STATE OF ILLINOIS)
) SS. BCCOFF.RGA
COUNTY OF COOK)

ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS OF CANDIDATES OF NEW POLITICAL PARTIES FOR THE OFFICES OF STATE SENATOR AND REPRESENTATIVE IN THE GENERAL ASSEMBLY OF THE STATE OF ILLINOIS FOR THE NOVEMBER 5, 1996 GENERAL ELECTION

Objections of: Robert Oberg	)	
	)	
To the Nomination	)	
Papers of: James R. Haring	)	**No.: 96-EB-NPP-002**
	)	
Candidate for the Office	)	
of Representative in the General Assembly,	)	
for the 12th Representative District,	)	
Libertarian Party	)	

DECISION

The duly constituted Electoral Board, consisting of MICHAEL J. HAMBLET, ARNETTE R. HUBBARD, and RICHARD A. COWEN, organized by law in response to a Call issued by MICHAEL J. HAMBLET, Chairman of said Electoral Board, for the purpose of hearing and passing upon Objections to Nomination Papers of Candidates for the Offices of State Senator and Representative in the General Assembly for the State of Illinois, having convened on August 19, 1996, at 11:00 a.m., and having heard and determined the Objections to the Nomination Papers in the above entitled matter finds that:

1. The said Electoral Board has been legally constituted according to the laws of the State of Illinois.

2. Objections to the Nomination Papers of the Candidate herein were duly filed.

3. A Call to the hearing on said Objections was duly issued and served upon the members of the Electoral Board, the Objectors and the Candidate, by mail and by personal service, as provided by statute.

4. A public hearing was held on these Objections commencing on August 19, 1996.

5. The following persons, among others, were present at such hearing: the members of the Electoral Board, the Objector, by counsel; and the Candidate by counsel.

6. The Board ordered an examination of the registration records to be conducted by its clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

7. During this records examination the Board directed all parties to appear and be present, either personally and/or by their authorized representatives, duly appointed and authorized by said parties.

8. The Candidate and/or his duly authorized representatives having been present during the examination of registration records at all times.

9. The Objector and/or his duly authorized representatives having been present during the examination of registration records at all times.

10. The examination of the registration records was completed and the Board hereby adopts and incorporates by reference the results of the records examination conducted by its clerks and agents.

11. The Board has considered all evidence and arguments tendered by the parties.

12. The Board finds that:

    a. Under Section 10-2 of the Election Code, the minimum number of signatures required for nominating petitions for candidates of new political parties for the office in question is 1,236;

    b. The number of signatures filed by the Candidate total 1,518;

    c. The number of signatures deemed invalid because of objections sustained total 601;

    d. The remaining number of signatures deemed valid total 917;

    The written report of the result of the registration records examination is contained in the Board's file in this case and is available upon request of a party.

13. The Board finds that paragraphs 6-11 of the Objectors' Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

14. The Board finds that the number of valid signatures on the Candidate's nominating petition falls below the minimum number

of signatures required by law to be placed upon the ballot as a candidate for nomination of the Libertarian Party for the office of Representative in the General Assembly for the 12th Representative District.

15. The challenge by the Candidate to the constitutionality of the applicable statutes is not considered herein. There is a strong presumption of the constitutionality to the enactment of a statute. People v. Vernon, 276 Ill.App.3d 386, 657 N.E.2d 1117 (First Dist. 1995) It must be presumed that the Legislature did not intend to draw an unconstitutional statute. Wiseman v. Elward, 5 Ill.App.3d 249, 283 N.E.2d 282 (First Dist. 1972). The Board further finds that the electoral board's function is limited to determining whether a challenged nominating petition complies with the provisions of the Election Code and that where the language of the statute is plain, an electoral board is without authority to decide constitutional issues. Phelan v. County Officers Electoral Board, 240 Ill.App.3d 368, 608 N.E.2d 215 (First Dist. 1992); Wiseman v. Elward, 5 Ill.App.3d 249, 283 N.E.2d 282 (First Dist. 1972).

16. For the reasons stated above the Board finds that the Candidate's Nomination Papers are not valid.

17. The Board further finds that different objections filed against the Candidate's nomination papers in case 96-EB-NPP-003 have also been sustained and a determination made in that case that the Candidate's nomination papers are not valid.

IT IS THEREFORE ORDERED, that the Objections of Robert Oberg to the Nomination Papers of James R. Haring, Candidate for the nomination of the Libertarian Party for the office of Representative in the General Assembly for the 12th Representative District, are hereby SUSTAINED in part and overruled in part and that said Nomination Papers are hereby declared INVALID and the name of James R. Haring, Candidate for the nomination of the Libertarian Party for the office of Representative in the General Assembly for the 12th Representative District, SHALL NOT be printed on the ballot for the General Election to be held on November 5, 1996.

Dated: Chicago, Illinois, this 10th day of September, 1996.

Michael J. Hamblet

MICHAEL J. HAMBLET, Chairman

Arnette R. Hubbard

ARNETTE R. HUBBARD, Member

Richard A. Cowen

RICHARD A. COWEN, Member

NOTICE: Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) parties seeking judicial review of this decision must file a petition seeking judicial review with the Circuit Court of Cook County within 10 days of the date of this decision.