

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

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Objections of: EMMA JEAN ROBINSON        )  
  )  
  )  
To the Nomination                                ) No.: 15-EB-ALD-123  
Papers of: ELLIOT THOMAS                        )  
  )  
Candidate for the office of                        )  
Alderman of the 28th 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 EMMA JEAN ROBINSON ("Objector") to the nomination papers ("Nomination Papers") of ELLIOT THOMAS, candidate for the office of Alderman of the 28th Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014, 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 8, 2014, and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Terence E. Flynn 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, EMMA JEAN ROBINSON, by her attorney, James P. Nally P.C.; and the Candidate, ELLIOT THOMAS, pro se.

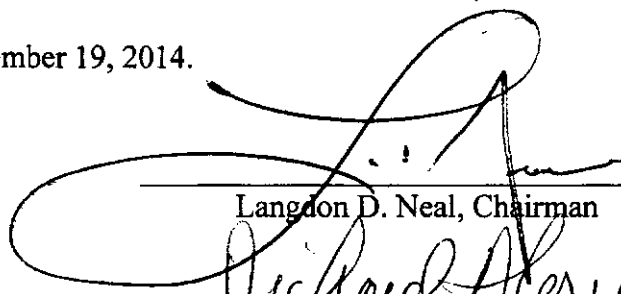
7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer recommends that paragraph 28 of the Objector's Petition be sustained and that the Candidate's Nomination Papers be declared invalid.

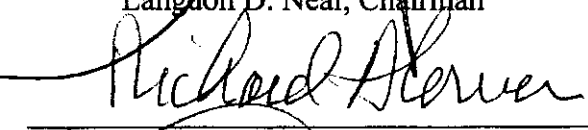
8. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report is attached hereto and is incorporated herein and made a part of the Electoral Board's decision in this case.

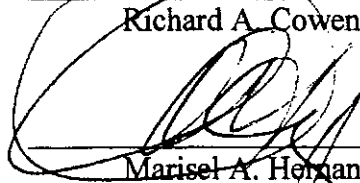
9. For the reasons stated above, the Electoral Board sustains paragraph 28 of the Objector's Petition finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of EMMA JEAN ROBINSON to the Nomination Papers of ELLIOT THOMAS, candidate for election to the office of Alderman of the 28th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of ELLIOT THOMAS, candidate for election to the office of Alderman of the 28th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

Dated: Chicago, Illinois, on December 19, 2014.

  
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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  
28th WARD, CITY OF CHICAGO, TO BE VOTED UPON AT THE FEBRUARY 24, 2015  
MUNICIPAL GENERAL ELECTION**

<b>Emma Jean Robinson</b>	)	
Petitioner – Objector	)	
	)	15-EB- ALD-123
	)	
<b>Elliot Thomas,</b>	)	
Respondent – Candidate	)	
	)	

**Report and Recommendation of Hearing Examiner  
Terence E. Flynn**

**Procedural Background:**

- 1) This matter was called for initial hearing on December 10, 2014.
- 2) The objector appeared by attorney James Nally. The candidate appeared pro se.
- 3) Objector timely filed her Verified Objection. That objection contained 28 paragraphs with a variety of objections. Only ¶28 need concern us here. That paragraph objected to the candidacy on the basis that none of the petition sheets in the nomination papers (Board Group Exhibit A) contained a notarized circulator's affidavit.
- 4) Candidate requested time to respond in writing, and though the defect appeared fatal, this Hearing Examiner thought it appropriate to give the candidate an opportunity in writing to explain why this happened, whether there were any mitigating circumstances sufficient to overcome this apparent fatal defect, and whether he could bring case law or other matters to my attention that might affect the decision. A briefing schedule was ordered. The case was set over to December 15, 2014, immediately upon the conclusion of the briefing schedule.

- 5) Both parties filed memoranda on the sole issue in a timely fashion.
- 6) At the second hearing of December 15, 2014, the same persons were present.
- 7) At that time, the candidate was given a further opportunity to explain. Also, since candidate's memorandum was more in letter form to this Hearing Examiner, it was marked as Candidate's Exhibit 1.

**Evidence:**

- 8) On page four of Candidate's Exhibit 1, the candidate makes the following admission, referring to and citing the requirement regarding validation of petition sheets by and through the circulator's sworn statement: "Such statement must be sworn to by the circulator before some officer authorized to administer oaths in the State of Illinois." Therefore by citing and quoting the above, candidate was aware of that requirement. At the hearing, candidate was made aware that a notary is that sort of person: one authorized to administer oaths. Candidate stated that he had not previously been aware of that. That statement was believed and credited by me, but that mistake does not save the candidacy.
- 9) Candidate also admitted that he himself was not a notary, nor was he otherwise authorized to administer oaths by the State of Illinois. This is important only because candidate was the sole circulator of his petitions and only his signature appears below the voter-signature lines. While an unfortunate oversight, no sufficient reason has been provided to avoid the strictures of 10 ILCS §5/10-4. Also, objector cited *Bowe v. Chicago Election Board*, 79 Ill. 2d 469 and *Anderson v. Llong Bey*, 07-EB-ALD-36 in support of her position.
- 10) Thus, it is clear that candidate violated 10 ILCS §5/10-4, requiring a sworn statement. Failure to provide that sworn statement on the petition sheets is a fatal violation of the Election Code, and in particular 10 ILCS §5/10-4, voiding the nomination papers (Board Group Exhibit A).

**Recommendation:**

It is the recommendation of this hearing examiner that the name Elliot Thomas not appear on the ballot in the February 24, 2015 election for the office of 28<sup>th</sup> Ward Alderman.

Dated: 12/16/14

s/ Terence E. Flynn  
Terence E. Flynn  
Hearing Examiner