BCCOFF-REP

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO AS THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS OF CERTAIN CANDIDATES AND TO PETITIONS FOR THE SUBMISSION OF QUESTIONS OF PUBLIC POLICY FOR THE MARCH 17, 1998 PRIMARY ELECTION IN THE CITY OF CHICAGO

Objections of: Jesse Ruben Juarez and Judith A. Cruz	)	
To the Nomination Papers of: Luis F. Flores	)	No. 98-EB-RGA-06
Candidate for the Nomination of the Democratic Party for the Office of Representative in The General Assembly for the 4th Representative District, State of Illinois	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal, Richard A. Cowen, and Theresa M. Petrone, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon Objections of Jesse Ruben Juarez Judith A. Cruz to Nomination Papers of Luis F. Flores, Candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 4th Representative District of the State of Illinois, having convened on December 29, 1997, in City Hall, 121 North LaSalle Street, Chicago, Illinois, 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 and timely filed.

3. A Call to the hearing on said Objections was duly issued by the Chairman of the Electoral Board and served upon the members of the Electoral Board, the Objectors and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing was held on these Objections commencing on December 29, 1997 and was continued from time to time.

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

6. The Board assigned this matter to Hearing Examiner James D. Rosas for further hearings and proceedings.

7. The Electoral Board ordered that an examination of the registration records 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.

8. The Electoral Board directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

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

10. The Objectors and/or their duly authorized representatives were present during the examination of the registration records at all times.

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

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

13. The Board finds that the results of the records examination are as follows:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 300;

    b. The number of signatures appearing on the nominating petition filed by the Candidate total 1510;

    c. The number of signatures deemed invalid because of objections sustained total 890;

    d. The remaining number of signatures deemed valid total 620.

14. Following completion of the records examination, the Hearing Examiner heard testimony and received evidence from the parties and made the following recommended findings:

a. The candidate testified as to leaving his employment for a period of time for the purpose of circulating nomination papers and as to the method and locations of his circulation of said papers. The candidate testified that he used a clipboard. The testimony of the Candidate was credible.

b. The witness Marilyn Torres did not sign the nomination petition in the presence of Luis F. Flores, the named circulator, and the objection as to her signature on Sheet # 12-Line #3 is sustained.

c. The witness Barbara Wiedman testified that she signed a petition on a clipboard in a store but did not provide sufficient detail as to the layout of the store to conclude that the named circulator was not present.

d. There was not sufficient evidence presented by the objectors that the witness Carlos Padin was either not a registered voter in the district or did not reside in the district at the time he circulated the candidate's nominating petition sheets to render him not qualified to act as a circulator. The reasons given by the witness for his different addresses appeared reasonable and do not give rise to any suspicion of improper motive. Accordingly, the objections as to the petition sheets bearing Carlos Padin's affidavit are overruled.

e. The testimony of Margarita Munoz was so contradictory and confused as to render her testimony totally unreliable for any purpose.

f. The witness Lizette Ramos did not sign the nomination petition in the presence of Luis F. Flores, the named circulator, and the objection as to her signature on Sheet #12-Line #2 is sustained.

g. The witness Walid Ommar, the store manager, did not adequately identify the specific petition sheets objected to as the sheets which were left in his store. He asked at one point if these were the sheets left at the store and there was no follow up identification of the specific exhibits. Mr. Ommar testified that the sheets left in his store were not on a clipboard. A previous witness, Barbara Wiedman, testified that the sheet she signed was on a clipboard. Mr. Ommar also testified that he saw the candidate actually in the store to obtain some signatures on some occasions and may have been present at other times in the store. Mr. Ommar's testimony also contradicts his affidavit (Objector's Exhibit 35)

h. The objector's have submitted 35 affidavits bearing the candidate's likeness. All are identical in printed form except that 6 are in the Spanish

language. Each affidavit state's, in relevant part, "The individual who presented the petition sheet to me was not Luis F. Flores." The affidavits do not provide sufficient detail to find that Mr. Flores was not present at or near the signing and therefore qualified to sign the circulator's affidavit.

i. The testimony and documents presented by the objectors do not provide sufficient evidence as to a pattern of fraud as to warrant any additional action other than as recommended above.

15. Pursuant to Rule 20 of the Electoral Board's Rules of Procedure, the Board heard oral argument from the attorneys for both the Objector and the Candidate.

16. The Board, having reviewed the transcripts of the proceedings before the Hearing Examiner and having considered the evidence and argument presented by the parties, does not agree with the recommended findings and conclusions of the Hearing Examiner in this matter. Rather, the Board finds that:

a. Carlos Padin admittedly falsely swore that he was a resident of 1330 W. Huron Street when he registered to vote at such address on October 8, 1996. As a result of such false swearing, Mr. Padin's October 8, 1996 registration was fraudulent and of no effect.

b. Carlos Padin's false swearing demonstrates a pattern of fraud and a total disregard for the provisions of the Election Code, thus rendering incredible the circulator's affidavit appearing on the bottom of the 17 petition sheets bearing his signature as circulator.

c. Due to Padin's false swearing and pattern of fraud, all of the 17 petition sheets bearing his signature as circulator are rendered invalid and all of the signatures thereon are invalid, resulting in 99 fewer signatures on the Candidate's petition.

d. The weight of the evidence in the record, including the affidavits and testimony of persons who signed the Candidate's petition but who claim that Luis Flores was not the person who was present when they signed the petition supports a finding, and the Board hereby finds, that Luis Flores was not the true circulator of the 15 petition sheets bearing his name as the circulator of those sheets.

e. The Board further finds that the evidence demonstrates a pattern of fraud committed by Mr. Flores affecting all 44 petition sheets bearing his name as the circulator of those sheets.

f. As a result of such conduct, all 44 petition sheets bearing Luis Flores' name as the circulator of such petition sheets, and all signature thereon,

are hereby declared invalid. Consequently, there are 302 fewer valid signatures on the Candidate's petition.

17. The Board finds, therefore, that paragraphs 3-10 of the Objectors' Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination and as indicated herein and that the Candidate's petition has only 219 valid signatures.

18. The Board finds that the number of valid signatures appearing on the Candidate's nominating petition is below the minimum 300 valid signatures required by law to be placed upon the ballot as a candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 4th Representative District of the State of Illinois.

19. For the reasons stated above, the Board finds that the Nomination Papers of Luis F. Flores are invalid.

IT IS THEREFORE ORDERED that the Objections of Jesse Ruben Juarez Judith A. Cruz to the Nomination Papers of Luis F. Flores, Candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 4thRepresentative District of the State of Illinois are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Luis F. Flores, Candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 4th Representative District of the State of Illinois, SHALL NOT be printed on the ballot for the General Primary Election to be held March 17, 1998.

Dated: Chicago, Illinois, this 3rd day of Feb, 1998.

Richard A. Cowen, Commissioner/Member

Theresa M. Petrone, Commissioner/Member

DISSENTING:

Langdon D. Neal, Chairman

NOTICE: Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved of this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Cook County within 10 days after the decision of the Electoral Board.