

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

Objections of: LINDA STAMPS)	
)	
)	
To the Nomination)	No.: 15-EB-ALD-142
Papers of: GUADALUPE RIVERA)	
)	
Candidate for the office of)	
Alderman of the 16th 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 LINDA STAMPS ("Objector") to the nomination papers ("Nomination Papers") of GUADALUPE RIVERA, candidate for the office of Alderman of the 16th 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 Eileen Letts 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, LINDA STAMPS, pro se; and the Candidate, GUADALUPE RIVERA, by her attorney, Jeffrey D. Greenspan.

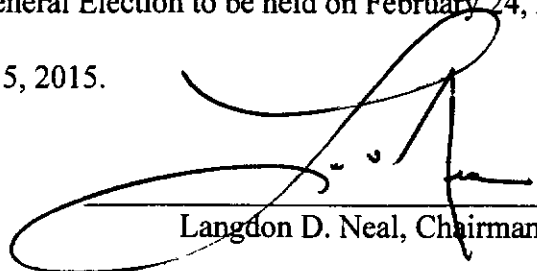
7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer recommends that the objection that the Candidate's Statement of Economic Interests was filed with the Chicago Board of Election Commissioners with her Nomination Papers and had never been filed with the Cook County Clerk's Office as required by statute should be sustained.

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.

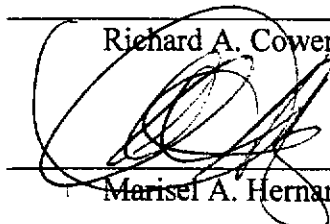
9. For the reasons stated above, the Electoral Board finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of LINDA STAMPS to the Nomination Papers of GUADALUPE RIVERA, candidate for election to the office of Alderman of the 16th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of GUADALUPE RIVERA, candidate for election to the office of Alderman of the 16th 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.

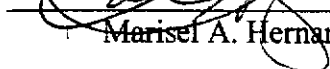
Dated: Chicago, Illinois, on January 15, 2015.



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.

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

Objections of: LINDA STAMPS)	
)	
To the nomination)	
Papers of GUADALUPE RIVERA)	No.: 15-EB-ALD-142
)	
Candidate for the Office of Alderman,)	
16 th Ward, City of Chicago, State of Illinois)	Eileen M. Letts
)	Hearing Officer
)	
)	

HEARING OFFICER'S FINDINGS AND RECOMMENDATION

In the matter of LINDA STAMPS, (Objector) regarding the Nomination Papers of Guadalupe Rivera, Candidate for the nomination for the Office of Alderman, 16th Ward in the City of Chicago, State of Illinois (Candidate), the hearing having convened on December 9, 2014. Eileen M. Letts, Esquire, duly appointed Hearing Officer in this matter, hereby makes the following report and recommended findings to the Board of Election Commissioners of the City of Chicago ("CBEC"):

1. The Candidate filed Nomination Papers with the CBEC for the nomination for the Office of Alderman, 16th Ward in the City of Chicago, State of Illinois, for the Municipal General Election to be held on February 24, 2015. Such Nomination Papers consisted of: a) A Statement of Candidacy; b) Receipt for Statement of economic interests; and c) Nominating Petition Sheets. The Candidate's Nomination Papers were marked as Board Group Exhibit A, and admitted into evidence.

2. The Verified Objector's Petition was timely filed on December 3, 2014. Such petition was marked as Board Group Exhibit B and admitted into evidence.
3. A Call to the hearing on said objections was duly issued by the Chairman of the CBEC and served upon all parties. The Call and proof of service thereof were marked and admitted into evidence as Board Group Exhibit C.
4. The initial hearings on these objections was called on December 9, 2014, at which time the objector, Linda Stamps appeared pro se. The candidate, nor the candidate's attorney appeared on that date. However, the initial hearing schedule for this Hearing Officer indicated the hearing date was Tuesday December 10, 2014, when Tuesday was December 9, 2014. Therefore, the hearing officer continued the matter until December 10, 2014, at 11:30 a.m. the same time it was indicated on the initial hearing schedule. The hearing officer advised the Objector that she did not have to return on December 10, 2014, and scheduled the next status for December 18, 2014, at 11:00 a.m.
5. On December 10, 2014, the candidate through his attorney, Jeffrey D. Greenspan appeared. Mr. Greenspan stated that on the website it indicated December 10, 2014, at 11:00 a.m. Based on that, he did not appear on December 9, 2014, for the hearing. The hearing officer informed candidate's counsel that the Objector had been informed the hearing was rescheduled for both parties to appear on December 18, 2014, at 11:00 a.m. Candidate's counsel also filed a motion to dismiss pursuant to Rule 5. It was entered and continued until the next hearing date of December 18, 2014.

6. On December 18, 2014, the parties appeared for status. At that time, the hearing officer was informed that a response had been filed to the motion as well as a reply. The hearing officer stated that she would either rule on the motion on Wednesday, December 31, 2014, or take the matter under advisement. The hearing was set for December 31, 2014, at 9:30 a.m.
7. On December 31, 2014, at 9:30 a.m. the candidate's counsel, Jeffrey Greenspan and the Objector, Linda Stamps were present. The Hearing Officer heard argument by the parties.
8. The Objector made the following objections in her petition. She stated the statement of candidacy was improper and it did not meet the law based on the following:
 - a. Candidate did not have a legal address on the top of the statement of candidacy.
 - b. The Statement of Candidacy was notarized and there were black white out marks and no initials to verify the change.
 - c. The Objector had the following objections in her petition regarding the statement of economic interests. She stated that the statement of economic interests that was filed with the City of Chicago and the Candidate's petitions had never been filed with the Cook County Clerk's Office because there was no time and date stamp.
9. First, the Objector noted that the Candidate did not have a legal address on the top of the Statement of Candidacy. However, the Candidate did have her address in the body of the Statement of Candidacy. The Hearing Officer believes

that the Candidate met the requirements by having her address in the body of the Statement of Candidacy. In *Crosby v. Swearengen*, 91-EB-ALD-154, CBEC, January 30, 1991, the candidate's address was missing on his Statement of Candidacy; however, the Board ruled that when the nomination papers were read as a whole, the address appeared on each of his petition sheets and therefore no inconsistency or conflict exists on the Statement of Candidacy. Furthermore, 10 ILCS 5/10-5 only states that the petition of nomination shall state the candidate's residence. Based on the aforementioned law, it is clear that having the address in the body of the Statement of Candidacy should be deemed sufficient.

10. Next, the Objector noted that the Candidate's Statement of Candidacy was notarized; however, there were black white out marks and no initials to verify the change. Courts have "generally excused clerical errors in notarial jurats where the affiant is otherwise correctly identified." *Akin v. Smith*, 2013 IL App (1st) 130441, 989 N.E.2d 715 (2013) (citing *Brennan v. Kolman*, 335 Ill.App.3d 716, 722, 781 N.E.2d 644 (2002); *Cintuc, Inc. v. Kozubowski*, 230 Ill.App.3d 969, 974, 596 N.E.2d 101 (1992)). The court explained that "substantial compliance with the Election Code is acceptable when invalidating charge concerns a technical violation". *Akin v. Smith*, 2013 IL App (1st) 130441, 989 N.E.2d 715 (2013) (quoting, *Madden v. Schumann*, 105 Ill.App.3d at 903). In this case, at most, the black white out marks would be considered a small technical or clerical error. The notarization is in substantial compliance. Therefore, this objection is overruled.

11. The final issue that the Hearing Officer will address is the objection that the Candidate failed to file her statement of economic interests with the Cook County Clerk's Office. The Illinois Governmental Ethics Act requires that persons who are candidates for nomination or election to office in a unit of local government to file their statements of economic interests with the County Clerk of the county in which the principal office of the unit of local government is located. (5 ILCS 420/4A-101(g), 4A-106) Therefore, candidates for nomination or election to office in the City of Chicago are required to file their statements of economic interests with the Cook County Clerk.
12. Because statements of economic interests of candidates for nomination or election to the office of Alderman in the City of Chicago are required to be filed with the Cook County Clerk and the nomination papers of those candidates are required to be filed with the Chicago Board of Election Commissioners, a candidate for the office of Alderman in the City of Chicago is required by Section 10-5 of The Election Code to file with the Chicago Board of Election Commissioners a receipt from the Cook County Clerk showing the date on which the candidate's statement of economic interests was filed. Such receipt was required to be filed with Chicago Board of Election Commissioners not later than the last day on which nomination papers were permitted to be filed.
13. A review of the Candidate's paperwork shows that the Candidate filed a statement of economic interests with her nomination papers with Chicago Board of Election Commissioners. However, the Candidate did not file a statement of economic interests with the Cook County Clerk's Office nor did she file with her

nomination papers a receipt showing that her statement of economic interests was timely filed with the Cook County Clerk.

14. The Candidate provided no evidence that she filed a statement of economic interests with the Cook County Clerk's Office.
15. Where an aldermanic candidate files a complete Statement of Economic Interests with his nomination papers in the office of the Chicago Board of Election Commissioners rather than with the Cook County Clerk's Office, the proper repository for such ethics filings, the failure to file a receipt evidencing the filing of a Statement of Economic Interests with the Cook County Clerk's Office invalidates the candidate's nomination papers. *Beverly v. Electoral Board*, 87 CO 20 23 (Cir. Ct. Cook County, 1987).
16. Although the Objector did not file a specific objection regarding the Candidate's failure to file a receipt evidencing the filing of a statement of economic interests with the Cook County Clerk, the Objector's objection re: Candidate's failure to file the statement of economic interests with the Cook County Clerk is still sufficient to invalidate the Candidate's nomination papers. The mere fact that the statement of economic interests was not filed with the Cook County Clerk means that there can be no receipt. Therefore, the nominating petition should still be deemed invalidated.
17. The Board has held that where a candidate failed to file a statement of economic interest with the candidate's nomination papers and failed to file a receipt for the statement with the board of election commissioners with whom the nomination papers were filed and there is no evidence that the statement was filed with

County Clerk, the Candidate's nomination papers failed to comply with Section 10-5 and were invalid. *Henning v. Pargas*, 99-EB-ALD-009, CBEC, January 8, 1999.

18. In Response to the Objector's objection petition, the Candidate stated that the caption on the Objector's petition stated "before the State of Illinois Electoral Board". The objections for Alderman must be filed before the Chicago Electoral Board not the State of Illinois Electoral Board. (10 ILCS 5/10-9). However, it was noted on the Objector's petition, the date and time stamp is with the Chicago Board of Election Commissioners, December 3, 2014, at 4:48 p.m. Therefore, the objection of the candidate is overruled.
19. The Candidate also argued that the Objector's petition was unclear as to the specific defects in the Candidate's nomination petitions. The only objection that remains an issue is the objection regarding the statement of economic interests. The Objector stated in her petition that **"the statement of economic interests that was filed with the City of Chicago and her petitions had never been filed with the Cook County's Clerk Office because there was no time and date stamp."** (emphasis added). Although this sentence is not extremely clear or articulate, one can understand the objection. The objection is that the statement of economic interests was never filed with the Cook County Clerk's Office as required.
20. During the hearing on December 31, 2014, the Candidate's attorney attempted to have this objection dismissed by claiming that the Objector never stated in her original objections that the candidate failed to file the statement of economic

interests with the Cook County Clerk as required. However, a review of the sentence from the objector's petition that is quoted in bold above shows that this argument is without merit. Although the objection is not artfully written as it could have been, the objection is still clear on its face. Because one can understand the basis for the objection, the Candidate's objection is overruled.

21. The Candidate failed to file a statement of economic interests in relation to her candidacy with the Cook County Clerk's Office; therefore, the Candidate's nomination papers are invalid.

22. Although the Objector also stated in her objections that the Candidate's petitions were not filed with the Cook County Clerk's Office, this issue will not be addressed as the Candidate's failure to file the statement of economic interest with the Cook County Clerk's Office invalidates her candidacy.

RECOMMENDED DECISION

It is the recommendation of this Hearing Officer that the Nomination Papers in this case be declared invalid, and that the name of GUADALUPE RIVERA, candidate for the nomination of the Office of Alderman, 16th Ward in the City of Chicago, State of Illinois, SHALL NOT be printed on the official ballot for the Municipal election to be held on February 24, 2015.

Dated: Chicago, Illinois, on January 12, 2015.

Respectfully Submitted By:



Eileen M. Letts, Hearing Officer

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