGrath, 03-EB-ALD-044, CBEC, January 24, 2003; Smith v. Hinton, 03-EB-ALD-006, CBEC, January 14, 2003; Barnett and Rhodes v. Davis, 99-EB-ALD-190, CBEC, January 8, 1999; Nichols v. Fields, 99-EB-ALD-153, CBEC, January 8, 1999; Catherine

and Streeter v. Jones, 99-EB-ALD-096, CBEC, January 15, 1999, *Purnell v. Alcozer*, 95-EB-ALD-28, CBEC, 1995; *Hernandez v. Alcozer*, 95-EB-ALD-039, CBEC, 1995; *Mobley v. Beard*, 95-EB-MUN-007, CBEC, 1995; *Lacy v. Sias*, 92-EB-WC-35, CBEC, 1992.

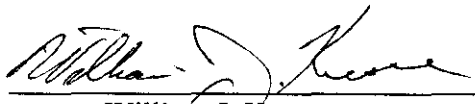
- d) That the Candidate's nomination papers are insufficient in law and fact.
- e) That the Objector's Petition is well founded, and the relief sought therein should be granted.

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

The name of **CURTIS JEROME HINTON** shall not appear and shall not be printed on the ballot for election to the office of Alderman of the 7th Ward of the City of Chicago to be voted for at the Municipal General Election to be held on February 22, 2011.

Dated: January 3, 2011.

Respectfully submitted,



William J. Kresse
Hearing Officer