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BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS A DULY CONSTITUTED ELECTORAL BOARD

Objections of: HAZEL HAYNES	)	
	)	
To the Nomination	)	**No.: 07-EB-ALD-020**
Papers of: ROSA PRITCHETT	)	**(rel. 07-EB-ALD-148)**
	)	
Candidate for the office of	)	
Alderman of the Fifteenth Ward,	)	
City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal and Richard A. Cowen, 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 ("Objections") of HAZEL HAYNES ("Objector") to the nomination papers ("Nomination Papers") of ROSA PRITCHETT, candidate for the office of Alderman of the Fifteenth Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 27, 2007, having convened on January 2, 2007, at 10:00 a.m., in Room 800, 69 West Washington Street, Chicago, Illinois, and having heard and determined the Objections to the Nomination Papers in the above-entitled matter, finds that:

1. Objections to the Nomination Papers of the Candidate herein were duly and timely filed.

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

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 Objector and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing held on these Objections commenced on January 2, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Joseph Morris for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Examiner on the date and at the time designated in the Call. The following persons, among others, were present at such hearing; the Objector, HAZEL HAYNES, by counsel, Michael Kreloff; and the Candidate, ROSA PRITCHETT, *pro se*.

7. Objector alleges in part that the Candidate's Nomination Papers do not sufficiently identify the office she seeks and that such papers are therefore invalid.

8. Objector alleges in part that the Candidate's Nomination Papers were not sufficiently bound at the time of filing.

9. The Hearing Examiner has tendered to the Electoral Board his report and recommended decision. The Hearing Examiner recommends that the Objections to the Candidate's Nomination Papers be sustained and that the Nomination Papers be found invalid.

10. The Electoral Board having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Examiner, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Examiner's recommended findings and conclusions of law. A copy of the Hearing Examiner's Report and

Recommended Decision is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

11. For the reasons stated above, the Electoral Board sustains the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are invalid.

12. The Electoral Board further finds that there is another objection filed against the Candidate's Nomination Papers in 07-EB-ALD-148 in which the objections there were overruled. Nonetheless, the Electoral Board's decision in this case is sufficient to invalidate the Candidate's Nomination Papers.

IT IS THEREFORE ORDERED that the Objections of HAZEL HAYNES, to the Nomination Papers of ROSA PRITCHETT, candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of ROSA PRITCHETT, candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 27, 2007.

Dated: Chicago, Illinois, this 16th day of January, 2007.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

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.

BEFORE
THE BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE FEBRUARY 27, 2007, MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER, AND ALDERMAN
IN THE CITY OF CHICAGO

2007 JAN 12 P 4:41

HAZEL HAYNES,	)	
	)	
Objector,	)	
	)	No. 07-EB-ALD-020
vs.	)	
	)	Hearing Examiner Morris
ROSA PRITCHETT,	)	
	)	
Candidate.	)	

2007 JAN 12 P 4:41

REPORT OF THE HEARING EXAMINER

To the Board of Election Commissioners of the City of Chicago:

Hearing Examiner JOSEPH A. MORRIS reports as follows:

1. This matter came before the Hearing Examiner, pursuant to notice, for initial hearing on January 2, 2007. The Objector was present by counsel. The Candidate was present *pro se*. No issue was raised as to sufficiency or timeliness of notice of the objection or of the hearing. Both parties filed written appearances.

2. Without objection, the Candidate's nomination papers for the office of Alderman of the 15th Ward of the City of Chicago were admitted into the record as Group Exhibit A; the Objector's Petition and attachments were admitted into the record as Group Exhibit B; the returns of service of process by the Sheriff of Cook County, Illinois, and written waivers were admitted into the record as Group Exhibit C; and the parties' written appearances were admitted into the record as Group Exhibit D.

3. Each party stated that he was in possession of the Rules of the Electoral Board. The Candidate stated that she intended to file a motion to strike and dismiss the objection. A filing, briefing, and hearing schedule was established for the motion to strike and dismiss, under which such a motion was to be filed by the Candidate on or before January 4, 2007, at 5:00 p.m.; a response, if any, was to be filed by the Objector on or before January 5, 2007, at 5:00 pm.; a reply, if any was to be filed by the Candidate on or before January 6, 2007, at 5:00 p.m.; and a hearing on the motion was set for January 8, 2007. The parties agreed that there was no issue as the number or sufficiency of petition signatures, and that no records examination was required.

4. The Candidate filed a timely motion to strike and dismiss. The Objector filed no response. A hearing was held on January 8, 2007.

5. The parties agree that two ultimate issues are presented in this case: (a) Whether or not the Candidate's nomination papers sufficiently identify the office she seeks. (b) Whether or not the Candidate's nomination papers were properly bound at the time of filing.

6. The parties agreed that there is one question of fact in the case: What was the manner of binding, if any, of the Candidate's nomination papers at the time of their filing? The parties stipulated that, when the Candidate's nomination papers were filed with the Board, they consisted of 32 pieces of legal size paper and one slip of paper, assembled as follows, and in the order stated: (a) A slip of paper issued by the Cook County Clerk, being a receipt showing the filing of a statement of economic interests; (b) 28 numbered petition sheets; (c) one certificate of attached list of deletions; (d) one certification of deletions; (e) one statement of candidacy; and (f) one loyalty oath; and that all 33 pieces of paper were held together by two jumbo-sized paper clips, each measuring about three inches in length, with the two paper clips placed about two inches apart at the

center of the top of the bundle of papers. The parties having stipulated to these facts, it was further stipulated that there was no need for an evidentiary hearing in this case and that the case as a whole should be taken up for decision with the motion to strike and dismiss.

Sufficiency of Identification of the Office in the Nomination Papers

7. In Paragraph 2 of the Objector's Petition, the Objector stated, "The signature sheets signed by voters (and the Statement of Candidacy) all failed to disclose to signers what ward the Candidate seeks to run in. Failure to include the required information invalidates the candidacy."

8. An examination of the petition signature sheets shows that each of the 28 sheets is printed with the following preambular language:

> We, the undersigned, qualified voters in the City of Chicago in the County of Cook and State of Illinois, do hereby petition that the following named person shall be a Nonpartisan Candidate for nomination or [election] (circle one) to the office hereinafter specified, in the political division aforesaid, to be voted for at the _____ Election to be held on Feb. 27, 2007 (date of election).

(The exception is Sheet No. 28, on which the date of the election ("27") is not set forth; the Objector makes no claim, however, with respect to that omission.) There follow three boxes, arrayed from left to right, with the headings "NAME", "OFFICE", and "ADDRESS-ZIP CODE". In the box under the heading "NAME" is written "Rosa Pritchett". In the box under the heading "OFFICE" appears the following:

(circle one) [full-term] or vacancy
ALDERMAN

In the box under the heading "ADDRESS-ZIP CODE" is written "5946 S. Honore". No reference

of any kind (*e.g.*, "15th Ward", "Ward XV", "Fifteenth Ward") to the 15th Ward appears anywhere on any of the sheets. The word, "ward", does not appear on any of the sheets. The number "15", whether spelled out as a word or represented in digits, or expressed in any other way, does not appear on any of the sheets in any text associated with the identification of a ward or political unit or jurisdiction of some kind.

9. An examination of the statement of candidacy shows that the document sets forth four boxes toward the top of the page, left to right under the headings "NAME", "ADDRESS-ZIP CODE", "OFFICE", and "CITY, VILLAGE OR DISTRICT". In the box under the heading "NAME" is written "ROSA PRITCHETT" [*sic*]. In the box under the heading "ADDRESS-ZIP CODE" is written "5946 S. Honore 60636". In the box under the heading "Office" is written "AldERMAN" [*sic*]. In the box under the heading "CITY, VILLAGE OR DISTRICT" is written "ChicAGO" [*sic*]. Below a jurat appears the following text:

> I, ROSA PRITCHETT being first duly sworn (or affirmed), say that I reside at 5946 S. Honore in the [City,] Village, Unincorporated Area (circle one) of Chicago (if unincorporated, list municipality that provides postal service) Zip Code 60636, in the County of Cook, State of Illinois; that I am a qualified voter therein; that I am a candidate for Nomination [Election] (circle one) to the office of AldERMAN [sic] in the City of Chicago [*sic*] [Name of City, School, College or Special District] to be voted upon at the election to be held on FEB. 27, 2007 (date of election) and that I am legally qualified 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. I hereby request that my name be printed upon the official ballot for Nomination or Election (circle one) to such office.

The instrument is subscribed by Pritchett and her signature was acknowledged before a notary. Neither the word "nomination" nor the word "election" was circled in the last phrase of the statement, but the Objector made no issue as to the significance, if any, of that omission.

10. The Candidate responded to the Objection stating, in material part, as follows:

> ...I assure you that my neighbors are articulate when it comes to basic politics. **** My constituents are well aware that we reside in the 15th ward and all voters must live in the ward where they place their signatures. Also, it was clearly noted at the top of the petition form that signatures were for the office of Alderman. This was emphasized verbally a each and every door along with presenting the poll page to double check the voter and address of the individual before accepting their signature.

Candidate's Motion to Strike and Dismiss (Jan. 4, 2007). In addition, at oral argument on the motion to strike and dismiss, the Candidate noted that both the receipt, issued by the Cook County Clerk, for her statement of economic interests, and the nomination papers cover sheet, prepared by staff of this Board at the time of the filing of the nomination papers, both identified the office she seeks as that of Alderman of the 15th Ward; that these papers were attached at the very top of her bundle of nomination papers; and that these papers, alone, gave adequate notice to the Board and to the public of the office that she seeks.

11. Section 10-4 of the Illinois Election Code, 10 ILCS § 5/10-4, provides, in pertinent part, as follows:

> All petitions for nomination under this Article 10 for candidates for public office in this State, shall in addition to other requirements provided by law, be as follows: Such petitions shall consist of sheets of uniform size and each sheet shall contain, above the space for signature, an appropriate heading, giving the information as to name of candidate or candidates in whose behalf such petition is signed; the office; the party; place of residence; and such other information or wording as required to make same valid, and the heading of each sheet shall be the same. **** Such sheets, before being presented to the electoral board or filed with the proper officer of the electoral district or division of the state or municipality, as the case may be, shall be neatly fastened together in book form, by placing the sheets in a pile and fastening them together at one edge in a secure and suitable manner, and the sheets shall then be numbered consecutively. The sheets shall not be fastened by pasting them together end to end, so as to form a continuous strip or roll. **** The word "petition" or "petition for nomination", as used herein, shall mean what is sometimes known as nomination papers, in distinction to what is known as a certificate of nomination. The words "political division for which the candidate is nominated", or its equivalent, shall mean the largest political division in which all qualified voters may vote upon such candidate or candidates, as the state in the case of state officers; the township in the case of township officers et cetera. ****

Section 10-5(1) of the Election Code provides as follows:

> All petitions for nomination shall, besides containing the names of candidates, specify as to each:
> 1. The office or offices to which such candidate or candidates shall be nominated.

12. Illinois law is fairly latitudinarian with respect to the identification in nomination papers of the office that a candidate seeks. The leading case on the subject, decided by the Illinois Supreme Court in 1976, is *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976). In that case, a candidate for judicial office failed to make a proper designation on his statement of candidacy of the specific vacant judgeship to which he aspired. His petition signature sheets, however, clearly indicated the post that he sought. The Supreme Court held that the statement of candidacy and the nomination papers may be considered together and if, when considered together, there is no basis for confusion as to the office sought, then the papers will be deemed valid. (*Cf., Lawlor v. Municipal Officers Electoral Board*, 28 Ill.App.3d 823, 329 N.E.2d 436 (1st Dist. 1975), a case decided prior to *Lewis v. Dunne* and by a lower court, which held that the failure to designate in the statement of candidacy the office sought was a fatal defect in the nomination papers, and even though the office was properly designated on the petition signature sheets, the two documents could not be read together; *Lawlor* was effectively overruled by *Lewis v. Dunne*.) The precedent of *Lewis v. Dunne* has been regularly followed by this Board in cases of all kinds, including an aldermanic case, that of *Morgan v. Stowers*, 87-EB-ALD-140, CBEC (Jan. 20, 1987), in which the candidate for alderman failed to identify the ward on his statement of candidacy, but included it on his petition signature sheets; his papers were held to be valid. In another case, that of *Jackson v. Bradley*, 99-EB-ALD-081, CBEC (Jan. 12, 1999), this Board upheld the validity of nomination papers in a case in which the statement of candidacy contained a self-contradiction, naming one ward (the incorrect

one) in the box at the top of statement and another ward (the right one) in the text of the statement; the matter was resolved by recourse to the petition signature sheets, on which the number of the correct ward was set forth; the touchstone of decision was the principle of *Lewis v. Dunne*, that an omission of, or error in, the identification of the office sought is not fatal if, when taken together, the statement of candidacy and the petition signature sheets leave no doubt as to office which is actually in question.

13. The instant case, by contrast, presents a situation in which the ward is identified on neither the statement of candidacy nor the petition signature sheets. A voter being asked to sign the Candidate's petitions would not be able to discern, from the candidacy papers alone, the office that the candidate was seeking, and though the circulators of the petitions might be perfectly faithful in informing every potential signatory to whom the petitions were proffered that the candidate sought election as alderman of a particular ward, naming the ward, when the time comes for review of the nomination papers, that fact cannot be determined by anything other than parole evidence. The law does not require the candidate's ward to be named in the circulators' affidavits for the simple reason that the law directs that the information be stated in the body of the nomination papers themselves. Similarly, the omission from both the statement of candidacy and the petition signature sheets of a clear identification of the office sought makes it impossible for election authorities to discern from the nomination papers themselves, as plainly intended by the Election Code, where on the ballot to place the name of the candidate. It is not enough, in a city which elects 50 aldermen, not at large, but ward by ward in 50 separate wards, to declare that one is a candidate for "alderman"; one must be a candidate for alderman of a particular ward. A precedent closely on point is that of *Heabler v. Municipal Officers Electoral Board of the Village of Lakemoor*, 338 Ill.App.3d 1059, 789 N.E.2d

854 (2d Dist. 2003). In involved the election of a village board of trustees in which the voters would choose candidates in two classes, some to be elected to two-year terms and others to four-year terms. The challenged candidate filed a statement of candidacy and petition sheets in which he identified himself as a candidate for village trustee, but he omitted from both the statement of candidacy and the petition sheets any indication of the duration of the term that he sought. The Appellate Court found itself unable to benefit from the doctrine of *Lewis v. Dunne*: Whether one looked at the statement of candidacy, or at the petition signature sheets, or at both together, nothing indicated the term of office that the candidate sought and, thus, given the nature of that election, the office sought was insufficiently specified. So it is in the case at bar. Search as widely as one will, nowhere in the Candidate's statutorily-mandated nomination papers, taken singly or taken all together, does she expressly identify the ward whose alderman she aspires to be.

14. The Candidate argues that she has subtly identified her ward on the statement of candidacy by setting forth her address. Simple reference to the map, she contends, discloses that the her address lies within the 15th Ward. That, she urges, should be enough to end confusion and save her nomination papers. Section 21-14(a) of the Illinois Cities and Villages Act of 1941, 65 ILCS § 20/21-14(a), imposes a requirement that a Chicago alderman reside (and for a minimum time prior to election) in the ward he represents. Section 3.1-10-5(c) of the Illinois Municipal Code, 65 ILCS § 5/3.1-10-5(c), contains a generally similar requirement. But cases are not uncommon in which candidates file papers seeking election as aldermen in wards in which they do not reside, and this Board has held many hearings in cases in which objectors have challenged aldermanic candidates' residencies. It would be an utter perversion of the law to permit a candidate in a city in which aldermen are elected by ward to file nomination papers merely seeking election as "alderman", and

then, upon expiration of the time of objections, to choose which ward in which the candidate desired to run. The law requires that a candidate expressly declare in which particular ward he seeks election; neither the public nor election authorities should have to guess, or hunt for subtle clues, as to the candidate's intentions, however well-publicized or otherwise generally obvious the candidate's intentions may be.

15. Similarly, it is not relevant to the Candidate that she specified the ward in which she proposes to run on her statement of economic interests, as filed with the County Clerk, or on the County Clerk's receipt for that statement, or in her instructions to the Board's staff in preparing a cover sheet for her nomination papers. The Supreme Court in *Lewis v. Dunne* effectively authorized this Board to look high and low within a candidate's nomination papers for a designation of the office sought; but even the most generous reading of that decision confines the search to the nomination papers, that is, to the statement of candidacy and the petition signature sheets. Those are the documents which the Election Code specifies as required by law to perfect a candidate's nomination, and extrinsic paperwork simply will not suffice to meet the law's commands.

16. The Hearing Officer will therefore recommend that the Board determine that the Candidate's papers insufficiently identify the office that she seeks, and that her name be withheld from the ballot.

Sufficiency of Binding of the Nomination Papers

17. In Paragraph 4 of the Objector's Petition, the Objector charges that, "Contrary to law, the Candidate filed 28 signature pages, none of which were 'neatly fastened together', a failure to bind. Failure to bind the petitions invalidates the candidacy."

18. The Candidate responds that her papers "were in order and were appropriately bound...." Candidate's Motion to Strike and Dismiss (Jan. 4, 2007).

19. Section 10-4 of the Illinois Election Code, as quoted at greater length in ¶ 11, *supra*, requires that the nomination papers "be neatly fastened together in book form, by placing the sheets in a pile and fastening them together at one edge in a secure and suitable manner...." Binding nomination papers with nothing more secure than paper clips is unusual, and surely a practice that candidates, desiring to insure the integrity of their papers and to prevent them from becoming disordered, commingled with others, or lost altogether, ought to avoid. Nonetheless, a divided panel of the Illinois Appellate Court for the First District has held that when a candidate's papers consisted of six to eight pieces of paper which were assembled into a single series of uniform leaves and held together along one edge by a single large paper clip, they were "fastened together" in "book form" and were in compliance — indeed, in "strict", rather than merely "substantial", compliance — with the statute. *Bendell v. Education Officers Electoral Board for School District*, 148, 338 Ill.App.3d 458, 788 N.E.2d 173 (1st Dist. 2003). The Objector notes that, at about the same time, the Third District reached a contrary conclusion in another paper clip case, *Girot v. Keith*, 341 Ill.App.3d 902, 793 N.E.2d 935 (3d Dist. 2003), *rev'd on other grounds*, 212 Ill.2d 372, 818 N.E.2d 1232 (2004). The Hearing Examiner is sympathetic with the views of the *Girot* court and with those expressed in dissent by Justice Wolfson in *Bendell*. This Board sits in the First District, however, and, other things being equal, should follow the law as developed in this District. In the instant case, the Candidate's papers were, indeed, held together in a single, neat, sheaf, and the number of pieces of paper were not so numerous that two large paper clips failed to secure them. Thus, the Hearing Examiner will recommend that, in the event that the Board does not withhold the Candidate's name

from the ballot on account of her failure to specify the office that she seeks, it should not deny her access to the ballot in circumstances where she employed fully twice as many paper clips as sanctioned by the Appellate Court in *Bendell*.

Recommended Findings, Conclusions, and Decision

20. On the bases of a facial examination of the nomination papers, of the Objector's Petition and attachments, of the statements and stipulations of the parties, and of all other proceedings held herein, the Hearing Examiner recommends that the Electoral Board enter the following findings of fact:

(a) The nomination papers filed by the Candidate, considered as a whole, do not identify the Ward of the City of Chicago in which the Candidate seeks election as Alderman, and leave doubt and confusion regarding the office that she seeks.

(b) The nomination papers filed by the Candidate consists of a pile of 33 pieces of paper, assembled together as a single sheaf of leaves and fastened along the top edge by two large paper clips.

21. The Hearing Examiner recommends that the Electoral Board enter the following conclusions of law:

(a) The nomination papers filed by the Candidate do not substantially comply with the requirement of law that a petition for nomination shall, besides containing the name of the candidate, specify the office for which such candidate shall be nominated.

(b) The nomination papers filed by the Candidate do strictly comply with the requirement of law that a petition be neatly fastened together in book form, by placing the

sheets in a pile and fastening them together at one edge in a secure and suitable manner.

(c) The Objector's Petition is well founded, and the relief sought therein should be granted.

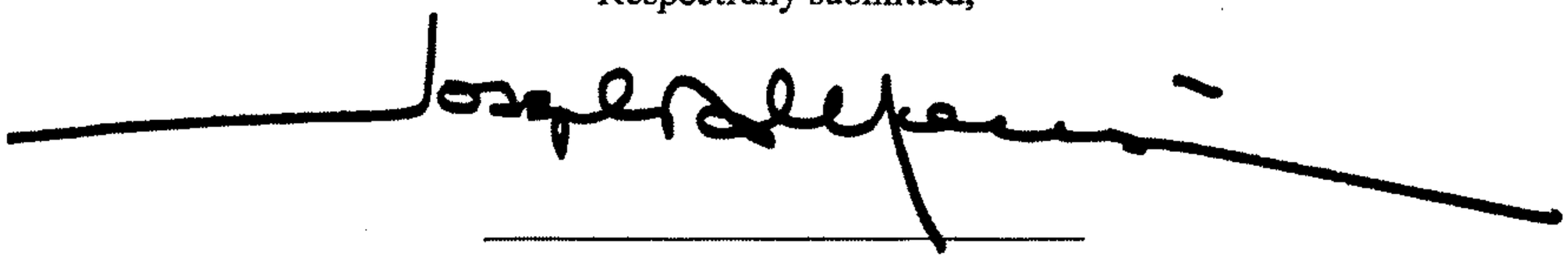
(d) The Candidate's nomination papers are insufficient in law and fact.

22. The Hearing Examiner recommends that the Electoral Board enter the following final administrative decision:

The name of Rosa Pritchett shall not appear and shall not be printed on the ballot for election to the office of Alderman of the 15th Ward of the City of Chicago to be voted for at the Municipal General Election to be held on February 27, 2007.

Dated: January 12, 2007.

Respectfully submitted,



JOSEPH A. MORRIS
Hearing Examiner