

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

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Objections of: DENNIS DEER )  
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 To the Nomination )  
 Papers of: MICHAEL D. CHANDLER ) No.: 03-EB-ALD-154  
 )  
 Candidate for the office of )  
 Alderman of the Twenty-fourth 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, Theresa M. Petrone, and Richard A. Cowen, 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 DENNIS DEER (“Objector”) to the nomination papers (“Nomination Papers”) of MICHAEL D. CHANDLER, candidate for the office of Alderman of the Twenty-fourth Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 25, 2003, having convened on December 30, 2002, at 10:00 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 30, 2002 and was continued from time to time.
5. The Electoral Board assigned this matter to Hearing Examiner TERENCE E. FLYNN for further hearings and proceedings.
6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner on the date and at the time designated in the Trial Call. The following

persons, among others, were present at such hearing; the Objector, DENNIS DEER, by counsel; and the Candidate, MICHAEL D. CHANDLER, by counsel.

7. The Objector's Petition alleges that on April 28, 1999, the Illinois State Board of Elections imposed approximately \$72,000 in civil fines and penalties against the Candidate and the New 24<sup>th</sup> Ward Democratic Organization/Formerly the Committee to Elect Michael Chandler for violations of Article 9 of the Illinois Election Code (10 ILCS 5/9-23) and that such fines and penalties remained unpaid and owing to the State of Illinois. The Objector further alleges that pursuant to 10 ILCS 5/9-23, the name of a person who has not paid a civil penalty imposed against him or her under that statute shall not appear upon any ballot for any office in any election while the penalty is unpaid. The Objector further alleges that the Candidate and the above-named committee failed and refuse to pay the fines imposed by the State Board of Elections and that as a result the Candidate is prohibited from appearing on the February 25, 2003 ballot and is not legally qualified to hold the office of Alderman of the 24<sup>th</sup> Ward of the City of Chicago.
8. Section 9-23 of the Election Code (10 ILCS 5/9-23 provides in relevant part, "The name of a person who has not paid a civil penalty imposed against him or her under this Section shall not appear upon any ballot for any election while the penalty is unpaid."
9. Mr. Steven Sandvoss, Deputy General Counsel for the State Board of Elections, was called to testify regarding an order issued by the State Board of Elections in the matter of State Board of Elections vs. The New 24th Ward Democratic Organization, Case No. 99 F 45, dated August 24, 1999. Mr. Sandvoss testified that he was the hearing examiner in Case No. 99 F 45 and that he was personally familiar with the facts in that case. Mr. Sandvoss testified that (a) there was no debt due and owing pursuant to that case, (b) that if there had been, no individual would be responsible for payment of the civil penalty, (c) and while the order is in force, the penalty has been "abated." Mr. Sandvoss testified that the Candidate was not a "person" responsible for payment of a civil penalty in August 1999 or at any time thereafter. The Hearing Examiner found Mr. Sandvoss' testimony clear, compelling and unequivocal.
10. Based upon the State Board of Elections' order of August 24, 1999 and upon Mr. Sandvoss' testimony, the Hearing Examiner concluded that the Candidate is not disqualified under 10 ILCS 5/9-23 from appearing on the ballot for Alderman in the 24<sup>th</sup> Ward of the City of Chicago because no civil penalty was imposed upon the Candidate and no penalty was unpaid by the Candidate pursuant to 10 ILCS 5/9-23 and he is not a "person" subject to that section. The Hearing Examiner further concluded that the case of *Progress Printing v. Jane Byrne Committee*, 235 Ill.App.3d 292 (1992) was irrelevant because that case involved a claim under a private contract between parties while the present claim involves the operation of a state statute and the uncontroverted evidence was that a civil penalty was never imposed on the Candidate nor is one extant under the statute. Therefore, no statutory disability can attach in this situation.

11. The Objector's renewed request for subpoena duces tecum for the records of the State Board of Elections or in the alternative for censure and sanctions against the Hearing Examiner for alleged misconduct is denied. The request for subpoenas for additional State Board of Elections' records is irrelevant as Mr. Sandvoss testified fully and completely as to the only issue relevant to this case: i.e., whether the Candidate has unpaid civil penalties due and owing to the State Board of Elections and is a person affected by operation of the statute in question. It is not relevant whether other entities may or may not have unpaid civil penalties owed to the State Board of Elections. Regarding the alleged conduct of the Hearing Examiner, the Hearing Examiner has power under the Electoral Board's rules of procedure to regulate the conduct of the proceedings, to issue subpoenas, rule upon objections to subpoenas, and to rule upon the admissibility of relevant evidence. The record does not reflect that the Hearing Examiner in any way abused his power or discretion in these proceedings.


IT IS THEREFORE ORDERED that the Objections of DENNIS DEER to the Nomination Papers of MICHAEL D. CHANDLER, candidate for election to the office of Alderman of the Twenty-fourth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of MICHAEL D. CHANDLER, candidate for election to the office of Alderman of the Twenty-fourth Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 25, 2003.

Dated: Chicago, Illinois, this Twenty-Eighth day of January, 2003



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Langdon D. Neal, Chairman



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Theresa M. Petrone, Commissioner



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Richard A. Cowen, 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 10 days after the decision of the Electoral Board.