

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

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BOARD MEMBERS
Bryan A. Schneider, Chairman
Wanda L. Rednour, Vice Chairman
Patrick A. Brady
John R. Keith
William M. McGuffage
Albert S. Porter
Jesse R. Smart
Robert J. Walters

EXECUTIVE DIRECTOR
Daniel W. White

AGENDA
STATE BOARD OF ELECTIONS
SPECIAL BOARD MEETING
Thursday, December 10, 2009
2:00 p.m.

via videoconference at the following locations:

1020 South Spring Street
Springfield, Illinois

James R. Thompson Center
Suite 14-100
Chicago, Illinois

Lewis & Clark College
Room Haskell 106
5800 Godfrey Road
Godfrey, Illinois

1. Call State Board of Elections to order.
2. Recess as the State Board of Elections and convene as the State Officers Electoral Board.
3. Approval of the minutes from the November 17 SOEB meeting.
4. Consideration of objections to candidates' nominating petitions for the General Primary Election;
 - a. *Ferritto v. Scheurer*, 09SOEBGP500;
 - b. *Bartholomae v. Boland*, 09SOEBGP504;
 - c. *Bartholomae v. Link*, 09SOEBGP505;
 - d. *Perrin v. Forte-Scott*, 09SOEBGP509;
 - e. *Roth v. Dabney*, 09SOEBGP519;
 - f. *Josifovic v. Dabney*, 09SOEBGP530;
 - g. *Hossfeld v. Rauschenberger*, 09SOEBGP525;
 - h. *Lipsman v. Boyd, Jr.*, 09SOEBGP526;
 - i. *Clark v. Boyd*, 09SOEBGP532.
5. Other business.
6. Recess as the State Officers Electoral Board until the call of the Chairman.
7. Reconvene as the State Board of Elections.
8. Consideration of pending candidate withdrawals.
9. Other business.
10. Executive session (if necessary).
11. Adjourn until Tuesday, January 19, 2010 at 10:30 a.m. or until call of the Chairman, whichever occurs first.

STATE OFFICERS ELECTORAL BOARD

MINUTES

Tuesday, November 17, 2009

MINUTES

PRESENT: Bryan A. Schneider, Chairman
Wanda L. Rednour, Vice Chairman (via Video Conference)
Patrick A. Brady, Member
John R. Keith, Member
Albert S. Porter, Member
William M. McGuffage, Member
Jesse R. Smart, Member
Robert J. Walters, Member

ALSO PRESENT: Daniel W. White, Executive Director
Steve Sandvoss, General Counsel
Rupert Borgsmiller, Assistant Executive Director
Darlene Gervase, Administrative Assistant II

Chairman Schneider called the State Officers Electoral Board to order at 10:53 a.m. with all members present. The Board is meeting to call cases and accept appearances for objections to candidates' nominating petitions for the February 2, 2010 General Primary Election. He indicated that he would call the cases in the order as posted on the agenda and asked the parties to come forward to confirm the appropriate appearances are on file. Following is that information:

2.
 - a. *Ferritto v. Scheurer*, 09SOEBGP500;
Sally Saltzberg and Mike Kreloff for the Objector; Andrew Finko for the Candidate
 - b. *Hamos v. Mayers*, 09SOEBGP501;
Mike Kreloff for the Objector; No one appeared for the Candidate
 - c. *Ferritto v. Farnick*, 09SOEBGP502;
Sally Saltzberg and Mike Kreloff for the Objector; Jonathan Farnick for the Candidate
 - d. *Nybo v. Manzo*, 09SOEBGP503;
Christopher Nybo, *pro se*; Richard Means for the Candidate
 - e. *Bartholomae v. Boland*, 09SOEBGP504;
James Nally for the Objector; William Berry for the Candidate
 - f. *Bartholomae v. Link*, 09SOEBGP505;
James Nally for the Objector; Andrew Raucci for the Candidate
 - g. *Bartholomae v. Castillo*, 09SOEBGP506;
James Nally for the Objector; Thomas Castillo *pro se*
 - h. *Zeidman v. Bird*, 09SOEBGP507;
Lawrence Zdarsky for the objector; Patricia Bird *pro se*
There was confusion regarding a withdrawal that Ms. Bird had filed. She explained that she was not withdrawing and was only confused about the objection process.
 - i. *Arnold v. Votaw*, 09SOEBGP508;

Stephen Arnold, *pro se*; Mr. Sandvoss indicated that the candidate received his notice yesterday and would not be prepared to appear today. He advised the Hearing Officer to contact Ms. Votaw and schedule a case management

- j. *Perrin v. Forte-Scott*, 09SOEBGP509;
John Countryman and John Fogarty for the objector; Andrew Spiegel for the candidate
- k. *Bednar v. Blezien*, 09SOEBGP510;
Andrew Raucci for the objector; no one appeared for the candidate
- l. *True v. Zadek*, 09SOEBGP511;
Peck & Zimmerman for the objector; no one appeared for the candidate
- m. *True v. Kuna*, 09SOEBGP512;
Peck & Zimmerman for the objector; Thomas "Tom" Kuna for the candidate
- n. *Reeves v. McQuillan*, 09SOEBGP513;
Karl Ottosen and Shawn Flaherty for the objector; Bob McQuillan, *pro se*
- o. *Hale v. Doyle*, 09SOEBGP514;
Josh Karsh and Cara Hendricksen for the objector ; James Nally for the candidate
- p. *Pituc v. Mayers*, 09SOEBGP515;
Andrew Finko for the objector; no one appeared for the candidate
- q. *Dortch v. Walls, III*, 09SOEBGP516;
Sarah Gadold, Burt Odelson for the objector; Sidney Smith and Andrew Spiegel for the candidate
- r. *Svitak v. Krishnamoorthi*, 09SOEBGP517;
Jim Nally for the objector and James Nally for the candidate
- s. *Dunaway v. Scanlan*, 09SOEBGP518;
James Nally for the objector; Adam Lasker for the candidate
- t. *Roth v. Dabney*, 09SOEBGP519;
Michael Kreloff and Joshua Karsch for the objector; Dan Johnson Weinberger for the candidate
- u. *Emami v. Krislov*, 09SOEBGP520;
Jim Nally for the objector; Adam Lasker for the candidate
- v. *Rosenzweig v. Hebda*, 09SOEBGP521;
James Nally for the objector; John Countryman and John Fogarty for the candidate
- ~~w. *Panico v. Pistorius*, 09SOEBGP522; (candidate withdrew)~~
- x. *Cattron v. Kairis*, 09SOEBGP523;
Mike Kasper for the Objector; Andrew Finko for the candidate
- y. *Wagner v. Barnes*, 09SOEBGP524;
Jay Rowell and Mike Kasper for the Objector; Terrell Barnes for the candidate
- z. *Hossfeld v. Rauschenberger*, 09SOEBGP525;
Mike Kasper & Courtney Nottage for the objector; Sarah Godola, Burt Odelson for the candidate
- aa. *Lipsman v. Boyd, Jr.*, 09SOEBGP526;

Mike Kreloff and Josh Karsh for the objector; William Boyd, Jr., *pro se*

- bb. *Juarez v. Boland*, 09SOEBGP527;
Andrew Raucci for the objector; William Barry for the candidate
- cc. *Reidy v. Pilmer* , 09SOEBGP528;
Richard Beemster for the objector; John Countryman and John Fogarty for the candidate
- dd. *Else v. Moy*, 09SOEBGP529;
Patrick Bond for the objector; Kenneth Moy, *pro se*
- ee. *Josifovic v. Dabney*, 09SOEBGP530;
Richard Means for the objector; Dan Johnson-Weinberger for the candidate
- ff. *Barnes, Hendon v. Turner*, 09SOEBGP531;
Rickey Hendon and Bernetta Barnes for the objector; Mike Kasper for the candidate
- gg. *Clark v. Boyd*, 09SOEBGP532.
Richard Means for the objector; Willie "Will" Boyd, Jr., *pro se*

The chairman thanked everyone for their cooperation and announced the next order of business is the approval of the Board's Rules of Procedures. Mr. Sandvoss presented Item 3, Rules of Procedure used by the Board, and indicated the rules have not been changed substantially since the last State Officers Electoral Board convened. He added that changes proposed by Member Keith were incorporated into the rules and outlined rules to be used for the records examination. Other than that, the rules are fairly set forward, the Board has copies, they are on the website, and he offered them to the Board for adoption. Member Porter moved to adopt the Rules of Procedure as presented. Member Smart seconded the motion which passed unanimously by roll call vote.

General Counsel Sandvoss asked the Board to authorize him to appoint hearing officers as required. Member Porter so moved and Member Smart seconded the motion which passed unanimously by 8 voices in unison. Mr. Sandvoss introduced the Hearing Officers and asked them to stand to be identified by the pertinent parties in the trial docket call.

A deadline was proposed to ensure uniformity to file motions. Respondent-Candidates to file by 5:00 p.m. November 18; Petitioner Objectors to file by 5:00 p.m. November 20; and replies due no later than close of business on November 23rd. Member Keith moved to adopt the motion presented by the General Counsel and to provide the hearing officers with discretion to deviate from same under what they consider to be extraordinary circumstances. Member Brady seconded the motion which passed unanimously by 8 voices in unison.

Chairman Schneider asked everyone involved in the election challenges to proceed to Board's officers on the 14th floor.

Member Keith moved to recess as the State Officers Electoral Board until the call of the Chairman. Member Smart seconded the motion which passed unanimously by 8 voices in unison.

The meeting adjourned at 11:27 a.m.

Dated: November 18, 2009

Respectfully submitted,

Daniel W. White, Executive Director

Darlene Gervase

Ferritto v. Scheurer
09 SOEB GP 500

Candidate: Bill Scheurer

Office: Congressman, 8th Congressional District

Party: Green

Objector: Gregory Ferritto

Attorney For Objector: Sally H. Saltzberg/Mike Kreloff

Attorney For Candidate: Andrew Finko

Number of Signatures Required: No less than 36

Number of Signatures Submitted: N/A

Number of Signatures Objected to: Objector did not object to any signatures.

Basis of Objection: Candidate is ineligible to seek office as a candidate of the Green Party because he chose and voted a Democratic ballot in the 2008 General Primary Election, and as such is “locked in” to his chosen party affiliation and declaration at least until the February 2, 2010 General Primary Election. As a result of his previously declared party affiliation, the candidate has filed a false Statement of Candidacy in that he was not, at the time of signing the Statement and filing the nomination papers, and is not now, a “qualified voter” of the Green Party. Objector cites the decision of the Appellate Court in the case of *Cullerton v. DuPage County Officers Electoral Board*, 384 Ill.App.3d 989.

Binder Check Necessary: No

Hearing Officer: Kelly McCloskey Cherf

Hearing Officer Findings and Recommendation: The Candidate filed a Motion to Strike and Dismiss the Objections, arguing that: a) the Illinois Election Code contains no requirements or restrictions upon candidates seeking office based upon party affiliation; b) *Cullerton v. DuPage County Officers Electoral Board* is not controlling and/or applicable; and c) party affiliation “lock-in” time periods are unconstitutional. The Objector filed a Response to the Motion to Strike the Objections, arguing that: a) *Cullerton* is controlling and applicable; b) under the doctrine of *stare decisis*, the Electoral Board is bound by the *Cullerton* opinion; and c) the Electoral Board is not the proper forum in which to raise constitutional claims.

Because the Motion to Strike addressed the essential merits of the objection, the Hearing Officer addressed those merits in her recommendation and found it unnecessary to issue a separate recommendation on the Motion apart from the overall recommendation.

In considering the motions, the hearing officer first found that based on Illinois case-law, the decisions of an appellate court are binding on all circuit courts regardless of locale and, because of the doctrine of *stare decisis*, administrative agencies are obligated to follow appellate court decisions, the Electoral Board must follow the *Cullerton* opinion.

The hearing officer next found that, similar to *Cullerton*, the Candidate in this case chose and voted a Democratic ballot at the General Primary Election in 2008. In 2009, the candidate filed a statement of candidacy stating that he was a “qualified primary voter” for a different party than the one for which he voted in at the preceding primary election. Although the time period between when the Candidate voted in the primary and when he filed his statement of candidacy is longer in this case than the time period at issue in *Cullerton* (637 days to 56 days), the relevant primaries are still the successive primaries in 2008 and 2010. According to *Cullerton*, candidates are locked in as “qualified primary voters” from the 2008 primary until the next primary scheduled for 2010; therefore, because the Candidate voted in the previous Democratic primary, he is locked in as a Democratic primary voter until the next primary election which precludes him from being a “qualified primary voter” for the Green Party.

Accordingly, the hearing officer recommends that the Board sustain the Objection and not certify the Candidate’s name to the official ballot on the grounds that the Candidate is ineligible to seek office as a candidate of the Green Party for the reasons stated above.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer for the reasons contained in her Report.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE
OFFICE OF REPRESENTATIVE IN CONGRESS, 8TH CONGRESSIONAL DISTRICT
OF THE STATE OF ILLINOIS

GREGORY FERRITTO,)	
)	
Petitioner-Objector,)	No. 09 SOEB 500
)	
v.)	
)	
BILL SCHEURER,)	
)	
Respondent-Candidate.)	

HEARING OFFICER' S FINDINGS AND RECOMMENDATIONS

This matter coming before the State Board of Elections as the duly qualified Electoral Board and before the undersigned Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Findings and Recommendations:

I. PRELIMINARY FACTS

On November 2, 2009, the Candidate, Bill Scheurer, timely filed the following with the State Board of Elections to qualify as a Candidate for the Green Party for the office of Representative in the U.S. Congress in the 8th Congressional District of the State of Illinois: a) a Statement of Candidacy; b) thirteen (13) Nomination Petition Sheets; and c) a Certificate of Deletions.

On November 9, 2009, the Objector, Gregory Ferritto, timely filed a Verified Objector's Petition. In the Petition, the Objector argues that the Candidate is ineligible to seek office as a Representative in Congress in the 8th Congressional District of the State of Illinois as a Green Party candidate because he voted in the preceding primary election within the past twenty-four (24) months in the Democratic Party and as such: a) is "locked in" to his chosen party affiliation and declaration until after the February 2, 2010 primary election; and b) pursuant to *Cullerton v. Dupage County Officers Electoral Board*, 384 Ill. App. 3d 989, 894 N.E.2d 774 (2d Dist. 2009) (hereinafter referred to as *Cullerton*), has filed a false Statement of Candidacy in that he was not, at the time of signing the Statement, and is not now, a "qualified voter" of the Green Party, rendering the Candidate's nomination papers invalid.

An initial hearing and case management conference on this matter was held on November 17, 2009. Sally Saltzberg and Mike Kreloff appeared on behalf of the Objector. Andrew Finko appeared on behalf of the Candidate.

On November 19, 2009, the Candidate filed a Motion to Strike the Objections. In his Motion, the Candidate argues that: a) the Illinois Election Code contains no requirements or restrictions upon candidates seeking office based upon party affiliation as defined by prior primary declarations; b) *Cullerton* is not controlling and/or applicable; and c) party affiliation "lock-in" time periods are unconstitutional.

On November 23, 2009, the Objector filed a Response to the Motion to Strike the Objections. In the Response, the Objector argues that: a) *Cullerton* is controlling and applicable; b) under the doctrine of *stare decisis*, the Electoral Board is bound by the *Cullerton* opinion; and c) the Electoral Board is not the proper forum in which to raise constitutional claims.

A hearing was held on November 30, 2009 in the Chicago Office of the State Board of Elections.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact

At the hearing, the Objector introduced into evidence as Exhibit 1 a certified copy of the Candidate's voting history from Lake County where it shows that the Candidate voted in the Democratic general primary election on February 5, 2008.

The hearing officer also requested a copy of the Candidate's Statement of Candidacy which is marked as Exhibit 2. In the Statement of Candidacy, the Candidate states, *inter alia*, "that I . . . am a qualified primary voter of the Green Party . . ." The Statement of Candidacy was filed together with his nomination papers on November 2, 2009.

The following facts are not in dispute:

1. The Candidate voted in the Democratic general primary election on February 5, 2008;
2. The Candidate states in his Statement of Candidacy filed on November 2, 2009 that he is a "qualified primary voter of the Green Party;" and
3. There have been no general primary elections since February 5, 2008, and the next general primary election is February 2, 2010.

B. Conclusions of Law

1. The *Cullerton* Case and its Applicability to the Instant Case

Since the viability of the objection and most of the arguments in the Candidate's Motion to Strike depend upon whether *Cullerton* applies, it makes sense to first discuss whether the *Cullerton* case is controlling and applicable to the facts in this case.

a. **The Cullerton Case**

In *Cullerton*, the candidate had voted in the Republican Party primary election in February 2008. *Cullerton*, 384 Ill. App. 3d at 990. The candidate was subsequently appointed to fill a vacancy in nomination for the November 2008 general election ballot as a Democrat. *Id.* at 990-91. In connection with that appointment, on April 1, 2008, 56 days after he voted in the Republican primary election, the candidate filed a statement of candidacy which stated that he was a “qualified voter for the Democratic Party.” *Id.* at 991.

The issue before the Appellate Court for the Second District was whether the candidate was barred from running as a Democratic candidate in the general election because he voted in the preceding Republican primary election and did not meet the statutory requirement set forth in 10 ILCS §5/7-10 which requires a candidate to file a statement of candidacy that states that he is a “qualified primary voter to which the petition relates” *Id.* at 990.

In making its ruling, the *Cullerton* court discussed the recent case law and legislation pertaining to Illinois’ party-switching restrictions on voters, petition signers and candidates. In doing so, the court first acknowledged the U.S. Supreme Court case of *Kusper v. Pontikes*, 414 U.S. 51, 94 S. Ct. 303 (1972), which held that the Illinois Election Code restriction on voters changing parties (*i.e.* 10 ILCS §5/7-43(d)¹) was unconstitutional.

The court then discussed the Illinois Supreme Court case of *Sperling v. County Officers Electoral Board*, 57 Ill. 2d 81, 309 N.E.2d 589 (1974) which held that the “the same reasoning which moved the *Kusper* court to hold invalid the 23 month restriction upon voter changes of political parties is * * * applicable to the 2 year restriction upon those voters who wish to sign primary nominating petitions, and that restriction, too, must fall.” *Cullerton*, 384 Ill. App. 3d at 993 (citing to *Sperling*, 57 Ill. 2d at 84). With regard to a candidate party-switching restriction, the *Cullerton* court pointed out that in *Sperling*, the Illinois Supreme Court found that such a restriction, if reasonable, could be constitutional, but because the restrictions on petition signers and candidates were “very interrelated” in the version of the Code that was in effect at the time, both restrictions were unconstitutional. *Id.* at 994. One of the “interrelated” restrictions, previously found in the last paragraph of 10 ILCS §5/7-10, provided that: “For the purpose of determining eligibility to sign a petition for nomination or eligibility to be a candidate under this Article, a ‘qualified primary elector’ of a party (1) is an elector who has not requested a primary ballot of any other party at a primary election held within 2 years of the date on which the petition must be filed or (2) is a first time voter in this State registered since the last primary of an even numbered year preceding the date on which the petition must be filed” *Id.*

The *Cullerton* court then went on to discuss legislative changes to the Election Code since *Sperling*, noting that in 1990, the Illinois legislature, via Public Act 86-1348, removed the “interrelated” restriction set forth in the last paragraph of 10 ILCS §5/7-10, but did not remove the statement of candidacy restriction in 10 ILCS §5/7-10 which requires a candidate’s statement

¹ 10 ILCS §5/7-43(d) previously provided that: “No person shall be entitled to vote at a primary . . . (d) If he has voted in a primary . . . of another political party within a period of 23 calendar months next preceding the calendar month in which such primary is held . . .” Ill. Rev. Stat. 1971, Ch. 46, par. 7-43(d).

of candidacy to state that he or she is a “qualified primary voter of the party to which the petition relates.” *Id.* Acknowledging that with the repeal of the last paragraph of 10 ILCS §5/7-10, the Election Code no longer had a definition for the phrase “qualified primary voter of the party to which the petition relates,” the court “resorted to the plain language”² to determine the meaning of the phrase and held:

The plain and ordinary meaning of the requirement that a candidate be a qualified primary voter of the party for which he seeks a nomination mandates, if nothing else, that the candidate have been eligible to vote in the primary for that party in the most recent primary election preceding the candidate’s filing the statement of candidacy.

Id. at 996.

Based on the foregoing, the *Cullerton* court found that in removing the party switching restriction previously found in the last paragraph of 10 ILCS §5/7-10 but leaving intact the statement of candidacy restriction set forth in the same statute, the legislature demonstrated that the candidate restriction could exist independently making it “viable even in light of *Sperling*.” *Id.* at 997. Thus, the court held that the candidate, who voted in the Republican primary preceding the upcoming general election, could not be considered a “qualified primary voter” of the Democratic Party for purposes of satisfying the statement of candidacy provision in 10 ILCS §5/7-10. *Id.* at 995. In addition, and of relevance to the instant case, the court held:

[W]hen [the candidate] chose to vote in the Republican and not the Democratic primary in 2008, he was barred by statute from voting in the Democratic primary that year. Accordingly, at all times since the 2008 primary (and until the next primary, now scheduled for 2010), including the time at which [the candidate] submitted his statement of candidacy pursuant to section 7-10, he was not a qualified primary voter of the Democratic Party.

Id. at 996 (emphasis added).

b. The *Cullerton* Case is Controlling

In his Motion to Strike, the Candidate argues that *Cullerton* is not applied in Cook or Dupage Counties. In making this argument, the Candidate relies upon cases (*i.e.* *Kusper*,

² As part of his Motion to Strike, the Candidate argues that, “Section 7-43(d) defined a qualified voter, which seemed to underpin the apparent conclusion in *Cullerton*, though the *Cullerton* court did not expressly state which section of the code it relied upon for a party-switching limitation.” (See Candidate’s Reply in Support of his Motion to Strike at ¶ 10). The Hearing Officer recommends that this interpretation of the *Cullerton* court’s decision be rejected for several reasons. First, regardless of whether Public Act 95-699, which repealed 10 ILCS §5/7-43(d), was effective at the time of the *Cullerton* court’s decision, the court noted at the onset that “it has been declared unconstitutional and cannot be enforced.” *Id.* at 992-3. Second, nowhere in its discussion regarding the definition of “qualified primary voter of the party to which the petition relates” does the court cite or refer to 10 ILCS §5/7-43(d) nor does the court refer to the 23 month lock-in period set forth in 10 ILCS §5/7-43(d). Instead, the court focuses on the time period between two primaries in which, as acknowledged by the court, “[t]he time a voter’s party status is ‘locked’ is typically two years, but that is not always so.” *Id.* at 996.

Sperling, Dooley v. McGillicuddy, 63 Ill.2d 54, 345 N.E.2d 102 (1976); *Martinez v. Casiano*, 04-EB-WC-56 (2004); *Reed v. Villarreal*, 04-EB-WC-64 (2004) that were decided before *Cullerton*.

As correctly pointed out by the Objector, it is a fundamental element in Illinois law that the decisions of an appellate court are binding on all circuit courts regardless of locale. *Delgado v. Bd. of Election Comm'rs*, 224 Ill. 2d 481, 488, 865 N.E.2d 183, 188 (2007). Accordingly, "[a]n appellate court's decision must therefore be followed regardless of the appellate court's district." *Id.* This rule also extends to the Electoral Board as it is a well established principle that an administrative agency, such as the Electoral Board, is obligated to follow appellate court decisions, including an "uncontested judicial interpretation of a statute" such as the one found in *Cullerton*. *Larrance v. Ill. Human Rights Comm'n*, 166 Ill. App. 3d 224, 231 519 N.E. 2d 1203, 1208 (4th Dist. 1988); see also *Mary Thompson Hos. v. NLRB*, 621 F. 2d 858, 864 (7th Cir. 1980). As such, I recommend that the Electoral Board is bound by the *Cullerton* decision in the instant matter.

c. The *Cullerton* Case is Applicable to the Instant Case

Contrary to the arguments raised by the Candidate, the facts in *Cullerton* are strikingly similar to the facts in the instant case. The candidate in *Cullerton* and the Candidate in the instant case both voted in a party primary election in 2008. In filing their nomination papers for their respective offices, both candidates filed a statement of candidacy stating that they were a "qualified primary voter" for a party different than the one for which they voted in at the preceding primary election in 2008.

It is true, as implied by the Candidate in his Motion to Strike (See Candidate's Motion to Strike at ¶ 11; Candidate's Reply at ¶¶ 12-14), that the time period between when the candidate in *Cullerton* voted in a primary and when he filed his statement of candidacy (56 days) is significantly shorter than the time period between when the Candidate in this case voted in the last primary election and when he filed his statement of candidacy (637 days). It also is true that the candidate in *Cullerton* filed his statement of candidacy as a Democrat in the same year (or as argued by the Candidate, the "same cycle") in which he voted in the primary election as a Republican, whereas the Candidate in this instant matter filed his statement of candidacy as a Green Party member over a year and a half after he voted in the primary election as a Democrat and after he voted in the General Election of November 4, 2008. However, the ruling in *Cullerton* does not hinge on "cycles" or the number of days, months or years between the time of the last primary election and the time the candidate filed his statement of candidacy. What matters is the period of time between two successive primaries.

In the instant case, like in *Cullerton*, the relevant primaries are the successive primaries in 2008 and 2010. In 2008, the most recent primary election, the candidate in *Cullerton* and in the instant case both voted in a primary election of party that was different than the party identified in their statements of candidacy. According to *Cullerton*, "at all times since the 2008 primary (and until the next primary, now scheduled for 2010)," the candidates are locked in as "qualified primary voters" for the primary that they voted in, *i.e.* in the instant case, the Democratic Party.

Thus, under *Cullerton*, the Candidate fails to satisfy the statutory requirements of 10 ILCS §5/7-10 as he is not a “qualified primary voter” for the Green Party.³

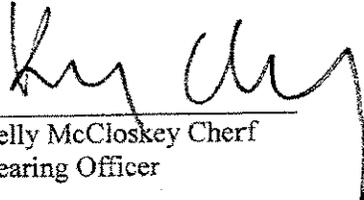
2. The Electoral Board Does Not Have the Power to Entertain Constitutional Claims.

Although the Candidate challenges the constitutionality of the party affiliation “lock-in” time period, under the applicable law, the Electoral Board is without authority to entertain this claim. As a creature of statute, the Electoral Board’s authority is limited to the source of law under which the Board was created. *Delgado*, 224 Ill.2d at 485 (2007). 10 ILCS §5/10-10 limits the Electoral Board’s scope of inquiry to whether a nominating petition complies with the Election Code. *Id.*

III. RECOMMENDATION

For the foregoing reasons, I recommend that the Board sustain the Objector’s Objection and not print the Candidate’s name on the official ballot as a candidate of the Green Party for nomination to the office of the Representative in the U.S. Congress in the 8th Congressional District of the State of Illinois at the primary election to be held on February 2, 2010 on the grounds that the Candidate is ineligible to seek said office as a candidate of the Green Party because he voted in the February 2008 Democratic primary election and as such: 1) the Candidate is locked in to his chosen party affiliation until after the February 2, 2010 primary election; and 2) the Candidate’s nomination papers are invalid as he has not fulfilled the Statement of Candidacy requirements set forth in 10 ILCS §5/7-10 in that he was not, at the time of signing the Statement, and is not now, a “qualified voter” of the Green Party. In addition, given the applicable law regarding the Electoral Board’s authority in entertaining constitutional claims, this recommendation does not address the issue of whether a party affiliation “lock-in” time period for candidates is unconstitutional.

Dated: December 7, 2009


Kelly McCloskey Cherrf
Hearing Officer

³ I also recommend that the Board reject the Candidate’s argument that the Illinois Election Code contains no requirements or restrictions upon candidates seeking office based upon party affiliation as defined by prior primary declarations. Under *Cullerton*, 10 ILCS §5/7-10 does contain such a requirement in requiring that a candidate file a statement of candidacy which “shall state that the candidate is a qualified primary voter of the party to which the petition relates . . .” 10 ILCS §5/7-10.

CERTIFICATION

STATE OF ILLINOIS
 COUNTY OF LAKE } SS.

I, Willard R. Helander, Lake County Clerk, in the County and State aforesaid, and keeper of the records and files thereof, do hereby certify that the following is a true and correct certification of the registration record of:

I certify that I am registered to vote from the address shown above, and that I am qualified to vote. Voter, Sign in box below.

W. R. Helander

Facsimile Signature of Voter

VOTER INFORMATION

William Scheurer
 Address: 387 Northgate Rd
 Lindenhurst, IL 60046
 Township: Lake Villa
 Precinct: 161
 Birth Date: 12/05/1950
 Voter Status: Active
 Most Recent Date Registered: 09/29/1980
 Original Date Registered: 09/29/1980

ELECTION INFORMATION

Total Elections Voted: 18

ELECTION INFORMATION		- Most recent displayed -	
11/04/2008	General	11/07/2000	General Election
02/05/2008	General Primary	11/05/1996	General Election
04/17/2007	Consolidated	03/19/1996	General Primary
11/07/2006	General	11/07/1995	Nonpartisan
03/21/2006	General Primary	03/15/1994	General Primary
04/05/2005	Consolidated	11/02/1993	Nonpartisan
11/02/2004	General	04/20/1993	Consolidated
03/16/2004	General Primary Election	11/03/1992	General Election
11/05/2002	General Election	03/17/1992	General Primary

I do hereby certify the above to be a true and accurate copy of records on file in the office of the Lake County Clerk, Waukegan, Illinois. Certification is not valid unless the seal of Lake County, Illinois is affixed.

NOV 5 2009

Date

Willard R. Helander
 Willard R. Helander
 Lake County Clerk

Obj. Ex 1

X...ATTACH TO PETITION...X

STATEMENT OF CANDIDACY

NAME	ADDRESS & ZIP CODE	OFFICE	DISTRICT	PARTY
Bill Scheurer	387 Northgate Road Lindenhurst, Illinois 60046	Representative in the U.S. Congress	Illinois 8th	Green

State of Illinois

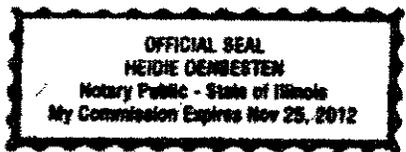
County of Lake

}
} SS.

I, Bill Scheurer, being first duly sworn (or affirmed), say that I reside at 387 Northgate Road, in the Village of Lindenhurst, Zip Code 60046, County of Lake, State of Illinois; that I am a qualified voter therein and am a qualified primary voter of the Green Party; that I am a candidate for Nomination to the office of Representative in the U.S. Congress in the Illinois 8th District, to be voted upon at the primary election to be held on February 2, 2010; and that I am legally qualified (including being the holder of any license that may be an eligibility requirement for the office to which I seek the nomination) to hold such office and that I have filed (or I will file before the close of the petition filing period) a Statement of Economic Interests as required by the Illinois Governmental Ethics Act; and I hereby request that my name be printed upon the official Green Party Primary ballot for Nomination for such office.

Bill Scheurer
Signature of Candidate

Signed and sworn to (or affirmed) by Bill Scheurer before me, on November 2, 2009



Heidi Denbesten
Signature of Notary Public

PRINCIPAL OFFICE
STATE BOARD OF ELECTIONS
09 NOV -2 PM 2: 54

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

ORIGINAL ON FILE AT
STATE BD OF ELECTIONS
ORIGINAL TIME STAMPED
AT 2009 nov 9 AM 8:34
12/24

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING OF AND PASSING UPON OBJECTIONS
TO THE NOMINATION PAPERS FOR CANDIDATES FOR THE OFFICE OF
REPRESENTATIVE IN CONGRESS, 8th CONGRESSIONAL DISTRICT
OF THE STATE OF ILLINOIS.

IN THE MATTER OF THE OBJECTIONS OF)
GREGORY FERRITTO TO THE NOMINATION)
PAPERS OF BILL SCHEURER AS A)
CANDIDATE FOR NOMINATION TO THE)
OFFICE OF REPRESENTATIVE IN CONGRESS)
FOR THE 8TH CONGRESSIONAL DISTRICT OF)
THE STATE OF ILLINOIS TO BE VOTED UPON)
AT THE FEBRUARY 2, 2010 PRIMARY ELECTION.)

VERIFIED OBJECTOR'S PETITION

NOW COMES GREGORY FERRITTO ("Objector"), and respectfully represents that Objector resides at 1526 Anderson Trail, Zion, IL 60099, in the 8th Congressional District of the State of Illinois; that Objector is a duly qualified, registered, and legal voter at such address; that Objector's interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for nomination of the Green Party to the office of Representative in Congress in the 8th Congressional District of the State of Illinois are properly complied with and that only qualified candidates have their names appear upon the ballot as candidates for said office; and therefore Objector makes the following objections to the nomination papers of Bill Scheurer ("Candidate") as a candidate for nomination of the Green Party to the office of Representative in Congress in the 8th Congressional District of the State of Illinois and states that said nomination papers are insufficient in law and fact for the following reasons:

1. The Candidate is ineligible to seek office as a Representative in Congress in the 8th Congressional District of the State of Illinois as a candidate of the Green Party because he has voted in the preceding primary election, within the past twenty-four months, in the Democratic Party and as such:

(a) is “locked in” to his chosen party affiliation and declaration until after the February 2, 2010 primary election; and therefore;

(b) has filed a false Statement of Candidacy in that he was not, at the time of signing the Statement and filing the nomination papers, and is not now, a “qualified voter” of the Green Party (*Cullerton v. DuPage County Officers Electoral Board*, 384 Ill.App.3d 989, 894 N.E.2d 774), rendering the entire nomination papers invalid.

WHEREFORE, Objector prays that the Nomination Papers of Bill Scheurer (“Candidate”) as a candidate for nomination of the Green Party to the office of Representative in Congress in the 8th Congressional District of the State of Illinois, be declared by this Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate’s name be stricken and that the Electoral Board enter its decision that the name of Bill Scheurer as a candidate of the Green Party for nomination of the Green Party to the office of Representative in Congress in the 8th Congressional District of the State of Illinois be not printed on the official ballot for the Green Party at the Primary Election to be held on February 2, 2010.


GREGORY FERRITTO, OBJECTOR

VERIFICATION

I, Gregory Ferritto, being first duly sworn on oath, state that I have read the foregoing Verified Objector's Petition and that the statements therein are true.

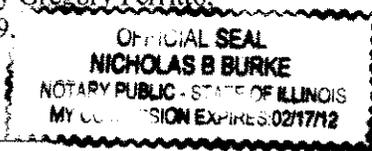


GREGORY FERRITTO, OBJECTOR

Signed and sworn to before me, by Gregory Ferritto,
this 8th day of November, 2009.



NOTARY PUBLIC



Michael Kreloff
Attorney at Law
1926 Waukegan, Suite 310
Glenview, IL 60025
847.657-1020

Sally H. Saltzberg
Loftus & Saltzberg, P.C.
Attorney at Law
53 W. Jackson, Suite 1515
Chicago, IL 60604
312.913-2000

ATTORNEYS FOR OBJECTOR

CERTIFICATION

STATE OF ILLINOIS }
COUNTY OF LAKE } SS.

I, Willard R. Helander, Lake County Clerk, in the County and State aforesaid, and keeper of the records and files thereof, do hereby certify that the following is a true and correct certification of the registration record of:

I certify that I am registered to vote from the address shown above, and that I am qualified to vote. Sign in box below.

wch

Facsimile Signature of Voter

VOTER INFORMATION

William Scheurer

Address: 387 Northgate Rd
Lindenhurst, IL 60046

Township: Lake Villa

Precinct: 161

Birth Date: 12/05/1950

Voter Status: Active

Most Recent Date Registered: 09/29/1980

Original Date Registered: 09/29/1980

ELECTION INFORMATION

Total Elections Voted: 18

11/04/2008 General

02/05/2008 General Primary

04/17/2007 Consolidated

11/07/2006 General

03/21/2006 General Primary

04/05/2005 Consolidated

11/02/2004 General

03/16/2004 General Primary Election

11/05/2002 General Election

- Most recent displayed -

11/07/2000 General Election

11/05/1996 General Election

03/19/1996 General Primary

11/07/1995 Nonpartisan

03/15/1994 General Primary

11/02/1993 Nonpartisan

04/20/1993 Consolidated

11/03/1992 General Election

03/17/1992 General Primary

Republican

Democratic

Democratic

I do hereby certify the above to be a true and accurate copy of records on file in the office of the Lake County Clerk, Waukegan, Illinois. Certification is not valid unless the seal of Lake County, Illinois is affixed.

NOV 5 2009

Date

Willard R. Helander

Willard R. Helander
Lake County Clerk

Bartholomae v. Boland
09 SOEB GP 504

Candidate: Mike Boland

Office: Lieutenant Governor

Party: Democratic

Objector: Kevin A. Bartholomae

Attorney For Objector: James P. Nally

Attorney For Candidate: William L. Berry

Number of Signatures Required: No less than 5,000 and no more than 10,000

Number of Signatures Submitted: 9,139

Number of Signatures Objected to: 5,101

Basis of Objection: The nomination papers contain an insufficient number of valid signatures. Specifically, such papers contain the names of persons (1) who did not sign the papers in their own proper persons, and therefore the signatures not genuine, (2) who are not registered at the addresses shown, (3) who do not reside in the State of Illinois, (4) who have set forth missing or incomplete addresses, (5) who have signed the petition sheets more than once, (6) who have not signed but have printed their signatures, and therefore the signatures are not genuine, and/or (7) whose signatures are insufficient and improper.

The nominations papers contain petition sheets which bear circulators' affidavits that (1) are not signed by the circulator, (2) are not signed by the circulator in his/her own proper person, and therefore the circulator signature is not genuine, (3) do not contain a complete circulator's address, (4) notary did not personally witness circulator sign, (5) are not notarized, (6) do not fully set forth the date, dates or range of dates on which the sheet was circulated, (7) bear a notarial jurat bearing the name of one notary but the signature of a different notary, (8) were signed by a circulator not of the legal age to circulate a petition, (9) the purported circulator did not actually obtain, solicit or witness the affixing of voters' signatures, and/or (10) contain a circulator address which is false. The nomination papers demonstrate a pattern of fraud.

Binder Check Necessary: Yes

Hearing Officer: Barb Goodman

Hearing Officer Findings and Recommendation: In light of the results of the records examination showing that the candidate submitted a number of valid signatures 1,372 above the minimum number required to appear on the ballot, the objection should be overruled and the candidate should be certified for the General Primary Election Ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer for the reasons contained in her Report.

BEFORE THE ILLINOIS STATE OFFICERS ELECTORAL BOARD

KEVIN BARTHOLOMAE)
)
 Objector)
)
 -v-) 09 SOEB GP 504
)
 MIKE BOLAND)
)
 Candidate)

HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION

This matter was first heard on November 17, 2009. Objector appeared through counsel James Nally and candidate appeared through counsel William Berry. The matter was sent to a records examination.

At the completion of the records examination, the results were as follows:

Signatures filed:	9,139
Objections sustained:	2,767
Objections overruled:	2,334
Valid signatures:	6,372
Signatures required:	5,000
Signatures over the statutory minimum	1,372

In light of the foregoing, it is my recommendation that the objections of Kevin Bartholomae be overruled in accordance with the results of the records examination. It is my further recommendation that the nominating papers of candidate Mike Boland be deemed valid and that the name of candidate Mike Boland appear on the ballot at the February 2, 2010 General Primary Election.

Respectfully submitted,

Barbara Goodman /s/
Barbara Goodman
Hearing Examiner
12/8/09

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OF OBJECTIONS TO NOMINATION PAPERS OF
CANDIDATES FOR NOMINATION TO THE OFFICE OF LIEUTENANT GOVERNOR
OF THE STATE OF ILLINOIS TO BE VOTED UPON AT THE FEBRUARY 2,2010
GENERAL PRIMARY ELECTION

Kevin A. Bartholomae ,

Petitioner-Objector

ORIGINAL ON FILE AT
STATE BD OF ELECTIONS
ORIGINAL TIME STAMPED
AT 2:09 PM 9 Jan 12:01
/lan

v.

Mike Boland ,

Respondent-Candidate

OBJECTOR'S PETITION

The objector, Kevin A. Bartholomae, states that he resides at 28223 Gray Barn Lane, Lake Barrington, Illinois 60010 that he is a duly qualified and registered legal voter in State of Illinois, the district in which the candidate is to be voted upon, and that his interest in filing the following objections is that of a citizen desirous of seeing that the election laws governing the filing of nomination papers for the office of Lieutenant Governor of the State of Illinois , are properly complied with, and that only qualified candidates appear on the ballot for said office as candidates for the general primary election.

Therefore, he makes the following objections to the Nomination Papers of Mike Boland as a candidate for the Democratic Party nomination for the office of Lieutenant Governor of the State of Illinois, to be voted upon at the February 2, 2010 General Primary Election.

1. Pursuant to state law, nomination papers for nomination for the office of Lieutenant Governor of the State of Illinois, to be voted for at the February 2, 2010 General Primary Election, must contain the signatures of not fewer than 5000 nor more than 10,000 duly qualified, registered and legal voters of said District collected in the manner prescribed by law. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The Nomination Papers purport to contain the signatures of in excess of 5000 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.
2. The Nomination Papers contain the names of persons who did not sign said papers in their own proper persons, and said signatures are not genuine and are forgeries, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein,

under the heading, Column a, "Signer's Signature Not Genuine", in violation of the Illinois Election Code.

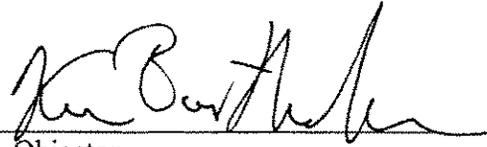
3. The Nomination Papers contain petition sheets with the names of persons who are not registered voters at the addresses shown opposite their respective names, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column b, "Signer Not Registered at Address Shown", in violation of the Illinois Election Code.
4. The Nomination Papers contain petition sheets with the names of persons who for whom addresses are stated which are not in the State of Illinois and such signatures are not valid, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading Column c, "Signer Resides Outside District", in violation of the Illinois Election Code.
5. The Nomination Papers contain the names of persons for whom the signer's address is missing or incomplete as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column d, "Signer's Address Missing or Incomplete", in violation of the Illinois Election Code.
6. The Nomination Papers contain the names of persons who have signed the Nomination Papers more than one time as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column e, "Signer Signed Petition More Than Once at Sheet/Line Indicated", in violation of the Illinois Election Code.
7. The Nomination Papers contain petition sheets with the "signatures" of persons which are not signed but are rather printed, and said signatures are not genuine signatures, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column f, "Signer's Signature Printed and Not Written, Not Genuine", in violation of the Illinois Election Code.
8. The Nomination Papers contain petition sheets with signatures which are otherwise insufficient and improper, as set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading Column g "Other" in violation of the Illinois Election Code.
9. The Nomination Papers contain petition sheets which bear a circulator's affidavit which is not signed by the circulator, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading "Circulator Did Not Sign Petition Sheet".
10. The Nomination Papers contain petition sheets which bear a circulator's affidavit which is not signed by the circulator in his/her own proper person, and such signatures are not genuine and are forgeries, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading,

“Circulator’s Signature Not Genuine”.

11. The Nomination Papers contain petition sheets which bear a circulator’s affidavit on which the circulator’s address is incomplete, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Circulator’s Address is Incomplete”.
12. The Nomination Papers contain petition sheets which bear a circulator’s affidavit which is not properly sworn to before a Notary Public or other appropriate officer, in that the notarial jurat lacks proper form, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Circulator’s Affidavit Not Properly Notarized”.
13. The Nomination Papers contain petition sheets which bear a circulator’s affidavit on which the circulator did not personally appear before the Notary Public to subscribe or acknowledge his/her signature as circulator in the presence of said Notary Public, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Circulator Did Not Appear Before Notary”.
14. The Nomination Papers contain petition sheets which bear a circulator’s affidavit which is not sworn to before a Notary Public or other appropriate officer, and every signature on such sheets is invalid, as is set forth in the appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Sheet Not Notarized”.
15. The Nomination Papers contain petition sheets which bear a circulator’s affidavit which does not fully set forth the date, dates or range of dates on which the sheet was circulated in that the year is not set forth, and which also does not state that no signatures were obtained more than 90 days before the last day for filing the petition, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Dates of Circulation Incomplete”, and “Dates of Circulation not given”.
16. The Nomination Papers contain petition sheets which bear a circulator’s affidavit with a notarial jurat bearing the name of a person who purported notarized said sheets, but for which in fact the circulator’s affidavit was sworn to before another person who purported to be the Notary Public whose seal and signature appears on said sheet, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Purported Notary Did Not Notarize Sheet”.
17. The Nomination Papers contain petition sheets which bear a circulator’s affidavit with a Circulator was not of legal age to circulate petition and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Circulator is under 18 years old”.

18. The Nomination Papers contain petition sheets for which the circulator's affidavit is false because the purported circulator did not actually obtain, solicit or witness the affixing of voters' signatures to those sheets, and every signature on those sheets is invalid, as is set forth specifically in the appendix-Recapitulation attached hereto and incorporated herein, under the heading, "Purported Circulator Did Not Circulate Sheet", in violation of the Illinois Election Code.
19. The Nomination Papers contain Petition Sheets which bear a circulator's affidavit which is false, signed by a Circulator who does not reside at the address given, and every signature on such sheet is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein under the heading "Circulator does not reside at address shown".
20. The Nomination Papers contain numerous sheets circulated by individuals whose sheets demonstrate a pattern of fraud and disregard of the Election Code to such a degree that every sheet circulated by said individuals is invalid, and should be invalidated in order to protect the integrity of the electoral process. Such circulators are those who circulated the sheets in which objections are made in Columns a, f and Column g of the Appendix-Recapitulation. Specifically, but without limitation, the disregard of the Election Code evidenced by the actions of those circulators includes the submission of voters' signatures which were not signed by the voters in their own proper persons, but rather by one or a few individuals who forged the voters' signatures in a "roundtable" or seriatim fashion. These actions also include, without limitation, these circulators did not see the voter sign the petition in their presence.
21. The Nomination Papers contain less than 5000 validly collected signatures of qualified and duly registered legal voters of the State of Illinois, signed by such voters in their own proper person with proper addresses, far below the number required under Illinois law, as is set forth by the objections recorded in the Appendix-Recapitulation attached hereto and incorporated herein.
22. The Appendix-Recapitulation is incorporated herein and the objections made therein are a part of this Objector's Petition.
23. Pursuant to 10 ILCS 5/7-10, petition sheets contained in the nomination papers must be numbered consecutively. The nomination papers contain petition sheets which are not consecutively numbered. The nomination papers contain two petition sheets numbered 268. The failure to consecutively number the petition pages invalidates all the nomination papers, see Wollan v Jacoby, and the nomination papers are invalid in their entirety. Alternatively, pursuant to 10 ILCS 5/7-10, the only consecutively numbered petition sheets end at 268. All sheets following the last consecutively numbered page number 268 must be stricken and invalidated for failure to comply with the mandatory consecutive numbering requirements of the statute.

WHEREFORE, your objector prays that the nomination papers of Mike Boland as a candidate for the Democratic Party nomination for the office of Lieutenant Governor of the State of Illinois, at the February 2, 2010 General Primary Election be declared to be insufficient and not in compliance with the laws of the State of Illinois, and that this name be stricken and that this Board enter its decision declaring that the name of Mike Boland as a candidate for the Democratic Party Nomination to the office of Lieutenant Governor of the State of Illinois, be not printed upon the official ballot for the General Primary Election to be conducted February 2, 2010.



Objector

James P. Nally, P.C.
8 South Michigan Avenue
Suite 3500
Chicago, IL 60603
312/422-5560

Bartholomae v. Link
09 SOEB GP 505

Candidate: Terry Link

Office: Lieutenant Governor

Party: Democratic

Objector: Kevin A. Bartholomae

Attorney For Objector: James P. Nally

Attorney For Candidate: Andrew M. Raucci

Number of Signatures Required: No less than 5,000 and no more than 10,000

Number of Signatures Submitted: 9,524

Number of Signatures Objected to: 5,356

Basis of Objection: The nomination papers contain an insufficient number of valid signatures. Specifically, the nomination papers contain the names of persons (1) who did not sign the papers in their own proper persons, and therefore the signatures not genuine, (2) who are not registered at the addresses shown, (3) who do not reside in the State of Illinois, (4) who have set forth missing or incomplete addresses, (5) who have signed the petition sheets more than once, (6) who have not signed but have printed their signatures, and therefore the signatures are not genuine, and/or (7) whose signatures are insufficient and improper.

The nominations papers contain petition sheets which bear circulators' affidavits that (1) are not signed by the circulator, (2) are not signed by the circulator in his/her own proper person, and therefore the circulator signature is not genuine, (3) do not contain a complete circulator's address, (4) notary did not personally witness circulator sign, (5) are not notarized, (6) do not fully set forth the date, dates or range of dates on which the sheet was circulated, (7) bear a notarial jurat bearing the name of one notary but the signature of a different notary, (8) were signed by a circulator not of the legal age to circulate a petition, (9) the purported circulator did not actually obtain, solicit or witness the affixing of voters' signatures, and/or (10) contain a circulator address which is false. The nomination papers demonstrate a pattern of fraud.

The petition sheets are not properly paginated. Specifically, the petition begins with page 1, and continues to page 740. It then resumes to page 750, thereby omitting pages 741 through 749. This lack of pagination renders the petition invalid. In the alternative, objector argues that only pages 1 through 740 should be counted, as they are the only pages which are successively paginated.

Binder Check Necessary: Yes

Hearing Officer: Barb Goodman

Hearing Officer Findings and Recommendation: Pursuant to the records examination, the candidate submitted a total of 7,546 valid signatures; 2, 546 above the statutory minimum necessary to qualify for the office sought. Regarding the pagination issue, the hearing officer found the gap in pagination to be insignificant and agreed with the candidates reliance on King v. Justice Party, 672 N.E.2d 900 (1st Dist. 1996) that this “defect” is not fatal to the petition as a whole. The Hearing Officer noted that even if the alternative offered by the objector were granted (counting only the signatures on pages 1 through 740) the candidate’s petition would still contain a number of signatures in excess of the statutory minimum. In consideration of the results of the records exam, and finding in favor of the candidate on the pagination issue, the Hearing Officer recommends that the objection be overruled and that the candidate should be certified to appear on the General Primary Election Ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer for the reasons contained in her Report.

BEFORE THE ILLINOIS STATE OFFICERS ELECTORAL BOARD

KEVIN BARTHOLOMAE)
)
 Objector)
)
 -v-)
) 09 SOEB GP 505
 TERRY LINK)
)
 Candidate)

HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION

This matter was first heard on November 17, 2009. Objector appeared through counsel James Nally and candidate appeared through counsel Andrew M. Raucci. Candidate filed a Motion to Strike and Dismiss and Objector filed a Response to Candidate's Motion to Strike and Dismiss. The matter was sent to a records examination and consideration of the Motion to Strike was continued until the completion of the records examination.

At the completion of the records examination, the results were as follows:

Signatures filed:	9,524
Objections sustained:	1,978
Objections overruled:	3,378
Valid signatures:	7,546
Signatures required:	5,000
Signatures over the statutory minimum	2,546

The Candidate filed a Motion pursuant to paragraph 9 of the Board's Rules of Procedure. No further filings were submitted by the Objector. At the further hearing in the matter, Objector presented argument on the issue of page numbering. It is

undisputed that the nominating papers do not contain sheets 741 through 749. In his Objector's Petition at paragraph 23 and at hearing, Objector contended that the failure to include these sheets in the nominating papers renders the nominating papers invalid in their entirety. In the alternative, Objector contended that if the nominating papers are not considered invalid in their entirety, the appropriate remedy is to ignore all signatures after sheet 740.

Candidate argued in his Motion to Strike and at hearing that ***King v Justice Party***, 672 N.E.2d 900 (1st Dist. 1996) is controlling. In the *King* case, the candidate filed nominating papers in which there were no sheets numbered 1791 and 1792. Additionally, sixteen other sheets without any page numbers were interspersed in different places throughout the petition. The *King* court found that while the Election Code's page numbering requirement (10 ILCS 5/7-10) is mandatory, the candidate in *King* had substantially complied with the requirement. Thus, the *King* court refused to invalidate the candidate's nominating papers.

Here, the purported defect in page numbering is far less egregious. While certain pages are missing, there are no sheets without page numbers mixed in with the numbered sheets. Therefore, in accordance with the decision in *King*, the nominating papers in the instant case must be deemed in substantial compliance with the page numbering requirement in Section 7-10 of the Election Code.

Further, there is no authority for Objector's alternative requested relief of ignoring all signatures after sheet 740. However, even if such authority existed, when applied here, the Candidate would still have a sufficient number of valid signatures. As the Candidate pointed out and the Objector conceded, there are more than 5,000 valid signatures contained in the first 740 sheets of the nominating papers. Accordingly, Candidate's Motion to Strike paragraph 23 relating to the issue of page numbering is sustained.

There being nothing further presented by the Objector, it was not necessary to address the additional issues set forth in the Candidate's Motion to Strike.

In light of the foregoing, it is my recommendation that the objections of Kevin Bartholomae be overruled. It is my further recommendation that the nominating papers of candidate Terry Link be deemed valid and that the name of candidate Terry Link appear on the ballot at the February 2, 2010 General Primary Election.

Respectfully submitted,

Barbara Goodman /s/
Barbara Goodman
Hearing Examiner
12/8/09

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE OFFICE OF LIEUTENANT GOVERNOR OF THE STATE OF ILLINOIS TO BE VOTED UPON AT THE FEBRUARY 2,2010 GENERAL PRIMARY ELECTION

Kevin A. Bartholomae ,

Petitioner-Objector

v.

Terry Link ,

Respondent-Candidate

OBJECTOR'S PETITION

The objector, Kevin A. Bartholomae, states that he resides at 28223 Gray Barn Lane, Lake Barrington, Illinois 60010 that he is a duly qualified and registered legal voter in State of Illinois, the district in which the candidate is to be voted upon, and that his interest in filing the following objections is that of a citizen desirous of seeing that the election laws governing the filing of nomination papers for the office of Lieutenant Governor of the State of Illinois , are properly complied with, and that only qualified candidates appear on the ballot for said office as candidates for the general primary election.

Therefore, he makes the following objections to the Nomination Papers of Terry Link as a candidate for the Democratic Party nomination for the office of Lieutenant Governor of the State of Illinois, to be voted upon at the February 2, 2010 General Primary Election.

1. Pursuant to state law, nomination papers for nomination for the office of Lieutenant Governor of the State of Illinois, to be voted for at the February 2, 2010 General Primary Election, must contain the signatures of not fewer than 5000 nor more than 10,000 duly qualified, registered and legal voters of said District collected in the manner prescribed by law. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The Nomination Papers purport to contain the signatures of in excess of 5000 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.
2. The Nomination Papers contain the names of persons who did not sign said papers in their own proper persons, and said signatures are not genuine and are forgeries, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein,

STATE
BOARD OF ELECTIONS

2009 NOV -9 PM 12: 02

CHICAGO

under the heading, Column a, "Signer's Signature Not Genuine", in violation of the Illinois Election Code.

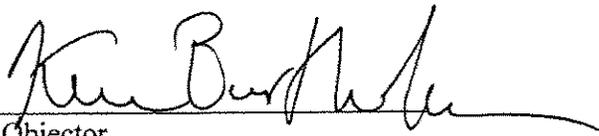
3. The Nomination Papers contain petition sheets with the names of persons who are not registered voters at the addresses shown opposite their respective names, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column b, "Signer Not Registered at Address Shown", in violation of the Illinois Election Code.
4. The Nomination Papers contain petition sheets with the names of persons who for whom addresses are stated which are not in the State of Illinois and such signatures are not valid, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading Column c, "Signer Resides Outside District", in violation of the Illinois Election Code.
5. The Nomination Papers contain the names of persons for whom the signer's address is missing or incomplete as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column d, "Signer's Address Missing or Incomplete", in violation of the Illinois Election Code.
6. The Nomination Papers contain the names of persons who have signed the Nomination Papers more than one time as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column e, "Signer Signed Petition More Than Once at Sheet/Line Indicated", in violation of the Illinois Election Code.
7. The Nomination Papers contain petition sheets with the "signatures" of persons which are not signed but are rather printed, and said signatures are not genuine signatures, as is set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, Column f, "Signer's Signature Printed and Not Written, Not Genuine", in violation of the Illinois Election Code.
8. The Nomination Papers contain petition sheets with signatures which are otherwise insufficient and improper, as set forth specifically in the Appendix-Recapitulation attached hereto and incorporated herein under the heading Column g "Other" in violation of the Illinois Election Code.
9. The Nomination Papers contain petition sheets which bear a circulator's affidavit which is not signed by the circulator, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading "Circulator Did Not Sign Petition Sheet".
10. The Nomination Papers contain petition sheets which bear a circulator's affidavit which is not signed by the circulator in his/her own proper person, and such signatures are not genuine and are forgeries, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading,

“Circulator’s Signature Not Genuine”.

11. The Nomination Papers contain petition sheets which bear a circulator’s affidavit on which the circulator’s address is incomplete, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Circulator’s Address is Incomplete”.
12. The Nomination Papers contain petition sheets which bear a circulator’s affidavit which is not properly sworn to before a Notary Public or other appropriate officer, in that the notarial jurat lacks proper form, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Circulator’s Affidavit Not Properly Notarized”.
13. The Nomination Papers contain petition sheets which bear a circulator’s affidavit on which the circulator did not personally appear before the Notary Public to subscribe or acknowledge his/her signature as circulator in the presence of said Notary Public, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Circulator Did Not Appear Before Notary”.
14. The Nomination Papers contain petition sheets which bear a circulator’s affidavit which is not sworn to before a Notary Public or other appropriate officer, and every signature on such sheets is invalid, as is set forth in the appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Sheet Not Notarized”.
15. The Nomination Papers contain petition sheets which bear a circulator’s affidavit which does not fully set forth the date, dates or range of dates on which the sheet was circulated in that the year is not set forth, and which also does not state that no signatures were obtained more than 90 days before the last day for filing the petition, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Dates of Circulation Incomplete”, and “Dates of Circulation not given”.
16. The Nomination Papers contain petition sheets which bear a circulator’s affidavit with a notarial jurat bearing the name of a person who purported notarized said sheets, but for which in fact the circulator’s affidavit was sworn to before another person who purported to be the Notary Public whose seal and signature appears on said sheet, and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Purported Notary Did Not Notarize Sheet”.
17. The Nomination Papers contain petition sheets which bear a circulator’s affidavit with a Circulator was not of legal age to circulate petition and every signature on such sheets is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein, under the heading, “Circulator is under 18 years old”.

18. The Nomination Papers contain petition sheets for which the circulator's affidavit is false because the purported circulator did not actually obtain, solicit or witness the affixing of voters' signatures to those sheets, and every signature on those sheets is invalid, as is set forth specifically in the appendix-Recapitulation attached hereto and incorporated herein, under the heading, "Purported Circulator Did Not Circulate Sheet", in violation of the Illinois Election Code.
19. The Nomination Papers contain Petition Sheets which bear a circulator's affidavit which is false, signed by a Circulator who does not reside at the address given, and every signature on such sheet is invalid, as is set forth in the Appendix-Recapitulation attached hereto and incorporated herein under the heading "Circulator does not reside at address shown".
20. The Nomination Papers contain numerous sheets circulated by individuals whose sheets demonstrate a pattern of fraud and disregard of the Election Code to such a degree that every sheet circulated by said individuals is invalid, and should be invalidated in order to protect the integrity of the electoral process. Such circulators are those who circulated the sheets in which objections are made in Columns a, f and Column g of the Appendix-Recapitulation. Specifically, but without limitation, the disregard of the Election Code evidenced by the actions of those circulators includes the submission of voters' signatures which were not signed by the voters in their own proper persons, but rather by one or a few individuals who forged the voters' signatures in a "roundtable" or seriatim fashion. These actions also include, without limitation, these circulators did not see the voter sign the petition in their presence.
21. The Nomination Papers contain less than 5000 validly collected signatures of qualified and duly registered legal voters of the State of Illinois, signed by such voters in their own proper person with proper addresses, far below the number required under Illinois law, as is set forth by the objections recorded in the Appendix-Recapitulation attached hereto and incorporated herein.
22. The Appendix-Recapitulation is incorporated herein and the objections made therein are a part of this Objector's Petition.
23. Pursuant to 10 ILCS 5/7-10, petition sheets contained in the nomination papers must be numbered consecutively. The nomination papers contain petition sheets which are not consecutively numbered. The nomination papers contain petition sheets numbered 1-740, with the next numbered sheets then beginning with page numbered 750 (with no page numbers 741-749). The failure to consecutively number the petition pages invalidates all the nomination papers, see Wollan v Jacoby, and the nomination papers are invalid in their entirety. Alternatively, pursuant to 10 ILCS 5/7-10, the only consecutively numbered petition sheets bear the numbers 1-740. The petition sheets contained no sheets numbered 741-749. All sheets following the last consecutively numbered page number 740 must be stricken and invalidated for failure to comply with the mandatory consecutive numbering requirements of the statute.

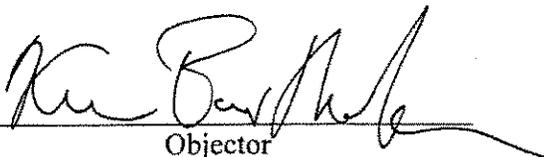
WHEREFORE, your objector prays that the nomination papers of Terry Link as a candidate for the Democratic Party nomination for the office of Lieutenant Governor of the State of Illinois, at the February 2, 2010 General Primary Election be declared to be insufficient and not in compliance with the laws of the State of Illinois, and that this name be stricken and that this Board enter its decision declaring that the name of Terry Link as a candidate for the Democratic Party Nomination to the office of Lieutenant Governor of the State of Illinois, be not printed upon the official ballot for the General Primary Election to be conducted February 2, 2010.


Objector

James P. Nally, P.C.
8 South Michigan Avenue
Suite 3500
Chicago, IL 60603
312/422-5560

VERIFICATION

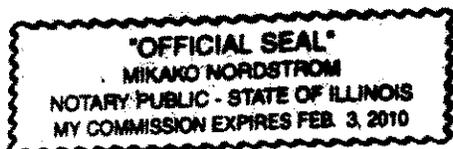
The undersigned, being first duly sworn upon oath, states that (s)he has read the foregoing Objector's Petition and to the best of his/her knowledge and belief the facts set forth therein are true and correct.


Objector

SUBSCRIBED and SWORN to
before me this 9th day of
November, 2009.



NOTARY PUBLIC



Perrin v. Forte-Scott
09 SOEB GP 509

Candidate: Anita Forte-Scott

Office: State Representative, 56th District

Party: Republican

Objector: Deborah Perrin

Attorney For Objector: John W. Countryman/John G. Fogarty

Attorney For Candidate: Andrew B. Spiegel

Number of Signatures Required: No less than 500

Number of Signatures Submitted: 954

Number of Signatures Objected to: N/A

Basis of Objection: The nomination papers are not uniform and consistent, present a pattern of fraud and false swearing because there is a false affidavit of the circulator with regards to the dates that petition sheets were circulated, and contain signatures of persons who have stated that they did not sign the petition sheet in 2009, but rather in 2007, and objection is made to those signatures.

Binder Check Necessary: No

Hearing Officer: Phil Krasny

Hearing Officer Findings and Recommendation: The Candidate filed a motion to Strike and Dismiss the Objections denying the Objector's allegations. The Objector filed a response and a motion for discovery, requesting to take the deposition of the Candidate. The motion was granted.

The hearing examiner recommended that the Candidate's motion to dismiss be granted in regard to the allegations that Candidate's nominating petition pages were not uniform and consistent. A review of the pages at issue (pages 7, 10, 12 and 47) revealed that the pages are consistent with the statutory format for nominating petitions as outlined in the Election Code so that voters signing the petition would not be confused regarding the office the Candidate was seeking. As there was substantial compliance with the formatting statute, the motion to dismiss should be granted in part.

After a hearing where affidavits and witness testimony was presented, the hearing officer found that the candidate's testimony was credible and that the candidate used an old form and altered it prior to obtaining a current form from the State Board of Elections website. Further, her testimony that she did not circulate any nominating petitions for the 2010 primary election prior to August 4, 2009 (the first day to begin circulating nominating petitions) was also found to be credible. With regards to the affidavits and testimony of the Objector witnesses, the hearing officer found that they may have been mistaken or confused as to the exact date when they signed the petition and may have, in fact, signed the petition in 2007 as well as 2009. In conclusion, the hearing officer found that the Objector had not established a pattern of fraud nor has she established that the forms used by the candidate were confusing and not in

compliance with the Election Code. Furthermore, the candidate had submitted a total of 75 nominating sheets containing 954 valid signatures, 454 in excess of the minimum. Based on these findings, the hearing officer recommends that the objection to the nominating petitions should be overruled and the candidate should be certified to the General Primary Election Ballot for the office of state representative.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer for the reasons contained in his Report.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF
NOMINATION OBJECTIONS TO
NOMINATION PAPERS OF CANDIDATES
FOR NOMINATION TO THE OFFICE OF REPRESENTATIVE IN THE GENERAL
ASSEMBLY, 56th DISTRICT**

IN THE MATTER OF OBJECTIONS BY)	
)	
Deborah Perrin,)	
(Petitioner/Objector),)	
)	
v.)	No. 09 SOEB GP 509
)	
Anita Forte-Scott,)	
(Respondent/Candidate).)	

**PETITIONER/OBJECTOR'S EXCEPTIONS TO THE HEARING OFFICER'S
FINDINGS AND RECOMMENDATIONS**

NOW COMES the Petitioner/Objector, Deborah Perrin, by her attorney, John W. Countryman, and files the following exceptions to the Hearing Officer's Findings and Recommendations:

**THE WEIGHT OF THE EVIDENCE WAS SO STRONG FOR THE OBJECTOR THAT
THE FINDINGS OF THE HEARING OFFICER SHOULD BE OVERRULED**

The Petitioner/Objector presented Stacy Pitzafarro. She traveled to downtown Chicago voluntarily. The testimony of Ms. Pitzafarro was strong and unequivocal. Upon examination by Objector's attorney, she testified that she absolutely did not sign the Petition of Anita Forte-Scott between August 4, 2009 and October 29, 2009. In addition to her testimony, eight other Affidavits of signors of the disputed Petition sheets were presented without contradiction in any way or form. All of those signors of the Affidavits indicated that they had reviewed the Petition sheets, had viewed their signatures, and that they had signed the Petition, but they had not signed the sheets between August 4, 2009

and October 29, 2009. One signor indicated that she had signed on another page of the Petition and had done so after August 4, 2009. No counter-affidavits were presented by the Candidate. The Candidate failed to produce evidence from the remaining 23 signators appearing on the Petition sheets which were disputed showing that those signatures had been made between August 4, 2009 and October 29, 2009. The weight of the evidence is so over-whelming in favor of the Objector in light of the minimal evidence presented by the Candidate Anita Forte-Scott. The Candidate's self-interest and bias was clearly to maintain her story that she did not commit this fraud by taking Petition sheets that were signed in 2007, and whiting out the date of the prior election date and replacing it with February 2, 2010. The Candidate purported that she obtained the subject signatures in August 2009. Those sheets were not notarized until October 22, 2009 when 24 of her other sheets were notarized well before that date. She clearly used an entirely different form sheet because those Petition sheets only had 10 lines when her other current Petition sheets had 15 lines. Mrs. Forte-Scott's excuse for using the old forms was that she did not visit the SBE website, yet she used it for all the other sheets. Her credibility on that issue alone is so incongruous that it shows that an oath means nothing to her. Thus all of her Petition sheets should have been rejected.

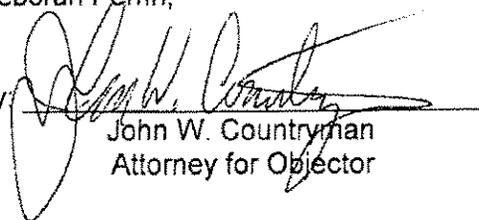
Given the facts and the weight of the other evidence against her, the findings of the Hearing Officer did not account for the lack of production of any evidence by the Candidate/Respondent, other than her own self-serving testimony. The Objector believes the findings are against the manifest weight of the evidence.

WHEREFORE, for the foregoing reasons, the Petitioner/Objector, requests that this State Officers Electoral Board overrule the findings and recommendations of the Hearing Officer in this instance and sustain the Objection and remove the name of Anita Forte-Scott from the ballot certified for February 2, 2010.

Respectfully Submitted,

Deborah Petrin,

By



John W. Countryman
Attorney for Objector

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STATE OF ILLINOIS)
)
COUNTY OF COOK)

BEFORE THE STATE BOARD OF ELECTIONS OF THE STATE OF ILLINOIS

Deborah Perrin)
Petitioner-Objector)
)
) 09 SOEB 509
) vs.)
Anita Forte-Scott)
Respondent- Candidate)
)

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

PROCEDURAL HISTORY

The Candidate, Anita Forte-Scott, seeks the nomination of the Republican Party for the office of Representative in the General Assembly 56th District. She has filed nominating petitions to be placed on the ballot for the primary election scheduled for February 2, 2010.

Objector, Deborah Perrin, has filed certain objections to those nominating petitions.

On November 17, 2009, the State Board of Elections ("SBOE") appointed Philip Krasny as the hearing officer to conduct a hearing on the objections to the nominating petitions and present recommendations to the SBOE.

An initial case management conference was held on November 17, 2007 and was attended by the Candidate's representative, Andrew Spiegel, and the Objector's representative, John Countryman.

At the case management conference, the parties were given time to file motions. The parties also agreed that no binder check was required.

The Candidate, thereafter, filed a motion to strike and dismiss. The Objector filed a response.

The Objector also filed a motion for discovery requesting to take the deposition of Anita Forte-Scott. The Objector's motion was granted.

A hearing was scheduled for November 30, 2009 at the offices of the State Board of Election, Chicago, Illinois.

On November 30, 2009, a hearing on the objections to the nominating petitions was conducted. At the hearing the Candidate was represented by Andrew Spiegel, and the Objector was represented by John Countryman.

ANALYSIS

MOTIONS

The Objector challenges the sufficiency of the signatures presented in the Candidate's nominating petitions and claims that the nominating petitions fail to comply with the requirements of the Election Code. Specifically, the Objector claims that:

C. The Candidate's petitions, as filed, are not uniform and consistent. They are confusing and thus do not comply with the Code of Elections of the State of Illinois and as such all sheets should be stricken.

The Objector focuses on Sheets 7, 10, 12, 47 of the nominating petitions and alleges as follows:

2. Sheets 7, 10, 12, and 47 are different in that the form is different and not the same, the date of the election on said four sheets is a clear write over of the *primary* date for the election in 2008, and the number of lines on said four sheets is ten lines while on all other sheets it has fifteen lines for signatures. The date of the form is different on sheets 7, 3 0, 12, and 47. At the top of sheets 7, 10, 12, and 47 appears the name Anita Forte-Scott and it does not appear that way on all the other sheets. The aforesaid failures to comply with the Code of Elections makes the entire petition set invalid as it is not uniform and the same as required,

3. Sheets 7, 10, 12, and 47 are different in that the form is different and the date of the election on said four sheets is a clear write over of the primary election date

in 2008. Objector has reason to believe (and therefore alleges upon information and belief) that signatures on those four sheets were obtained more than 90 days prior to the first date for filing in 2009 (prior to August 4, 2009). That the comingling of said four sheets with the others makes the entire petition set invalid as it is not uniform and the same as required.

Objector attached 4 affidavits to her petition. The affidavits were signed by Karen Lawler, Connie Allen, Marcia Camps and Todd Gierke, whose signatures appear on pages 7 and 12 of the Candidate's nominating petitions. The affiants do not aver that their respective signatures were forgeries. Rather, the affiants attest that they did not sign the Candidate's nominating petition between August 4, 2009 and October 20, 2009.

Objector further alleges a "pattern of fraud and false swearing" with an "utter and contemptuous disregard for the mandatory provisions of the Election Code." demonstrating a pervasive and systematic attempt to undermine the integrity of the electoral process.

The Candidate's motion to dismiss is basically a denial of the Objector's allegations. Specifically, the Candidate states that

The four pages the Objector cites in her petition, 7, 10, 12 and 47, were blank, older approved SBE nominating petition forms the Candidate had previously used; the signatures contained on those four pages, however, were all collected within the 90 day period preceding the February 2, 2010 Primary Election. They are not so different so as to rise to the status of nonconforming sheets to the remainder of the nominating petition sheets submitted by the Candidate.

While the Rules of Procedure enacted by the SBOE provide that "motions to dismiss or strike will be heard prior to the case on the merits" (See paragraph 7(e) of Rules), the Candidate's motion to dismiss raises factual issues which cannot be ruled on as a matter of law. However, to the extent that the Candidate has moved to dismiss the Objector's allegations that the format of nominating petition found on pages 7, 10, 12, and 47 were not uniform and were so different from the other petition pages thereby failing "to comply with the Code of Elections makes the entire

petition set invalid as it is not uniform should render all the nominating petitions”, it is recommended that the motion to dismiss be granted.

10 ILCS 5/7-10 provides the format for nominating petitions. Specifically, the statute provides, in pertinent part, as follows:

Sec. 7-10. Form of petition for nomination. The name of no candidate for nomination, or State central committeeman, or township committeeman, or precinct committeeman, or ward committeeman or candidate for delegate or alternate delegate to national nominating conventions, shall be printed upon the primary ballot unless a petition for nomination has been filed in his behalf as provided in this Article *in substantially the following form* (emphasis added).

We, the undersigned, members of and affiliated with the ____ party and qualified primary electors of the ____ party, in the ____ of ____, in the county of ____ and State of Illinois, do hereby petition that the following named person or persons shall be a candidate or candidates of the ____ party for the nomination for (or in case of committeemen for election to) the office or offices hereinafter specified, to be voted for at the primary election to be held on (insert date).

A review of pages 7, 10, 12, and 47 of the Candidate's nominating petition reveals that those pages are consistent with the aforementioned statute and that voters signing the petition would not be confused regarding the office the Candidate was seeking. (See *Lewis v. Dunne*, 63 Ill. 2d 48, 344 N.E.2d 443 (1976), where the Illinois Supreme Court held that a candidate's name should appear on the ballot where there was substantial compliance with section 7-10 of the Election Code). Accordingly, it is recommended that the Candidate's motion to dismiss be granted in part.

EVIDENCE

OBJECTOR

At the November 30, 2009 hearing the Objector introduced additional affidavits from Melchor Varela, Kevin O'Neil, Pamela Kulpins and Robert Abruscatto. Affiants Melchor Varela, Kevin O'Neil, and Pamela Kulpins Varela, averred that their signatures,

which appear on page 12 of the candidates nominating petition, had not been signed by them between August 4, 2009 and October 29, 2009. Likewise, affiant Robert Abruscatto, whose signature appeared on page 7 of the Candidate's nominating petition, averred that he had not signed the nominating petition between August 4, 2009 and October 29, 2009.

The Objector called **Stacy Pitzaferrro** as a witness. Ms. Pitzaferrro resides at 5407 Old Mill Lane, Rolling Meadows. She inspected page 12 of the Candidate's nominating petition and identified her signature as being on line 2. Ms. Pitzaferrro testified that she vaguely recalled signing the petition at her house, but did not recall signing it between August 4, 2009 and October 29, 2009. She could not provide any details regarding the circumstances surrounding the signing of the petition.

The Objector also called **Eugene Carpino** as a witness. Mr. Carpino testified that he is the Director of Operations for the Republican Party. In the 2008 primary Anita Forte-Scott was the candidate endorsed by the Republican Party to run for state representative. As the endorsed candidate, he prepared a packet for Ms. Forte-Scott which included a blank nominating petition form that was identified as Objector Exhibit #7. The blank nominating petition included the date of the primary election as "February 5, 2008".

Mr. Carpino explained that he received, bound, paginated, and submitted the 2008 nominating petitions that had been turned in by Ms. Forte-Scott to the State Board of Elections. Mr. Carpino acknowledged that he did not know if Ms. Forte-Scott failed to submit all of the nominating petitions that were collected for the February 5, 2008 primary election. He did not know if the nominating petitions submitted by the

Candidate for the 2010 primary contained signatures that were obtained by Forte-Scott for the 2008 primary.

CANDIDATE

The Candidate, **Anita Forte-Scott**, was called as a witness. Ms. Forte-Scott testified that she was the Republican Party's endorsed candidate for Representative of the 56th District in the February 2008 primary. As the endorsed candidate, she worked with members of the Republican Party and received a packet which contained a nominating petition form identified by Mr. Carpino.

Ms Fort-Scott was not the Republican Party nominee for the 2010 primary election for state representative of the 56th District. In choosing to run as the unendorsed Republican candidate, she used and modified the nominating petition form that had been provided to her by the Republican Party for the 2008 primary. In modifying the petition, she "whited out" the date of "February 5, 2008" and hand wrote, February "2, 2010".

Ms. Forte indicated that she circulated 4 "modified" petitions, which were eventually numbered as pages 7, 10, 12 and 47 of the 75 nominating pages that she submitted as part of her Statement of Candidacy. She indicated that after using 4 of the "modified" petitions, she found a link on the SBOE web site and was able to print up a new petition form, which she thereafter used.

Ms. Forte further testified that when she ran in the 2008 primary she turned over all nominating petitions to the Republican Party and did not withhold any for future use. She denied that any of her 75 petitions were held over from the 2008 primary election. She also denied that any of the 75 nominating petitions that were submitted with her Statement of Candidacy for the 2010 primary were circulated prior to August 4, 2009.

She specifically refuted the affidavits submitted by the Objector as well as the testimony of Stacy Pitzafarro.

FINDINGS OF FACT

10 ILCS 5/7-10 provides, in pertinent part, as follows:

At the bottom of each sheet of such petition shall be added a circulator statement signed by a person 18 years of age or older who is a citizen of the United States, stating the street address or rural route number, as the case may be, as well as the county, city, village or town, and state; and certifying that the signatures on that sheet of the petition were signed in his or her presence and certifying that the signatures are genuine; and either (1) indicating the dates on which that sheet was circulated, or (2) indicating the first and last dates on which the sheet was circulated, or (3) ***certifying that none of the signatures on the sheet were signed more than 90 days preceding the last day for the filing of the petition*** and certifying that to the best of his or her knowledge and belief the persons so signing were at the time of signing the petitions qualified voters of the political party for which a nomination is sought. Such statement shall be sworn to before some officer authorized to administer oaths in this State.

No petition sheet shall be circulated more than 90 days preceding the last day provided in Section 7-12 for the filing of such petition. (emphasis added).

Additionally, 10 ILCS 5/7-12 provides that

All petitions for nomination shall be filed by mail or in person as follows:

(1) Where the nomination is to be made for a State, congressional, or judicial office, or for any office a nomination for which is made for a territorial division or district which comprises more than one county or is partly in one county and partly in another county or counties, then, except as otherwise provided in this Section, such petition for nomination shall be filed in the principal office of the State Board of Elections ***not more than 99 and not less than 92 days prior to the date of the primary.***(emphasis added).

Accordingly, in the instant case, nominating petitions should not be signed prior to August 4, 2009 (182 days from February 2, 2010).

The Candidate has submitted a total of 75 nominating sheets containing 954 nominating signatures. The minimum signatures required for a candidate to be placed on the ballot for the office of state representative is 500. The Candidate was the circulator of 51 nominating sheets, which contained 665 of the 954 signatures. The remaining 289 signatures were obtained by 6 other Circulators, including Bruce Dopke, Mary Beth McWilliams, Steven Selep, Florence Brinacome, Georgine Downs, and Carol Miller. (See Appendix).

Of the 51 nominating sheets circulated by the Candidate, the Objector claims that the signatures on pages 7, 10, 12, and 47 were on “modified” forms which were circulated prior to August 4, 2009. In support of her argument that the signatures were obtained prior to August 4, 2009, the Objector presented the testimony of Eugene Carpino, who provided the Candidate with a nominating petition form when she was Republican Party endorsed candidate in the 2008 primary election.

The Objector also relied on the testimony of Stacey Pitzaferro and affidavits signed by Connie Allen, Karen Lawler, Marcia Camps, Pamela Kulpins, Kevin O’Neil and Melchor Varela, whose signatures appear on page 12 of the nominating petition circulated by Candidate, as well as the affidavits of Robert Abruscato and Todd Gierke, whose signatures appear on page 7 of the nominating petition circulated by the Candidate.

Objector does not seek to just eliminate the 32 signatures found on sheets 7, 10, 12, and 47. Instead, the Objector contends that the affidavits and testimony challenging the dates the nominating petition pages were circulated, coupled with the use of nominating petitions which were “altered”, constitutes a “pattern of fraud” and requires

the elimination of all signatures obtained by the circulator/Candidate, thereby resulting in less than the 500 signatures necessary for the Candidate to appear on the ballot.

The elimination of signatures other than those specifically objected to by an Objector has been followed in *Fortas v. Dixon*, 122 Ill. App.3d 697 (1984), *Huskey v. Municipal Officers Electoral Board*, 156 Ill. App.3d 201, 509 N.E.2d 555 (1987), and *Canter v. Cook County Officers Electoral Board*, 170 Ill. App.3d 364, 523 N.E.2d 1299 (1988),

In *Fortas v. Dixon*, 122 Ill. App.3d 697 (1984), the electoral board was presented with an objection which contended, inter alia, that certain of the signatures on the candidate's nominating petitions were invalid. During a hearing on the objections, evidence was uncovered that someone other than the person signing the circulator's oath had, in fact, circulated certain of the sheets of the petition. *Fortas*, 122 Ill. App.3d at 699-700. In holding that the electoral board had a right to strike, on that basis, a sheet to which the objector had not specifically objected, the appellate court observed that "when in the course of hearing objections to nominating papers, evidence beyond specific objections comes to the electoral board's attention, it cannot close its eyes and ears if evidence is relevant to the protection of the electoral process." *Fortas*, 122 Ill. App.3d at 701.

In *Huskey v. Municipal Officers Electoral Board*, 156 Ill. App.3d 201(1987), an objection was filed claiming that certain specified signatures in the candidates nomination petitions were invalid. During the course of a hearing, evidence was presented that that the circulator permitted individuals to sign the names of family members who were not present, and that someone other than the affiant presented the

petition to signers. Thus, it was undisputed that the voters did not sign "in their own proper person only." and the electoral board invalidated signatures other than those specified in the objection. *Huskey*, 156 Ill. App.3d at 203-204.

The appellate court, relying upon *Fortas*, upheld the electoral board's right to consider evidence relating to the validity of signatures other than those challenged in the objection and held that the "evidence constitutes a pattern of disregard for the mandatory requirements of the Election Code and affects the integrity of the political process. The fact that the circulator misunderstood her instructions or was not properly instructed and thus did not have fraudulent intent does not alter our holding." *Huskey*, 156 Ill. App.3d at 205.

Election laws exist to preserve the integrity of our government. (*Glenn v. Radden* (1984), 127 Ill. App.3d 712, 469 N.E.2d 616.) Before a candidate is denied a place on the ballot, the rights of both the candidate and the voters must be weighed in the balance. (*Anderson v. Schneider* (1977), 67 Ill.2d 165, 365 N.E.2d 900.) In addition, the State's interest in regulating elections must be recognized. The crucial question is whether it is conceivable that removing the candidate from the ballot has a rational relationship to a legitimate governmental objective. *Havens v. Miller* (1981), 102 Ill. App.3d 558,

The general purpose of the Election Code's signature requirements is to provide an orderly procedure by which qualified persons seeking public office may enter elections. (See *Lewis v. Dunne* (1976), 63 Ill.2d 48, 344 N.E.2d 443.) The petitions signed by electors are intended to serve a particular purpose. The primary purpose of the signature requirement is to reduce the electoral process to manageable proportions by confining ballot positions to a relatively small number of candidates who have demonstrated initiative and at least a minimal appeal to eligible voters. (*Merz v. Volberding* (1981), 94 Ill. App.3d 1111, 419 N.E.2d 628.) The obvious purpose of the requirement that each person may only sign his or her own name is to provide an accurate showing of the candidate's support in the community.

Finally, in *Canter v. Cook County Officers Electoral Board*, 170 Ill. App.3d 364, 523 N.E.2d 1299 (1988), the objector alleged that certain of the circulators' signatures appearing on the candidate's nominating petitions were not genuine and that certain of the other circulators' affidavits were false and perjurious, thereby reducing the number of valid signatures appearing on the petitions below the statutory minimum. *Canter*, 170 Ill. App.3d at 366. Citing *Fortas* and *Husky*, the court held that when the sheets of a nominating petition submitted by purported circulated evidence a pattern of fraud, false swearing and total disregard for the mandatory requirements of the Election Code the sheets purportedly circulated by that individual should be stricken in their entirety. *Canter*, 170 Ill. App.3d 364, 368.

The common denominator in the aforementioned three cases is that the evidence considered by the electoral board, or which should have been considered, went to the general objection that the candidate was called upon to answer, namely: whether his nominating petitions contained a sufficient number of valid signatures to satisfy the statutory minimum. Accordingly, if a fact pattern, such as described in *Fortas*, *Huskey* and *Canter* were shown to exist in the instant case, the Board is authorized to strike all of the signatures circulated by the circulator/Candidate.

In the instant case the hearing officer has reviewed the affidavits and listened carefully to the testimony of the witnesses. In listening to the Candidate, your hearing officer found her testimony to be credible. In the scheme of things, it is speculative and highly improbable that in 2007 the Candidate would have secreted away 4 nominating petitions containing 32 signatures in hopes of using them in the 2010 primary. Rather, her testimony that she used an old form and altered it until she was able to obtain an up to

date form from the SBOE website seems plausible. Further, her testimony that she did not circulate any nominating petitions for the 2010 primary election prior to August 4, 2009, was believable.

As regards the affidavits and testimony of the Objector witnesses, it is the hearing officer's belief that they may have been mistaken or confused on the exact date when they signed the petition and may have, in fact, signed the nominating petition in 2007 as well as 2009. In any event, it is the hearing officer's finding that, although the Objector has failed to meet her standard of proof, the Objector's petition was brought in good faith and that the witnesses and affiants testified in good faith.

SUMMARY OF FINDINGS

1. Candidate, Anita Forte-Scott, has filed nomination petitions for the office of state representative, 56th Representative District of the State of Illinois.
2. That objections to the nomination petitions of the Candidate were timely filed by Objector, Deborah Perrin. In her petition the Objector contends, inter alia, that Candidate's petitions, as filed, are not uniform and should be stricken. Additionally, the Objector contends that the Candidate circulated nominating petitions more than 90 days preceding the last day provided in Section 7-12 for the filing of such petition and that the use of a modified nominating petition by the circulator/Candidate constituted a "pattern of fraud" which required the disqualifications of all nominating petitions circulated by the Candidate.
3. The Candidate had submitted a total of 75 nominating sheets containing 954 nominating signatures. The minimum signatures required for a candidate to be placed on the ballot for the office of state representative is 500. The Candidate was the circulator of 51 nominating sheets, which contained 665 of the 954 signatures. The remaining 289

signatures were obtained by 6 other Circulators, including Bruce Dopke, Mary Beth McWilliams, Steven Selep, Florence Brinacome, Georgine Downs, and Carol Miller.

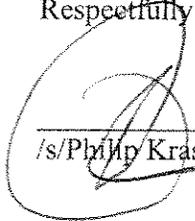
4. As set forth above, the Objector has not established a pattern of fraud nor has she established that the forms used by the Candidate were confusing and do not comply with the Code of Elections of the State of Illinois.

RECOMMENDATIONS

That the objection to the nominating petitions filed by Objector, Deborah Perrin, should be denied. The name of Anita Forte-Scott should be certified to the ballot for the office of for the office of state representative, 56th Representative District of the State of Illinois.

Respectfully Submitted,

dated: 12/2/2009



/s/Philip Krasny, Hearing Officer

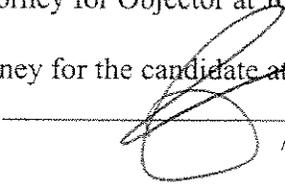
CERTIFICATION

The undersigned certifies that on December 2, 2009, the FINDINGS AND RECOMMENDATIONS OF HEARING OFFICER was forwarded via e-mail to:

Steve Sandervoss at ssandvoss@elections.il.gov
General Counsel State Board of Elections

John Countryman, attorney for Objector at JCountryman@Fosterbuick.com

Andrew Spiegel, attorney for the candidate at Spiegel@lawyer.com



/s/Philip Krasny, Hearing Officer

APPENDIX

PETITIONS

Total 75 pages

Circulators

Anita Forte Scott

Circulated 51 sheets totaling 665 signatures

15 Signatures

pages 1,2,3,4,5,6,8,9,11, 13,14,15,16,17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31,32,33,34,35,36,37,38, 40, 41,42, 43, 44

12 signatures

pages 45

10 signatures

pages 7, 10, 12, 46

affidavit of Todd Gierke pertains to his signature on page 7

affidavits of Connie Allen, Karen Lawler and Marcia Camps pertain to their signatures on page 12

3 signatures

pages 50

2 signatures

pages 47, 48,49, 51,52

Bruce Dopke

Circulated 1 sheet totaling 15 signatures

15 signatures

pages 39,

Mary Beth McWilliams

Circulated 1 sheet totaling 11 signatures

11 signatures

page 53

Steven Selep

Circulated 1 sheet totaling 15 signatures

15 signatures

pages 54,

Florence Brinacome

Circulated 5 sheets totaling 55 signatures

15 signatures
pages 56, 59

13 signatures
pages 57

11 signatures
pages 55

1 signature
page 58

Georgine Downs

Circulated 1 sheet totaling 6 signatures

6 signatures
page 60

Carol Miller

Circulated 15 sheets totaling 191 signatures

15 signatures
pages 61, 63, 64,65, 69,70, 72, 73, 74

14 signatures
pages 62, 71

13 signatures
pages 66

12 signatures
pages 68

2 signatures
pages 67

1 signature
page 75

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF
NOMINATION OBJECTIONS TO
NOMINATION PAPERS OF CANDIDATES
FOR NOMINATION TO THE OFFICE OF REPRESENTATIVE IN THE GENERAL
ASSEMBLY, 56th DISTRICT**

Deborah Perrin)
)
Petitioner-Objector,)
)
vs.)
)
Anita Forte-Scott,)
)
Respondent-Candidate.)

ORIGINAL ON FILE AT
STATE BD OF ELECTIONS
ORIGINAL TIME STAMPED
AT 2009 Nov 9 PM 1:17 *7/lu*

OBJECTOR'S PETITION

Introduction

Deborah Perrin, hereinafter sometimes referred to as the "Objector", states as follows:

The Objector resides at **2604 Pebblebrook Lane, Rolling Meadows, IL 60008**, in the County of Cook, State of Illinois, and is a duly qualified, legal and registered voter at that address.

The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Representative in the General Assembly 56th District of the State of Illinois are followed so that only qualified candidates appear on the ballot for said office.

OBJECTIONS

1. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of Anita Forte-Scott, as a candidate for the nomination of the Republican Party for the office of Representative in the General Assembly 56th District of the State of Illinois ("Office") to be voted for at the Primary Election on February 2, 2010 ("Election"). The Objector states that the Nomination Papers are insufficient in fact and law for the following reasons.

- A. Pursuant to State law, nomination papers for the Office to be voted for at the Election must contain the signatures of not fewer than 500 duly qualified, registered and legal voters of the 56th Representative District of the State of Illinois collected in the manner prescribed by law. In addition, nomination papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The Nomination Papers purport to contain the signatures of in excess of 500 such

voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.

B. After all the objections have been heard the Objector believes that the petition of the Candidate does not have enough valid signatures to qualify under the Code of Elections of Illinois to have the Candidate's name placed on the ballot for the nomination of the Republican Party for the Office of Representative in the General Assembly 56th District and the nomination papers fail to comply with the requirements of the Code of Elections of Illinois.

C. The Candidate's petitions, as filed, are not uniform and consistent. They are confusing and thus do not comply with the Code of Elections of the State of Illinois and as such all sheets should be stricken. More specifically, the sheets contain the following defects:

The Illinois Code of Elections requires that the heading of all sheets shall be the same and that the petitions can not be circulated prior to 90 days before the first day to file the same. *10 ICLS 8-8 and 10 ILCS 5/7-10.*

2. Sheets 7, 10, 12, and 47 are different in that the form is different and not the same, the date of the election on said four sheets is a clear write over of the primary date for the election in 2008, and the number of lines on said four sheets is ten lines while on all other sheets it has fifteen lines for signatures. The date of the form is different on sheets 7, 10, 12, and 47. At the top of sheets 7, 10, 12, and 47 appears the name Anita Forte-Scott and it does not appear that way on all the other sheets. The aforesaid failures to comply with the Code of Elections makes the entire petition set invalid as it is not uniform and the same as required.
3. Sheets 7, 10, 12, and 47 are different in that the form is different and the date of the election on said four sheets is a clear write over of the primary election date in 2008. Objector has reason to believe (and therefore alleges upon information and belief) that signatures on those four sheets were obtained more than 90 days prior to the first date for filing in 2009 (prior to August 4, 2009). That the comingling of said four sheets with the others makes the entire petition set invalid as it is not uniform and the same as required

Your Objector states that there will be presented substantial, clear, unmistakable, and compelling evidence that establishes a "pattern of fraud and false swearing" with an "utter and contemptuous disregard for the mandatory provisions of the Election Code." In addition, an examination of the nominating petition hereunder will reveal a pervasive and systematic attempt to undermine the integrity of the electoral process. Consequently, your Objector states that this Electoral Board "cannot close its eyes and ears" but will be compelled to void the entire nominating petition as being illegal and void in its entirety under the principles set forth in *Canter v. Cook County Officers Electoral Board*, 170 Ill.App.3d 364, 523 N.E.2d 1299, 1300 - 1301, 120 Ill.Dec. 388 (1st Dist. 1988); *Huskey v. Municipal Officers Electoral Board for Village of Oak Lawn*, 156 Ill.App.3d 201, 509 N.E.2d 555, 556 - 558, 108 Ill.Dec. 859 (1st Dist. 1987); and *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615, 617, 78 Ill.Dec. 496 (1st Dist. 1984). This allegation

is made with specific reference to petition signature sheets numbers 7, 10, 12, and 47 on which there is a false affidavit of the circulator as to dates on which the sheets were circulated. Your Objector will produce documentary and testimonial evidence that will establish inter alia that the sheets were circulated more than 90 days prior to the filing date of Oct. 26, 2009.

More specifically the following persons signed on sheets and lines below have stated that they did not sign the petition sheet in 2009, but rather in 2007 and objection is made to those signatures for failure to be obtained within 90 days of the first day to file and to duplicate signatures on sheets and lines as follows:

Page 12 Line 5

More specifically the following persons signed on sheets and lines below have stated that they did not sign the petition sheet in 2009, and objection is made to those signatures for failure to be obtained within 90 days of the first day to file and to duplicate signatures on sheets and lines as follows:

Page 12 Line 7

Page 7 Line 2

Page 12 Line 3 (signor states that she did sign Page 53 Line 7 in 2009)

This violation of the Code of Elections invalidates the entire set of petitions.

WHEREFORE, The Objector requests:

- a) a hearing on the objections set forth herein;
- b) an examination by the aforesaid Electoral Board of the official records relating to the voters in the 56th Representative District, to the extent that such examination is pertinent to any of the matters alleged herein;
- c) a ruling that the Nomination Papers are insufficient in law and fact, and
- d) a ruling that the name of s Anita Forte-Scott shall not appear and not be printed on the ballot for nomination to the office of Representative in the General Assembly of the 56th Representative District of the State of Illinois, to be voted for at the Primary Election to be held February 2, 2010.


OBJECTOR

AFFIDAVIT

I the undersigned state that:

If called as a witness I would testify to the following from my personal knowledge:

- 1. That I have reviewed a copy of the petition of Anita Forte-Scott filed October 29, 2009 for Representative In the General Assembly 56th District page 12.
- 2. That my signature appears on line 5.
- 3. That I did not sign that petition between August 4, 2009 and October 29, 2009.
- 4. I remember that I signed this petition in 2007.

Print name: Connie Allen
 Address: 2609 Deerfield Ln
Rolling Meadows, IL 60008

The undersigned first being duly sworn on oath, now deposes and says that [he] [she] has read this Affidavit and that the statements therein are true and correct.

Sign here: Connie J Allen

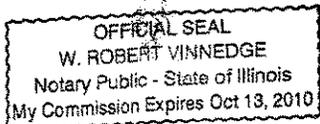
County of COOK)
) ss.
 State of Illinois)

Subscribed to and sworn before me, a Notary Public for Illinois, by CONNIE ALLEN on this the 7TH day of NOVEMBER, 2009 at ROLLING MEADOWS Illinois.

W. Robert Vinnedge (SEAL)
 NOTARY PUBLIC

My Commission expires: OCTOBER 13, 2010

seal



AFFIDAVIT

I the undersigned state that:

If called as a witness I would testify to the following from my personal knowledge:

- 1. That I have reviewed a copy of the petition of Anita Forte-Scott filed October 29, 2009 for Representative In the General Assembly 56th District page 12.
- 2. That my signature appears on line 7.
- 3. That I did not sign that petition between August 4, 2009 and October 29, 2009.

Print name: Marcia Camps
 Address: 5502 Arrowwood Lane
Rolling Meadows, IL
60008

The undersigned first being duly sworn on oath, now deposes and says that [he] [she] has read this Affidavit and that the statements therein are true and correct.

Sign here: Marcia Camps

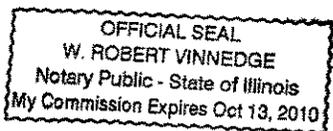
County of COOK)
) ss.
 State of Illinois)

Subscribed to and sworn before me, a Notary Public for Illinois, by MARCIA CAMPS, on this the 7th day of NOVEMBER, 2009 at ROLLING MEADOWS Illinois.

W. Robert Vinnedge (SEAL)
 NOTARY PUBLIC

My Commission expires: OCTOBER 13, 2010

seal



AFFIDAVIT

I the undersigned state that:

If called as a witness I would testify to the following from my personal knowledge:

1. That I have reviewed a copy of the petition of Anita Forte-Scott filed October 29, 2009 for Representative In the General Assembly 56th District page 7.
2. That my signature appears on line 2.
3. That I did not sign that petition between August 4, 2009 and October 29, 2009.

Print name: TODD N. GIERKE
 Address: 2609 ARROWWOOD LN
ROLLING MEADOWS, IL 60008

The undersigned first being duly sworn on oath, now deposes and says that [he] [she] has read this Affidavit and that the statements therein are true and correct.

Sign here: Todd N. Gierke

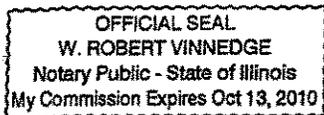
County of COOK)
) ss.
 State of Illinois)

Subscribed to and sworn before me, a Notary Public for Illinois, by TODD N. GIERKE on this the 8TH day of NOVEMBER, 2009 at ROLLING MEADOWS Illinois.

W. Robert Vinnege (SEAL)
 NOTARY PUBLIC

My Commission expires: OCTOBER 13, 2010

seal



Roth v. Dabney
09 SOEB GP 519

Candidate: Corey Dabney

Office: United States Senator

Party: Democratic

Objector: David E. Roth

Attorney For Objector: Sally Saltzberg, Michael Kreloff and Josh Karsh

Attorney For Candidate: Dan Johnson-Weinberger

Number of Signatures Required: No less than 5,000 and no more than 10,000

Number of Signatures Submitted: 6,634

Number of Signatures Objected to: 5,693

Basis of Objection: The nomination papers contain an insufficient number of valid signatures. Specifically, the nomination papers contain the names of persons (1) who did not sign the papers in their own proper persons, and therefore the signatures not genuine, (2) who are not registered at the addresses shown, (3) who failed to provide a legally complete and adequate address and/or (4) who printed and did not sign so the signatures are not genuine.

Binder Check Necessary: Yes

Hearing Officer: Philip Krasny

Hearing Officer Findings and Recommendation: The candidate filed a motion to Strike and Dismiss the Objector's petition, arguing that the Objector's high percentage of objections to signatures (an 85% overall objection rate) constitutes a "shotgun" objection made without reasonable inquiry or investigation into the facts. After a records examination was conducted, 61% of the objections were sustained (3,492 out of 5,693). Accordingly, after a review of the binder check and an affidavit of the person who reviewed the petitions, the hearing officer found the objector to have made a reasonable, good faith inquiry into the validity of the objections and denied candidate's motion to strike.

Candidate further objected to the Rule 9 "48 hour rule" to submit evidence to rehabilitate signatures, arguing that the 48 hour timeline is too short and results in staff findings becoming an irrefutable presumption. The candidate submitted spreadsheets to rehabilitate signatures; however, after examining the spreadsheets, the hearing officer found that they did not contain any evidence to support rehabilitation and concluded that the spreadsheets failed to rehabilitate any sustained objections.

Based on the submission of a number of valid signatures insufficient to qualify for appearance on the ballot for the office sought, the objections should be sustained and the name of the candidate should not appear on the General Primary Election ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer for the reasons contained in his Report.

STATE OF ILLINOIS)
)
COUNTY OF COOK)

**BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS**

In the Matter of:)
DAVID ROTH)
Petitioner-Objector)
)
vs.)
)
COREY DABNEY)
Respondent-Candidate)

Board File#: 09 SOEB GP 519

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

PROCEDURAL HISTORY

The Candidate, COREY DABNEY, seeks election to the office of United States Senator and has filed nominating petitions in support of his placement on the ballot as the Democratic nominee for that office.

That Objector, DAVID ROTH, has filed certain objections to those nominating petitions.

On November 17, 2009, the State Board of Elections ("SBOE") appointed Philip Krasny as the hearing officer to conduct a hearing on the objections to the nominating petitions and present recommendations to the SBOE.

A case management conference was held on November 17, 2007 and was attended by the Candidate's representative, Dan Johnson-Weinberger, and the Objector's representatives, Sally Saltzberg, Michael Kreloff and Josh Karsh.

At the initial case management conference, the parties were given time to file motions. The Candidate thereafter filed a motion to strike Objector's petition, the Objector filed a response and the Candidate filed a reply.

A binder check was performed by the SBOE and the results were distributed to the Candidate by Patricia Freeman from the SBOE via e-mail on November 24, 2009 at 9:51 a.m.. A revision of the tally involving 4 signatures was sent to Candidate by Patricia Freeman via e-mail on November 24, 2009 at 3:58 p.m.

Rule 9 of the Rules of Procedures¹ adopted by the State Board of Elections requires that any party objecting to the findings of the tally must submit evidence to the hearing officer within 48 hours after completion of the records examination. The Candidate objected to the "48 hour rule", arguing that the 48 hour timeline was too short and resulted in the staff findings becoming an irrefutable presumption.

Instead of providing any evidence within 48 hours, the Candidate compiled and submitted a series of 4 spreadsheets. An examination of the 4 spreadsheets reveals that they do not contain any evidence that the staff findings were in error. Rather, the spreadsheets apparently provide a summary of the Candidate's objections.

A hearing was scheduled for December 1, 2009 at the offices of the State Board of Election in Chicago, Illinois. At the hearing the Candidate was represented by Dan

¹ Rule 9, provides, in pertinent part, as follows:

"The parties will be given an opportunity to address all objections to staff findings properly taken and noted to the Board or to the hearing examiner at the evidentiary hearing on the merits of the objection scheduled by the Board or the hearing examiner. The party making the objection bears the burden of producing evidence proving that the staff finding was in error. Such evidence offered to refute the staff finding must be submitted to the Board or the hearing officer within forty-eight (48) hours after the completion of the records examination"

Johnson-Weinberger, and the Objector was represented by Sally Saltzberg, Michael Kreloff, Josh Karsh and Cara Henderson.

ANALYSIS

MOTIONS

The Candidate's Motion to Strike seeks, inter alia, to dismiss the Objector's petition based upon the Objector failing to make a reasonable inquiry or investigation as to the validity of the signatures challenged. In essence, the Candidate claims that the Objector objecting to 98% of all the signatures on the first 400 pages of the Candidate's nominating petitions, and 83% of all the Candidate's nominating signatures, for the exact same reason, (signer not registered at the address shown) constitutes a "shotgun" objection, made without any "reasonable inquiry or investigation into the facts", thereby violating 10 ILCS 5/10-8 of the Election Code, which requires that an Objector's petition must "state fully the nature of the objections" to the nominating petition. In support of his argument, the Candidate relies on *Hilliard Derengowski v. Kevin Lamm* (96 EB-RGA-01), a Chicago Election Board case wherein the election board struck objections not made upon the result of a reasonable inquiry or investigation into the facts.

At the hearing, the Objector denied that he violated 10 ILCS 5/10-8 and presented an affidavit from Aldolphus Kindle. In his affidavit Mr. Kindle averred that:

1. That I am an adult over the age of 21 and am competent to testify, based on my personal knowledge, to the matters contained herein;
2. That on behalf of the Objector, David E. Roth, I led a team of individuals that reviewed the petitions of U.S. Senate Candidate Corey Dabney;

3. On behalf of Objector Roth, on November 3, 2009, I purchased a copy of Mr. Dabney's petition sheets and a copy of the CD containing his petitions from the State of Illinois;
4. I supervised a number of people who reviewed the signatures on Mr. Dabney's petitions. Each worker had access to a combination of the computer voter file at the Cook County Board of Elections and voter poll sheets from across the State of Illinois;
5. I trained each worker to make an independent judgment as to whether each signature was genuine, whether the signer lived at the address given on the petition and whether the signer's address was complete;
6. My team of workers analyzed each signature before raising an objection.

The Objector also argued that the high rate of challenges regarding voters not being registered at the address shown in the nominating petitions was not due to the lack of due diligence by the Objector but, rather, was due to the low quality of the signatures collected by the Candidate.

In ruling on the Candidate's motion, your hearing officer is guided by Rule 9 of the Rules of Procedure, which provides, in pertinent part, as follows:

The Board or a hearing examiner may, in their discretion, order that a partial or sample records examination be conducted in order to test the validity of certain objections in the Objector's petition when it appears possible, viewing the face of the objections or upon other known facts, that the objections may not have been made as a result of a reasonable inquiry or investigation of the facts or were not made in good faith.

Thus, under the Rule, the SBOE staff can suspend the binder check if it determines that there is an inordinate amount of overruled objections. If suspended, and prior to the resumption of the count, the Objector would be required to present some evidence to the Board or hearing officer, such as the affidavit of Aldolphus Kindle presented by the Objector in the instant case, regarding its due diligence. In essence, the Rule is intended to address potential abuses by Objectors and provide a mechanism by which the SBOE's limited resources can be effectively used.

The Candidate's reliance on *Hilliard Derengowki v. Kevin Lamm* (96 EB-RGA-01) appears to be misplaced. In that case, the Objector objected to every signature for the same reason. In the instant case, 83% of the objections were for the same reason.

Further, while the Objector's overall objection rate in the instant case was 85% (5,693 objections divided by 6,634 total signatures), the sustained rate was 61% (3492 sustained objections divided by 5,693 overall objections). In the hearing officer's opinion, the sustained percentage rate would be more instructive of an Objector's due diligence, rather than the percentage of overall objections.

Accordingly, since there was no determination by the SBOE staff that performed the binder check in the instant case that the percentages of overruled objections revealed a pattern indicative that the Objector may not have made a reasonable, good faith inquiry into the validity of its objections, coupled with the affidavit of Aldolphus Kindle that the Objector had individuals review the signatures on the nominating petition to determine whether each signature was genuine, whether the signer lived at the address given on the petition and whether the signer's address was complete, it is the hearing officer's recommendation that the Candidate's motion to strike be denied.

EVIDENCE

According to the binder check, the Candidate submitted 6,634 nominating signatures. The minimum signatures required for a candidate to be placed on the ballot for the office of United States Senator is 5,000. The Objector challenged 5,693 of the Candidate's nominating signatures. Of the 5,693 objected to signatures, the binder examination resulted in 3,492 sustained objections, 2,201 overruled and 0 not ruled

upon. Thus, the candidate was found to have 3,142 valid signatures, 1,858 signatures below the minimum required.

The Candidate acknowledged that he did not have sufficient evidence to rehabilitate 1,858 signatures. Rather, he indicated that he could rehabilitate approximately 500 signatures. Based upon the Candidate's representations, the hearing was continued to December 4, 2009 in order for the Candidate to make an offer of proof regarding those signatures.

At the December 4, 2009 hearing, the Candidate was represented by Dan Johnson-Weinberger, and the Objector was represented by Sally Saltzberg and Michael Krelloff. At the hearing, the Candidate presented another spreadsheet which he contended rehabilitated 299 of the sustained objections regarding that the voter was not registered at the address shown.

An examination of the spreadsheet reveals that it does not contain any evidence in support of the Candidate's argument. Rather, the spreadsheet lists a few names, a few addresses and hundreds of voter registration numbers. Except for one entry on the spreadsheet, the Candidate's spreadsheet fails to provide the name and address of the alleged voter with any of the voter registration numbers. Without some evidence that the voter registration number on the spreadsheet belonged to a particular voter at a particular address and without evidence that the SBOE sustained an objection when the particular voter was at the address shown on the voter registration and on the Candidate's nominating petition, your hearing officer concludes that the spreadsheet is meaningless and fails to rehabilitate any of the sustained objections.

SUMMARY OF FINDINGS

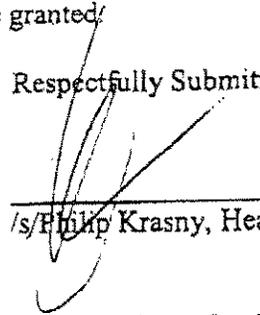
1. Candidate, Corey Dabney, has filed nomination petitions for the office of United States Senator.
2. That objections to the nomination petitions were timely filed by Objector, David Roth.
3. The minimum signature requirement for United States Senator is 5000.
4. The nomination petitions contained 6,634 signatures.
5. Objections to 3,492 of the challenged signatures were sustained.
6. The Candidate was ruled to have submitted 3,142 valid signatures, 1,858 signatures below the minimum required.
7. That the Candidate has failed to rehabilitate 1,858 signatures

RECOMMENDATIONS

The Candidate's motion to strike should be denied. That the objection to the nominating petitions filed by Objector should be granted.

Respectfully Submitted,

Dated: December 5, 2009



/s/Philip Krasny, Hearing Officer

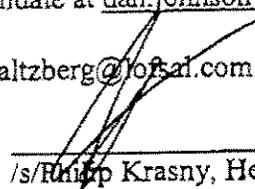
CERTIFICATION

The undersigned certifies that on December 5, 2009, the FINDINGS AND RECOMMENDATIONS OF HEARING OFFICER was forwarded via e-mail to:

Steve Sandvoss, General Counsel State Board of Elections at ssandvoss@elections.il.gov

Dan Johnson-Weinberger, attorney for Candidate at dan.johnsonweinberger@gmail.com

Sally Saltzberg, attorney for Objector at shsaltzberg@jofsa.com



/s/Philip Krasny, Hearing Officer

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE
OFFICE OF UNITED STATES SENATOR FROM THE STATE OF ILLINOIS.

IN THE MATTER OF THE OBJECTIONS)
OF DAVID E. ROTH TO THE NOMINATION)
PAPERS OF COREY DABNEY OF)
2580 NEEDHAM COURT,)
AURORA, ILLINOIS, 60503, AS A)
CANDIDATE FOR NOMINATION)
OF THE DEMOCRATIC PARTY TO)
THE OFFICE OF UNITED STATES SENATOR)
FROM THE STATE OF ILLINOIS)
TO BE VOTED ON AT THE FEBRUARY 2ND,)
2010, PRIMARY ELECTION.)

ORIGINAL ON FILE AT
STATE BD OF ELECTIONS
ORIGINAL TIME STAMPED
AT Chicago Office

on 11/9/09 at 3:09 PM


VERIFIED OBJECTOR'S PETITION

NOW COMES, David E. Roth, hereinafter sometimes referred to as the "Objector," and respectfully states that Objector resides at 1775 Winnemac, Chicago, 60640, in the State of Illinois; that Objector is a duly qualified, registered, and legal voter at such address; that Objector's interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for nomination of the Democratic Party to the office of United States Senator are properly complied with and that only qualified candidates have their names appear on the ballot as candidates for that office; and therefore Objector makes the following objections to the nomination papers ("Nomination Papers") of Corey Dabney ("the Candidate") as a candidate for nomination of the Democratic Party to the office of United States Senator from the State of Illinois to be voted on at the February 2, 2010 Primary Election, stating that the the Nomination Papers are insufficient in law and in fact for the following reasons:

1. Pursuant to Illinois law, Nomination Papers for the office of United States Senator must contain the signatures of not less than 5,000 duly qualified, registered, and legal voters of the State of Illinois. In addition, Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.
2. The Candidate's Nomination Papers contain petition signature sheets with the names of persons who did not sign the papers in their own proper persons, and such signatures are not genuine, as more fully set forth in the Appendix-Recapitulation under the heading Column A, "Signer's Signature Not Genuine." All such signatures, being in violation of statute, are therefore invalid.
3. The Candidate's Nomination Papers contain petition signature sheets with the names of persons who are not in fact duly qualified, registered, and legal voters at the addresses

shown opposite their names, as more fully set forth in the attached Appendix-Recapitulation under the heading Column B, "Signer not Registered At Address Shown." All such signatures, being in violation of statute, are therefore invalid.

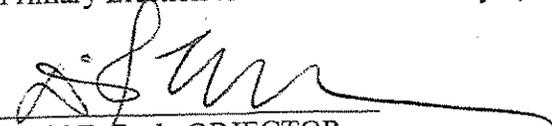
4. The Candidate's Nomination Papers contain signature sheets with the names of numerous persons who have signed the petition signature sheets but who failed to provide a legally complete and adequate address, as more fully set forth in the Appendix-Recapitulation under the heading Column D, "Signer Not Registered At Such Incomplete Address." All such signatures, being in violation of statute, are therefore invalid.

5. The Candidate's Nomination Papers contain petition signature sheets with the names of persons who printed and did not sign the Nomination Papers, as more fully set forth in the attached Appendix-Recapitulation under the heading Column F, "Signer's Signature Printed And Not Genuine." All such names, being printed rather than signed, are in violation of statute, are therefore invalid.

6. The Candidate's Nomination Papers are, therefore, void and fatally defective in their entirety in that the Candidate's Nomination Papers do not contain the statutory minimum 5,000 signatures, even if all signatures were genuine signatures of duly qualified, registered and legal voters at the addresses shown opposite their names, which they are not.

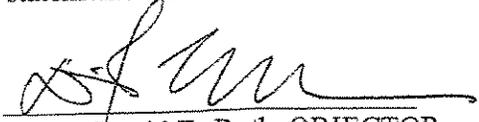
7. The attached Appendix-Recapitulation, consisting of 677 pages and the objections made therein are a part of this Objector's Petition.

WHEREFORE, the Objector requests: (1) a hearing on the objections set forth herein; (2) an examination by the aforesaid Electoral Board of the official records relating to voters in the State of Illinois, to the extent that such examination is pertinent to any of the matters alleged herein; (3) a ruling that the purported Nomination Papers of Corey Dabney as a candidate of the Democratic Party for nomination to the office of United States Senator from the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois; and that (4) a ruling that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of COREY DABNEY as a candidate of the Democratic Party for nomination to the office of United States Senator BE NOT PRINTED on the OFFICIAL BALLOT for the Democratic Party at the Primary Election to be held on February 2, 2010.

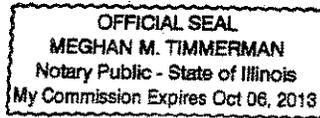

David E. Roth, OBJECTOR

VERIFICATION

The undersigned, David E. Roth, as Objector, first being duly sworn on oath, now deposes and says that he has read this VERIFIED OBJECTOR'S PETITION and that the statements therein are true and correct to the best of his knowledge, information and belief.


David E. Roth, OBJECTOR

Subscribed to and Sworn before me,
by David E. Roth, the Objector, on this
9th day of November, 2009.




NOTARY PUBLIC

Joshua Karsh
Hughes Socol Piers Resnick & Dym Ltd.
Three First National Plaza
70 W. Madison St., Suite 4000
Chicago, IL 60602-4698
312-580-0100

Michael Kreloff
Attorney at Law
1926 Waukegan, Suite 310
Glenview, IL 60025
847.657.1020

Sally H. Saltzberg
Loftus & Saltzberg, P.C.
53 W. Jackson, Suite 1515
Chicago, IL 60604
312.913-2000

ATTORNEYS FOR OBJECTOR

STATEMENT OF CANDIDACY

NAME	ADDRESS-ZIP CODE	OFFICE	DISTRICT	PARTY
Corey Dabney	2580 Needham Ct. Aurora, IL 60503	United States Senator	State of Illinois	Democratic

If required pursuant to 10 ILCS 5/7-10.2, 8-8.1 or 10-5.1, complete the following (this information will appear on the ballot)

FORMERLY KNOWN AS N/A UNTIL NAME CHANGED ON N/A
(List all names during last 3 years) (List date of each name change)

STATE OF ILLINOIS)
County of Will) SS.

I, Corey Dabney (Name of Candidate) being first duly sworn (or affirmed), say that I reside at 2580 Needham Ct. in the City Village, Unincorporated Area (circle one) of Aurora (if unincorporated, list municipality that provides postal service) Zip Code 60503, in the County of Will, State of Illinois; that I am a qualified voter therein and am a qualified Primary voter of the Democratic Party; that I am a candidate for Nomination Election to the office of United States Senator in the State of Illinois District, to be voted upon at the primary election to be held on February 2, 2010 (date of election) and that I am legally qualified (including being the holder of any license that may be an eligibility requirement for the office to which I seek the nomination) to hold such office and that I have filed (or I will file before the close of the petition filing period) a Statement of Economic Interests as required by the Illinois Governmental Ethics Act and I hereby request that my name be printed upon the official Democratic Party (Name of Party) Primary ballot for Nomination Election for such office.

Signed and sworn to (or affirmed) by Corey Dabney before me, on 11-1-09
(Name of Candidate) (insert month, day, year)

[Signature]
(Signature of Candidate)
[Signature]
(Notary Public's Signature)



09 NOV - 2 PM 3:51
STATE BOARD OF ELECTIONS
PRINCIPAL OFFICE

Josifovic v. Dabney
09 SOEB GP 530

Candidate: Corey Dabney

Office: United States Senate

Party: Democratic

Objector: Natalia T. Josifovic

Attorney For Objector: Richard K. Means

Attorney For Candidate: Dan Johnson-Weinberger

Number of Signatures Required: No less than 5,000 and no more than 10,000

Number of Signatures Submitted: 6,634

Number of Signatures Objected to: 1,999

Basis of Objection: The nomination papers contain an insufficient number of valid signatures. Specifically, the nomination papers contain the names of persons who are not duly registered as voters at the addresses shown, who have signed the petition more than once, and/or whose addresses are incomplete or illegible. The nomination papers contain sheets circulated by individuals whose sheets demonstrate a pattern of fraud.

Binder Check Necessary: Yes

Hearing Officer: Phil Krasny

Hearing Officer Findings and Recommendation: A records examination revealed that of the 1,999 objected to signatures, 1,437 objections were sustained and 562 were overruled. Thus, the candidate was found to have 5,197 valid signatures. The objector did not provide any further evidence to invalidate an additional 197 signatures; therefore, the candidate has submitted a sufficient number of signatures to be certified to the General Primary Election Ballot and the objection should be overruled.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer for the reasons contained in his Report.

STATE OF ILLINOIS)
)
COUNTY OF COOK)

**BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS**

In the Matter of:)
NATALIA JOSIFOVC)
Petitioner-Objector)
)
vs.)
)
COREY DABNEY)
Respondent-Candidate)

Board File#: 09 SOEB GP 530

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

PROCEDURAL HISTORY

The Candidate, COREY DABNEY, seeks election to the office of United States Senator and has filed nominating petitions in support of his placement on the ballot as the Democratic nominee for that office.

That Objector, NATALIA JOSIFOVIC, has filed certain objections to those nominating petitions.

On November 17, 2009, the State Board of Elections ("SBOE") appointed Philip Krasny as the hearing officer to conduct a hearing on the objections to the nominating petitions and present recommendations to the SBOE.

A case management conference was held on November 17, 2007 and was attended by the Candidate's representative, Dan Johnson-Weinberger, and the Objector's representative, Richard Means.

At the initial case management conference, the parties were given time to file motions. No motions were filed.

A binder check was conducted and the results distributed to the Candidate on November 21, 2009 and to the Objector on November 23, 2009. Ten signatures had not been recorded and on November 24, 2009 a revised tally was distributed which included the additional 10 signatures.

A hearing was scheduled for December 1, 2009 at the offices of the State Board of Election in Chicago, Illinois.

On December 1, 2009, a hearing on the objections to the nominating petitions was conducted. At the hearing, the Candidate was represented by Dan Johnson-Weinberger, and the Objector was represented by Richard Means

ANALYSIS

The binder check revealed that the Candidate submitted 6,634 nominating signatures. The minimum signatures required for a candidate to be placed on the ballot for the office of United States Senator is 5,000. The Objector challenged 1,999 of the Candidate's nominating signatures. Of the 1,999 objected to signatures, the binder examination resulted in 1,437 sustained objections, 562 overruled and 0 not ruled upon. Thus, the candidate was found to have 5,197 valid signatures, 197 signatures above the minimum required.

The Objector did not provide any evidence to invalidate an additional 197 signatures.

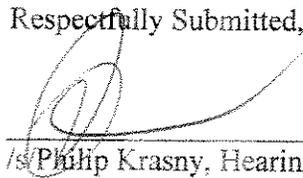
FINDINGS

1. Candidate, Corey Dabney, has filed nomination petitions for the office of United States Senator;
2. That objections to the nomination petitions were timely filed by Objector, Natalia Josifovic;
3. The minimum signature requirement for United States Senator is 5000;
5. The nomination petitions contained 6,634 signatures;
6. Objections to 1,437 of the challenged signatures were sustained and 562 overruled;
7. The Candidate was ruled to have submitted 5197 valid signatures, 197 signatures above the minimum required.
8. That the Objector has failed to provide evidence invalidating 197 signatures

RECOMMENDATIONS

That the objection to the nominating petitions of the Candidate, Corey Dabney, filed by Objector, Natalia Josifovic, should be denied.

Respectfully Submitted,



/s/Philip Krasny, Hearing Officer

Dated: December 1, 2009

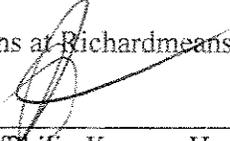
CERTIFICATION

The undersigned certifies that on December 1, 2009, the FINDINGS AND RECOMMENDATIONS OF HEARING OFFICER was forwarded via e-mail to:

Steve Sandvoss at ssandvoss@elections.il.gov
General Counsel State Board of Elections

Dan Johnson-Weinberger, attorney for Candidate at

Richard Means, attorney for Objector at Rmeans@Richardmeans.com



/s/Philip Krasny, Hearing Officer

State of Illinois)
) SS.
County of Cook)

ORIGINAL ON FILE AT
STATE BD OF ELECTIONS
ORIGINAL TIME STAMPED
AT 2009 201 9 PM 4:20

**Before the Duly Constituted Electoral Board for the Hearing and
Passing Upon of Objections to Nomination Papers of Candidates for
the Democratic Party Nomination for the Office of
United States Senator for the State of Illinois**

**Objections of Natalia T. Josifovic to the Nomination
Papers of Corey Dabney, Candidate for the
Democratic Party Nomination for the Office of
United States Senator for the State of Illinois, to be
voted for at the General Primary Election to be held
on the Second Day of February, 2010**

Verified Objector's Petition

Natalia T. Josifovic, residing and registered to vote at 1356 South Sixth Avenue, in the City of Des Plaines, County of Cook, State of Illinois (hereinafter referred to as "Objector") states that the Objector's address is as stated, that the Objector is a legal voter of the of the State of Illinois and that the Objector's interest in filing the following objections is that of a citizen desirous of seeing that the election laws governing the filing of nomination papers for the Democratic Party Nomination for the office of United States Senator for the State of Illinois to be voted for at the General Primary Election to be held on the Second Day of February, 2010, are properly complied with. Therefore, the Objector makes the following objections to the nomination papers of Corey Dabney as a candidate for the Democratic Party Nomination for the office of United States Senator for the State of Illinois to be voted for at the General Primary Election to be held on the Second Day of February, 2010 (hereinafter referred to as the "Nomination Papers").

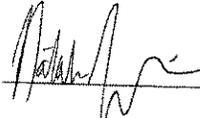
The Objector states that said Nomination Papers are insufficient in fact and law for the following reasons:

1. Pursuant to Illinois law, nomination papers for the Democratic Party Nomination for the office of United States Senator for the State of Illinois to be voted for at the General Primary Election to be held on the Second Day of February, 2010, must contain the true signatures of not fewer than 5,000 nor more than 10,000 qualified and duly registered legal voters of the State of Illinois. In addition, said Nomination Papers

must truthfully allege that the candidate is qualified for the office he or she seeks, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise must be executed in the form provided by law. The Nomination Papers herein purport to contain the signatures of in excess of the legal minimum of such voters, and further purport to truthfully allege that the candidate is qualified for the office he or she seeks and purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.

2. The Nomination Papers contain the names of persons who are not duly registered as voters at the addresses shown opposite their respective names, as is set forth specifically in **Appendix A.**, *attached hereto and incorporated herein*, under the heading, **Column A**, "Signer not registered at address shown," in violation of the Illinois Election Code and therefore all such signatures are invalid.
3. The Nomination Papers contain the names of persons who have signed the Nomination Papers more than one time as is set forth specifically in **Appendix A.**, *attached hereto and incorporated herein*, under the heading, **Column D**, "Signer's name listed more than once" [with a reference showing the sheet and line number (S/L) of additional listings] in violation of the Illinois Election Code and therefore only one of such multiple signatures is valid.
4. The Nomination Papers contain the names of persons as signers for whom the address appearing opposite said names is so incomplete or illegible as to render impossible the inquiry into whether such persons are registered voters within the «district» as is set forth specifically in **Appendix A.** *attached hereto and incorporated herein*, under the heading **Column O.**, "Signer's address so incomplete or illegible as to prevent checking," in violation of the Illinois Election Code and therefore all such signatures on such petition sheets are invalid.
5. The Nomination Papers contain petition sheets circulated by individuals whose petition sheets demonstrate a pattern of fraud and disregard of the Election Code to such a degree that every signature on every sheet circulated by said individuals are invalid, and should be invalidated, in order to protect the integrity of the electoral process. Such affected signatures are set forth specifically in **Appendix A.** *attached hereto and incorporated herein*, under the heading **Column Q.**, "Sheet invalid because of pattern of fraud and disregard of Election Code by circulator," in violation of the Illinois Election Code and therefore all such signatures on such petition sheets are invalid.
6. Because the Nomination Papers contain far fewer than the statutory minimum number of 5,000 validly collected and presented signatures of qualified and duly registered legal voters of the Democratic Party of the State of Illinois, signed by such voters in their own proper person with proper addresses, as alleged above and as is set forth specifically in **Appendix A.**, *attached hereto and incorporated herein*, the Nomination Papers are invalid in their entirety.

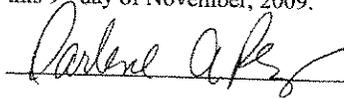
Wherefore, the Objector requests a hearing on the Objections set forth herein, an examination by the aforesaid Electoral Board (or its duly appointed agent or agents) of the official voter registration records relating to voters of the State of Illinois, (to the extent that such examination is pertinent to any of the matters alleged herein), a ruling that the Nomination Papers are insufficient in law and fact, and a ruling that the name of Corey Dabney **shall not appear** on the ballot for the Democratic Party Nomination for the office of United States Senator for the State of Illinois to be voted for at the General Primary Election to be held on the Second Day of February, 2010.



Natalia T. Josifovic
Objector

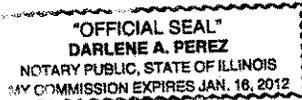
Subscribed and sworn to before me by Natalia T. Josifovic

this 9th day of November, 2009.



NOTARY PUBLIC

(SEAL)



Objections filed: November 9, 2009

Richard K. Means
Attorney for the Objector
806 Fair Oaks Avenue
Oak Park, Illinois 60302

Telephone: (708) 386-1122
Facsimile: (708) 383-2987
Email: rmeans@richardmeans.com
Cook County Attorney # 27351

Hossfeld v. Rauschenberger
09 SOEB GP 525

Candidate: Steven J. Rauschenberger

Office: State Senator, 22nd District

Party: Republican

Objector: Frederick J. Hossfeld

Attorney For Objector: Michael Kasper/Courtney Nottage

Attorney For Candidate: Sara Gadola Gallagher/Burton S. Odelson

Number of Signatures Required: No less than 1000

Number of Signatures Submitted: N/A

Number of Signatures Objected to: No specific signatures were objected to.

Basis of Objection: Candidate is ineligible to seek office as a candidate of the Republican Party because he chose and voted a Democratic ballot in the 2009 Consolidated Primary Election, and as such is “locked in” to his chosen party affiliation and declaration at least until the February 2, 2010 General Primary Election. As a result of his previously declared party affiliation, the candidate has filed a false Statement of Candidacy in that he was not, at the time of signing the Statement and filing the nomination papers, and is not now, a “qualified voter” of the Republican Party. Objector cites the decision of the Appellate Court in the case of *Cullerton v. DuPage County Officers Electoral Board*, 384 Ill.App.3d 989.

Binder Check Necessary: No

Hearing Officer: Barb Goodman

Hearing Officer Findings and Recommendation: It is the opinion of the Hearing Officer that the *Cullerton* case is controlling and should be applied to the facts of this case. The court in *Cullerton* held that the requirement in Section 7-10 and contained in the mandated Statement of Candidacy form, that a candidate be a qualified primary elector of the party for which he seeks nomination, means that the candidate must have been eligible to vote in the primary of that party at the most recent primary election. In this case, the most recent primary election was the 2009 Consolidated Primary. Since the candidate chose a Democratic ballot at that Primary, and was therefore prohibited from choosing a Republican ballot as well, this fact makes him ineligible to be a candidate of the Republican Party at the next succeeding Primary Election (2010). In addition, the court stated that a candidate is “locked-in” in terms of party affiliation with the party he chooses until the next primary, which in this case is February of 2010.

The candidate argued that the *Cullerton* case only restricted a candidate’s party affiliation for a given election cycle (primary and general election occurring within the same year) and since the candidate in this matter chose a Democratic ballot from a previous election cycle, he was free to seek the Republican party nomination for the current Primary Election. In addition, the candidate argued that since previous court decisions struck down the party affiliation restrictions as applied to petition signers and voters, the

same should be true for candidates. The Hearing Officer rejected this argument, noting that the court did not restrict its application of the party affiliation restrictions to an election cycle. Furthermore, the court did not distinguish between a Consolidated Primary Election and a General Primary Election in its application. Finally, the court stated that the General Assembly, by keeping the restriction as applied to candidates within the language of the Statement of Candidacy, indicated it was their intent that such restriction on candidates survived the two decisions that struck down the restrictions on voters and petition signers.

In light of this analysis of the applicability of the *Cullerton* decision, the Hearing Officer recommends that the objection be sustained and that the candidate not be certified to the General Primary Election Ballot.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer for the reasons contained in her Report.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATION PAPERS
OF CANDIDATES FOR NOMINATION TO THE OFFICE OF STATE SENATOR
FOR THE 22ND LEGISLATIVE DISTRICT OF THE STATE OF ILLINOIS

Frederick J. Hossfeld,)	
)	
Petitioner-Objector,)	
)	
v.)	No. 09 SOEB GP 525
)	
Steven J. Rauschenberger,)	Hearing Officer: Barbara Goodman
)	
Respondent-Candidate)	

RESPONDENT-CANDIDATE'S EXCEPTIONS TO RECOMMENDED DECISION

NOW COMES the Respondent-Candidate, Steven J. Rauschenberger ("Candidate"), by and through his attorneys, ODELSON & STERK, LTD., and for his Exceptions to the Recommended Decision of the Hearing Officer states as follows:

I. FACTS

The sole issue before this Board is whether the Candidate, a man with a long history of voting as a Republican, and serving this State as a Republican State Senator, is a "qualified primary voter" of the Republican Party under the Illinois Election Code ("Code"). Mr. Rauschenberger served as an elected Republican State Senator from 1992 to 2006 when he ran as the Republican candidate for Lieutenant Governor.

The Candidate filed nomination papers as a candidate of the Republican Party for the office of State Senator for the 22nd Legislative District, to be voted on at the *General* Primary Election of February 2, 2010 ("February 2010 General Primary"). Accompanying the Candidate's nomination papers is a Statement of Candidacy in which the Candidate declares his political affiliation as being a qualified Primary voter of the Republican Party. The Candidate applied for, received, and voted a Republican Party ballot in the last three statewide

primaries: the 2008 General Primary, 2008 Special General Primary, the 2006 General Primary, as well as past primaries when he ran for office as far back as 1992.

Earlier this year, in February, 2009, the Candidate cast a vote for his sister, a Democratic township trustee candidate, in the local *Consolidated* primary election in Elgin Township. Mr. Rauschenberger's sister won by two votes and won at the general township election in April, 2009. The Objector filed an Objector's Petition against the Candidate erroneously asserting that the Candidate's vote in this local *Consolidated* township election has somehow "locked" the Candidate's status as a Democratic voter and invalidated the Candidate's Statement of Candidacy attesting that he is a qualified primary voter of the Republican Party for the February 2010 *General* Primary, and then the November, 2010 general election.

II. STATUS OF CASE AND DECISIONS OF THE OTHER ELECTORAL BOARDS

It is important to note that the Cook County Officers Electoral Board has correctly decided the very issue in this case. On November 23, 2009, in the objections of Ken Jochman against the candidacy of Sean M. Morrison for the First District of the Board of Review (09 COEB BR01), the Board overruled the objection based on the candidate voting as a Democratic in the February, 2008 primary and now declaring as a Republican for the February 2010 primary. Chairman Dan Madden, Assistant State's Attorney Patrick Driscoll and Mary Melchor (representing the Clerk of the Circuit Court), found as follows:

"Objector also alleges that Candidate is ineligible to seek the nomination of the Republican Party because he voted in the Democratic Primary in the February, 2008 Primary election. As authority he cites *Cullerton v. DuPage County Officers Electoral Board*, 384 Ill.App.3d 989 (2nd Dist. 2008). Candidate disputes this reading of *Cullerton*, maintaining that the holding applies only to a single election cycle and cannot reach from 2008 to 2010. We regarding Candidate's reading of *Cullerton* as correct, and further note that the repeal of former section 7-43(d) of the Election Code by P.A. 95-689, effective Nov. 9, 2007, indicates that the General Assembly is no longer intent upon enforcing a prohibition of the type Objector suggests. Moreover, to attempt to force such a prohibition would vitiate *Kusper v. Pontikes*, 414 U.S. 51, 38 L.Ed. 2d 260, 94 S. Ct. 303 (1973) and

Sperling v. County Officers Electoral Board, 57 Ill.2d 81 (1974) as they apply to candidates. The holding in *Cullerton* is far too narrow to support such a result.”

It is clear that this Hearing Officer’s recommendation was not in accordance with the statutes of this state or the very established law of this Country, as further described below.

III. **THE LEGISLATURE HAS ELIMINATED THE UNCONSTITUTIONAL “LOCK-OUT” PROVISIONS FROM SECTION 5/7-10 OF THE CODE, AND THE COURTS HAVE LIKEWISE ACKNOWLEDGED THE LACK OF RESTRICTIONS.**

In the early 1970s, the Code specifically restricted changes in political party affiliations by three distinct groups: 1) voters, 2) signers of nominating petitions, and 3) candidates for nomination in primary elections. *Sperling v. County Officers Electoral Bd.*, 57 Ill.2d 81, 81-82, 309 N.E.2d 589 (1974). The Code prohibited voters from voting at a primary if they had voted at a primary of another political party “within a period of 23 calendar months next preceding the calendar month in which such primary is held.” *Cullerton v. DuPage Co. Officers Electoral Bd.*, 384 Ill.App.3d 989, 991, 894 N.E.2d 774 (2d Dist. 2008), *citing* Ill.Rev.Stat.1971, ch. 46, par. 7-43(d). To restrict candidates and signers of nominating petitions, the Code provided that a “qualified primary elector” of a party was “an elector who has not requested a primary ballot of any other party at a primary election held within 2 years of the date on which the petition must be filed.” *Cullerton*, 384 Ill.App.3d at 992, *citing* Ill.Rev.Stat.1971, ch. 46, par. 7-10.

In 1973, the United States Supreme Court held unconstitutional the Code’s restriction on voters changing parties because it violated voters’ First and Fourteenth Amendment freedom to associate. *Kusper v. Pontikes*, 414 U.S. 51, 57-61, 94 S.Ct. 303 (1973). In explaining its holding, the Supreme Court stated:

There can be little doubt that [the statutory provision] substantially restricts an Illinois voter's freedom to change his political party affiliation. One who wishes to change his party registration must wait almost two years before his choice will be given effect. Moreover, he is forced to forgo participation in any primary elections occurring within the statutory 23-month hiatus. The effect of the Illinois statute is thus to 'lock' the voter into his pre-existing party affiliation for a substantial period of time following participation in any primary election, and each succeeding primary vote extends this period of confinement.

Kusper, 414 U.S. at 57.

A year after *Kusper*, the Illinois Supreme Court took up the remaining questions of whether the Code's restrictions on party changes by signers and restrictions on candidates were constitutional. See *Sperling*, 57 Ill.2d at 81-82. Based on the *Kusper* court's reasoning, the *Sperling* court held unconstitutional the Code's two-year restriction on signers of nominating petitions. 57 Ill.2d at 84. The *Sperling* court also warned that the Code's restriction on party changes by candidates, could not be considered independent from the invalid portions of the plan:

We have here a legislatively designed plan for the preservation of the integrity of the political process which provided substantially similar restrictions for all three categories: voters, voters who sign primary nominating petitions, and voters who wish to be candidates. That plan has now been held to be constitutionally impermissible as to two of those three categories. ... In short, it seems to us that the restrictive provisions upon the several categories of voters are so closely related that the General Assembly would not have enacted the portion relating to candidates apart from some restrictions upon voters generally and, more particularly, those voters who desire to sign primary petitions. *In these circumstances the restrictions upon candidates cannot be considered independent and severable from the invalid portions of the plan.*

Id. at 86. (Emphasis added.)

Again in 1976, the Illinois Supreme Court acknowledged their decision in *Sperling* and held in *Dooley v. McGillicuddy*, 63 Ill. 2d 54,345 N.E.2d 102:

"The pleadings and exhibits in their case indicate that an attempt was made in the legislature to restrict primary participation after the *Pontikes* and *Sperling* decisions. However, such amendatory legislation was not adopted. **In effect,**

these decisions operated to impose an open petition system regarding party affiliation with only a minimal limitation upon primary voting. The result in *Kusper* and *Sperling* and the absence of curative legislation was to render inoperable those restrictions upon candidates in a party primary and voters who signed nominating petitions concerning those individuals' prior political affiliations."

Dooly, *Id.* At 59 (Emphasis added)

That is the current state of the law as recognized by the Cook County Electoral Board in its current decisions.

Nearly two decades later and responding directly to *Sperling*, the General Assembly struck the unconstitutional language from Section 5/7-10 of the Code and left the following definition (with strikeout used to show deletions and bold used to show additions):

~~For the purpose of determining eligibility to sign a petition for nomination or eligibility to be a candidate under this Article, A 'qualified primary elector' of a party (1) is an elector who has not requested a primary ballot of any other party at a primary election held within 2 years of the date on which the petition must be filed or (2) is a first-time voters in this State registered since the last primary of an even-numbered year preceding the date on which the petition must be filed, but no such person may **not** sign petitions for or be a candidate in the primary of more than one party.~~

10 ILCS 5/7-10; Pub. Act 86-1348, eff. September 7, 1990.

The Hearing Officer erroneously asserts that the analysis in *Cullerton* establishes that the Candidate's party status is somehow "locked" until the February, 2010 General Primary. In *Cullerton*, the candidate voted in the February, 2008 Republican General Primary, just as he had in 2004 and 2006. *Id.* at 990. Just a few days after the 2008 general primary election, the Democratic Party, which had no candidate for Senator of the 23rd Legislative District, nominated Mr. Cullerton, to fill the vacancy. *Id.* The candidate then filed a Statement of Candidacy asserting that he was a "qualified primary voter" of the Democratic Party for the

same primary and general election cycle, that he had just declared and voted as a Republican! *Id.* The *Cullerton* court held that because the candidate had voted in the 2008 Republican primary, his status was indeed “locked” – he was ineligible to vote or be a candidate in the Democratic Party primary *that same year*. *Id.*; see 10 ILCS 5/7-44 (a voter is to be given the primary ballot for the political party with which he declares himself affiliated, and “*no person declaring his affiliation with a statewide established political party may vote in the primary of any other statewide political party on the same election day*”). (Emphasis added.)

In the case before the hearing officer, the Candidate is subject to only one test: is he a “qualified primary elector” (voter) of the Republican Party, as attested on his Statement of Candidacy? With the General Assembly having stripped away the unconstitutional “lock-out” provisions of Section 5/7-10 of the Code, as a response to the United States and Illinois Supreme Court cases cited above, the remaining definition of “qualified primary elector” must be given its plain and ordinary meaning. See *Cinkus v. Village of Stickney Mun. Officers Electoral Bd.*, 228 Ill.2d 200, 216, 886 N.E.2d 1011 (2008). The definition in *Cullerton* provides only that a candidate may not be a candidate in the primary of more than one party at the same election or within the same election cycle; which the Candidate has not done in this case. When read together with the provisions of Section 5/7-10 requiring that a candidate attest on his Statement of Candidacy that he is a qualified primary voter of the party to which the petition relates, it is clear that the Candidate is a qualified primary voter of the Republican Party, as he declares and swears to on his Statement of Candidacy, and as he has *declared* in the Statement and on each and every sheet of the nomination petition.

WHEREFORE, the Candidate respectfully requests that this Electoral Board sustain the Respondent-Candidate's Motion to Strike and Dismiss and overrule the allegations in the Petitioner-Objector's Objector's Petition.

Respectfully submitted,

STEVEN J. RAUSCHENBERGER

Respondent-Candidate

By:



One of his attorneys

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3318 West 95th Street
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(708) 424-5678
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BEFORE THE DULY CONSTITUTED STATE ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE OFFICE
OF STATE SENATOR FOR THE 22ND LEGISLATIVE DISTRICT OF
THE STATE OF ILLINOIS

FREDERICK J. HOSSFELD)	
)	
Objector)	
)	
-v-)	No. 09 SOEB GP 525
)	
STEVEN J. RAUSCHENBERGER)	
)	
Candidate)	

HEARING EXAMINER’S REPORT AND RECOMMENDED DECISION

This matter was first heard on November 17, 2009 and was assigned to Hearing Examiner Herman. Thereafter, the matter was reassigned to this Hearing Examiner. Objector appeared through counsel Michael J. Kasper and Candidate appeared through counsel Burton S. Odelson. Candidate timely filed ***Respondent- Candidate’s Motion to Strike and Dismiss Objector’s Petition and Respondent-Candidate’s Response to the Petitioner-Objector’s Memorandum of Law in Support of Objector’s Petition.*** Objector timely filed a ***Response to Motion to Strike and Dismiss the Objector’s Petition*** as well as a ***Memorandum of Law in Support of Objector’s Petition.*** A hearing was held in the matter on November 25, 2009.

The issue presented in the Objector’s Petition is whether, as a result of having voted as a Democrat in the 2009 Consolidated Primary, Candidate Rauschenberger was ineligible to run as a candidate of the Republican Party and was not a qualified primary voter of the Republican party as set forth in his Statement of Candidacy.

The facts in this case are not in dispute. Candidate Steven J. Rauschenberger timely filed nominating papers seeking the Republican nomination to the office of State Senator for the 22nd Legislative District. As part of his nominating papers, Candidate

filed a Statement of Candidacy which provided, in pertinent part, that the candidate was a qualified primary voter of the Republican Party.

The records of the Kane County Election Commission indicate that the Candidate voted in the Democratic Primary at the last primary election, said election being the February 24, 2009 Consolidated Primary Election. (Exhibit B of Objector's Memorandum of Law). As a result of having participated in the last primary election as a Democrat, Objector contends that Candidate was a qualified primary voter of the Democratic Party. Therefore, according to the Objector, the Candidate is ineligible to run as Republican candidate at the February 2, 2010 General Primary Election. Further, the Objector contends that the Candidate's Statement of Candidacy claiming to be a qualified primary voter of the Republican Party is false.

Objector bases his objection, in part, on the case of ***Cullerton v Dupage County Officers Electoral Board***, 894 N.E. 2d 774 (2d Dist. 2009). In *Cullerton*, the candidate voted in the Republican Primary in February 2008. He was then appointed to fill a vacancy in nomination as a Democrat at the November 28, 2009 General Election. In connection with his candidacy, candidate Cullerton filed a Statement of Candidacy indicating that he was a qualified voter of the Democratic Party even though he had voted in the February 2008 Republican Primary.

The court in *Cullerton* determined that the candidate was not eligible to run as a Democrat because he had voted in the preceding Republican Primary. According to the *Cullerton* court,

(t)he plain and ordinary meaning of the requirement that a candidate be a qualified primary voter of the party for which he seeks nomination mandates, if nothing else, that the candidate have been eligible to vote

in the primary for that party in the most recent primary election preceding the candidate's filing the statement of candidacy.

Id at 779.

The court further explained,

...when petitioner chose to vote in the Republican and not the Democratic primary in 2008, he was barred by statute from voting in the Democratic primary in that same year. Accordingly, at all times since the 2008 primary (and until the next primary, now scheduled for 2010), including the time at which petitioner submitted his statement of candidacy pursuant to 7-10, he was not a qualified voter of the Democratic party.

Id at 780.

Objector argues that Cullerton is controlling here and that Candidate Rauschenberger does not meet the Court's mandate that a candidate must have been eligible to vote in the primary for that party in the most recent primary election preceding the candidate's filing of the statement of candidacy. Id at 779

Candidate filed a *Motion to Strike and Dismiss* alleging that Cullerton's prohibition on party switching is limited to an election "cycle". According to Candidate, because the candidate voted as a Democrat in the Consolidated Primary, and because the consolidated elections are a different election "cycle" from the general elections, the *Cullerton* case is inapplicable.

Candidate further argues in his *Motion to Strike and Dismiss* that he has had a long history of voting as a Republican and that his participation as a Democrat at the February 2009 Primary was to support his sister who was a candidate at the primary.

Candidate also contends that because the restrictions on party switching have been invalidated as they relate to voters (*Kusper v Pontikes*, 414 U.S. 51 (1973) and petition signers, (*Sperling v County Officers Electoral Board*, 309 N.E.2d 589 (1974)),

the same is true for party switching by candidates.

It is my opinion that the *Cullerton* case is controlling and when applied to the instant case, compels the conclusion that the candidate here is not a qualified primary voter of the Republican Party as indicated in his Statement of Candidacy. First, there is nothing in the *Cullerton* case to indicate that the court intended in any way to apply the Candidate's suggested "election cycle" theory. There simply is no suggestion of any kind that the court intended to distinguish between different types of primaries and elections. Presumably, the *Cullerton* court understood that there are different types of primaries and different types of elections as the Election Code provides as much. Nevertheless, the *Cullerton* court made no distinction between the types of primaries that would trigger the prohibition from party switching.

Moreover, the *Cullerton* court considered and rejected the argument that previous cases, including *Sperling*, somehow eliminated the party switching prohibition for candidates. In rejecting this argument, the *Cullerton* court pointed out that the legislature while making other amendments to Section 7-10, left intact the restriction on party changing in the statement of candidacy portion of 7-10, thus evidencing that the restriction could exist independently from the other portions of the statute. As the *Cullerton* court held,

we conclude that the limitation on candidate party-switching found in the statement of candidacy portion of section 7-10 of the Code, which requires that a candidate attest to be a qualified primary voter of the party whose nominating the candidate seeks, now viable **even in light of *Sperling***. (emphasis added)

Id at 781.

Further, to the extent that the candidate seeks to challenge the constitutionality of

Cullerton and the restrictions on party switching, this Hearing Examiner and the Electoral Board are without authority to consider said challenge.

Finally, Candidate's long history as a Republican and personal reasons for participating in the Democratic Primary in 2009 are of no relevance here. By voting in the Democratic primary in February of 2009, the Candidate is locked as a Democrat until he votes in the next primary in February 2010. If, at that time, Candidate chooses to participate in the Republican primary, he will again be eligible to run as a Republican candidate. Until then, Candidate Rauschenberger is not and cannot be a qualified primary voter of the Republican Party.

In light of the foregoing, it is my recommendation that Respondent -Candidate's Motion to Strike and Dismiss Objector's Petition be denied and that the objections of Frederick J. Hossfeld be sustained . It is my further recommendation that candidate's nominating papers be deemed invalid and that the name of Steven J. Rauschenberger not appear on the ballot at the February 2, 2010 General Primary Election.

Respectfully submitted,

Barbara Goodman /s/
Barbara Goodman
Hearing Examiner
12/8/09

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE
OFFICE OF STATE SENATOR FOR THE 22nd LEGISLATIVE DISTRICT OF
THE STATE OF ILLINOIS

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Frederick J. Hossfeld,)
)
Petitioner-Objector,)
)
vs.)
)
Steven J. Rauschenberger,)
)
Respondent-Candidate.)

OBJECTOR'S PETITION

Frederick J. Hossfeld, hereinafter sometimes referred to individually as the "Objector," states as follows:

1. Objector resides at 8 Grant Circle, #A, Streamwood, Illinois 60107, and is a duly qualified, legal and registered voter at that address in the 22nd Legislative District of the State of Illinois.

2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of State Senator for the 22nd Legislative District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

3. The Objector makes the following objections to the purported nomination papers (herein referred to as the "Nomination Papers") of Steven J. Rauschenberger (hereinafter referred to as "Respondent-Candidate") as a candidate of the Republican Party for the nomination for the office of State Senator for the 22nd Legislative District of the State of Illinois to be voted on at the Primary Election on February 2, 2010. The Objector states that the Nomination Papers are insufficient in fact and law for the reasons stated below.

4. Pursuant to the Election Code ("Code"), candidates for the office of State Senator for the 22nd Legislative District the State of Illinois, to be voted for at the Primary Election to be held on February 2, 2010, must file with their nomination papers, among other things, a Statement of Candidacy ("Statement"). (10 ILCS 5/8-8). The Statement, according to the Code, "shall state the candidate is a qualified primary voter of the party to which the petition relates,..." *Id.* Essentially, "the Code provides that a candidate must be a qualified primary voter of the political party for which he seeks nomination." *Cullerton v. DuPage County Officers Electoral Board*, 384 Ill.App.3d 989, 894 N.E.2d 774, 780 (2nd Dist. 2008).

5. The Statement filed by Respondent-Candidate, who is seeking the Republican nomination to run for the 22nd State Senate seat, provides in pertinent part, that he is “a qualified primary voter of the Republican Party;...” (Attached hereto and incorporated herein as Exhibit A, is a copy of said Statement).

6. Kane County voting records, however, indicate that Respondent-Candidate at the 2009 Consolidated Primary applied for a Democratic ballot, and thereafter received and voted a Democratic ballot. (Attached hereto and incorporated herein as Exhibit B, is a copy of Respondent-Candidate’s registration record from the Kane County Election Commission).

7. Based on Respondent-Candidate’s voting at the 2009 Democratic Primary, Respondent-Candidate is a qualified primary voter of the Democratic Party, not the Republican Party. (See 10 ILCS 5/7-44).

8. Respondent-Candidate is not qualified to be a candidate of the Republican Party in the upcoming 2010 Republican Primary, as made plain by the Illinois Appellate Court:

The plain and ordinary meaning of the requirement that a candidate be a qualified primary voter of the party for which he seeks nomination **mandates**, if nothing else, that the candidate have been eligible to vote in the primary for that party in the most recent primary election preceding the candidate’s filing the statement of candidacy.

Cullerton, 894 N.E.2d at 779 (emphasis supplied).

9. Respondent-Candidate is not a qualified primary voter of the party for which he seeks nomination, as he was not eligible to vote in the 2009 Republican Primary because he voted in the 2009 Democratic Primary - - the most recent primary election which preceded his filing the instant Statement.

10. Until the next primary, February 2010, Respondent-Candidate’s status is “locked” as a Democratic primary voter. See *Cullerton*, 894 N.E.2d at 779. Hence, Respondent-Candidate’s Statement is false where it states that he is a “qualified primary voter of the Republican Party;...” (See Exhibit A).

11. Accordingly, Respondent-Candidate is not legally eligible to seek the Republican Nomination to hold the office of State Senator for the 22nd Legislative District of the State of Illinois, and his Nomination Papers are false and invalid in their entirety.

WHEREFORE, the Objector requests a hearing on the objections set forth herein, an examination by the aforesaid Electoral Board of the official records relating to voters in the applicable district, to the extent that such examination is pertinent to any of the matters alleged herein, a ruling that the Nomination Papers are insufficient in law and fact, and a ruling that the name of Steven J. Rauschenberger shall not appear and not be printed on the ballot for nomination to the office of State Senator of the State of Illinois for the 22nd Legislative District, to be voted for at the Primary Election to be held February 2, 2010.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Frederick J. Horsfield". The signature is written in black ink and is positioned above a horizontal line.

Objector

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that s/he verily believes the same to be true.

Fredrick J. Howland 11/08/09
Objector Date

Lipsman v. Boyd
09 SOEB GP 526

Candidate: Willie "Will" Boyd, Jr.

Office: United States Senate

Party: Democratic

Objector: William Lipsman

Attorney For Objector: Sally H. Saltzberg/Mike Kreloff/Joshua Karsh

Attorney For Candidate: Pro Se

Number of Signatures Required: No less than 5,000 and no more than 10,000

Number of Signatures Submitted: 3,203

Number of Signatures Objected to: Objector did not object to any signatures.

Basis of Objection: The nomination papers contain 1,797 signatures fewer than the statutory minimum, the signature sheets are not numbered as required by Section 7-10 of the Election Code, and 17 signature sheets, containing a total of 145 signatures, were not notarized as required by Section 7-10 of the Election Code.

Binder Check Necessary: No

Hearing Officer: Ken Menzel

Hearing Officer Findings and Recommendation: Based on the submission of a number of signatures insufficient to qualify for appearance on the ballot for the office sought and the finding that the pages were not properly paginated as required by Section 7-10(a) of the Election Code, the objection should be sustained and the name of the candidate should not appear on the General Primary Election Ballot. The candidate, in a motion, raised several issues as to the timing of his actual receipt of the notice of the objection and initial convening of the Board, whether the Objector has sufficient standing, his belief that he had sufficiently complied with the applicable requirements of the Election Code, and the burden imposed upon candidates from less populated areas who undertake to personally circulate their own petitions. The candidate's motion raising said challenges was denied as lacking a basis in fact and in law.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer for the reasons contained in her Report.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

STATE BOARD OF ELECTIONS SITTING AS THE DULY CONSTITUTED STATE
OFFICERS ELECTORAL BOARD
STATE OF ILLINOIS

IN THE MATTER OF:
WILLIAM LIPSMAN)
) Objector,)
))
vs.) 09 SOEB GP 526
))
WILLIE (WILL) E. BOYD)
) Candidate,)

HEARING OFFICER'S REPORT AND RECOMMENDATION

The matter having come before the State Board of Elections (the "SBE") as the duly qualified Electoral Board and before the undersigned Hearing Officer pursuant to Appointment and Notice issued previously, the Hearing Officer makes the following Report and Recommendation:

On November 2, 2009, a certain set of nomination papers (the "Petition") was filed by Willie (Will) E. Boyd (the "Candidate") for the Democratic Party's nomination to the office US Senator of the State of Illinois. The Petition included a Statement of Candidacy and 347 signature sheets (overwhelmingly unnumbered)¹ containing, in total, 3,203 signatures.² The minimum signature requirement for established party candidates for that office is 5,000.³

A Verified Objector's Petition (the "Objection") was timely filed on November 9, 2009, by William Lipsman (the "Objector"). The Objection alleged three points: that the Petition contained an insufficient number of signatures to qualify the Candidate for the ballot; that the signature sheets were not numbered as required by Section 7-10 of the Illinois Election Code (10 ILCS 5/7-10); and that 17 signature sheets, containing a total of 145 signatures, were not notarized as required by Section 7-10 of the Illinois Election Code (10 ILCS 5/7-10), so as to further reduce the number of signatures to be credited to the Petition's total. No other issues or points of objection were raised by the Objection.

A schedule for the submission of written pleadings was set at the case management conference. Both parties submitted their materials in a timely fashion.

¹ 31 of the 347 signature sheets feature page numbers; although those are not numbered in a consistent, consecutive sequence (e.g. gaps exist between numbered pages and several page numbers were repeated more than once).

² The SBE staff produced a sheet by sheet count of the gross number of signatures contained on the Petition, with a cumulative total of 3,203. This count was provided to both of the parties at the case management conference and each of the parties was directed to either indicate concurrence with the staff count, or raise specific, itemized points of dispute as to the staff count. Both parties indicated concurrence (or a lack of any dispute) with the staff count.

³ Section 7-10(a) of the Illinois Election Code (10 ILCS 5/7-10(a)).

THE PARTIES' ARGUMENTS AND ANALYSIS

The Objector asserts that the Candidate was some 1,797 signatures short of the 5,000 signature minimum needed pursuant to Section 7-10(a) of the Illinois Election Code (10 ILCS 5/7-10(a)) to qualify for placement on the ballot; that the signature sheets being (virtually) unnumbered is a fatal defect in the Petition (see *Jones v Dodendorf* 190 Ill.App.3d 557 (2nd Dist 1989), *Wollan v Jacoby* 274 Ill.App.3d 388 (1st Dist 1995); and that the non-notarized signature sheets are invalid, so as to further reduce the number of signatures to be credited toward meeting the minimum signature requirement (see *Bowe v Chicago* 79 Ill.2d 469, 404 N.E.2d 180).

The Candidate, in a motion, raised several purported issues as to the timing of the his actual receipt of the notice of the objection and initial convening of the SBE in this matter, whether the Objector has a sufficient interest in the matter, his belief that he had sufficiently complied with the applicable requirements of the Illinois Election Code,⁴ and the burden imposed upon candidates from less populated areas who undertake to personally circulate their own petitions. None of these points rise to a level cognizable under the Illinois Election Code (and/or the body of case law which has developed with regard thereto).

As to the merits of the objection, the Petition contains signatures totaling approximately 64% of minimum number required pursuant to Section 7-10(a) of the Illinois Election Code (10 ILCS 5/7-10(a)), which drops to approximately 61% with the removal of the signatures on the non-notarized signature sheets. 316 of the 347 signature sheets (approximately 91%) are not numbered, and the 31 signature sheets which do feature page numbers are numbered in a fashion that is not consecutive or sequential.

CONCLUSION AND RECOMMENDATION

Based upon the foregoing, the Hearing Officer denies the Candidate's motion, and further finds that the Candidate's Petition contains fewer than the minimum number of signatures, and is not properly paginated, as required under Section 7-10(a) of the Illinois Election Code (10 ILCS 5/7-10(a)) to qualify him for access to the ballot as an established party candidate for the US Senate from the State of Illinois. Therefore, the Hearing Officer recommends that Objection to the Candidate's Petition should be sustained and that the name of the Candidate, Willie (Will) E. Boyd, not be printed on the ballot as the candidate of the Democratic Party for said office at the 2010 General Primary.

Respectfully submitted,


Kenneth R. Menzel
Hearing Officer

Dated: December 4, 2009

⁴There was no issue raised as to the Objector's status as a voter in Illinois, the only factor relevant to standing under Section 10-8 of the Illinois Election Code (10 ILCS 5/10-8).

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO
THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE
OFFICE OF UNITED STATES SENATOR FROM THE STATE OF ILLINOIS.

IN THE MATTER OF THE OBJECTIONS)
OF WILLIAM LIPSMAN TO THE)
NOMINATION PAPERS OF **WILLIE**)
(WILL) E. BOYD, JR.)
OF 1206 KILLARNEY DRIVE)
GREENVILLE, ILLINOIS, 62246,)
CANDIDATE FOR NOMINATION)
OF THE DEMOCRATIC PARTY TO)
THE OFFICE OF **UNITED STATES SENATOR**)
FROM THE STATE OF ILLINOIS)
TO BE VOTED ON AT THE FEBRUARY 2ND,)
2010, PRIMARY ELECTION.)

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VERIFIED OBJECTOR'S PETITION

NOW COMES, William Lipsman, hereinafter referred to as the "Objector," and respectfully states that Objector resides at 468 Woodland Road, Highland Park, in the State of Illinois; that Objector is a duly qualified, registered, and legal voter at such address; that Objector's interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for nomination of the Democratic Party to the office of United States Senator are properly complied with and that only qualified candidates have their names appear on the ballot as candidates for that office; and therefore Objector makes the following objections to the nomination papers ("Nomination Papers") of **Willie (Will) E. Boyd, Jr.** ("the Candidate") as a candidate for nomination of the Democratic Party to the office of United States Senator from the State of Illinois to be voted on at the February 2, 2010 Primary Election, stating that the Nomination Papers are insufficient in law and in fact for the following reasons:

1. Pursuant to Illinois law, Nomination Papers for the office of United States Senator must contain the signatures of not less than 5,000 duly qualified, registered, and legal voters of the State of Illinois. In addition, Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law, including having each petition signature page being signed by the circulator before a notary public.

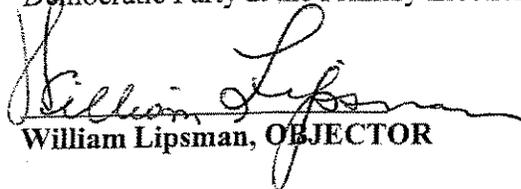
2. The Candidate has filed Nomination Papers containing 3,274 signatures, which is below the statutory minimum of 5,000.

3. The Candidate has filed, by Objector's count, no more than 347 petition signature sheets. None of the pages were numbered and in a filing of this massive size, the failure to paginate the petition is a fatal defect of a mandatory requirement. 10 ILCS 5/7-10; *Jones v. Dodendorf*, 190 Ill. App. 3d 557 (2d Dist. 1989); *Wollan v. Jacoby*, 274 Ill. App. 3d 388 (1st Dist. 1995).

4. The Candidate's Nomination Papers contain 17 petition sheets which contain 145 signatures that have not been notarized (Sheet Numbers 7, 322, 323, 324, 325, 326, 327, 328, 329, 330, 341, 342, 343, 345, 346, 347). The certification, signing, and oath requirement that the circulator of petition signature sheets appear before a notary or other duly qualified officer relates to the integrity of the electoral process and is mandatory. Failure of the circulator to have the circulator's signature notarized causes all signatures on said sheets to be held invalid. 10 ILCS 5/7-10; See *Bowe v. Chicago Electoral Board*, 79 Ill.2d 469, 404 N.E.2d 180 (1980).

5. The Candidate's Nomination Papers are, therefore, void and fatally defective in their entirety in that the Candidate's Nomination Papers do not contain the statutory minimum 5,000 signatures, even if all signatures were genuine signatures of duly qualified, registered and legal voters at the addresses shown opposite their names, which they are not.

WHEREFORE, the Objector requests: (1) a hearing on the objections set forth herein; (2) an examination by the aforesaid Electoral Board of the official records relating to voters in the State of Illinois, to any extent that the Candidate's Nomination Papers are not ruled void and fatally defective on their face and in their entirety; (3) a ruling that the purported Nomination Papers of **Willie (Will) E. Boyd, Jr., aka Willie "Will" Boyd, Jr.**, as a candidate of the Democratic Party for nomination to the office of United States Senator from the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois; and (4) a ruling that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of **Willie (Will) E. Boyd, Jr. and/or Willie "Will" Boyd, Jr.**, as a candidate of the Democratic Party for nomination to the office of United States Senator BE NOT PRINTED on the OFFICIAL BALLOT for the Democratic Party at the Primary Election to be held on February 2, 2010.

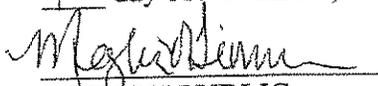

William Lipsman, OBJECTOR

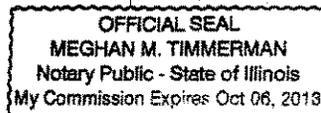
VERIFICATION

The undersigned as Objector, first being duly sworn on oath, now deposes and says that he has read this VERIFIED OBJECTOR'S PETITION and that the statements therein are true and correct, to the best of his knowledge, information and belief.


William Lipsman, OBJECTOR

Subscribed to and Sworn before me,
by William Lipsman, the Objector, on this
9th day of November, 2009.


NOTARY PUBLIC



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Chicago, IL 60604
312.913-2000

ATTORNEYS FOR OBJECTOR

Clark v. Boyd
09 SOEB GP 532

Candidate: Willie "Will" Boyd, Jr.

Office: United States Senate

Party: Democratic

Objector: Jocelyn D. Clark

Attorney For Objector: Richard K. Means

Attorney For Candidate: Pro Se

Number of Signatures Required: No less than 5,000 and no more than 10,000

Number of Signatures Submitted: 3,203

Number of Signatures Objected to: Objector did not object to any signatures.

Basis of Objection: The nomination papers contain 1,797 signatures fewer than the statutory minimum.

Binder Check Necessary: No

Hearing Officer: Ken Menzel

Hearing Officer Findings and Recommendation: Based on the submission of a number of signatures insufficient to qualify for appearance on the ballot for the office sought, the objection should be sustained and the name of the candidate should not appear on the General Primary Election ballot. The candidate, in a motion, raised several issues as to the timing of his actual receipt of the notice of the objection and initial convening of the Board, whether the Objector has sufficient standing, his belief that he had sufficiently complied with the applicable requirements of the Election Code, and the burden imposed upon candidates from less populated areas who undertake to personally circulate their own petitions. The candidate's motion raising said challenges was denied as lacking a basis in fact and in law.

Recommendation of the General Counsel: I concur with the recommendation of the Hearing Officer for the reasons contained in her Report.

THE PARTIES' ARGUMENTS AND ANALYSIS

The Objector asserts that the Candidate was some 1,797 signatures short of the 5,000 signature minimum needed pursuant to Section 7-10(a) of the Illinois Election Code (10 ILCS 5/7-10(a)) to qualify for placement on the ballot, and thus should not be placed on the ballot.

The Candidate, in a motion, raised several purported issues as to the timing of the his actual receipt of the notice of the objection and initial convening of the SBE in this matter, whether the Objector has a sufficient interest in the matter, his belief that he had sufficiently complied with the applicable requirements of the Illinois Election Code,¹ and the burden imposed upon candidates from less populated areas who undertake to personally circulate their own petitions. None of these points rise to a level cognizable under the Illinois Election Code (and/or the body of case law which has developed with regard thereto).

As to the merits of the objection, the Petition contains signatures totaling approximately 64% of minimum number required pursuant to Section 7-10(a) of the Illinois Election Code (10 ILCS 5/7-10(a)).

CONCLUSION AND RECOMMENDATION

Based upon the foregoing, the Hearing Officer denies the Candidate's motion, and further finds that the Candidate's Petition contains fewer than the minimum number of signatures required under Section 7-10(a) of the Illinois Election Code (10 ILCS 5/7-10(a)) to qualify him for access to the ballot as an established party candidate for the US Senate from the State of Illinois. Therefore, the Hearing Officer recommends that Objection to the Candidate's Petition should be sustained and that the name of the Candidate, Willie (Will) E. Boyd, not be printed on the ballot as the candidate of the Democratic Party for said office at the 2010 General Primary.

Respectfully submitted,



Kenneth R. Menzel
Hearing Officer

Dated: December 4, 2009

¹There was no issue raised as to the Objector's status as a voter in Illinois, the only factor relevant to standing under Section 10-8 of the Illinois Election Code (10 ILCS 5/10-8).

State of Illinois)
) SS.
County of Cook)

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**Before the Duly Constituted Electoral Board for the Hearing and
Passing Upon of Objections to Nomination Papers of Candidates for
the Democratic Party Nomination for the Office of
United States Senator for the State of Illinois**

**Objections of Jocelyn D. Clark to the Nomination
Papers of Willie "Will" Boyd, Jr., Candidate for the
Democratic Party Nomination for the Office of United
States Senator for the State of Illinois, to be voted for
at the General Primary Election to be held on the
Second Day of February, 2010**

Verified Objector's Petition

Jocelyn D. Clark , residing and registered to vote at 7307 South Union Avenue, in the City of Chicago, County of Cook, State of Illinois (hereinafter referred to as "Objector") states that the Objector's address is as stated, that the Objector is a legal voter of the of the State of Illinois and that the Objector's interest in filing the following objections is that of a citizen desirous of seeing that the election laws governing the filing of nomination papers for the Democratic Party Nomination for the office of United States Senator for the State of Illinois to be voted for at the General Primary Election to be held on the Second Day of February, 2010, are properly complied with. Therefore, the Objector makes the following objections to the nomination papers of

Willie "Will" Boyd, Jr. as a candidate for the Democratic Party Nomination for the office of United States Senator for the State of Illinois to be voted for at the General Primary Election to be held on the Second Day of February, 2010 (hereinafter referred to as the "Nomination Papers").

The Objector states that said Nomination Papers are insufficient in fact and law for the following reasons:

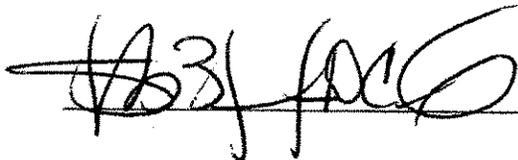
1. Pursuant to Illinois law, nomination papers for the Democratic Party Nomination for the office of United States Senator for the State of Illinois to be voted for at the General Primary Election to be held on the Second Day of February, 2010, must contain the true signatures of not fewer than 5,000 nor more than 10,000 qualified and duly registered legal voters of the of the State of Illinois. In addition, said Nomination Papers must truthfully allege that the candidate is qualified for the office he or she seeks, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise must be executed in the form provided by law. The Nomination Papers herein purport to truthfully allege that the candidate is qualified for the office he or she seeks and purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.
2. However, the Nomination Papers herein *do not* purport to contain the signatures of in excess of the legal minimum of 5,000 qualified and duly registered legal voters of the of the State of Illinois. Indeed, on their face, the Nomination Papers purport to contain approximately 3,269 signatures, well fewer than the required minimum of 5,000 in violation of the Illinois Election Code and other provisions of the Illinois law.
3. Because the Nomination Papers plainly contain fewer than the statutory minimum number of 5,000 (indeed, no more than 3,269) validly collected and presented signatures of qualified and duly registered legal voters of the Democratic Party of the State of Illinois, signed by such voters in their own proper person with proper addresses, the Nomination Papers are invalid in their entirety.

Wherefore, the Objector requests a hearing on the Objections set forth herein, an examination by the aforesaid Electoral Board (or its duly appointed agent or agents) of the official voter registration records relating to voters of the State of Illinois, (to the extent that such examination is pertinent to any of the matters alleged herein), a ruling that the Nomination Papers are insufficient in law and fact, and a ruling that the name of Willie "Will" Boyd, Jr. **shall not appear** on the ballot for the Democratic Party Nomination for the office of United

Clark v. Boyd

Cook County Attorney # 27351

States Senator for the State of Illinois to be voted for at the General Primary Election to be held on the Second Day of February, 2010.



Jocelyn D. Clark

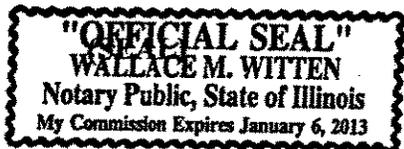
Objector

Subscribed and sworn to before me by Jocelyn D. Clark

this 08TH day of November, 2009.



NOTARY PUBLIC



Objections filed: November 9, 2009

Richard K. Means

Attorney for the Objector

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Cook County Attorney # 27351