BOARD OF ELECTION COMMISSIONERS
FOR THE CITY OF CHICAGO

INDEX
OF
ELECTORAL BOARD DECISIONS

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PREFACE

This Index contains a summary of Electoral Board decisions of the Chicago Board of Election Commissioners since 1982. This Index is intended to assist the reader in finding Electoral Board decisions of interest.

The Index is organized by subject matter. Not every decision is reported here; rather selected cases have been listed to highlight important issues that have been decided by the Board. Be aware that there may have been changes in the law since the issuance of an Electoral Board decision as a result of changes in Federal or Illinois statutes or court action. Where there exists a conflict between a decision of the Board and Illinois or Federal statutes or case law, those statutes and case law prevail. Also be aware that the Board may have changed its policies, procedures or rules since the issuance of any decision listed herein.

Copies of most, if not all decisions are available for inspection and copying at the offices of the Board and on the Board's Web site at www.chicagoelections.gov. Most citations to Electoral Board decisions in this document contain a link to the full decision on the Board's Web site for easier access. Do not rely on the description of a case as presented in this Index. Read the full original decision, keeping in mind subsequent decisions of the Electoral Board or other Federal or Illinois case law decisions or changes in the statutes may render such decision outdated.

This publication is not intended to give its readers "legal advice" nor should it be considered a legal document. The Board encourages all potential candidates and objectors to consult with their own legal counsel concerning matters discussed in this Index.

PROCEDURES FOR THE FILING AND RECEIVING OF OBJECTIONS TO CERTIFICATES OF NOMINATION, NOMINATION PAPERS AND PETITIONS TO SUBMIT PUBLIC QUESTIONS

OBJECTIONS

Section 10-8 of the Election Code requires that the objector's petition shall (a) give the objector's name and residence address; (b) state fully the nature of the objections to the certificate of nomination or nomination papers; (c) state the interest of the objector; and (d) state what relief is requested of the electoral board. If the objector's petition substantially complies with the requirements of Section 10-8 of the Election Code, it is a valid objector's petition. *Crosby v. Beavers*, 95-EB-ALD-202 (Chicago Electoral Board 1995).

An objector who set forth his interest in filing his objection "…to disqualify the Candidate as his nomination papers are not lawfully prepared or filed…" is a sufficient interest to deny candidate's motion to strike. *Beiszczat v. Daley,* 91-EB-ALD-94(Chicago Electoral Board 1991).

Even though an objector's interest was set forth in an incomplete sentence, the meaning can be inferred from the objector's petition as a whole. *Fulton v. Sanders,* 91-EB-ALD-111 (Chicago Electoral Board 1991).

The failure to include the objector's residence address on the face of the objector's petition renders it void. The residence requirement of Section 10-8 is mandatory, not directory. *Unknown v. Penny,* 99-EB-ALD-151 (Chicago Electoral Board 1999), citing *Pochie v. Cook County Officers Electoral Board,* 289 Ill.App.3d 585, 682 N.E.2d 259 (First Dist. 1997); *Unknown v. Bradley,* 99-EB-ALD-152 (Chicago Electoral Board 1999).

WHO MAY FILE OBJECTIONS

A Ward Committeeman does not have standing to object to the nominating papers of a candidate in a Representative District in which he is not a legal voter. The fact that 90% of his ward is within that Representative District does not confer standing. *Davis v. Feigenholtz*, 14-EB-RGA-15 (Chicago Electoral Board 2014).

Membership in the candidate's political party is not a perquisite to filing an objection to that candidate's nomination papers under Section 10-8 and neither is the objector's motive in filing the objections. *Jonas v. Babbitt*, 02-EB-RES-01 (Chicago Electoral Board 2002), citing *Havens v. Miller*, 102 Ill.App.3d 558, 566, 429 N.E.2d 1292 (1st Dist. 1981).

The electorate, the electoral boards and commissions, and candidates themselves are ill served by any delay in moving for proof when there is doubt as to an objector's standing to file the objection. The question of an objector's standing under the Code is an affirmative defense that must be raised by the candidate in a timely fashion. It is the candidate's burden to plead and prove the objector's lack of standing to file the objection. If standing is attacked based on the objector's residency (or lack of residency) or the objector's voter registration status, it is the candidate's burden to prove that the objector is not a resident of the political division or district or that he is not a registered voter therein. *Blessing v. Borowski*, 04-EB-WC-01 (Chicago Electoral Board 2004), citing *Dunham v. Naperville Township Officers Electoral Board*, 265 Ill.App.3d 719, 640 N.E.2d 314 (2nd Dist. 1994). The fact that the objector's voter registration status is listed as "inactive" does not deprive him of standing to file an objection. See also, *Davis et al. v. Reed*, 04-EB-WC-81 (Chicago Electoral Board 2004).

Where objector's petition states objector's residence at an Evanston address that is not within the district in which the candidate is running and objector admits living there, he lacks standing to file objection. *Cobb v. Colvin,* 08-EB-RGA-32 (Chicago Electoral Board 2007).

Where objector challenges the nomination papers for a candidate for ward committeeman in the 9th Ward of the city of Chicago but lists his residence address in Berwyn, Illinois, he lacks the requisite residency qualifications to file objections in that section 10-8 of the Election Code requires that an objector

be a "legal voter of the political subdivision or district in which the candidate ... is to be voted on...." *Mayers, v. Holmes,* 08-EB-WC-01 (Chicago Electoral Board 2007).

Objectors, one of whom resided in the 2nd Representative District and the other resided in the 6th Representative District, according to the objectors' petition, lacked standing to file objections to the nomination papers seeking nomination and election as a Representative in the General Assembly in the 24th Representative District. *Wunder & Miranda v. Hernandez*, 12-EB-RGA-14 (Chicago Electoral Board 2012).

Objector's Motive Irrelevant

Membership in the candidate's political party is not a perquisite to filing an objection to that candidate's nomination papers under Section 10-8 and neither is the objector's motive in filing the objections. *Jonas v. Babbitt*, 02-EB-RES-01 (Chicago Electoral Board 2002), citing *Havens v. Miller*, 102 Ill.App.3d 558, 566, 429 N.E.2d 1292 (1st Dist. 1981).

Objector's motive is not a prerequisite to filing an objection to a candidate's nomination papers. *Drew v. Pletsch,* 12-EB-RES-01 (Chicago Electoral Board 2012), citing *Nader v. Illinois State Board of Elections*, 354 Ill.App.3d 335, 819 N.E.2d 1148 (1st Dist. 2004), wherein the court held that the electoral board was correct to deny subpoenas requested by candidate in an effort to determine whether the objector's petition was compiled in violation of the Election Code. The *Nader* court held that the electoral board was not required or empowered to conduct an investigation into how the objector's petition was compiled, noting that such issues were irrelevant to the issues of whether the candidate's nominating papers satisfied the requirements of the Election Code and whether the candidate's petition contained enough valid signatures to be placed on the ballot. *Nader* further supports the denial of subpoenas attempting to require objector to testify as to his "interest, basis, reasoning, intent, cause, motive or analysis."

Objector's potential "ulterior motive" in filing the objection is irrelevant to the proceedings, so long as the objector is otherwise qualified to bring the objections in the first place. *Ley v. Williams III*, 14-EB-CON-06 (Chicago Electoral Board 2014).

DEADLINE TO FILE OBJECTIONS

Candidate moved to strike and dismiss objector's petition alleging that different times stamped on the objector's petition raised a question of fraud and improprieties. Board of Election supervisor testified that on the day objector's petition was filed, the time stamp machine was not working properly and a second machine was, in all probability, used. The first machine time stamped the objector's petition approximately one hour faster than the actual time but there was no question that the petition was filed prior to 5:00 p.m. because the petition would have indicated that. If a petition was accepted after 5:00 p.m., it would have been so noted on the petition. Furthermore, the only way that such a petition would have been accepted was if the person filing was inside of the office prior to 5:00 p.m. *Sheppard v. Winding*, 07-EB-ALD-125 (Chicago Electoral Board 2007).

RECEIVING AND TRANSMITTING OBJECTIONS

[No cases reported]

CONTENTS OF OBJECTIONS

Failure to Include Objector's Name and Residence Address

Objection petition that states "I, Clarence Gafeney, a registered voter of the 7th Ward of Chicago file a challenge of the petitions of current 7th Ward Alderman Beavers on December 27, 1994 for the aldermanic election scheduled for February 1995. Sincerely, Clarence Gafeney" does not state the objector's residence address, does not state the interest of the objector, does not state what relief is requested of the electoral board and does not state fully the nature of the objections to the candidate's nomination papers and said petition fails to comply with Section 10-8 of the Election Code. *Gafeney v. Beavers,* 95-EB-ALD-094 (Chicago Electoral Board 1995).

Failure to state objector's residence address on face of petition violates Section 10-8 and renders objector's petition invalid. *Williams v. Hawthorne*, 07-EB-ALD-022 (Chicago Electoral Board 2007); *Delay v. Simms-Johnson*, 00-EB-WC-012 (Chicago Electoral Board 2000); *Dace v. Stockstill*, 00-EB-WC-

014 (Chicago Electoral Board 2000); *Ortiz v. Nikolic,* 95-EB-ALD-118 (Chicago Electoral Board 1995); *Ortiz v. Vargas,* 95-EB-ALD-120 (Chicago Electoral Board 1995); *Williams v. Kenner,* 91-EB-ALD-176 (Chicago Electoral Board 1991).

Inclusion of one incorrect digit in the objector's address was not a sufficient basis to strike the objector's petition (5927 W. Warner instead of correct address of 5327 W. Warner). *Tompkins v. Osborne,* 11-EB-ALD-163 (Chicago Electoral Board 2011).

Failure to include name of objector in objector's petition invalidates the objector's petition. Name and address of attorney filing the petition is insufficient. *Dace v. Stockstill*, 00-EB-WC-14 (Chicago Electoral Board 2000).

Failure to Fully State Nature of the Objections

An objection is required to fully state the nature of the objections and what relief is being sought to comply with the Election Code. *Kopec v. Sims*, 07-EB-MUN-002 (Chicago Electoral Board 2007); *Crosby v. Beavers*, 95-EB-ALD-202 (Chicago Electoral Board 1995).

An objection petition must adequately and sufficiently apprise the candidate of the specificity of each objection, thus making evaluation possible. *Elysee v. Patterson*, 04-EB-RGA-14 (Chicago Electoral Board 2004).

Objection stating only, "I'd like to file an objection to the petitions of [candidate's name] for State Senator of the third legislative district of Illinois" does not state the nature of the objection as required by Section 10-8 of the Code nor does it adequately apprise the candidate of the nature or specificity of the objections to her nomination papers so as to give the candidate a reasonable opportunity to defend her nomination papers. *McCullough v. Hunter*, 08-EB-SS-04 (Chicago Electoral Board 2007).

Objections alleging that "Certain Petition sheets were 'Round Tabled', other Petition sheets are signed by non-registered voters, and other Petition sheets were signed by voters outside the Second Representative District of the State of Illinois" fails to comply with the requirement of Section 10-8 of the Election Code that provides in relevant part that the objector's petition "shall state fully the nature of the objections to the … nomination papers or petitions in question." Such objection does not fully apprise the candidate of the source or sources of any alleged defects whereby the candidate could affirmatively defend against the objections. *Sutor v. Acevedo*, 06-EB-RGA-04 (Chicago Electoral Board 2006), citing *Pochie v. Cook County Officers Electoral Board*, 289 Ill.App.3d 585, 682 N.E.2d 258 (1997) and *Ligas v. Martinez*, 95-EB-ALD-134 (Chicago Electoral Board 1995).

Objection petition merely stating that the candidate's petition sheets contain a number of persons who are not registered voters, that the petitions contain the name of persons who do not live in the district and also persons who print and that the nomination papers contain signatures that are not genuine does not fully state the nature of the objections and is invalid. An objection petition must adequately and sufficiently apprise the candidate of the specificity of each objection, thus making evaluation possible. *Elysee v. Patterson*, 04-EB-RGA-14, January 20, 2004; *Thapedi v. Williams,* 08-EB-RGA-30, (Chicago Electoral Board 2007) (allegations that "many," "a substantial number," or "several" signatures are invalid for grounds claimed without identifying specifically which signatures are in dispute fail to sufficiently state the nature of the objection).

Objections that allege only that a signature was "printed" without stating any other reason why the signature was not valid does not specifically state a reason why a signature must be deemed invalid and such objections will be stricken and dismissed. *Reid v. Washington*, 03-EB-ALD-172 (Chicago Electoral Board 2003).

Objections alleging that signatures are invalid solely on the ground that the "signer's signature printed and not written" does not state a sufficient basis upon which to invalidate petition signatures. There is no statutory prohibition against printing one's name on a nominating petition. The only statutory requirement is that the signature be genuine and in the hand of the person affixing his signature to a petition. Accordingly, a candidate's motion to strike and dismiss the objection alleging only that certain signatures on the petition are "printed and not written" is to be granted. *Simms-Johnson v. Coordes*, 04-EB-WC-05 (Chicago Electoral Board 2004).

Objections that allege a "pattern of fraud" but fail to specify the conduct the gives rise to the pattern of fraud or what sheets and lines evidence the pattern lack sufficient specificity to put the candidate on notice of the purported deficiency and as such deprives the candidate of an opportunity to prepare a defense. *Davis v. Hendon*, 02-EB-SS-09 (Chicago Electoral Board 2002).

Appendix-recapitulation containing a column checked for "Signer Signed Petition More than Once at Sheet Indicated" but which did not have accompanying text in the body of the objections and did not specify where the duplicated signatures appear lacks sufficient specificity to put the candidate on notice of the purported deficiency and as such deprives the candidate to prepare a defense. *Davis v. Hendon*, 02-EB-SS-09 (Chicago Electoral Board 2002).

Appendix-recapitulation containing a column checked for "Other" but which did not have accompanying text in the body of the objections and does not specify what "Other" means lacks sufficient specificity to put the candidate on notice of the purported deficiency and as such deprives the candidate to prepare a defense. *Davis v. Hendon*, 02-EB-SS-09 (Chicago Electoral Board 2002).

Objector's Appendix-Recapitulation that referred to hand-written line numbers in the pre-printed "Line #" column as a line objection adequately apprised candidate of nature of objections. *Rice v. Tirado*, 07-EB-ALD-075 (Chicago Electoral Board 2007); *Rice v. Diliberto*, 07-EB-ALD-076 (Chicago Electoral Board 2007).

Objections that refer to and purportedly incorporate by reference an "Appendix-Recapitulation" that is not, in fact, attached to the objector's petition fail to fully state the nature of the objections and are, therefore, dismissed. *Thapedi v. Williams*, 08-EB-RGA-30 (Chicago Electoral Board 2007); *Thomas v. Swiss*, 04-EB-WC-46 (Chicago Electoral Board 2004); *Robertson & Hurston v. Moseley-Braun*, 99-EB-ALD-001 (Chicago Electoral Board 1999); *Fouladi v. Ladien*, 95-EB-MUN-005 (Chicago Electoral Board 1995); *Fouladi v. Wardingly*, 95-EB-MUN-008 (Chicago Electoral Board 1995); *Washington v. Cooper*, 92-EB-REP-035 (Chicago Electoral Board 1992); *Washington v. Woods*, 92-EB-REP-34 (Chicago Electoral Board 1992); *LaPorta v. Ramos*, 91-EB-ALD-137 (Chicago Electoral Board 1991); *LaPorta v. Campos*, 91-EB-ALD-138, (Chicago Electoral Board 1991); *Ramos v. Sandoval*, 87-EB-ALD-77 (Chicago Electoral Board 1987).

"Addendum" alleging a pattern of fraud filed with objector's petition but not mentioned in such petition or adopted or incorporated therein will not be considered. *Thapedi v. Williams*, 08-EB-RGA-30 (Chicago Electoral Board 2007).

Objector's petition was found insufficient at law for failure to specify why the signatures objected to were improper and for failure to specifically relate the objections to the appendix. *Matthews v. Clay*, 87-EB-ALD-146 (Chicago Electoral Board 1987).

Objector's petition that merely alleges that the nomination papers must contain "not fewer than 387 qualified and registered voters of said ward," without any objection sheets, fails to state the nature of the objections and is invalid. *Whitehead v. Gholar*, 91-EB-ALD-045 (Chicago Electoral Board 1991).

Objection petition that stated "the nature of the objection is the signature and address contained in those petitions are not all of the 24th Ward residency which is required" failed to adequately specify the nature of the objections as required by Section 10-8 of the Election Code. *Gray v. Elliot*, 92-EB-WC-049 (Chicago Electoral Board 1992).

Objection petition must adequately and sufficiently apprise the candidate of the specificity of each objection, thus making evaluation possible. *Alschuler v. Feigenholtz*, 94-EB-REP-09 (Chicago Electoral Board 1994).

Objector's petition that makes general allegations with regard to candidate's nomination papers without specifically identifying which of the petition sheets or signatures contain the alleged defects or irregularities and where no appendix-recapitulation was filed with objector's petition identifying the specific petition sheets and alleged defects therein, the objector's petition fails to fully state the nature of the objections and is invalid. *Delay v. Simms-Johnson*, 00-EB-WC-012 (Chicago Electoral Board 2000); *Coleman v. Ross*, 00-EB-WC-023 (Chicago Electoral Board 2000); *Ligas v. Martinez*, 95-EB-ALD-134 (Chicago Electoral Board 1995); *Whitehead v. Hodges*, 91-EB-ALD-47 (Chicago Electoral Board 1991).

Objections that fail to fully state the nature of the objection shall be overruled. *Cleveland v. Sohn*, 88-EB-SMAY-11 (Chicago Electoral Board 1989);*Cleveland v. Holowinski*, 88-EB-SMAY-15 (Chicago Electoral Board 1989) , *Cleveland v. Hurst*, 88 EB-SMAY-18 (Chicago Electoral Board 1989). Objections stating "not in proper person as in official election binder" fail to meet the statutory standard of Section 10-8 that the objector, "state fully the nature of the objection". *Cleveland v. Sohn*, 88-EB-SMAY-11 (Chicago Electoral Board 1989).

Objection that alleged that the candidate for alderman "is a debtor" who "owes the City money" is legally insufficient. Section 3.1-10-5(b) of the Illinois Municipal Code is only applicable to municipal candidates with indebtedness in *arrears* to the municipality. "Arrears" is defined as "past due payments of other liabilities." Objector's contention that the candidate's nomination papers should be rendered invalid due simply to an alleged debt is legally insufficient. *Brown v. Martin,* 11-EB-ALD-012 (Chicago Electoral Board 2011). See also, *Stroud v. Johnson,* 11-EB-ALD-301 (Chicago Electoral Board 2011); *Stroud v. Nelson,* 11-EB-ALD-332 (Chicago Electoral Board 2011).

Objection stating simply that the candidate's statement of candidacy is invalid and perjurious because the candidate is a debtor to and owes money to the City of Chicago and does not meet the qualifications for office does not, without more facts, state fully the nature of the objections as required by Section 10-8 of the Election Code. *Lockette v. Reed,* 11-EB-ALD-017 (Chicago Electoral Board 2011); *Bryant v. Sherman*, 11-EB-ALD-228 (Chicago Electoral 2011), *aff'd.,* Circuit Court of Cook County, No. 11 COEL 00027.

Objections that alleged that signers of aldermanic candidate's petition previously signed petitions for other candidates for the same office fail to fully state the nature of the objections where the objections failed to identify the signatures being challenged and what other petitions those individuals signed. A subsequent "Bill of Particulars" filed by the objector in response to the candidate's motion to strike and dismiss the objections amounted to an improper attempt to amend the original petitions. *Elias v. Lopez,* 11-EB-ALD-024 (Chicago Electoral Board 2010).

Where Appendix-Recapitulation contained items designated with an "x" as to certain circulator and notary issues that did not have corresponding paragraphs in the text of the objector's petition, said items failed to fully state the nature of the objections as required by Section 10-8 of the Code. *Petry v. Guereca,* 11-EB-ALD-226 (Chicago Electoral Board 2011).

Although the "Other" objection is not described in the text of the petition, many of the objections are described more specifically in the Appendix-Recapitulation sheets. *Stewart v. Cruz*, 11-EB-MUN-032 (Chicago Electoral Board 2011).

Objector's petition that fails to state the interest of the objector and the relief requested of the electoral board does not satisfy Section 10-8. *Yanez v. Martinez*, 86-EB-ALD-7 (Chicago Electoral Board 1986).

A prayer for relief in the objector's petition seeking the removal of "Ollie Vernon Ross" from the ballot, when the candidate's name was Reginald Daniels, invalidates the objector's petition. *Kyles v. Daniels*, 92-EB-LEG-19 (Chicago Electoral Board 1992).

Objector's petition that failed to state a proper prayer for relief against the candidate was dismissed. *Rossi v. Oberg,* 87-EB-ALD-74 (Chicago Electoral Board 1987).

Objector's petition that filed specific objection separately from the objector's petition was held invalid as the petition lacked the specificity required by Section 10-8 of the Election Code. *Ramos v. Sandoval,* 87-EB-ALD-77 (Chicago Electoral Board 1987).

Objections that are beyond simple mislabeling, and are so inconsistent, confusing, open-ended and internally contradictory that they deny the candidate any meaningful opportunity to evaluate the objections in a timely manner are in violation of Section 10-8 of the Code. *Nelson v. Johnson*, 12-EB-WC-23 (Chicago Electoral Board 2012).

One-sentence objection stating, "Objector Joseph A. Barton feels that based on the signature qualifications, timely filing, improperly filing of forms needed to have his name printed as candidate in the Democratic for the Election of the 33rd Representative district that is to be held on Tuesday-November 06,

2012, that candidate Marcus C. Evans, Jr. does not have the amount of signatures, Forms, needed for his name to be printed in the above election" is not specific enough nor does it state the full nature of his objections. *Barton v. Evans*, 12-EB-RES-08 (Chicago Electoral Board 2012).

The failure of the Appendix-Recapitulation sheet to reference each column by the letter designation (i.e., (A), (B), (C), (D), etc.) as referenced in the objector's petition does not render the petition or the objections invalid where the Appendix-Recapitulation clearly identifies the objection notwithstanding the missing letter designation. *Cardona & Collazo v. Zavala*, 14-EB-CON-01 (Chicago Electoral Board 2014).

Appendix-Recapitulation sheets that (a) do not identify the location at which the signer "signed petition twice," (b) the "other" column in the Appendix-Recapitulation sheets do not identify the specific reason for the objection; (c) there are objection marks in an unidentified column of the Appendix-Recapitulation sheets; and (d) fail to identify specific page numbers for the objection regarding the failure to name the circulator in the notarization, will render it unlikely that record examination clerks will rule on such objections or they will likely overrule the objections at the records examination and the objection that fail to name the circulator in the notarization objections and identify the nomination sheets for the objections will be stricken. *Cardona & Collazo v. Zavala*, 14-EB-CON-01 (Chicago Electoral Board 2014).

The fact that a signature is illegible is not, standing alone, a proper basis to strike the signature. The Election Code has no requirements regarding good penmanship or the lack thereof. An allegation only that a signature is illegible does not state a legally cognizable basis to invalidate signatures. *Feierstein v. Phelan*, 12-EB-WC-03 (Chicago Electoral Board 2012), which acknowledges the difficulty illegible signatures can create in a records examination of allegations that a signature is not genuine or that the signer is not registered, is distinguishable. *Diaz v. Currie*, 14-EB-RGA-26 (Chicago Electoral Board 2014); *Vara v. Lilly*, 14-EB-RGA-33 (Chicago Electoral Board 2014).

While Rule 10 of the Electoral Board's Rules of Procedure provide that "[F]or matters not covered herein, the Electoral Board will generally follow rules of evidence and practice which prevail in the Circuit Court of Cook County, Illinois, including the Code of Civil Procedure and the Rules of the Illinois Supreme Court, but because of the nature of these proceedings, the Electoral Board shall not be bound by such rules in all particulars," this Electoral Board has not adopted a liberal construction of pleadings and the rules and past decisions of this Electoral Board have demanded specificity in objection pleadings, especially with regard to allegations of fraud. *Lane v Brookins*, 15-EB-ALD-025 (Chicago Electoral Board 2015).

Bad Faith, or "Shot Gun", Objections

Rule 1(xv) of the Electoral Board's Rules of Procedure recognizes the need for good faith objections by "requiring a preliminary showing that certain factual allegations in the Objectors' petition are pled in good faith based on knowledge, information and/or belief formed after reasonable inquiry." Some inquiry is not the same as making a reasonable inquiry. Objectors failed to provide credible evidence to justify the sweeping allegations that virtually every signature on the candidate's nominating petition was invalid on multiple bases. Objections that each and every circulator engaged in a pattern of fraud and false swearing without providing specific reasons were stricken. Even more disturbing was the failure of the objectors to offer any credible explanation as to how identical objections in two different cases by two different sets of objectors were submitted without any information or documents having been shared between the sets of objectors as claimed by them. The lack of any plausible explanation makes it impossible to determine who, if anyone, actually undertook an investigation sufficient to support the filing of the objections. Sample records examination results did not support objectors' allegations. Accordingly, a finding that the objections were not pled in good faith based on knowledge, information and/or belief formed after reasonable inquiry is appropriate and the objections were stricken and dismissed in their entirety. *Collins v. Davis*, 16-EB-CON-01 (Chicago Electoral Board 2016); Edwards-Eichelberger v. Davis, 16-EB-CON-02 (Chicago Electoral Board 2016); *Thomas v. Day*, 16-EB-CON-03 (Chicago Electoral Board 2016); *Collins v. Day*, 16-EB-CON-04 (Chicago Electoral Board 2016).

Objector's petition contained objections to the genuineness of 749 of the 750 signatures on the candidate's petition, contending that each and every such signature was not genuine. The electoral board finds that the objections were not made as a result of a reasonable inquiry or investigation of the facts and

were not made in good faith. Therefore, the electoral board found that the petition had all the characteristics of a "shot gun" objection. *Xian v. Munoz*, 16-EB-WC-19 (Chicago Electoral Board 2016).

There is no *per se* rule prohibiting "dual objections," i.e., objections alleging both that the petition signer was not registered at address shown and that the signer's signature is not genuine. Such objections are not necessarily inconsistent nor are they necessarily evidence of a bad faith or "shot gun" objection. While Rule 6 of the Electoral Board's Rules of Procedure provides that when the objection is made that a signature is not genuine and is not that of the person whose name appears on the petition sheet but no registration record can be found for the person in question, the objection will be overruled at the records examination, if the objector has independent evidence (i.e., other than the Board's registration records) to support such an objection, the objector is free to present such evidence during an evidentiary hearing. *Stearns v. Latiker,* 08-EB-RGA-12 (Chicago Electoral Board 2007).

Appendix attached to objector's petition consisted of one page. In the column under "Page No." were three rows filled in. The first row referred to "1-50"; the second row referred to "51-100"; and the third row referred to "100-140." On each of the three rows, the columns for "Signer Not Registered," "Not Signed in Own Proper Person" and "Name or Address Missing or Incomplete" are filled in with the marking "1-20," purportedly objecting on each and every ground to each and every signature on lines 1-20 of each and every sheet of the candidate's nominating petition. The candidate filed 2,445 signatures on 140 petition sheets. On many of these sheets there were not even 20 signatures on the petition sheet. Thus, not only did the objector's petition object to each and every signature on the candidate's petition, but it also objected to signatures that did not even exist. During hearing on candidate's motion to strike and dismiss the objector's petition, the objector presented no evidence to show what investigations were made in preparing objector's petition. The electoral board found that the objector's petition was not prepared as the result of a reasonable inquiry or investigation of the facts and was not made in good faith; therefore, the electoral board granted the candidate's motion to strike and dismiss the objector's petition. *Prince v. Colvin,* 08-EB-RGA-33 (Chicago Electoral Board 2007).

Objector's petition objected to each and every one of the candidate's 66 nominating petition sheets wherein each and every signature on the candidate's nominating petition sheets was objected to for the same three reasons (i.e., (1) "Signer's Signature Not Genuine"; (2) "Signer Not Registered At Address Shown"; and (3) "Signer Resides Outside District"). Moreover, the objector's Appendix-Recapitulation contained only one original sheet; all of the other 65 sheets of the Appendix-Recapitulation were photocopies of the one original sheet. On many of the candidate's petition sheets there were blank lines; nevertheless, the objector's Appendix-Recapitulation objected to the blank lines on the same three grounds enumerated above. After the candidate filed a motion to strike and dismiss the objector's petition, the objector filed a pleading titled, "Answer to Motion to Strike and Dismiss." Objector argued that she filed her petition upon a good-faith reliance on the due diligence and research conducted by individuals who spent considerable time researching the computerized registration records of the Board and comparing these results with signatures on the candidate's nomination papers. Attached to the objector's Answer to Motion to Strike and Dismiss was a document titled, "Appendix Recapitulation: Reflecting Withdrawn Objections." This document purported to withdraw certain objections made in the objector's original Appendix-Recapitulation. By filing a new Appendix-Recapitulation, the objector implicitly admitted that the original objector's petition was not consistent with the research and examination purportedly conducted by the objector or her representatives. In the race to meet the deadline for filing objections against the candidate's nomination papers, the objector decided to file a petition knowing that not all of the objections contained therein were true or were supported by the research conducted by her agents. An objector cannot amend his or her objections. An objector cannot cure a *defective* original petition by withdrawing some of the admittedly unsupported objections. This practice would allow objectors who cannot meet the filing deadline to file objector's petitions containing any type or number of objections by the filing deadline and then file the correct pleading only if and when caught by a motion to strike and dismiss. Therefore, the objections as originally filed did not comply with section 10-8 of the Election Code and the objector will not be allowed to cure a defective petition after the deadline for filing objections as that would only encourage objectors in the future to file wholly defective objections simply to beat the statutory deadline for filing objections. *McCarthy v. Pellett*, 04-EB-WC-04 (Chicago Electoral Board 2004).

Where the objections challenged each and every signature on the candidate's 73 petition sheets on the grounds that the "Signer's Signature Not Genuine" and "Signer Not Registered at Address Shown"; where the first sheet of the objector's Appendix-Recapitulation sheets 1 and 2 had an "X" typed on every line of the 25 lines for that sheet under both Column A and Column B; where sheets 3 through 7 of the Appendix-Recapitulation had hand printed "X"s on every line of the 25 lines for those sheets under both Column A and Column B; where sheets 8 through 73 of the Appendix-Recapitulation appear to be photocopies of Sheet 1 or Sheet 2 of the Appendix-Recapitulation, except that hand printed "X"s also appear to be affixed in various columns throughout these sheets, the electoral board found that the objections were not made as the result of a reasonable inquiry or investigation of the facts and were not made in good faith. Accordingly, the electoral board struck and dismissed the objector's petition. *Young-Curtis v. Lyle*, 03-EB-ALD-139 (Chicago Electoral Board 2003).

Where objector's petition objects to each and every of the nearly 1,100 signatures on the candidate's nomination petition on the grounds that the signatures are not genuine, the signers were not registered to vote at the address shown on petition and that the signer resides outside the district and each of these objections marked by computer-generated "X" next to the sheet and line for each petition signature, while other categories of objections are indicated by a handwritten "X", and the objector adduces no evidence to show what investigations were made in preparing objector's petition, the objector's petition was not made as the result of a reasonable inquiry or investigation of the facts and are overruled as "shot gun" objections. *Derengowski v. Lamm,* 96-EB-RGA-1 (Chicago Electoral Board 1996), affirmed *Derengowski v. Electoral Board of City of Chicago*, 96 CO 16 (Cir. Ct. Cook Co., Judge Henry, February 9, 1996). The electoral board should not be required to expend its valuable time and resources, nor the time and resources of a candidate, in engaging is a "fishing expedition" for an objector who has not spent the requisite time and resources to make a reasonable inquiry of the facts. Entertaining such objections may invite future parties to interpose similar objections for improper purposes, such as to harass candidates, cause unnecessary delay in the preparation of the ballots or in the conduct of candidate campaigns, or needlessly increase the cost of conducting elections. Such objections, sometimes referred to as "shot gun" objection, do not "fully state the nature of the objections" as required by Section 10-8 of the Election Code.

Objections to almost every signature on the candidate's nominating petition on grounds that the signatures were not genuine were overruled where a sample binder check of signatures appearing on line 13 of 35 petition sheets disclosed that of all the signatures objected to on ground that signature was not genuine, only one (1) objection was sustained on those grounds. *Delk v. Horist,* 95-EB-MUN-11 (Chicago Electoral Board 1995). The objections filed were not well grounded in fact or warranted by existing law nor did they interpose a good-faith argument for the extension, modification or reversal of existing law. Objections which have no basis in law or in fact and which are in the nature of what are commonly known as "shot-gun" objections will be dismissed in that they do not fully state the nature of the objections in violation of Section 10-8 of the Election Code.

Objections that have no basis in law or in fact and which are in the nature of what are commonly known as "shot-gunned" objections will be dismissed. *Barton v. Coleman,* 95-EB-ALD-144 (Chicago Electoral Board 1995), *Arafat v. Shaw*, 91-EB-ALD-81 (Chicago Electoral Board 1991) (Objector challenged validity of every signature filed by candidate (2,400) and a partial binder check was ordered where each party was requested to submit 10% of the signatures filed. Of the 20% signatures checked, objections were overruled at a rate of 75%. Board found that a high rate of objections overruled, in light of the 2,400 signatures filed for an office requiring 415 minimum valid signatures, reveals that the objections were "shot gunned". Therefore, Board granted motion to dismiss objections on such grounds).

Where a sample records examination found that a total of 982 objections were made to individual signatures on the pages sampled but only 288, or 29.3%, of the objections were sustained, where 18 circulators were challenged as to registration or genuineness of signature but only 16% of those objections were sustained, and where on the other sheets sampled as to circulator allegations only, a total of 345 circulators were challenged but only 84, or 24.3%, were sustained, the objector's petition was not prepared in good faith with concern for the truth and falsity of the allegations contained therein and were prepared in a "shot gunned" fashion. *Johnson v. Laski,* 99-EB-MUN-004 (Chicago Electoral Board 1999).

Candidate's motion to strike the objections alleging that the objection was a "shot gun" petition was denied where 66% of the objections were sustained during the records examination. *Johnson v.*

McClain, 04-EB-WC-21 (Chicago Electoral Board 2004); *Anderson v. Prince,* 08-EB-RGA-31 (Chicago Electoral Board 2007) (motion to strike and dismiss objector's petition denied where 77% of objections sustained).

Hearing examiner found no merit to candidate's contention that objector engaged in bad faith, or "shotgun", objections where objector produced copy of Freedom of Information Act request receipt showing that he paid for copies of every petition sheet in candidate's nomination papers and objection itself contained an exhibit forth, page number by page number, each page that was missing in the candidate's nomination papers. Such a feat could not have been accomplished without a review of the candidate's nomination papers and established three things: first, that the objector did, in fact, review the candidate's nomination papers; second, that the objector's review was detailed enough to provide the factual basis incorporated into the objection exhibit; and third, that the objection was well founded upon a reasonable inquiry. *Dubuclet v. Cruz*, 07-EB-MUN-011 (Chicago Electoral Board 2007).

Candidate's motion to strike and dismiss the entire objection petition on grounds of alleged "bad faith" denied inasmuch as paragraphs 24 and 25 of objector's petition regarding the failure to file a statement of economic interests receipt at least presented valid grounds to invalidate candidate's nomination papers and were brought in good faith. *Henning v. Lawrence*, 07-EB-ALD-052 (Chicago Electoral Board 2007), affirmed, *Lawrence v. Board of Election Commissioners,* Cir. Ct. Cook Co., 2007 COEL 0008, January 31, 2007, affirmed 1-07-0826 (unpublished order).

The fact that the objector submitted objections to a majority of the candidate's 23,000 signature was not in itself a basis for finding that the petition was filed in bad faith (or a "shot-gun" objection). Results of the record examination showed a high rate (approximately 70%) of the objection were sustained. There were 18,356 objections that the "signer not registered at address shown," of which 11,803 were sustained. Therefore, candidate's motion to strike the objections would be denied. *Stewart v. Cruz*, 11-EB-MUN-032 (Chicago Electoral Board 2011).

Results of the records examination disclosed that 88% of the specific sheet and line objections were sustained and successfully rebutted any argument that the objections were not based in law or fact or were in any way "shotgunned." *Luckett v. Barton*, 12-EB-IND-03 (Chicago Electoral Board 2012).

Insufficient Objections

Only one Recapitulation Sheet was attached to the objections, although photocopies of nine additional copies were attached. Only 24 signatures were objected to and disqualifying 24 signatures out of the 1,480 signatures filed would not bring the candidate's total below the required minimum of 473 signatures. The electoral board can strike objections on its own motion if the objections do not meet the requirements set forth in 10 ILCS 5/10-8 or are not well grounded in fact and/or law. *Taylor v. McNeil*, 15-EB-ALD-001 (Chicago Electoral Board 2014).

Objector's petition that failed to object to a sufficient number of signatures so that even if all of the objections were sustained the candidate's nominating petition would still contain more than the minimum number of valid signatures without any objection whatsoever properly stricken and dismissed. *Reynolds v. Berrios*, 14-EB-RGA-31 (Chicago Electoral Board 2014); *Ramirez v. Gonzalez*, 16-EB-WC-01 (Chicago Electoral Board 2016).

Hearing officer conducted a hearing to allow the objector an opportunity to present evidence in support of his Rule 8 motion objecting to Board clerk's findings during record examination. Objector moved to continue hearing arguing that he needed more time to subpoena and bring in five circulators to testify. Candidate filed a motion for directed finding, arguing that even if all of the valid signatures remaining after the record examination on sheets circulated by the five witnesses were invalidated, the candidate would still have 587 valid signatures, more than the 500 minimum needed. Hearing officer found that even if the objector could produce the five witnesses he sought and even if objector prevailed in invalidating the remaining signatures on the petition sheets circulated by those circulators, the candidate would still have a sufficient number of valid signatures to qualify for the ballot. Accordingly, objector's motion for continuance was denied and the candidate's motion for directed finding was granted. Davis v. Williams, 14-EB-RGA-14 (Chicago Electoral Board 2014).

Objections made on the allegation of "round-tabling" should be stricken because objector did not state any specific facts upon which to allege "round-tabling" of specific sheets and hearing officer, after reviewing petition sheets in question, did not observe any indication of "round-tabling." *Connor v. Holmes*, 15-EB-ALD-110 (Chicago Electoral Board 2015).

Amending Objection Petitions

Second document titled "Objection Petition" filed after the filing of the initial objector's petition seeking to cure the defects of the initial pleading cannot rectify deficiencies in the initial pleading and a motion to strike will be sustained. *Llong Bey v. Beale,* 11-EB-ALD-005 (Chicago Electoral Board 2011).

Objector's supplementary brief requests the Board to strike 725 nominating petition sheets bearing the notarial jurats of two named individuals; however, this objection is not set forth in the objector's petition. While there is an allegation in the Appendix-Recapitulation that states, "purported notary did not sign sheet problem" and lists certain petition sheet numbers, the notaries on those sheets do not include the individuals identified for the first time in the objector's supplementary brief. Objector was not permitted to amend her objections. *Cruz v. Neely,* 11-EB-MUN-058 (Chicago Electoral Board 2011).

Letter filed by objector on first day of objection filing period and a second letter filed by same objector to same candidate's nomination papers on last day of objection filing period were treated as separate objections, each with its own objection number. Second letter was not an "amendment" of first objection. *Sutor v. Solis*, 07-EB-ALD-001 (Chicago Electoral Board 2007), affirmed, *Sutor v. City of Chicago Municipal Officers Electoral Board,* 2007 COEL 9, 2007 COEL 10 (Cons.) (Cir. Ct. Cook Co. 2007) citing *Reyes v. Bloomingdale Township Electoral Board*, 265 Ill.App.3d 69, 638 N.E.2d 782 (2nd Dist. 1994) and *Stein v. Cook County Officers Electoral Board*, 264 Ill.App.3d 447, 636 N.E.2d 1060 (1st Dist. 1994). Second letter objection could not be used to cure defects in first letter objection. *Sutor v. Solis*, 07-EB-ALD-059 (Chicago Electoral Board 2007), affirmed, *Sutor v. City of Chicago Municipal Officers Electoral Board,* 2007 COEL 9, 2007 COEL 10 (Cons.)(Cir. Ct. Cook Co. 2007).

Objector's attempt to introduce a group exhibit "A pages 1-75" which consists of an appendix-recapitulation is not permitted because the Election Code does not authorize amendments to an objection. *Ligas v. Martinez,* 95-EB-ALD-134 (Chicago Electoral Board 1995). Accord, *Molina v. Gunderson*, 07-EB-ALD-166 (Chicago Electoral Board 2007).

Objector indicated that he had summary sheets which provided the sheet and line specificity for the objections. Objector conceded that the summary sheets had not been filed with the objector's petition. Inasmuch as an objector's petition cannot be amended once filed, the summary sheets could not serve to rectify the deficiencies in the objector's petition. *Bey v. Beale*, 07-EB-ALD-170 (Chicago Electoral Board 2007).

The objector is estopped from introducing evidence not stated in the objections. *Fisher v. Barnett,* 88-EB-WD-10 (Chicago Electoral Board 1988).

Objectors argued after the conclusion of the records examination that the number of sustained objections during the records examination was almost 60% of the total and that there should be a finding of a pattern of fraud. No such allegation was in the objectors' petition. Objections cannot be amended after they are filed. *Delk v. Brooks*, 07-EB-ALD-086 (Chicago Electoral Board 2007).

Failure to Properly Identify Office Sought

A typographical error in identifying the office and district in the prayer for relief does not invalidate the objection petition where the office the candidate is seeking is correctly identified in the caption and body of the objection petition. *Novak v. Miller*, 00-EB-WC-04 (Chicago Electoral Board 2000).

Unsigned Objector's Petition

Objector's petition is not invalid due to the fact that, although the original verified objector's petition was signed by the objector at the time it was filed with the county clerk but the additional copy was not. *Shearer v. Sween,* 96-EB-WC-56 (Chicago Electoral Board 1996).

The fact that objector does not sign an objector's petition does not invalidate it since the objector's petition was signed promptly after the omission was called to his attention in compliance with Supreme Court Rule 137. *Powell v. Lang*, 95-EB-ALD-183 (Chicago Electoral Board 1995) (*Note: Section 10-8 does not require specifically that the objector's petition be signed or verified. Furthermore, while the Board's rules provide that the Board will generally follow rules of practice that prevail in the Circuit Court of Cook County, including the Rules of the Illinois Supreme Court, the Board is not bound by such rules in all particulars. Even assuming, however, that Rule 137 applies, it provides that if a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.)* See also, *Tatum v. Evans*, 04-EB-WC-33 (Chicago Electoral Board 2004).

Notarization

Candidate filed a motion to strike and dismiss the objectors' petition alleging that the petition was notarized by one of the objectors and that because the notary had an interest in the transaction in violation of the Notary Act, the notarization is void and the objectors' petition must be stricken and dismissed. However, Section 10-8 does not require specifically that the objectors' petition be signed or verified. Therefore, any defect in the notarization of an objector's petition does not render the petition defective. *Davis et al. v. Reed*, 04-EB-WC-81 (Chicago Electoral Board 2004).

Failure to Properly Identify Candidate

Objector's prayer for relief that identified someone other than the candidate in his prayer for relief, but included the correct candidate's name in the caption and all the recapitulation sheets sufficiently placed the candidate on notice and there was no basis for confusion. Precise identification of the candidate or office is not required if there is no prejudice or confusion. *Harris v. Hampton*, 14-EB-RGA-12, (Chicago Electoral Board 2014).

Failure to name a candidate in the objector's petition invalidates the objector's petition. *In re Objections of Richard Scimo*, 95-EB-ALD-016 (Chicago Electoral Board 1995).

Prayer for relief that seeks removal of "Ollie Vernon Ross" from the ballot instead of correct name of the candidate "Reginald Daniels" invalidates the objector's petition. *Kyles v. Daniels* (Chicago Electoral Board 1992). But see *Davis v. Hendon*, 02-EB-SS-09 (Chicago Electoral Board 2002), where electoral board declined to invalidate objection petition that identified wrong name in prayer for relief asking that the name not be printed on the ballot, holding that a request not to print a name on the ballot is beyond the authority of the electoral board and should, therefore, be regarded as surplusage, citing *Kozel v. State Board of Elections*, 126 Ill.2d 58, 533 N.E.2d 796 (1988).

Misspelling the name of the candidate does not invalidate the objector's petition where there was no evidence of actual confusion surrounding the party to whom the objections were directed. *Davis v. Hendon*, 02-EB-SS-09 (Chicago Electoral Board 2002).

Objector's use of the name "Ron Mitchell" in the objector's petition instead of "Ronald Mitchell," the name used by the candidate on his voter registration, did not render the objector's petition legally insufficient, relying upon *Wollan v. Jacoby*, 274 Ill.App.3d 388, 653 N.E.2d 1303 (1995) (objector incorrectly used the term "Commissioner" instead of "Trustee" to describe the office), and *Shaifer v. Folino*, 272 Ill.App.3d 709 (1st Dist. 1995) (under Section 2-401(b) of the Code of Civil Procedure a "misnomer" is not grounds for dismissal and the party's name may be corrected by motion at any time before or after judgment if the real party in interest was given actual notice of the proceedings). *Burgess v. Mitchell*, 11-EB-ALD-041 (Chicago Electoral Board 2011).

Candidate moved orally and in writing to strike and dismiss objector's petition because the petition named "Frederick K. White" instead of "Fredrick K. White" and therefore he was not the intended target of the objections. Candidate refused to acknowledge service of the objector's petition and the electoral board's call. Candidate refused to "appear" at the initial hearing and subsequent hearing. Candidate admitted he filed a total of 1,175 signatures, far fewer than the 12,500 required by law. The objector's petition contained sufficient allegations, if accepted as true, to invalid the candidate's nomination papers. Held: candidate was in default and his nomination paper invalid. *Thompson v. White*, 11-EB-MUN-054 (Chicago Electoral Board 2011).

While there was a candidate for the same office by the name of Jesse L Harley, the objector's petition sought to invalidate the nomination papers of "Eddie Harley." While precise identification of the candidate or office is not required if there is no prejudice or confusion, here there was absolutely no identification of the correct candidate. Objector's error cannot be characterized as merely "de minimis"; rather, the error is substantial. *Williams v Harley*, 15-EB-ALD-172 (Chicago Electoral Board 2014).

PROCEDURES FOR HEARING AND PASSING UPON OBJECTIONS TO CERTIFICATES OF NOMINATION AND NOMINATION PAPERS

CALL TO MEETING

Notice

Candidate waived any objection to alleged lack of service of the Call and the objector's petition and electoral board had jurisdiction over the case where board received certification from the Sheriff's office certifying that candidate was served with a copy of the Call and the objector's petition by personal service on January 3, 1996 at 8:50 am. but did not appear for the first time before the hearing examiner on January 23, 1996. *Medina v. Campos,* 96-EB-WC-29 (Chicago Electoral Board 1996). The hearing examiner personally handed the candidate a copy of the objector's petition at the hearing on January 23 and scheduled a hearing to address the question of service and other issues. The candidate subsequently participated in the proceedings before the electoral board, including the records examination, thereby waiving any objection to alleged lack of service.

Candidate's contention that she was not properly served with a copy of the objector's petition or with the electoral board's call was waived when the candidate appeared and filed a written appearance at the first hearing. The candidate was later given adequate time to defend against the objections and did defend against those objections, so the lack of formal service did not deprive her of an opportunity to defend against the objections. *Nelson v. Hyman*, 03-EB-ALD-028 (Chicago Electoral Board 2003).

PLACE OF MEETING

[No cases reported]

TIME OF MEETING

Statute requiring objections to nominating petitions be filed within 5 days after last day for filing the certificate of nomination, requiring copy of the objector's petition to be sent to challenged candidate within 24 hours after receipt of petition, requiring a call to be sent within 24 hours after receiving the objector's petition and requiring hearing on objections to be held not less than 3 nor more than 5 days after receipt of the nomination papers and the petition did not provide constitutionally deficient notice. *Briscoe v. Kusper,* 435 F.2d 1046 (7th Cir. 1970).

FAILURE TO APPEAR

Where candidate was personally served with a copy of the electoral board's call to the hearing by a deputy sheriff at the address listed on his nomination papers and does not appear at the initial hearing, and the objector's petition contains on its face sufficient allegations, if accepted as true, to invalidate the candidate's nomination papers, the candidate is in default and his nomination papers are invalid. *Austin, et al., v. Tatum,* 08-EB-RGA-13 (Chicago Electoral Board 2007); *Copeland v. McNeal*, 08-EB-SS-03 (Chicago Electoral Board 2007) (minimum signature requirement of 1,000, but petition on its face contained only 504 purportedly valid signatures).

Where candidate was served with the electoral board's call and notice of a continued hearing by certified mail, return receipt showed that notice of the hearing was delivered, received and signed by candidate, whose signature on receipt matched signature on his nomination papers, and where the candidate failed to appear at the noticed hearing or otherwise failed to communicate with the Board, the candidate will be found in default and his nomination papers declared invalid inasmuch as the objector's petition stated sufficient grounds on its face, if accepted as true, to invalidate the candidate's nomination papers. *Williams et al., v. Smith*, 08-EB-RGA-15 (Chicago Electoral Board 2007).

Where objector was served by substituted service by the Sheriff at the address listed on her objection petition and failed to appear at initial hearing, objector defaulted and objections dismissed. *McCullough v. Hunter*, 08-EB-SS-04 (Chicago Electoral Board 2007).

Default of objector for failing to appear at initial hearing was vacated when objectors responded that their attorney had filed an appearance prior to the date of the initial hearing and was delayed while attending a hearing in another case in the same building. The hearing officer vacated the default when the clerk for the attorney appeared at the hearing officer's table with the attorney's appearance. The hearing officer considered it only fair to vacate the default inasmuch as the number of hearings taking place and the fact that they were in three different rooms on several floors, which kept many parties from promptly attending hearings as they were scheduled and called. Although the delay in the objectors' attorney's appearance was not insignificant, the hearing officer determined that it was not of such length to prejudice the candidate. Attorney's clerk's attendance at hearing in lieu of attorney to submit attorney's appearance form and to obtain a briefing schedule was not objectionable; although clerk did not advise the hearing officer that he was not an attorney, which he should have done, he did not assume the role of any attorney by advocating for the client or making any legal argument. *Raddatz v. Rivera,* 11-EB-ALD-035 (Chicago Electoral Board 2011).

A candidate cannot evade the effects of a duly filed objection to his or her nomination papers by simply being unavailable for service of papers nor should the objections be rendered moot by virtue of the fact that a candidate cannot be found by the statutory methods of service. If this were permitted, candidates would simply go into "hiding" until the objection process had run its course, thereby frustrating the statutory scheme for testing whether the candidate is eligible to be on the ballot. *Glatstein v. Beacham*, 15-EB-ALD-029 (Chicago Electoral Board 2014).

PROCEDURE

Rules of Procedure

Rule 1(b)(ii) of the Board's rules of procedure provides that the Board, and hearing officers under Rule 2, shall have the power to set times for filing of documents, as well as the power to extend the time for filing upon a showing of good cause. Hearing officer refused to consider or admit 13 additional affidavits proffered by the candidate two days after the deadline established by the hearing officer for the submission of such affidavits where the hearing officer did not find cause to extend the deadline. The electoral board found that the hearing officer did not abuse his discretion in refusing to consider such evidence. *Zaragoza v. Vazquez*, 16-EB-RGA-03 (Chicago Electoral Board 2016), reversed, *Vazquez v. Board of Election Commissioners of the City of Chicago*, 16-COEL-3 (Cir. Ct. Cook Co. 2016), electoral board decision affirmed, 2016 IL App (1st) 160349-U.

Objector may only preserve the right to contest petition sheets circulated by particular individuals that he identified in his request for subpoenas before the deadline imposed by the Hearing Officer for the production and exchange of evidence, witness lists, documents and affidavits. Before the hearing officer, the objector made no attempt to present evidence beyond the 36 petition sheets circulated by the five individuals named in his subpoena request. Rule 20 of the Board's Rules of Procedure provides that parties will, in general, be bound by the record from the proceedings unless it is against the interests of fairness, equity or substantial justice. *Davis v. Williams*, 14-EB-RGA-14 (Chicago Electoral Board 2014).

The Code of Civil Procedure is inapplicable to administrative proceedings. *Caldwell v. Nolan*, 167 Ill.App.3d 1057, 522 N.E.2d 175 (1988), citing *Desai v. Metropolitan Sanitary District*, 125 Ill.App.3d 1031, 1033, 466 N.E.2d 1045 (First Dist. 1984). However, the Chicago Board of Election Commissioners has adopted rules which provide that for matters not covered by its rules of procedure, the rules of practice which prevail in the Circuit Court in Cook County, Illinois, including the Code of Civil Procedure and the Rules of the Illinois Supreme Court, will be followed but because of the nature of these types of proceedings, the Board is not bound by such rules in all particulars.

Because the candidate did not properly preserve her objections for an evidentiary hearing under Rule 8 and because Rule 8 states that any objection not properly preserved is deemed waived, the hearing examiner did not schedule nor conduct an evidentiary hearing and the candidate was precluded from presenting such objections. *Smith vs. Johnson*, 03-EB-ALD-011 (Chicago Electoral Board 2003), affirmed

Johnson v. Board of Election Commissioners, 03 CO EL 18 (Cir. Ct. Cook Co., 2003 ("if there is a sanction or consequence within a directive, is mandatory, as specified in Rule 8").

Following records examination, candidate made a request to rehabilitate signatures invalidated during the records examination. Because neither candidate nor any representative of candidate was present during the records examination, he waived whatever right he had to attempt to rehabilitate any of signatures that may have been found during the records examination. *Robinson v. Davis*, 07-EB-ALD-101 (Chicago Electoral Board 2007).

Candidate filed a Rule 8 petition pursuant to Rules of Procedure, but failed to include any information that served to identify "the petition sheet and line number for any signature that was examined during the Rule 6 records examination and for which a party timely and properly appealed the findings of the Board's clerks" as required by Rule 8. At the hearing pursuant to Rule 8, objector objected to the candidate's Rule 8 petition on the grounds that prior notice of the petition sheet and line number for any of the signatures that the candidate sought to rehabilitate had not been previously provided to him. Candidate agreed that he had not previously provided such information to objector, but argued that his inadvertence was a technicality that should be excused. The hearing examiner, after considering the arguments and evidence, sustained the objector's objection because of the candidate's failure to include the required sheet and line number for any signature with respect to his Rule 8 petition. *Tuck v. Ammons*, 07-EB-ALD-102 (Chicago Electoral Board 2007).

Rule 8 petition did not contain the required information stating the sheet and line numbers of the names that would be rehabilitated by the candidate as required by Rule 8. *Sheppard v. Young*, 07-EB-ALD-123, (Chicago Electoral Board 2007).

Candidate argued that he had 129 signatures that were ruled as "out of district" signatures and that it evidences defects in the Board's database. However, the candidate acknowledged that these sheet/line signatures had to be listed in his Rule 8 motion. Because these alleged 129 "out of district" signatures were not listed in the candidate's Rule 8 motion, the hearing officer ruled that they were not admissible. The candidate contended in his Rule 20 motion before the Electoral Board that the candidate adopted the Board's records examination Summary Report and analysis in his Rule 8 motion and that it was not objected to. However, there is nothing in the record or in the transcript that evidences that the candidate was allowed to adopt or use the Board's records examination reports as part of his Rule 8 motion. The Electoral Board has not condoned such a practice. *Salazar, et al., v. DeMay*, 15-EB-ALD-052 (Chicago Electoral Board 2015), affirmed, *DeMay v. City of Chicago Board of Elections*, 2015 COEL 000013 (2015), appeal dismissed, *DeMay v. City of Chicago Board of Election Commissioners*, No. 1-15-0452 (1st Dist. App. Ct., 2015).

Candidate contended that the hearing officer erred by not allowing the candidate to incorporate the Board's records examination Petition Detail Report as his appendix for the Rule 8 motion, arguing that the practice of incorporation by reference is not new to this Electoral Board. However, the candidate could not identify a single instance when this Electoral Board has allowed a candidate or an objector to simply incorporate the Board's records examination reports as the party's Rule 8 motion. Rule 8(d)(i) requires a motion requesting an evidentiary hearing concerning the results of a Rule 6 records examination to identify the sheet and line number for any signature for which the moving party wishes to challenge the ruling on such challenge. The purpose of the rule is to precisely identify and narrow the issues for evidentiary hearing. The issues addressed show why it is important for parties to draft thorough and accurate Rule 8 motions. For this and for the reasons stated in the hearing officer's report, the Electoral Board found that the hearing officer was correct to deny the candidate's request to incorporate and use the Board's Petition Summary Report and Petition Detail Report as his Rule 8 motion. *Sanchez v. Bocanegra*, 15-EB-ALD-053 (Chicago Electoral Board 2015), affirmed, *Bocanegra v. Chicago Board of Election Commissioners, et al.*, 2015 COEL 000008 (Cir. Ct. Cook Co., 2015).

Candidate claims that the hearing officer should have allowed the candidate's affidavits in support of his Rule 8 motion. However, the hearing officer correctly noted that under Rule 8(d)(ii), the candidate would not have been permitted to present evidence or argument related to any signature if it was not listed in his Rule 8 motion. In addition, because the candidate's Rule 8 motion identified only 103 signatures, and the candidate was short 115 signatures on his petition sheets, the Candidate would still have been

below the minimum signature requirement even if he could have successfully rehabilitated all 103 signatures. *Sanchez v. Bocanegra*, 15-EB-ALD-053 (Chicago Electoral Board 2015), affirmed, *Bocanegra v. Chicago Board of Election Commissioners, et al.*, 2015 COEL 000008 (Cir. Ct. Cook Co. 2015).

Candidate's Rule 8 motion listed only 162 signature objections for which he wished to present evidence, while the records examination results showed the candidate was 194 signatures short of the minimum signature requirement. Therefore, any Rule 8 evidentiary hearing would be moot. *Cochran v. Davis*, 15-EB-ALD-149 (Chicago Electoral Board 2015).

Rules of Evidence

"Public record search sheets" consisting of a computer print-out summary of purported criminal charges brought against someone with the same name as the candidate may be admitted in evidence, but only if they comply with the best evidence and hearsay rules. Where an original record cannot be procured, secondary evidence such as a copy of the record of conviction certified under the signature of the clerk having custody thereof, and the seal of the court, or by the judge of the court if there is not a clerk, satisfies the foregoing elements and has been recognized as proof of a former conviction of a crime. Where, however, the evidence offered by the objector do not satisfy the elements necessary under the best or secondary evidence rule, the objector fails to demonstrate the authenticity of the evidence proffered, and the objector fails to establish that the records do not qualify as an exception to the hearsay rule, the evidence will not be admitted. *Washington v. Smith,* 08-EB-RGA-07 (Chicago Electoral Board 2007).

The examination of a number of randomly selected samples of signatures on a petition is an acceptable method of authenticating petition signatures. The electoral board may then allow the parties to submit evidence from outside the permanent registration record cards (such as affidavits) to validate those signatures which may have been invalidated via the random sampling method authentication. *Garza v. Adams*, 91-EB-ALD-11 (Chicago Electoral Board 1991).

Affidavits may be used to establish that signatures challenged in a binder check are, in fact, the genuine signatures of those signing the petition. *Garza v. Adams*, 91-EB-ALD-11 (Chicago Electoral Board 1991). See also, *Sumlin v. Newell*, 07-EB-ALD-174 (Chicago Electoral Board 2007).

Where the objector objected to a signature and such objection was sustained by the Board's staff and its handwriting expert, the hearing examiner can accept the use of an affidavit to overrule that ruling, unless it is clear from the face of the affidavit that the requisite particularity required by Supreme Court Rule 191 is not present, the facts shown are not within the personal knowledge of the person, or a reasonable person could not believe the truth of the statements. Hearing examiner compared signature on affidavit with signatures on petition and on voter registration card, and where the signatures were dissimilar and the form affidavit failed to explain the discrepancy, the hearing examiner sustained the factual findings of the Board's staff and its handwriting expert that the signature on the petition was not genuine. Hearing examiner also sustained objections that the persons who signed the petition were not registered at the time of signing the petition where the affidavits presented, along with certifications from the Board, did not establish that the persons were registered *at the time they signed the petition.* *Fritchey v. Romanelli,* 08-EB-WC-37 (Chicago Electoral Board 2007), affirmed, Cir. Ct. Cook Co, No. 2007 COEL 0065, affirmed, Appellate Court of Illinois, First Judicial District, No. 1-08-0031 (February 11, 2008) (holding that affidavits are not entitled to "prima facie validity" and that a counter-affidavit is not the only means by when an affidavit can be contradicted; an affidavit may be contradicted by other documentary evidence and in the case at bar, the hearing officer weighed the evidence in support of sustaining the objections against the affidavits and found that most of the objections were properly sustained by the Board's staff members and handwriting expert). See, also, *Zaragoza v. Vazquez*, 16-EB-RGA-03 (Chicago Electoral Board 2016), reversed, *Vazquez v. Board of Election Commissioners of the City of Chicago*, 16-COEL-3 (Cir. Ct. Cook Co. 2016), electoral board decision affirmed, 2016 IL App (1st) 160349-U (affidavits are admissible as evidence under electoral board rules of procedure and may be considered in determining whether signatures fount not be genuine during a records examination are, in fact, genuine signatures of those signing the petition; thus, it is proper to attempt to prove the authenticity of a signature without expert testimony, by requesting that a trial court, or a hearing officer, as trier of fact, compare the signatures on a disputed document to the purportedly genuine signature of a person on another document and where he compared the signature on the affidavit with the signatures on the candidate's nominating petitions and on the voter

registration record to determine whether the signature was genuine, the hearing officer's findings were not unreasonable and were supported by the record and there is no abuse of discretion); *Webb v. Johnson*, 16-EB-RGA-11 (Chicago Electoral Board 2016); *Lopez v. Iniguez*, 16-EB-WC-21 (Chicago Electoral Board 2016), affirmed, *Iniguez v. City of Chicago Board of Election Commissioners*, 16 COEL 04 (Cir. Ct. Cook Co. 2016), affirmed, 2016 IL App (1st) 160535-U (Ill. App., 2016) (Candidate's argument that the contents of affidavits should have been taken as true in the absence of documentary evidence to the contrary is flawed in that it fails to recognize that there are other means by which an affidavit can be contradicted other than by counter affidavit and in this case, the hearing officer, whose findings the Board adopted, did, in fact, have evidence which contradicted the validity of 37 signatures for which the sustained objections were not overturned. Based upon the Board's interpretation of its own rules and its adoption of section 8-1501 of the Code, court was unable to conclude that the Board abused its discretion in considering the hearing officer's signature comparison as evidence in this case); *Bartlett v. McNeil*, 16-EB-WC-43 (Chicago Electoral Board 2016).

Accord, *Bright v. Bellaire*, 08-EB-WC-42 (Chicago Electoral Board 2007) (there was sufficient similarity between signatures on each of the documents to conclude that the signatures on the affidavits, the candidate's petitions and the registration records were signed by the respective registered voters, except as to one whose affidavit and signatures differed, and there was insufficient evidence to establish that the signer of the petition also signed the nomination papers and was the same person who signed the registration record). But see, *Galvan v. Martinez*, 08-EB-WC-30 (Chicago Electoral Board 2007) (there is a rebuttable presumption of the validity of affidavits submitted to rehabilitate challenged signatures). Although admissible, affidavits can be contradicted by other documentary evidence. *Tompkins v. Caravette*, 12-EB-WC-34 (Chicago Electoral Board 2013) (citing Steigmann, Robert J., *Illinois Evidence Manual*, Third Edition, November 2005, §18:01.)

"Affidavits" verified pursuant to Section 1-109 of the Code of Civil Procedure are acceptable in lieu of notarized affidavits. *Hazard v. Carbol, 04-EB-WC-22* (Chicago Electoral Board 2004); *Bright v. Bellaire*, 08-EB-WC-42 (Chicago Electoral Board 2007). **IMPORTANT NOTE**: In *Caldwell v. Board of Election Commissioners*, Cir. Ct. Cook County, 2012-COEL-002 (January 30, 2012), the Circuit Court of Cook County held that *Mashni v. Laski*, 351 Ill.App.3d 727, applies to affidavits submitted before the electoral board to rehabilitate signatures. Accordingly, verifications by certification under Section 1-109 of the Code of Civil Procedure are no longer acceptable in lieu of notarized affidavits.

To be an affidavit, the document must be a sworn statement taken before an officer authorized to administer oaths. See, *Black Law Dictionary*, (Rev. 4th Ed., 1968) and *Webster's Ninth New Collegiate Dictionary* (Merriam-Webster, Inc., 1991); nor does candidate's exhibit number 1 contain the necessary certifying language mandated by Section 1-109 of the Illinois Code of Civil Procedure. Hence, any admission of such an exhibit would be a violation of Rule 8 of the Rules of Procedure of the electoral board. *Hemphill v Williams-Bey*, 11-EB-ALD-065 (Chicago Electoral Board 2011).

Hearing officer declined to assess the validity of petition signatures in the absence of affidavits or other affirmative extrinsic evidence, refusing to give the candidate essentially a *de novo* review of signatures already ruled upon by the Board's clerks and, in some instances, the Board's hand-writing expert, without any other evidence to dispute those earlier findings. *Robinson v. Jackson*, 15-EB-ALD-122 (Chicago Electoral Board 2015).

Production of Documents

The denial of all access to petitions, binders and records for the purpose of inspection and copying may constitute a deprivation of due process. *Briscoe v. Kusper*, 435 F.2d 1046 (7th Cir. 1970).

Objector's request for issuance of a subpoena for the production of signed applications for ballot denied under the reasoning of *Kibort v. Westrom*, 371 Ill.App.3d 247, 862 N.E.2d 609 (2007), which affirmed trial court's order that the DuPage County Election Commission did not violate the Illinois Freedom of Information Act by denying plaintiff's request to examine ballot records, including ballot applications. *Caldwell v Sawyer*, 12-EB-WC-08 (Chicago Electoral Board 2012), affirmed, *Caldwell v. Board of Election Commissioners*, Cir. Ct. Cook County, 2012-COEL-002 (January 30, 2012).

Due Process Requirements

The denial of all access to petitions, binders and records for the purpose of inspection and copying may constitute a deprivation of due process. *Briscoe v. Kusper*, 435 F.2d 1046 (7th Cir. 1970).

Application by electoral board of new anti-duplication rule to nullify previously acceptable aldermanic nominating petitions without prior notice to candidates, together with board's action in disallowing signatures which failed to include middle initial, regardless of whether signature was genuine and verifiable by reference to registration lists, without forewarning candidate of technical interpretation of statute stating that qualified voters must sign "in their own proper person only," constituted denial of due process of law. *Briscoe v. Kusper*, 435 F.2d 1046 (7th Cir. 1970).

Records Examination

The electoral board utilizes a single records examiner to conduct records examinations in multiple cases where there are multiple objections to the same candidate. This ensures that a single individual makes a determination on multiple objections to the same signature so that such determinations are consistent. If additional records examiners were employed to make determinations as to the same signature, there may be different and inconsistent results. If the records examiner does not properly rule on an objection, the aggrieved party is entitled under Rule 6 to appeal that determination and have a hearing before the hearing officer to reverse the allegedly improper call. The same is true for objections that a petition signer does not reside in or is not registered in the appropriate district in which the candidate is seeking ballot access. *Webb v. Johnson*, 16-EB-RGA-11 (Chicago Electoral Board 2016).

A records examination may be terminated by Board staff when it is determined during the course of the records examination that the candidate's nomination papers would not contain a sufficient number of valid signatures for the office in question even if all of the remaining objections were overruled. E.g., records examination was terminated by Board staff after examining 338 petition sheets because it was determined that although the candidate's nomination papers contained on their face 15, 685 purportedly valid signatures, 4,400 objections had already been sustained during the records examination, leaving the candidate below the 12,500 statutory minimum signature requirement. *Kopec v. Sims*, 07-EB-MUN-002 (Chicago Electoral Board 2007). The hearing examiner noted that the number of signatures found invalid during the truncated records examination exceeded 65% of the number of signatures examined. At that rate, a completed records examination would have left the candidate with only 5,000 or so valid signatures.

Records examination was suspended after 3,374 objections to the candidate's signatures had been sustained, leaving the candidate below the 12,500 minimum signature requirement with only 9,280 valid signatures. *Hendon v. Johnson*, 07-EB-MUN-004 (Chicago Electoral Board 2007).

Neither the Election Code nor the Board's rules of procedure require that a watcher for a candidate or objector at a records examination be a resident of the ward or district in which the candidate is seeking election. *Sheppard v. Young*, 07-EB-ALD-123 (Chicago Electoral Board 2007).

Where neither candidate nor anyone on his behalf attended records examination, the candidate is ineligible under Rule 6(h) of the Electoral Board's rules of procedure to contest the findings of the records examiners, making any Rule 8 motion moot. *Quadri v. Sifnotis,* 15-EB-ALD-014 (Chicago Electoral Board 2015).

The purpose of Rule 6(h) is to prevent a party from completely ignoring the records examination and later attempting to appeal the results of such proceeding without ever even having attended the proceeding. The necessity of the rule is to provide an efficient, streamlined process for addressing the multitude of objections to individual petition signatures and to allow both the candidate and the objector to examine the registration records at the same time they are examined by a Board employee and ruled upon by such employee. If the parties are allowed to circumvent Rule 6(h) by ignoring the records examination and then later appealing every adverse finding made during the records examination, the hearing officer will essentially have to assume the role of the records examiner and examine every signature and every voter registration record of every person whose signature to which an objection is lodged. Such circumvention of the rule will require the hearing officer to expend unnecessary time and expense to assume duties now performed by Board employees and effectively cause the objection process to come to a grinding halt. *Roche v. Sifnotis*, 15-EB-ALD-130 (Chicago Electoral Board 2015).

During the records examination, neither party had provided any watchers. Therefore, no challenges or appeals had been filed or preserved regarding any of the findings made by Board staff. Both parties agreed that none of the objections sustained during the partial records examination could be rehabilitated at any future evidentiary hearing pursuant to Rule 8. Even though the records examination was not yet complete, subtracting the 4,019 objections sustained from the 14,492 total signatures filed left the candidate with only 10,474 valid signatures at best, below the 12,500 minimum signature requirement. *Gunn v. Patterson*, 15-EB-MUN-001 (Chicago Electoral Board 2014).

Rule 20 Motions to Appear Before the Board

Before the hearing officer, the objector made no attempt to present evidence beyond the 36 petition sheets circulated by the five individuals named in his subpoena request. Rule 20 of the Electoral Board's Rules of Procedure provides that the parties will, in general, be bound by the record from the proceedings before the hearing officer unless the Electoral Board determines that the presentation of new or additional evidence or the re-opening of the hearing is in the interests of fairness, equity or substantial justice. Here, the Electoral Board found that the presentation of new evidence or the re-opening of the hearing was not warranted or justified. *Davis v. Williams*, 14-EB-RGA-14 (Chicago Electoral Board 2014).

OATHS AND SUBPOENAS[1]

Affidavits which are not notarized but rather contain a certification under Section 1-109 of the Code of Civil Procedure in lieu of a sworn affidavit may re accepted for purposes of electoral board proceedings. Section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109) generally allows pleadings, affidavits, or other documents to be filed in any court of the State of Illinois to be verified by certification in lieu of an affidavit. The statute provides that "any pleading, affidavit or other document certified in accordance with this section may be used in the same manner and with the same force and effect as those subscribed and sworn to under oath." Any person who makes a false statement in any pleading, affidavit or other document certified by such person in accordance with this section is guilty of a Class 3 felony. This is equivalent to the penalty for perjury for making false statements under oath in an affidavit. Because a verification by certification under Section 1-109 subjects the person making it to the same penalties for making a false statement as if made in an affidavit under oath, such certifications may be accepted in lieu of a sworn affidavit. *Hazard v. Carbol*, 04-EB-WC-22 (Chicago Electoral Board 2004). **IMPORTANT NOTE**: In *Caldwell v. Board of Election Commissioners*, Cir. Ct. Cook County, 2012-COEL-002 (January 30, 2012), the Circuit Court of Cook County held that *Mashni v. Laski*, 351 Ill.App.3d 727, applies to affidavits submitted before the electoral board to rehabilitate signatures. Accordingly, verifications by certification under Section 1-109 of the Code of Civil Procedure are no longer acceptable in lieu of notarized affidavits.

SCOPE OF AUTHORITY

The electoral board's function is limited to determining whether a challenged nominating petition complies with the provisions of the Election Code and where the language of the statute is plain, and electoral board is without authority to decide constitutional issues. *Drew v. Pletsch*, 12-EB-RES-01, (Chicago Electoral Board 2012) (citing *Goodman v. Ward*, 241 Ill.2d 398, 948 N.E.2d 580 (2011) and *Wiseman v. Elward*, 5 Ill.App.3d 249, 257, 283 N.E.2d 282 (1972)); *Oberg v. Schreiner*, 96-EB-NPP-1 (Chicago Electoral Board 1996); *Oberg v. Haring*, 96-EB-NPP-2 (Chicago Electoral Board 1996); *Crawley v. Haring*, 96-EB-NPP-3 (Chicago Electoral Board 1996); *Slywczuk v. Travis*, 96-EB-NPP-5 (Chicago Electoral Board 1996); *Waldron v. Jacobson*, 96-EB-NPP-6 (Chicago Electoral Board 1996); *Hernandez v. Shober*, 96-EB-NPP-7 (Chicago Electoral Board 1996); *Harry v. Ray*, 96-EB-NPP-8 (Chicago Electoral Board 1996).

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[1] Section 10-10 of the Election Code (10 ILCS 5/10-10) has been amended by Public Act 98-691 (House Bill 105), effective July 1, 2014, to provide that an electoral board's power to issue subpoenas shall be exercised only upon a vote by a majority of its members. Future rules will establish a procedure by which requests for subpoenas shall be submitted and approved by the Electoral Board.

The legislature did not intend that an electoral board entertain constitutional challenges to procedures employed in obtaining signatures in nominating petitions. *Troutman v. Keys*, 156 Ill.App.3d 247, 509 N.E.2d 453 (1987).

As part of its inquiry, an electoral board may also examine a Statement of Economic Interests to be filed by a candidate pursuant to the Illinois Governmental Ethics Act in order to insure that the Statement was properly filed by the candidate "in relation to his candidacy." Where it appears that the Statement does not properly describe the office being sought, an objection filed on those grounds may be sustained. *Jones v. Municipal Officers Electoral Board*, 112 Ill.App.3d 926, 446 N.E.2d 256 (1983). See also *Troutman v. Keys*, 156 Ill.App.3d 247, 509 N.E.2d 453 (1987).

The electoral board issued a decision finding that the candidate entered into a plea agreement with the United States Attorney wherein the candidate admitted he was guilty of one count of mail fraud in violation of Title 18, United States Code, Section 1341 and that because of this plea agreement, the candidate was not legally qualified under Section 25-2 of The Election Code (10 ILCS 5/25-2) to hold the office of Ward Committeeman or be a candidate for that office and that his statement of candidacy declaring that he was legally qualified to hold said office was false. Existence of the plea agreement was not alleged in the objector's petition and was first introduced in the course of electoral board hearings. The Illinois Appellate Court held that evidence of the candidate's plea agreement was totally irrelevant to either of the grounds stated in the objector's petition and that the electoral board improperly invalidated the candidate's nomination papers on a ground never raised in the objector's petition, thus exceeding its statutory authority. *Simms-Johnson v. Delay*, 00-EB-WC-041 (on remand) (Chicago Electoral Board 2000).

Strike objections on its own motion

The electoral board can strike objections on its own motion if the objections do not meet the requirements set forth in 10 ILCS 5/10-8 or are not well grounded in fact and/or law. *Taylor v. McNeil*, 15-EB-ALD-001 (Chicago Electoral Board 2014).

JURISDICTION

The electoral board did not lose subject matter jurisdiction over objection merely because Section 7-13 requires the Board to certify its decision in ward committeeman objection cases not less than 74 days before a primary election and the deadline for such decision has passed. Section 7-13 does not expressly provide or require that the Board lose jurisdiction over an objection merely because the deadline for issuing a decision has passed. The Electoral Board finds that it retains continuing subject matter jurisdiction over this cause, citing *Sakonyi v. Lindsey,* 261 Ill.App.3d 821, 634 N.E.2d 444 (1994). *O'Donnell v. Young*, 00-EB-WC-037 (Chicago Electoral Board 2000).

DECISIONS BY THE BOARD

DECISION BY THE MAJORITY

Rehearing

An electoral board has no authority to grant a rehearing requested by a party based on newly granted evidence. *Delk v. Board of Election Commissioners of the City of Chicago*, 112 Ill.App.3d 735, 445 N.E.2d 1232 (1983); *Caldwell v. Nolan*, 167 Ill.App.3d 1057, 522 N.E.2d 175 (1988).

Amended Decisions

An electoral board does not have authority to allow a rehearing or modify or alter its decision. *Caldwell v. Nolan*, 167 Ill.App.3d 1057, 522 N.E.2d 175 (1988).

PRIOR RULES DECISIONS

An agency, including an electoral board, may be bound by its own established custom and practice as well as by its formal regulations. *Briscoe v. Kusper*, 435 F.2d 1046 (7th Cir. 1970). In *Briscoe*, the Chicago Board of Election Commissioners, acting as a duly constituted electoral board, voted to change its previous position and sustain objections to signatures on the basis of an anti-signature duplication requirement which the Board had previously held to be directory only. The plaintiff candidates argued that

the Board violated due process by failing to give any prior notice to prospective candidates of the new and more rigorous standards to be applied which were not specifically disclosed in the statute.

The court held that, regardless of whether the more restrictive position of the Board was statutorily or constitutionally valid, the application of the new anti-duplication rule to nullify previously acceptable signature without prior notice was unfair and violated due process. The court stated the Board could not deviate from such prior rules of decision on the applicability of a fundamental directive without announcing in advance its change of policy.

REQUIREMENTS FOR NOMINATION PAPERS

NEW POLITICAL PARTIES

The Election Code contains no prohibition that would prevent persons who may have supported an established political party from forming or supporting a new political party. Moreover, the intentions or motives underlying the formation of the new party, or the possible conduct of the new party in the future are not relevant in an electoral board proceeding. *Cobb v. Tyson*, 12-EB-NPP-02 (Chicago Electoral Board 2012).

Failure to file a certificate of officers as required by Section10-5 of the Election Code may prevent a new political party from filing a vacancy in nomination; the lack of such a certificate does nothing to invalidate the nomination papers. *Cobb v. Tyson*, 12-EB-NPP-02 (Chicago Electoral Board 2012).

REQUIREMENTS FOR FULL SLATE PETITIONS

New party candidate seeking election as State Representative in the 10th Representative District is the only candidate of the new party and there is no obligation on the part of the candidate to file a slate of candidates outside the 10th Representative District. *Cobb v. Tyson*, 12-EB-NPP-02 (Chicago Electoral Board 2012).

INDEPENDENT CANDIDATES

Section 7-43(f) clearly and unequivocally prohibits a person who voted the ballot of an established political party at a general primary election from filing a statement of candidacy as an independent candidate for an office to be filled at the general election immediately following the primary at which the person voted the primary ballot. *Luckett v. Barton*, 12-EB-IND-03 (Chicago Electoral Board 2012).

NOMINATION BY PRIMARY ELECTION

IN GENERAL

Because the Harold Washington Party was not an established political party statewide within the 23rd Representative District, no primary election could be held and the candidate could not file nomination papers as a candidate for the primary election for the Harold Washington Party in the 23rd Representative District. *Hicks v. Gutierrez*, 92-EB-REP-4 (Chicago Electoral Board 1992); *Wilkerson v. Gutierrez*, 92-EB-REP-6 (Chicago Electoral Board 1992).

STATEMENT OF CANDIDACY

FAILURE TO FILE

Section 10-5 of the Election Code requires that a candidate's nomination papers include a statement of candidacy setting out the name and address of the candidate, the office for which he or she is a candidate, and stating that the candidate is qualified for the office specified and that the candidate has filed (or will file before the end of the filing period) a statement of economic interests as required by the Illinois Governmental Ethics Act. The statement of candidacy shall request that the candidate's name be placed upon the official ballot and shall be in substantially the form set forth in Section 10-5 and shall be subscribed and sworn to by the candidate before some officer authorized to take acknowledgments of deeds in the State of Illinois. The failure to file a statement of candidacy renders the candidate's nomination papers invalid. *Segvich v. Catezone*, 12-EB-WC-13 (Chicago Electoral Board 2012); *Chambers v. Heidt*, 11-EB-ALD-103 (Chicago Electoral Board 2011); *Delk v. Johnson*, 07-EB-ALD-083 (Chicago Electoral Board 2007); *Sumlin v. Elliott*, 07-EB-ALD-172 (Chicago Electoral Board 2007); *Somerville v. McGrath*,

03-EB-ALD-044 (Chicago Electoral Board 2003); *Smith v. Hinton,* 03-EB-ALD-006 (Chicago Electoral Board 2003); *Barnett and Rhodes v. Davis,* 99-EB-ALD-190 (Chicago Electoral Board 1999); *Nichols v. Fields,* 99-EB-ALD-153 (Chicago Electoral Board 1999); *Catherine and Streeter v. Jones,* 99-EB-ALD-096 (Chicago Electoral Board 1999), *Purnell v. Alcozer*, 95-EB-ALD-28 (Chicago Electoral Board 1995); *Hernandez v. Alcozer,* 95-EB-ALD-039 (Chicago Electoral Board 1995); *Mobley v. Beard,* 95-EB-MUN-007 (Chicago Electoral Board 1995); *Lacy v. Sias,* 92-EB-WC-35 (Chicago Electoral Board 1992).

Section 7-10 of the Election Code requires that a candidate's nomination papers include a statement of candidacy setting out the name and address of the candidate, the office for which he or she is a candidate, a statement that the candidate is a qualified primary voter of the party to which the petition relates, is qualified for the office specified and that the candidate has filed (or will file before the end of the filing period) a statement of economic interests as required by the Illinois Governmental Ethics Act. The statement of candidacy shall request that the candidate's name be placed upon the official ballot and shall be in substantially the form set forth in Section 7-10 and shall be subscribed and sworn to by the candidate before some officer authorized to take acknowledgments of deeds in the State of Illinois. The failure to file a statement of candidacy renders the candidate's nomination papers invalid. *Nelson v. Williams*, 08-EB-WC-29 (Chicago Electoral Board 2007).

TIME FOR FILING

Fact that statements of candidacy were not filed simultaneously with nomination petitions did not mandate removal of candidate's names from the ballot. *Barnes v. Benas*, 95-EB-ALD-214 (Chicago Electoral Board 1995). It is sufficient that the statement of candidacy was filed after the nomination petitions were filed but during the filing period. See also, *Washington v. Means,* 11-EB-ALD-124 (Chicago Electoral Board 2011). However, see *Olowiany v. Jones,* 83-EB-WC-30 (Chicago Electoral Board 1984). Candidate filed eighty-five sheets containing petition signatures with the Clerk of Cook County on December 12, 1983 at 9:00 a.m. At 10:34 a.m. on December 12, 1983, the candidate filed a statement of candidacy and loyalty oath with the Clerk of Cook County. The Board found that the candidate was in violation of Section 7-10 of the Election Code, which states in part "The petition, when filed, shall not be withdrawn, or added to…"

Candidate's failure to timely file his Statement of Candidacy as required by Section 10-5 of the Election Code invalidated his nominating petitions and his name was removed from the ballot. *Conda v. Young,* 87-EB-ALD-123 (Chicago Electoral Board 1987).

ORIGINAL VERSUS PHOTOCOPY

Filing a photocopy of statement of candidacy instead of original would open up the nominating process to a variety of possible abuses that would be impossible to detect on the face of the photocopy. Therefore, candidate's statement of candidacy did not substantially comply with Section 7-10 and the candidate's nomination papers are therefore invalid. *Morrow v. Wilson*, 00-EB-RGA-015 (Chicago Electoral Board 2000).

Candidate stipulated that petition sheets numbered 83 through 103 were, in fact, photocopies of original petition sheet pages 104 to 124. The candidate further stipulated that there were an additional 85 valid signatures on those photocopied sheets which, when eliminated, would reduce the total number of valid signatures from 525 to 440, less than the 500 signatures required by law. *Villegas v. Martinez-Gonzalez*, 14-EB-RGA-04 (Chicago Electoral Board 2014).

ALTERATION OF STATEMENT OF CANDIDACY

Subsequent to the candidate having signed his Statement of Candidacy before a notary public, a person with whom the candidate had consulted regarding the nomination papers altered the Statement by (a) inserting the letters "th" after the numerals designating the district number in two locations, (b) inserting the words "Legislative District" after the numerals 12 in the "District" box, and (c) circling the word "City" once and the words "Nomination" twice in the body of the Statement. After such alterations had been made, the candidate did not attempt to re-sign or re-notarize his Statement of Candidacy before filing it with his nomination papers. The electoral board found that the statement of candidacy would have been legally sufficient even without the additional language and markup. The electoral board concluded that when the nomination papers are read as a whole, it was clear what office the candidate was seeking and

there was no confusion as to which office the candidate was seeking. The alterations were *de minimis* inasmuch as nothing that was added to the candidate's statement of candidacy cured what would otherwise be considered a legal deficiency. The electoral board found, therefore, that the candidate's statement of candidacy was in substantial compliance with the requirements of Section 7-10 of the Election Code even before the alterations were made and the alterations did not affect the legal sufficiency of the document. *Crossman v. Montes,* 12-EB-SS-07 (Chicago Electoral Board 2012), affirmed, *Crossman v. Board of Election Commissioners of the City of Chicago,* 2012 IL App (1st) 120291, ¶¶ 16-19 (candidate's name will not be removed from ballot due to a minor error in a nominating petition where there is no basis for confusion as to the office for which the petition was filed and no conflict between statement of candidacy and nominating petition in that regard – changes were merely cosmetic and did not affect the substance of the information set forth therein).

CONTENTS OF STATEMENT OF CANDIDACY

Name of Candidate

Use of Titles, Degrees or Professional Status Prohibited; Nicknames

The Illinois Election Code at 10 ILCS 5/10-5.1 specifically authorizes use of nicknames in the designation of candidate's name. The candidate chose to use the name "Wallace E. 'Mickey' Johnson" on his nomination papers and has consistently used that name as evidenced by numerous and generally available publications, including, but not limited to, publications relating to candidate's career as a professional basketball player and college coach. *Nelson v. Johnson*, 12-EB-WC-23 (Chicago Electoral Board 2012).

Inclusion of "Noonie" in candidate's name does not violate statute that permits the use of nicknames on the ballot. *Johnson v. Harold "Noonie" Ward*, 03-EB-ALD-019 (Chicago Electoral Board 2003). See also, *Fowler v. Phelan*, 11-EB-ALD-055 (Chicago Electoral Board 2011) (Mary Anne "Molly" Phelan acceptable use of nickname).

Use of the word "Chula," which in Spanish means pretty, cute or beautiful, in candidate's name does not constitute a political slogan, title or degree, nor does it suggest or imply possession of a title, degree or professional status. *Bocanegra v. Ortiz,* 11-EB-ALD-200 (Chicago Electoral Board 2011).

The use of the term "Mother Diva" in more than just a "nickname" used to identify the candidate, but also is an improper designation of her status as a professional singer and entertainer denoting her professional status and some special status in the community to those individuals who signed her nominating petitions. *Shropshear v. Dantzler,* 11-EB-ALD-212 (Chicago Electoral Board 2010), *judicial review dismissed,* Circuit Court of Cook County, No. 11 COEL 00030.

Candidate's nomination papers containing the name "Joseph 'the libertarian' Schreiner" were invalid for being in violation of the statutory prohibition contained in 10-ILCS 5/10-5.1 forbidding the use of titles, suggestive nicknames and other variations of a candidate's name which are intended to convey political messages or slogans in order to advance the candidate's campaign. *Slywczuk v. Joseph "the libertarian" Schreiner*, 03-EB-ALD-026 (Chicago Electoral Board 2003).

Candidate's name was struck from the ballot because the candidate violated Section 10-5.1 of the Election Code by using the title "Reverend" in his nomination. *Jones v. Municipal Officers Electoral Board*, 112 Ill.App.3d 926, 446 N.E.2d 256 (1983). Use of the title "Reverend" tainted the nomination process and required that the candidate's name be stricken from the ballot.

Candidate's nominating petitions were declared invalid because the candidate violated Section 7-10.2 of the Election Code by using the title "Dr." in his nominating papers. *Jackson v. Thompson*, 91-EB-ALD-065 (Chicago Electoral Board 1991); *Jenkins v. Thompson*, 91-EB-ALD-087 (Chicago Electoral Board 1991).

Candidate's nominating petitions were declared invalid because the candidate violated Section 10-5.1 of the Election Code by listing name as "Victoria L. (Dr. J.) Johnson. *Smith v. Johnson,* 99-EB-ALD-026 (Chicago Electoral Board 1999).

Candidate's nominating petitions were declared invalid because the candidate violated Section 10-5.1 of the Election Code by using the phrase "C.C. For the People" on her nominating petitions. The phrase "C.C. For the People" is a phrase that expresses a campaign message or a characteristic position or stand or a goal to be achieved and the legislature did not intend for such slogans to be permitted on the election ballot under the guise of a "nickname." *Catherine and Streeter v. Chalmers,* 99-EB-ALD-106 (Chicago Electoral Board 1999).

Variations in Name

Candidate, who was registered as Manuel A. Roman, Sr., was allowed to use the name "Manny Roman" on his nomination papers. A candidate is allowed to use his given name or a nickname by which he is commonly known, or a combination thereof, on his nomination papers. 10 ILCS 5/10-5.1. *Browder v. Roman*, 11-EB-ALD-001 (Chicago Electoral Board 2011).

Hearing officer concluded that candidate, who listed her last name as "Collins" on her nomination papers, had never used the name Collins in any situation in her life, other than from a period commencing shortly before or during the nominating process and moving onward, other than the candidate's own self-serving testimony. Even as this evidence, the candidate repeatedly contradicted herself. Therefore, candidate failed to inform the public of her real name on the statement of candidacy. *Ritter v. Collins,* 11-EB-ALD-179 (Chicago Electoral Board 2011).

Candidate's use of her name "Lona Lane" on her nomination papers, although it differs from the name of "Lona Mallory Lane" listed on her voter registration, results in no confusion to the public as to her identity and her nomination papers are not invalid as a result. *Jackson v. Lane*, 08-EB-WC-19 (Chicago Electoral Board 2007).

A candidate's Statement of Candidacy is not rendered invalid because the candidate's middle initial appears on his petition sheets but does not appear on the Statement of Candidacy. *Scianna v. Fredrickson,* 94-EB-REP-07 (Chicago Electoral Board 1994).

The absence of "Jr." on the Statement of Candidacy, even though "Jr." appeared on the petition sheets did not justify removing candidate from the ballot because the statement of candidacy and petition sheets were to be considered conjunctively. *Wailes v. Dorsey*, 91-EB-ALD-6 (Chicago Electoral Board 1991).

The addition of "Jr." to the name of the candidate does not invalidate the nomination papers of the candidate. *Wailes v. King,* 87-EB-ALD-93 (Chicago Electoral Board 1987).

A candidate's Statement of Candidacy is not rendered invalid solely because his name appears in a different form than on his petition sheets. *Delay v. Simms-Johnson*, 00-EB-WC-12 (Chicago Electoral Board 2000) (statement of candidacy signed as "Clara Simms-Johnson" and name listed in petition sheet heading is "Clara M. Simms-Johnson"); *Garza v. Blackmon*, 91-EB-ALD-010 (Chicago Electoral Board 1991).

A candidate's name appeared as "Antonio Raul Daggett, Sr." on his Statement of Candidacy and as "Antonio 'Tony' Dagget" on his nomination papers was not a substantial difference to invalidate his Statement of Candidacy. *Baggett v. Dagett,* 91-EB-ALD-082 (Chicago Electoral Board 1991).

Candidate is permitted to use her maiden name on her nomination papers. *O'Keefe v. Zurowski,* 91-EB-ALD-54 (Chicago Electoral Board 1991).

Candidate was permitted to list his name as Benjamin (El-Amin) Barnes on his nominating petitions pursuant to Section 8-8.1 of the Election Code as it was established that "El-Amin" was the candidate's nickname. *Sanders v. Barnes,* 85-EB-RGA-15 (Chicago Electoral Board 1986).

Objector alleged that candidate failed to use her proper surname on statement of candidacy and nominating petitions as required by law. The name listed on the candidate's statement of candidacy and nominating petitions was "Inez Andrews," but she was registered to vote as "Inez Andrews Eddingburg." The candidate testified that she acquired the surname "Andrews" through a first marriage and the surname "Eddingburg" was acquired through a third marriage. The candidate was a well-known gospel singer in the community by the name "Inez Andrews" and she consistently used this name in the community for more

than twenty years. Section 10-5.1 of the Election Code (10 ILCS 5/10-5.1) states in part that in the designation of the name of a candidate on a certificate of nomination or nomination papers the candidate's given name or names, initial or initials, a nickname by which the candidate is commonly known, or a combination thereof, may be used in addition to the candidate's surname. Section 10-5.1 does not clearly state that a candidate's use of only her first surname is a violation of the statute; therefore, her nomination papers are valid. *Cole v. Andrews,* 99-EB-ALD-047 (Chicago Electoral Board 1999); *Newton v. Andrews,* 99-EB-ALD-191 (Chicago Electoral Board 1999).

Name Change

Name changes as a result of a dissolution of marriage are not required to be listing on the candidate's nominating petitions as otherwise required for name changes under Sections 7-10.2, 7-17, 8-8.1, 10-5.1 and 16.3 of the Code. *Sanders v. Boyce,* 11-EB-ALD-348 (Chicago Electoral Board 2010).

Address of Candidate

Heading on each of the candidate's petition sheets listing only a P.O. Box number, city, state and zip code in the box on the form titled "Address." No street number or street name for the candidate's place of residence was printed on the petition form. The candidate's nomination papers were ruled invalid in that the P.O. Box information printed by the candidate on his nominating petition sheets did not adequately inform the signatories of such petition sheets as to the candidate's true place of residence as required by law, even though the candidate claimed he verbally informed each and every signer of his petition of his true place of residence. The statutory requirements in Sections 10-4 and 10-5 of the Code were perfectly clear that the candidate had a duty to print his place of residence, including street and number on his nominating petition sheets, not a post office box number. Even if the Board's Election Information Pamphlet – which warned readers to seek competent legal advice concerning rights and obligations as a candidate – were construed as misleading, would not estop the Board from enforcing the clear requirements of the statutes. *Chambers v. Finney,* 11-EB-ALD-104 (Chicago Electoral Board 2011).

The candidate must live and be duly registered at the address set forth in the statement. *Sanders v. Riles*, 92-EB-WC-012 (Chicago Electoral Board 1992). *But see*, *Henderson v. Miller*, 228 Ill.App.3d 260, 592 N.E.2d 570 (1992) (the Municipal Code requires only that a candidate for alderman reside within the ward for which he is elected and be a qualified elector of the municipality. The act does not require that a candidate be a voter at his place of residence.)

Objection based on candidate's residence overruled where candidate lived in an apartment unit located above two store units; the two stores had addresses of 4253 N. Milwaukee and 4255 N. Milwaukee; all four apartments above the two store front units share a common entrance, a common hallway and common mailboxes; the addresses of "4253-55 N. Milwaukee" identifies a particular building at a particular location; any of the designations "4253-55 N. Milwaukee", "4253 N. Milwaukee" and "4255 N. Milwaukee" is a correct and legally sufficient designation of the candidates' address; the candidate lives at this location and there is no confusion as to where the candidate lives; and the failure of the candidate to designate an apartment number at the designated address is not a defect under the law. *Scimo v. Maina,* 96-EB-WC-043 (Chicago Electoral Board 1996).

Although electrical and gas bills were directed to the address 745 W. 77th Street, candidate testified the building in which he resides is a "double building" or conjoined structure bearing the addresses of 745-747 W. 77th Street. Candidate further testified he resided in the 747 W. 77th Street side of the building and produced real estate tax bills, rent receipts and utility bills supporting his claim to reside at such address. *Members v. Lacy*, 12-EB-WC-19 (Chicago Electoral Board 2012). The Candidate's address was missing on his Statement of Candidacy, but when the nomination papers were read as a whole, the address appears on each of his petition sheets and therefore no inconsistency or conflict exists on the Statement of Candidacy. *Crosby v. Swearengen,* 91-EB-ALD-154 (Chicago Electoral Board 1991).

Objector alleged that Candidate falsely states in his statement of candidacy and Nomination papers that he is a qualified voter of the 18th Ward. Section 3.1-105 of the Municipal Code (65 ILCS 5/3.1-10-5) states that candidates for the office of Alderman for the City of Chicago must be a registered voter who has resided in the City of Chicago at least one year next preceding the election. Section 3.1-10-5 does not require that a candidate be a resident in or a registered voter of the ward in which he or she is seeking

election. The Candidate's statement that he resided at a certain address in the City of Chicago and that he was a qualified voter therein is not a false and perjurious statement because there is not a statute that requires that a candidate be a resident or a registered voter in the 18th Ward. *Cole v. Murphy,* 99-EB-ALD-043 (Chicago Electoral Board 1999).

Objector alleged that Candidate for the office of Alderman of the 37th Ward was not a resident at the address shown on his nomination papers as required by law. The Candidate listed his residence address on his Nomination Papers as 4857 West Walton, Chicago, Illinois, which is an address within the 37th Ward of the City of Chicago. Through testimony, it was established that the Candidate purchased the property at 4857 West Walton in August of 1998 and that the Candidate's former residence address was 1636 North Merrimac, an address outside of the 37th Ward. The Candidate further testified that he was not separated from his wife, but his wife, children and grandchildren continued to reside at 1636 North Merrimac and he still received his mail at that address. The Candidate changed his address on his driver's license on January 14, 1999, five days before the evidentiary hearing in this matter was conducted and after the initial hearing. The Board found that a permanent abode is necessary to constitute a residence within the meaning of the Election Code (citing *Walsh v. County Officers Electoral Board,* 267 Ill.App.3d 972, 642 N.E.2d 843), and that two elements are necessary to create a residence, physical presence and the intent to remain there as a permanent home. Although declarations of intent are admissible as evidence thereof, acts and surrounding circumstances should be given more weight in making the factual determination of intent. (Citing *Delk v. Board of Election Commissioners of the City of Chicago,* 112 Ill.App.3d 735, 445 N.E.2d 1232 (1983)) The Board found that the Candidate had not maintained a physical presence at 4857 West Walton and had not demonstrated intent to remain there as a permanent home. Therefore, the Board found that the Candidate does not reside at 4857 West Walton, the address listed on the Candidate's Nomination Papers. Although there is no requirement that a candidate for the office of alderman in the City of Chicago reside in the ward in which he or she is seeking election, the Candidate stated falsely on his Statement of Candidacy placed on file with the Board that he resided at 4857 West Walton, rendering such statement void. *Collier v. Robertson,* 99-EB-ALD-181 (Chicago Electoral Board 1999), affirmed, *Robertson v. Board of Election Commissioners,* 99 CO 30, Cir. Ct. Cook Co., 1999.

Candidate listed residence address as 932 E. 46th, without specifying whether he lived on a street, avenue, place, or boulevard, and without specifying the city and state of his residence in the box provided for his "Address" at the heading of his Statement of Candidacy. The Candidate did clearly and completely specify his place of residence with the street and number, as well as city and state, at the heading of each of his nomination petition sheets. With reading his nomination papers together, there was no confusion as to the Candidate's place of residence. *Barclay v. Marshall,* 99-EB-ALD-185 (Chicago Electoral Board 1999), citing *Lewis v. Dunne,* 63 Ill.2d 48, 344 N.E.2d 443 (1976).

Candidate's address was not listed in the heading of the Statement of Candidacy, but was listed in the body of the Statement of Candidacy, which is sufficient. *Stamps v. Rivera,* 15-EB-ALD-142 (Chicago Electoral Board 2015).

Duly Registered Voter at Address

Hearing officer concluded that candidate, who listed her last name as "Collins" on her nomination papers, had never used the name Collins in any situation in her life, other than from a period commencing shortly before or during the nominating process and moving onward, other than the candidate's own self-serving testimony. Even as this evidence, the candidate repeatedly contradicted herself. Therefore, candidate failed to inform the public of her real name on the statement of candidacy. Moreover, candidate failed to register to vote under the name Collins, although she was registered to vote under the name she commonly used just prior to filing her nomination papers. Pursuant to Section 6-54 of the Code, the candidate, upon assuming a new name, was thereafter required to cancel her prior voter's registration and register to vote under her new name. *Ritter v. Collins,* 11-EB-ALD-179 (Chicago Electoral Board 2011).

Candidate was not a qualified elector in the City of Chicago at the time of his signing or submitting his statement of candidacy and his nomination papers are therefore invalid. Candidate registered to vote at the address on his statement of candidacy on December 19, 2002. The candidate executed his statement of candidacy on November 20, 2002 and the statement of candidacy was filed with the Chicago Board of Election Commissioners on December 9, 2002. Prior to December 19, 2002, the

candidate was registered to vote in Blue Island, Illinois. *Hicks v. Maldonado*, 03-EB-ALD-060 (Chicago Electoral Board 2003).

It is necessary that the candidate have been a registered voter not only at the time of filing the statement of candidacy but also when said statement was sworn to. *Jefferies v. Jones*, 85-EB-RGA-14 (Chicago Electoral Board 1986). Candidate must be a registered voter at the address indicated on the Statement of Candidacy at the time of signing and attesting. *Sanders v. Riles*, 92-EB-WC-012 (Chicago Electoral Board 1992).

Candidate was not a registered voter on the date of execution of his statement of candidacy and therefore the statement of candidacy is invalid. *Cruz v. Colt,* 86-EB-RES-1 (Chicago Electoral Board 1986).

Candidate who had been allowed by election judges to vote uncontested in every election and the Board of Election Commissioners treatment of candidate as a registered voter as evidenced by the Board's precinct sheets and alpha listing, even though candidate was not in actuality a registered voter, did not file a false Statement of Candidacy even though he swore on said statement that he was a registered voter. *Caldwell v. Morrow,* 88-EB-REP-23 (Chicago Electoral Board 1988).

Candidate's statement that he resided at certain address in the city of Chicago and that he was a qualified voter therein is not false and perjurious because there is no statute that requires that a candidate be a voter at his place of residence. *Brown v. Ivory,* 95-EB-ALD-106 and 95-EB-ALD-129 (Chicago Electoral Board 1995); see also, *Summers v. Walker,* 11-EB-ALD-067 (Chicago Electoral Board 2011); *Pierce v. Walker*, 11-EB-ALD-299 (Chicago Electoral Board 2010).

However, because the Municipal Code requires only that a candidate for alderman be a qualified elector of the municipality, it is not required that a candidate for municipal office be a registered voter at place of his residence, so that Statement of Candidacy which contains sentence listing residence and later sentence stating "I am a qualified voter therein" is not equivalent of swearing that candidate is a registered voter at place of residence. *Henderson v. Miller*, 228 Ill.App.3d 260, 592 N.E.2d 570 (1992)(Statement of Candidacy stated that candidate resided at 1109 South Troy, Chicago. The fact that the candidate was registered to vote at 1647 South Springfield, Chicago and did not become a registered voter at 1109 South Troy until February 28, 1991 (election was on February 26, 1991) did not justify removal from office. Court held that "Municipal Code requires only that a candidate for alderman *** be 'a qualified elector of the municipality.' The act does not require that a candidate be a voter at his place of residence.")

The form of the statement of candidacy prescribed by Section 7-10 of the Election Code does not require that a candidate be registered to vote at the residence address stated on his/her statement of candidacy so long as the candidate is registered to vote at some address within the district in which he seeks to be nominated or elected. *Sutor v. Acevedo*, 06-EB-RGA-04 (Chicago Electoral Board 2006), citing *Henderson v. Miller*, 228 Ill.App.3d 260, 592 N.E.2d 570 (1992); see also, *Brown v Ward*, 15-EB-ALD-018 (Chicago Electoral Board 2015).

The Board found the Candidate was registered to vote at 1157 West Farwell Avenue and resided at 1157-1159 West Farwell, which is one building with one common entrance with the address 1157-1159 West Farwell Avenue on the outside door and with three living units on the East side of the building and three living units on the West side of the building. Until 1992, the Candidate lived on the 1157 West Farwell Avenue side of the building. The Candidate moved to the 1159 West Farwell Avenue side of the building in 1992 and inadvertently did not re-register after the move. The Board found that the two addresses identify the same building at the same location and that the use of either of these designations is a correct and legally sufficient designation of the Candidate's address for the purpose of stating his residency and for the purpose of stating his place of voter registration. (Citing *Scimo v. Maina,* 96-EB-WC-043, (Chicago Electoral Board 1996)). Even assuming that the Candidate's residence was at one location and his voter registration at another location, there is no statutory requirement that a candidate be a registered voter at his place of residence. (Citing *Henderson v. Miller*, 228 Ill.App.3d 260, 592 N.E.2d 570 (1992); *Brown, et al. v. Ivory,* 95-EB-ALD-106 and 95-EB-ALD-129 (consolidated), (Chicago Electoral Board 1995). Further, even assuming that the Candidate's residence was at one location and his voter registration at another location, both locations are located within the 49th Ward of the City of Chicago and his failure to transfer this registration to the new location does not affect his eligibility to circulate nominating petition

sheets as long as he was registered at some address within the 49th Ward of the City of Chicago. (Citing *Lukas v. Lakin,* Ill.2d 166, 676 N.E.2d 637 (1997); *Bass v. Hamblet*, 266 Ill.App.3d 1110, 641 N.E.2d 14 (First Dist. 1994); *Whelan v. County Officers Electoral Board of DuPage County*, 256 Ill.App.3d 555, 629 N.E.2d 842 (Second Dist. 1994); *Rhodes v. Miller*, 96-EB-WC-039; *Brown, et al. v. Ivory*, 95-EB-ALD-106 and 95-EB-ALD-129 (consolidated) (Chicago Electoral Board 1995.) *James and Klovstad v. Balos*, 99-EB-ALD-079 (Chicago Electoral Board 1999).

Candidate registered to vote under the name of Lauryn Valentine on May 2, 1996 and legally changed her name to "Carol Moseley-Braun" on September 24, 1998 but did not become a registered voter under the name "Carol Moseley-Braun" until December 28, 1998. The Candidate signed her statement of candidacy attesting that she was a "qualified voter" under the name "Carol Moseley-Braun" on October 21, 1998. Pursuant to Section 6-54 of the Election Code, any registered voter who changes her name shall be required to register anew and authorize cancellation of the previous registration. *People ex rel. Rago v. Lapsky,* 327 Ill.App.63, 63 N.E.2d 642 (1945). The Candidate did not register anew as required by Section 6-54 until after December 28, 1998, well after she signed her statement of candidacy and after she filed her Nomination Papers. Therefore, the Candidate was not a registered voter at the time of filing her statement of candidacy and her nomination papers are void. *McKennie v. Moseley-Braun,* 99-EB-ALD-163 (Chicago Electoral Board 1999).

Candidate testified that he mailed in a change of address form to the Board on December 16, 1999. Candidate then circulated petition sheets on December 18 and 19. Candidate then personally filed a change of address form with the Board on December 20. The Board was in possession of only one change of address form – the one filed personally by the candidate on December 20. Section 6-53 provides that a change of address transfer occurs only after the signature of the voter and the data appearing on the application are compared with the signature and data on the original registration record and it appears that the applicant is the same person as the party previously registered under that name. Therefore, candidate was not a registered voter at the new address until December 20. *Fletcher v. Giovanetti*, 00-EB-WC-08 (Chicago Electoral Board 2000).

Although candidate for ward committeeman must be a resident of the ward in which he is seeking election, there is no statutory requirement that a candidate for ward committeeman be a registered voter in the ward. There is no statutory requirement that the statement of candidacy state that the candidate is registered to vote at the address shown on the statement of candidacy or even that the candidate is registered to vote in the political division in which the candidate is seeking election or nomination. *Fletcher v. Giovanetti*, 00-EB-WC-08 (Chicago Electoral Board 2000).

Candidate for ward committeeman, whose voter registration was not canceled during the period of the candidate's confinement in prison and was listed as either "active" or "inactive" during this period, was not required to re-register upon release from confinement. Article III, Section 2, of the Constitution of the State of Illinois and Section 3-5 of the Election Code provide that a person convicted of felony shall lose the right to vote until completion of such person's sentence or release from confinement. Furthermore, Section 6-61 of the Election Code and Section 8 of the National Voter Registration Act require clerks of court or the State Board of Elections, respectively, to furnish boards of election commissioners with the names of persons convicted of any crime and Section 6-63 of the Code requires boards of election commissioners to strike the names of all criminals from the voter registration records. However, in this case the Chicago Board of Election Commissioners never received a notice from the State Board of Elections or the United States Attorney advising that the candidate had been incarcerated in a federal penitentiary by reason of conviction of a felony. Therefore, there was no legal basis upon which the Board could cancel the candidate's voter registration by reason of his conviction of a felony in federal court. Because the candidate's voter registration was never canceled, there was no requirement that the candidate re-register upon release from confinement. *Simms-Johnson v. Delay*, 04-EB-WC-06 (Chicago Electoral Board 2004).

Under Section 216.50 of the State Board of Elections' rules, an "inactive voter" is defined as a person who, once having submitted a Voter Registration Application subsequently acknowledged by the election authority having jurisdiction over the voter's place of residence, has not responded to a notice to confirm his or her address, but whose authority to vote has not yet been canceled. Under this definition, a person remains a registered voter until his or her registration is canceled. The fact that the person's

registration status is listed as "inactive" does not change this outcome. Thus, under Section 216.90 of the Board's rule and 42 U.S.C. §1973gg-6, any person who, once registered, moves to another address within the same election jurisdiction but fails to change his or her voter registration is still eligible to vote. Therefore, to the extent that objector claimed that there is a requirement that the candidate for alderman be registered to vote at the address listed on his nomination papers when they are filed and that any statement in his statement of candidacy that he is a "qualified voter therein" must necessarily be false is without merit. *Pierce v. Walker,* 11-EB-ALD-299 (Chicago Electoral Board 2010).

Candidate is a qualified elector and is eligible to vote in all federal, state, county and local elections appropriate for his residence address notwithstanding the fact that there is an indication that his registration application, received shortly after enactment and implementation of the National Voter Registration Act of 1993 and before the courts' decision in *Orr v. Edgar*, 283 Ill.App.3d 1088, 670 N.E.2d 1243 (1996), was classified originally as "federal office only." *Cardona v. Hernandez*, 07-EB-ALD-054 (Chicago Electoral Board 2007).

Description of Office Sought

Failure to Properly Designate Office Sought

Candidate's Statement of Candidacy did not designate the office sought. However, the nominating petitions filed by the candidate, when read in their entirety, clearly state that the candidate sought to be a candidate for ward committeeman in the 18th Ward of the city of Chicago in the Republican Party primary. Upon reading the candidate's nomination papers as a whole, there was no confusion as to which office the candidate was seeking and his statement of candidacy was in substantial compliance with the Election Code. *DeLay v. Ferral*, 08-EB-WC-03 (Chicago Electoral Board 2007).

Candidate's Statement of Candidacy that listed the office as "Ward Committeeman", the political party as "Democratic" and the district as "18th Ward/City of Chicago" sufficiently designated office sought. It was not required that candidate also list the office as "Democratic Ward Committeeman." *Jackson v. Lane*, 08-EB-WC-19 (Chicago Electoral Board 2007).

Where neither the candidate's statement of candidacy nor his nominating petition sheets designated the ward number in which the candidate was seeking election to the office of Alderman, the nomination papers are invalid. The omission from both the statement of candidacy and the petition signature sheets of a clear indication of the office sought make it impossible for election authorities to discern from the nomination papers themselves where on the ballot to place the name of the candidate. A voter being asked to sign the candidate's petitions would not be able to discern from the candidacy papers alone the office that the candidate was seeking, even though the petition circulators might inform every potential signatory that the candidate sought election as alderman of a particular ward. *Haynes v. Pritchett*, 07-EB-ALD-020 (Chicago Electoral Board 2007).

Candidate's nomination papers that contain a statement of candidacy that states that candidate is a candidate for election to the office of Republican Ward Committeeman for the 45th Ward of the City of Chicago and nominating petition sheets printed with a heading stating that the candidate seeks to be a candidate of the Republican Party for election to the office thereafter specified as "45th Ward Committeeman" and listing the candidate's address as "5459 N. Mobile, Chicago, IL. 60630" adequately sets forth the office and district sought when the statement of candidacy and the nominating petition sheets are read separately or together. *Scimo v. Jekiel,* 96-EB-WC-046 (Chicago Electoral Board 1996).

Candidate's statement of candidacy identified the "Office" as "Ward Committeeman." In the box titled "District," the statement of candidacy stated, "45th Ward of the City of Chicago Cook County State of Illinois." In the box titled "Party," the statement of candidacy stated, "Democratic." In the narrative text of the statement of candidacy the candidate stated, "I am a candidate for Election to the office of Ward Committeeman in the 45th Ward." The candidate's nominating petition sheets contained a heading stating that the petitioners were petitioning that "the following named person or persons shall be a candidate(s) of the Democratic Party for the election/nomination for the office or offices hereinafter specified...." Below this heading are three boxes, one of which is titled "Office." In this box, the candidate's petition states, "Ward Committeeman of the 45th Ward in the City of Chicago, Cook County, State Illinois." The electoral board found that the candidate's nominating petition sheets and the statement of candidacy, when read

together or even when read separately, clearly set forth the office and district sought and that the candidate's nomination papers substantially complied with Section 7-10 of the Election Code. *Slywczuk v. Bank*, 04-EB-WC-77 (Chicago Electoral Board 2004), affirmed, *Slywczuk v. Board of Election Commissioners for the City of Chicago*, 04 COEL 0006 (Cir. Ct. Cook Co. 2004).

Candidate's nomination papers that contain a statement of candidacy that states that candidate is a candidate for election to the "34th Representative District" and the "nineth (sic) ward" and further lists the 34th district in the narrative of said statement but also lists "nineth (sic) ward" in the office column on said statement, when taken as a whole and read in conjunction with the nominating petition sheets substantially complies with Section 7-10 of the Election Code. *Gage v. Coleman*, 92-EB-WC-14 (Chicago Electoral Board 1992).

Notwithstanding the fact that the candidate placed the description of the ward in which he was running for office in the box entitled "Office" instead of the box entitled "District," the candidate correctly described the office and district in the text of his Statement of Candidacy, and therefore the nomination petitions were valid. *Shepard v. Surridge*, 92-EB-WC-78 (Chicago Electoral Board 1992).

The candidate's statement of candidacy is in compliance with the Election Code even though the words "State of Illinois" were entered under the category "Governmental Entity" since "City of Chicago" was also entered on the statement of candidacy. *Matthews v. Deville*, 87-EB-ALD-145 (Chicago Electoral Board 1987).

Candidate's failure to insert the Ward number on his statement of candidacy is not fatal since the Ward designation is clearly listed on each petition sheet. *Morgan v. Stowers*, 87-EB-ALD-140 (Chicago Electoral Board 1987). Accord, *Robinson v. Colvin*, 07-EB-ALD-098 (Chicago Electoral Board 2007); *Jones v. Dixon*, 07-EB-ALD-146 (Chicago Electoral Board 2007).

The alteration of nomination papers--adding the designation 5th Ward to the statement of candidacy--after the nomination papers were filed with the clerk was a *de minimis* and spontaneous act done without forethought and was not an intentional mutilation of election materials. The Candidate's nomination papers were legally sufficient without the handwritten addition of the "5th Ward" to the statement of candidacy. The Candidate's nomination petitions clearly state that the candidate is seeking election for the office of Alderman of the 5th Ward of the City of Chicago. *Crumpton v. Williams-Bey*, 99-EB-ALD-023 (Chicago Electoral Board 1999). The failure to properly designate the office the candidate is seeking on the statement of candidacy does not render his nomination papers invalid if it can be determined by looking at the nomination petitions for which office the candidate is filing, citing *Lewis v. Dunne,* 63 Ill.2d 48, 344 N.E.2d 443 (1976). When the omission on a statement of candidacy is considered technical or minor, the statement of candidacy and the nominating petition can be looked at together to determine if the candidate has substantially complied with the statute, citing *Madden v. Schumann*, 105 Ill.App.3d 900, 435 N.E.2d 173 (1982).

Candidate's failure to designate in his statement of candidacy the office he was seeking invalidated nomination papers. *Lawlor v. Municipal Officer Electoral Board*, 28 Ill.App.3d 823, 329 N.E.2d 436 (First District, 1975). Although the statement of candidacy and nominating petition are considered to be a part of the nomination papers, they cannot be read together as to validate a statement of candidacy that does not substantially set forth the matter required. *Cf.*, *Lewis v. Dunne, 63 Ill.2d 48, 344 N.E.2d 443 (1976).*

Candidate filed a Statement of Candidacy that stated in the heading of the document, in the box containing the description of office, that the Candidate was seeking the office of "Alderman of the 21st Ward of the City of Chicago." The body of the Candidate's Statement of Candidacy states he is a candidate for the office of "Alderman of the Third Ward" in the City of Chicago. The heading of the Candidate's petition sheets and the receipt for his Statement of Economic Interests clearly state that he is seeking the office of Alderman of the Third Ward. The Board found that the Candidate's Statement of Candidacy, when read together with the Candidate's nominating petition sheets clearly indicate that he is seeking election to the office of Alderman of the Third Ward of the City of Chicago and there is no confusion as to the office sought. The failure to properly designate the office the candidate is seeking in the heading on the statement of candidacy does not render his nomination papers invalid if it can be determined or ascertained by looking at the nomination petition for which office the candidate is filing, citing *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976). When the omission is considered technical or minor, the statement of

candidacy and the nominating petition can be looked at together to determine if the candidate has substantially complied with the statute, citing *Madden v. Schumann,* 105 Ill.App.3d 900, 435 N.E.2d 173 (1982). *Jackson and Dixon v. Bradley,* 99-EB-ALD-081 (Chicago Electoral Board 1999); *Barclay v. Marshall,* 99-EB-ALD-185 (Chicago Electoral Board 1999).

Statement of Political Party Affiliation

Section 7-10 of the Election Code provides among other things that a statement of candidacy "shall state that the candidate is a qualified primary voter of the party to which the petition relates" (referred to herein as the "party affiliation statement").

Candidate's statement of candidacy for Alderman indicated that she was seeking the nomination of the "Democratic Party." The words "Democratic Party" did not appear on her nominating petitions. Aldermanic candidates are nonpartisan and no political party affiliation is allowed on the ballot. Because the words "Democratic Party" were not on the candidate's petition sheets when they were presented to the voters for signature, there was no misleading or incorrect information concerning party affiliation presented to the voters when signing the candidate's petition sheets. There is no evidence that the voters were confused about the candidate's stated or unstated political affiliations. Under these facts, there is not enough to invalidate the candidate's statement of candidacy simply because it contained extraneous information concerning the candidate's political party affiliation where none was required. *Dix v. Terry,* 03-EB-ALD-071 (Chicago Electoral Board 2003); accord, *Moses v. Austin,* 07-EB-ALD-004 (Chicago Electoral Board 2007); *Anderson v. Ward,* 07-EB-ALD-034, (Chicago Electoral Board 2007); *Brown v. Washington,* 11-EB-ALD-009 (Chicago Electoral Board 2011); *Wright v Davis,* 11-EB-ALD-100 (Chicago Electoral Board 2011); *Walker v. Earls,* 11-EB-ALD-188 (Chicago Electoral Board 2011); *Bocanegra v. Rodriguez,* 11-EB-ALD-197 (Chicago Electoral Board 2011), *candidate defaulted, Rodriquez v. Bocanegra,* 11 COEL 00031 (Cir. Ct. Cook Co., 2011); *Stamps v. Lomax,* 15-EB-ALD-140 (Chicago Electoral Board 2015).

Candidate for Alderman's designation on statement of candidacy and on petition sheets that candidate is an "Independent" candidate does not invalidate his nomination papers. While the statement of candidacy is on a form that appears to have been intended for partisan elections, there is no likelihood for confusion. Likewise, there was no evidence that reference to independent candidate on his nominating petition was likely to confuse voters or disrupt the election process. *Murray v. Burgoa,* 07-EB-ALD-008 (Chicago Electoral Board 2007).

Candidate for Alderman's designation on statement of candidacy designed for party candidates in box reserved for identification of political party affiliation that she was a candidate of the "non-partisan party" did not invalidate her nomination papers. *Jones v. Mallory,* 07-EB-ALD-151 (Chicago Electoral Board 2007); *Rosa v. Vittorio,* 15-EB-ALD-005 (Chicago Electoral Board 2014).

Aldermanic candidate's use of a statement of candidacy designed for party primary nomination, which, in fact, contained no reference to party affiliation, did not invalidate nomination papers. *Brown v. Brooks,* 11-EB-ALD-010 (Chicago Electoral Board 2011).

Where statement of candidacy and heading of nominating petition sheet did not contain statement identifying the political party affiliation of candidate, nomination papers will be held invalid. Statement in preamble of petition sheet that "We the undersigned, being duly qualified voters of the Democratic Party..." was not sufficient statement of candidate's political party affiliation and nomination papers did not substantially comply with Section 7-10. *Barnes v. Smith,* 95-EB-MUN-15 (Chicago Electoral Board 1995), affirmed, *Smith v. Barnes*, 95 CO 22 (Cir. Ct. Cook Co., Feb. 15, 1995).

Where statement of candidacy and heading of nominating petition sheet did not contain statement identifying the political party affiliation of candidate, and only reflection of party affiliation was in the circulator's affidavit stating that electors were registered voters of the Republican Party, nomination papers will be held invalid. *Fouladi v. Anagnost,* 95-EB-MUN-006 (Chicago Electoral Board 1995). This was true even though Petition Filing Receipt reflected that nomination papers were filed for Republican Party.

Where statement of candidacy fails to state the political party to which the candidate's nomination papers relate, but the candidate's nominating petitions do contain a heading at the top of each sheet that the candidate "shall be candidate of the Republican Party", the candidate has substantially complied with the

provisions of Section 7-10 of the Election Code in that the candidate's nomination papers, when read together and in their entirety, clearly state the political party to which the papers relate so that there is no conflict or inconsistency between the statement of candidacy and the nominating petition sheets and there is no confusion as to the political party to which the papers relate. *Fouladi v. Ladien,* 95-EB-MUN-005 (Chicago Electoral Board 1995).

Aldermanic candidate's introductory paragraph of the petition sheet and in the circulator's affidavit identified the candidate as from the "Democratic Party." This is in violation of the Election Code requiring aldermanic petitions to conform with the provisions relating to "nomination of independent candidates for public office by petition." The candidate's nomination petitions are therefore invalid. *Toney v. Maxwell*, 91-EB-ALD-122 (Chicago Electoral Board 1991).

The statement of candidacy filed by the candidate failed to contain a statement that she was a qualified primary voter of the Democratic Party, which is the party to which her nomination papers relate. But the candidate's statement of candidacy did contain: (a) a heading stating that she was seeking the office of "Democratic Committeeman, 42nd Ward-City of Chicago," and (b) a statement in the body of the Statement that she was "a candidate of the Democratic Party for election to the office of Democratic Committeeman, 42nd Ward, City of Chicago." The candidate also signed one of the sheets of her nominating petition and that at the top of said sheet there was contained the statement that, "We, the undersigned, members of and affiliated with the Democratic Party and qualified primary electors of the Democratic Party …." The electoral board found that although the party affiliation statement provisions of Section 7-10 may be mandatory, substantial compliance with mandatory provisions is sufficient when the invalidating charge concerns technical violations such as in the present case, citing *Madden v. Schumann*, 105 Ill.App.3d 900, 435 N.E.2d 173 (1982). Nomination papers may be read as one complete document in order to achieve substantial compliance, citing *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976). The combination of the statement of candidacy's declarations that the candidate was a candidate of the Democratic Party seeking the office of Democratic Committeeman, together with her signature on a sheet of her nominating petition (which discloses her to be a member of, affiliated with and a qualified primary elector of the Democratic Party), constitutes substantial compliance with the mandatory provisions of Section 7-10. Reading the nomination papers as a whole, there was no confusion that the Candidate is affiliated with the Democratic Party, citing *Schumann v. Kumarich*, 102 Ill. App.3d 454, 430 N.E.2d 99, 102 Ill.App.3d 454; *Stevenson v. County Officers Electoral Board*, 58 Ill.App.3d 24, 373 N.E.2d 1043 (1978); *Fouladi v. Ladien,* 95-EB-MUN-005 (Chicago Electoral Board 1995). The case of *Objections of Jim Grupp and Robert DeBolt to the Nomination Papers of David M. Zerante,* affirmed, *Zerante v. Bloom Township Electoral Board,* 287 Ill.App.3d 976, 679, N.E.2d 459 (1st Dist. 1997) was distinguishable in that there was no other statement within the nomination papers in that case that the candidate was affiliated with the political party to which petition related. Furthermore, the appellate court never ruled on the party affiliation statement issue. *O'Donnell v. Young*, 00-EB-WC-037 (Chicago Electoral Board 2000).

Objector argued that candidate was not a "primary elector" of the Republican Party and neither was he affiliated with the Republican Party as evidenced by his "long-standing and consistent history in voting only in the primaries of the Democratic Party." Objector argued, therefore, that the candidate's statement of candidacy was false. Section 7-43(d) of the Election Code provides that no person shall be entitled to vote in a primary election if he or she has voted in a primary held under Article 7 of another political party within a period of 23 calendar months next preceding the calendar month in which such primary is held. However, these provisions of Illinois law were struck down as unconstitutional by the United States Supreme Court in *Kusper v. Pontikes*, 414 US51, 94 S.Ct. 303, 38 L.Ed.2d 260 (1973). In *Dooley v. McGillicudy*, 63 Ill.2d 54, 345 N.E.2d 102 (1976), the Illinois Supreme Court held that the result in *Kusper* and in *Sperling v. County Officers Electoral Board*, 57 Ill.2d 81, 309 N.E.2d 589 (1974), along with the absence of curative legislation, rendered inoperable those restrictions upon candidates in a party primary and upon voters who signed primary petitions concerning those individuals' prior political affiliations. As a result, the electoral board found that there is currently no restriction on a candidate declaring himself a "qualified primary voter" of a political party on his or her statement of candidacy even though he or she may have previously voted in the primary of another party. *Martinez v. Casiano*, 04-EB-WC-56 (Chicago Electoral Board 2004). See also, *Martinez v. Dembowski*, 04-EB-WC-58 (Chicago Electoral Board 2004); *Martinez v. Ortiz*, 04-EB-WC-61 (Chicago Electoral Board 2004); *Reed v. Villareal*, 04-EB-WC-64 (Chicago Electoral Board 2004).

Candidate Qualifications for the Office

Qualifications for Delegate to Party National Nominating Convention

Illinois statutes governing procedures for becoming a delegate to an established political party's national nominating convention are found generally in Article 7 of the Election Code (10 ILCS 5/7-1, et seq.). Section 7-14.1 of the Code provides, however, that notwithstanding anything to the contrary in Article 7, the Code shall be superseded by the delegate selection rules and policies of the national political party. Moreover, Section 1A-18(14) of the Code (10 ILCS 5/1A-18(14)), in enumerating the powers and duties of the State Board of Elections, provides in part that the State Board shall "take such action as may be necessary or required to give effect to directions of the national committee or State central committee of an established political party under Sections 7-8, 7-11 and 7-14.1 or such other provisions as may be applicable pertaining to the selection of delegates and alternate delegates to an established political party's national nominating convention ****." Under the Illinois Delegate Selection Plan for the 2012 Democratic National Convention, Section III, A.5, "Those candidates who are not approved by the [Presidential] candidate will not appear on the primary ballot." Pursuant to its powers under Section 1A-18(14) of the Code, the State Board of Elections informed election authorities that the candidate (along with another candidate) was not eligible to be placed on the ballot since they were not on the approved delegate candidate list submitted by the Presidential candidate to the Illinois Democratic Party Chairman and therefore could not appear on the ballot per Section 1A-8(14) of the Election Code and Democratic Party rules. Therefore, objections were moot. *Fernandez v. Fleming*, 12-EB-DEL-1 (Chicago Electoral Board 2012).

Constitutional Qualifications of Candidate for the General Assembly

The Illinois Constitution cannot be interpreted so as to divest the electoral board of jurisdiction to adjudicate the qualifications of a candidate for the General Assembly. *Moses v. Wright*, 88-EB-REP-4 (Chicago Electoral Board 1988). Candidate for nomination of the Democratic Party for Representative of the General Assembly relied on Article IV, Section 6(d) of the Illinois Constitution, to allege the board lacked jurisdiction to consider the constitutional qualifications of a candidate for the General Assembly. Article IV, Section 6(d) of the Illinois Constitution grants each house of the General Assembly the power to determine the rules of its proceedings, judge the elections, returns and qualifications of its members. In interpreting this section, the electoral board stated that no legal precedent existed to sustain jurisdiction of the General Assembly over a candidate who had not yet been elected or seated. Rather, the electoral board's jurisdiction comes from Section 10-8 of the Election Code, which confers the board jurisdiction to pass upon objections to nomination petitions including the statement of candidacy.

Eligibility requirements for the office of State Senator are found in the Illinois Constitution and the ballot forfeiture provisions of section 9-30 of the Campaign Finance Act are not directed at the "qualifications" or "eligibility" of candidates for State Senator and cannot change the constitutional qualifications. The ballot forfeiture statute is directed only to the issue of whether any candidate's name may be certified to or be placed on the ballot. This administrative function is to be carried out by the State Board of Elections, which, at the time of certification, will examine whether there are any unpaid penalties and whether there is any bar to placing the candidate's name on the ballot. Section 3.1-10-5 of the Illinois Municipal Code regarding a arrearages in the payment of any tax or indebtedness to a municipality and eligibility to hold elective municipal office is not applicable to the office of State Senator. *Mertens v. Hendon*, 08-EB-SS-06 (Chicago Electoral Board 2007).

Residency for Illinois Legislative Candidates

Candidates for the office of Representative in the General Assembly must reside in the district that he is to represent for two years preceding his election or appointment as provided in Article IV, Section 2(c) of the Illinois Constitution. The term 'election" as used in Article IV, Section 2(c) of the Illinois Constitution is the date on which an election is held for purposes of Section 2A-1.1 of the Election Code (i.e., the first Tuesday after the first Monday of November in even-numbered years). Laury v. Stinson, 96-EB-RGA-016 (Chicago Electoral Board 1996) affirmed 96 CO 34 (Cir. Ct. of Cook County, Judge Henry, February 23, 1996).

Candidate for the office of Representative in the General Assembly did not reside in the district for which he is seeking to represent for two years preceding his election. *Gutierrez v. Aguilar,* 86-EB-NPP-2 (Chicago Electoral Board 1986).

Candidate for Representative in the General Assembly did not meet constitutional requirement of being a resident of the district 2 years prior to the election where the evidence showed wife and daughter lived in a residence outside the district, closing on the new residence and transfer of title occurred after the two year required period, and candidate voted outside the district during the February and April 1987 elections. *Moses v. Wright*, 88-EB-REP-4 (Chicago Electoral Board 1988). Candidate did not meet residency requirements- intent to remain or return to permanent dwelling place and physical presence- where testimony presented during the hearing reflected that the candidate: (1) did not actually live at address stated in the statement of candidacy, (2) paid owner for use of the address as a mailing address; (3) had no lease agreement of the premises; (4) never paid utilities for the premises and (5) never slept at address except for one night on New Year's Eve in 1987.

Candidate stated she resides at 2556 North Kedzie, Chicago and is a resident of the 33rd Representative District. The address, 2556 North Kedzie, Chicago, is not situated in the 33rd Representative District but is situated within the 3rd Representative District and therefore candidate is not a resident of the 33rd Representative District. *Feely v. Raiz,* 94-EB-REP-001 (Chicago Electoral Board 1994).

Where evidence tended to show that candidate and spouse purchased condominium unit, rather than merely renting some other location in district; that to purchase unit, candidate's family was required to sell investment property in order to purchase the unit; that doorman for condominium building testified that he saw candidate at building on many occasions, and while there were some "in and out" visits, there were many other times when he entered the building late at night and did not leave, or was seen coming out from the elevators and leaving the building early in the morning, suggesting candidate slept at the unit; that three neighbors testified that they saw candidate going up the elevator to his unit at night or coming down from his unit in the mornings and leaving the building; that the lifestyle that candidate chooses to live is not a test of residency and that although a sparsely furnished apartment could lead to some inference that the candidate resided elsewhere, this inference is overcome by other factors; that the residency of the spouse is not controlling because it is no longer uncommon for couples to establish separate residencies due to work considerations; that objector has burden of proof by a preponderance of evidence and doubts are to be resolved in favor of ballot access; and that evidence produced as a result of door-to-door canvass was inconclusive and contradictory; then board concluded that candidate was a resident at address claimed in his nomination papers. *Seskind v. Levin,* 94-EB-REP-8 (Chicago Electoral Board 1994).

Objector presented five witnesses and 27 documents as evidence tending to show that candidate did not reside at address claimed on Statement of Candidacy (6443 S. Laflin). Evidence included: candidate owned real estate at a different address where his wife and two children reside; candidate registered to vote at address claimed on statement of candidacy and location was where candidate's sister and her family resided; candidate claimed to sleep on a pullout bed in his sister's front room; candidate incorporated numerous companies and businesses at an Avalon Street address; candidate's transfer of title for sale of automobile in September 1999 listed candidate's address at Avalon Street; candidate has used several different name aliases for business activities and bankruptcy proceedings; candidate filed his federal income tax returns for 1997 and 1998 stating his address to be on Avalon Street. Candidate testified that he has always lived on Laflin Street and he intended this to be his residence address; he was registered to vote from Laflin Street and was registered there since he turned 18 years of age, changing his voter registration once for a brief period in 1999; he only lived at Avalon Street address since purchasing it in 1987 and then only lived there "off and on" because of his obligations and love for his children; candidate continued to live in the family home at Laflin shortly after buying the Avalon Avenue property because of his mother's illness with cancer and ultimate death; candidate continued to reside at Laflin Street after his mother's death because of an incident in 1994 when his wife reported his behavior toward his son to Department of Children and Family Services, which caused him to expend considerable sums of money and time to regain custody of his son; candidate moved to a Peoria Street address in 23rd Representative District for 4 to 6 months but his registration at this address was not an intent to terminate his residence on Laflin Street and he re-registered at Laflin address when a church decided to rent out a parsonage that the church had

allowed him to live in; the only reason for using the Avalon Street address on legal papers submitted was because the mail delivery at Laflin Street was insecure and did not timely arrive on a regular basis; and candidate did not have a checking account or utility accounts in his name because of his financial problems resulting in two bankruptcy filing. The hearing examiner found the candidate's testimony to be unreliable and occasionally dishonest. The hearing examiner and the Board found that the weight of evidence indicated that the candidate did not reside at the Laflin Street address and did not reside within the 23rd Representative District. *Sanchez v. Williams*, 00-EB-RGA-011 (Chicago Electoral Board 2000).

Prior to August 1997, the candidate resided at 5975 North Odell, an address located outside of the 15th Representative District. The candidate became registered to vote at this address in January 1995. In August 1997, the candidate purchased and then moved into a house located at 5254 North Lieb, which is located within the 15th Representative District. At the November 3, 1998 General Election, the candidate voted after having signed an application for ballot that listed his address as 5975 N. Odell Avenue. The candidate testified that he did not certify that 5975 N. Odell was his current address when he signed the application for ballot on November 3, 1998; rather, he simply intended to certify that he was a registered voter who was eligible to vote. The candidate further testified that although he had moved from 5975 N. Odell, he wanted to vote but he had not taken steps to re-register at his new address. The candidate did re-register in December 1998 using the 5254 N. Lieb address. The November 3, 1998 application for ballot signed by the candidate did not require him to certify that 5975 N. Odell was his current address. The objector's evidence consisted only of the candidate's registration records and the November 3, 1998 ballot application. However, this evidence fails to establish that the candidate did not reside at 5254 N. Lieb for at least two years prior to the November 7, 2000 General Election. *Lyons v. Kulwin*, 00-EB-RES-002 (Chicago Electoral Board 2000).

Private investigator testified that he saw furniture being moved from an address on Woodlawn Avenue, which is outside of the candidate's district, but where candidate's husband lived. Witness was unable to track where the furniture went or whose furniture it was. The testimony was consistent with that of the candidate, who testified that on the day in question her husband moved from the Woodlawn Avenue address to join the candidate and her daughter on Warren Avenue, the address listed on her nomination papers. The candidate testified that the Woodlawn Avenue property was owned by her, used by her husband while they were waiting to build a house, and that in the meantime she and her daughter resided on Walnut Street. Candidate testified that she was pregnant at the time and that it would have been too crowded on Walnut Street to have her husband live there permanently. The Warren Avenue and the Walnut Street addresses were both in the district. As the owner of the Woodlawn Avenue property, the candidate visited there but did not reside there. Objectors did not rebut the candidate's testimony. Accordingly, objectors fail to meet their burden to demonstrate that the candidate did not reside in the 10th Representative District during the required time period. *Harris and Butler v. Collins*, 04-EB-RGA-09 (Chicago Electoral Board 2004).

Testimony by two witnesses that they jointly conducted a 24-hour continuous surveillance at candidate's residence from December 7, 2005 to January 19, 2006 and never observed candidate at residence during this time, and testimony by another witness who said that he was at candidate's residence on one night for about 7-8 minutes but did not see candidate was insufficient to establish that candidate did not, in fact, reside at stated residence. Candidate testified that he resided at address for about 2 years, which testimony was supported by testimony from his landlord, a copy of a written lease and copies of rent checks, utility bills and financial records addressed to him and received by him at such address. *Sutor v. Acevedo*, 06-EB-RGA-04 (Chicago Electoral Board 2006).

For purposes of Article IV, section 2(c) of the Constitution, the candidate needs to be a resident of the district for two years prior to the date of the election, not two years prior to the date of filing of the candidate's nomination papers. While a mortgage and a claimed homeowner's exemption from real estate taxes for property located at 6127 S Woodlawn may have been sufficient prima facie evidence that the candidate resided there, credible testimony from the candidate's mother that the mother lived there but not the daughter and testimony from the candidate's husband that he and the candidate lived at 2159 Warren, supported by numerous documents, satisfactorily rebutted objector's allegation that she lived elsewhere. *Ramsey v. Collins*, 12-EB-SS-05 (Chicago Electoral Board 2012).

Conviction of Crime

Article XIII, Section 1 of the Illinois Constitution states that a person convicted of a felony shall be ineligible to hold an office created by the Constitution. Ill. Const. Art XIII, §1. By statute, a person convicted of a felony is ineligible to hold an office created by the Illinois Constitution until completion of his or her sentence. 730 ILCS 5/5-5-5. However, eligibility may be restored as provided by law. Ill. Const. Art XIII, §1 ("Eligibility may be restored as provided by law"); 10 ILCS 5/29-15 ("Any person convicted of an infamous crime … shall be prohibited from holding any office of honor, trust or profit, unless such person is again restored to such rights by the terms of a pardon for the offense or otherwise according to law"). Even assuming that evidence of a commission of a felony were admissible, candidate was not disqualified from running for Representative in the General Assembly because other evidence showed that the candidate would have completed his sentence before filing his nomination papers and his right to hold the office of Representative in the General Assembly, an office created by the Illinois Constitution, would have been restored. *Washington v. Smith*, 08-EB-RGA-07 (Chicago Electoral Board 2007).

Municipal Candidates

Residency

The scope of the electoral board's authority and the type of evidence that is admissible for the purpose of determining residency is discussed in length in *Delk v. Board of Election Commissioners of the City of Chicago*, 112 Ill.App.3d 735, 445 N.E.2d 1232 (1983). It was held in *Huber v. Reznick*, 437 N.E.2d 828 (1982), that ownership of property in an election district, without more, is not sufficient to qualify one as a voter in that district. See also *McCullough v. Lavelle*, 491 N.E.2d 268 (1986).

Candidate did not meet the two-year residency in the ward required by 65 ILCS 20/21-14(a). The electoral board must accept as constitutional a statute over which has jurisdiction and it lacks the authority to invalidate a statute on constitutional grounds or even to question its validity. Therefore, the electoral board presumes that the 2-year residency requirement for alderman is constitutional. *Cioch v. Flores*, 03-EB-ALD-084 (Chicago Electoral Board 2003), reversed *Flores v. Chicago Board of Election Commissioners*, 02 CH 22176 (Cir. Ct. Cook Co., January 31, 2003) (Judge Nathaniel Howse, Jr.), appeal voluntarily dismissed. [But see amended Section 21-14(a) of the Revised Cities and Villages Act (65 ILCS 20/21-14(a)) pertaining to the qualifications of Alderman in the City of Chicago, which now provides for a one-year residency requirement: "no member may be elected or appointed to the city council after the effective date of this amendatory Act of the 93rd General Assembly unless he or she has resided in the ward he or she seeks to represent at least one year next preceding the date of the election or appointment. In the election following redistricting, a candidate for alderman may be elected from any ward containing a part of the ward in which he or she resided for at least one year next preceding the election that follows the redistricting, and, if elected, that person may be reelected from the new ward he or she represents if he or she resides in that ward for at least one year next preceding the reelection."]

Adopting the reasoning of the court in *Manuel Flores v. Chicago Board of Election Commissioners*, 02 CH 22176 (Cir. Ct. Cook Co., January 31, 2003), the electoral board held that the two-year residency requirement for Alderman in the City Chicago cannot be constitutionally applied to candidates for alderman of the City Chicago. In the absence of a two-year residency requirement in the ward, the law in force prior to enactment of the unconstitutional statute required only that a candidate for alderman reside in the city at least one year next preceding the election (65 ILCS 5/3.1-10-5(c)). *Ervin v. Walker*, 03-EB-ALD-054 (Chicago Electoral Board 2003), affirmed *Ervin v. Chicago Board of Election Commissioners*, 03-CO EL 027, Cir. Ct. Cook Co., February 21, 2003 (Judge Nathanial Howse, Jr.) (legal requirement for candidates for alderman in the City of Chicago is not a one-year residency in the Ward, but a one-year residency in the City of Chicago).. See also, *Young v. May*, 03-EB-ALD-145 (Chicago Electoral Board 2003).

Candidate for the office of Mayor of the City of Chicago must meet the one-year residency requirement mandated for municipal candidates by Chapter 24, □3-14-1. *Murphy v. Rosenburg*, 88-EB-SMAY-6 (Chicago Electoral Board 1989).

There is no provision in the Election Code or Municipal Code that requires a candidate for election to the office of alderman in the city of Chicago be a registered voter of the ward for thirty days prior to the date of the filing of the candidate's nominating petitions. *Holston v. Reynolds,* 95-EB-ALD-124 (Chicago Electoral Board 1995).

There is no requirement that a Candidate for the office of Alderman in the City of Chicago reside within the Ward for which they are seeking election at least one year next preceding the election, but only that such person has resided in the municipality at least one year next preceding the election. 65 ILCS 5/3.1-10.5(c). *DeFourneau v. Kelly*, 95-EB-ALD-1 (Chicago Electoral Board 1995); *Crosby v. Beavers*, 95-EB-ALD-202 (Chicago Electoral Board 1995).

For an example of report and decision addressing a candidate's residency, see *Holmes v. Hayes,* 03-EB-ALD-039 (Chicago Electoral Board 2003).

Candidate was a resident of the Fifteenth Ward prior to his incarceration and that he returned to reside in the Fifteenth Ward after his release from incarceration. The candidate contended that he never intended to abandon his domicile in the Fifteenth Ward even though he was incarcerated and that it was always his intention to return to the Fifteenth Ward. The electoral board found that the candidate's forcible incarceration against his will did not result in an abandonment of the candidate's residency in the Fifteenth Ward. As a result, the candidate satisfied the requirement that a candidate for Alderman be a resident in the City of Chicago for at least one year prior to the date of the election and also would have satisfied a two-year residency requirement in the Fifteenth Ward even if such requirement could be constitutionally applied. *Durr v. Jones*, 03-EB-ALD-097 (Chicago Electoral Board 2003).

Section 3.1-10-5 of the Municipal Code (65 ILCS 5/3.1-10-5) states that candidates for the office of Alderman for the City of Chicago must be a registered voter who has resided in the City of Chicago at least one year next preceding the election but section 3.1-10-5 does not require that a candidate be a resident or a registered voter of the ward in which he or she is seeking election. *Cole v. Murphy,* 99-EB-ALD-043 (Chicago Electoral Board 1999). [But see 65 ILCS 20/21-14(a) providing that "no member may be elected or appointed to the city council after the effective date of this amendatory Act of the 93rd General Assembly unless he or she has resided in the ward he or she seeks to represent at least one year next preceding the date of the election or appointment. In the election following redistricting, a candidate for alderman may be elected from any ward containing a part of the ward in which he or she resided for at least one year next preceding the election that follows the redistricting, and, if elected, that person may be reelected from the new ward he or she represents if he or she resides in that ward for at least one year next preceding the reelection.]

Candidate claimed residency with his wife, children and father-in-law on Ellis Street address prior to and at the time he filed his nomination papers. Residence was under control of the Chicago Housing Authority (CHA). Candidate and his family were then re-located by CHA to an address on Drexel Avenue due to rehabilitation of Ellis property. The Drexel Avenue address was also under the control of the CHA. Both addresses were within the ward in which he was seeking election as alderman. Candidate testified that his name was not on any lease at either the Ellis or Drexel addresses, but wife and children were on the lease. CHA manager testified that only individuals whose names were on lease could legally reside in CHA building. CHA manager also testified that Ellis address had been boarded up, but could not state exactly when board up occurred. The fact that the candidate could not "legally" reside at CHA address under CHA's rules did not overcome candidate's sworn testimony and other evidence showing that he did, in fact, reside at Ellis address. *Anderson v. Ward*, 07-EB-ALD-034 (Chicago Electoral Board 2007).

Evidence did not rebut testimony of candidate that he resided at address shown on nomination papers. *Karban v. Salazar*, 07-EB-ALD-039 (Chicago Electoral Board 2007).

Testimony of private investigators who conducted surveillances of candidate's proclaimed residence and residence of his children and children's mother insufficient to prove that candidate did not reside at address shown on his nomination papers. *Robinson v. Hawthorne*, 07-EB-ALD-043 (Chicago Electoral Board 2007).

Evidence that the candidate had owned a home where his wife and family resided in DuPage County and that he kept a number of his cars registered outside of Chicago might have been sufficient to

show that he resided in Aurora and were he obligated to prove that he lived in Chicago, he would have had a difficult task. However, the burden was on the objectors to prove that the candidate did not reside at address on his nomination papers and they did not meet this burden. *Delk v. Patterson*, 07-EB-ALD-089 (Chicago Electoral Board 2007), affirmed, *Delk v. Patterson*, 2007 COEL 015, Cir. Ct. Cook Co.

Candidate's current (and third) wife and two children lived in Orland Park. Candidate owned property in the 25th Ward of the City of Chicago. Candidate testified that this was his third marriage and that from the beginning he and his wife agreed that he would live 90 percent of the time in the City of Chicago, that he is a resident of the City of Chicago, that he considered his residence to be the address listed in the 25th Ward, that he visited his wife and children at the Orland Park address when he gets a chance, that he does not own the house in Orland Park and that the bills and registered vehicles are owned by his wife. Objectors failed to prove that the candidate did not live in the 25th Ward. *Fuller v. Soliz*, 07-EB-ALD-094 (Chicago Electoral Board 2007).

Fact that candidate continued to vote at address from which she had moved undermined her claim that she intended to reside with her ill father at address inside ward. Letter filed with hearing examiner *ex parte* by *pro se* candidate regarding circumstances under which she moved from former address also undermined her own testimony given under oath. Balance of conflicting evidence indicated that candidate was not a resident of the ward for the required one year. *Daniels v. Lewis*, 07-EB-ALD-114 (Chicago Electoral Board 2007), affirmed *Lewis v. Board of Election Commissioners for the City of Chicago*, 2007 COEL 017 (Cir. Ct. Cook Co. 2007).

Evidence demonstrated that candidate was a registered voter in the 8th Ward and voted at the 8th Ward address in March 2006, which was within one year of the February 27, 2007 election. Candidate changed his address to the 20th Ward in September and voted at the 20th Ward address in November 2006. Candidate failed in his effort to refute objector's evidence in light of the fact that he did not introduce what otherwise would be considered evidence usually and customarily utilized by a resident of a property, such as a copy of his own driver's license or state identification card with not only his current address but also the date that it was issued. While a copy of a real estate appraisal is evidence of proof that the candidate may have owned the property, it failed to prove that he actually resided at the property in the 20th Ward for one year prior to the election. *Sheppard v. Neely*, 07-EB-ALD-124 (Chicago Electoral Board 2007), affirmed *Neely v. Chicago Board of Election Commissioners*, 07 COEL 00011, Cir. Ct. Cook Co., affirmed, *Neely v. Board of Election Com'rs for City of Chicago*, 371 Ill.App.3d 694, 863 N.E.2d 795 (2007), appeal denied 224 Ill.2d 577, 871 N.E.2d 56 (2007). Appellate court held that candidate's voter registration in another ward was sufficient evidence to support conclusion that candidate was ineligible to run for city alderman for failure to live in the ward he sought to represent for one year prior to the election, even though candidate presented affidavits by neighbors and others stating that he had lived in the ward in which he was running for years, given that the affidavits could not rebut candidate's own certification of residence on the public record.

Candidate's testimony that her street was a two-way street and that she travelled it north and south every day to work for six months, when in fact that street was a one-way street going south, undermined her credibility and testimony that she resided at the address listed on her nomination papers. *Major v. Brown,* 11-EB-ALD-044 (Chicago Electoral Board 2011), *aff'd.,* Circuit Court of Cook County, No. 11 COEL 00022.

While homelessness does not preclude a person who is otherwise eligible from running for elective municipal office, the candidate, who filed as a candidate for the office of Alderman of the 5th Ward, listed as a Post Office Box, or P.O. Box, number as his address. The evidence presented by objector demonstrated that the United States Post Office location for the P.O. Box number listed on the candidate's nomination papers was not in the 5th Ward. Therefore, the hearing officer found that the mailing address for the homeless candidate was not in the 5th Ward where he was seeking election. His mailing address, which was in the 9th Ward, failed to establish sufficient residency in the 5th Ward for at least one year prior to the date of the election. Therefore, the candidate was not eligible or qualified to be a candidate for the office of Alderman of the 5th Ward. *Wahadlo v. Hendricks,* 11-EB-ALD-088 (Chicago Electoral Board 2011), *judicial review dismissed,* Circuit Court of Cook County, No. 11 COEL 00003.

Although the candidate had a current Texas driver's license voter's registration, she had not voted in Texas since 2004 and she is currently registered to vote in Chicago. Fact that the candidate owned no property in Illinois but does own rental property in Texas is not a compelling argument that candidate did not reside in the 27th Ward. The hearing officer concluded that the candidate abandoned her Texas domicile when her father died and the candidate made a decision to reside in Chicago with her mother. Candidate testified that she had not returned to Texas since December 2009. She further testified credibly that she had the intent to reside in and remain in Illinois and the intent was formed on December 1, 2009 at the time of her father's death. *Miller v. Fassett,* 11-EB-ALD-278 (Chicago Electoral Board 2011).

Candidate for mayor, who had established a residence in the City of Chicago prior to January 2009, went to Washington D.C. to become Chief of Staff to the President of the United States. He leased an apartment in Washington; then he and his family leased a house in Washington. In September 2009, the candidate and his spouse leased their Chicago residence for an initial term expiring in August 2010, then extended to June 30, 2011, which was timed to coincide with the end of the school year for the candidate's children. Candidate's family left many household items behind in the Chicago residence. Notwithstanding the fact that the candidate paid income tax to the Government of the District of Columbia earned there in 2009 and 2010, the candidate continued to pay State income tax in Illinois. Candidate never attempted to sell his Chicago residence or to buy a residence in Washington. Candidate testified that he considers Chicago to be his true home, that he never considered living anywhere other than Chicago on a permanent basis, that he always intended to return to Chicago when his service to the President of the United States had ended, and that he expected such service would last at most from 18 months to two years before he returned to Chicago. On October 1, 2010, candidate resigned as Chief of Staff to the President, returning to Chicago. Because his house in Chicago was still occupied by lessees, he rented an apartment. The preponderance of the evidence established that candidate never formed an intention to terminate his residence in the Chicago, never formed an intention to establish his residence in Washington, D.C., or any place other than Chicago, and that he never formed an intention to change his residence. Section 3-2 of the Code provides, "No elector *** shall be deemed to have lost his or her residence in any precinct or electoral district in this State by reason of his or her absence on business of the United States, or of this State." The preponderance of the evidence established that the sole reason for candidate's absence from Chicago during 2009 and 2010 was by reason of his attendance to business of the United States. Objector failed to prove that the candidate abandoned his status as a resident of Chicago and the candidate satisfied the residency requirement by Section 3.1-10-5(a) of the Illinois Municipal Code as a qualification for the office of Mayor of the City of Chicago. *Maksym v Emanuel*, 11-EB-MUN-010 (Chicago Electoral Board 2010), *aff'd.* Circuit Court of Cook County, No. 2010 COEL 00020, *reversed,* 406 Ill.App.3d 9, 942 N.E.2d 739 (1st Dist. 2011)*, reversed,* 242 Ill.2d 303, 950 N.E.2d 1051 (2011).

Fact that candidate voted at primary election less than one year before aldermanic election at polling place assigned to his old address was not evidence of his residence at old address when candidate went to old polling place on instructions from election judges in precinct containing his new address and there was evidence that the candidate attempted to register at his new residence but his registration was not changed. Unlike the candidate in Neely, the candidate here presented evidence that his vote in the polling place assigned to his old address was the result of inadvertent error in the handling of his voter registration change of address documents, or misunderstanding, and that there was no intent on his part to "intentionally misrepresent" his residence or to keep his true residence a "secret." *Riley v. Dukes*, 15-EB-ALD-011 (Chicago Electoral Board 2015).

While the candidate may not have provided all or even most of the documents viewed as customary evidence of residence, those he did provide were compelling and highly probative. The unchallenged testimony of candidate that he had been registered to vote and did vote from the residence for the past five years is significant. *Wilson v. Moses*, 15-EB-ALD-012 (Chicago Electoral Board 2015).

Candidate attempted to update his address on his voter registration to reflect his new 50th Ward address within 30 days prior to the March 18, 2014 primary election at the Illinois Secretary of State's office but was informed by Secretary of State employees that because the update would not be processed in time he should vote at his former polling place, which he did without objection. Unlike in the Neely case, the candidate here presented evidence that his vote at his former polling place was, in fact, the result of inadvertent delay in the handling of his voter registration change of address documents, or

misunderstanding, and that there was no intent on his part to "intentionally misrepresent" his residence or to keep his true residence a secret. *Quadri v. Kuriakose*, 15-EB-ALD-016 (Chicago Electoral Board 2015).

Candidate had twice attempted to update his address on his voter registration to reflect the 20th Ward address prior to the March 18, 2014 primary election but, for reasons unexplained, both documents were not date stamped by the Board until well after the primary. When the candidate attempted to vote in the 20th Ward, he was told he count not vote there; instead, he was sent away from the 20th Ward polling location and directed to vote in the 27th Ward. So, unlike in the Neely case, the candidate here presented evidence that his vote in the 27th Ward was, in fact, the result of inadvertent error in the handling of his voter registration change of address documents, or misunderstanding, and there was no intent on his part to intentionally misrepresent his residence. Hearing officer correctly concluded that the candidate timely established a residence within the 20th Ward at least one year prior to the February 24, 2015 Municipal General Election and he did not, under the circumstances, abandon such residence by voting in the 27th Ward in the March 2014 primary election. *Cochran v. Bailey*, 15-EB-ALD-039 (Chicago Electoral Board 2015).

Court appointed receiver for apartment building recently assumed responsibility for the subject property testified that candidate was an "occupant" of the building even though he did not have a written lease, which he had requested. She had observed the candidate at the building in both the residential apartment and a retail space in the building and that the candidate was able to give the witness access to the retail space because she did not a key. Candidate testified that he lived in a unit of the building since January 2014, that he was registered to vote at the building (although he mistakenly registered from a different portion of the building with its own separate address), that he did not have a written lease and that he had several verbal agreements with the former property manager. The candidate's roommate testified that she moved in with the candidate in April 2014. The roommate also testified that there was a third roommate. The hearing officer concluded that the candidate's testimony was credible and that he resided at the address in question and that the fact that he had registered to vote at the wrong address within the same building did not invalidate his nomination papers. *Purrington v Brown*, 15-EB-ALD-105 (Chicago Electoral Board 2015).

Objection that candidate for alderman in Ward 15 did not meet durational residency requirement because he resided in a particular part of the 14th Ward prior to redistricting that did not become a part of the 15th Ward after redistricting overruled. A candidate may, for the first election after a ward redistricting, be elected from any ward containing a part of the ward in which he or she resided for at least one year next preceding the election that follows redistricting. The phrase "a part of the ward" is not limited to certain parts of the ward. Rather, it is more expansive to include all parts of the previous ward now contained in the new ward. *Mondragon v. Reyes*, 15-EB-ALD-114 (Chicago Electoral Board 2015), affirmed, *Mondragon v. Reyes*, 2015 COEL 000015 (Cir. Ct. Cook Co., 2015), affirmed, *Mondragon v. Reyes*, 2015 IL App (1st) 150310 (Ill.App. 1 Dist.) (candidate was allowed to seek election from any ward that contained a part of the old ward in which he resided at the time of redistricting).

Objection that candidate for alderman in Ward 4 did not meet durational residency requirement because he had changed his registration to an address in Ward 5 was overruled because the candidate lacked the intent necessary to legally abandon his lawful residency within Ward 4. The candidate's unrebutted testimony was that he had intended merely to execute a temporary change-of-address with the U.S. Postal Service so that it would forward his Ward 4 mail to a home in Ward 5 in which he was temporarily residing while his lawful residence underwent renovation. *Hare v.* Livingston, 17-EB-ALD-02 (Chicago Electoral Board 2017).Although intentionally registering to vote at an address and voting within that precinct may be sufficient evidence of lawful residency under *Neely v. Board of Election Commissioners for the City of Chicago*, 371 Ill.App.3d 694 (1st Dist. 2007), the Illinois Supreme Court has more recently ruled that a person's intent remains a significant element of the legal test to determine a person's lawful residence. *Maksym v. Board of Election Commissioners for the City of Chicago,* 242 Ill.2d 303 (2011). Thus, the candidate in this case, who changed his voter registration back to the Ward 4 address prior to taking any action as a voter within Ward 5, never intended to abandon his Ward 4 residency, nor did he ever take any action to result in establishing a lawful residency within Ward 5.

Conviction of a Crime

Balancing all case precedent and an injunction in *Medrano v. Chicago Electoral Board*, 02 CH 19784 (Cook Co. Cir. Ct. 2002), the Electoral Board found that Illinois law barring persons convicted of felonies from holding or seeking election to elective municipal office, including 10 ILCS 5/3.1-10-5(b), while at the same time permitting such persons to hold and seek election to offices created by the Illinois Constitution, is unconstitutional and unenforceable as a violation of Equal Protection. As a result, candidate for Alderman in the City of Chicago was not prohibited from being a candidate due to a felony conviction. *Delgado v. Medrano*, 07-EB-ALD-002 (Chicago Electoral Board 2007), affirmed *Delgado v. Chicago Board of Election Commissioners*, Circuit Court of Cook County, No. 07 COEL 00002, appeal dismissed, judgment vacated and remanded with instructions, 224 Ill.2d 481, 865 N.E.2d 183 (2007); *Bryant v. Jones*, 07-EB-ALD-006 (Chicago Electoral Board 2007); affirmed, *Bryant v, Board of Election Commissioners of the City of Chicago*, Circuit Court of Cook County, No. 07 COEL 00005, appeal dismissed, judgment vacated and remanded with instructions, 224 Ill.2d 473, 865 N.E.2d 189 (2007). As noted above, the decision of the Electoral Board was reversed by the Illinois Supreme Court.

Candidate was found guilty in the United State District Court for the Northern District of Illinois of a felony in 1999, was sentenced to be imprisoned, and upon release from imprisonment he was to be on supervised release for a term of 2 years. At the time of the electoral board hearing the candidate was still under a term of supervised release. The candidate argued that 65 ILCS 5/3.1-10-5(b) was unconstitutional as it applies to municipal elective office, citing *Medrano v. Chicago Electoral Board*, 02 CH 19784 (Cook Co. Cir. Ct. 2002); *Cory v. Watts,* 99 CH 10306 (Cook Co. Cir. Ct. 1999). The candidate further argued that although he was then on supervised release, he completed his sentence and he was restored to eligibility to hold municipal office. The electoral board found that nothing in the *Medrano* case cited by the candidate or in other cases dealing with the felony conviction disqualification suggests that a person is eligible for elective municipal office if he has not completed his or her sentence for the offenses committed. In the *Medrano* case the court held that "65 ILCS 5/3.1-10-5(b) is unconstitutional to the extent that it does not restore eligibility to hold a legislatively created office to a person convicted of a felony or other infamous crime *upon completion of the sentence*." (Italics added). Statutes restoring the right to hold constitutional office, for example, provide that such right is restored only if pardoned or upon completion of one's sentence. See Ill. Const. Art. XIII, §1; 730 ILCS 5/5-5-5(b); 10 ILCS 5/29-15. Therefore, the candidate here does not stand in the same place as the candidates in these other cases. 18 U.S.C. §3583 clearly provides that a court, when imposing a sentence of imprisonment for a felony offense, may include "as part of the sentence" a requirement that the defendant be placed on a term of supervised release after imprisonment. Here, the candidate was placed on a term of supervised release following his imprisonment and that such supervision was and is a "part of the sentence." The electoral board found that the candidate had not completed his sentence for the offense committed and that he was not qualified to hold the elective office of Alderman. Therefore, his statement of candidacy was invalid. *Durr v. Jones*, 03-EB-ALD-097 (Chicago Electoral Board 2003). See also, *Thompson v. Evans*, 03-EB-ALD-162 (Chicago Electoral Board 2003), affirmed, *Evans v. Thompson*, 03 CO EL 20 (Cir. Ct. Cook Co., February 14, 2003) (Judge Michael Murphy, presiding), affirmed *Evans v. Thompson,* 1-03-0376, Illinois Appellate Court, First Judicial District, May 7, 2004 (Order only).

Candidate convicted of felony and having served his sentence is not prohibited from being a candidate for the office of alderman. *Rosales v. Hendrix,* 95-EB-ALD-55 (Chicago Electoral Board 1995).

Objector alleged the Candidate filed a statement of candidacy that he knew to be untrue because it stated that he was qualified for the office of Alderman of the 27th Ward even though the Candidate was a convicted felon who is barred from holding such office. Section 29-15 of the Election Code states that any person convicted of an infamous crime shall thereafter be prohibited from holding any office of honor, trust or profit, unless such person is again restored to such rights by the terms of a pardon for the offense or otherwise according to law. Section 3.1-10-5 of the Illinois Municipal Code provides that a person is not eligible for an elective municipal office if that person has been convicted in any court in the United States of any infamous crime, bribery, perjury or other felony. The Governor of the State of Illinois on December 4, 1998, issued a pardon to the Candidate whereby the Candidate was "acquitted and discharged of and from all further imprisonment and restored to all the rights of citizenship which may have been forfeited by the conviction." The Governor's pardon of the Candidate on December 4, 1998 restored all of the

Candidate's rights of citizenship, including the right to hold public office. When the Candidate signed his Statement of Candidacy on December 4, 1998, stating that he was legally qualified to hold the office of Alderman of the 27th Ward of the City of Chicago, such statement was not false because the Governor's pardon of the Candidate removed such felony conviction as an impediment to the Candidate's qualifications for the office; therefore, the nomination papers were valid. *Hendon and Barnes v. Burnett,* 99-EB-ALD-183 (Chicago Electoral Board 1999).

Candidate is not disqualified from seeking or holding office of ward committeeman due to conviction for felony. Section 29-15 of the Election Code (10 ILCS 5/29-15) cannot be constitutionally applied to bar persons from holding or seeking to hold legislatively created offices such as ward committeeman (citing *Coles v. Ryan*, 91 Ill.App.3d 382, 414 N.E.2d 932 (2nd Dist. 1980)). Section 3.1-10-5-5(b) of the Illinois Municipal Code would likewise not apply to the candidate's candidacy because that section, by its own terms, applies only to "elective municipal office." The position of ward committeeman is not an elective municipal office (citing *People v. Brady*, 223 Ill.App. 95 (1st Dist. 1921)). Political committeemen are not public officers. *Tatum v. Evans*, 04-EB-WC-33 (Chicago Electoral Board 2004).

Failure to Pay Taxes/Arrearage in Accounts[2]Section 3.1-10-5 of the Illinois Municipal Code, as amended by Public Act 98-115, effective July 29, 2013, now provides:

"(b) A person is not eligible to take the oath of office for a municipal office if that person is, at the time required for taking the oath of office, in arrears in payment of the tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

(b-5) A person is not eligible to hold a municipal office, if that person is, at any time during the term of office, in arrears in the payment of the tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony."

While there is no written legislative history regarding Public Act 98-115, presumably the legislature intended to change the indebtedness proscription in the interpretation of the statute to what it was post-*Hamilton* and pre-*Cinkus*. It is clear that the legislature no longer wanted to make indebtedness to the municipality a bar to election for municipal office. Section 3.1-10-5, as amended, does not bar a candidate from the ballot if, at the time of filing his nomination papers, he was indebted to the municipality. *Fried v. O'Connor*, 15-EB-ALD-144 (Chicago Electoral Board 2015). However, even if the statute were to continue to bar a candidate from the ballot if, at the time of filing his nomination papers, he was indebted to the municipality, the objector here did not present any evidence of any judgment against the candidate personally or that the candidate was personally indebted to the City of Chicago. At best, the evidence alleges that the homeowners' association, builders, contractors, developers or vendors associated with the homeowners' association were indebted to the City of Chicago. None of these judgments, however, can be imputed to the individual candidate personally, citing *Burke v. Electoral Board of the Village of Bradley*, 2013 IL App (3d) 130141, and *Watson v. Electoral Board of Village of Bradley*, 2013 IL App (3d) 130142.

Under Section 3.1-10-5(b) of the Illinois Municipal Code and *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200, 886 N.E.2d 1011 (2008), a person is not eligible for elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality. However, water bill that was unpaid but not overdue on the date the candidate filed her nomination papers does not constitute an arrearage in the payment of an indebtedness due so as to render such nomination papers invalid. *Lockette v. Walters,* 11-EB-ALD-016 (Chicago Electoral Board 2011); *Lockette v. Reed,* 11-EB-ALD-017 (Chicago Electoral Board 2011).

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[2] EDITOR'S NOTE: The Illinois Supreme Court held in *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200, 886 N.E.2d 1011 (2008), that a candidate who was in arrears of a $100 debt owed to the village at the time he filed his nomination papers was not eligible to run for office of village trustee.

Where candidate admitted he had unpaid parking tickets outstanding and owed to the City of Chicago since 2003 in the amount of $1,086.30, he was ineligible to be a candidate for the office of Alderman in the City of Chicago under Section 3.1-10-5(b) of the Illinois Municipal Code and *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200, 886 N.E.2d 1011 (2008). Fact that candidate filed for bankruptcy shortly after filing his nomination papers was not enough to avoid finding that his nomination papers were invalid. *Lockette v. Wilkins,* 11-EB-ALD-018 (Chicago Electoral Board 2011). See, also, *Olsen v. Akins,* 11-EB-ALD-073 (Chicago Electoral Board 2011) (candidate admitted outstanding debt to City of Chicago for unpaid tickets, tow, boot and storage fees and arrearage of such debt in the amount of $1,610.40 as of the time he filed his nomination papers); *Chambers v. Burch,* 11-EB-ALD-105 (Chicago Electoral Board 2011).

Objections attaching information obtained from the City of Chicago Department of Revenue under the Freedom of Information Act and showing unpaid water bills at two addresses failed to show that the candidate was the proper debtor in that candidate presented deed conveying one property in 2003 and candidate testified that the second property, which was his residence, was property owned by the Chicago Housing Authority. Objector failed to prove that candidate was liable for payment of the water bills in question. *Lockette v. Ward,* 11-EB-ALD-021 (Chicago Electoral Board 2011), *aff'd.,* Circuit Court of Cook County, No. 11 COEL 00011.

Evidence established that unpaid and delinquent parking tickets were issued to the candidate and that the candidate was indebted to the City of Chicago at the time he filed his nomination papers. The candidate's defense that he did not own the automobile that gave rise to the outstanding tickets constitutes a collateral attack on the validity of the indebtedness over which the electoral board has no jurisdiction. *Lockette v. Thomas,* 11-EB-ALD-023 (Chicago Electoral Board 2011), *voluntarily dismissed*, Circuit Court of Cook County, No. 11 COEL 00020.

In addressing whether "indebtedness" exists under Section 3.1-10-5(b) it is useful to ascertain what the City of Chicago considers to be "indebtedness." Although not binding on the electoral board, Section 1-19-010 of the Municipal Code of the City of Chicago provides guidance, defining "debt due and owing" as "a specified sum of money owed to the city for fines, penalties, fees, interest, or other types of charges or costs imposed by this code, or administrative or judicial judgments after: (i) the period granted for payment has expired; (ii) the exhaustion of, or the failure to exhaust, judicial review procedures; or (iii) in the case of tax debt, an assessment has become final under Section 3-4-330 of this code." In this case, candidate alleged that his debts, including his water bills, were discharged in bankruptcy. According to candidate, the last bill he received was incorrect in that it contained debts that accrued both before and after he filed his bankruptcy petition and it was impossible to ascertain what, if any, amounts were due the City. Hearing officer concluded that it was not necessary to determine whether the debts that existed prior to the bankruptcy filing were still considered debts or whether they were discharged in bankruptcy because the evidence established that the post-bankruptcy amount of $51.08 for a water bill was due, owing and unpaid at the time the candidate's nomination papers were filed. Such debt rendered the candidate ineligible to run for office pursuant to Section 3.1-10-5(b) of the Illinois Municipal Code as interpreted by *Cinkus v. Village of Stickney Municipal Officers Electoral Board*. The electoral board further found that he did, prior to filing his nomination papers, file for bankruptcy in federal court in an attempt to discharge debts that included roughly $3,200 owed to the City of Chicago, but that the filing of such bankruptcy proceedings does not necessarily discharge the debtor's obligations but merely stays collection of such obligations until the bankruptcy proceedings are concluded, unless discharged. The electoral board found, therefore, that the debts included in the bankruptcy proceedings were in arrearage to the City of Chicago at the time of the candidate's filing of his nomination papers. *Olson v. Myers*, 11-EB-ALD-070 (Chicago Electoral Board 2011), *judicial review dismissed,* Circuit Court of Cook County, No. 11 COEL 00028, *aff'd.,* Illinois Appellate Court, No. 1-11-0359.

Where candidate paid outstanding traffic tickets on November 22, 2010 at 7:50 a.m. and nomination papers were filed on November 22, 2010 at 3:40 p.m., the candidate's alleged indebtedness was remedied prior to filing his nomination papers and he was not in violation of Section 3.1-10-5(b) of the Illinois Municipal Code. *Wohadlo v Ross,* 11-EB-ALD-094 (Chicago Electoral Board 2010).

Where, at the time the candidate filed her nomination papers, she had an outstanding debt in the amount of $50.00 arising out of a ticket that was issued in May 2006 but was not paid until December 9,

2010, after the candidate filed her nomination papers, the nomination papers are invalid. *Allison v. Perkins,* 11-EB-ALD-120 (Chicago Electoral Board 2011), *aff'd.,* Circuit Court of Cook County, No. 11 CH 00036. See also, *Tomkins v. Alex,* 11-EB-ALD-165 (Chicago Electoral Board 2011), *aff'd.,* Circuit Court of Cook County, No. 11 COEL 00025.

Objector presented evidence of the candidate's indebtedness to the City in the form of a printout from the City of Chicago Department of Revenue indicating that the candidate had 24 outstanding tickets with a total indebtedness of $3,101.80 due and owing the City. Candidate presented testimony that he and his twin brother have the same driver's license number, that he has no outstanding tickets and that even if he did, you could not ascertain which ones should be attributed to the candidate as some of the should be attributed to his twin brother. The candidate also testified that two sets of license plates were registered to him. Candidate's argument that the debt did not belong to him or that some portion of the debt should not be attributed to him constitutes a collateral attack on the validity of the indebtedness over which the electoral board has no jurisdiction. *Allison v. Johnson,* 11-EB-ALD-121 (Chicago Electoral Board 2011), *aff'd.,* Circuit Court of Cook County, *appeal dismissed,* Illinois Appellate Court, No. 1-11-0323.

Section 3.1-10-5 of the Illinois Municipal Code does not define "arrears" or "indebtedness due." Accordingly, those terms will be given their plain and ordinary meaning. The Illinois Supreme Court has defined "debt" as follows:

"A 'debt' is defined in general terms as a specified sum of money owed by one person to another, including the obligation of the debtor to pay, and the right of the creditor to enforce payment. (*Black's Law Dictionary*, 363 (5th Ed. 1979)) 'Indebtedness' is the 'state of being in debt,' without regard to the debtor's ability to pay the debt. (*Black's Law Dictionary*, 691 (5th Ed. 1979)). '[I]n a broad sense and in common understanding,' the term 'indebtedness' may mean 'anything that is due and owing.' Id."

Explicit in the definition of debt is the "right of the creditor to enforce payment." If a creditor has no right to enforce the payment, then no debt in fact exists. Where candidate owed City $244 in parking tickets at time of filing his nomination papers, but City attorney testified that City vacated the judgment shortly after the candidate filed his nomination papers because notice of the tickets and corresponding judgment had been sent to the wrong address in error and then re-issued tickets in lower amount, the original debt and judgment was void. Because the original judgment was no longer enforceable against candidate, there was no debt or arrearage of a debt within the meaning of Section 3.1-10-5(b) of the Illinois Municipal Code. *Tuttle v. Reichel,* 11-EB-ALD-122 (Chicago Electoral Board 2011).

Objector presented documents obtained from the City of Chicago Department of Revenue under the Freedom of Information Act tending to show that multiple traffic tickets had been issued to a license plate number and that the amounts owed as a result of these tickets were still unpaid at the time the candidate's nomination papers were filed. The documents were found using a search for "Michael A. Stinson," the same name as the candidate. Candidate denied he owned the car listed to the offending license plate number. Candidate testified that he did not own a car and was unaware of the tickets. Candidate produced a web site printout showing that there were several individuals in the City of Chicago with the same or similar name as the candidate's; however, only one Michal A. Stinson had a wife whose name was Linda, the name of the candidate's wife. The hearing officer found that the objector, after all the evidence was presented, proved by a preponderance of the evidence that the candidate had a debt outstanding at the time of filing his nomination papers. The electoral board reversed, finding that there was insufficient notice to the candidate of an existing debt to the City. The electoral board, therefore, overruled the objections. *Jackson v. Stinson,* 11-EB-ALD-153 (Chicago Electoral Board 2011), *reversed,* Circuit Court of Cook County, No. 11 COEL 00015, *aff'd.,* Illinois Appellate Court, No. 1-11-0346.

Objector presented documents from City of Chicago showing candidate owed $2,269.20 representing 18 tickets, boot fees, towing fees and destruction fees. City records indicated that candidate owned the vehicle subject to these fees. Candidate admitted that he had owned the vehicle, but testified that he had given it to one of his children. He did not have a bill of sale, and he had never transferred title to the vehicle. Held: a clear arrearage of indebtedness was proven, no appropriate contest of the indebtedness was ever lodged and there was a debt within the meaning of Section 3.1-10-5(b) of the Illinois Municipal Code. *Cardona v. Burgoa,* 11-EB-ALD-238 (Chicago Electoral Board 2011).

A debt purportedly owed to Cook County for receiving more than one homeowner's exemption on real estate taxes is not indebtedness to the City of Chicago and would not bar a candidate from seeking elective municipal office. City of Chicago Department of Revenue letter offered by the candidate stating that the candidate owed no tax or indebtedness to the City conclusively rebutted any claim that the candidate was in arrears on debts to the City of Chicago. *Jackson v. Earls,* 11-EB-ALD-160 (Chicago Electoral Board 2011), *aff'd.* Circuit Court of Cook County, No. 11 COEL 00018, *reversed,* 407 Ill.App.3d 837, 944 N.E.2d 439 (1st Dist. 2011), *appeal allowed,* 949 N.E.2d 1098 (2011).

Where water bills are issued monthly and current water bill was not paid but was not yet due, no "debt" existed because the period for payment had not yet expired. *Tompkins v. Bambouyani,* 11-EB-ALD-167 (Chicago Electoral Board 2011).

Evidence was introduced that the owner of certain land was indebted to the City of Chicago for tickets for interior repairs performed without a permit and that the City obtained an administrative judgment against the trust, but candidate testified that he did not own the property in question. Testimony of City official confirmed that the ticket was issued in error on the wrong parcel number. He further testified that the stop work notice was clearly incorrect as it related to vacant property and if the property was actually vacant, it could not have received the stop work notice. Evidence presented by objector failed to establish that candidate, who, along with his wife, were beneficiaries of the land trust erroneously identified in the administrative proceedings at the City were ever notified of the administrative proceedings. Candidate had additionally received letter from the City confirming that he was not indebted to the City for any reason. Held: objector failed to establish that the candidate was indebted to the City of Chicago. *Courtney v. Burnett,* 11-EB-ALD-168 (Chicago Electoral Board 2011), *aff'd.* Circuit Court of Cook County, No. 11 COEL 00002, *aff'd.* Illinois Appellate Court, No. 1-11-0261, *appeal den.* Illinois Supreme Court, No. 112019.

Candidate entered into a payment plan with the City of Chicago for an outstanding water bill on November 11, 2010 and the agreement required a down payment and six monthly payments thereafter. Candidate paid the entire amount early on December 15, 2010. Section 2-152-150 of the Municipal Code of the City of Chicago defines what is meant by the word "debt" as it relates to the City of Chicago. The ordinance provides that the city may hire a person who owes a debt to the City if such person has entered into an agreement with the Department of Revenue or other appropriate city department for the payment of all debts owed to the City and is in compliance with the agreement. Accordingly, the electoral board found that because the candidate entered into a payment plan for the payment of the outstanding water bill prior to the time he filed his nomination papers, no indebtedness existed that would invalidate his nomination papers. *Tompkins v. Videckis,* 11-EB-ALD-169 (Chicago Electoral Board 2011).

Objector presented documents obtained from the City of Chicago Department of Revenue under the Freedom of Information Act showing that a traffic ticket was issued to a vehicle with certain license plate number, that the notice of the traffic violation was addressed to the candidate and a female individual. Administrative decisions and orders were addressed to the candidate and the female individual regarding the ticket. Documents from the Illinois Secretary of State showed the registration to the vehicle in question was in the names of the candidate and the female individual and that the car dealer, which owned title to the vehicle, had sold it to the candidate and the female. Candidate argued he did not own the vehicle in question and that in any event, the ticket was paid on December 3, 2010. Candidate also presented copies of three money orders made payable to the finance company for the car with the remitter being the female individual. Candidate also presented a statement from the female individual indicating that she, not the candidate, was the owner of the vehicle. Held: even if the candidate did not use the vehicle or make payments on the vehicle, the evidence established that he was one of the owners of the vehicle and any indebtedness regarding the vehicle would, therefore, be attributable to the candidate. Significantly, the candidate himself had submitted a written protest in relation to the ticket giving rise to the indebtedness. *Courtney v. Rowans,* 11-EB-ALD-170 (Chicago Electoral Board 2011).

Objector presented copies of a "Hold Notice" addressed to "Con Safos Corporation" in care of the candidate. The notice stated that the corporation was no longer in "good standing" and that is owed a debt to the City of Chicago. The Candidate testified that he was a registered agent for the corporation in question. The electoral board found that the objector failed to establish that a registered agent for a corporation is in any way personally responsible for the indebtedness of the corporation for which he serves

as registered agent. The candidate, therefore, was not indebted to the City of Chicago. *Guerrero v. Iniguez,* 11-EB-ALD-346 (Chicago Electoral Board 2011), *aff'd.,* Circuit Court of Cook County, No. 11 COEL 00019.

Objectors alleged that candidate, if he was a resident of the City of Chicago in 2009, was obligated to pay for a municipal vehicle sticker for each of his vehicles, but failed to do so. Objectors argued that the candidate was therefore indebted to the City. Candidate produced an "Indebtedness Statement" from the Department of Revenue of the City of Chicago stating that the Department performed a thorough indebtedness investigation and that no outstanding debt was found as to the candidate across any of the debt types. Objectors did not show, by a preponderance of the evidence, the existence of an indebtedness, let alone that the candidate was in "arrears" in the payment of it. *Maksym v Emanuel*, 11-EB-MUN-010 (Chicago Electoral Board 2010), *aff'd.,* Circuit Court of Cook County, No. 2010 COEL 00020, *reversed,* 406 Ill.App.3d 9, 942 N.E.2d 739 (1st Dist. 2011)*, reversed,* 242 Ill.2d 303, 950 N.E.2d 1051 (2011)

Candidate is not disqualified from the ballot even though being indebted to the City of Chicago. *Mitchell v. Bolden*, 03-EB-ALD-106 (Chicago Electoral Board 2003).

Objections claiming a disqualification for public office arising from an arrearage in accounts by the candidate with the municipality applies solely to the office and not to the election and will be overruled. *Brown v. Laury,* 95-EB-ALD-100 (Chicago Electoral Board 1995); *Batson v. Shaw*, 83-EB-ALD-35 (Chicago Electoral Board 1983).

Objection that candidate was arrears in payment of taxes to the municipality was not a bar to the candidacy for municipal office. See *People v. Hamilton and Grogan*, 24 Ill.App. 609 (1888). *Moore v. Powers,* 99-EB-ALD-120 (Chicago Electoral Board 1999); *Ott v. Donovan,* 87-EB-ALD-85 (Chicago Electoral Board 1987); *Byers v. Collazo,* 86-EB-ALD-16 (Chicago Electoral Board 1986); *Whitehead v. Crawford,* 86-EB-ALD-35 (Chicago Electoral Board 1986); *Whitehead v. Neal,* 86-EB-ALD-39 (Chicago Electoral Board 1986); *Batson v. Shaw,* 83-EB-ALD-35 (Chicago Electoral Board 1983); *Morgan v. Allen,* 83-EB-ALD-64 (Chicago Electoral Board 1983); *Love v. Steele,* 83-EB-ALD-66 (Chicago Electoral Board 1983); *Mitchell v. Bolden*, 07-EB-ALD-010 (Chicago Electoral Board 2007).

Objections to candidate's indebtedness to the City of Chicago and the fact that the candidate has a liquor license do not result in disqualification of candidacy. *McKinley v. Franklin,* 87-EB-ALD-232 (Chicago Electoral Board 1987).

Failure to Comply with City of Chicago's Campaign Financing and Ethics Ordinance

Electoral board does not have authority to invalidate nomination papers for an alleged failure to comply with the City of Chicago's Ethics Ordinance. *Bocanegra v. Sanchez*, 07-EB-ALD-107 (Chicago Electoral Board 2007); *Jones v. Monroe*, 07-EB-ALD-143 (Chicago Electoral Board 2007); *Smith v. Sherman,* 95-EB-ALD-20 (Chicago Electoral Board 1995); *Smith v. Tines,* 95-EB-ALD-24 (Chicago Electoral Board 1995); *Whitehead v. Massie,* 91-EB-ALD-43 (Chicago Electoral Board 1991); *Whitehead v. Gholar,* 91-EB-ALD-045 (Chicago Electoral Board 1991); *Bednarz v. Doherty,* 91-EB-ALD-53 (Chicago Electoral Board 1991).

While it is clear under *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 886 N.E.2d 1011, 228 Ill.2d 200 (2008) that failure to comply with the eligibility requirements contained in Section 3.1-10-5(b) of the Illinois Municipal Code may act as a bar to a person's candidacy for elective municipal office, the failure to comply with the City of Chicago's Campaign Finance Ordinance (Section 2-164-0-50 of the Municipal Code of the City of Chicago) does not have a similar effect. Nothing in Article 21 of the Illinois Municipal Code empowers the City Council to enact additional eligibility requirements for elective office in the City of Chicago. While the City of Chicago Financing Ordinance may impose additional obligations on candidates for elective office and elected officers in the City of Chicago, the ordinance was not approved by referendum as provided in Article VII, sec. 6 of the Illinois Constitution and, absent such a referendum, the City is without authority to enact binding changes to the selection or eligibility of its officers. The Ordinance is not enforceable by the electoral board by means of removing candidates from the ballot. *Noven v. McIntyre*, 11-EB-ALD-077 (Chicago Electoral Board 2011), *aff'd.*, Circuit Court of Cook County, 11 COEL 00007 (2011); *Noven v. Baskin*, 11-EB-ALD-078 (Chicago Electoral Board 2011), *aff'd.,* Circuit Court of Cook County, No. 11 COEL 00008 (2011); *Noven v.*

Carroll, 11-EB-ALD-079 (Chicago Electoral Board 2011); *Noven v. Phelan,* 11-EB-ALD-081 (Chicago Electoral Board 2011), *aff'd.,* Circuit Court of Cook County, No. 11 COEL 00006 (2011); *Wohadlo v. Miles,* 11-EB-ALD-090 (Chicago Electoral Board 2011); *Wohadlo v. Tankersly*, 11-EB-ALD-092 (Chicago Electoral Board 2010); *Wohadlo v Ross,* 11-EB-ALD-094 (Chicago Electoral Board 2010); *Bocanegra v. Rodriguez*, 11-EB-ALD-197 (Chicago Electoral Board 2011); *Bocanegra v. Iniguez*, 11-EB-ALD-199 (Chicago Electoral Board 2011), *aff'd.* Circuit Court of Cook County, No. 11 COEL 00031 (2011).

Hearing officer concluded that the candidate "qualified as a candidate" for purposes of the City of Chicago Campaign Financing Ordinance only upon the proper filing of valid nomination papers; however, the inquiry into the meaning of "qualify as a candidate" as used in the ordinance is unnecessary because the Chicago City Council has placed enforcement of the ordinance in the City of Chicago Board of Ethics, not the Board of Election Commissioners. Ejection from the ballot is not an appropriate sanction for failure to file a statement of financial interests. The Board of Election Commissioners does not have authority to invalidate nomination papers for an alleged failure to comply with the City of Chicago's Campaign Finance or Ethics Ordinance. *Maksym v Emanuel*, 11-EB-MUN-010 (Chicago Electoral Board 2010), *aff'd.,* Circuit Court of Cook County, No. 2010 COEL 00020, *reversed,* 406 Ill.App.3d 9, 942 N.E.2d 739 (1st Dist. 2011)*, reversed,* 242 Ill.2d 303, 950 N.E.2d 1051 (2011).

Ward Committeeman

Residency

Two elements are necessary to create a "residence" for voting purposes: physical presence in the place, and the intention to remain there as a permanent resident. To change residence, "there must be, both in fact and intention, an abandonment of the former residence and a new domicile acquired by actual residence. Because a person may only have one residence for voting purposes, when a person has established a physical presence in two locations, he must make a decision about which location he intends to make his permanent residence. Video surveillance and testimony by private investigators showed the candidate and his vehicle at an address different than the one claimed by the candidate on his nomination papers. Candidate also recently submitted a change of address to the U.S. Postal Service showing that the Candidate moved to an address different than the one claimed his nomination papers, according to an affidavit supplied by an agent of the U.S. Postal Service. Candidate's testimony attempting to explain discrepancies was not credible. Therefore, the electoral board found that the candidate was not a resident at the address listed on his nomination papers nor was he a resident of the district in which he sought election. *Lavey v. Hornowski,* 08-EB-WC-38 (Chicago Electoral Board 2007).

Although electrical and gas bills were directed to the address 745 W. 77th Street, candidate testified the building in which he resides is a "double building" or conjoined structure bearing the addresses of 745-747 W. 77th Street. Candidate further testified he resided in the 747 W. 77th Street side of the building and produced real estate tax bills, rent receipts and utility bills supporting his claim to reside at such address. *Members v. Lacy*, 12-EB-WC-19 (Chicago Electoral Board 2012).

Citizenship

Electoral board does not have jurisdiction to review or overrule a grant of citizenship by the United States Government. *Campos v. Munoz,* 95-EB-ALD-80 (Chicago Electoral Board 1995).

Conviction of a Crime

The office of ward committeeman is not an "office of honor, trust or profit" within the meaning of Section 29-15 of the Election Code (10 ILCS 5/29-15) such as would bar a person convicted of a felony from being a candidate for the office of ward committeeman. *Augustus v. Delay*, 16-EB-WC-31 (Chicago Electoral Board 2016).

Ballot Forfeiture for Unpaid Fines to State Board of Elections

Eligibility requirements for the office of State Senator are found in the Illinois Constitution and the ballot forfeiture provisions of section 9-30 of the Campaign Finance Act are not directed at the "qualifications" or "eligibility" of candidates for State Senator and cannot change the constitutional qualifications. The ballot forfeiture statute is directed only to the issue of whether any candidate's name may be certified to or be placed on the ballot. This administrative function is to be carried out by the State

Board of Elections, which, at the time of certification, will examine whether there are any unpaid penalties and whether there is any bar to placing the candidate's name on the ballot. Section 3.1-10-5 of the Illinois Municipal Code regarding arrearages in the payment of any tax or indebtedness to a municipality and eligibility to hold elective municipal office is not applicable to the office of State Senator. Under section 8-10 of the Election Code, the candidate would have until the date of the State Board of Elections' ballot certification to pay any unpaid civil penalties to the State Board of Elections and to avoid penalty under the ballot forfeiture statute. Where the candidate presented evidence of payment of the outstanding fine prior to the time of certification, the issue of nonpayment was satisfied and the objection based upon the ballot forfeiture statute was moot. Moreover, the requirements for the form of nomination papers or petitions for the office of State Senator are prescribed in Article 8 of the Election Code and there is no objection that the candidate's nomination papers violated Article 8, except to the extent that the candidate purportedly falsely swore that he was legally qualified to hold the office of State Senator. The ballot forfeiture statute does not add to or change the Article 8 requirements for forms of nomination papers. An electoral board has no authority to certify, or refuse to certify, candidates, which function is reserved to the State Board of Elections. *Mertens v. Hendon*, 08-EB-SS-06 (Chicago Electoral Board 2007).

Miscellaneous

Candidate's death after filing nomination papers moots the objection filed against his nomination papers. *Leaks v. Barrett*, 06-EB-RGA-06 (Chicago Electoral Board 2006).

While an electoral board may, in the course of hearing and deciding objections to a candidate's nomination papers, determine whether the candidate satisfies eligibility requirements for an office prescribed by the Constitution or by statute (citing *Goodman v. Ward*, 241 Ill.2d 398 (2011)), no statute or case has given electoral boards authority to remove a candidate from the ballot for a failure to meet eligibility requirements imposed by political party rules. *Augustus v. Delay*, 16-EB-WC-31 (Chicago Electoral Board 2016).

Candidate Signature

Failure to Sign Statement of Candidacy

The failure to swear to or sign the statement of candidacy renders it null and void. The word "shall" in statutes providing that statement of candidacy shall be subscribed and sworn to by candidate, required the candidate to subscribe and swear to the statement of candidacy. The provision is mandatory rather than directory. *Allen v. Serwinski,* 87-EB-ALD-121 (Chicago Electoral Board 1987), affirmed *Serwinski v. Chicago Board of Election Commissioners*, 156 Ill.App.3d 257, 509 N.E.2d 509 (First Dist. 1987); *Richardson v. Carr,* 90-EB-CON-20 (Chicago Electoral Board 1990). Candidate's failure to sign his statement of candidacy invalidated such statement in violation of Section 10-5 of the Election Code. *Whitfield v. Shelton,* 87-EB-ALD-200 (Chicago Electoral Board 1987); *Mitchell and Zuckerman v. Toure,* 99-EB-ALD-107 (Chicago Electoral Board 1999). Candidate's failure to sign and notarize the statement of candidacy invalidates nomination papers. *Catherine and Streeter v. Chalmers*, 99-EB-ALD-106 (Chicago Electoral Board 1999). See also, *Hacker v. Adamcik*, 04-EB-WC-69 (Chicago Electoral Board 2004) (candidate claimed he had a signed statement of candidacy but unwittingly filed an unsigned copy with his nomination papers; candidate was not allowed to amend his nomination papers once filed by substituting the signed original for the unsigned copy); *Rau-Clauson v. Cianci*, 15-EB-ALD-166 (Chicago Electoral Board 2015).

Candidate's statement of candidacy, although signed by the candidate, was not subscribed and sworn to by such candidate before some officer authorized to take acknowledgements of deeds in this state, thus rendering it void. *Harris and McDaniel v. Hubbard,* 99-EB-ALD-088 (Chicago Electoral Board 1999); *Jackson v. Green,* 95-EB-ALD-82 (Chicago Electoral Board 1995); *McFadden v. Valentine,* 80-EB-AS-6 (Chicago Electoral Board 1980); *Stroud v. Marshall,* 11-EB-ALD-311 (Chicago Electoral Board 2011).

Notary Public Qualifications

Section 6-104 of the Illinois Notary Act (5 ILCS 312/6-104) does not prohibit a wife from notarizing her husband's statement of candidacy. Even if it did, such a violation would not invalidate the acknowledged instrument. *Moreno v. Delgado*, 08-EB-SS-01 (Chicago Electoral Board 2007).

Incorrectly Inserting Name of Notary Instead of Candidate in Jurat

Candidate's pre-printed Statement of Candidacy contains the line "Subscribed and sworn to (or affirmed) before me by Loraine J. Vasquez who is to me personally known, this 11th day of December A.D. 1998." Below this line is affixed in black ink the "'Official Seal' of Lorraine J. Vasquez, Notary Public, State of Illinois, My Commission Expires 04/15/00." The notary, Lorraine J. Vasquez, inserted her name in the jurat instead of the name of the Candidate. The Board finds that courts generally view the jurat as merely that part of an affidavit where the officer certifies that it was sworn before him. It is not the affidavit. Rather, the jurat is simply evidence of the fact that the affidavit was properly sworn to by the affiant. Accordingly, where an affiant is otherwise identified, courts overlook mere clerical errors such as naming the wrong person in the jurat, or even omitting from the jurat the affiant's name entirely. Therefore, the Candidate's Statement of Candidacy is properly notarized. *Gonzalez v. Vasquez,* 99-EB-ALD-035 (Chicago Electoral Board 1999), citing *Cintuc, Inc. v. Kozubowski,* 230 Ill.App.3d 969, 596 N.E.2d 101 (First Dist. 1992).

Candidate's statement of candidacy was signed by Candidate and notarized, but the space for the Candidate's name in the jurat was left blank. Thus, where the affiant is otherwise identified, courts tend to overlook clerical errors such as naming the wrong person in the jurat or omitting the affiant's name from the jurat entirely. *Mitchell, Scheff and Zuckerman v. Raoul,* 99-EB-ALD-117 (Chicago Electoral Board 1999), citing *Cintuc v. Kozubowski,* 596 N.E.2d 101 (First Dist. 1992); accord *Riani v. Education Officers Electoral Board for School Dist. No. 87,* 93 CO 456(Cir. Ct. Cook Co. 1993); *McKennie v. Orozco,* 99-EB-ALD-180 (Chicago Electoral Board 1999).

Failure of Notary to Affix Signature

Candidate signed statement of candidacy, notary's seal was affixed to the document but the notary failed to sign the document. Section 10-5 of the Election Code requires that the statement of candidacy be subscribed and sworn to before some officer authorized to take acknowledgement of deed in the State of Illinois. Section 6-103 of the Illinois Notary Public Act (5 ILCS 312/6-103) requires that a "notarial act must be evidenced by a certificate signed and dated by the notary public". Section 3-102 of the Illinois Notary Public Act (5 ILCS 312/3-102) requires that "at the time of notarization, a notary public shall officially sign every notary certificate and affix the rubber stamp clearly and legibly using black ink, so that it is capable of photographic reproduction." The notary's affixation of her rubber stamp containing her official seal without her signature on the notary certificate substantially complies with the requirements of Section 10-5 of the Election Code. *Delgado v. Ladien,* 99-EB-ALD-126 (Chicago Electoral Board 1999).

Candidate's handwritten Statement of Candidacy does not contain a space or line for the signature of the person notarizing the document and, in fact, the signature of the notary does not appear on the Candidate's Statement of Candidacy. The handwritten jurat on the statement of candidacy reads as follows: "subscribed sworn to or affirmed before me by who is to me personally known this 14 Dec. 98 day of AD 1998." The failure to swear or to sign the statement of candidacy renders it null and void. The word "shall" in statutes providing that the statement of candidacy shall be subscribed and sworn to by candidate, required the candidate to subscribe and swear to the statement of candidacy. The provision is mandatory rather than directory. *Smith v. Ely,* 99-EB-ALD-144 (Chicago Electoral Board 1999), citing *Serwinski v. Chicago Board of Election Commissioners,* 156 Ill.App.3d 257, 509 N.E.2d 509 (First Dist. 1987); *Hicks v. Ely,* 99-EB-ALD-146 (Chicago Electoral Board 1999).

Notarizing Statement of Candidacy Multiple Times

There is no prohibition against a candidate signing and notarizing the statement of candidacy twice. *Davis v. Ervin,* 11-EB-ALD-109 (Chicago Electoral Board 2010).

Use of the Word "Election" Versus "Nomination"

The use of the word "election" in the statement of candidacy does not invalidate said statement as it is in substantial compliance with Section 7-10 of the Election Code. *Davis v. Kenary*, 00-EB-WC-020 (Chicago Electoral Board 2000); *Arce v. Santos,* 96-EB-WC-34 (Chicago Electoral Board 1996); *Jackson v. Davis,* 96-EB-WC-55 (Chicago Electoral Board 1996); *Washington v. Williams*, 92-EB-REP-31 (Chicago Electoral Board 1992); *Scianna v. Fredrickson* (Chicago Electoral Board 1994).

The use of the word "election" instead of the word "nomination" on the Statement of Candidacy does not render such Statement of Candidacy invalid. *Scianna v. Fredrickson* (Chicago Electoral Board 1994).

The use of the term "election", "nomination" or "election/nomination" in describing the office sought or the political division on either a statement of candidacy or nominating petition substantially complies with the provisions of the Election Code. *Arce v. Santos,* 96-EB-WC-34 (Chicago Electoral Board 1996). Use of the word "election" on the candidate's statement of candidacy and the use of the term "election/nomination" on the petition is not contradictory or confusing and will not invalidate the candidate's nomination papers. See also, *Slywczuk v. Bank* (Chicago Electoral Board 2004), affirmed, *Slywczuk v. Board of Election Commissioners for the City of Chicago*, 04 COEL 0006 (Cir. Ct. Cook Co. 2004); *Rosa v. Vittorio*, 15-EB-ALD-005 (Chicago Electoral Board 2014).

Designating Wrong Election

Reference the candidate's statement of candidacy to the election as the "Consolidated Primary (Aldermanic) Election" is not sufficient grounds to invalidate the candidate's nomination papers. *Campos v. Rangel,* 95-EB-ALD-79 (Chicago Electoral Board 1995); *Anderson v. Levi*, 07-EB-ALD-035 (Chicago Electoral Board 2007).

Objections contending that the candidate's statement of candidacy referring to the "Municipal General Election (Consolidated Primary Election) for Alderman …" overruled as not a sufficient ground to invalidate candidate's nomination papers. *Brown v. Mercado*, 07-EB-ALD-120 (Chicago Electoral Board 2007).

Nomination papers identified the election as the "Consolidated Election to be held on February 27, 2007." Objector alleged proper title of election should be the "Consolidated Primary." The Board's 2007 Election Calendar and 2007 Election Information Pamphlet identified the election as the "Municipal General Election." Objection overruled. *Strnad v. Rebroyras*, 07-EB-ALD-171 (Chicago Electoral Board 2007).

Ward Committeeman candidate's Statement of Candidacy that referred to "municipal general election" instead of general primary substantially complied with Section 7-10 of the Election Code. No voter/signer confusion would result because this document is not a document that is reviewed by voters/signers. *Williams v. Thomas*, 08-EB-WC-17 (Chicago Electoral Board 2007).

Incorrect Election Date

Candidate's Statement of Candidacy listed March 17, 1991 as date of primary election, when the actual date of the primary election was March 17, 1992, which is reflected in the body of the petition, did not invalidate the nominating petitions. *Ahimaz v. Sheriff,* 92-EB-WC-88 (Chicago Electoral Board 1992); *Gordon v. Pellett,* 92-EB-WC-93 (Chicago Electoral Board 1992); *Burgees v. Mitchell,* 11-EB-ALD-041 (Chicago Electoral Board 2011) (listed date of Municipal General Election as February 22, 2010 instead of the correct date of February 22, 2011); *Stamps v. Lomax*, 15-EB-ALD-140 (Chicago Electoral Board 2015).

Candidate's error in referring to 2006 rather than 2007 does not invalidate nomination papers. *Robinson v. Colvin*, 07-EB-ALD-098 (Chicago Electoral Board 2007).

Statement of candidacy stating that the election is to be held on "03-16-2003" instead of March 16, 2004 does not invalidate the candidate's nomination papers in that it was clear from reading the nomination papers together the office that the candidate was seeking and the correct date of the election. *Summers, et al. v Morrow*, 04-EB-WC-09 (Chicago Electoral Board 2004).

MISCELLANEOUS

Sheet that was essentially an autobiographical narrative that, with the exception of stating the candidate's name, did not contain any of the specific information or statements required of a Statement of Candidacy in accordance with Section 10-5 of the Election Code does not constitute a legally sufficient Statement of Candidacy. Although candidate claimed he filed a second page of a statement of candidacy, there was no evidence that a second page was, indeed, filed. *Brown v. Hinton,* 11-EB-ALD-008 (Chicago Electoral Board 2011), *judicial review dismissed,* Circuit Court of Cook County, No. 11 COEL 00029.

Cover sheet to the candidate's nomination papers including a red, white and blue sticker stating the candidate's name, office sought is not a basis for invalidating the candidate's nomination papers. *Hendricks v. Hairston,* 11-EB-ALD-353 (Chicago Electoral Board 2010).

PETITION SHEETS

FORM AND HEADING OF PETITION SHEET

Candidate's nominating petition sheet that failed to contain the phrase "qualified primary electors" were found invalid as this language is mandatory. Instead, introductory paragraph at top of each petition sheet stated, "We, the undersigned members of and affiliated with the Republican Party…." *Bennett v. Kelley*, 92-EB-WC-67 (Chicago Electoral Board 1992), reversed, Cir. Ct. Cook Co., No. 92 CO 00023 (January 29, 1992) (candidate's petition sheets substantially complied with pertinent provisions of Section 7-10 of the Election Code in terms of the petition heading).

Objector alleged that Candidate's nominating petitions were invalid as the heading on the petition did not identify the signers of the petition sheets as duly registered voters of the Ward as required by law. Section 10-4 of the Election Code states in part the requirements for the heading of the petition sheet. Section 10-4 does not require the statement on the heading of the petition sheet that identifies the signers as being duly registered voters of the political subdivision. Section 10-4 does require that the circulator's affidavit acknowledge that to the best of the circulator's belief, the signers are duly registered voters of the political subdivision. The heading on the Candidate's nominating petitions and the circulator's affidavit contained the elements required by Section 10-4 and therefore are valid. *Wilson v. Kato,* 99-EB-ALD-148 (Chicago Electoral Board 1999). See also, *Caban v. Schiavone,* 11-EB-ALD-084 (Chicago Electoral Board 2011).

Petition sheets that contain a sheet 199 with the name of a different candidate will not be invalidated in their entirety. Inclusion of one sheet for another candidate is insufficient to invalidate the nominating papers in their entirety. Rather, the proper remedy is to ignore the aberrant sheet by invalidating it. *Hendon v. Davis*, 02-EB-SS-10 (Chicago Electoral Board 2002).

Heading of Petition Sheet – Residence Address

Candidate nominating petition sheets containing a heading which lists the residence address of the candidate as "10823 Avenue L" without including the name of the city of residence substantially comply with Section 10-4 of the Election Code where the candidate's address can be discerned from reading the candidate's nomination papers as a whole. *Tintor v. Ortiz,* 95-EB-ALD-77 (Chicago Electoral Board 1995). See also, *Lenzen v. Orozco*, 01-EB-ALD-04 (Chicago Electoral Board 2001).

Candidate's full residence address, including his city of residence, can found in other places within the candidate's nomination papers. His city of residence appears in the circulator's affidavit at the bottom of approximately 54 petition sheets that the candidate circulated, as well as on the candidate's statement of candidacy. There was no evidence presented that any of the voters who signed the candidate's nominating petition sheets were confused about his residency. Thus, the electoral board found that the candidate substantially complied with the requirement in Section 10-4 that the candidate's residence address be stated in the heading of the candidate's nominating petition sheets and that the failure of the candidate to include his city of residence in the heading on each of his nominating petition sheets was not fatal and did not invalidate the petition sheets. *Mitchell v. Bolden*, 03-EB-ALD-106 (Chicago Electoral Board 2003).

Single petition sheet out of 80 petition sheets listed candidate's address as 105 W. Granville versus 1055 W. Granville on the balance of petition sheets. Candidate's nomination papers substantially comply with Election Code in that correct address can be ascertained when reading the candidate's nomination papers as a whole, where candidate's address is correctly stated in every other place it is required in the nomination papers and no evidence was presented of any voter confusion. *Ley v. Williams III*, 14-EB-CON-06 (Chicago Electoral Board 2014).

Description of Office Sought

Aldermanic candidate used a petition form that contained a box in the heading of each sheet for the candidate to insert "Office." Below the word "Office" appeared the following words: "(circle one) full term or vacancy." The candidate's nominating petition sheets contained a circle around the words "full

term." No information was provided in the space reserved for inserting the title of the office. Nominating petitions signed by voters are intended to expand informed participation of voters in elections, and should be free from any basis for confusion as to the office for which they are filed. A potential signatory has the right to know the specific office or vacancy sought by the candidate so as to make informed decisions to sign petition or support another candidate for the same office or vacancy. Sheets that do not contain the ward number identifying the office the candidate is seeking, as required by law, are invalid. The failure to state the office sought on the candidate's nominating petition sheets is a violation of the mandatory requirement and the nominating sheet is therefore invalid. *Haynes v. Smith*, 07-EB-ALD-016 (Chicago Electoral Board 2007).

Sheets that do not contain the ward number identifying the office the candidate is seeking, as required by law, are invalid. *Taylor v. Harley*, 07-EB-ALD-033 (Chicago Electoral Board 2007); *Lomanto v. Gunderson*, 07-EB-ALD-056 (Chicago Electoral Board 2007); *Bush v. Myles,* 11-EB-ALD-130 (Chicago Electoral Board 2010); *Haley v. Myles,* 11-EB-ALD-186 (Chicago Electoral Board 2010).

Nominating petition sheets circulated and filed by candidate did not contain ward number identifying the office the candidate was seeking and they are, therefore, invalid. *Prewitt v. Myles,* 11-EB-ALD-255 (Chicago Electoral Board 2010).

Candidate's petition sheets identified the office sought as "Alderman" but did not designate the Ward number. The first line of the petition sheets stated, "We, the undersigned, qualified voters in the 20th Ward of the City of Chicago in the County of Cook, and State of Illinois ***." Inasmuch as voters in the 20th Ward can only sign petitions for candidates running for Alderman in the 20th Ward, the petitions contain enough specificity, when read as a whole, to adequately identify the office sought. Furthermore, in the boxes in the statement of candidacy the office is identified as "Alderman, 20th Ward" and the City/Village or Special District is identified as "Chicago, Ill 60637" and there is no confusion or inconsistency in the identification of the office when the petitions are read in conjunction with the Statement of Candidacy. *Wright v. Shelton,* 11-EB-ALD-101 (Chicago Electoral Board 2011). See also, *Bailey v. Davis*, 15-EB-ALD-147 (Chicago Electoral Board 2014).

Fourteen of 73 petition sheets refer to an incorrect Ward number (6th) in the introductory paragraph on the petition sheets; however, all 73 sheet list the correct Ward number (16th) in the appropriate box at the top of each sheet. Objector did not present any evidence of voter confusion. Objections would be overruled. Such error did not render the petition sheets non-uniform. *Burgess v. Mitchell,* 11-EB-ALD-041 (Chicago Electoral Board 2011).

Heading of candidate's petition sheets described the office as "Alderman of the subdivision of the 34th Ward." There was also no statement regarding where the voters signing the petition are located. However, circulator's affidavit at the bottom of each sheet states that the petition signers are "registered voters of the political subdivision in which the candidate is seeking elective office" and the office sought – 34th Ward Alderman – is clearly identified in the heading of each petition sheet. *Wilson v. Mayden,* 11-EB-ALD-075 (Chicago Electoral Board 2011).

Candidate for Ward Committeeman who failed to state the office sought on his nominating petition sheets was in violation of the mandatory requirement of Section 7-10 of the Election Code and his nominating petition sheets were therefore found invalid. *Garcia v. Villasenor,* 88-EB-WD-88 (Chicago Electoral Board 1988).

Sheet 19 of the Candidate's nominating petitions did not contain the Candidate's name, address or the Ward number identifying the office the Candidate is seeking as required by law. The Board found the 15 signatures on sheet 19 to be invalid. The Board finds that *Winters v. Education Officers Electoral Board*, 93 CO 492, Cir. Ct. Cook Co., October 25, 1993, affirmed the decision of the electoral board which found that two (2) of the candidate's five (5) petition sheets heading did not specify a residence address for the candidate and that the disqualification of these two sheet brought the number of valid signatures below the statutory minimum. The failure to state the office sought on the candidate's nominating petition sheets is in violation of the mandatory requirement and the nominating sheet is therefore invalid. *Lowe and Hurston v. Orozco,* 99-EB-ALD-070 (Chicago Electoral Board 1999).

Candidate listed on his nominating petition sheets the office of "Representative in Congress of the State of Illinois for the Fourth (4th) Congressional District." Objectors contended that "many people believe" the "Illinois General Assembly" to be the "Congress of the State of Illinois" and that people would be confused by the office designation used by the candidate. Ample authority demonstrates that the term "Congress" or "the Congress" is recognized as the legislative body for the United States. Candidate also identified the names of legislative bodies for various states, none of which are identified as "Congress." In addition, the candidate's nominating petition sheets had the language "United States Representative in Congress" inserted in all caps and all bold type at the top of each sheet above the space for signatures. Moreover, objectors failed to submit any evidence demonstrating voter confusion regarding the office description used by the candidate. Accordingly, the term "Representative in Congress of the State of Illinois for the Fourth (4th) Congressional District" accurately describes the office for which the candidate is seeking office. *Silva & Reft v. Gutierrez*, 14-EB-CON-03 (Chicago Electoral Board 2013).

Statement of Political Party Affiliation

Where statement of candidacy and heading of nominating petition sheet did not contain statement identifying the political party affiliation of candidate, nomination papers will be held invalid. Statement in preamble of petition sheet that "We the undersigned, being duly qualified voters of the Democratic Party..." was not sufficient statement of candidate's political party affiliation and nomination papers did not substantially comply with Section 7-10. *Barnes v. Smith*, 95-EB-MUN-15 (Chicago Electoral Board 1995), affirmed, *Smith v. Barnes*, 95 CO 22 (Cir. Ct. Cook Co., Feb. 15, 1995).

Where statement of candidacy and heading of nominating petition sheet did not contain statement identifying the political party affiliation of candidate, and only reflection of party affiliation was in the circulator's affidavit stating that electors were registered voters of the Republican Party, nomination papers will be held invalid. *Fouladi v. Anagnost*, 95-EB-MUN-006 (Chicago Electoral Board 1995). This was true even though Petition Filing Receipt reflected that nomination papers were filed for Republican Party.

Aldermanic candidate's introductory paragraph of the petition sheet and in the circulator's affidavit identified the candidate as from the "Democratic Party." This is in violation of the Election Code requiring aldermanic petitions to conform with the provisions relating to "nomination of independent candidates for public office by petition." The candidate's nomination petitions are therefore invalid. *Toney v. Maxwell*, 91-EB-ALD-122 (Chicago Electoral Board 1991); accord, *Williams v. Buckner*, 07-EB-ALD-023 (Chicago Electoral Board 2007); *Munoz v. Molina*, 07-EB-ALD-057 (Chicago Electoral Board 2007); *Jackson v. Johnson*, 11-EB-ALD-158 (Chicago Electoral Board 2010); *Hardy v. Percy*, 15-EB-ALD-009 (Chicago Electoral Board 2015).

Candidate's petition sheets failed to include the words "of the Republican Party" both in the opening paragraph of the petition sheets and in the circulator's affidavit at the bottom of the petition sheets. However, the candidate's petition sheets stated in the opening paragraph of each such sheet that the candidate was "a candidate of the Republican Party" and in the "Office" box toward the top of each petition sheet, the words "REPUBLICAN COMMITTEEMAN" were printed in bold, capital letters in a font larger than the other text on the petition. In light of the guidance supplied by the Illinois Supreme Court in *Dooley v. McGillicudy*, 63 Ill.2d 54 (1976), the fact that in two places on each of the candidate's petition sheets reference is made to the Republican Party (including in bold, all capital letters and in a larger font in one instance), and that the objector was free to object to the actual party affiliation of any of the signed of the candidate's petition (but chose not to), the candidate's nomination papers were in "substantially the form" specified in the Section 7-10 of the Election Code. *Cleveland v. Griffiths,* 12-EB-WC-37 (Chicago Electoral Board 2012),

Listing of Candidate's Name

Listing candidate's name as "Charles Partlow" on three petition sheets instead of "Charles Partlow, Jr." as listed on candidate's statement of candidacy and on remainder of his petition sheets did not invalidate all of his nominating petition sheets. *Williams v. Partlow*, 07-EB-ALD-024 (Chicago Electoral Board 2007), citing *Morton v. State Officers Electoral Board*, 311 Ill.App.3d 982, 983, 726 N.E.2d 201, 202 (4th Dist. 2000).

Objector alleged that candidate failed to use her proper surname on statement of candidacy and nominating petitions as required by law. The name listed on the candidate's statement of candidacy and nominating petitions is "Inez Andrews," but registered to vote as "Inez Andrews Eddingburg." The candidate testified that she acquired the surname "Andrews" through a first marriage and the surname "Eddingburg" was acquired through a third marriage. The candidate was a well-known gospel singer in the community by the name "Inez Andrews" and she consistently used this name in the community for more than twenty years. Section 10-5.1 of the Election Code (10 ILCS 5/10-5.1) states in part that in the designation of the name of a candidate on a certificate of nomination or nomination papers the candidate's given name or names, initial or initials, a nickname by which the candidate is commonly known, or a combination thereof, may be used in addition to the candidate's surname. Section 10-5.1 of the Election Code does not clearly state that a candidate's use of only her first surname is a violation of the statute; therefore, her nomination papers are valid. *Cole v. Andrews,* 99-EB-ALD-047 (Chicago Electoral Board 1999).

Candidate's nomination papers list her name as Asuncion "Maria" Torres. Objector alleges that the Candidate is not a registered voter under the name Asuncion "Maria" Torres. The Board found that the Candidate is registered to vote as "Asuncion M. Torres." The Candidate provided evidence that she is commonly known by many people in the community as "Maria," that "Maria" is her birth middle name and that she has received awards or certificates in the name "Maria." The Objector offered no evidence that the Candidate was using the name "Maria" in an attempt to usurp the name of someone else known in the community, or in an attempt to mislead or confuse. The Candidate's name is her ballot name, albeit with quotation marks, and therefore the nomination papers are valid. *Mendoza v. Torres,* 99-EB-ALD-069 (Chicago Electoral Board 1999).

Candidate's nominating petition sheets contain various headings that list the candidate's name in different variations such as: (a) William Bill Ashby, (b) William "Bill" Ashby, and (c) William Ashby. The nominating petitions were subject to a records examination and the sheets containing the heading "William Ashby" were not considered during the records examination. The petitions sheets containing the names "William Bill Ashby" and "William 'Bill' Ashby" are valid and the missing quotation marks around the name 'Bill' on some petition sheets are merely a technical error that does not invalidate the Candidate's nominating petition sheets. *Cole v. Ashby,* 99-EB-ALD-046 (Chicago Electoral Board 1999).

Candidate variously used the name "David Earl Williams, III" and "David E. Williams, III" on the statement of candidacy and on the petition sheets. On two petition sheets, the suffix "III" was omitted. Such variations are insufficient to require the striking of the entire petition or any of the petition sheets. Read as a whole, the candidate's nomination papers adequately apprise voters of the candidate's identity. *Ley v. Williams III*, 14-EB-CON-06 (Chicago Electoral Board 2014).

Use of the Word "Nominate," "Elect," or "Election/Nomination"

The use of the term "election", "nomination" or "election/nomination" in describing the office sought or the political division on either a statement of candidacy or nominating petition substantially complies with the provisions of the Election Code. *Arce v. Santos,* 96-EB-WC-34 (Chicago Electoral Board 1996). Use of the word "election" on the candidate's statement of candidacy and the use of the term "election/nomination" on the petition is not contradictory or confusing and will not invalidate the candidate's nomination papers. See also, *Slywczuk v. Bank* (Chicago Electoral Board 2004), affirmed, *Slywczuk v. Board of Election Commissioners for the City of Chicago*, 04 COEL 0006 (Cir. Ct. Cook Co. 2004).

Reference to wrong election title

Heading of petition sheets for Alderman that referred to "Consolidated Primary Election" does not invalidate petition in the absence of evidence of confusion. *Rosa v. Vittorio*, 15-EB-ALD-005 (Chicago Electoral Board 2014).

Miscellaneous

Petition heading for aldermanic candidate identifying signers of 15 of 65 petition sheets as "registered voters of the Chicago" whereas they are identified on the remaining sheets as "registered voters of the 17th Ward in the City of Chicago" does not violate requirements of Section 10-4 of the Code that

heading of each sheet be the same. Section 10-4 contains no requirement that registration status of petition signers be identified in heading of petition sheet; thus, there is no violation of Section 10-4. *Williams v. Partlow*, 07-EB-ALD-024 (Chicago Electoral Board 2007).

NUMBER OF SIGNATURES NEEDED

General Rule

Minimum Number of Signatures

Section 10-3 of the Election Code requires that petitioners for candidates for the offices of Mayor, Clerk and Treasurer in the city of Chicago must contain 25,000 signatures of qualified and registered voters in the city of Chicago. *Raymond v. McInerney*, 03-EB-MUN-01 (Chicago Electoral Board 2003). The electoral board must accept as constitutional a statute over which it has jurisdiction and it lacks the authority to invalidate a statute on constitutional grounds or even to question its validity. Therefore, the electoral board presumes that the 25,000 signatures requirement is constitutional. Accord, *Drish v. Walls*, 03-EB-MUN-2 (Chicago Electoral Board 2003), affirmed *Walls v. Board of Election Commissioners of the City of Chicago*, 03 CO EL 032, Cir. Ct. Cook Co., February 24, 2003, appeal dismissed, 1-03-0568. **NOTE:** In 2005, the Illinois General Assembly reduced the minimum signature requirement for candidates for the offices of Mayor, Clerk and Treasurer in the City of Chicago to 12,500. See, Public Act 94-645, amending 65 ILCS 20/21-28(b). In *Stone v. Board of Election Commissioners for the City of Chicago*, 750 F.3d 678 (7th Cir. 2014), the court held the requirements that all candidates for mayor collect 12,500 signatures in 90 days to appear on the ballot for the general election and that limited each voter to signing one nominating petition per elected office only imposed reasonable, nondiscriminatory restrictions on voters' and candidates' constitutional rights, even if the requirements were more stringent than that imposed by other large cities, where the 12,500-signature requirement was a reduction of the former 25,000-signature requirement, 12,500 was less than 1% of registered voters, and nine candidates qualified for the general ballot in the most recent mayoral election.

The minimum signature requirement for ward committeeman was upheld in *Bowe v. Board of Election Commissioners of the City of Chicago*, 614 F.2d 1147 (7th Cir. 1980) after the candidates were omitted from the ballot because they did not submit sufficient valid signatures to meet the minimum requirements of Section 7-10(I).

Section 10-2 of the Election Code, as it pertains to the minimum signature requirement for new political party candidates for the office of Representative in the General Assembly is clear and unambiguous; the 5% formula is based upon the total number of voters who voted at the last election in the district. *Miranda v. Cummings*, 06-EB-NPP-02 (Chicago Electoral Board 2006).

Pursuant to 65 ILCS 20/21-28(a), as amended by P.A. 98-115, eff. July 29, 2013, for the election following the redistricting of wards petitions for nominations of candidates shall be signed by the number of legal voters of the ward as will aggregate not less than 4% of the total number of votes cast for mayor at the last preceding municipal election divided by the number of wards. Therefore, in the case of a candidate for the office of Alderman in any Ward of the City of Chicago to be elected in 2015, the candidate's nominating petitions shall contain not less than 473 signatures of legal voters of the Ward. The Electoral Board presumes that 65 ILCS 20/21-28(a) is constitutional and must be applied. *Salazar, et al., v. DeMay*, 15-EB-ALD-052 (Chicago Electoral Board 2015), affirmed, *DeMay v. City of Chicago Board of Elections*, 2015 COEL 000013 (Cir. Ct. Cook Co., 2015) (finding the 473 signature constitutional), appeal dismissed, *DeMay v. City of Chicago Board of Election Commissioners*, No. 1-15-0452 (1st Dist. App. Ct., 2015); see also, *Sanchez v. Bocanegra*, 15-EB-ALD-053 (Chicago Electoral Board 2015), affirmed, *Bocanegra v. Chicago Board of Election Commissioners, et al.*, 2015 COEL 000008 (Cir. Ct. Cook Co., 2015); *Taylor v. Rose*, 15-EB-ALD-109 (Chicago Electoral Board 2015), affirmed, *Rose v. Board of Election Commissioners for City of Chicago, et al.*, 2015 COEL 000011, cons. 2015 COEL 000012 (Cir. Ct. Cook Co., 2015) ("The signature requirement for aldermanic elections is clearly within the bounds of law" and the 4% signature requirement is a "reasonable, nondiscriminatory restriction that is necessary for the City of Chicago to effectively administer a municipal election.").

Candidate contended that he filed 980 petition sheets containing more than 24,000 signatures when filing his nomination papers for office that required a minimum of 12,500 valid signatures. Board

supervisor of registration department testified that the candidate filed petitions with 6,610 signatures fewer than the minimum signature requirement. At a hearing, the objector's attorney asked the Board's clerk to place the first 980 pages of the candidate's opponent's nomination papers next to the candidate's nomination petition sheets. Objector's attorney then produced photos from the candidate's Facebook page. The objector then compared three things: (1) the height of the candidate's actual nomination papers from the Board's file; (2) the height of the pages in the candidate's Facebook photograph of the papers filed with the Board; and (3) the height of the first 980 pages of the nomination papers filed by the candidate's opponent in the same race. The hearing officer found that it was more probably true than not that the 980 pages filed on behalf of the candidate's opponent were more than twice as tall as the pages in the Facebook photo and more than twice as tall as the nomination papers filed by the candidate. The hearing officer found that the number of pages filed in the Facebook photo and the photo taken by the Board when the candidate filed his nomination papers to be approximately the same height as the pages in the candidate's nomination papers physically present on the table in front of the hearing officer. The hearing officer found that the number of signatures in the candidate's nomination papers was less than the 12,550 required by statute. *Meyers v. Loveless*, 15-EB-MUN-008 (Chicago Electoral Board 2015).

Exceeding the Maximum Signature Requirements

Where candidate for ward committeeman submitted more signatures on his nominating petition than the maximum permitted by statute, the sanction of removal from the ballot bears no rational relationship to the valid interest that the state asserts in imposing the maximum limitation, to wit, providing an orderly election procedure. *Richards v. Lavelle*, 680 F.2d 144 (7th Cir., 1980). The maximum signature requirement could constitutionally be enforced, for example, by returning the excess petitions or refusing to consider any signatures beyond the statutory maximum.

Richards v. Lavelle does not require that all signatures in excess of the maximum number allowed be automatically invalidated and not considered in determining whether the candidate's nominating petition contains the required number of genuine signatures. *Anthony v. Butler*, 166 Ill.App.3d 575, 519 N.E.2d 1193 (1988). The Illinois Appellate Court in the *Anthony* case remanded the matter back to the Chicago Board of Election Commissioners to determine which of the sanctions in the *Richards* case, or another similar sanction, would be most appropriately applied to the facts of this case. Following the remand of the case, the Board issued an amended decision applying the same sanction applied in its earlier decision – i.e., although the candidate's petition exceeded the maximum number of signatures, under *Richard v. Lavelle* the Board cannot remove the candidate from the ballot nor can the Board, in the absence of rules governing this issue, per se invalidate signatures filed in excess of the maximum. As stated by the Board in the amended decision, the Board's practice since *Richards v. Lavelle* has been to count all signatures, even those in excess of the maximum. *Parker v. Butler*, 88-EB-WD-121 (Chicago Electoral Board 1988).

Petitions containing signatures over the maximum requirement does not nullify the entire petition. *Delay v. Simms-Johnson*, 00-EB-WC-12 (Chicago Electoral Board 2000); *Hollander v. Khan*, 00-EB-WC-028 (Chicago Electoral Board 2000); *Chapa v. Frias,* 92-EB-WC-76 (Chicago Electoral Board 1992).

While there are minimum signature requirements for candidates for Alderman in the City of Chicago, there are no maximum signature requirements. *Jones v. McKennie*, 07-EB-ALD-156 (Chicago Electoral Board 2007); *Jones v. Mitts*, 07-EB-ALD-157 (Chicago Electoral Board 2007); *Tirado v. Banks,* 07-EB-ALD-168 (Chicago Electoral Board 2007).

Rule 11 of the Electoral Board's Rules of Procedures provides, "Whenever a statute places a limit on the maximum number of signatures that may appear on a petition and the nominating petition contains more than the statutory maximum number of signatures, the number of signatures on the petition shall be counted from the first signature on the first petition sheet (excluding any signature that was properly stricken in the manner provided by statute) and no signatures after the maximum number is attained shall be counted or used for any purpose." When adopting the rule, the Electoral Board clearly re-affirmed that Rule 11 would be applied by considering only signatures under the maximum signature requirement and would start with the first signature on the first page and begin working toward the back of the petition until the maximum number of signatures was reached. *Kmak v. Mayden*, 12-EB-RGA-19 (Chicago Electoral Board 2012).

QUALIFICATIONS OF PETITION SIGNERS AND REQUIREMENTS FOR ELECTOR SIGNATURES

Registered/Qualified Voter

Section 3-1.2 of the Code provides that for the purpose of determining eligibility to sign a nominating petition or a petition proposing a public question the terms "voter", "registered voter", "qualified voter", "legal voter", "elector", "qualified elector", "primary elector", and "qualified primary elector" shall mean a person who is registered to vote at the address shown opposite his signature on the petition or was registered to vote at such address when he signed the petition. Therefore, objection that "qualified voter" should appear in the circulator's affidavit in lieu of "registered voter" should be overruled. *Murphy v. Hurst*, 88-EB-SMAY-1 (Chicago Electoral Board 1989); *Murphy v. Grutzmacher,* 88-EB-SMAY-2 (Chicago Electoral Board1989).

To be a qualified voter, one must be registered to vote and a person who signs a nominating petition must be registered to vote at the residence address set forth on the nominating petition. *Greene v. Board of Election Commissioners of the City of Chicago*, 112 Ill.App.3d 862, 445 N.E.2d 1337 (First Dist. 1983); *Miranda v. Cummings*, 06-EB-NPP-02 (Chicago Electoral Board 2006).

A registered voter who is physically incapacitated and unable to affix his own signature to a nominating petition can have his legal guardian affix his signature, at his direction, to the nominating petition. Section 7-10 of the Election Code, which requires that a petition be signed by a qualified primary elector "in their own proper person only," must be construed to mean that a voter who is otherwise eligible but who, because of illness or disability, cannot physically execute a petition, may be granted assistance in that process. *Anderson v Fitzgerald*, 96-EB-WC-048 (Chicago Electoral Board 1996), affirmed, *Anderson v. Chicago Board of Election Commissioners,* 284 Ill.App.3d 832, 672 N.E.2d 1259 (1996).

The electoral board finds that all voters registered for "federal elections only" under the National Voter Registration Act are, for purposes of signing nominating petitions, to be treated in the same manner as other registered voters in Illinois (citing *Orr v. Edgar,* 283 Ill.App.3d 1088, 670 N.E.2d 1243 (1996). Therefore, these voters are eligible to sign nominating petitions for candidates for state and local office and are not limited to signing nominating petitions for candidates for federal office. *Smith v. Sharif,* 99-EB-ALD-030 (Chicago Electoral Board 1999).

A person whose registration is deemed "Inactive" may sign a nominating petition and such signature will not be overruled on the grounds that the person is not registered so long as such person has not moved, has not died, has not been incarcerated by reason of conviction of the crime or otherwise lacks the requisite qualifications to be registered in the political subdivision or district in which the candidate is seeking nomination or election. *Drish v. Walls*, 03-EB-MUN-2 (Chicago Electoral Board 2003), affirmed *Walls v. Board of Election Commissioners of the City of Chicago*, 03 CO EL 032, Cir. Ct. Cook Co., February 24, 2003, appeal dismissed, 1-03-0568; *Munoz v. Gordils*, 03-EB-ALD-004 (Chicago Electoral Board 2003).

Signature of person signing petition who was registered to vote in her maiden name but signed the petition using her married last name is invalid. Section 6-54 of the Election Code requires a person who changes his or her last name by marriage or otherwise to register anew. *Davis et al. v. Reed*, 04-EB-WC-81 (Chicago Electoral Board 2004). However, because of 2005 amendment to Section 6-54, name can change as long as the voter's precinct remains the same without affecting the person's ability to vote or sign candidate petition. *Sumlin v. Newell*, 07-EB-ALD-174 (Chicago Electoral Board 2007).

Mail-in registration form required by National Voter Registration Act is an application only and the applicant does not become a registered voter unless and until the appropriate election official receives, processes and acknowledges the voter registration application by sending the voter a voter registration card (*Association of Community Organizations for Reform Now v. Miller*, 912 F. Supp. 976, 987 (W. Dist. Mich. 1995). Thus, the signature of a person who uses the mail-in voter registration form to register and whose registration form was not received and acknowledged by the Board of Election Commissioners prior to signing a candidate petition is not valid inasmuch as such person was not registered to vote at the time of signing the petition. *Miranda v. Cummings*, 06-EB-NPP-02 (Chicago Electoral Board 2006).

Party Affiliation

Objector alleged that candidate's nomination papers were signed by persons not qualified primary electors of the Republican Party in that said voters would not have affirmed such party affiliation had they not been falsely and fraudulently induced to sign the petition in a manner in which it was not disclosed to them that the candidate was a candidate of the Republican Party, or that the signer was required to be a qualified primary elector in the Republican Party and that if such information was made clear and known to the signer, said person would not have affixed his or her signature to the petition. The Board found that there was no allegation or evidence that the voters were forced to sign the petition and petition signers are presumed to inform themselves and be knowledgeable of what they are signing when they do so of their own free will. One is under a duty to learn, or know, the contents of a written document before he or she signs it, and is under a duty to determine the obligations that he undertakes by the execution of a written document. (17 C.J.S Contracts, §137b). The law is that a party who signs an instrument relying upon the representations as to its contents when he has had an opportunity to ascertain the truth by reading the instrument and has not availed himself of the opportunity, cannot be heard to say that he was deceived by misrepresentations, citing *Nathan v. Leopold*, 108 Ill.App.2d 160, 247 N.E.2d 4. Accordingly, such objections were overruled. *Sussman v. Lockart*, 00-EB-WC-032 (Chicago Electoral Board 2000).

Signature Printed, Not Written

In *Lyles v. McGee*, 02-EB-SS-04 (Chicago Electoral Board 2002), the electoral board found that fifteen printed signatures appearing on the candidate's nomination papers were valid, thus departing from the electoral board's previous decision in *Saltouris v. Khan*, 92-EB-WC-33 (Chicago Electoral Board 1992), affirmed *Khan v. Municipal Officers Electoral Board*, 92 CO 58(Cir. Ct. Cook Co. 1992), holding that signatures which are printed and which do not match with signatures on the voters' registration cards are in violation of the statute and are, therefore, invalid. The electoral board found that the courts of Illinois have held that "[I]n a variety of contexts, the law has consistently interpreted 'signed' to embody not only the act of subscribing a document, but also anything which can reasonably be understood to symbolize or manifest the signer's intent to adopt a writing as his or her own and be bound by it. This may be accomplished in a multitude of ways, only one of which is a handwritten subscription." *Just Pants v. Wagner*, 247 Ill.App.3d 166, 173-74, 617 N.E.2d 246 (First Dist. 1993). The court in *Just Pants* in turn cited *Black's Law Dictionary*, which defines "sign" as:

> "To affix one's name to a writing or instrument, for the purpose of authenticating or executing it, or to give effect to one's act. To attach a name or cause it to be attached to a writing by any of the known methods of impressing a name on paper. To affix a signature to; to ratify by hand or seal; to subscribe in one's own handwriting. To make any mark, as upon a document, in token of knowledge, approval, acceptance, or obligation."

Black's Law Dictionary 1239 (5th Ed. 1979); *Just Pants,* 247 Ill.App.3d at 173. This case also cited with approval the following passage in 80 C.J.S. *Signatures* §7 (1953): "Generally, in the absence of a statute otherwise providing, a signature may be affixed by writing by hand, by printing, by stamping, or by various other means."

The electoral board found that there is nothing in either the Election Code or under the common law of the State of Illinois that renders a printed signature invalid *per se*. The electoral board also found that while the fact that one's signature is printed on a candidate petition but written in cursive handwriting on the person's registration record may be *prima facie* evidence that it is not indeed the signature of that registered voter, such evidence is not irrebuttable and it does not conclusively establish that the signature on the petition is not the signature of the registered voter in question. If the preponderance of the evidence presented in the record establishes that the printed signature on the petition was in fact affixed by the same person whose cursive or handwritten signature appears on the registration record, such signature should be deemed valid.

Objections alleging that signatures are invalid solely on the ground that the signer's signature was "printed and not written" do not state a sufficient basis upon which to invalidate petition signatures. There is no statutory prohibition against printing one's name on a nominating petition. *Simms-Johnson v. Coordes*, 04-EB-WC-05 (Chicago Electoral Board 2004); *Prince v. Douyon*, 06-EB-RGA-10 (Chicago Electoral Board 2006); *DeLay v. Ferral*, 08-EB-WC-03 (Chicago Electoral Board 2007); *Diaz v. Currie*,

14-EB-RGA-26 (Chicago Electoral Board 2014); *Varra v. Lilly*, 14-EB-RGA-33 (Chicago Electoral Board 2014). *Stewart v. Cruz*, 11-EB-MUN-032 (Chicago Electoral Board 2011) where allegation at issue was "Signature Printed and Not Written, Not Genuine," is distinguishable because there is no allegation here that the printed signature was not the genuine signature of the signer. *Diaz v. Currie*, 14-EB-RGA-26 (Chicago Electoral Board 2014).

Objections alleging "Signature Printed and Not Written, Not Genuine" should not be overruled as a matter of law. Whether the printed signature on the nominating petition sheet is the same as the one found in the registration records is an evidentiary issue and not an objection that should be overruled as a matter of law. *Stewart v. Cruz*, 11-EB-MUN-032 (Chicago Electoral Board 2011).

Illegible Signatures

The fact that a signature is illegible is not, standing alone, a proper basis to strike the signature. The Election Code has no requirements regarding good penmanship or the lack thereof. An allegation only that a signature is illegible does not state a legally cognizable basis to invalidate signatures. *Feierstein v. Phelan*, 12-EB-WC-03 (Chicago Electoral Board 2012), which acknowledges the difficulty illegible signatures can create in a records examination of allegations that a signature is not genuine or that the signer is not registered, is distinguishable. *Diaz v.* Currie, 14-EB-RGA-26 (Chicago Electoral Board 2014); *Vara v. Lilly*, 14-EB-RGA-33 (Chicago Electoral Board 2014).

Signature Gathered Outside District

There is no Constitutional or statutory provision that permits a candidate for State Senator or Representative in the General Assembly in a primary following a redistricting to obtain petition signatures of electors residing outside the new legislative/representative district in which the candidate is running. Such a measure was requested by the Illinois Attorney General in the legislative redistricting litigation before the Illinois Supreme Court in *Cole-Randazzo v. Ryan*, Ill.Sup.Ct. No. 92443, but that request was denied by the Supreme Court in its order of November 28, 2001. Therefore, the candidate was required to have his petitions signed by qualified primary electors of the Democratic Party residing in the new Legislative District. *Lyles v. Brown*, 02-EB-SS-01 (Chicago Electoral Board 2002); *Morrow v. Roby*, 02-EB-RGA-20 (Chicago Electoral Board 2002).

There is no constitutional or statutory requirement that the Illinois State Board of Elections or the Chicago Board of Election Commissioners publish or distribute maps containing boundaries for legislative districts or publicize the fact that legislative district boundary lines have been changed. Rather, Article IV, Section 3 requires the Illinois Secretary of State to publish the redistricting plan. A candidate is presumed to make himself/herself knowledgeable as to the requirements for seeking elective office, including the boundaries of the legislative or representative district from which he or she seeks to be nominated and elected. *Lyles v. Brown*, 02-EB-SS-01 (Chicago Electoral Board 2002); *Morrow v. Roby*, 02-EB-RGA-20 (Chicago Electoral Board 2002).

Redistricting law applicable to candidate's district was to be found in Illinois Public Act 97-14 and that this law became effective June 24, 2012, prior to the first day on which the candidate was authorized to circulate petitions for the office at issue. There was no requirement that the candidate be notified about what Congressional district she was in or was not in. *Wolfe v. Atanus*, 12-EB-CON-03 (Chicago Electoral Board 2012).

65 ILCS 20/21-28(a) requires that nominating petitions for candidates for Alderman must be signed by the number of legal voters "of the ward" in which the candidate is seeking election. There is no provision in the statute allowing legal voters residing outside the 15th Ward to sign nominating petitions for candidates in the 15th Ward after redistricting, even if they live in an area that was once part of the old 15th Ward prior to redistricting. *Sanchez v. Bocanegra*, 15-EB-ALD-053 (Chicago Electoral Board 2015), affirmed, *Bocanegra v. Chicago Board of Election Commissioners, et al.*, 2015 COEL 000008 (Cir. Ct. Cook Co., 2015).

Signature Disqualification

An objection to a signature based only on the allegation that the signature is not genuine or was not made in proper person shall not be sustained were no registration record can be found by the Board in

order to make a comparison of the signature on the nominating petition with a signature on a registration record. *Drish v. Walls*, 03-EB-MUN-2 (Chicago Electoral Board 2003), affirmed *Walls v. Board of Election Commissioners of the City of Chicago*, 03 CO EL 032, Cir. Ct. Cook Co., February 24, 2003, appeal dismissed, 1-03-0568.

A registered voter who is physically incapacitated and unable to affix his own signature to a nominating petition can have his legal guardian affix his signature, at his direction, to the nominating petition. Section 7-10 of the Election Code, which requires that a petition be signed by a qualified primary elector "in their own proper person only," must be construed to mean that a voter who is otherwise eligible but who, because of illness or disability, cannot physically execute a petition, may be granted assistance in that process. *Anderson v Fitzgerald*, 96-EB-WC-048 (Chicago Electoral Board 1996), affirmed, *Anderson v. Chicago Board of Election Commissioners,* 284 Ill.App.3d 832, 672 N.E.2d 1259 (1996).[3]

Case points out the difficulties in dealing with illegible signatures on a petition. Illegible signatures were contested on the basis that the signer was not registered or that the signer's signature was not genuine. While the objector ultimately has the burden of proving the substance of his/her objections, if a signature on a nominating petition is so illegible or unreadable so as to make it impossible for either an objector or the Board to make a valid comparison with a voter registration record, the electoral board system designed to protect the integrity of the petition process becomes thwarted. Neither an objector nor the Board should be forced to presume that the signature is valid simply because it is illegible. If a candidate obtains a signature on his petition, he obviously has had access to the person whose signature is affixed; neither the objector nor the Board has similar access. In voting, if the signature on ballot application does not match the signature on the voter registration record for that name, the voter may be challenged by judges of election and is required to execute an affidavit before being allowed to vote. Similarly, if an illegible signature on a petition and the signature on the voter registration record that that purported individual signed do not compare, presumably the signature may not be valid and the burden would shift to the candidate to come forward to show who, in fact, signed the petition. Otherwise, bad penmanship may be rewarded if it becomes impossible to discern who signed unintelligible scrawl on the petition sheet. *Feierstein v. Phelan,* 12-EB-WC-03 (Chicago Electoral Board 2012).

Same Signature on More than One Established Political Party Petition

When an otherwise qualified voter has signed nomination petitions of more than one established political party, the signature appearing on the petition first signed is valid and all subsequent signatures of that person appearing on the nomination petitions are invalid. *Watkins v. Burke*, 461 N.E.2d 625 (1984). The mere appearance of 382 voters' signatures on both the Democratic and Republican nomination petitions for ward committeeman was insufficient for per se disqualification of voters; challenging the validity of signatures on the Democratic nomination petitions required a showing that the Republican nomination petition signatures were signed earlier. See also, *Scudiero v. Tirado,* 03-EB-ALD-002 (Chicago Electoral Board 2003); *Munoz v. Gordils*, 03-EB-ALD-004 (Chicago Electoral Board 2003).

Same Signature on Petitions for More than One Candidate of Same Political Party

Although the Election Code prohibits a voter from signing petitions on behalf of multiple parties (10 ILCS 5/7-10) and also prohibits a voter from signing petitions on behalf of multiple independent candidates for the same office (10 ILCS 5/10-3), it does not prohibit a voter from signing multiple petitions on behalf of partisan candidates of the same party. The ward committeeman race, unlike an aldermanic race, is partisan and the candidates are not independent. Therefore, 10 ILCS 5/10-3 does not apply in such instances. *Caldwell v. Sawyer*, 12-EB-WC-08 (Chicago Electoral Board 2012), affirmed, *Caldwell v. Board*

[3] In an interesting non-election case, the court held that "[I]n a variety of contexts, the law has consistently interpreted 'signed' to embody not only the act of subscribing a document, but also anything which can be reasonably be understood to symbolize or manifest the signer's intent to adopt a writing as his or her own and be bound by it. This may be accomplished in a multitude of ways, only one of which is a handwritten subscription." *Knolls Condominium Association v. Czerwinski*, 321 Ill.App.3d 916, 919, 748 N.E.2d 1259, 1262 (2001) (accepting stamped signature).

of Election Commissioners, Cir. Ct. Cook County, 2012-COEL-002 (January 30, 2012); *Kelly v Smithburg,* 12-EB-WC-36 (Chicago Electoral Board 2012).

Same Signature on More than One Independent Nomination Petition

Section 10-3 of the Election Code (10 ILCS 5/10-3) states in part that a voter may subscribe to one independent nomination petition for each office to be filled, and no more.[4] Candidate's nominating petitions contain 30 signatures that are also found on the nominating petitions of two other candidates. Through testimony it was determined that these signatures were circulated before the date of notarization on the petition sheets of the two other candidates. The Board found these 30 signatures on the Candidate's nominating petitions to be valid. *Swift v. Solar,* 99-EB-ALD-013 (Chicago Electoral Board 1999).

Candidate testified that five signatures on her nominating petitions appear on another candidate's nominating petitions, and that these five voters affixed their signature to the other candidate's nominating petitions before signing the Candidate's nominating petitions. These five signatures are invalid as a voter may sign only one aldermanic petition for the same office in the same election and the signature executed first in time is the valid one and any subsequent signatures will be stricken. *Sharkey v. Solar,* 99-EB-ALD-072 (Chicago Electoral Board 1999), citing *Swain v. Frezados*, 87-EB-ALD-087 (Chicago Electoral Board 1987); *Frias v. Campos*, 91-EB-ALD-071 (Chicago Electoral Board 1991); *Arrington v. Jenkins*, 91-EB-ALD-083 (Chicago Electoral Board 1991); *Mitchell, Scheff and Zuckerman v. McCain,* 99-EB-ALD-119 (Chicago Electoral Board 1999).

See also, *Slywczuk v. Powers*, 03-EB-ALD-025 (Chicago Electoral Board 2003); *Rice v. Tirado*, 07-EB-ALD-075 (Chicago Electoral Board 2007); *Rice v. Diliberto*, 07-EB-ALD-076 (Chicago Electoral Board 2007); *Nice v. Popielarczyk*, 11-EB-ALD-202 (Chicago Electoral Board 2010), *aff'd.,* Circuit Court of Cook County, No. 10 COEL 00017, *aff'd,* Illinois Appellate Court, No. 1-11-0218, *leave to appeal den.,* Illinois Supreme Court; *Nice v. Ollry,* 11-EB-ALD-203 (Chicago Electoral Board 2010); *Sircher v. Hughes*, 15-EB-ALD-072 (Chicago Electoral Board 2015).

While the notarization date at the bottom of a nominating petition sheet is evidence of the date when the petition circulator appeared before the notary to sign the circulator's affidavit, and while it may serve a evidence of the latest possible date on which voters may have signed the petition, it did not, standing alone, necessarily serve as evidence that the petition could not have been signed by voters prior to the notarization date, even as early as the first date permitted by law for signing petition sheets. *Bailey v. Smith*, 15-EB-ALD-145 (Chicago Electoral Board 2015).

Lack of Middle Initial

Failure to indicate a middle initial on signature on the petition sheets where binder includes a middle initial does not invalidate them where the signatures are otherwise genuine. *Scianna v. Fredrickson* (Chicago Electoral Board 1994).

Use of the first initial of the first name, plus the entire last name, on signature petition sheets does not invalidate them where they are otherwise genuine. *Scianna v. Fredrickson* (Chicago Electoral Board 1994).

Missing or Incomplete Address Opposite Elector's Signature

Signatures of signers of petition sheet whose addresses on the petition are incomplete may be rehabilitated and restored upon submission of affidavits from such persons attesting to their full and complete address and when such persons are found to be registered to vote at the address as correctly shown on their affidavits. *Davis et al. v. Reed*, 04-EB-WC-81 (Chicago Electoral Board 2004).

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[4] In *Stone v. Board of Election Commissioners for the City of Chicago*, 750 F.3d 678 (7th Cir. 2014), the court held that it did not believe that the one-voter, one-signature rule acts as a "suffocating restriction[ ] ... upon the free circulation of nominating petitions" and that the one-voter, one-signature rule is "nothing more than a prohibition against any elector's casting more than one vote in the process of nominating candidates for a particular office."750 F.3d at 684.

Signed in Presence of Circulator

Section 7-10 of the Election Code, regarding the circulator oath, does not require the circulator of petition sheets to physically hand the sheet to each signer. *Vaitys v. Board of Election Commissioners*, 96 CO 43, (Cir. Ct. of Cook County, 1996).

Affidavits of 24 signers of the petition were presented stating that the persons who signed as circulator for 14 petition sheets bore no resemblance to the person shown on an attached photograph. The adverse testimony of the candidate/circulator testified: that she circulated the petition sheets which bore her signature as circulator; that the petition sheet were signed by her; that her signature was notarized under oath and that she saw each of the people whose names are on the petition sign the petition in their own proper person; that she personally carried the petitions by herself and she did not give the petitions to anyone else; that she circulated the petitions at individual homes and in grocery stores; that if she did not have poll sheets with her, she asked people if they were registered voters in the 17th Ward; that she informed people signing her petition that it was illegal for them to sign other petitions; that she told everyone to sign their own names; the petitions stayed in her sight at all time; each and every person signed in her presence; she did not see identification from people who signed the petitions; that she could not always tell if the people signing the petition signed their real names. The candidate/circulator acknowledged that objections to approximately half of the signatures (or 550 signatures) on petition sheets circulated by her were sustained as invalid. Another of the circulators testified that she circulated the petition sheets bearing her name and that she signed the affidavit at the bottom of each sheet; she circulated each and every petition bearing her name; she saw each and every person sign the petition in their own proper person; the petition sheets were always in her presence; she verified as best she could that each person signing the petition was a registered voter and that she did not accept any person to sign the petition without such person showing her an identification card, although they did not always show her a voter's card; she asked signers to sign as they did to register to vote although she believed most people signed incorrectly and that seniors had a problem with their handwriting. It was stipulated that objections to 83 of the signatures on sheets circulated by this circulator were overruled and that 43 objections were sustained. The electoral board found that the evidence presented by the objector was too little and too unreliable to establish a pattern of fraud and false swearing in the candidate's nominating petition sheets. *Washington v. Williams*, 01-EB-ALD-06 (Chicago Electoral Board 2001).

See also, *Munoz v. Gordils*, 03-EB-ALD-004 (Chicago Electoral Board 2003).

Testimony showed that the petition circulator was among several people circulating sheets in an apartment building. Hearing examiner concluded that the circulator, even though she did not at all times have a direct sight line of the people signing the petition, was nevertheless in the "presence" of the signers of the petition as that term is used in the statute. *Kerpsack v. Simmons*, 04-EB-WC-75 (Chicago Electoral Board 2004). However, where testimony of petition signers was that two men came to the door of their apartment, one of whom was the candidate, and they signed at or inside the doorway to their unit but saw no women in the area, petition sheet purportedly circulated by the candidate's wife would be stricken because the petition sheet was not signed in her presence.

Testimony showed that petition sheet was signed by a person while at an American Legion Post. The person who signed as the circulator of that sheet handed the witness the petition sheet and she signed it. She then passed the petition sheet down the bar to other members of the Post and three other individuals signed the petition sheet. The circulator did not physically hand the petition sheet to the other people who signed the petition, but was present and was about 3 feet away from two of the individuals who signed the petition sheet and about 20 feet away from the third person. Electoral board found that the objector failed to prove that the petition sheet in question was not circulated by the individual who signed the circulator's oath at the bottom of the sheet or that the petition was not signed in the "presence" of the circulator of that sheet. *Nelson v. Johnson*, 04-EB-WC-37 (Chicago Electoral Board 2004). Although the Board ultimately sustained objections to seven of nine signatures on a different petition sheet, this evidence could only be found to the circumstantial proof of a pattern of fraud. The objector had the right and opportunity to subpoena not only the circulator, but also the persons who signed the petition sheet; however, objector failed to do so. This proof falls short of the objector's burden of proving a pattern of fraud by clear and convincing evidence.

Candidate signed as the petition circulator on sheets of her nominating petitions while she was sitting in a car or driving the car while two other people circulated the petition and gathered signatures door-to-door. The hearing examiner stated in his written report to the Board that the candidate "testified credibly that she was either physically standing at the door when the petition sheet was handed to the signer, or in the car, driving in lockstep with those who physically tendered the documents to the signers." The examiner concluded that objector had failed to meet her burden of proof that the candidate was not "present" because she did not establish how far the candidate was from the doorsteps at issue when the petition sheets were signed. The Electoral Board relied on the hearing examiner's finding that the candidate's testimony was credible. The Board overruled the objections and declared the candidate's nominating papers sufficient and valid. *Ramirez v. Andrade*, 07-EB-ALD-072 (Chicago Electoral Board 2007), reversed, *Ramirez v. Board of Elections*, 07 COEL 013 (Cir. Ct. Cook Co. 2007), reversed, *Ramirez v. Andrade*, 372 Ill.App.3d 68, 865 N.E.2d 508 (2007). Appellate court held that the Board's decision to allow candidate's name on the ballot was not clearly erroneous. The Board relied on the credible testimony of the candidate to establish the fact that she was present when the contested signatures were obtained. Objector presented affidavits of voters who stated only that no woman was with the man who handed them the petition. As in *Moscardini,* the fact that the circulator who signed the affidavit on the petition sheets here was not in the doorway is not conclusive on the issue of "presence."

Candidate signed petition sheets as the circulator of said sheets. Candidate testified that he watched from his truck in the street, or from a scooter on the sidewalk or as he walked on the sidewalk in front of petition signers' homes as several of his assistants presented his petition sheets to individuals for their signatures. Objector produced 19 petition signers who testified that the candidate, whose photograph they had been shown and who was present in the room when the witnesses testified, was not the person who circulated the petitions sheets when they signed them. Objector also presented nine affidavits from individuals stating that they had signed the candidate's petition but that the candidate, whose photograph was printed on the affidavit, had not been present when they signed the petition. The candidate submitted 40 affidavits from individuals who signed his petition and who stated they were certain that the candidate was present when they signed his petition. The hearing officer, who had the duty and the opportunity to assess the credibility of the witnesses and the weight of their testimony, resolve conflicts in the evidence and draw reasonable inferences from the evidence, concluded that there was insufficient credible evidence to support the candidate's contentions that he was present when certain sheets, signed by him as the circulator of said sheets, were signed by the voter. When a pattern of fraud, false swearing and a total disregard for the mandatory requirements of the Election Code is established, all sheets circulated by the individual guilty of such conduct should be stricken in their entirety. *Straughn v. Bembynista*, 14-EB-RES-04 (Chicago Electoral Board 2014).

Striking Signatures

Objector asserted that signature line "strike outs" on 23 petition sheets were not initialed nor was a certification filed in relation to these "strike outs," such that each of the 23 sheets should be stricken and disregarded against the candidate's valid signature totals. The Election Code provides, "no signature shall be revoked except by revocation filed in writing with the *** election authority *** with whom the petition is required to be filed, and before the filing of such petition." 10 ILCS 5/7-10. The failure, therefore, to properly revoke signatures in a nomination petition requires their inclusion, not exclusion, for good or ill, citing *Lizak v. Zadrozny*, 4 Ill.App.3d 1023, 1027, 283 N.E.2d 252, 255 (1st Dist. 1972). *Ley v. Williams III*, 14-EB-CON-06 (Chicago Electoral Board 2014); *Conner v. Holmes*, 15-EB-ALD-110 (Chicago Electoral Board 2015).

Use of Married Name

Objections to the use of a married name instead of or in addition to the voter's maiden name should be overruled. A 2005 amendment to the Election Code permits a voter's use of a married name when voting in the same precinct as she did when she registered under her maiden name. Similarly, the use of a married name on a petition sheet does not affect the voter's ability to sign a petition provided she lives in the same precinct as she did when she registered under her maiden name. *Conner v. Holmes*, 15-EB-ALD-110 (Chicago Electoral Board 2015).

QUALIFICATIONS OF CIRCULATORS

18 Years of Age or Older

Statement in circulator's affidavit that the circulator was "… 16 years of age or older …" was an inadvertent typographical error. Additionally, the five circulators of the candidate's nominating petition sheets, including the candidate himself, appeared, testified and presented evidence tending to show that each circulator was over the age of 18. Therefore, they met the qualifications for signing the circulator's statement at the bottom of the sheets they circulated. Moreover, the failure to include language in the circulator's statement at the bottom of each sheet that the circulator is "18 years of age or older" does not violate any mandatory requirement of Section 7-10 of the Election Code. *Sachay v. Cocanate,* 08-EB-WC-40 (Chicago Electoral Board 2007).

Circulator that Signs Petition for Candidate of Another Political Party for Same Election

[No cases reported]

Circulator that Circulates Petition for Candidate of Another Political Party

Circulators are not qualified to circulate nominating petitions for candidate of new political party because they previously circulated nominating petitions for candidates of the Democratic Party for the March 19, 1996 primary election. *Andrews v. Taylor*, 96-EB-NPP-4 (Chicago Electoral Board 1996); *Street v. Hornowski,* 94-EB-NPP-002 (Chicago Electoral Board 1994).

Candidate could not circulate petitions as a candidate of a new political party because he previously circulated nominating petitions for himself as a candidate for the Democratic Party. *Street v. Hornowski,* 94-EB-NPP-002 (Chicago Electoral Board 1994).

Signatures contained on petition sheets for new political party candidate circulated by persons who previously circulated petition sheets for candidates of another political party in the primary are invalid under Section 10-4. *John W. Moore Party v. Board of Election Commissioners*, 794 F.2d 1254 (7th Cir.1986). This is true even though the established political party candidate withdrew his candidacy before the primary election. *Hornowski v. State Board of Elections*, 94 CO 267, Cir. Ct. Cook County, October 17, 1994.

Nominating petition sheets circulated for a candidate for Ward Committeeman for the Republican Party by a person who also circulated petition sheets for a Democratic candidate at the same election are not invalidated by operation of Section 10-4 of the Code. Article 7 governs the nomination of candidates for the office of Ward Committeeman and there is no prohibition in Article 7 against circulating nominating petition sheets on behalf of more than one established political party. *Strnad v. Foss,* 08-EB-WC-05 (Chicago Electoral Board 2007). Accord, *Strnad v. Reboyras*, 08-EB-WC-06 (Chicago Electoral Board 2007); *Hernandez v. Berrios*, 08-EB-WC-07 (Chicago Electoral Board 2007); *Hernandez v. Vazquez*, 08-EB-WC-08 (Chicago Electoral Board 2007). See also, *Hendon v. Davis*, 02-EB-SS-10 (Chicago Electoral Board 2002), holding that there is no prohibition against circulators for legislative candidates circulating for more than one established political party, citing *Walsh v. Connors*, 90 CO 31, February 15, 1990. But see, *Raether v. Shlifka,* 88-EB-WD-62 (Chicago Electoral Board 1988) (circulators who circulated petitions for a Republican candidate for the office of Ward Committeemen were found to be in violation of Section 10-4 of the Election Code prohibiting the circulating of petitions for more than one political party as the same circulators previously circulated nominating petitions for a Democratic candidate for the office of Ward Committeeman in the same Ward for the same election).

Circulator Must Reside in District

NOTE: As a result of court decisions and Public Act 92-129, effective 7/20/01, circulators no longer are required to be residents of the district or political subdivision in which they circulate petitions. Circulators need only be at least 18 years of age or older and citizens of the United States.

Circulation of More than One Independent Petition

Absent an express statutory prohibition the statute cannot be interpreted to prohibit dual circulation for two or more independent candidates for the same election. *Brown v. Reynolds,* 95-EB-ALD-104 (Chicago Electoral Board 1995); *McGuire v. Nogaj*, 496 N.E.2d 1037 (1986). Dual circulation of

nomination petition for 2 independent candidates in the City of Chicago aldermanic election was permissible under Section 10-4 which specifically prohibits: a) dual circulation for an independent candidate in addition to the candidate of a political party; and also b) dual circulation for an independent candidate in addition to a political party candidate and plural independent candidates in addition to one political party candidate.

Objections asserting that circulator cannot circulate for more than one independent candidate has no basis in law in that there is nothing in the Election Code prohibiting a circulator from circulating petitions for more than one independent candidate. *Elias v. Lopez,* 11-EB-ALD-024 (Chicago Electoral Board 2010).

Fact that candidate circulated a petition for a competing candidate for the same aldermanic office does not violate any statutory ban. No fraud was alleged. Even if fraud were alleged, there is no authority for removal of a candidate from the ballot as a remedy for alleged wrongful acts in a competing candidate's nomination, citing *Mitchell v. Cook County Officers Electoral Board,* 399 Ill.App.3d 18 (1st. Dist. 2010). *Jacks v. O'Donnell,* 11-EB-ALD-344 (Chicago Electoral Board 2010).

Circulator Must Be a Registered Voter

NOTE: As a result of court decisions and Public Act 92-129, effective 7/20/01, circulators no longer are required to be registered voters. Circulators need only be at least 18 years of age or older and citizens of the United States.

CIRCULATOR'S AFFIDAVIT

Evidence that candidate/circulator's affidavits are false and perjurious, evidencing a pattern of false swearing, invalidates all signatures on those petition sheets. *Arrington v. Jenkins*, 91-EB-ALD-083 (Chicago Electoral Board 1991).

Evidence that circulators of several petition sheets containing approximately 75% forged signatures were all found invalid as a "pattern of fraud," pursuant to *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1984), was established. *Owens v. Anderson,* 92-EB-REP-26 (Chicago Electoral Board 1992).

Several sheets of a candidate's nominating petitions were found invalid as purported circulators did not circulate said sheets. But the invalidation of these sheets was not enough to trigger the application of the doctrine found in *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1984) as the objector failed to establish a "pattern of fraud" for all sheets of the candidate's nominating petitions. *Lee v. Russell,* 92-EB-WC-41 (Chicago Electoral Board 1992), affirmed, 92 CO 00059 (Cir. Ct. Cook Co., 1992).

Candidate admitted in testimony that several people circulated his nominating petitions but that he signed the circulator affidavit on every sheet of his nominating petitions. The Electoral Board finds that all of the Candidate's nominating petition sheets demonstrate a pattern of fraud and false swearing and are therefore invalid in their entirety. *Williams v. Partlow,* 99-EB-ALD-032 (Chicago Electoral Board 1999), citing *Fortas v. Dixon,*122 Ill.App.3d 697, 462 N.E.2d 615 (1984).

Circulator admitted in testimony that he was not the only person who circulated the petition sheets bearing his signature. The Board found the sheets circulated by this circulator to be invalid. The improprieties in connection with the petition circulation process warranted invalidation of entire signature sheets rather than just individual signatures; circulator permitted individuals to sign their own names and names of family members who were not present, and someone other than affiant presented petition to signers. *Mendoza v. Torres,* 99-EB-ALD-069 (Chicago Electoral Board 1999), citing *Huskey v. Municipal Officers Electoral Board for Village of Oak Lawn,* 156 Ill.App.3d 201, 509 N.E.2d 555 (1987).

Candidate was the sole circulator of the 55 petition sheets constituting his nominating petitions. After a records examination, the Candidate had enough legally valid signatures to qualify for the ballot. However, the records exam revealed that 1,131, or 84.5%, of the objections to individual signatures on the Candidate's nominating petition were sustained and the signatures found to be invalid. The vast majority of these sustained objections were grounded in the fact that the signer of the petition was not registered at the address shown on the line next to the petitioner's signature or that the petitioner's signature was not genuine. It was readily apparent that a substantial number of signatures exhibit characteristics of common

authorship. The Candidate admitted that the handwriting for many of the signatures on the petition sheets appear similar, but he denied fraud, and denied that there were lists used which resulted in names being grouped alphabetically. The statutory requirement of Section 10-4 that circulators of petitions sign statement before officer authorized to administer oath to effect that they circulated petitions and that signatures were signed in their presence and were genuine is substantial and valid requirement that relates to the integrity of the political process and the failure to comply with such requirement constitutes a valid objection. *Williams v. Butler,* 35 Ill.App.3d 532, 341 N.E.2d 394 (1976). The extremely high number of petition signatures invalidated because the signature was found not to be genuine suggests that in a great many instances someone other than the person whose name is listed as a signer of the petition actually signed the petition and these signatures are likely the result of forgery. In any case, either these signatures were not affixed in the presence of the Candidate/circulator, contrary to his certification under oath that they were signed in his presence, or they were affixed in his presence and he knew them to be not genuine, which is also contrary to his certification under oath that the signatures were genuine. In either event, Candidate/circulator's affidavit under oath constitutes a false swearing and an intentional disregard for and violation of Section 10-4 of the Election Code, therefore, his nominating petitions are invalid. *Catherine and Streeter v. Goodloe,* 99-EB-ALD-105 (Chicago Electoral Board 1999).

Failure to Have Statement that Persons are Qualified Primary Electors

Section 3-1.2 of the Code provides that for the purpose of determining eligibility to sign a nominating petition or a petition proposing a public question the terms "voter," "registered voter," "qualified voter", "legal voter", "elector", "qualified elector", "primary elector", and "qualified primary elector" shall mean a person who is registered to vote at the address shown opposite his signature on the petition or was registered to vote at such address when he signed the petition. *Murphy v. Hurst*, 88-EB-SMAY-1, (Chicago Electoral Board 1989); *Slywczuk v. Bank* (Chicago Electoral Board 2004), affirmed, *Slywczuk v. Board of Election Commissioners for the City of Chicago*, 04 COEL 0006 (Cir. Ct. Cook Co. 2004). However, it has been held that Section 3-1.2 cannot be applied to circulators. *Bass v. Hamblet*, 266 Ill.App.3d 1110, 641 N.E.2d 14 (First Dist. 1994).

Failure to Include Circulator's Residence Address

Evidence indicated that individual circulated candidate petition sheets in October and November 2015 and that in the circulator's affidavit of each sheet he listed his residence as 180 Prairie Avenue in Wilmette, Illinois. However, circulator had been evicted from that address in June 2015 and testified that he thereafter lived with this mother at an address in Matteson, Illinois. The circulator testified that he listed the Wilmette address on the circulator's affidavit because it was the address listed on his State ID. Even when he renewed his State ID, however, he continued to list the Wilmette address as his residence even though he no longer lived there. The electoral board found that the circulator was not guilty of a "minor mistake" and that he made the conscious decision to falsely state under oath that he lived at the Wilmette address when he know he no longer lived there by the time he began circulating the petition sheets. Therefore, it cannot be said that the circulator substantially complied with the mandatory requirement of Section 7-10 to list his residence address in the circulator's affidavits. The fact that the circulator was subsequently found and appeared to testify before the electoral board did not require a different result. None of the 23 petition sheets circulated by this circulator substantially comply with the mandatory requirements of Section 7-10 and all signatures on such sheets are invalid. *Zaragoza v. Vazquez*, 16-EB-RGA-03 (Chicago Electoral Board 2016), reversed, *Vazquez v. Board of Election Commissioners of the City of Chicago*, 16-COEL-3 (Cir. Ct. Cook Co. 2016), electoral board decision affirmed, 2016 IL App (1st) 160349-U.

Evidence that a circulator may be registered to vote at an address different from the address contained in the circulator's affidavit, standing alone, is insufficient to establish that the circulators do not reside at the address set forth in their circulator's affidavit. *Hines v. Davis,* 11-EB-ALD-099 (Chicago Electoral Board 2011).

The requirement in the circulator's affidavit that the circulator state his residence address (and if a resident of a city having a population of over 10,000, also stating the street and number of such residence) does not require the circulator to state the street and number of his residence if he resides in a village rather than a city. Even if the circulator was required to state his street and number, inclusion of that information

on the preceding page constituted substantial compliance that would satisfy this requirement. *Panarese v. Hosty*, 104 Ill.App.3d 627, 432 N.E.2d 1333 (First District, 1982).

Incorrect address on circulator's affidavit (1528 East 78th Place, instead of 1528 East 76th Place) is in substantial compliance with the circulator oath provisions of Section 7-10. *Crutcher v. Blythe*, 92-EB-WC-70 (Chicago Electoral Board 1992).

Circulator stated in circulator's affidavit on nominating petitions that he is a registered voter of the 12th Ward residing at 2931 West 24th Street. The Objector alleges the correct address is 2931 West 24th Boulevard and introduced into evidence a street map and street guide of the City of Chicago that states for three blocks, including the residence of the circulator, is listed as 2931 W. 24th Boulevard. The Candidate introduced into evidence a poll sheet for the 1st Precinct of the 12th Ward listing the circulator as registered at 2931 W. 24th Street. While there is a discrepancy in identification of the street name that includes the residence of the circulator, the circulator is a duly registered voter in the 1st Precinct of the 12th Ward. An incorrect address on a circulator's affidavit naming a roadway "Street" when, in fact, it is identified on official street maps as a "Boulevard" is in substantial compliance with the circulator oath provisions of Section 7-10 of the Election Code. *Mendoza v. Perez,* 99-EB-ALD-066 (Chicago Electoral Board 1999).

Two circulators, one of which was the Candidate, of multiple petition sheets failed to provide circulator's address on several of the petition sheets. One purpose of the requirement that the circulator's statement at the bottom of the petition sheet include the circulator's address is to protect the integrity of the electoral process by enabling electoral board to locate the circulator, question him or her about signatures, and hold the circulator responsible for his or her oath. It is assumed by the circulator's sworn statement at the bottom of the petition sheet that the circulator is subjecting himself or herself to possible perjury prosecution, which is a meaningful and realistic method of eliminating fraudulent signatures and protecting the integrity of the political process. The presence of the circulator's address on other petition sheets substantially satisfies the statute's requirements, even though the circulator's address may not be included in the affidavit of a particular sheet. The requirement that the circulator enter his or her address on each petition sheet only serves the purpose of administrative convenience. By writing the circulator's address on the top of at least one petition that he or she signed as a petitioner, the circulator fulfills the purpose of protecting the integrity of the electoral process by providing the electoral board with ready access to her. Because the circulator signed each of the affidavits, the circulator is subjected to the possibility of penalties of perjury notwithstanding the failure to include the address on each sheet (citing *Sakonyi v. Lindsey,* 261 Ill.App.3d 821, 634 N.E.2d 444 (1994)). By stating her address at the top of each sheet in the heading that includes information about the candidate, the Candidate substantially complied with the requirement of Section 10-4 that the circulator of the petition sheet state his or her address in the circulator's affidavit (citing *Schumann v. Kumarich,* 102 Ill.App.3d 454, 459, 430 N.E.2d 99 (First Dist. 1981)). *Lowe and Hurston v. Orozco,* 99-EB-ALD-070 (Chicago Electoral Board 1999); *Smith v. Dates,* 99-EB-ALD-133 (Chicago Electoral Board 1999); *Hicks v. Dates,* 99-EB-ALD-141 (Chicago Electoral Board 1999).

Circulator who circulated two petition sheets listed his address as "4426 North Clifton" on one petition sheet, yet listed his address on another sheet as "4428 North Clifton." In signing the petition as a circulator, the circulator listed yet a third address -- "4626 North Clifton." Attached to the candidate's motion to strike was an affidavit from the circulator stating that he is homeless and that he is residing temporarily in a homeless shelter located at 4628 North Clifton. The circulator's affidavit further stated that when he listed his address, he gave his best guess. Although the circulator was subpoenaed to testify by the objectors and was present throughout the hearing, the circulator was never called to testify as to his true address or as to his actions in circulating the two petition sheets in question. The electoral board found that the two petition sheets circulated by the circulator should be invalidated because he listed incorrect residence address not only in the circulator's affidavit on both sheets, but also on the petition that he signed as a signer. Unlike the circulator in *Sakonyi*, the circulator here never provided his correct address anywhere on the candidate's nomination papers. Also unlike the circulator in *Sakonyi*, the circulator was never called to testify under oath subject to penalty of perjury and answer questions regarding this circulation of the petition sheets. *Davis et al. v. Reed*, 04-EB-WC-81 (Chicago Electoral Board 2004).

Circulation Date Wrong or Missing

No petition sheet shall be circulated more than 90 days preceding the last day for the filing of such petition and each petition sheet of a petition must contain a statement certifying that none of the signatures on the sheet were signed more than 90 days preceding the last day for filing of the petition. 10 ILCS 5/7-10; 10 ILCS 5/8-8; 10 ILCS 5/10-4. In *Stone v. Board of Election Commissioners for the City of Chicago*, 750 F.3d 678 (7th Cir. 2014), the court held rejected a constitutional challenge to the 90-day circulation period as applied to candidates for Mayor, City Clerk and Treasurer who needed to collect 12,500 signatures, stating, "Ninety days does not strike us as an excessively short time to collect 12,500 signatures, particularly when this schedule applies equally to every candidate." 750 F.3d at 684.

The statutory provision that requires the circulator to indicate when the nomination petition was circulated is mandatory, not directory. Therefore, those sheets of the nomination petitions that failed to indicate that the circulation dates on the sheets were circulated within that period rendered all the signatures on those sheets invalid. *Simmons v. DuBose*, 42 Ill.App.3d 1077, 492 N.E.2d 586 (1986); *Murphy v. Jones*, 88-EB-SMAY-7 (Chicago Electoral Board 1989); *Burt v. Tyson,* 88-EB-WD-107 (Chicago Electoral Board 1988); *Wailes v. Acoff,* 87-EB-ALD-92 (Chicago Electoral Board 1987); *Marhand v. Jones,* 87-EB-ALD-206 (Chicago Electoral Board 1987).

Where it appears on several sheets of the candidate's petition that the date of circulation in circulator's affidavit was "December 1, 1990" and the date of notarization appears on said sheets as "December 7, 1989", and un-refuted testimony of the circulator was that date of circulation was December 1, 1989, said petition was in substantial compliance with the pertinent provisions of the Election Code. *Buffington v. Taylor*, 90-EB-REP-1 (Chicago Electoral Board 1990); see also, *Kyles v. Lang*, 92-EB-LEG-21 (Chicago Electoral Board 1992). The purpose of the circulation date portion of Section 7-10 of the Election Code is to insure that no petition sheet is circulated prior to 90 days before the filing deadline. Id. There is no question but that said 90-day provision was not violated since the record establishes that the December 1, 1990 date was inadvertently entered by the circulator. Id.

Variation in Wording

Statement in circulator's affidavit that the circulator was "… 16 years of age or older …" was an inadvertent typographical error. Additionally, the five circulators of the candidate's nominating petition sheets, including the candidate himself, appeared, testified and presented evidence tending to show that each circulator was over the age of 18. Therefore, they met the qualifications for signing the circulator's statement at the bottom of the sheets they circulated. Moreover, the failure to include language in the circulator's statement at the bottom of each sheet that the circulator is "18 years of age or older" does not violate any mandatory requirement of Section 7-10 of the Election Code. *Sachay v. Cocanate,* 08-EB-WC-40 (Chicago Electoral Board 2007).

Sheets 10 and 11 of the candidate's nominating petition sheets failed to contain in the circulator's affidavits of those sheets the words "at the time they signed the petition," but these words were contained on all of the other petition sheets submitted by the candidate. However, the prefatory language to the candidate's nominating petition sheets at the top of each of those sheets, including sheets 10 and 11, contain the statement "We, the undersigned, *qualified* voters of the 15th Ward in the City of Chicago, County of Cook and State of Illinois do hereby petition that the following named person shall be a candidate for election to the office hereinafter specified …." A "qualified" voter means the same thing as a "registered" voter. The electoral board found that sheets 10 and 11 substantially comply with the statutory requirements of Section 10-4 and overrules the objections. *Durr v. Smith*, 03-EB-ALD-093 (Chicago Electoral Board 2003), citing *Nolan v. Cook County Officers Electoral Board,* 329 Ill.App.3d 52, 58, 768 N.E.2d 216 (1st Dist. 2002) (where the prefatory language of a candidate's signature sheets sufficiently represents that all the signers satisfy a particular certification requirement, it neither serves a useful purpose nor aids in preserving the integrity of the electoral process to exclude a candidate from participation for failure to demonstrate strict compliance with the relevant statutory provisions).

Objectors alleged that the circulator's affidavit at the bottom of each petition sheet failed to state that the signers of the petitioner resided in the political division from which the candidate is seeking "election." The candidate's petition sheets stated that the signers of the petition are registered voters in the political division in which the candidate is seeking "elective office." The electoral board found that Section

7-10 does not require that the word "election" be used and that the use of the term here of "elective office" carries substantially the same meaning and is sufficient. *Slywczuk v. Bank* (Chicago Electoral Board 2004), affirmed, *Slywczuk v. Board of Election Commissioners for the City of Chicago*, 04 COEL 0006 (Cir. Ct. Cook Co. 2004).

The Election Code does not require that the circulator affidavit required by 10 ILCS 5/7-10 include a statement that the signers of the petition were voters of a specific district. *Cardona & Collazo v. Zavala*, 14-EB-CON-01 (Chicago Electoral Board 2014).

Notarizing Petition Sheets

The circulator's statement appearing at the bottom of each nominating petition sheet "shall be sworn to before some officer authorized to administer oaths in this State". (10 ILCS 5/7-10 5/10-4; see also 10 ILCS 5/8-8) This paragraph requiring that nominating petitions be notarized is not necessarily impracticable or unduly burdensome on the right to access to the ballot. *Bowe v. City of Chicago Electoral Board*, 81 Ill.App.146, 401 N.E.2d 1270 (1980), rev. on other grounds, 79 Ill.2d 469, 404 N.E.2d 180 (1980).

The requirement in the Election Code that the person who circulated nominating petitions personally appear before a notary public to validate the petition has been held to be mandatory and not directory. Thus, a violation of that section invalidates the petition sheet. *Bowe v. Chicago Electoral Board,* 79 Ill.2d 469, 404 N.E.2d 180 (1980).

Hearing officer found that 108 sheets of the candidate's nomination papers were invalid because the notary failed to comply with the Illinois Notary Act's requirement that the notary verify the identity of circulators of the petition sheets and notary did not personally know the persons who appeared before him. The electoral board held, however, that the remedy for such a violation rests with the Illinois Notary Act and there is no authority to support a finding that petition sheets infected by the notary's misconduct were thereby invalid. *Ziegler v. Beachem,* 11-EB-ALD-056 (Chicago Electoral Board 2011).

Where the testimony clearly disclosed a pattern of fraud, false swearing, and a total disregard for the mandatory requirements of the Election Code, then it is proper to invalidate the entire sheet. *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1984). In *Fortas*, it was demonstrated that the circulators of the various sheets had filed false affidavits in connection with the circulation of the sheets.

Failure to have petition sheets notarized invalidates the Candidate's Nomination Papers. The requirement in the Election Code that the person who circulated nominating petitions personally appear before a notary public to validate the petition has been held to be mandatory and not directory. Thus a violation of that section invalidates the petition sheet. *Harris and McDaniel v. Hubbard,* 99-EB-ALD-088 (Chicago Electoral Board 1999), citing *Bowe v. Chicago Electoral Board*, 79 Ill.2d 469, 404 N.E.2d 180 (1980); *Williams v. Butler*, 35 Ill.App.3d 532, 341 N.E.2d 394 (1976); *Nichols v. Fields,* 99-EB-ALD-153 (Chicago Electoral Board 1999); *Moore v. Hood,* 99-EB-ALD-176 (Chicago Electoral Board 1999); *Moreno v. Delgado*, 08-EB-SS-01 (Chicago Electoral Board 2007) (testimony by three circulators that they did not or probably did not sign circulator's affidavit before a notary invalidated all petition sheets they circulated).

Fact that candidate circulated all of his own petition sheets and that first sheet was notarized did not save remaining sheets that were not notarized. *Anderson v. Llong Bey*, 07-EB-ALD-036 (Chicago Electoral Board 2007).

Mere fact that the circulator's name printed in the body of the circulator's affidavit is often in different handwriting than the name printed in the notary jurat and even in different ink does not support objector's conclusion that the signer did not sign the affidavit in the presence of the notary. The circulator is not required to fill out her statement in the notary's presence nor sign her name with the same pen that the notary used. *Ramsey v. Collins,* 12-EB-SS-05 (Chicago Electoral Board 2012).

Notary Public Qualifications

Section 6-104 of the Illinois Notary Act (5 ILCS 312/6-104) does not prohibit a wife from notarizing her husband's statement of candidacy. Even if it did, such a violation would not invalidate the acknowledged instrument. *Moreno v. Delgado*, 08-EB-SS-01 (Chicago Electoral Board 2007).

Expired Notary Public Commission

Fact that notary public's commission may have expired or may otherwise be defective does not invalidate the petition sheets notarized by such notary. *Levine v. Simms-Johnson,* 96-EB-WC-31 (Chicago Electoral Board 1996); *Gregory v. Tines,* 95-EB-ALD-137 (Chicago Electoral Board 1995); *Gilbert v. Lavelle*, 80 CO 75 (Cir. Ct. Cook County, February 11, 1980); *Drake v. Stewart,* 90-EB-REP-11 (Chicago Electoral Board 1990): failure of notary public to file his commission with the Cook County Clerk's Office does not invalidate pages of candidate's nominating petition); *Thompson v. Deville*, 03-EB-ALD-160 (Chicago Electoral Board 2003).

Absence of an expiration date on the notary's commission does not state sufficient grounds to invalidate the candidate's petition. *Hansen v. Whitehead,* 91-EB-ALD-168 (Chicago Electoral Board 1991).

Notary's use of a notary stamp with an expiration date indicating that the notary stamp was used before the commencement date of the notary's commission does not invalidate the petition sheets notarized by such notary. There was no contention that the notary was not a registered notary public at the time she notarized the petition sheets in question; rather, at worst it appears that the notary public may have used in the early stamp therefore it should have been used. But the fact that a notary public's commission may have expired or may otherwise be defective does not invalidate the petition sheets. The candidate and the circulators have the right to rely on the notary's purported representation that the commission and office are valid. *Morris v. Turner*, 04-EB-RGA-05 (Chicago Electoral Board 2004).

Notary Public Seal or Signature Missing

Failure of the notary to properly affix his seal to a petition sheet is deemed to be a technical violation that does not invalidate the petition sheet where notary actually signed the notary portion of the petition sheets. *Griffin v. Hazard*, 04-EB-WC-24 (Chicago Electoral Board 2004); *Linchecky v. Rundle* ,97-EB-ALD-001 (Chicago Electoral Board 1997); *Sistrunk v. Tillman*, 91-EB-ALD-155 (Chicago Electoral Board 1991); *Washington v. Williams*, 92-EB-REP-31 (Chicago Electoral Board 1992); *Maltbia v.* Perry, 92-EB-WC-64 (Chicago Electoral Board 1992); *Sistrunk v. Tillman,* 91-EB-ALD-155 (Chicago Electoral Board 1991).

Failure of notary to sign his name on the signature line indicating "notary" when the notary did in fact sign his name on a different line does not render the petition sheet invalid. *Linchecky v. Rundle,* 97-EB-ALD-001 (Chicago Electoral Board 1997).

Where petition sheet is notarized but the blank line provided for the name of the circulator was not filled in by the notary, such failure does not render said petition sheets invalid. *Williams v. Davenport,* 95-EB-ALD-133 (Chicago Electoral Board 1995).

The notary's affixation of rubber stamp containing official seal without notary's signature on the notary certificate substantially complies with the requirements of the Election Code. *Delgado v. Ladien*, 99-EB-ALD-126 (Chicago Electoral Board 1999); *Sanders v. Bradley*, 03-EB-ALD-156 (Chicago Electoral Board 2003) ("even a failure of the notary to sign at all, though the seal is affixed, had not been deemed the type of error to cause invalidation"); *Sutor v. Frias*, 06-EB-SS-02 (Chicago Electoral Board 2006).

Notarization Date Missing or Wrong Notarization Date

The failure to place a date in the *notarial jurat* constitutes an insufficient basis to invalidate the nominating papers. *Hendon v. Davis*, 02-EB-SS-10 (Chicago Electoral Board 2002); *Ley v. Williams III*, 14-EB-CON-06 (Chicago Electoral Board 2014).

Fact that notary corrected the date on which the petition sheet was notarized by handwriting the numeral "5" over a pre-printed "4", as is "1995" instead of "1994", does not invalidate the petition sheet. *Villareal v. Aguilar,* 96-EB-RGA-25 (Chicago Electoral Board 1996). The date on which the document was notarized was accurately stated after the notary made the correction on the printed form and there is no dispute that the correct year in which the document was notarized was 1995.

The failure of the notary public to place the year of attestation upon the petition sheet is merely a technical violation of Section 10-4 of the Election Code and the petition sheets upon which said error

occurred are in substantial compliance with Section 10-4. *Curtis v. Parker,* 83-EB-ALD-94 (Chicago Electoral Board 1983).

Date of notarization on petition sheet that was set forth in reverse order does not invalidate petition sheet. Even assuming that there was no date at all in the *jurat*, this would not be sufficient justification for invalidating the petition sheet. *Cottrell v. Pearson,* 99-EB-ALD-157 (Chicago Electoral Board 1999), See, e.g., *Young v. Cook County Officers Electoral Board,* 90 CO 20, Cir. Ct. Cook. Co., January 24, 1990.

Where candidate wrote and dated the petitions as December 17, 1999 and notary public testified that next to her name she wrote the date "12/20/99" and that this was the actual date that she notarized the document, there was still no evidence to show that the petitions were circulated prior to the 90 days preceding the last day to file the petitions and the objections based on wrong notary date was overruled. *Corcoran v. Kelsey,* 00-EB-WC-11 (Chicago Electoral Board 2000).

Notarial jurat of the circulator's affidavit is not lacking in proper form merely because it does not indicate a date on which the circulator appeared before the notary public. *Lenzen v. Orozco*, 01-EB-ALD-04 (Chicago Electoral Board 2001).

Incorrectly Inserting Name of Notary Instead of Circulator in Jurat

If a circulator fails to insert his or her name on the Candidate's nominating petitions in the space following the words "Subscribed and Sworn To" in the jurat portion of the petition sheet does not invalidate those petition sheets. *Fuchs v. Gordon*, 00-EB-WC-031 (Chicago Electoral Board 2000); *Woods v. Grandberry,* 92-EB-WC-011 (Chicago Electoral Board 1992); *Day v. Cooks,* 92-EB-WC-52 (Chicago Electoral Board 1992); *Jackson v. Dillard*, 95-EB-ALD-188 (Chicago Electoral Board 1995); *Mitchell, Scheff and Zuckerman v. Raoul,* 99-EB-ALD-117 (Chicago Electoral Board 1999); *Smith v. Dates,* 99-EB-ALD-133 (Chicago Electoral Board 1999); *Hicks v. Dates,* 99-EB-ALD-141 (Chicago Electoral Board 1999); *Lumpkin v. Taylor,* 99-EB-ALD-165 (Chicago Electoral Board 1999).

Various sheets of the Candidate's nominating petitions contain circulator affidavits that had the name of the notary in the jurat that was subsequently crossed out with the name of the circulator written in above the crossed out notary's name. The inserting of the notary rather than the name of the circulator in the jurat does not render the petition invalid. The jurat is not an affidavit but is evidence of the fact that the affidavit was properly sworn to by the affiant. Thus where the affiant is otherwise identified, courts tend to overlook clerical errors such as naming the wrong person in the jurat or omitting the affiant's name from the jurat entirely, citing *Cintuc Inc. v. Kozubowski,* 596 N.E.2d 101 (First Dist. 1992); Accord, *Riani v. Education Officers Electoral Board for School Dist. No. 87*, 93 CO 456(Cir. Ct. Cook Co. 1993). The initial error involving the jurat in the circulator's affidavit would not have invalidated the Candidate's nominating petitions and therefore a correction or alteration to the jurat to correct the harmless error does not invalidate the nominating petitions. *Mendoza v. Torres,* 99-EB-ALD-069 (Chicago Electoral Board 1999).

Candidate's nominating petitions contain a jurat that has the word "her" inserted instead of the circulator's name. The jurat is not an affidavit but is evidence of the fact that the affidavit was properly sworn to by the affiant. Thus, where the affiant is otherwise identified, courts tend to overlook clerical errors such as naming the wrong person in the jurat or omitting affiant's name from jurat entirely. *Catherine and Streeter v. Butler,* 99-EB-ALD-108 (Chicago Electoral Board 1999), citing *Cintuc Inc. v. Kozubowski,* 596 N.E.2d 101 (First Dist. 1992); Accord, *Riani v. Education Officers Electoral Board for School Dist. No. 87,* 93 CO 456 (Cir. Ct. Cook Co. 1993).

Failure to Sign Affidavit or Before a Notary

Candidate personally circulated each and every one of his petition sheets but admitted that he did not sign any of the circulator affidavits on his petition sheets. The requirement in the Election Code that the person who circulated nominating petition sheets personally appear before a notary public to validate the petition has been held to be mandatory and not directory. Thus, a violation of that requirement invalidates the petition sheets. *Cardona v. Chavez*, 07-EB-ALD-053 (Chicago Electoral Board 2007), citing *Bowe v. City of Chicago Electoral Board*, 81 Ill.App. 146, 401 N.E.2d 1270 (1980), rev. on other grounds, 79 Ill.2d 469, 404 N.E.2d 180 (1980).

Failure of circulator to properly appear before a notary public and sign the statement appearing at the bottom of each sheet before a notary public invalidates those sheets. *Johnson v. Williams,* 03-EB-ALD-014 (Chicago Electoral Board 2003). See also, *Hohenadel v. Akins*, 03-EB-ALD-110 (Chicago Electoral Board 2003).

If it can be shown that a person who had circulated petitions had not personally appeared before the notary public who acknowledged his signature, the petition is invalidated. *Lee v. Chandler*, 95-EB-ALD-164 (Chicago Electoral Board 1995).

The Candidate's nominating petition sheets were not sworn to before some officer authorized to administer such oaths in this State. The requirement in the election code that the person who circulated the nominating petition sheets personally appear before a notary public to validate the petition is a mandatory requirement and a violation of this requirement invalidates the petition sheets. *Smith v. Shotwell,* 99-EB-ALD-025 (Chicago Electoral Board 1999), citing *Williams v. Butler*, 35 Ill.App.3d 532, 341 N.E.2d 394 (1976); *Bowe v. Chicago Electoral Board,* 79 Ill.2d 469, 404 N.E.2d 180 (1980).

Circulator signed petition sheet outside the presence of the notary. However, the circulator did appear later before the notary and the notary required the circulator to write his name on a separate sheet of paper in her presence in order to compare it with the signature contained on the petition sheet and the notary required proof of identification. The hearing examiner and the Board concluded that the circulator "validated" the contents of the circulator's affidavit before the notary public and that this was a sufficient oath under the Election Code, the Oaths and Affirmation Act (5 ILCS 255/2), and under case decisions in *People ex rel. City of Leland Grove v. City of Springfield,* 193 Ill.App.3d 1022, 550 N.E.2d 731 (4th Dist. 1990), *In re Rice,* 35 Ill.App.2d 79, 181 N.E.2d 742 (4th Dist. 1962) and *Cox v. Stern,* 170 Ill. 442, 48 N.E. 906 (1897). *Corcoran v. Kelsey*, 00-EB-WC-11 (Chicago Electoral Board 2000).

Failure to Include Circulator's Residence Address and/or Certification that Signers were Registered Voters Who Gave Their Correct Address

Omission of the circulator's address from only one of five petition sheets has been viewed as being a technical violation. *Panarese v. Hosty*, 104 Ill.App.3d 627, 432 N.E.2d 1333 (First District, 1982).

Candidate Notarizing Own Petition Sheets

A candidate may notarize signatures, other than his own, on the candidate's petition sheets. *Gibson v. Sharp,* 91-EB-ALD-077 (Chicago Electoral Board 1991).

At no place in the Election Code does it provide for invalidating a candidate's petitions because the circulators' petitions were notarized by the candidate on those petitions. *Hill v. Municipal Officers Electoral Board*, 92 CO 33 (Cir. Ct. Cook Co. 1992); *Smith v. Boyd,* 99-EB-ALD-149 (Chicago Electoral Board 1999).

Notary Commission from Foreign State

[No cases reported]

Lack of Statement of Circulator that He/She was Registered Voter at All Times Petition was Circulated

NOTE: As a result of court decisions and Public Act 92-129, effective 7/20/01, circulators no longer are required to be registered voters. Circulators need only be at least 18 years of age or older and citizens of the United States.

Notary Signing Petition Sheet as a Qualified Elector

Neither the Illinois Notary Act nor the Election Code provides for invalidating a candidate's petition because the circulator's petitions were notarized by the same person who signed the petition sheet as a qualified elector. *Scimo v. Maina,* 96-EB-WC-043 (Chicago Electoral Board 1996); *Kelley v. Bennett,* 92-EB-WC-005 (Chicago Electoral Board 1992). Although the Illinois Notary Act provides that a notary shall not acknowledge any instrument in which the notary name appears as a party to the transaction, the Act does not provide that any instrument acknowledged by a notary is invalid where the notary has committed an act prohibited under the Act; rather, the Notary Act provides remedies for official misconduct of the notary.

Notary Name

Candidate's petition sheets that were notarized by a notary using her maiden name rather than her registered name did not invalidate the petition sheets, see *People v. Severinghause*, 313 Ill. 456 (1924). *Duff v. Caldwell,* 87-EB-ALD-51 (Chicago Electoral Board 1987).

Notary's use of her first and middle initials instead of her full name did not invalidate petition sheets she notarized. *Sanders v. Bradley*, 03-EB-ALD-156 (Chicago Electoral Board 2003).

Failure to include circulator's name in jurat in printed blank

Omitting circulator's name in blank space provided in circulator's affidavit does not per se invalidate circulator's affidavit. The jurat is not an affidavit but is evidence of the fact that the affidavit was properly sworn to by the affiant. Thus where the affiant is otherwise identified, courts tend to overlook clerical errors such as naming the wrong person in the jurat or omitting the affiant's name from the jurat entirely. *Johnson v. Peyton*, 00-EB-WC-038 (Chicago Electoral Board 2000); *Hendon v. Davis*, 02-EB-SS-10 (Chicago Electoral Board 2002).

"Pattern of Fraud"

Abundantly clear from a simple review of the petitions, the results of the records examination and the unrebutted testimony of objector's handwriting expert that most, if not all, of the sheets purportedly circulated by three individuals evidenced a pattern of fraud and false swearing and utter disregard for the requirements of the Election Code. All of the sheets of these circulators must be stricken in order to preserve the integrity of the electoral process. *Hendon v. Collins*, 16-EB-CON-05 (Chicago Electoral Board 2016).

In light of overwhelming evidence (12 witnesses presenting sworn testimony and 200 affidavits stating that the candidate was not the person who circulated the petition sheet they signed) that the candidate swore false affidavits in regard to 79 of the 120 petition sheets she allegedly circulated, each and every sheet that the candidate signed as the circulator of said sheet is stricken from the candidate's nominating petition due to the obvious pattern of false swearing of the petition sheets allegedly circulated by the candidate. *Kirk v. Williams*, 08-EB-RGA-21 (Chicago Electoral Board 2007).

If evidence supports a finding in another case that the circulator lied under oath in circulating her petitions for Ward Committeeman, the Electoral Board may take notice of such evidence and it is sufficient to support a decision to refuse to count any signatures that the same circulator purportedly witnessed in an objection to her petitions for State Representative that she circulated concurrently with the Ward Committeeman petition, even though the evidence in the instant case was not sufficient by itself to establish a pattern of fraud. *Robinson v. Williams*, 08-EB-WC-16 (Chicago Electoral Board 2007).

"Addendum" alleging that 80 signatures identified as "double signatures" does not rise to the level of a pattern of fraud where petition contained some 1,900 signatures. *Thapedi v. Williams,* 08-EB-RGA-30 (Chicago Electoral Board 2007).

Pattern of fraud must be proved by clear and convincing evidence. *Durr v. Love*, 03-EB-ALD-101 (Chicago Electoral Board 2003), affirmed *Durr v. Chicago Board of Election Commissioners*, 03 CO EL 028 (Cir. Ct. Cook Co., February 20, 2003) (Judge Nathaniel Howse, Jr.); *Moreno v. Delgado*, 08-EB-SS-01 (Chicago Electoral Board 2007) (hazy memories, some discrepancies and some apparent conflicts in testimony on balance do not establish fraud or a pattern of fraud under totality of circumstances, including multiple campaign offices, crowded campaign offices, multiple circulators, multiple notaries and time constraints).

Objectors argued after the conclusion of the records examination that the number of sustained objections during the records examination was almost 60% of the total and that there should be a finding of a pattern of fraud. Fraud must be affirmatively established and proved by clear and convincing evidence. *Delk v. Brooks*, 07-EB-ALD-086 (Chicago Electoral Board 2007); *Xian v. Munoz*, 16-EB-WC-19 (Chicago Electoral Board 2016) (fact that 30% of signatures on sheets circulated by one circulator were not found genuine, and 40% of a second circulator's sheets and 40% of a third circulator's sheets not found genuine, not a sufficient basis upon which to find a "pattern of fraud").

Objector's allegation of a "pattern fraud" based only upon the results of the records examination and summarized in demonstrative exhibits and without any testimony from any signer, circulator, handwriting expert or other witness was overruled. *Hendon v. Davis*, 02-EB-SS-10 (Chicago Electoral Board 2002). Citing *In re Petition for Removal of Frank Bower*, 41 Ill.2d 277, 242 N.E.2d 252 (1968), there must be some evidence that the circulator "corruptly or intentionally filed false affidavits" or had "guilty knowledge" regarding the affidavits. Fraud or guilty knowledge is not imputed to the circulator but must be affirmatively established. In other words, in order to strike signatures based on a pattern of fraud, some evidence beyond the results of the records examination is necessary. See also, *McCord v. Penn*, 02-EB-RGA-15 (Chicago Electoral Board 2002).

Records examination revealed that of the 1148 signatures obtained by candidate, 498 were invalidated. Of the remaining 650 valid signatures, objector argued that 202 signatures should be declared invalid because they were fraudulently obtained by one of the candidate's circulators. Objector argued that the Board sustained 70% of the signatures obtained by that circulator and that the remaining 30% of the signatures obtained by that circulator should be declared invalid. However, objector presented no evidence to support this allegation regarding circulator; further, even assuming that all remaining objections to signatures obtained by circulator were sustained, candidate would still have a sufficient number of valid signatures. *Prince v. Douyon*, 06-EB-RGA-10 (Chicago Electoral Board 2006). A pattern of fraud must be proved by clear and convincing evidence, citing *Durr v. Chicago Board of Election Commissioners*, 03 CO EL 028 (Cir. Ct. Cook Co., February 20, 2003).

Merely alleging a "pattern of fraud" without alleging specific facts and where no sheets and lines are referenced, objector's petition on its face contains insufficient specific allegations to invalidate the nominating papers and is subject to a motion to strike. *Davis v. Hendon*, 02-EB-SS-09 (Chicago Electoral Board 2002). See also, *Cruz v. Neely*, 11-EB-MUN-058 (Chicago Electoral Board 2011); *Xian v. Munoz*, 16-EB-WC-19 (Chicago Electoral Board 2016).

Evidence regarding signatures of dead people, discrepancies of dates when certain circulators swore that they obtained signatures and the dates upon which the notary swore the circulators appeared before her, and the signatures of people residing at nonexistent addresses, was insufficient under law to justify a finding of a pattern of fraud and to bar the candidate from the ballot where the hearing examiner concluded the nomination papers clearly had enough valid signatures to qualify the candidate for the ballot. *Summers et al. v. Morrow*, 04-EB-WC-09 (Chicago Electoral Board 2004), affirmed, *Summers et al. v. Board of Election Commissioner for the City of Chicago*, Cir. Ct. Cook Co., 04 CO EL 0014, March 5, 2004 (Judge Edward O'Brien).

Objection paragraph alleged that a pattern of fraud existed for any nomination page referenced by an appendix-recapitulation sheet where the signature challenged contained a check mark under both column "A" ("Signer's Signature Not Genuine") and column "G" ("Other"). It was further alleged that all such sheets were circulated in a "round table" fashion and were otherwise false. An examination of the appendix-recapitulation sheets revealed approximately 20 check marks under the "G." column, of which approximately 12 were described as "inactive" voters and 8 were described as "invalid address." Furthermore, the "invalid address" allegations were not coupled with the "A" column objections, but rather with "B" column objections ("Signer Not Registered at Address Shown"). The status of a voter's registration has no relevance as to whether the signature on the petition sheet is genuine, and would form no basis for a finding of forgery or fraud committed by the circulator. Allegations claiming "invalid address" were not even linked with a column "A", and would provide no factual support to the allegation. Accordingly, motion to strike the objection of a pattern of fraud was sustained. *Durr v. Frazier*, 04-EB-WC-18 (Chicago Electoral Board 2004).

While allowing individual signers to sign for other members of their family is not proper, such evidence falls short of the evidence presented in those cases in which a pattern of fraud was recognized. *Kwak v. Cardenas*, 03-EB-ALD-085 (Chicago Electoral Board 2003).

Hearing examiner found the contention that there was a pattern of fraud that permeated the candidate's petitions does not appear credible when more than 90% of the original signatures were found to be valid. *Lukowski v. Bradley*, 00-EB-RGA-07 (Chicago Electoral Board 2000).

The Electoral Board invalidated all 55 signatures on a single petition sheet of the candidate's nominating petitions because the circulator permitted individuals to sign the names of family members who were not present, and someone other than affiant presented the petition to signers. The Electoral Board found that these improprieties in connection with the petition circulation process warranted invalidation of the entire signature sheet rather than just individual signatures. *Williams v. Walker,* 99-EB-ALD-031 (Chicago Electoral Board 1999), citing *Huskey v. Municipal Officers Electoral Board for Village of Oak Lawn,* 156 Ill.App.3d 201, 509 N.E.2d 555 (1987); *Mitchell, Scheff and Zuckerman v. McCain,* 99-EB-ALD-119 (Chicago Electoral Board 1999).

In the face of evidence that numerous signatures on various petition sheets were similar and of common authorship, the sheets were stricken in their entirety from the candidate's nomination papers because of false swearing and evidence of a clear pattern of disregard of the Election Code. *Smith v. Jennings,* 99-EB-ALD-121 (Chicago Electoral Board 1999); citing *Fortas v. Dixon,* 122 Ill.App.3d 697, 462 N.E.2d 615 (1984); *Huskey v. Municipal Officers Electoral Board for Oak Lawn,* 156 Ill.App.3d 201, 509 N.E.2d 555 (1988); and *Canter v. Cook County Officers Electoral Board,* 170 Ill.App.3d 364, 523 N.E.2d 1299 (First Dist. 1988).

Candidate admitted in testimony that several people circulated his nominating petitions but that he signed each petition sheet as the circulator. When testimony clearly discloses a pattern of fraud, false swearing and a total disregard for the mandatory requirements of the Election Code, then it is proper to invalidate the entire sheet. *Williams v. Partlow,* 99-EB-Ald-032 (Chicago Electoral Board 1999), citing *Fortas v. Dixon,*122 Ill.App.3d 697, 462 N.E.2d 615 (1984).

Candidate was the sole circulator of the 55 petition sheets constituting his nominating petitions. After a records examination, the candidate had enough legally valid signatures to qualify for the ballot. However, the records exam revealed that 1,131, or 84.5%, of the objections to individual signatures on the candidate's nominating petition were sustained and the signatures found to be invalid. The vast majority of these sustained objections were grounded in the fact that the signer of the petition was not registered at the address shown on the line next to the petitioner's signature or that the petitioner's signature was not genuine. It was readily apparent that a substantial number of signatures exhibit the characteristics of common authorship. Even the candidate admitted that the handwriting for many of the signatures on the petition sheets appeared similar, but he denied fraud, and denied that there were lists used which resulted in names being grouped alphabetically. The extremely high number of petition signatures invalidated because the signature was found not to be genuine suggested that in a great many instances someone other than the person whose name is listed as a signer of the petition actually signed the petition and these signatures are likely the result of forgery. Either these signatures were not affixed in the presence of the candidate/circulator, contrary to his certification under oath that they were signed in his presence, or they were affixed in his presence and he knew them to be not genuine, which is also contrary to his certification under oath that the signatures were genuine. Candidate/circulator's affidavit under oath constituted a false swearing and an intentional disregard for and violation of Section 10-4 of the Election Code. When the sheets of a nominating petition submitted by purported circulator evidence a pattern of fraud, false swearing and total disregard for the mandatory requirements of the Election Code, all sheets purportedly circulated by that individual should be stricken in their entirety. *Catherine and Streeter v. Goodloe,* 99-EB-ALD-105 (Chicago Electoral Board 1999).

Objector stipulated that even if every objection were sustained, the candidate would have sufficient signatures unless all the sheets in which the circulator was not challenged were stricken in their entirety. If all objections were sustained, 66% of the signatures would be invalid and 24 of the 74 petition sheets (32.4%), all circulated by the candidate, would be invalid. If every single objection were sustained, the Board would still have had to invalidate in their entirety 50 other petition sheets (and over 500 signatures) that otherwise were not challenged or objected to, with the circulators not challenged, in order to bring the candidate below the minimum signature requirement. Pattern of fraud allegations here are not so persuasive as to compel the invalidation of the candidate's nomination papers. Accordingly, motion to strike objector's petition was granted. *McNair v. Morrow*, 04-EB-RGA-13 (Chicago Electoral Board 2004).

Affidavits of 24 signers of the petition were presented stating that the persons who signed as circulator for 14 petition sheets bore no resemblance to the person shown on an attached photograph. The adverse testimony of the candidate/circulator testified: that she circulated the petition sheets which bore her

signature as circulator; that the petition sheet were signed by her; that her signature was notarized under oath and that she saw each of the people whose names are on the petition sign the petition in their own proper person; that she personally carried the petitions by herself and she did not give the petitions to anyone else; that she circulated the petitions at individual homes and in grocery stores; that if she did not have poll sheets with her, she asked people if they were registered voters in the 17th Ward; that she informed people signing her petition that it was illegal for them to sign other petitions; that she told everyone to sign their own names; the petitions stayed in her sight at all time; each and every person signed in her presence; she did not see identification from people who signed the petitions; that she could not always tell if the people signing the petition signed their real names. The candidate/circulator acknowledged that objections to approximately half of the signatures (or 550 signatures) on petition sheets circulated by her were sustained as invalid. Another of the circulators testified that she circulated the petition sheets bearing her name and that she signed the affidavit at the bottom of each sheet; she circulated each and every petition bearing her name; she saw each and every person sign the petition in their own proper person; the petition sheets were always in her presence; she verified as best she could that each person signing the petition was a registered voter and that she did not accept any person to sign the petition without such person showing her an identification card, although they did not always show her a voter's card; she asked signers to sign as they did to register to vote although she believed most people signed incorrectly and that seniors had a problem with their handwriting. It was stipulated that objections to 83 of the signatures on sheets circulated by this circulator were overruled and that 43 objections were sustained. The electoral board found that the evidence presented by the objector was too little and too unreliable to establish a pattern of fraud and false swearing in the candidate's nominating petition sheets. *Washington v. Williams*, 01-EB-ALD-06 (Chicago Electoral Board 2001).

Affidavits of 11 signers of the petition were offered stating that the persons who signed as circulator for 5 petition sheets bore no resemblance to the person shown on an attached photograph. These affidavits were objected to by the candidate, arguing that the photograph did not accurately represent him, that the affidavits were conclusory and not in compliance with Supreme Court Rule 191. The hearing examiner sustained the objection to the admission of the affidavits on the ground that the photograph did not accurately depict the Candidate, whom the hearing examiner had seen at the initial hearing. The objector also noted the records examination findings that 541 signatures on the candidate's nominating petition sheets did not match the signatures on the Board's registration records and that the candidate circulated the vast majority of the sheets. The electoral board found that the evidence presented by the objector was too little and too unreliable to establish a pattern of fraud and false swearing in the candidate's nominating petition sheets. *Washington v. Hawthorne*, 01-EB-ALD-007 (Chicago Electoral Board 2001).

Although objector established through expert testimony with some degree of certainty that 19 signatures on three nominating petition sheets were signed by no more than three of four individuals, such evidences was not sufficient to establish a pattern of fraud so as to invalidate candidate's nomination papers consisting of 51 petition sheets. *Summers v. Andrews*, 07-EB-ALD-007 (Chicago Electoral Board 2007), affirmed, *Summers v. Chicago Municipal Officers Electoral Board*, Circuit Court of Cook County, 07 COEL 016, February 23, 2007 (Hon. Susan Fox Gillis).

Candidate signed as circulator of four petition sheets, when in fact he admitted he did not circulate such petition sheets. Candidate testified credibly that his signature was affixed as circulator in error when the petition sheets in question were intermixed by mistake with other petition sheets he had circulated. It was stipulated that candidate's other nominating petition sheets contained a sufficient number of valid signatures to qualify for the ballot and that the only basis on which the nominating petitions could be invalidated in their entirety was if a pattern of fraud was established. No direct or circumstantial evidence of an intent to deceive was presented. Negligent affixation of a signature as circulator on the limited number of petition sheets such as occurred here requires a finding of a pattern of fraud invalidating the nomination petitions in their entirety. *Phelan v. Maida*, 07-EB-ALD-069 (Chicago Electoral Board 2007).

The Board's hearing examiner concluded, and the Board found, that based on the testimony of a certified forensic document examiner, numerous nominating petitions sheets circulated by both the candidate and his campaign manager contained numerous forgeries, and evidenced a pattern of fraud and false swearing and a complete and utter disregard for the requirements of the Election Code. Specifically, the hearing examiner concluded, and the Board found, that 24 petition sheets circulated by the candidate's

campaign manager were signed by the same person and 14 petition sheets circulated by the candidate were signed by the same person. In addition to the expert witness' testimony, there were also numerous affidavits from people whose names appeared on the candidate's nominating petition and who stated under oath that the signature on the petition was not their signature. *Burnett v. Rowans*, 07-EB-ALD-074 (Chicago Electoral Board 2007).

Fifty-five of the candidate's 73 petition sheets contained "white-out" in the jurat and the name of the purported circulator written over the "white-out" with a permanent black marker. The signature of the purported circulators appeared to be original, without "white-out" or tampering of any kind. The space where the circulator's name would have been printed is what is covered and written over with black marker. Notary jurat testified that she made a mistake and printed her own name in the jurat, saying she was nervous and she made an error. She further testified that she was not aware of the use of "white-out" to correct the mistake and was not the one who made the correction. One of the circulators testified that she and the candidate discovered the error several days before the deadline for filing the nomination papers and she affixed the "white-out" and printed the circulator's name over it. She testified that she only printed the name of the person who had signed each sheet before the notary. The hearing officer found the testimony of the notary public and the circulator to be credible. *Burgess v. Mitchell,* 11-EB-ALD-041 (Chicago Electoral Board 2011).

Testimony suggested that two of 73 petition sheets may not have been completely circulated by the person who signed as the circulator of the sheets, although it was unclear from the evidence which sheets were affected. Even if two sheets completely signed were invalidated, the candidate's nomination papers would still contain a sufficient number of valid signatures. Objector presented no other evidence of fraud or intentional wrongdoing. Evidence failed to reveal a pervasive and systemic attempt to undermine the integrity of the electoral process so as to invalidate the candidate's nomination papers as a whole. *Burgess v. Mitchell,* 11-EB-ALD-041 (Chicago Electoral Board 2011).

Candidate filed 311 petition sheets; however, a review of the sheets showed approximately 50% of the sheets were blank, even though each sheet, including the blanks, were consecutively numbered. While unorthodox and not a practice to be condoned, the filing of blank sheets behind bound petition sheets is not sufficient grounds for invalidating the candidate's nomination papers and such sheets should be rejected as surplusage. *Sanders v. Boyce,* 11-EB-ALD-348 (Chicago Electoral Board 2010).

Where candidate circulated all of his own petitions and signed as the circulator for all sheets and where record showed that 44% of signatures on sheet 2 were deemed to be "not genuine" by electoral board and no other sheet had a proportion of "not genuine" signatures greater than 36%, board is not required to strike an entire sheet of signatures when a certain percentage of signatures therein are found to be "not genuine." Hearing officer observed candidate testify and was in best position to assess his credibility and determine weight to be given to his testimony when he concluded candidate had not engaged in a pattern of fraud. *Crossman v. Montes*, 12-EB-SS-07 (Chicago Electoral Board 2012), affirmed *Crossman v. Board of Election Commissioners of the City of Chicago*, 2012 IL App (1st) 120291, ¶¶ 11-14 (*Harmon v. Town of Cicero Municipal Officers Electoral Board*, 371 Ill.App.3d 1111 (2007) does not require striking of entire sheet of signatures when a certain percentage of signatures are found "not genuine," but rather affirmed the electoral board's exercise of discretion in that case).

Candidate's testimony that he witnessed all of the signatures that he swore to have witnessed was not credible and thus called into question the integrity of all of his petition sheets. Accordingly, hearing officer found an apparent pattern of fraud and false witnessing and, under *Fortas v. Dixon* [citation], all of the petitions he circulated should be invalidated and the objections sustained. It is the responsibility of the trier of fact to assess the credibility of the witnesses and the weight of their testimony, resolve conflicts in the evidence and draw reasonable inferences from the evidence, citing *People v. McCulloch*, 404 Ill.App.3d 125, 131-132 (2nd Dist. 2010). If the evidence supports a finding that the circulator lied under oath, it further supports a decision to refuse to count any signatures that the circulator purportedly witnessed, citing *Fortas v. Dixon*. *Brown v. Llong Bey*, 15-EB-ALD-021 (Chicago Electoral Board 2015), affirmed *Bey v. Brown*, 15 COEL 000003 (Cir. Ct Cook Co., 2015), affirmed, *Bey v. Brown*, 2015 IL App (1st) 150263 (Ill. App. 2015).

While raising many unanswered questions, objectors failed to provide clear and convincing evidence of a pattern of fraud. Objectors failed to establish that any petition circulator provided a false residence address. Approximately 73.6% of the signatures submitted were deemed invalid in the records examination. The evidence established that many of the circulators signed the petition as signers more than once and some did so without being registered to vote. The evidence further established that most of the circulators were not trained and that no effort was made by any of the circulators to determine whether a signer was a registered voter in the 27th Ward. While the candidate's petition and the evidence concerning circulators' conduct were very troublesome and disturbing, in the end the hearing officer concluded that a pattern of fraud was not proven. *Briscoe v. Beukinga*, 15-EB-ALD-037 (Chicago Electoral Board 2015), affirmed, *Briscoe, et al, v. Board of Election Commissioners, et al.*, 2015 COEL 000016 (Cir. Ct. Cook Co., 2015).

Credible testimony of three witnesses that individuals who signed petition sheets as circulators were not the individuals who, in fact, presented such petition sheets to the witnesses, along with 34 affidavits, established that the petition sheets were not circulated by the persons purporting to be the circulators and hearing officer found that with clear and convincing evidence, the objectors had proven a pattern of fraud, supporting a further finding that the sheets purportedly circulated by the candidate should be stricken in their entirety. As a result, 312 signatures were invalidated, leaving the candidate with fewer than the 473 signatures required by law. *Salazar, et al., v. DeMay*, 15-EB-ALD-052 (Chicago Electoral Board 2015), affirmed, *DeMay v. City of Chicago Board of Elections*, 2015 COEL 000013 (2015) ("decision of the Electoral [Board] is not clearly erroneous and the pattern of fraud was proven by clear and convincing evidence in the record"), appeal dismissed, *DeMay v. City of Chicago Board of Election Commissioners*, No. 1-15-0452 (1st Dist. App. Ct., 2015).

Use of Public Funds

An alleged violation of Section 9-25.1 of the Election Code prohibiting the use of public funds to urge votes for or against any candidate or proposition or to be appropriated for political or campaign purposes to any candidate or political organization is not legally sufficient to invalidate a candidate's nomination papers. The statute is a criminal statute, does not impose a penalty upon a candidate, nor does it authorize the striking of petition sheets for a violation of the statute. *Sutor v. Solis*, 08-EB-WC-32 (Chicago Electoral Board 2007).

STATEMENT OF ECONOMIC INTEREST

FAILURE TO FILE A STATEMENT OR RECEIPT FOR THE STATEMENT OF ECONOMIC INTEREST

The failure to file with the election authority with which nomination papers are to be filed a receipt evidencing that the candidate filed a Statement of Economic Interests with the appropriate official invalidates the nomination papers. *Henning v. Lawrence* (Chicago Electoral Board 2007), affirmed, *Lawrence v. Board of Election Commissioners, et al.*, Cir. Ct. Cook Co., 2007 COEL 0008, affirmed Illinois Appellate Court, No. 1-07-0286 (unpublished order). The statutory requirement does not severely burden a candidate's constitutional rights nor is the deadline imposed by the statute for filing the receipt irrational. Accordingly, the statute does not violate a candidate's rights under the First and Fourteenth Amendment nor is it unconstitutional. *Lawrence v. Board of Election Commissioners*, 524 F.Supp.2d 1011 (N.D. Ill. 2007). See also, *Caban v. Zavala*, 11-EB-ALD-085 (Chicago Electoral Board 2011); *Haynes v. Castillo*, 07-EB-ALD-019 (Chicago Electoral Board 2007); *Burnett v. Jones*, 07-EB-ALD-073 (Chicago Electoral Board 2007); *Wilson v. Jones*, 03-EB-ALD-121 (Chicago Electoral Board 2003); *Smith v. Bell*, 03-EB-ALD-055 (Chicago Electoral Board 2003); *Ervin v. Granberry*, 03-EB-ALD-050 (Chicago Electoral Board 2003); *Ervin v. Baxter*, 03-EB-ALD-048 (Chicago Electoral Board 2003); *Oakley v. Tidwell*, 03-EB-ALD-047 (Chicago Electoral Board 2003); *Somerville v. McGrath*, 03-EB-ALD-044, (Chicago Electoral Board 2003); *Smith v. Hinton*, 03-EB-ALD-006 (Chicago Electoral Board 2003); *Collins v. Foy*, 02-EB-SS-03 (Chicago Electoral Board 2002); *Cottrell v. Chandler*, 99-EB-ALD-159 (Chicago Electoral Board 1999); *Catherine and Streeter v. Mitchell*, 99-EB-ALD-110 (Chicago Electoral Board 1999); *Catherine and Streeter v. Chalmers*, 99-EB-ALD-106 (Chicago Electoral Board 1999); *Ransom and Simpson v. Cook*, 99-EB-ALD-099 (Chicago Electoral Board 1999); *Chereso and Pallohusky v. Videckis*, 99-EB-ALD-008 (Chicago Electoral Board 1999), affirmed, *Videckis v. Board of Elections*, 99

CO 17 (Cir. Ct. Cook Co. 1999); *Hohendael v. Chagin,* 99-EB-ALD-005 (Chicago Electoral Board 1999); *Henning v. Pargas,* 99-EB-ALD-009 (Chicago Electoral Board 1999); *Crumpton v. Cook,* 99-EB-ALD-022 (Chicago Electoral Board 1999); *Mobley v. Beard,* 95-EB-MUN-007 (Chicago Electoral Board 1995); *Geiren v. Norris,* 95-EB-ALD-44 (Chicago Electoral Board 1995); *Jackson v. Washington,* 95-EB-ALD-85 (Chicago Electoral Board 1995); *Williams v. Brown,* 95-EB-ALD-131 (Chicago Electoral Board 1995); *Robinson v. Nalls,* 95-EB-ALD-181 (Chicago Electoral Board 1995); *Morgan v. Lewis*, 83-EB-ALD-65 (Chicago Electoral Board 1983); *Pascente v. Carrothers,* 94-EB-RES-002 (Chicago Electoral Board 1994); *Richardson v. West,* 91-EB-ALD-016 (Chicago Electoral Board 1991); *Hardy v. Walters,* 91-EB-ALD-092, (Chicago Electoral Board 1991); *Brown v. Mohammed,* 91-EB-ALD-158 (Chicago Electoral Board 1991); *Fortas v. Harwell*, 90-EB-REP-6 (Chicago Electoral Board 1990; *Marshall v. Beverly,* 87-EB-ALD-4 (Chicago Electoral Board 1987); *Duff v. Harden,* 87-EB-ALD-50 (Chicago Electoral Board 1987); *Olson v. Glover,* 87-EB-ALD-53 (Chicago Electoral Board 1987); *Ousley v. Watkins,* 85-EB-RGA-18 (Chicago Electoral Board 1986); *Williams v. Lawson,* 86-EB-ALD-26 (Chicago Electoral Board 1986); *Robinson v. Thomas,* 86-EB-ALD-27 (Chicago Electoral Board 1986); *Seay v. Henderson,* 83-EB-ALD-044 (Chicago Electoral Board 1983); *Johnson v. Jones,* 83-EB-ALD-57 (Chicago Electoral Board 1983); *Holman v. Gillard,* 83-EB-ALD-69 (Chicago Electoral Board 1983); *Caridine v. Overstreet,* 82-EB-ALD-001 (Chicago Electoral Board 1982). This holds true even if the candidate files a statement of economic interest with the Cook County Clerk. *Dix v. Harris*, 03-EB-ALD-067 (Chicago Electoral Board 2003); *Simpkins v. Davis,* 11-EB-ALD-283 (Chicago Electoral Board 2011); *Glatstein v. Gates-Brown*, 15-EB-ALD-028 (Chicago Electoral Board 2014).

Nomination papers are invalid where candidate files a statement of economic interests with the county clerk but fails to file with the election authority with which nomination papers are filed before the end of the nomination papers filing period a receipt evidencing the filing of such statement. *Rosales v. Wojkowski,* 95 EB-ALD-54 (Chicago Electoral Board 1995) affirmed, *Wojkowski v. Hamblet*, 95 CO 12 (Cir. Ct. Cook Co. 1995), affirmed, 1-59-0374 (Ill.App. Ct. 1995).

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 and 87 CO 23 (Cir. Ct. Cook Co. 1987). The aldermanic candidate filed 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 requirement of filing a receipt for the Statement of Economic Interest was held to be directory and not mandatory in *Coleman v. Jagielski*, 91 CO 5(Cir. Ct. Cook Co. 1991). However, this decision was made prior to *Bolger v. Electoral Board of City of McHenry*, 210 Ill.App.3d 958, 569 N.E.2d 628 (Second Dist. 1991). Subsequent to *Bolger*, the Circuit Court of Cook County affirmed decisions of the Chicago Board of Election Commissioners adopting the *Bolger* rule, and the Appellate Court of Illinois, First Judicial District, affirmed the decision of the Circuit Court in a summary Rule 23(c)(2) order. (See *Wojkowski v. Hamblet*, 95 CO 12 (Cir. Ct. Cook Co. 1995), affirmed, 1-59-0374(Ill.App. Ct. 1995)).

Where candidate failed to file a statement of economic interest with candidate nomination papers and failed to file a receipt for the statement with the board of election commissioners with whom nomination papers were filed and there is no evidence that statement was filed with county clerk, nomination papers failed to comply with Section 10-5 and were invalid. *Henning v. Pargas,* 99-EB-ALD-009 (Chicago Electoral Board 1999); *Brown v. Hobbs,* 91-EB-ALD-159 (Chicago Electoral Board 1991); *Collins v. Board of Election Commissioners*, 95 CO 30 (Cir. Ct. Cook Co., 1995).

Candidate for alderman filed a document titled "City of Chicago 2006 Statement of Financial Interests" with her nomination papers instead of a statement of economic interests receipt as required by the Election Code and the Governmental Ethics Act. Candidate argued, citing *Preuter v. State Officers Electoral Board*, 334 Ill.App.3d 979 (1st Dist. 2002), that the Board should be estopped from removing her from the ballot for failing to file a statement of economic interests receipt because the Board clerk who accepted her nomination papers checked a box on the form the Board issued to candidate's as a receipt for the nomination papers indicating that a document titled "Receipt for Statement of Economic Interests" was filed with the nomination papers. The Electoral Board found that *Preuter* was distinguishable and held that the Board's clerk did not have authority to bind the Board; accordingly, the Board was not estopped from

apply Illinois law and found that the candidate's nomination papers were invalid because the candidate did not file a statement of economic interests receipt as required by law. *Henning v. Persons*, 07-EB-ALD-050 (Chicago Electoral Board 2007).

Candidate filed a receipt for Statement of Economic Interests that consisted of only the top half of the form containing the name and address of the Candidate and exhibiting the stamp of the Cook County Clerk as evidence that the statement was filed with the Clerk's office. The scope of the electoral board's inquiry is limited to whether the Statement and the receipt thereof have been timely filed with the appropriate government agencies; the Board lacks jurisdiction to determine the sufficiency of the responses to the Statement's questions. *Burgess v. Mitchell,* 11-EB-ALD-041 (Chicago Electoral Board 2011).

Notwithstanding what the Board's intake sheet (receipt) indicated, the evidence established that the candidate filed no statement of economic interests with the Cook County Clerk and no receipt was filed with the candidate's nomination papers. *Tompkins v. Osborne,* 11-EB-ALD-163 (Chicago Electoral Board 2011).

Objector submitted Cook County Clerk's "Certificate as Keeper of Records and Files" that there was no record of a filing of a statement of economic interests for the candidate. *Nice v. Gonzalez,* 11-EB-ALD-204 (Chicago Electoral Board 2010).

FILING IN THE WRONG OFFICE

Candidate for State Representative, who was required to file a Statement of Economic Interests with the Illinois Secretary of State but instead filed a Statement of Economic Interests with the Cook County Clerk and filed, with her nomination papers, a receipt issued by the Cook County Clerk, was not in substantial compliance with the Illinois Constitution, the Illinois Governmental Ethics Act or the Election Code. Not only did she file in the wrong place, she also filed the wrong form. That she filed a Statement of Economic Interests with the Illinois Secretary of State after the filing deadline did not bring her into compliance through the "relation back" theory. *Brown v. Ferrand*, 14-EB-RGA-32 (Chicago Electoral Board 2014), affirmed Cir. Ct. Cook County, 2014 COEL 001 (January 22, 1014), affirmed, 2014 IL App (1st) 1140225 (February 13, 2014).

Candidate's 2002 Statement of Financial Interests filed with the City of Chicago Board of Ethics pursuant to City of Chicago ordinances does not satisfy the requirements of Section 10-5 of the Election Code or the Illinois Governmental Ethics Act. *Woods v. Healy*, 03-EB-ALD-023 (Chicago Electoral Board 2003).

Since a statement of economic interest must also be filed as part of the nomination papers, a candidate is ineligible for office if he files his statement with the wrong governmental unit or office. *Smith v. Kysel*, 95-EB-ALD-011 (Chicago Electoral Board 1995).

Where candidate failed to file a statement of economic interests with nomination papers, but attached a statement of economic interest and a blank receipt with his nomination papers, there was no evidence that candidate filed a statement of economic interest with the county clerk as required by law. *Cobb v. Curtis,* 95-EB-ALD-065 (Chicago Electoral Board 1995), affirmed *Curtis v. Municipal Officers Electoral Board*, 95 CO 33 (Cir. Ct. Cook Co., 1995); *Sneed v. Board of Election Commissioners*, 95 CH 1140 (Cir. Ct. Cook Co., 1995); *Delgado v. Ladien,* 99-EB-ALD-126 (Chicago Electoral Board 1999).

Where candidate filed a statement of economic interests with his nomination papers with the receipt attached, the candidate did not file an economic interests statement with the Cook County Clerk as required by law and statement was filed in wrong office. *Chereso and Pallohusky v. Videckis,* 99-EB-ALD-008 (Chicago Electoral Board 1999), affirmed, *Videckis v. Board of Elections,* 99 CO 17 (Cir. Ct. Cook Co. 1999); *Smith v. Kysel,* 95-EB-ALD-011 (Chicago Electoral Board 1995). The failure to file with the election authority with which nomination papers are to be filed a receipt evidencing that the candidate filed a statement of economic interests with the appropriate official invalidates the nomination papers. Accord, *Cardona v. Chavez*, 07-EB-ALD-053 (Chicago Electoral Board 2007); *Tully v. Popielarczyk*, 07-EB-ALD-070 (Chicago Electoral Board 2007), affirmed, *Popielarczyk v. Neal, et al*, Circuit Court of Cook County, 07 COEL 0003, 07 COEL 0004 (cons.) (Hon. Robert Bertucci); *Robinson v. Siegmund*, 07-EB-ALD-095 (Chicago Electoral Board 2007).

Where candidate filed statement of economic interests with the board of election commissioners but did not file a statement of economic interests with the county clerk until after the deadline for filing nomination papers, candidate's nomination papers are invalid. *Smith v. Vargas,* 95-EB-ALD-064 (Chicago Electoral Board 1995); *Robinson v. Llongbey,* 95-EB-ALD-88 (Chicago Electoral Board 1995); *Jackson v. Jones*, 95-EB-ALD-187 (Chicago Electoral Board 1995).

Where 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 filings, the failure to file a receipt evidencing the filing of the Statement of Economic Interests with the Cook County Clerk's Office invalidates the candidate's nomination papers. *Stamps v. Rivera*, 15-EB-ALD-142 (Chicago Electoral Board 2015).

Candidate filed with the Board of Election Commissioners a statement of economic interests with the receipt attached to said statement, and stated that he was told by an employee of the Board of Election Commissioners that said employee would file the candidate's statement of economic interests with the Cook County Clerk. This did not excuse the candidate from filing the statement of economic interests in the correct office and therefore the candidate's nominating petitions were invalid as the candidate filed his statement of economic interests in the wrong office. *Barnes v. Sneed*, 95-EB-ALD-216 (Chicago Electoral Board 1995); see also, *Brown v. Brown-*, 15-EB-ALD-022 (Chicago Electoral Board 2014).

Where candidate filed with the Board of Election Commissioners a statement of economic interests form with the receipt attached thereto indicating that the office of position for which the statement was filed was "32nd Ward Alderman", such statement was not filed with the county clerk as required by law. *Matlak v. Loveless,* 95-EB-ALD-31 (Chicago Electoral Board 1995). The only statement of economic interests form filed with the county clerk in 1994 was filed on June 1, 1994 for the office of position of "Local School Council."

Where candidate filed with his nomination papers a receipt showing the candidate's name and address on a form pre-printed with the name and address of the City of Chicago Board of Ethics and a date stamp applied by the Board of Ethics showing a date of "December 12, 1994," and candidate filed with the hearing examiner during the hearings a receipt for a statement of economic interests in relation to his candidacy but such receipt was not date stamped by the Cook County Clerk's office showing that it was filed with that office, the candidate's failure to file with the board of election commissioners a receipt showing that he filed a statement of economic interests in relation to his candidacy with the Cook County Clerk before the end of the nomination paper filing period invalidated the candidate's nomination papers. *Brown v. Collins,* 95-EB-ALD-96 (Chicago Electoral Board 1995).

Receipt for statement of economic interests filed with the Cook County Clerk listing the office or position of employment for which the statement was filed as "County of Cook" was not a statement in relation to the candidate's candidacy for the office of Alderman of the 46th Ward of the City of Chicago. *Jendrey v. Huge,* 95-EB-ALD-97 (Chicago Electoral Board 1995).

FILING LATE

Candidate filed his statement of economic interest one day after the deadline and therefore his nomination papers were invalid. *Woods v. Healy*, 03-EB-ALD-023 (Chicago Electoral Board 2003).

Candidate filed her statement of economic interest two days after the deadline and therefore her nomination petitions were declared invalid. *Brewington v. Coleman,* 91-EB-ALD-127 (Chicago Electoral Board 1991).

Candidate did not file a receipt of the statement of economic interest within the time designated by Section 10-5 of the Election Code. Without a timely filing of such receipt, the Chicago Board of Election Commissioners lacks the required documentation whereby potential objectors may determine whether a candidate has, in fact, duly filed such a statement. The candidate's nominating papers are therefore invalid. *Richardson v. West,* 91-EB-ALD-016 (Chicago Electoral Board 1991).

Candidate's failure to timely file the Statement of Economic Interests is a violation of Section 10-5 of the Election Code and resulted in the candidate's name being removed from the ballot. *Erickson v.*

Nowacki, 87-EB-ALD-108 (Chicago Electoral Board 1987); *Heffner v. Sharp,* 87-EB-ALD-115 (Chicago Electoral Board 1987); *Brown v. Harley,* 11-EB-ALD-007 (Chicago Electoral Board 2011).

A statement of economic interest that is filed late will result in the candidate's name being stricken from the ballot. *Miceli v. Lavelle*, 114 Ill.App.3d 311, 448 N.E.2d 989 (1983). The candidate, an assistant principal, filed a statement of economic interest on April 30, 1982, in connection with his employment with the Board of Education of the City of Chicago. The candidate filed his nomination papers on December 29, 1982, and included a receipt issued by the Cook County Clerk for his April 30, 1982, statement of economic interest. An objection was filed on the grounds that the April 30 statement was inadequate since it was filed in relation to the Board of Education and not the City of Chicago. After the objection was filed but before the electoral board hearing commenced the candidate filed with the clerk a statement of intent to defer filing a statement of economic interest in relation to the City of Chicago on the same day. The Chicago Board of Election Commissioners upheld the objection and ordered the candidate's name not be printed on the ballot. In upholding the electoral board and the circuit court, the appellate court held that the 30-day deferral provision for filing statements of economic interest in the Illinois Governmental Ethics Act (5 ILCS 420/4A-105) does not apply to statements filed pursuant to the Election Code. Pointing out that violating Section 4A-107 of the Ethics Act results in "ineligibility for, or forfeiture of, office or position of employment' while failure to comply with the filing requirements of the Election Code results only in removal of the candidate's name from the ballot, the court ruled that it would be inappropriate to apply the Ethics Act deferral provision to avoid the lesser sanction in the Election Code. To hold otherwise would defeat the legislature's intent that certain information be available to the public prior to the election with respect to actual or potential conflicts of interest. The court also decided that a statement of economic interest filed in connection with the candidate's position at the Board of Education does not satisfy the requirement that he file a statement in relation to the position of alderman because the two are separate units of government.

Failure to file a receipt for a statement of economic interests with the candidate's nomination papers is not a violation of the Election Code so long as the receipt is filed not later than the last day on which the nomination papers may be filed, as provided in 10 ILCS 5/10-5. *Wohadlo v. Miles,* 11-EB-ALD-090 (Chicago Electoral Board 2011).

FAILURE TO PROPERLY DESIGNATE OFFICE OR NAME OF CANDIDATE

Nomination papers filed by the candidate and accompanied by a statement of economic interest receipt which described the filing as made in connection with the office of "City of Chicago 15th Ward" substantially complied with the requirements of the Code, citing *Cardona* and *Requena* cases. *Haynes v. Mallory*, 07-EB-ALD-021 (Chicago Electoral Board 2007).

Nothing in the Election Code requires that the receipt filed with nominating petitions, which evidences filing of a statement of economic interests, has to identify office candidate was seeking. Therefore, receipt that states office for which the statement was filed as "Candidate" is sufficient. *Cardona v. DeJesus*, 04-EB-RGA-17 (Chicago Electoral Board 2004), affirmed, *Cardona v. Board of Election Commissioners*, 346 Ill.App.3d 342, 805 N.E.2d 360 (1st Dist. 2004).

Failure to specify the office for which the candidate was seeking nomination on the receipt for statement of economic interests is not a sufficient basis for invalidating candidate's nomination papers and removal from the ballot is not an appropriate sanction. *McCord v. Penn*, 02-EB-RGA-15 (Chicago Electoral Board 2002), citing *Requena v. Cook County Officers Electoral Board*, 295 Ill.App.3d 728, 692 N.E.2d 1217 (1st Dist. 1998); accord, *McDaniel v. Baker*, 03-EB-ALD-150 (Chicago Electoral Board 2003); *Brown v. Washington,* 11-EB-ALD-009 (Chicago Electoral Board 2011); *Brown v. LaFargue*, 15-EB-ALD-017 (Chicago Electoral Board 2014) ("*Welsh* [147 Ill.2d 40, 51] underscores that the appropriate remedy for such deficiency does not involve removal from the ballot").

Where candidate filed with the board of election commissioners on December 12, 1994 a receipt showing that the candidate had filed with the office of the county clerk a statement of economic interests listing the office or position of employment for which the statement was filed as "Chgo Police Officer," the statement was filed in relation to the same governmental unit as the office for which the candidate declared his candidacy, i.e., the City of Chicago and filed with the county clerk during the same calendar year as the year in which the candidate's nomination papers were filed. Therefore, the candidate is not required to file

an additional statement of economic interests in relation to his candidacy because he did file such a statement in relation to the same governmental unit with the county clerk during the same calendar year as the year in which the nomination papers were filed. *Purnell v. Rodriguez,* 95-EB-ALD-27 (Chicago Electoral Board 1995), reversed, *Purnell v. MuMunicipal Officers Electoral Board*, 275 Ill. App. 3d 1038, 657 N.E.2d 55 (1995). The appellate court reversed, holding that because the candidate filed 5 months late and did not comply with the requirements of the Election and Ethics Code, the candidate is not entitled to the benefits of the exemption and thus, his name was to be removed from the ballot.

Candidate's statement of economic interest that identifies the office or position as "Alderman, City of Chicago" is a sufficient designation for the office being sought. *Tintor v. Hidalgo,* 95-EB-ALD-76 (Chicago Electoral Board 1995). Statement of economic interest that identified the office or position as "City of Chgo—City Council" is sufficient. *Wahadlo v. Hairston,* 11-EB-ALD-089 (Chicago Electoral Board 2010). Even if the statement failed to properly identify the office for which the person is a candidate, removal from the ballot is not a permissible sanction when the office is mistakenly or inadvertently described, citing *Requena v. Cook County Officers Electoral Board,* 295 Ill.App.3d 728 (1st Dist. 1998). *Wahadlo v. Hairston,* 11-EB-ALD-089, Chicago Electoral Board (Chicago Electoral Board 2010).

There is no provision in the Election Code or in the Illinois Governmental Ethics Act which prohibits a person from using his middle name on a statement of economic interest when that middle name does not appear on the person's statement of candidacy and/or on his or her nominating petition sheets. *Campos v. Rangel,* 95-EB-ALD-79 (Chicago Electoral Board 1995).

Since the statement of economic interest is considered to be a part of the nomination papers, the failure to properly designate on the statement the office in relation to which the statement is filed will result in the candidate's name being removed from the ballot. *Jones v. Municipal Officers Electoral Board*, 112 Ill.App.3d 926, 446 N.E.2d 526 (1983)(inclusion of the words "3rd Ward" does not describe the office of alderman of the 3rd Ward, as required not only by section 4A-104 of the Ethics Act, but also by section 10-5 of the Election Code. ***Inclusion of the office sought is made mandatory by section 10-5 of the Election Code, which provides that all nomination papers are invalid if a candidate fails to file a statement "in relation to his candidacy".)

A candidate's Statement of Economic Interests that identifies the office as "Representative in the General Assembly" is a sufficient designation for the office being sought and the statement is therefore valid. *Johnson v. Galloway*, 92-EB-REP-27 (Chicago Electoral Board 1992); *Derengowski v. Lamm,* 96-EB-RGA-1 (Chicago Electoral Board 1995), affirmed *Derengowski v. Electoral Board of City of Chicago*, 96 CO 16 (Cir. Ct. Cook Co., Judge Henry, February 9, 1996).

Where statement of economic interest receipt identifies office sought as "State Senator" without specifying the district number, it sufficiently identifies the unit of government with which disclosures must be made. *Davis v. Hendon*, 02-EB-SS-09 (Chicago Electoral Board 2002).

A candidate's statement of economic interests which identifies the office as "Illinois General Assembly (House of Rep.-Candidate)" is sufficient designation for the office being sought and the statement is therefore valid. *Johnson v. Maloney*, 92-EB-REP-18 (Chicago Electoral Board 1992). See, *Bryant v. Cook County Electoral Board*, 553 N.E.2d 25 (First Dist. 1990).

Where the candidate's Statement of Economic Interests read as follows: "James Dors" with James Dorsey signed above signature of person making statement and "Oldeman 7 ward Chicago" while the Receipt for the filing of the Statement of Economic Interest identified the filer as "James Dorsey" and set forth the office sought as "Alderman 7 ward Chgo", the name and office sought is adequately described on the Statement of Economic Interests when taken in conjunction with the Ethics Receipt. *Wailes v. Dorsey*, 91-EB-ALD-6 (Chicago Electoral Board 1991). See also: *Brown v. Neely*, 91-EB-ALD-163 (Chicago Electoral Board 1991).

Candidate's Statement of Economic Interest, which failed to list "City of Chicago" in the governmental unit square, substantially complied with provisions of Section 10-5 of Election Code where Statement of Candidacy, read as whole, showed that the governmental unit was the City of Chicago. Wodarski v. Fattore 91-EB-ALD-32 (Chicago Electoral Board 1991); *James and Klovstad v. Humphrey*, 99-EB-ALD-075 (Chicago Electoral Board 1999).

Candidate's designation of office sought as "8th Ward Alderman" is proper, that being a sufficient designation of the office sought. *Brown v. Neely,* 91-EB-ALD-163 (Chicago Electoral Board 1991).

Candidate's Statement of Economic Interest, which failed to list a governmental unit, invalidated the nomination papers. *Fortas v. Washington,* 87-EB-ALD-56 (Chicago Electoral Board 1987); *White v. Thomas,* 87-EB-ALD-126 (Chicago Electoral Board 1987).

Candidate for office of Alderman of the 10th Ward of the City of Chicago filed a receipt for a statement of economic interests identifying the office or position of employment for which the statement was filed as "Sergeant Chicago Police Dept." Objector alleged that the Candidate's receipt for the statement of economic interests failed to properly identify the office for which he was seeking election. Pursuant to Section 4A-105 of the Illinois Governmental Ethics Act (5 ILCS 420/4A-105), the Candidate was required to file a statement of economic interests in relation to his employment as a police officer. The Candidate timely filed his statement of economic interests pursuant to Section 4A-105 of the Illinois Governmental Ethics Act. The Candidate identified the office or position of employment for which the statement was filed as "Sergeant Chicago Police Dept". The Chicago Police Department is an agency of the City of Chicago, the same unit of government for which the Candidate filed nomination papers as Alderman of the 10th Ward of the City of Chicago. Therefore, the Candidate properly identified the office or position of employment for which the statement was filed and he complied with Section 10-5 of the Election Code. (See, e.g., *Troutman v. Keys,* 156 Ill.App.3d 247, 509 N.E.2d 453 (1987); *Delgado v. Popielarz,* 99-EB-ALD-128 (Chicago Electoral Board 1999).

Candidate who filed a Statement of Economic Interests in relation to his position with the Chicago Police Department within the same calendar year as his nomination papers was filed in relation to the same unit of government, i.e., the City of Chicago. Therefore, there was no violation of Section 10-5 of the Code. *Raddatz v. Garrido,* 11-EB-ALD-036 (Chicago Electoral Board 2011).

Failure of candidate's Statement of Economic Interest statement and receipt to properly designate the office at Alderman of the 37th Ward, City of Chicago, Illinois, does not invalidate the nomination papers, citing *Requena v. Cook County Officers Electoral Board,* 295 Ill.App.3d 728, 692 N.E.2d 1217 (1st Dist. 1998). *Lenzen v. Orozco*, 01-EB-ALD-04 (Chicago Electoral Board 2001).

FILING OF STATEMENT OF ECONOMIC INTEREST WITHIN THE SAME CALENDAR YEAR

Candidate filing for Alderman in the City of Chicago did not satisfy the Governmental Ethics Act when he filed a statement of economic interests in relation to Cook County in the same calendar year. The City of Chicago and the County of Cook are not the same governmental unit. *McDaniel v. Baker*, 03-EB-ALD-150 (Chicago Electoral Board 2003).

Candidate, as an incumbent alderman, was not required to file original Statement of Economic Interests with his petition of candidacy, but only a receipt of the filing. *Evans v. Sherman*, 87-EB-ALD-190 (Chicago Electoral Board 1987). See, also, *Wahadlo v. Hairston,* 11-EB-ALD-089 (Chicago Electoral Board 2010).

Statement of Economic Interests filed by Alderman in relation to her position as Alderman in the same calendar year as filing her nomination papers satisfies requirements of Section 10-5 of the Code. *Hendricks v. Hairston,* 11-EB-ALD-353 (Chicago Electoral Board 2010).

Filing of a Statement of Economic Interests is a mandatory requirement and the failure to do so before the statutory deadline results in a fine and ultimately, in forfeiture of office. *Purnell v. Rodriguez,* 95-EB-ALD-27 (Chicago Electoral Board 1995), reversed, *Purnell v. Municipal Officers Electoral Board*, 275 Ill. App. 3d 1038, 657 N.E.2d 55 (1995). In this case the candidate, a Chicago Police Officer, filed a Statement of Economic Interests on November 7, 1994, a little over five months after the statutory deadline. However, the candidate was not required at his salary level to file the statement. On December 12, 1994, the candidate filed timely nominating papers for the office of alderman. His papers were challenged on the grounds of a faulty statement of economic interests. The candidate argued he had complied with the filing because the Code exempted candidates for elected office when the statement has been filed in the same governmental unit in the same calendar year. The electoral board dismissed the challenge and the trial court affirmed. The appellate court reversed holding that because the candidate filed

5 months late and did not comply with the requirements of the Election and Ethics Code, the candidate is not entitled to the benefits of the exemption and thus, his name was to be removed from the ballot.

JURISDICTION OF THE BOARD

The board lacks jurisdiction to inquire into the truth and accuracy of the statement of economic interest filed by the candidate. The scope of inquiry for the electoral board extends to whether or not one has been filed. *Greer v. Johnson,* 95-EB-ALD-74 (Chicago Electoral Board 1995); *Greer v. McGowan,* 95-EB-ALD-75 (Chicago Electoral Board 1995); *Campos v. Munoz,* 95-EB-ALD-80 (Chicago Electoral Board 1995); *Troutman v. Keys*, 87-EB-ALD-195 (Chicago Electoral Board 1987), affirmed, *Troutman v. Keys*, 156 Ill.App.3d 247, 509 N.E.2d 453 (1987); *Johnson v. Curley,* 88-EB-REP-24 (Chicago Electoral Board 1988); *Hendricks v. Hairston,* 11-EB-ALD-353 (Chicago Electoral Board 2010). Nor does the Board have jurisdiction to determine the sufficiency of the responses to a timely filed Statement of Economic Interest. *Mills v. Orbach*, 87-EB-ALD-191 (Chicago Electoral Board 1987).

WARD COMMITTEEMAN NOT REQUIRED TO FILE SOEI

The Illinois Governmental Ethics Act does not require Ward Committeemen or candidates for the office of Ward Committeeman to file Statements of Economic Interests and candidate was not required by law to file such a statement or a receipt for such statement as part of her nomination papers. *Jackson v. Lane*, 08-EB-WC-19 (Chicago Electoral Board 2007).

LOYALTY OATH

The failure to file a loyalty oath does not invalidate the candidate's nomination papers. *Campos v. LaPorta,* 91-EB-ALD-91 (Chicago Electoral Board 1991). *See Communist Party of Illinois v. Ogilvie,* 357 F.Supp. 105 (U.S.D.C., N.D. Ill. 1972).

The objection to disqualify candidate on the grounds that he filed a false and fraudulent Loyalty Oath is overruled because the requirement of the Loyalty Oath has been found unconstitutional. See *Communist Party of Illinois v. Ogilvie,* 357 F. Supp. 105 (U.S.D.C., N.D. Ill. 1972). *Campos v. Garcia,* 87-EB-ALD-193 (Chicago Electoral Board 1987).

FILING OF PETITIONS

PETITIONS FILED LATE

The Board is not obligated to accept nomination papers for aldermanic candidate that were mailed but not received by the Board by the deadline for filing nomination papers. *Meekey-Smith v. Meekey-Smith,* 11-EB-ALD-365 (Chicago Electoral Board 2011).

A statement of economic interest that is filed late will result in the candidate's name being stricken from the ballot. *Miceli v. Lavelle*, 114 Ill.App.3d 311, 448 N.E.2d 989(1983).

FILING A FACSIMILE OF THE NOMINATING PAPERS

Section 7-10 of the Election Code permits a candidate to file multiple sets of nominating papers for the same office. *Anthony v. Butler*, 166 Ill.App.3d 575, 519 N.E.2d 1193 (1988). Furthermore, Section 7-10 permits a candidate to file nominating papers containing photocopied sheets of individuals' signatures, provided those photocopies are not otherwise duplicated in the candidate's set of nominating papers. It should be pointed out, however, that the court declined to adopt a per se rule invalidating all photocopied petition sheets on no more than the broad, generalized policy considerations offered in the Anthony case. **NOTE:** Subsequent to *Anthony*, the Election Code was amended to require that only original petition sheets may be filed and not duplicates.

Section 10-4 of the Election Code requires that all petition sheets filed with the proper election officials or election authorities be original sheets which have been signed by the voters and by the circulator, and not photocopies or duplicates of such sheets. The Board found 1,512 of the Candidate's nominating petition sheets were photocopies and not original sheets containing the original signatures of voters or the circulator of said sheets and therefore said sheets fail to comply with Section 10-4 of the Election Code. *Drish v. Johnson,* 99-EB-MUN-001 (Chicago Electoral Board 1999); *Arrington v. Whitehead,* 99-EB-ALD-169 (Chicago Electoral Board 1999).

An examination of the nominating petitions sheets submitted by the candidate for the February 22, 2011 aldermanic election revealed that at least nine of those petition sheets appeared to be photocopies or at least partial photocopies of petition sheets that were submitted by the same candidates at the February 2, 2007 aldermanic election. The signatures on both the 2007 and 2011 petitions were identical, although the 2011 sheets did appear to contain original circulator affidavits and notary signatures. These sheets also exhibited text that was "whited-out" of the 2007 election petition sheets and modified to attempt to make them applicable for the February 2011 aldermanic election. The candidate signed as a circulator for all of the petitions he submitted with his nomination papers for the February 2011 election. If these duplicate petition sheets were discounted, the candidate was left with fewer than the number of valid signatures required by law to be a candidate. *Lockette v. Llong Bey,* 11-EB-ALD-022 (Chicago Electoral Board 2010), *aff'd.,* Circuit Court of Cook County, No. 11 COEL 00039.

Board's forensic document examiner examined petition sheets alleged by objector to contain photocopies and testified that the petition signatures on those sheets were originals. There was, therefore, insufficient basis to exclude the signatures on those sheets, nor was there any fraud or pattern of fraud to be found connected with the nomination papers. *Maksym v Emanuel*, 11-EB-MUN-010 (Chicago Electoral Board 2010), *aff'd.,* Circuit Court of Cook County, No. 2010 COEL 00020, *reversed,* 406 Ill.App.3d 9, 942 N.E.2d 739 (1st Dist. 2011), *reversed,* 242 Ill.2d 303, 950 N.E.2d 1051 (2011)

PETITIONS ALTERED AFTER FILING

Section 10-4 of the Election Code (10 ILCS 5/10-4) states in part that a petition, when presented or filed, shall not be withdrawn, altered, or added to. Candidate filed her nomination papers with the Board of Election and the clerk entering the data into the computer noticed that the Candidate's statement of candidacy did not specify for which Ward the Candidate was seeking election. The Candidate proceeded to lean over the counter and write "5th" in the blank space on heading of her statement of candidacy. The Candidate's actions were an alteration of the nomination petitions after they were filed which is a violation of Section 10-4 of the Election Code. The Board found the alteration of the Candidate's nomination papers was a *de minimis* and spontaneous act done without forethought and was not an intentional mutilation of election materials. *Crumpton v. Williams-Bey,* 99-EB-ALD-023 (Chicago Electoral Board 1999).

After filing his papers, candidate was not allowed to change his nomination papers to reflect that he was a candidate for Representative in the General Assembly for the 33rd District instead of the 32nd District as indicated on his nomination papers. *Morrow v. Roby*, 02-EB-RGA-20 (Chicago Electoral Board 2002).

"Receipt for Nomination Papers – City of Chicago for the February 22, 2011 Municipal General Election" is a form created by and for the administrative convenience of the Chicago Board of Election Commissioners. It is not a form mandated by statutes. Thus, any errors or omissions on the form, while probative of what documents may have been filed or not filed with the Board, does not change the fact that a document was indeed filed, or not filed, as the case may be. *Perkins v. Dowell*, 11-EB-ALD-002 (Chicago Electoral Board 2011).

FILING FOR INCOMPATIBLE OFFICES

Electoral board rules designating Saturday as a business day for electoral board purposes are not controlling or determinative of what constitutes a business day for purposes of the statutory deadline for filing withdrawals of nomination papers for incompatible offices under Section 7-12(9) of the Election Code. *Williams, et al, v. Thapedi*, 08-EB-RGA-16 (Chicago Electoral Board 2007).

PETITION FORMAT

PAGES NOT NUMBERED CONSECUTIVELY

Where 29 of the 34 nominating petition sheets filed by candidate, five of the numbered petition sheets were not in consecutive order, and two petition sheets bore the marking "Sheet 1," the candidate's nomination papers did not substantially comply with the requirement in Section 10-4 of the Election Code that petition sheets be consecutively numbered. *Maldonado v. Morales,* 11-EB-ALD-015 (Chicago Electoral Board 2010).

Candidate's failure to number any of his 22 nominating petition sheets rendered the nomination papers invalid. While the candidate argued that the petition sheets were firmly bound, that there were only 22 sheets, that no confusion could arise in reviewing them and that the integrity of the nomination papers could not be violated, the numbering and the binding requirements are two separate requirements and are not alternate options. *Raddatz v. Rivera,* 11-EB-ALD-035 (Chicago Electoral Board 2011), *judicial review dismissed,* Circuit Court of Cook County, 11 COEL 00012, *aff'd.,*2011 IL App(1st) 110,283, 956 N.E.2d 20 (2011), *leave to appeal denied,* Illinois Supreme Court, No. 112954 (2011). See also, *Caban v. Zarnecki,* 11-EB-ALD-086 (Chicago Electoral Board 2011) (failure to number any of the candidate's 15 petitions sheets invalidates nomination papers); *Wiley v. Clark*, 16-EB-WC-11 (Chicago Electoral Board 2016) (failure to number any of the candidate's 16 petition sheets invalidates nomination papers).

Candidate's bound nominating petition sheets contained approximately 40 blank sheets behind petition sheets numbered 1 through 5. While unorthodox and not a practice to be encouraged, the filing of blank petition sheets behind the bound petition sheets is not sufficient grounds for invalidating the candidate's petition and such sheets should be rejected as "surplusage." *DeLay v. Ferral*, 08-EB-WC-03 (Chicago Electoral Board 2007).

Candidate's failure to number any of the 53 petition sheets filed by him invalidates his nomination papers. *Nelson v. Washington*, 08-EB-WC-28 (Chicago Electoral Board 2007).

Candidate filed 37 petition sheets but only the first 35 sheets were numbered consecutively -- the last two sheets were not numbered at all. The electoral board found that there was substantial compliance with the page numbering requirement of Section 10-4 as to sheets 1-35 and that the failure to number the last two sheets of the candidate's petitions does not justify invalidation of all of the candidate's petition sheets. Further, there being substantial compliance with the statute, the electoral board will not disregard the two petition sheets that were not numbered at all and will not invalidate the signatures on those sheets solely on the grounds that the sheets are not numbered. *Durr v. Chandler*, 03-EB-ALD-096 (Chicago Electoral Board 2003), reversed *Durr v. Chicago Board of Election Commissioners*, 03 CO EL 26 (Cir. Ct. Cook Co., February 18, 2003) (Judge Marcia Maras).

Candidate's failure to number any of his 25 petition sheets invalidates his nomination papers. *Wilson v. Rowans*, 03-EB-ALD-122 (Chicago Electoral Board 2003).

Candidate's failure to number any of his 52 petition sheets invalidates his nomination papers. *Wilson v. Jones*, 03-EB-ALD-121 (Chicago Electoral Board 2003).

Candidate's failure to number any of his 35 petition sheets invalidates his nomination papers. *Ervin v. McQueen*, 03-EB-ALD-053 (Chicago Electoral Board 2003).

Candidate's failure to number any of his 63 petition sheets invalidates his nomination papers. *Ervin v. Gillenwater*, 03-EB-ALD-051 (Chicago Electoral Board 2003).

Candidate's failure to number any of 22 petition sheets invalidates nomination papers. *Brummit v. Brewer*, 07-EB-ALD-062 (Chicago Electoral Board 2007).

Electoral board found substantial compliance with the mandatory requirement that petition sheets be numbered consecutively where candidate submitted 96 petition sheets in total, with the numbering consecutive and in order from pages 1 through 76, followed by pages 79 and 80, and thence from pages 82 through 99, this latter group also consecutively numbered. There were no petition sheets No. 77, 78 or 81. *Martin v. Olivier-Harris*, 03-EB-ALD-034 (Chicago Electoral Board 2003).

Aside from a missing page number 48, all of the candidate's petition sheets were numbered and in consecutive order. The candidate substantially complied with the page-numbering requirement of Section 10-4 of the Election Code and that candidate's failure to include numbered page 48 did not render the nominating petitions invalid. *Prince v. Douyon*, 06-EB-RGA-10 (Chicago Electoral Board 2006); see also, *Fowler v. Phelan,* 11-EB-ALD-055 (Chicago Electoral Board 2011) (one sheet between numbered pages 54 and 55 did not have a page number); *Ziegler v. Lane*, 11-EB-ALD-058 (Chicago Electoral Board 2011) (one un-numbered sheet out of 151 petition sheets filed did not invalid nomination papers).

Candidate's failure to number any of the 38 pages of his nominating petition fails to substantially comply with the requirements of Section 10-4 of the Election Code and such failure invalidates his

nomination papers. *Smith v. Rainey,* 03-EB-ALD-007 (Chicago Electoral Board 2003). See also, *Oakley v. Hamilton,* 03-EB-ALD-046 (Chicago Electoral Board 2003).

Where candidate filed 40 pages of petition sheets numbered consecutively from "1" to "40", except that the page containing signatures numbered "20" was not bound in order but rather was bound between pages numbered "28" and "29", candidate's nominating petition is in substantial compliance with Section 10-4 of Election Code requiring that petition sheets be numbered consecutively. *Ivory v. Curtis,* 97-EB-ALD-009 (Chicago Electoral Board 1997). The candidate's nominating sheets are numbered in a manner that (1) aids in identification and description of each petition sheet, and (2) prevents tampering, thereby preserving the integrity of the petition and the election process in general. However, see *Reese v. Riley,* 92-EB-WC-72 (Chicago Electoral Board 1992), where candidate failed to consecutively number the pages of the petition, which invalidates the nomination papers, citing *Jones v. Dodendorf,* 546 N.E.2d 92 (2nd Dist. 1989).

Failure to number the individual petition sheets does not invalidate the nomination papers. *Preski v. McFarlane,* 92-EB-WC-66 (Chicago Electoral Board 1992), citing *Stevenson v. County Officers Electoral Board*, 58 Ill.App.3d 24, 373 N.E.2d 1043 (1978). However, nomination papers containing 34 nominating petition sheets, none of which were numbered, were found invalid. *Simmons v. Wright,* 95-EB-ALD-37 (consol. 95-EB-ALD-062, 95-EB-ALD-154) (Chicago Electoral Board 1995).

Candidate's failure to consecutively number his nominating petitions in violation of Section 10-4 invalidates his nomination papers. *Robinson v. Llongbey,* 95-EB-ALD-88 (Chicago Electoral Board 1995).

Candidate's failure to number any of the 14 pages of his nominating petitions is in violation of Section 10-4 of the Election Code and invalidates his nomination papers. *Crumpton v. Hendricks,* 99-EB-ALD-021 (Chicago Electoral Board 1999); *Ransom and Simpson v. Hendricks,* 99-EB-ALD-101 (Chicago Electoral Board 1999); citing *Wollan v. Jacoby,* 274 Ill.App.3d 388, 653 N.E.2d 1303 (1995).

Candidate's failure to number any of the petition sheets and to number them consecutively is a violation of Section 10-4 of the Election Code. The failure to number any of the pages of his nominating petition invalidates his Nomination Papers. *Smith v. Shotwell,* 99-EB-ALD-025 (Chicago Electoral Board 1999), citing *Wollan v. Jacoby,* 274 Ill.App.3d 388, 653 N.E.2d 1303 (1995); *Ransom and Simpson v. Hendricks,* 99-EB-ALD-101 (Chicago Electoral Board 1999); *Mitchell, Scheff and Zuckerman v. Thompson,* 99-EB-ALD-109 (Chicago Electoral Board 1999); *Delgado v. Ladien,* 99-EB-ALD-126 (Chicago Electoral Board 1999).

Candidate filed nominating papers consisting of 54 nominating petition sheets, of which only 8 sheets were numbered. The 8 numbered sheets did not correlate with their order in the set of petition sheets. The page-numbering requirement in Section 10-4 of the Election Code is mandatory rather than directory and the failure to comply invalidates the petition. *Mitchell, Scheff and Zuckerman v. Smith,* 99-EB-ALD-113 (Chicago Electoral Board 1999), citing *Wollan v. Jacoby,* 274 Ill.App.3d 388, 653 N.E.2d 1303 (1995); *Jones v. Dodendorf,* 190 Ill.App.3d 557, 546 N.E.2d 92; *Hagen v. Stone,* 277 Ill.App3d 388, 660 N.E.2d 189.

Candidate's failure to number the last sheet of a 64-page nominating petition is a technicality that does not render invalid the remaining pages of the petition. (See, e.g., *King v. The Justice Party*, 284 Ill.App.3d 886, 672 N.E.2d 900 (First Dist. 1996)). *Nichols v. Davis,* 99-EB-ALD-162 (Chicago Electoral Board 1999), citing *Williams v. Butler,* 35 Ill.App.3d 532, 341 N.E.2d 394 (1976). The Candidate substantially complied with the page-numbering requirements of Section 10-4 and this is sufficient.

Although the prevailing law in other appellate court districts is that the page-numbering requirements of Section 10-4 are mandatory, the prevailing law in the First Appellate District is that the page-number provisions of Section 7-10 of the Code are directory, not mandatory. Even if the page-numbering requirements of Section 7-10 are mandatory, where the minimum signature requirement of 4 could have been satisfied by the filing of a single nominating petition sheet, the failure to number 3 petitions sheets does not threaten the integrity of the electoral process, there is little potential for confusion or fraud, and the candidate has substantially complied with the requirements of Section 7-10. *Dace v. Luckett*, 00-EB-WC-13 (Chicago Electoral Board 2000).

Numbering the pages of the submitted petition requires substantial compliance to prevent tampering, which preserves not only the integrity of the petition submitted, but also the election process in general, citing *El-Abdoudi v. Thompson*, 293 Ill.App.3d 191, 687 N.E.2d 1166 (Second Dist. 1997). However, a candidate's failure to number the only page in a one-page nominating petition is far less significant than the total failure to number any pages, and the failure to insert or number the single page of a petition is a mere technicality which does not invalidate the petition, citing *King v. Justice Party*, 284 Ill.App.3d 886, 672 N.E.2d 900 (First Dist. 1996). *Potts v. Kohn*, 00-EB-WC-039 (Chicago Electoral Board 2000).

Failure to number any of the petition sheets filed by the candidate as part of her nomination papers as required by Section 7-10 of the Election Code invalidates such nomination papers. *Ervin v. Franklin-Liverpool*, 04-EB-WC-49 (Chicago Electoral Board 2004).

None of the candidate's 86 petition sheets were numbered consecutively as required by Section 10-4 of the Code and papers are invalid. *Stropshear v. Horton,* 11-EB-ALD-211 (Chicago Electoral Board 2010).

UNBOUND PETITIONS

Section 10-4 provides that petition sheets shall be neatly fastened together in book form, by placing the sheets in a pile and fastening them together at one edge in a secure and suitable manner, and the sheets shall then be numbered consecutively. Section 10-4 further provides that noncompliance with its provisions "shall" invalidate the signatures on a nominating petition. Specifically, the Code states: "No signature shall be valid or be counted in considering the validity or sufficiency of such petition unless the requirements of this Section are complied with." Based upon that language that imposes sanctions in the event the provisions of the Code are not complied with, coupled with the use of the word "shall," the requirements of section 10-4 are mandatory rather than directory. *Bendell v. Education Officers Electoral Board for School Dist. 148*, 338 Ill.App.3d 458, 463, 788 N.E.2d 173 (1st Dist. 2003).

"Inasmuch as section 10-4 is mandatory, compliance with its provisions must be strict rather than substantial." (*Id.*) Where candidate's nomination papers contained 29 nominating petition sheets, a statement of candidacy and a statement of economic interests receipt and were bound by two metal clips, including one large metal paperclip, and photograph of the candidate's nomination papers taken by Board staff accurately depicted the nature of the candidate's nomination papers at the time of filing, the Electoral Board found that as a matter of law based upon the holding in *Bendell*, the candidate's nomination papers substantially complied with Section 10-4 of the Election Code. *Haynes v. Anderson*, 07-EB-ALD-017, (Chicago Electoral Board 2007).

Candidate's 138 petition sheets were not securely bound at the time they were filed. Candidate admitted he made no attempt to fasten the nomination papers beyond placing the loose sheets inside of a open-ended green folder. Candidate argued that the Board's clerk had "accepted" his nomination papers despite the fact that they were not fastened and checked the "yes" box on the receipt indicating the petitions were bound. However, clerk's role is ministerial, the clerks are bound to accept papers that are filed, and the clerks cannot bind the Board by fulfilling their duty. *Valentin v. Esparza*, 15-EB-ALD-004 (Chicago Electoral Board 2015).

None of the candidate's 51 petition sheets were fastened or properly bound together in any fashion, rendering the candidate's nomination papers invalid. *Gonzalez v. Velazquez*, 15-EB-ALD-024 (Chicago Electoral Board 2014).

Fastening the nominating papers with only a rubber band did not comply with the fastening requirements of Section 10-4. *Brown v. Muhammad,* 11-EB-ALD-006 (Chicago Electoral Board 2011).

Candidate testified that she had filed her papers having been stapled within a yellow folder. At the time of the hearing, the papers were held together with a black clasp. The hearing officer examined the papers, especially the petition sheets and found evidence of stapling of the papers in the upper left corner of the documents. The hearing officer found the candidate's testimony to be credible. In addition, the Receipt for Nomination Papers – City of Chicago had the "Yes" box marked to the question: "Are the Nominating Papers bound? If yes, describe how they are bound: File Folder (yellow)". Held: candidate's nomination

papers were securely bound and fastened in book form and complied with Section 10-4 of the Code. *Brummit v. Tankersley,* 11-EB-ALD-149 (Chicago Electoral Board 2010).

Hearing officer found that a review of the picture of the candidate's nomination papers when they were filed revealed that they were secured by a large metal binding clip and that they were fastened in a secure and suitable manner as required by Section 10-4 of the Election Code. *Bocanegra v. Rodriguez*, 11-EB-ALD-197 (Chicago Electoral Board 2011).

Where it was stipulated that when the candidate's nomination papers were filed with the Board, they consisted of 32 pieces of legal size paper and one statement of economic interests receipt held together by two jumbo-sized paper clips, each measuring about three inches in length, with the two paper clips placed about two inches apart at the center of the top of the bundle of papers, the nomination papers substantially complied with the binding requirements of Section 10-4 of the Code as held in *Bendell*. *Haynes v. Pritchett*, 07-EB-ALD-20 (Chicago Electoral Board 2007).

Where photograph taken by Board staff of candidate's nomination papers at time of filing depicted that the nomination papers were not bound in any fashion at the time of filing and receipt for nomination papers also indicated that the papers were not bound, Electoral Board found as a matter of law that the candidate's nomination papers were not securely bound or fastened in any fashion and they were, therefore, invalid. *Haynes v. Castillo*, 07-EB-ALD-019 (Chicago Electoral Board 2007). See also, *Jones v. Castillo*, 07-EB-ALD-144 (Chicago Electoral Board 2007).

Use of ACCO brand brass fasteners was sufficient to meet the Election Code's mandatory fastening requirement. Contrary to objector's assertions, sheets could not simply be pulled apart; rather, they were securely bound and unless someone intentionally ripped the pages through the fasteners, no pages could be removed. *Anderson v. Levi*, 07-EB-ALD-035 (Chicago Electoral Board 2007).

The hearing examiner heard several witnesses, including the candidate, the two objectors and three employees of the Board. The Board's Assistant Executive Director testified as to the procedures employed by the Board when receiving and processing candidate nomination papers. He also testified that the Board unfastens the nomination papers when there is a request for a copy of the nomination papers and that such a request had been filed for the candidate's nomination papers by the objectors. Another employee of the Board testified that he remembered that the papers were bound when given to him to copy because he had a hard time trying to untie the knot in the shoelace so that he could copy the petitions. After hearing the witnesses and considering the evidence, the hearing examiner concluded that the candidate's nomination papers were properly fastened and bound when filed with the Board by a shoelace from a high-top athletic shoe. The electoral board adopted the hearing examiner's recommended findings and overruled the objection. *Ernst v. Levar*, 03-EB-ALD-158 (Chicago Electoral Board 2003).

Candidate's failure by any manner to bind or fasten the petition sheets together in a secure and suitable manner does not substantially comply with the mandatory requirements of Section 10-4 and renders the candidate's nomination papers invalid. *Wilson v. Rowans*, 03-EB-ALD-122 (Chicago Electoral Board 2003); *Brummit v. Brewer*, 07-EB-ALD-062 (Chicago Electoral Board 2007).

The candidate testified that he filed approximately 1,200 petition sheets and that the sheets were bound with two metal binder clips and that the clips were in place when he filed his nomination papers with the Board of Election Commissioners. A volunteer for the candidate testified that the papers were clipped by two metal binder clips when they were given to the candidate to be filed the next day. There was also testimony from someone who is a political organizer for the candidate's opponent in this election, who testified that on the morning that the candidate's nomination papers were filed with the Board, he stood three to four feet behind the candidate when the candidate's nomination papers were presented for filing. The witness testified that the candidate's nomination papers were not bound in any way and he did not see anything resembling black metal binder clips clipped to the candidate's papers. A Board employee testified that he received the candidate's nomination papers when the candidate filed them with the Board but he could not recall whether they were bound in any way. The hearing examiner inspected the candidate's nomination papers and concluded that there were impressions in the papers on the top of the statement of candidacy which resembled the impressions that could have been left by two binder clips on the top -- one on the right side, one on the left side. The impressions were consistent with the testimony of the candidate and his volunteer in regards to how the papers were allegedly bound. The hearing examiner concluded,

based on the evidence presented, that the objector did not carry his burden of proving that the petitions had not been held together by binder clips. The electoral board agreed. *Reed v. Harrington*, 03-EB-ALD-103 (Chicago Electoral Board 2003).

The candidate testified that when she filed her nomination papers they were bound. The candidate's husband testified that he had gone to Kinko's and had his wife's nomination papers bound. The objectors and another individual testified that when they went to the Chicago Board of Election Commissioners both before and after Christmas to view the candidate's nomination papers the papers were not bound. A Board employee testified that he accepted the candidate's nomination papers when they were filed with the Board but he could not recall whether they were bound together. However, another Board employee testified that he clearly remembers that the candidate's nomination papers were fastened together when they were filed because of the unusual manner in which they were bound and that they were subsequently unfastened so that they could be copied. The electoral board found that the candidate's nomination papers were fastened together when filed with the Board of Election Commissioners in compliance with Section 10-4 of the Election Code. *Durr v. Mallory*, 03-EB-ALD-100 (Chicago Electoral Board 2003).

Candidate's nomination papers fastened together in two volumes and filed together at the same time did not comply with Section 7-10, but such provision is directory and the failure to comply did not have the effect of removing the candidate from the ballot. *Smith v. Barnes*, 95 CO 22 (Cir. Ct. Cook Co., 1995), affirming decision of Chicago Electoral Board (*Barnes v. Smith*, 95-EB-MUN-15 (1995).

Consistent with precedent in *Barnes v. Smith,* the electoral board will consider only one of the candidate's two books or sets of papers – the book comprising nominating petition sheets numbered 1 through and including 87 containing on their face 1,740 signatures. The minimum signature requirement was 245. *Moss v. Austin,* 11-EB-ALD-185 (Chicago Electoral Board 2011).

Candidate filed his nomination papers in five folders, each of which had three clasps inside that can be used to fasten papers punched on the left hand side with three holes. Four of the five folders were time-stamped by the Board within minutes of each other; the fifth folder was not time-stamped. Three receipts were issued by the Board. Consistent with precedent in *Barnes v. Smith,* the electoral board would consider only one of the candidate's five books and would look to the book most helpful to the candidate – the book comprising petition sheets numbered 1 through 20, which, on their face, contained 295 signature. The minimum signature requirement was 245. Record examination results showed only 212 valid signatures, which was below the minimum signature requirement. *Moses v. Thomas,* 11-EB-ALD-192, (Chicago Electoral Board 2011).

Candidate's petition was not invalid for failure to bind the petition sheets at the time of filing as this is not sufficient cause to strike candidate's name from the ballot. *Campbell v. Charlton,* 80-EB-NC-2 (Chicago Electoral Board 1980).

Candidate introduced a photograph, which depicts a large black binder clip, centered and attached to the top of her nomination papers. The candidate testified that the Board employee who collected her nomination papers tendered her a receipt, a copy of which was introduced as evidence, that indicated that her nomination papers were bound and described the binding mechanism as a "metal clip." The candidate's use of a single large binder clip to fasten her nomination papers complied with 10 ILCS 5/10-4. *Mitchell v. Lomax*, 15-EB-ALD-038 (Chicago Electoral Board 2015); see also, *Burgess v. Lomax*, 15-EB-ALD-060 (Chicago Electoral Board 2015).

SINGLE PETITION FILED FOR SLATE

Nominating petitions may contain the name of 2 or more candidate of the same political party for the same or different offices. 10 ILCS 5/7-10. This practice, known as filing a group petition, addresses two competing considerations. One is the right of each candidate not to be discriminated against in the allotment of ballot positions. The other is the right to join as a group in filing nominating petitions and to retain their group identity on the ballot. *Baum v. Lunding*, 535 F.2d 1016 (7th Cir. 1976).

Accordingly, a regulation which provides, in effect, as follows: (1) candidates shall be certified in the order petitions are filed; (2) the names of candidates filing simultaneously for the same office shall be listed alphabetically and assigned a number; and (3) candidates filing group petitions for the same office

shall be treated as one in the alphabetical listing, with the name of the first candidate appearing on the group petition to be used as the name to be included in the alphabetical list; does not abridge any of the candidates' constitutional or statutory rights. *Bradley v. Lunding*, 63 Ill.2d 91, 344 N.E.2d 472 (1976).

RESOLUTIONS AND CERTIFICATES OF NOMINATION TO FILL VACANCIES IN NOMINATION

In filling a vacancy in nomination for office of Representative in the General Assembly created because no candidate was nominated at the March 20, 2014 general primary election, the appropriate Chicago ward committeemen elected in March 2012 would be entitled to vote to fill such vacancy in nomination in the representative district within their respective wards as they existed at the time of their election notwithstanding the fact that new ward boundaries were implemented since the March 2012 general primary. Chicago ward committeemen should continue to serve the territory from which they are elected, a principle supported by statute (10 ILCS 5/7-9(f)) and by case law (*People ex rel. Kell v. Kramer*, 328 Ill. 512, 523, 160 N.E. 60, 66 (1928)). *Mayerbrock v. Bedell*, 14-EB-RES-03 (Chicago Electoral Board 2014).

Representative Committee's filing of a Certificate of Representative Committee Organization more than one month after the candidate's nomination papers and resolution to fill vacancy in nomination was not filed with the State Board of Elections immediately upon completion of the organization and "without delay, at once, instantly" as required by Section 8-5 of the Election Code. Where Section 8-5 is violated, Section 8-1 dictates that the candidate's nomination papers are invalid. *Gonzalez v. Delich*, 08-EB-RES-03 (Chicago Electoral Board 2008).

Nothing in Section 7-61 or any other statute requires a certificate of committee organization be filed with the nomination papers. *Ervin v. Small*, 12-EB-RES-03 (Chicago Electoral Board 2012), affirmed, *Navarro v. Neal*, 904 F.Supp.2d 812 (N. D. Ill., 2012), affirmed, 716 F.3d 425 (7th Cir. 2013).

Misspelling of candidate's name as "Healey" on the resolution to fill the vacancy in nomination and on the statement of economic interests when the proper spelling was "Healy", which was correctly listed on the statement of candidacy, did not invalidate nomination papers where objector failed to establish the misspelling was anything more than a *de minimis* error having any effect on the overall validity of the nomination papers. *Williams v. Healy*, 08-EB-RES-01 (Chicago Electoral Board 2008).

Resolution to fill a vacancy in nomination for office of Representative in the General Assembly not duly acknowledged before an officer qualified to take acknowledgements of deeds as required by Section 7-61 of the Election Code is invalid. *McGee v. Lockhart*, 94-EB-RES-3 (Chicago Electoral Board 1994).

Resolution to fill a vacancy in nomination must have attached a receipt indicating that the person being nominated has filed a statement of economic interest as required by the Illinois Governmental Ethics Act as required by Section 7-61 of the Election Code. *Pascente v. Carrothers*, 94-EB-RES-002 (Chicago Electoral Board 1994).

Libertarian Party's status as a political party or established political party in certain congressional districts did not thereby entitle the Party to similar status in legislative or representative districts within the territory of the congressional districts. Therefore, the Libertarian Party was not a political party or an established political party in the legislative district entitled to nominate candidates for State Senator pursuant to Articles 7 or 8 of the Code or to fill any vacancy in nomination for such office because no vacancy in nomination existed. *Jonas v. Babbitt*, 02-EB-RES-01 (Chicago Electoral Board 2002).

Vacancy in nomination for office of State Senator purportedly filled by "Management Committee of the Libertarian Party of Cook County in and for the 1st District" was not filled by the proper legislative committee of the Libertarian Party and is therefore invalid. *Jonas v. Babbitt*, 02-EB-RES-01 (Chicago Electoral Board 2002).

Resolution to fill vacancy in nomination adopted and executed by nominating committee nominating candidate of the Republican Party for State Representative but not filed with the State Board of Elections within 3 days of the date of adoption and execution as required by Section 7-61 of the Election Code was void and candidate was not entitled to have his name certified and printed on the ballot.

Electoral board found that case of *Forcade-Osborn v. Madison County Electoral Board*, 334 Ill.App.3d 756, 778 N,E.2d 768 (5th Dist. 2002) was dispositive, even though court's ruling constituted judicial *dictum*. *Santos v. Ledford*, 06-EB-RES-01 (Chicago Electoral Board 2006).

Based upon amendments to Section 7-61 enacted by Public Act 96-809, the requirement that the resolution filling a vacancy in nomination be sent by U.S. Mail or personal delivery to the certifying officer or board within three (3) days of the action filling the vacancy does not apply to instances where no candidate was nominated at the general primary; rather, the resolution or notice of appointment by the nominating committee must be filed together with the nominating petitions and other nomination papers up to 75 days after the primary election. *Rabb v. Lenkowski*, 10-EB-RES-04 (Chicago Electoral Board 2010).

Candidate should be penalized for relying upon and using the language in section 8-8 of the Election Code that permitted his circulators to state that none of the signatures on his petition were signed more than 90 days before the last day for the filing of the petition even though section 7-61 as amended by Public Act 96-809 allowed only 75 days to circulate petitions to fill vacancy in nomination where no candidates was nominated at the primary and where candidate produced an uncontroverted affidavit stating that none of the petitions were circulated more than 75 days prior to filing the petitions. *Rabb v. Lenkowski*, 10-EB-RES-04 (Chicago Electoral Board 2010).

Successive attempts by the same political party to nominate a candidate to fill a vacancy in nomination after his nomination papers have been previously declared invalid and candidate removed from the ballot by a decision of the electoral board and no appeal was made under judicial review will not be allowed. *Santos v. Ledford*, 06-EB-RES-01 (Chicago Electoral Board 2006), citing *Maske v. Kane County Officers Electoral Board*, 234 Ill.App.3d 508, 511, 600 N.E.2d 513 (2nd Dist. 1992). According to Section 7-61, the Republican Party was required to fill any vacancy in nomination within 60 days after the general primary when a Republican candidate neither ran for the office in question nor was nominated as a write-in candidate. *Maske* was controlling because it was directly on point and decisions of an appellate court are binding precedent on all circuit courts throughout the State; circuit court should follow the precedent of the appellate court in its district, if such precedent exists – if no precedent exists within the district, the circuit court is to follow the precedent of other districts. These principles apply equally to administrative bodies such as electoral boards.

Vacancy in nomination for candidate of the Green Party for office of Representative in the General Assembly could be filled by Representative Committee comprised of person who was not an elected Ward Committeeman for Green Party inasmuch as position of Ward Committeeman could be filled in accordance with the by-laws of the Green Party. *Rothenberg v. Quirk*, 08-EB-RES-09 (Chicago Electoral Board 2008).

The Election Code is silent regarding the methods of voting to be employed by representative and legislative committees in filling vacancies in nomination under Section 7-61 and in the absence of an express prohibition, the use of proxy voting in such proceedings is not prohibited nor is it inconsistent with the powers such committees and officers have under Article 7 of the Code. *Barton v. Evans*, 12-EB-RES-08 (Chicago Electoral Board 2012).

While it is true that Section 7-61 of the Code does not expressly require that members of a representative committee affix their signatures to a resolution filling a vacancy in nomination, the Electoral Board finds that signature(s) are required in order to establish the validity of the resolution. *Barton v. Evans*, 12-EB-RES-08 (Chicago Electoral Board 2012).

Sections 8-5, 8-6, 8-17 and 7-61 of the Election Code contemplated that there be a physical meeting of representative committee members to selection nominees much like the meeting that is expressly required by Section 8-5 when the representative committee organizes itself. However, even if a physical meeting is required to fill vacancies in nomination, the Election Code sets no requirement and gives no guidance regarding whether a quorum is necessary and, if so, what might constitute a quorum. Sections 7-8(i) and 7-9 of the Code provide that each political committee and its officers shall have the powers usually exercised by such committees and officers not inconstant with the Election Code; these provisions demonstrate that it was not the intention of the legislature to take over and regulate all inherent rights and powers existing in political parties, but that the parties are left to the exercise of those privileges not expressly regulated by the law (citing *People ex rel. Kell v. Kramer*, 328 Ill. 512, 519, 160 N.E. 60, 65

(1928) and *Totten v. State Board of Elections*, 79 Ill.2d 288, 293-294, 403 N.E.2d 225 (1980)). In the absence of a statute, party rule or custom, the representative committee could decide for itself whether it had a sufficient number of members to conduct its business. Assuming, however, that common law rules articulated in *Village of Oak Park v. Village of Oak Park Firefighters Pension Board*, 362 Ill.App.3d 357, 367, 939 N.E.2d 558 (2005) apply, the presence of at least three of the five members of the representative committee would have been required to constitute a quorum. The Republican Organization of Orland Township By-Laws specifically provided for the position of "deputy committeeman," to whom was given a standing and permanent (at least for the duration of the by-laws) proxy to represent the committeeman at functions at which the committeeman was authorized to attend but for which the committeeman was either absent or requests the deputy committeeman to act on her behalf. Because the deputy committeeman was authorized by the party's by-laws to represent the committeeman, the deputy committeeman's presence at the meeting of the representative committee must count toward a quorum. Further, objector presented no authority requiring that a quorum must be predicated upon the weighted vote to which the members of the representative committee are entitled under the Election Code. While Section 8-6 of the Code prescribes how many votes each member of the committee is entitled to cast, it says nothing about how many votes a candidate must receive to earn the nomination. In the absence of a statutory direction, under common law, if a quorum is in attendance, a vote of a majority of those present is sufficient for valid action, even if the total number of votes received was less than a majority of the total weighted vote of all members. *Harney v. Fernandez*, 12-EB-RES-14 (Chicago Electoral Board 2012), affirmed, *Harney v. Chicago Board of Elections*, Cir. Ct. Cook County, No. 2012 COEL 0024 (October 11, 2012).

MINIMUM SIGNATURE REQUIREMENTS FOR STATE SENATOR AND STATE REPRESENTATIVE

When a vacancy in nomination exists either because no candidate name was printed on the primary ballot or no write-in candidate qualified for the primary nomination, local officers of the political party may select someone to fill the vacancy in nomination; however, the selected nominee must, within 75 days after the date of the primary, present a nominating petition with the same number of signatures as the nominee would have been required to present had he or she run in the primary. 10 ILCS 5/7-61. *Ervin v. Small*, 12-EB-RES-03 (Chicago Electoral Board 2012), affirmed, *Navarro v. Neal*, 904 F.Supp.2d 812 (N. D. Ill., 2012), affirmed, 716 F.3d 425 (7th Cir. 2013), finding that statute imposed reasonable and nondiscriminatory burden on candidates' and voters' ballot-access rights that served state's important interest in preventing voter confusion and protecting integrity of election; signature requirement prevented unmanageable number of frivolous candidates from qualifying for ballot by requiring candidates to demonstrate significant support for candidacy.

Paragraph 9 of Section 7-61 requiring nominees selected to fill vacancies in nomination created where no one was nominated at the primary does not apply in situations where someone is nominated at the primary but subsequently withdraws. In that situation, paragraph 3 of Section 7-61 applies and requires that documents filling the vacancy in nomination must be filed with the election authority within three days of the action filling the vacancy. Furthermore, the candidate is not required to submit nominating petitions. *Reid v. Evans*, 12-EB-RES-07 (Chicago Electoral Board 2012).

REQUIREMENTS FOR PETITIONS SUBMITTING PUBLIC QUESTIONS

The proposed referendum – whether there should be a moratorium on new, expansion of existing, or relocation of charter schools in the 49th Ward – presented a single yes or no question submitted on a single subject. The proposed referendum did not cause confusion and was subject to a yes or no vote. Proponents attempted to withdraw the petition; however, 10 ILCS 5/28-1 does not contain a provision authorizing a withdrawal of a proposed referendum once filed. The petition, however, did not contain the minimum number of signatures required by law. *Roman v. Petition for Referendum for a Moratorium on Creating New, Expanding Existing, or Relocating Existing Charter Schools in the 49th Ward of the City of Chicago*, 16-EB-QPP-01 (Chicago Electoral Board 2016).

Public question petition specifying that the proposition was to be submitted to voters at the "Primary Election to be Held on the 21st day of March, 2005", a date which had already passed and would not have been a date on which voters in the specified ward would not have been entitled to vote upon

candidates did not render the petition invalid where, from the totality of circumstances, it was evident that the petitioners actually sought to have the propositions submitted to the voters at the March 21, 2006 general primary election. *Objections of Linda Sarate to the following petition for question of public policy: "Should the Chicago Public Schools Draw Attendance Boundaries for Little Village High School to Only Allow Students from the Surrounding Community to Attend the School?"*, 06-EB-QPP-12 (Chicago Electoral Board 2006). There was no basis for confusion, citing *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976). A minor typographical error is mis-typing the last digit in the year for which the proposition was to be submitted to voters will not invalidate the petition, citing *Ryan v. Landek*, 159 Ill.App.3d 10, 512 N.E.2d 1 (First Dist. 1987) and *Sullivan v. County Officers Electoral Board*, 225 Ill.App.3d 691, 588 N.E.2d 475 (Second Dist. 1993).

The failure of the proposition set forth in the referendum petition to include spaces or boxes for the words "Yes" and "No" does not render the referendum petition invalid. *Objections of Linda Sarate to the following petition for question of public policy: "Should the Chicago Public Schools Draw Attendance Boundaries for Little Village High School to Only Allow Students from the Surrounding Community to Attend the School?"* 06-EB-QPP-12 (Chicago Electoral Board 2006). The form of the ballot prescribed by section 16-7 of the Election Code states that the word "Shall" is to precede the remaining text or substance of the proposition, followed by two spaces in the right hand margin for the words "Yes" and "No". Although the form of the ballot set forth in the referendum petition did not contain spaces or boxes for the words "Yes" and "No" next to the proposition's text, signers of the referendum petition were not called upon to express their choice whether to vote for or against the proposition, but merely whether to submit the proposition to voters at an election. Spaces or boxes for the words "Yes" and "No" can still be printed on the official ballot to be submitted to voters in the affected territory in compliance with the statute.

Other than requiring the use of the word "Shall" preceding the text of the substance of the proposition, there are no statutory requirements or restrictions upon the text of the proposition to be submitted as an advisory referendum. *Objections of Linda Sarate to the following petition for question of public policy: "Should the Chicago Public Schools Draw Attendance Boundaries for Little Village High School to Only Allow Students from the Surrounding Community to Attend the School?"* 06-EB-QPP-12 (Chicago Electoral Board 2006). The electoral board has authority to determine whether a proposition is vague, confusing or misleading. However, the proposition at issue here conveys the basic sense of what it asks the voters to consider.

CASES

TREATISES