

**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-009
Papers of: Deborah Washington)
)
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 Deborah Washington, 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; the Candidate, Deborah Washington, pro se.

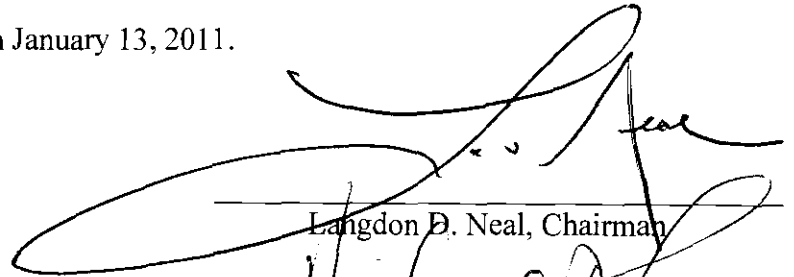
7. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid.

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.

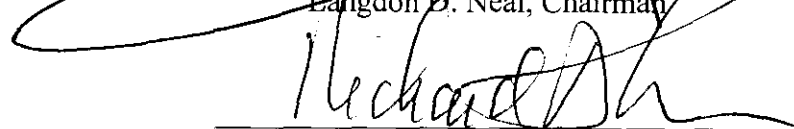
9. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Wilbon Brown to the Nomination Papers of Deborah Washington, candidate for election to the office of Alderman of the 7th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Deborah Washington, candidate for election to the office of Alderman of the 7th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

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**

<p>WILBON BROWN,</p>)	
)	
	<i>Objector,</i>	
)	
vs.)	No. 11-EB-ALD-009
)	
DEBORAH WASHINGTON,)	Hearing Officer William J. Kresse
)	
	<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:

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.

BOARD OF ELECTIONS
2011 JAN - 5 P 4: 23

The Claims of the Objector's Petition

3. The Objector's Petition, filed on November 29, 2010, asserted in substance as follows:
 - a. That as the Candidate's nomination papers included a receipt for a Statement of Economic Interests where such Statement did not list the name of the office sought, the nomination papers are invalid; and,
 - b. That as the Candidate's Statement of Candidacy identifies the Candidate as a Democrat and seeks to have the Candidate's name printed on the Democratic ballot renders her nomination papers as invalid as the instant election is non-partisan.

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 10, 2010. At the December 10, 2010 hearing, the Hearing Officer, having considered the parties' briefs, allowed the parties to orally argue their positions on the motion.

5. The Hearing Officer found that as the Candidate's written motion and oral arguments raised issues of fact that needed to be considered, the Candidate did not state a legal basis for striking and dismissing the Objector's Petition. Accordingly, the Hearing Officer denied the Candidate's Motion to Strike and Dismiss.

6. Also at the December 10, 2010 hearing, the Hearing Officer requested, in the interest of justice, that the Objector 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 17, 2010.

Proceedings on the Objector's Petition

7. At the December 17, 2010 hearing, the Hearing Officer, having considered the parties' briefs, allowed the parties to orally argue their positions on the Objector's Petition.

8. Additionally, at the December 17, 2010 hearing, the Hearing Officer inspected the Candidate's nomination papers, including the petition signature sheets, the Statement of Candidacy, and the receipt for the Statement of Economic Interests. The nomination papers were entered as Group Exhibit A. The parties do not dispute that the Candidate's Statement of Candidacy includes references to the Democratic Party, and that the Candidate's Statement of Economic Interest does not contain a reference to the office to which the Candidate seeks.

Question Presented

9. As thus submitted to the Board, this case presents two questions:
 - a. Did the fact that the Candidate's Statement of Economic Interests receipt, as filed with the Candidate's nomination papers, did not list the name of the office sought render the Candidate's nomination papers invalid?
 - b. Did the fact that the Candidate's Statement of Candidacy identifies the Candidate as a Democrat and seeks to have her name printed on the Democratic ballot render the Candidate's nomination papers invalid as the instant election is non-partisan?

Recommended Findings, Conclusions, and Decision

10. On the bases of the Objector's Petition and attachments, of the statements of the parties, and of all other proceedings held herein, the Hearing Officer recommends that the Electoral Board enter the following findings of fact:
 - a. That the Candidate filed with the Board as part of her nominating papers a Statement of Candidacy in good form, except for the disputed references to the Democratic party.
 - b. That the Candidate filed with the Board as part of her nominating papers petition signature sheets in good form and which contained no references to any political party.
 - c. That the Candidate filed with the Board as part of her nominating papers a receipt showing that she filed a Statement of Economic Interests with the Clerk of Cook County in good form, except that it did not list the office for which the Candidate seeks.

11. The Hearing Examiner recommends that the Electoral Board enter the following conclusions of law:
 - a) That Section 10-5 of the Illinois Election Code essentially requires that the Candidate here file with the Board a receipt showing that she has filed a Statement of Economic Interests with the proper authority [here, the Clerk of Cook County], lest her "[n]omination papers ... [be rendered] not valid." 10 ILCS § 5/10-5. That the Candidate filed a receipt for her Statement of Economic Interest, however, such Statement, and thus also the receipt, did not list the office for which the Candidate seeks. That this incompleteness of

content does not render the Candidate's nomination papers invalid. That the current law as to this issue was best stated by the Hearing Officer in *Haynes v.*

Mallory:

The weight of authority holds that a candidate has met his relevant obligations under Section 10-5 of the Election Code when he seasonably lodges a statement of economic interests and he submits the receipt for that filing when he makes a timely filing of his nomination papers. A failure of accuracy or completeness in identifying in the statement or on the receipt the office that he seeks will be deemed inadvertent; the substantive implications of his statement of economic interests and of any willful errors or omissions in it will be considered in other fora. The task of an electoral board in this context is essentially ministerial: Are the candidate's nomination papers accompanied by a receipt showing a timely filing of his statement of economic interests? If so, then the job of the electoral board with respect to the statement of economic interests is done, and any debate about the statement itself must shift elsewhere.

Haynes v. Mallory, No. 07-EB-ALD-021, CBEC, January 16, 2007, *Citing*,

Requena v. Cook County Officers Electoral Board, 295 Ill.App.3d 728, 692

N.E.2d 1217 (1st Dist. 1998), *and Cardona v. Board of Election*

Commissioners, 346 Ill.App.3d 342, 805 N.E.2d 360 (1st Dist. 2004). That as

such, the Candidate's failure to list the office sought on the Statement of

Economic Interests receipt does not render the Candidate's nomination papers invalid.

- b) That Section 10-5 of the Illinois Election Code also requires that the Candidate here file with the Board a Statement of Candidacy substantially in the form as outlined in the Code. 10 ILCS § 5/10-5. That it has been found that the candidate filed a Statement of Candidacy in good form except for the disputed references to the Democratic party. That, likewise, it has been found that the Candidate's petition signature sheets were in good form. That the law

in a situation such as present here is clear and has been succinctly stated by the Hearing Officer in *Jones v. Dunn*: “Getting something wrong in the statement of candidacy was cured by getting it right in the petition signature sheets.” *Jones v. Dunn*, No. 07-EB-ALD-153, CBEC, January 16, 2007. That as the petition sheets contained no erroneous or confusing language about political parties or primary elections, the erroneous or confusing language in the Candidate’s Statement of Candidacy is insufficient grounds for rendering the Candidate’s nominating papers invalid. *Dix v. Terry*, 03-EB-ALD-071, CBEC, January 31, 2003.

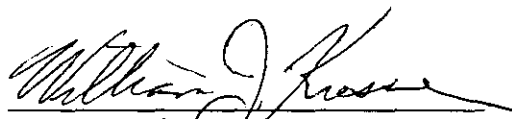
- c) That the Objector’s Petition is not well founded and should be overruled, and the relief sought therein should not be granted.

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

The name of **DEBORAH WASHINGTON** shall appear and shall 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 4, 2011.

Respectfully submitted,


William J. Kresse
Hearing Officer