

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

Objections of: Roberto Maldonado)
)
)
To the Nomination) No.: 11-EB-ALD-015
Papers of: Marisol Morales)
)
Candidate for the office of)
Alderman of the 26th 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 Roberto Maldonado (“Objector”) to the nomination papers (“Nomination Papers”) of Marisol Morales, candidate for the office of Alderman of the 26th 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 P. Jones 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, Roberto Maldonado, by attorney, Richard K. Means; and the Candidate, Marisol Morales, by attorney, James P. Nally.

7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that 29 of the 34 nominating petition sheets filed by the Candidate were not numbered, five of the numbered petition sheets were not in consecutive order and two petition sheet bore the marking "Sheet 1." As a result, the Hearing Officer has recommended finding that the Candidate's Nomination Papers do not substantially comply with the requirement in Section 10-4 of the Election that petition sheets be consecutively numbered, that the Candidate's motion to dismiss be denied, that the Objections be sustained and the Candidate's Nomination Papers be declared invalid.

8. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law,

hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report and recommendations is attached hereto and incorporated herein as part of the Electoral Board's decision in this matter.

9. For the reasons stated above, the Electoral Board finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of Roberto Maldonado to the Nomination Papers of Marisol Morales, candidate for election to the office of Alderman of the 26th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Marisol Morales, candidate for election to the office of Alderman of the 26th 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 December 21, 2010.



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.

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BEFORE THE CHICAGO BOARD OF
ELECTION COMMISSIONERS

Hearing Officer's Report

2010 DEC 15 P 1:08

BOARD OF ELECTION
POLLING PLACE DEPT

ROBERTO MALDONADO,)	
Objector,)	
)	No. 11-EB-ALD-015
vs.)	
)	
MARISOL MORALES,)	
Candidate.)	

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

1. The initial hearing in this matter commenced at approximately 11:20 a.m. on December 6, 2010. The Objector appeared through legal counsel, Attorney Richard Means. The Candidate was present and represented by Attorney James Nally.

2. The Objector's Petition is limited to two paragraphs. The Objector's Petition has no "signature" issues and, therefore, no Record Examination was directed. At the time of the hearing the Objector withdrew Paragraph 2 of his Objector's Petition. The Objector was therefore limited to Paragraph 1, which asserted that 29 of 34 petitions were unnumbered and that the 5 numbered sheets are not in consecutive order.

3. The Candidate requested that she file a Motion to Dismiss. The hearing officer set a Rule 5 briefing schedule and set the matter for further hearing at 11:30 a.m. on December 13, 2010.

4. This matter was called to hearing at approximately 11:30 a.m. on December 13, 2010, for the purpose of the hearing on Candidate's Motion to Dismiss and to proceed on the Objector's Petition.

5. At hearing the Candidate argued that the fact the 29 of 34 Petition sheets were unnumbered constituted substantial compliance citing to King vs. Justice Party, 284 Ill.App.3d 886, 672 N.E.2d 900 (1st Dist. 1996).

6. The Objector argued that the circumstances in King were distinguishable from the facts in the instant case and further that the holding in Jones vs. Dodendorf, 190 Ill.App.3d 557, 546 N.E.2d 92 (2nd Dist. 1989) should control.

7. The Candidate additionally argued that the King opinion was subsequent to the opinions in Jones and Wollan vs. Jacoby, 274 Ill.App. 888, 653 N.E.2d 1303 (1st Dist. 1995).

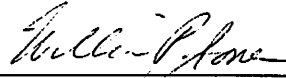
8. In Justice only 16 pages out of a total of 4,427 pages were unnumbered or .3%. In the instant case, 29 out of 34 are unnumbered or 75%. Additionally, the 5 numbered sheets are not consecutive and there are two petition sheets marked "Sheet 1". See Board Group Exhibit 1.

9. The hearing officer concludes that the Candidate's Petition Sheets do not substantially comply with Section 10-4 of the Election Code 10 ILCS 5/10-4 (West 2008). See also Mitchell, Scheff & Zuckerman vs. Smith, 99-EB-ALD-113 (1/12/99) (8 sheets out of 54 numbered); Wollan vs. Jacoby, 274 Ill.App. 888, 653 N.E.2d 1303 (1st Dist. 1995); and Jones vs. Dodendorf, 190 Ill.App.3d 557, 546 N.E.2d 92 (2nd Dist. 1989) (two distinct purposes for numbering requirement).

10. The hearing officer at hearing denied the Candidate's Motion to Dismiss. Furthermore, the hearing officer found in favor of Paragraph 1 of Objector's Petition. As the result of this finding, the Candidate's Petition Sheets are invalid and thus any signatures are invalid.

11. Therefore, for all the foregoing reasons, the hearing officer recommends that the name of Marisol Morales not appear on the ballot for Candidate for Alderman of the 26th Ward of Chicago, Illinois.

Date: December 15, 2010



Hearing Officer
William P. Jones