NBCON-ALD

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

Objections of: Chauncey L. Stroud	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-292
Papers of: Julius Anderson	)	
	)	
Candidate for the office of	)	
Alderman of the 24th 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, Richard A. Cowen, and Marisel A. Hernandez, 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 Chauncey L. Stroud ("Objector") to the nomination papers ("Nomination Papers") of Julius Anderson, candidate for the office of Alderman of the 24th Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 22, 2011, having convened on December 6, 2010, at 9:00 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 December 6, 2010 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Christopher B. Cohen 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 Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, Chauncey L. Stroud, pro se; the Candidate, Julius Anderson, by attorney Lee Pulliam.

7. Objector alleges that the Candidate has not timely filed a Statement of Financial Interest with the City of Chicago Board of Ethics pursuant to section 2-164-0-50 of the Municipal Code of the City of Chicago ("City of Chicago Campaign Financing Ordinance"). Section 2-164-0-50 of the Municipal Code provides as follows:

> Every person who qualifies as a candidate shall thereby become a "reporting individual" for purposes of Chapter 2-156 of this code, and shall file a statement of financial interests, in the form prescribed by the Board of Ethics pursuant to said chapter, within five days after qualifying as a candidate. The provisions of Chapter 2-156 relating to time, place and manner of filing statements, delivering notices and receipts shall apply to statements of candidates. (Prior Code §26.3-5)

Section 2-164-060 of the Municipal Code provides as follows:

> No elected official shall be allowed to take the oath of office, continue in office or receive compensation from the City unless he has filed the statement of financial interest required by Section 2-164-050 and Chapter 2-156 of this code. (Prior Code §26.3-6)

8. Objector argues that because the Candidate failed to timely file a statement of financial interest, the Candidate cannot take the oath of office if elected and is, therefore, ineligible for elective municipal office in the City of Chicago.

9. Furthermore, Objector argues that, because Section 10-5 of the Illinois Election Code (10 ILCS 5/10-5) requires each candidate for office to swear or affirm under oath that he or she is legally qualified to hold such office, the Candidate's Statement of Candidacy claiming that the Candidate is qualified for the office sought is false.

10. Objector's argument is based upon the Illinois Supreme Court's decision in the case of *Cinkus v the Village of Stickney Municipal Officers electoral Board*, 886 N.E.2d 1011, 228 Ill. 2d 200 (2008). In *Cinkus*, a candidate, John Cinkus sought to run for village trustee. After Cinkus filed his nominating papers, he received notice by way of an objection that he owed a debt to the village in the amount of $100. The objection alleged that Section 3.1-10-5(b) of the Illinois Municipal Code (65 ILCS 5/3.1-10-5) precluded Cinkus from running for office because he was in violation of said section. Sec. 3.1-10-5(b) provides that:

> (b) A person is not eligible for an elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

Cinkus then paid or attempted to pay the debt with the village. The electoral board removed Cinkus from the ballot and the matter ultimately went to the Illinois Supreme Court wherein the Court addressed the question of whether a violation of the Illinois Municipal Code's arrearage prohibition, read in conjunction with the statement of candidacy provisions of Section 10-5 of the Election Code, bars a candidate from the ballot. The Supreme Court determined that

> ...reading these two statutes together, the disqualifications provided by section 3.1 - 10 - 5 (b) of the Illinois Municipal Code renders a candidate ineligible to run for

office if not remedied by the time the candidate files his or her nomination papers. 886 N. E. 2d 1023.

The import of *Cinkus* is that it was the first case to hold that an arrearage to a village not only precludes a person from taking office, but it also precludes a person from running for office.

11. The question presented to this Electoral Board is whether the City of Chicago Campaign Financing Ordinance imposes eligibility restrictions on candidates running for elective municipal office in the City of Chicago and, if so, whether they are enforceable by electoral boards by virtue of the case of *Cinkus v the Village of Stickney Municipal Officers Electoral Board*, 886 N.E.2d 1011, 228 Ill. 2d 200 (2008).

12. While the *Cinkus* is clear that eligibility restrictions contained in the Illinois Municipal Code may bar a person's candidacy, the City of Chicago's Campaign Financing Ordinance has no similar effect.

13. It is argued that Section 21-35 of Article 20 of the Illinois Municipal Code (otherwise knows as the "Revised Cities and Villages Act") (65 ILCS 20/21-35) allows the Chicago City Council to enact eligibility requirements for elective municipal office in the City of Chicago. Section 21-35 provides that "all laws in force in the city of Chicago governing elections for municipal offices or applicable thereto and not inconsistent with the provisions of this article, shall apply to and govern all elections held under the terms of this article." Municipal ordinances, the argument goes, are intended to be included in the above cited phrase "all laws in force ...." It is also argued that Section 21-22 of Article 21 of the Illinois Municipal Code similarly empowers the City Council to enact eligibility requirements for its elected officers by providing in part, "All elections for aldermen shall be in accordance with the provisions of law in force and operative in the City of Chicago for such elections at the time the elections are held." (65 ILCS 20/21-22) Objector would read into these statutes the authority of

municipalities to enact, by municipal ordinance, additional eligibility requirements for election to an office created by state statute. However, no case has ever held that these provisions referring to "all laws in force" were intended to include municipal ordinances. More likely, this section is an outgrowth of Sections 3.1-5-5 ("This Article 3.1 applies to all officers elected or appointed under this Article and Articles 4 and 5, unless provided otherwise.") and 3.1-10-10 (" The general election law applies to the scheduling, manner of conducting, voting at, and contesting of municipal elections.") of the Illinois Municipal Code (65 ILCS 5/3.1-5-5 and 65 ILCS 5/3.1-10-10). The "general election law" referred to in Section 3.1-10-10 of the Illinois Municipal Code of course means the "general election law" found in the Illinois Election Code. See, Section 1-1 of the Election Code (10 ILCS 5/1-1) ("This Act is the general election law of Illinois and any reference in any other Act to 'the general election law' or the 'the general election law of this State' is a reference to this Act, as now or hereafter amended."). The Election Code and Article 3.1 of the Illinois Municipal Code are the laws that govern elections in the City of Chicago, except where they are inconsistent with the express provisions of Article 21 of the Illinois Municipal Code. See, e.g., *Robinson v. Jones*, 186 Ill.App.3d 82, 542 N.E.2d 127 (First Dist. 1989); *United Citizens v. Coalition*, 125 Ill.2d 332, 531 N.E.2d 802 (1988) (reconciling the Election Code and the Illinois Municipal Code). Except for cases addressing the exercise of home rule powers through referendum, not a single election case has been cited for the proposition that a municipality can, through ordinance, create ballot access barriers for candidates seeking elective municipal office.

14. Illinois courts have held, for instance, that where the Constitution undertakes to prescribe qualifications for office, its declaration is conclusive of the whole matter. *Thies v. State Bd. of Elections,* 124 Ill.2d 317, 325, 529 N.E.2d 565, 569 (1988). The legislature is without

authority to change or add to the qualifications unless the Constitution gives it the power. *Cusack v. Howlett* (1969), 44 Ill.2d 233, 242-43, 254 N.E.2d 506. The same principle, it seems, applies to offices created by the legislature. Where an office is created by statute, it is wholly within the power of the Legislature creating it. For example, the length of term and mode of appointment may be altered at pleasure by the legislature, and the office may be abolished altogether. *People ex rel. Hoyne v. McCormick*, 261 Ill. 413, 421, 103 N.E. 1053, 1057 (1913).

15. While a municipality may provide for its officer, their manner of selection and terms of office, they may do so only acting through home rule power, subject to referendum.

16. The Illinois Attorney General has taken up this question in various opinions, the most relevant being Attorney General Opinion 00-003 dated March 7, 2000. In that opinion, Attorney General Jim Ryan was faced with the question of whether a home rule municipality has the authority to lengthen the statutory durational residency requirement for candidates running in the municipality. The Attorney General first looked to article VII, section 6 of the Illinois Constitution of 1970 which provides in pertinent part:

> (f) A home rule unit shall have the power subject to approval by referendum to adopt, alter or repeal a form of government provide by law...A home rule municipality shall have the power to provide its officers, their manner of selection and terms of office only as approved by referendum or as otherwise authorized by law.

The Attorney General determined that the durational residency requirement of municipal officers is a provision relating to the manner of selection of those officers, for purposes of article VII, section 6 of the Constitution, and that the establishment of qualifications for public office is a key component of the manner in which elected officers are selected. Accordingly, the Attorney General determined that:

> the statutory qualifications for office established by statute may be altered by a referendum adopted in a home rule municipality pursuant to article VII, section 6 of the Constitution." (page 5) Emphasis added.

Attorney General Lisa Madigan had the opportunity to address a similar issue. In Attorney General Opinion 05-007 dated September 7, 2005, Attorney General Madigan took up the question of whether home rule municipalities may, by referendum, implement election systems, such as cumulative voting or instant run-off voting, that are not specifically authorized by the Election Code or the Illinois Municipal Code. She determined that

> "pursuant to article VII, section of the Illinois Constitution of 1970, a home rule municipality had such authority subject to referendum approval, to adopt procedures for selecting municipal officers that differ from those set forth in either the Election Code or the Municipal Code." (page 1) Emphasis added.

Attorney General Madigan further recognized that

> [a]lthough they have been granted extensive powers with respect to their local government and affairs (Ill. Const.1970, art. VII, Sec.(a), home rule municipalities may change their manner of selection of officers only: (1) as provided by statute; or (2) as approved by a referendum. See *Leck v Michaelson*, 111 Ill .2d 523, 528 (1986); *Clarke v Village of Arlington Heights*, 57 Ill. 2d 50, 54 (1974).

Attorneys General Ryan and Madigan have made clear that (a) a home rule unit's change in the qualifications for office is a change in the manner of selection of officers and that (b) such a change must be accomplished by referendum.

17. Applying these Attorneys General opinions and the cases they cite to the instant question of whether a violation of the City of Chicago Financing Ordinance affects a candidate's eligibility to be on the ballot for elective municipal office, the answer is that such a violation cannot act as a bar to the ballot.

18. The City of Chicago Financing Ordinance clearly seeks to change the qualifications for office of candidates running for municipal office in the City of Chicago.

However, the ordinance was not approved by a referendum as required by Article VII, sec. 6 of the Illinois Constitution. Absent a referendum, the City is without authority to enact binding changes to the selection of its officers.

19. Because the ordinance was not enacted via referendum, it is not necessary to reach the question of whether this Electoral Board has jurisdiction to address violations of the City of Chicago Financing Ordinance. However, even if such a question was now before the Electoral Board, it is clear from Section 2-164-170(a) of the Chicago Municipal Code that jurisdiction rests with the City of Chicago Board of Ethics, not with this Electoral Board. Section 2-164-170(a) of the ordinance provides, as follows:

> 2-164-170 Powers and Duties of Board in Regard to Campaign Financing Ordinance. In addition to the other powers and duties conferred on it by this Code, the Board of Ethics shall have the following powers and duties:
>
> (a) To initiate and to receive complaints of violations of any of the provisions of this chapter and to investigate and act upon such complaints as provided by this chapter; provided, however, that the Board shall have no authority to investigate any complaint alleging a violation of any provision of this ordinance or alleging other misconduct by an alderman. If the Board receives a complaint alleging a violation or other misconduct by an alderman, the Board shall, within two days after receipt thereof, transmit such complaint to the standing committee of the City Council having jurisdiction over such complaints.

As the foregoing provision indicates, the Board of Ethics – not the Board of Election Commissioners – has the power and duty over violations of *any provisions of this chapter* with the exception of violations involving incumbent alderman. It is significant to note that the provision carves out a jurisdictional exception for alderman but not for candidates. Accordingly, it must be concluded that the Board of Ethics would be the proper entity to address a candidate's failure to comply with the Ordinance.

20. Therefore, while the ordinance may attempt to impose eligibility restrictions on candidates, the ordinance is not enforceable by an electoral board by means of removing

candidates from the ballot. The powers of electoral boards are only those prescribed by the legislature. *Kozel v. State Board of Elections*, 126 Ill.2d 58, 533 N.E.2d 796 (1988). This Electoral Board has long held that it does not have authority to invalidate nomination papers for an alleged failure to comply with the City of Chicago's municipal ordinance requiring the filing of statements of financial interests. See, e.g. *Bednarz v. Doherty*, 91-EB-ALD-53, CBEC, January 16, 1991; *Bocanegra v. Sanchez*, 07-EB-ALD-107, CBEC, January 9, 2007. While *Cinkus* stands for the proposition that eligibility requirements imposed by the Illinois Municipal Code may act as a bar to ballot access, there is no authority for the proposition that a municipality may enact additional eligibility requirements of its own (at least not in the absence of home rule power exercised and approved by referendum) to bar candidates from the ballot.

21. For these reasons, the Electoral Board overrules the objection based upon any alleged failure of the Candidate to timely file a Statement of Financial Interests required by municipal ordinance of the City of Chicago.

22. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid.

23. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

IT IS THEREFORE ORDERED that the Objections of Chauncey L. Stroud to the Nomination Papers of Julius Anderson, candidate for election to the office of Alderman of the 24th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Julius Anderson, candidate for election to the office of Alderman of the 24th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

Dated: Chicago, Illinois, on December 29, 2010.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Marisel A. Hernandez, 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 5 days after service of the decision of the Electoral Board.

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

Objections of CHAUNCEY L. STROUD To the Nomination Papers of: JULIUS ANDERSON Candidate for the office of Alderman for the Twenty-Fourth Ward, City of Chicago, County of Cook, State of Illinois, to be voted upon at the February 22, 2011 Municipal General Election	)	No. 11-EB-ALD-292

BOARD OF ELECTION
POLLING PLACE DEPT
2010 DEC 23 P 2:15

HEARING OFFICER'S RECOMMENDED DECISION

This matter came before the Chicago Board of Election Commissioners ("CBEC" or "Board") on the verified Objector's Petition of CHAUNCEY L. STROUD ("Objector") to the nomination papers of JULIUS ANDERSON ("Candidate"). The Board appointed Christopher B. Cohen as hearing officer for this case. The hearing officer finds and recommends as follows:

1. The Candidate timely filed nomination papers with the Board for the office of Alderman of the Twenty-Fourth Ward.

2. Objections to the Candidate's nomination papers were timely filed by the Objector on 11/30/10. They contained the following allegations: that (¶4) the Candidate failed to file a Statement of Financial Interests with the Board of Ethics as required by the City of Chicago's Municipal Code; and (¶5) the Candidate was in arrears in paying an indebtedness due the City of Chicago; and (¶6) the Candidate falsely swore in his Statement of Candidacy that he was qualified for the office sought.

3. The Board's official file contained the original nomination papers of the Candidate and the original Objections of the Objector.

4. A case management conference/hearing on the Objection Petition was begun December 6. 2010 at 69 W. Washington, Chicago, IL. The Objector appeared in person and *pro se*. He stated on the record that he was served with the Board's Call at home when he was not present. He waived further service on the record. The Candidate appeared in person and also by his attorney, Lee Pulliam. The Candidate stated on the record that he received service of the Board's Call and waived further service on the record. A formal written appearance was filed for each party.

5. The hearing officer provided each party a hard copy of the Board's Rules as well as the Index of Electoral Board Decisions dated October 2010 and indicated these could be found on the Board's website at www.chicagoelections.com.

6. At the 12/6/10 hearing, the Candidate through his attorney denied and challenged all three issues raised in the Objector's Petition and orally moved to file a Motion to Strike the Objection before the next hearing. The Candidate's attorney handed the Objector and filed with the Board's hearing officer three documents instanter – 1) a copy from the Board of the Candidate's Receipt for Nomination Papers showing a stamp indicating they were filed 11/15/10 at 9 am; 2) a receipt for the Candidate's Statement of Financial Interests filed with the City of Chicago with a Board of Ethics stamped date of 12/1/10; and 3) an 11/30/10 Memo from the Executive Director of the City of Chicago's Board of Ethics stating that Statement filings were due within 15 calendar days of the 11/30/10 Memo.

7. No records examination was requested.

8. The hearing officer set a briefing schedule which established deadlines of 5 pm on 12/7/10 for the Candidate to file his Motion; 5 pm on 12/8/10 for the Objector file to file any responsive pleadings to the Motion and 5 pm on 12/9/10 for the Candidate to file any reply. A hearing was scheduled for 12/8/10. Each of the two parties present received oral notice on the record of that upcoming hearing.

9. The Candidate filed a "2-615 Motion to Strike" which was time stamped by the Board at 1:00 pm, 12/7/10. It alleged 1) that the Objection Petition in ¶¶4, 5 and 6 failed to state a cause of action under 735 ILCS 5/2-615 in that it "does not state with specificity the defects complained of." It argued 2) that the Objector failed to set forth facts on which conclusions of law rest and that to be factually sufficient, facts must be plead which bring the claim within the legally recognized cause of action alleged. The Motion cited *Bank of Lincolnwood v Comdisco,* Ill App 3d 82d, 444 N.E. 2d 657, 67 Ill Dec 421. The Motion alleged 3) that the Objection did not specify the debt owed to the City of Chicago nor the ordinance section violated. The Candidate affirmatively stated 4) that he was not in arrears with respect to a payment to the City. The Candidate stated 5) that he provided the Statement of Financial Interests consistent with the Chicago Board of Ethics ordinance. The Motion alleged 6) that the Objection failed to state how the Candidate engaged in false swearing and consequently the Candidate was not provided the specificity needed to be able to respond. The Candidate affirmatively stated 7) that he did not make a false statement in his Statement of Candidacy.

10. The Objector's Response to Candidate's Motion to Dismiss was time stamped at 4:04 pm, 12/8/10. It alleged 1) that the Candidate failed to file a Statement of Financial Interests with the Board of Ethics as required by the Municipal Code of the City of Chicago. It argued 2) that the penalty in the ordinance is that "no elected official shall be allowed to take the oath of office..." It cited the Illinois Supreme Court's statement in *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200, 886 N.E.2d 1011 (2008) that "The statement of candidacy and accompanying oath are mandatory requirements." The Objector's Response states 3) that the Candidate's Statement of Candidacy contains false swearing because the Candidate was not qualified when he signed the Statement claiming that he was qualified to hold the office.

11. The "Candidate's Response to 2-615 Motion to Strike" was time stamped at 4:32 pm, 12/8/10. The hearing officer recommends that all three pleadings be deemed timely filed.

12. At the 12/10/10 hearing, the Objector presented documents including an undated request to the City of Chicago pursuant to the Freedom of Information Act ("FOIA") signed by the

Objector. It requested "Verification of indebtedness for 24th Ward Aldermanic candidate Julius Anderson, 1241 S. Springfield." The Objector also presented a letter written to the Objector dated 11/30/10 and signed by Christine Haynes, Assistant FOIA Officer, Department of Revenue. It was on blank stationary without letterhead. Attached were copies of redacted documents purporting to show that a person named Julius Anderson owed the following amounts on the following dates:

	Issued	Last Noticed	Amount Due	Viewed On
•	Blank. No data	11/12/03	$122.00	Blank. No data
•	Blank. No data	9/24/03	$240.00	Blank. No data
•	3/19/98	11/12/03	$48.80	11/26/10
•	6/8/98	5/8/03	$73.20	11/26/10
•	3/26/91	9/24/03	$50.00	11/26/10
•	8/22/91	9/24/03	$20.00	11/26/10
•	5/13/91	9/24/03	$40.00	11/26/10
•	3/6/92	9/24/03	$40.00	11/26/10
•	3/11/93	9/24/03	$50.00	11/26/10
•	12/10/91	9/24/03	$40.00	11/26/10

In some instances, the addresses appeared to be redacted. For identification purposes, there was no visible address, date of birth or Social Security Number. In addition, the Objector presented a photocopy of a Certification signed by the same Christine Haynes dated 12/9/10 stating that the attached copies are true and correct copies of documents in the custody of the City of Chicago Department of Revenue. Neither the 11/30/10 letter nor the photocopies which included the above data were attached to the Certification.

13. The hearing officer took judicial notice that §2-152-150(a) of the Municipal Code of the City of Chicago reads in part as follows:

> "Debt" means a specified sum of money owed to the city for which the period granted for payment has expired.

14. As to ¶4 in the Objector's Petition regarding the Chicago Ethics Ordinance, the Hearing Officer called the parties' attention to prior rulings of this Board. These rulings held that this Electoral Board did not have authority to grant what the Objector was seeking in ¶4 of his Petition – invalidation of nomination papers for failure to comply with the City of Chicago's Ethics Ordinance. *Bocanegra v. Sanchez*, 07-EB-ALD-107, CBEC, January 9, 2007; *Jones v. Monroe*, 07-EB-ALD-143, CBEC, January 16, 2007; *Smith v. Sherman*, 95-EB-ALD-20, CBEC, January 23, 1995; *Smith v. Tines*, 95-EB-ALD-24, CBEC, January 28, 1995; *Whitehead v. Massie*, 91-EB-ALD-43, CBEC, February 4, 1991; *Whitehead v. Gholar*, 91-EB-ALD-45, CBEC, February 4, 1991; *Bednarz v. Doherty*, 91-EB-ALD-53, CBEC, January 16, 1991. The hearing officer's recommended conclusion is that allegations in ¶4 be stricken as insufficient at law.

15. As to ¶5 of the Objection Petition alleging that the Candidate was in arrears in paying an indebtedness due the City of Chicago, the hearing officer noted that the Objector in *Cinkus* specifically alleged Cinkus was "in arrears in the payment of indebtedness in the amount of $100.00 to the Village of Stickney as evidenced by the attached `Notice of Judgment Entered.'" The hearing officer recommends that the Board find in the instant case that, unlike in *Cincus*, the Objector's Petition did not give notice with adequate

specificity of the alleged deficiency or violation of law so that the candidate could defend or prepare a reply as to whether the facts alleged by the Objector were accurate or not. The hearing officer called the parties' attention to 10 ILCS 5/10-8 which states that

> The objector's petition shall state fully the nature of the objections to the nomination papers or petitions in question.

This above portion of the Election Code requires specificity in pleading. The General Assembly made the determination that grounds for an election contest be factually pled with specificity. Allegations should not be conclusory in nature but should be set out using adequate and clear facts. The parties' attention was called to prior rulings in the Electoral Board's Index of Decisions under the heading entitled "Failure to Fully State Nature of the Objections." These rulings held that an objection is required to fully state the nature of the objections and what relief is being sought to comply with the Election Code. *Kopec v. Sims*, 07-EB-MUN-002, CBEC, January 19, 2007; *Crosby v. Beavers*, 95 EB-ALD-202, CBEC, January 24, 1995. The Index cites *Elysee v. Patterson*, 04-EB-RGA-14, January 20, 2004 for the proposition that an objection petition must adequately and sufficiently apprise the candidate of the specificity of each objection, thus making evaluation possible.

16. Because the Candidate is not allowed to amend or correct his Objections once filed, the hearing officer's recommended finding is that this Objection be stricken as insufficient at law.

17. After listening to presentations from each of the parties and considering all evidence presented, the hearing officer's recommendation is that with ¶¶4 and 5 stricken, the allegations in ¶6 regarding false swearing as to issues of Ethics and indebtedness in the Statement of Candidacy also be stricken as insufficient in law. There being no other surviving Objections and no records examination, the hearing was concluded.

In light of the above, it is this hearing officer's recommendation that the Objector's Petition be stricken and dismissed, that the Candidate's nomination papers be deemed valid and sufficient in law and in fact and that the name of Candidate JULIUS ANDERSON appear on the ballot for the office of Alderman of the Twenty-Fourth Ward at the February 22, 2011 Municipal General Election.

Respectfully submitted,

Christopher B. Cohen
Hearing Officer
December 23, 2010