STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

NBCOFF-RGA

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

Objection of: Lydia Hernandez	)	
	)	
To the	)	
Nomination Papers	)	
of: Pemberton H. Shober, Jr.	)	**No.: 96-EB-NPP-007**
	)	
Candidate for the Office of	)	
Representative in the General Assembly	)	
for the 3rd 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., in 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 Objector 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 Objector and the Candidate have entered into a written stipulation stating: 1) the statutory minimum number of signatures for candidates of new political parties for this office is 494 petition signatures; 2) the Candidate here filed petitions containing 15 signatures; 3) the number of signatures filed is below the statutory minimum and; 4) the Candidate and the Libertarian Party object to the application of the law to them as being violative of the Equal Protection and Due Process Clauses of the U.S. and Illinois Constitutions.

7. The Board finds that pursuant to Section 10-2 of the Election Code, the minimum required number of valid signatures for candidates of new political parties seeking the office of Representative in the General Assembly for the 3rd Representative District is 494 valid signatures.

8. The Board finds that the Candidate filed nominating petitions for the office of Representative in the General Assembly for the 3rd Representative District containing 15 signatures. The Board finds that the Candidate's nominating petitions do not contain the statutory minimum required number of valid signatures to appear on the ballot.

9. 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).

IT IS THEREFORE ORDERED, that the Objections of Lydia Hernandez to the Nomination Papers of Pemberton H. Shober, Jr., Candidate for the nomination of the Libertarian Party for the office of Representative in the General Assembly for the 3rd Representative District, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Pemberton H. Shober, Jr., Candidate for the nomination of the Libertarian Party for the office of Representative in the General Assembly for the 3rd 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, Chairman

ARNETTE R. HUBBARD, Member

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.