

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS
TO NOMINATION PAPERS FILED BY CANDIDATES OF NEW POLITICAL PARTIES
FOR THE OFFICES OF SENATOR AND REPRESENTATIVE IN THE GENERAL
ASSEMBLY OF THE STATE OF ILLINOIS FOR THE
NOVEMBER 8, 1994 GENERAL ELECTION.

IN RE: Objection of JERRY STREET)
)
To the Nomination Papers)
Nominating CHESTER R. HORNOWSKI)
)
) No: 94-EB-NPP-2
Candidate for the Office of Representative in)
General Assembly, 20th Representative District)
Independent Term & Tax Limits Party.)

DECISION

The duly constituted Electoral Board, consisting of MICHAEL J. HAMBLET, ARNETTE R. HUBBARD and CHRIS ROBLING, 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 filed by candidates of new political parties for the Offices of Senator and Representative in the General Assembly for the State of Illinois, having convened on August 19, 1994, at 1:00 p.m. in Room 308, City Hall, Chicago, Illinois; and having heard and determined the objections to the petition 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 was 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, 1994;

5. The following persons, among others, were present at such hearings: the members of the Electoral Board, the Objector, by his counsel, and the Candidate and his counsel;
6. The Board appointed a Hearing Examiner pursuant to Rule 4 of the Board's Rules of Procedure to conduct further hearings and to hear and consider all evidence and arguments tendered by those appearing at the hearings;
7. The Hearing Examiner conducted hearings at which the parties were present and presented evidence and argument;
8. The sole issue presented by Objector's Petition is whether signatures contained on certain petition sheets circulated and certified by the Candidate and certain other named individuals are valid since the Candidate and those other individuals previously circulated petition sheets for a candidate of another political party for the March 15, 1994 primary election;
9. The Hearing Examiner found that:
 - a) 16 of Candidate's nominating petition sheets were circulated and certified by the Candidate and that the Candidate previously circulated and certified nominating petition sheets for himself, Chester R. Hornowski, as a candidate for the nomination of the Democratic Party for the offices of (i) Representative in the General Assembly for the 20th Representative District, and (ii) Member of the Cook County Board of Commissioners, 12th County Board District;
 - b) 46 of Candidate's nominating petition sheets were circulated and certified by the other named individuals and that such individuals previously circulated and certified nominating petition sheets for Chester R. Hornowski as a candidate for the nomination of the Democratic Party for either or both the offices of (i) Representative in the General Assembly for the 20th Representative District, and (ii) Member of the Cook County Board of Commissioners, 12th County Board District;
 - c) Section 10-4 of the Election Code (10 ILCS 5/10-4) provides that "no person shall circulate or certify petitions for candidates of more than one political party" and further that "[N]o signature shall be valid or be counted in considering the validity or sufficiency of such petition unless the requirements of this Section are complied with".
 - d) The constitutionality of the provision of Section 10-4

that no person shall circulate or certify petitions for candidates of more than one political party has been sustained in Citizens for John W. Moore Party v. Chicago Board of Election Commissioners, 794 F.2d 1254, on remand 665 F.Supp. 1334, aff'd 845 F.2d 144 (7th Cir. 1986);

- e) The provision in Section 10-4 that no person shall circulate or certify petitions for candidates of more than one political party is clear and unambiguous;
- f) As a result of the fact that certain of Candidate's petition sheets were circulated and certified by persons who circulated and certified petitions for candidates of more than one political party, said sheets and the signatures thereon are not in compliance with Section 10-4 and are therefore invalid in their entirety;
- g) As a result of the fact that certain of Candidate's nominating petition sheets fail to comply with Section 10-4 of the Election Code and are invalid, Candidate's nomination papers contain no more than 1,073 purportedly valid signatures of qualified and duly registered legal voters, short of the 1,529 required by law;
- h) The nomination papers filed by Candidate are not valid and that the name of Candidate should not be printed on the ballot for the November 8, 1994 general election ballot.

10. The Board further finds that:

- a) 16 of Candidate's nominating petition sheets were circulated and certified by the Candidate and that the Candidate previously circulated and certified nominating petition sheets for himself, Chester R. Hornowski, as a candidate for the nomination of the Democratic Party for the offices of (i) Representative in the General Assembly for the 20th Representative District, and (ii) Member of the Cook County Board of Commissioners, 12th County Board District;
- b) 46 of Candidate's nominating petition sheets were circulated and certified by the other named individuals and that such individuals previously circulated and certified nominating petition sheets for Chester R. Hornowski as a candidate for the nomination of the Democratic Party for either or both the offices of (i) Representative in the General Assembly for the 20th Representative District, and (ii) Member of the Cook County Board of Commissioners, 12th County Board District;

- c) The petitions circulated on behalf of Candidate when he was a candidate for the nomination of the Democratic Party for both the office of Representative in the General Assembly, 20th Representative District, and Member of the County Board of Commissioners, 12th County Board District, were filed with the appropriate election authorities, and Candidate subsequently filed a lawsuit challenging other provisions of the Election Code pertaining to filing nomination papers for incompatible office;
- d) Candidate withdrew as a candidate for both of the offices for which he had filed nomination papers as a Democratic candidate before the court had ruled on the suit and his name did not appear on the ballot for either office at the March 15, 1994 primary election;
- e) Section 10-4 of the Election Code (10 ILCS 5/10-4) provides that "no person shall circulate or certify petitions for candidates of more than one political party" and further that "[N]o signature shall be valid or be counted in considering the validity or sufficiency of such petition unless the requirements of this Section are complied with".
- f) The constitutionality of the provision of Section 10-4 that no person shall circulate or certify petitions for candidates of more than one political party has been sustained in Citizens for John W. Moore Party v. Chicago Board of Election Commissioners, 794 F.2d 1254, on remand 665 F.Supp. 1334, aff'd 845 F.2d 144 (7th Cir. 1986);
- g) The provision in Section 10-4 that no person shall circulate or certify petitions for candidates of more than one political party is clear and unambiguous;
- h) The provision in Section 10-4 that no person shall circulate or certify petitions for candidates of more than one political party does not contain an exception for petitions circulated or certified for candidates of another political party who withdraw as candidates prior to "qualifying" for the primary election ballot;
- i) As a result of the fact that certain of Candidate's petition sheets were circulated and certified by persons who circulated and certified petitions for candidates of more than one political party, said sheets and the signatures thereon are not in compliance with Section 10-4 and are therefore invalid in their entirety;
- j) As a result of the fact that certain of Candidate's nominating petition sheets fail to comply with Section

10-4 of the Election Code and are invalid, Candidate's nomination papers contain no more than 1,073 purportedly valid signatures of qualified and duly registered legal voters, short of the 1,529 required by law;

- k) Pursuant to Section 10-2 of the Election Code petitions to form a new political party in the 20th Representative District must contain a number of signatures of qualified and duly registered legal voters equal to at least 5% of the vote cast in the 20th Representative District at the previous general election, or 1,529 signatures;
- l) The Candidate's nomination papers fail to contain a sufficient number of signatures of qualified and duly registered legal voters pursuant to Section 10-2 of the Election Code and they are, therefore, not in proper form and are not valid;
- m) The Objector's objections are sustained in their entirety.

IT IS THEREFORE ORDERED that the objections of JERRY STREET to the nomination papers of CHESTER R. HORNOWSKI, a candidate of the INDEPENDENT TERM & TAX LIMITS PARTY for election to the office of REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 20TH REPRESENTATIVE DISTRICT are hereby SUSTAINED and said nomination papers are hereby declared INVALID and the name of CHESTER R. HORNOWSKI, candidate of the INDEPENDENT TERM & TAX LIMITS PARTY for election to the office of REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 20TH REPRESENTATIVE DISTRICT, STATE OF ILLINOIS shall NOT be printed on the ballot for the General Election to be held on November 8, 1994.

Dated: Chicago, Illinois, this 1st day of September, 1994.



MICHAEL J. HAMBLET, CHAIRMAN



ARNETTE R. HUBBARD, COMMISSIONER



CHRIS ROBLING, COMMISSIONER