

BEFORE THE DULY CONSTITUTED
DU PAGE COUNTY OFFICERS ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO PETITIONS
FOR CANDIDATES FOR THE OFFICE OF WAYNE TOWNSHIP
COMMITTEEMAN, PRECINCT 22

IN RE: THE MATTER OF THE OBJECTION)
OF MIKE MASCOV, OBJECTOR, TO)
THE NOMINATION PAPERS OF)
MELYNDA LITCHFIELD, CANDIDATE FOR) DOCKET No. 2013 P-04
THE OFFICE OF WAYNE TOWNSHIP,)
REPUBLICAN PRECINCT COMMITTEEMAN,)
PRECINCT 22, IN THE MARCH 18, 2014,)
GENERAL PRIMARY ELECTION)

COUNTY OFFICERS' ELECTORAL BOARD DECISION

NOW COMES the County Officers' Electoral Board, consisting of Christopher Hage, Chair, Art Ludwig, Member; and Kevin Millon, Public Member, organized and existing pursuant to law, and states as follows:

PREFATORY REMARKS

Pursuant to the Election Code, 10 ILCS 5/1-1 *et seq.* and in accordance with the County Officers' Electoral Board Rules of Procedure (hereinafter referred to as the "RULES") duly promulgated, approved, implemented and adopted on December 16, 2013, as required by the DuPage County Election Commission (hereinafter referred to as the "COMMISSION"), duly constituted, convened and sitting in its capacity as the County Officers' Electoral Board (hereinafter referred to as the "ELECTORAL BOARD") for the hearing and passing upon OBJECTIONS to Nominating Papers.

On December 16, 2013, the ELECTORAL BOARD conducted a hearing upon the Verified OBJECTOR'S Petition (hereinafter referred to as the "PETITION") filed by Mike Mascov, (hereinafter referred to as the "OBJECTOR"), to the Nominating Papers of Melynda

Litchfield (hereinafter referred to as the "CANDIDATE"), Candidate for the Office of Wayne Township Republican Precinct Committeeman, Precinct 22, (hereinafter referred to as the "OFFICE"), to be voted upon at the General Primary Election to be held March 18, 2014 (hereinafter referred to as the "ELECTION").

Within the timeframe set forth by statute, the CANDIDATE filed with the COMMISSION, Nominating Papers for the OFFICE to be voted on at the ELECTION. See Exhibit "A", attached hereto and incorporated herein by reference. Said Nominating Papers were filed on December 2, 2013, pursuant to 10 ILCS 5/7-12 of the Election Code. OBJECTIONS to the Nominating Papers were timely filed with the COMMISSION on December 9, 2013. See Exhibit "B", attached hereto and incorporated herein by reference.

A Call Notice for Hearing was issued on December 10, 2013, by Christopher Hage, Chair of the ELECTORAL BOARD. See Exhibit "C", attached hereto and incorporated herein by reference. The Call Notice was issued and served upon the OBJECTOR and the CANDIDATE, by certified mail, in accordance with the Election Code, 10 ILCS 5/10-10, as evidenced by a return receipt as required. See Exhibit "D", attached hereto and incorporated herein by reference. The CANDIDATE and the OBJECTOR were also served by the DuPage County Sheriff's Office, in accordance with the Election Code. See Exhibit "E", attached hereto and incorporated herein by reference. The Official Signature Requirement for the OFFICE for established Political Parties is a minimum of ten (10). See Exhibit "F", attached hereto and incorporated herein by reference.

Kevin Millon is sitting on the BOARD, as a Public Member, pursuant to an Administrative Order from the Chief Judge of the Eighteenth Judicial Circuit. See Exhibit "G", attached hereto, and incorporated herein by reference. The CANDIDATE'S Counsel appeared

and filed a written Appearance. See Exhibit "H", attached hereto and incorporated herein by reference. The OBJECTOR'S Counsel appeared and filed a written Appearance. See Exhibit "I", attached hereto and incorporated herein by reference. A Records Check was conducted by the Staff of the COMMISSION, which is identified as the Affidavit of Voter Registration. See Exhibit "J", attached hereto and incorporated herein by reference. The CANDIDATE filed a Motion to Dismiss the Objector's Petition. See Exhibit "K", attached hereto and incorporated herein by reference.

On December 16, 2013, a public hearing was held before the full and legally constituted BOARD in accordance with the Election Code, 10 ILCS 5/10-9(2), and the laws of the State of Illinois for hearing and passing on the OBJECTIONS to the CANDIDATE for said OFFICE. Notice of such hearing was given in conformance with provisions of the Election Code and the Illinois Open Meetings Act.

The BOARD was provided an opportunity to review the files and official records of the COMMISSION regarding the matters raised in the PETITION. The BOARD recessed briefly to allow Counsel for the OBJECTOR to review the Motion to Strike and Dismiss. The Counsel for the CANDIDATE agreed that the Motion would be taken as the CANDIDATE'S response to the OBJECTION.

PROCEEDINGS

The OBJECTOR challenges the CANDIDATE'S Nominating Papers on the following six (6) grounds:

1. Whether the designation of the street in the CANDIDATE'S address on sheets of the CANDIDATE'S Nomination Papers as "Brewster [cursive] (Brewster) [printed]" in the Village of Bartlett where there is no street of that name, but "Brewster Lane," "Brewster Creek

Boulevard,” and “Brewster Creek” is sufficiently clear under the Illinois Election Code, 10 ILCS 5/7-10, to advise the voters of the CANDIDATE’S exact address.

2. Whether the designation of the street in the CANDIDATE’S address on sheets of the CANDIDATE’S Statement of Candidacy as “Brewster” in the Village of Bartlett where there is no street of that name, but “Brewster Lane,” “Brewster Creek Boulevard,” and “Brewster Creek” is sufficiently clear under the Illinois Election Code, 10 ILCS 5/7-10, to advise the voters of the CANDIDATE’S exact address.

3. Whether the designation of the street in the CANDIDATE’S address on sheets of the CANDIDATE’S Nomination Papers as “Brewster (Brewster)” sufficiently matches the designation of the street on the CANDIDATE’S Statement of Candidacy as “Brewster” for the requirements of the Illinois Election Code, 10 ILCS 5/7-10.

4. Whether a Petition signature on the CANDIDATE’S Nominating Papers which contains only a single initial rather than full first name substantially complies with the requirements of the Illinois Election Code, 10 ILCS 5/7-10.

5. Whether a Petition signature on the CANDIDATE’S Nominating Papers which contains only three initials rather than full first and last names substantially complies with the requirements of the Illinois Election Code, 10 ILCS 5/7-10.

6. Whether the Oath of Registration Officer form filed with the CANDIDATE’S Nominating Papers that is not signed by the CANDIDATE and has the notary signature and date stricken complies with the requirements of the Illinois Election Code, 10 ILCS 5/7-10.

LEGAL ANALYSIS OF ISSUES PRESENTED

- (1) Whether the designation of the street in the CANDIDATE’S address on sheets of the CANDIDATE’S Nomination Papers as “Brewster [cursive]”**

(Brewster) [printed]” in the Village of Bartlett where there is no street of that name, but “Brewster Lane,” “Brewster Creek Boulevard,” and “Brewster Creek” is sufficiently clear under the Illinois Election Code, 10 ILCS 5/7-10, to advise the voters of the CANDIDATE’S exact address.

The OBJECTOR asserts in that the designation of the street in the CANDIDATE’S address in the Nomination Papers as “Brewster [cursive] (Brewster) [printed]” created voter confusion and inability to determine the CANDIDATE’S exact address because there is no “Brewster [cursive] (Brewster) [printed]” street in the Village of Bartlett, but streets styled “Brewster Lane,” “Brewster Creek Boulevard,” and “Brewster Creek.”

For the address information in the heading on the Nomination Papers, the Election Code, 10 ILCS 5/7-10, states:

Each sheet of the Petition other than the statement of candidacy and candidate's statement shall be of uniform size and shall contain above the space for signatures an appropriate heading giving the information as to name of candidate or candidates, in whose behalf such Petition is signed; the office, the political party represented and *place of residence*; and the heading of each sheet shall be the same. . . . [Emphasis added.]

Because the requirements for the Nominating Papers merely specify “place of residence” without stating what components of the address must be given, there is no specific requirement for inclusion of the type of roadway, *i.e.*, “Street,” “Avenue,” “Boulevard,” etc., in the address. Thus, as indicated by the OBJECTOR, “Brewster [cursive] (Brewster) [printed]” would be noncompliant only if it created confusion for the voter signing the Nominating Papers as to the address of the CANDIDATE’S residence. *Salgado v. Marquez*, 356 Ill. App.2d 1072, 828 N.E.2d 805, 811 (2d. Dist 2005).

Here there appears to be no grounds for claiming voter confusion over the address. The printed “Brewster” following the cursive “Brewster” is clearly added to insure legibility of the latter, not to indicate that the street is named “Brewster (Brewster).” The OBJECTOR admits

that there is a "Brewster Lane" in Bartlett and it is not asserted in the OBJECTION that the CANDIDATE'S address is on a street not having "Brewster" in its name. "Brewster Lane" is clearly the referent of the "Brewster" in the Nomination Papers, the word "Creek" being component of the name in other two streets mentioned having "Brewster" in them and, therefore, readily distinguishable as not being the street referred to.

Accordingly, the OBJECTION is overruled.

- (2) **Whether the designation of the street in the CANDIDATE'S address on sheets of the CANDIDATE'S Statement of Candidacy as "Brewster" in the Village of Bartlett where there is no street of that name, but "Brewster Lane," "Brewster Creek Boulevard," and "Brewster Creek" is sufficiently clear under the Illinois Election Code, 10 ILCS 5/7-10, to advise the voters of the CANDIDATE'S exact address.**

The OBJECTOR asserts in Paragraph 11.b. of the OBJECTION that the statement of the street in the CANDIDATE'S address in the Statement of Candidacy as "Brewster [cursive] (Brewster) [printed]" created voter confusion and inability to determine the CANDIDATE'S exact address because there is no "Brewster [cursive] (Brewster) [printed]" street in the Village of Bartlett, but streets styled "Brewster Lane," "Brewster Creek Boulevard," and "Brewster Creek."

The Election Code, 10 ILCS 5/7-10, provides for a heading on the Statement of Candidacy to be "substantially" in the following form:

| Statement of Candidacy | | | | |
|------------------------|--|----------|-----------|------------|
| Name | Address | Office | District | Party |
| John Jones | 102 Main St. Belvidere, Illinois | Governor | Statewide | Republican |

[Emphasis added.]

While the example address in the heading format for the Statement of Candidacy in 10 ILCS 5/7-

10 shows a designation of the type of roadway (i.e., “St.”), because only “substantial” compliance with the format is required, it cannot be claimed that designation of the type of roadway is mandatory. Thus, as indicated by the OBJECTOR, “Brewster [cursive] (Brewster) [printed]” would be noncompliant only if it created confusion for the voter signing the Nominating Papers as to the address of the CANDIDATE’S residence. *Salgado*, 828 N.E.2d at 811.

Accordingly, the OBJECTION is overruled.

- (3) **Whether the designation of the street in the CANDIDATE’S address on sheets of the CANDIDATE’S Nomination Papers as “Brewster (Brewster)” sufficiently matches the designation of the street on the CANDIDATE’S Statement of Candidacy as “Brewster” for the requirements of the Illinois Election Code, 10 ILCS 5/7-10.**

The OBJECTOR asserts that the CANDIDATE’S address on the Nomination Papers, which uses “Brewster (Brewster) for the street, does not match that In the Statement of Candidacy which uses only “Brewster.”

As has been previously indicated, the Election Code, 10 ILCS 5/7-10, provides for a heading on the Statement of Candidacy in the following form:

| Statement of Candidacy | | | | |
|------------------------|--|----------|-----------|------------|
| Name | Address | Office | District | Party |
| John Jones | 102 Main St. Belvidere, Illinois | Governor | Statewide | Republican |

For the heading on the Nomination Papers, the Election Code, 10 ILCS 5/7-10, states:

Each sheet of the Petition other than the statement of candidacy and candidate's statement shall be of uniform size and shall contain above the space for signatures an appropriate heading giving the information as to name of candidate or candidates, in whose behalf such Petition is signed; the office, the political party represented and *place of residence*; and the heading of each sheet shall be the same. . . . [Emphasis added.]

While the heading format in 10 ILCS 5/7-10 for the Statement of Candidacy shows a sample

address with house number, street, street type, and post office designation, the heading provisions for the Nominating Papers merely state “place of residence.” Moreover, 10 ILCS 5/7-10 expressly states that the Nominating Papers and Statement of Candidacy need be only “substantially” similar in the forms indicated. Accordingly, no requirement can be inferred that the address information in the Nominating Papers and Statement of Candidacy identically match in form.

The Statement of Candidacy and Nominating Papers are not considered as documents existing separate and apart from each other. *Lewis v. Dunne*, 63 Ill.2d 48, 244 N.E.2d 443, 446 (1976) In determining whether the addresses in the Statement of Candidacy and Nominating Papers headings here comply with the Election Code, 10 ILCS 5/7-10, they must be read together and would be noncompliant only if they created confusion for the voter signing the Nominating Papers as to the CANDIDATE’S exact address. *Salgado*, 828 N.E.2d at 811.

Accordingly, the OBJECTION is overruled.

The CANDIDATE submitted a total of 14 signatures on the PETITION. There were 2 specific signatures challenged. The BOARD adopted the findings of the COMMISSION and sustained 1 of the OBJECTIONS and overruled 1 of the OBJECTIONS, as more fully set forth below. The total remaining valid signatures on the PETITION is 13. The Election Code, 10 ILCS 5/7-10, requires that a Candidate’s Petition for Township Precinct Committeeman must contain at least ten (10) valid signatures of the Primary Electors.

(4) Whether a Petition signature on the CANDIDATE’S Nominating Papers which contains only a single initial rather than full first name substantially complies with the requirements of the Illinois Election Code, 10 ILCS 5/7-10.

The OBJECTOR asserts that the signature in Sheet 1, Line 4, should be stricken because

a single initial is used rather than a full first name.

The Illinois Election Code, 10 ILCS 5/7-10, merely states that a Petition “shall be signed by qualified primary electors . . . in their own proper person” without specifying the form for signatures. Generally, while substantial compliance with the Election Code is acceptable, it is not when it would release a candidate from compliance with the Election Code provisions intended to guarantee a fair and honest election. *Akin v. Smith*, 2013 IL App 130441, 989 N.E. 715, 720 (1st Dist 2013). Signatures which transpose the first name and middle initial or omit a suffix, such as “Jr.” or “Sr.,” substantially comply with 10 ILCS 5/7-10, but signatures which use only an initial for the first or last name do not. *Board of Education of Du Page High School District. 88 v. Pollastrini*, 2013 IL App (2d) 120460, 995 N.E.2d 547, 552 (2d Dist 2013).

The Board accepted the findings of Staff of the COMMISSION and found that there was not a substantial similarity between the initial used by the Signator on the Nominating Papers and the Official Voter Records.

Accordingly, the OBJECTION is sustained.

(5) Whether a Petition signature on the CANDIDATE’S Nominating Papers which contains only three initials rather than full first and last names substantially complies with the requirements of the Illinois Election Code, 10 ILCS 5/7-10.

The OBJECTOR asserts that the signature in Sheet 1, Line 6, should be stricken because only initials are used rather than full names.

The Board accepted the findings of Staff of the COMMISSION and found that there was a substantial similarity between the signature used by the Signator on the Nominating Papers and the Official Voter Records.

Accordingly, the OBJECTION is overruled.

(6) Whether the Oath of Registration Officer form filed with the

CANDIDATE’S Nominating Papers that is not signed by the CANDIDATE and has the notary signature and date stricken complies with the requirements of the Illinois Election Code, 10 ILCS 5/7-10.

The OBJECTOR asserts that the CANDIDATE has not filed a signed and notarized “OATH of REGISTRATION OFFICER form” in that the form filed does not contain the CANDIDATE’S signature and the date of notarization and notary signature have been crossed out.

The Election Code, 10 ILCS 5/7-12(8), provides that Nomination Papers filed are not valid unless “a statement of economic interest” is filed with the appropriate officer in accordance with the Illinois Governmental Ethics Act. Also, the Election Code, 10 ILCS 5/7-10.1, provides for filing with the Nomination Papers of sworn statement by a candidate of non-affiliation with any communist or other organization advocating the overthrow of constitutional government, sometimes called the “Loyalty Oath.” However, the filing of the Loyalty Oath is not required, the mandatory filing requirement of 10 ILCS 5/7-10.1 having been held unconstitutional. *Communist Party of Illinois v. Ogilvie*, 357 F. Supp. 105, 107-108 (N. D. Ill. 1972). No filing styled “OATH of REGISTRATION OFFICER form” is provided for in the Election Code.

The OBJECTION fails to clearly identify the document referred to as “OATH of REGISTRATION OFFICER form.” If it refers to the Loyalty Oath, the filing is not required, and the unsigned and un-notarized form filed with the Nomination Papers does not affect their validity. Because the five (5) business-day period for filing OBJECTIONS to candidate nomination papers for township precinct committeeman as provided for in the Election Code, 10 ILCS 5/7-10.1, the OBJECTOR may not amend the OBJECTION to clarify the document referred to. *Weber v. Winnebago county Officers Electoral Board*, 2012 IL App 120051, 966 N.E. 2d 462, 465 (2d Dist. 2102).

Because the reference of the "OATH of REGISTRATION OFFICER form" is unclear and the OBJECTOR may not amend OBJECTION to clarify it.

Accordingly, the OBJECTION is overruled.

CONCLUSION

Based upon the rulings made herein, it is the decision of the BOARD, in regard to the OBJECTION filed against the candidacy of Melynda Litchfield for the Office of Wayne Township Republican Precinct Committeeman, Precinct 22, that the OBJECTION is hereby overruled.

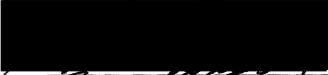
Accordingly, the name of Melynda Litchfield shall appear on the Official Ballot for the General Primary Election as a CANDIDATE for the OFFICE of Wayne Township Republican Precinct Committeeman, Precinct 22, to be held on March 18, 2014.

REVIEW OF ELECTORAL BOARD DECISION

Any Party seeking to review the decision and determination of the ELECTORAL BOARD shall do so in accordance with the provisions and timeframe set forth in the Illinois Administrative Review Act, 735 ILCS 5/3-101 *et seq.* and the Election Code, 10 ILCS 5/1-1 *et seq.*, and other pertinent statutory provisions by filing a Petition for judicial review within five (5) days from the date of this order with the Clerk of the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

DU PAGE COUNTY OFFICERS' ELECTORAL
BOARD


CHRISTOPHER HAGE, CHAIR


ART LUDWIG, MEMBER


KEVIN MILLON, PUBLIC MEMBER

Dated: December 23, 2013

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