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

Objections of: FELIX CARDONA, JR., and LILLIBETH LOPEZ	)	
To the Nomination Papers of: RENNE CHAVEZ	)	**No.: 07-EB-ALD-053**
Candidate for the office of Alderman of the Thirty-first 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 FELIX CARDONA, JR., and LILLIBETH LOPEZ ("Objectors") to the nomination papers ("Nomination Papers") of RENNE CHAVEZ, candidate for the office of Alderman of the Thirty-first 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(s) 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 Thaddeus L. Wilson for further hearings and proceedings.

6. The Objector(s) 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(s), FELIX CARDONA, JR., and LILLIBETH LOPEZ, by counsel Thomas A. Jaconetty; and the Candidate, RENNE CHAVEZ, *pro se*.

7. The Hearing Examiner has submitted his Report and Recommended Decision finding, among other things, that the Candidate (a) did not file a Statement of Economic Interests with the Cook County Clerk as required by law; (b) did not file a receipt with the his Nomination Papers evidencing the filing of a Statement of Economic Interests with the Cook County Clerk; and (c) did not sign the circulator affidavit or take the required oath on any of the petition sheets, each and every one of which was circulated by the Candidate. The Hearing Examiner has recommended, therefore, that each of the Objections to the Candidate's Nomination Papers brought on these grounds be sustained and that the Candidate's Nomination Papers be found invalid.

8. The Electoral Board has reviewed and considered the Hearing Examiner's Report and Recommended Decision, the Objector's Petition, the Candidate's Nomination Papers, the

evidence presented and the arguments submitted, and the Electoral Board hereby adopts the recommended findings of fact and conclusions of law therein. A copy of the Hearing Examiner's Report and Recommended Decisions is attached to this decision and is incorporated and made a part hereof.

9. For the reasons stated above, the Electoral Board sustains those Objections or parts thereof recommended to be sustained by the Hearing Examiner and finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of FELIX CARDONA, JR., and LILLIBETH LOPEZ to the Nomination Papers of RENNE CHAVEZ, candidate for election to the office of Alderman of the Thirty-first Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of RENNE CHAVEZ, candidate for election to the office of Alderman of the Thirty-first 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 12th 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.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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

FELIX CARDONA, JR. AND LILLIBETH LOPEZ, Objectors,	)	
-VS-	)	Case No. 07-EB-ALD-053
RENEE CHAVEZ, Candidate.	)	

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Hearing Examiner's Report and Recommended Decision

This matter came before the hearing examiner on January 2, 2007. The case was called at or about 2:40 p.m. The Candidate appeared pro se and an appearance was filed for attorney Thomas A. Jaconetty on behalf of the Objectors. The hearing examiner was informed that attorney Jaconetty was in another hearing and the case was passed for him to appear. Attorney Jaconetty appeared and the case was recalled at or about 3:10 p.m. The hearing examiner inquired as to whether any motions would be filed and neither side had motions. The hearing examiner then turned to the merits of the Verified Objectors' Petition.

I. Objections Presented.

The Objectors argue (as numbered by the hearing examiner) that: (1) the Candidate failed to file a Statement of Economic Interest with the Cook County Clerk; (2) the circulator's affidavit on all of the Candidate's petition signature sheets fails to certify that the persons signing were

qualified voters at the time of signing; (3) the Candidate's nomination papers are void because the Statement of Candidacy and every Petition contains a reference to the incorrect election date; (4) the Candidate failed to file the appropriate receipt as evidence that he filed the requisite Statement of Economic Interest; (5) the sole circulator of each and everyone of the petition signature sheets (namely, the Candidate) failed to sign the circulator affidavit and take the required oath; (6) the Candidate has fewer than the required minimum number of signatures on his Petition because of various reasons outlined in the Appendix-Recapitulation Sheets attached to the Objectors' Petition; and (7) the Candidate's nominating petitions contain signatures of various individuals who have previously first signed the petitions of another candidate for alderman of the 31st Ward. .

II. Findings of Facts.

The Candidate stated on the record that he filed his Statement of Economic Interests with the Board of Election. The Board's file shows that the Candidate indeed filed a Statement of Economic Interests. The Statement of Economic Interests is stamped "2006 DEC 18 P 12:51 BOARD OF ELECTION". The Candidate stated on the record that he did not file a Statement of Economic Interests with the Cook County Clerk. The Candidate stated on the record that he did not file a receipt as evidence that he filed the Statement of Economic Interests with the Cook County Clerk. The Boards file shows two separate filings by the Candidate and that neither filing contained a receipt evidencing that a Statement of Economic Interest was included.

The Candidate also stated on the record that with respect to his petition signature sheets that he was the circulator for all of his petition sheets. He stated that he did not sign his name for the circulator's affidavit on any of the petition sheets. He stated that the notary public signed her name in two places on the circulator's affidavit. He stated that the notary public printed the Candidate's

name on one line on the circulator's affidavit of each of his petition sheets and thus that is not his signature.

With respect to having the minimum number of signatures, counsel for the Objectors stated that most of the people signing the Candidate's petition sheets have signed twice. The Candidate stated that the names appeared twice because he requested that each signer both print and sign their names on the petition sheets so that their names could be read and identified as qualified voters. The Candidate stated that even with the names appearing twice that he has more than the required minimum number of valid signatures.

III. Findings of Law and Legal Analysis.

With respect to objections (1) and (4) above, the Illinois Governmental Ethics Act (5 ILCS 420/4A-101 et. seq.) requires candidates for local elective office to file a verified written statement of economic interests. 5 ILCS 420/4A-101(g). The Act requires that the statement of economic interests for candidates for local elective office be filed with the county clerk of the county in which the principal office of the unit of local government in which the candidate is seeking office is located. 5 ILCS 420/4A-106. In the instant case, the Candidate Renee Chavez was required to file his statement of economic interests with the Cook County Clerk.

Nomination papers are invalid if the candidate "fails to file a statement of economic interests as required by the Illinois Governmental Ethics Acts * * * in relation to his candidacy with the appropriate officer by the end of the period for the filing of nomination papers unless he has filed a statement of economic interests in relation to the same governmental unit with that officer during the same calendar year as the year in which such nomination papers were filed." 10 ILCS 5/10-5. "If the nomination papers of any candidate and the statement of economic interests of that candidate

are not required to be filed with the same officer, Section 10-5 of the Election Code imposes a mandatory duty on a candidate to file with his nomination papers a copy of the receipt from the officer with whom the statement of economic interests is filed showing the date on which such statement was filed. 10 ILCS 5/10-5. "Such receipt shall be so filed not later than the last day on which nomination papers may be filed." 10 ILCS 5/10-5. In this case, the Candidate Renee Chavez was required to file his statement of economic interests with the Cook County Clerk and his nomination papers with the Chicago Board of Election Commissioners. Therefore, the Candidate was required to file with the Chicago Board of Election Commissioners a copy of a receipt obtained from the Cook County Clerk as evidence that he properly filed his statement of economic interests with the Cook County Clerk.

The Candidate Renee Chavez admits that he did not file his statement of economic interests with the Cook County Clerk at all and thus he inevitably as no receipt from the Cook County Clerk evidencing his filing of a statement of economic interest with that office. He admits that the only statements of economic interests that he filed are the two he filed with the Chicago Board of Election Commissioners. The failure to file with the election authority with which the nomination papers are to be filed a receipt evidencing that the candidate filed a statement of economic interests with the appropriate office invalidates the nomination papers. Bolger v. Electoral Board of the City of McHenry, 210 Ill.App.3d 958 (2nd District 1991); Kellogg v. Cook County Officers Electoral Board, 347 Ill.App.3d 66 (1st Dist. 2004). Where a candidate for aldermanic office filed a complete statement of economic interests with his nomination papers in the office of the Chicago Board of Election Commissioners rather than with the Cook County Clerk's Office, the proper repository for such ethics filings, the Candidate's nomination papers were held to be invalid. Beverly v. Electoral

Board, 87 CO 20 and 87 CO [redacted] Cook County. Since a statement of economic interest must also be filed as part of the [redacted] papers, a candidate is ineligible for office if he files his statement with the wrong [redacted] unit or office. Havens v. Miller, 102 Ill.App.3d 558 (1st Dist. 1981). Further, since [redacted] Renee Chavez admits that he only filed his statement of economic interests with the [redacted] Elections and the deadline to file the appropriate receipt has long passed, it is too late for [redacted] didate to correct his error. A statement of economic interests that is filed late will result in [redacted] didate's name being stricken from the ballot. Miceli v. Lavelle, 114 Ill.App.3d 311 (1st Dist. [redacted] For these reasons, said objections should be sustained.

As to objection (2) [redacted] above, the Objectors complain that the circulator's affidavits for each of the Candidate's [redacted] gnature sheets fails to certify that the persons so signing were at the time of signing also [redacted] voters. This the least of the problems with the circulator affidavits and thus there is [redacted] to address this issue in great detail. However, the hearing examiner notes that the pre[redacted] petition sheets refers to "qualified voters" and the intended circulator's affidavit refers [redacted] tered voters in the 31st Ward in the City of Chicago". The requirement that the circu[redacted] petition attest that the signers were registered voters is mandatory. Brennan v. K[redacted] Ill.App.3d 716, 719 (1st Dist. 2002). However, where the prefatory language of a can[redacted] signature sheets sufficiently represents that all of the signers satisfy a particular certifica[redacted] ement, it neither serves a useful purpose nor aids in preserving the integrity of the electo[redacted] to exclude the candidate from participation for failure to demonstrate strict complian[redacted] relevant statutory provision. Nolan v. Cook County Officers electoral Board, 329 Ill.Ap[redacted] 558 (1st Dist. 2002). Thus, it appears the Candidate is in substantial compliance, if n[redacted] pliance, and said objection should be overruled.

Regarding objection (3) above, the Objectors complain that all of the Candidate's nominating papers are void because the statement of economic interests and each and every petition signature sheet referenced February 25, 2007 as the date of the election instead of the correct date of February 27, 2007. The hearing examiner notes that the Objectors cite to no statutory authority or case law to support this objection. However, given certain other clearly fatal errors and objections sustained herein by the hearing examiner, there is little need to address this issue.

Regarding objection (5), as identified above, the Objectors assert that the circulator of each and everyone of the petition signature sheets failed to sign the circulator affidavit and failed to take the required oath. The Candidate admits that he circulated each and every one of his petition sheets personally. The Candidate admits that he did not sign any of the circulator affidavits on his petition sheets. The circulator's statement appearing at the bottom of each nominating petition sheet "shall be sworn to before some officer authorized to administer oaths in this State". 10 ILCS 5/10-4. The requirement that nominating petitions be notarized is not necessarily impracticable or unduly burdensome on the right to access to the ballot. Bowe v. City of Chicago Electoral Board, 81 Ill.App. 146 (1st Dist. 1980), rev. on other grounds, 79 Ill.2d 469 (1980). The requirement in the election code that the person who circulated nominating petitions personally appear before a notary public to validate the petition has been held to be mandatory and not directory. Thus, a violation of that section invalidates the petition sheet. Id. See also, Williams v. Butler, 35 Ill.App.3d 532 (4th Dist. 1976). Consequently, because none of the circular affidavits on the Candidate's petitions were signed by the Candidate as circulator, the objection should be sustained.

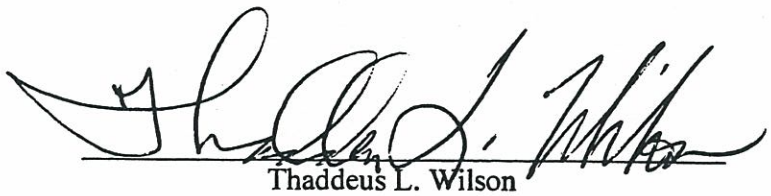
With respect to objection (6) above, a records examination would be required to resolve the objection. However, given the clearly fatal error with respect to the statement of economic interests

alone, there is no need to order a costly and time consuming records examination in this case.

The Objectors also assert in objection (7), as identified by the hearing examiner, that the Candidate's nominating petitions contain signatures of various individuals who have previously first signed the petitions of another candidate for alderman of the 31st Ward. However, given the clearly fatal errors already identified, there is little need to address this objection.

IV. Recommendation.

In light of the above factual findings and legal analysis, it is the recommendation of this hearing examiner that the objections of the Objectors, Felix Cardona, Jr. and Lillibeth Lopez, be sustained, that the nomination papers of the Candidate, Renee Chavez, be declared insufficient as a matter of law and of fact, and that the name of the Candidate, Renee Chavez, not appear and not be printed on the ballot for election to the Office of Alderman of the 31st Ward of the City of Chicago to be voted upon at the February 27, 2007 Municipal General Election.



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