

**NO. 11-1085
IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

**JAY STONE, FREDRICK K. WHITE, FRANK L. COCONATE,
DENISE DENSON, BILL "DOC" WALLS, HOWARD RAY
Plaintiffs-Appellants**

v.

**BOARD OF ELECTION COMMISSIONERS FOR THE CITY OF
CHICAGO
Defendant-Appellee**

REPLY BRIEF FOR APPELLANTS

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
CASE NO. 10cv7727
THE HONORABLE [JUDGE] DOW, PRESIDING**

FEBRUARY 22, 2011

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U.S. Const. amend XIV	passim
10 ILL. COMP. STAT. § 5/7-10.	passim
10 ILL. COMP. STAT. § 10/3.....	passim
65 ILCS 20/.....	passim

NOW COMES Attorney Christopher C. Cooper, on behalf of Plaintiffs-Appellants, and states as follows:

ARGUMENT

The Defendant-Appellee's argument should be rejected for the reasons presented in Plaintiffs-Appellants' Brief (previously filed). While the Appellee challenges all of the reasons presented, at least two of the reasons require additional attention; therefore, it was necessary for the submission of this Reply Brief.

The 12,500 signature requirement acts in concert with other ballot access restrictions. The most restrictive of the other restrictions is the one signature rule. On January 5, 2011 in the district court, in response to an assertion in Plaintiffs' brief that there is a one signature rule, counsel for the Chicago Board of Elections denied that such a rule exists or is imposed on Chicago voters. The representation to the court by opposing counsel on January 5 indicates that there is a dispute between the Appellee (Chicago Board of Elections) and Plaintiffs-Appellants as to whether or not voters are restricted to signing ONLY one nominating petition. Under ordinary circumstances, such a matter would be resolved by looking to statutory authority.

The district court record (in particular, transcripts for hearings held on December 21, 2010 and January 4, 2011) evince that the Plaintiffs-Appellants developed an argument as to a one-signature requirement-restriction. In its Appellate Court Response Brief, the

Defendant-Appellee asserts that the argument was not developed. The Defendant-Appellee's position is inaccurate.

Plaintiffs-Appellants contend that the constitutionality of a signature requirement for non-partisan candidates turns, in major part, on the requirement's "impact" on the development of non-partisan candidacies. The Supreme Court analyzes "impact" by looking first to history, and then to a state's other ballot access laws. The other ballot access laws in issue include: (1) the Chicago mayoral election is non-partisan; and (2) voters are restricted to signing ONLY 1 nominating petition. As to the latter, the Plaintiffs-Appellants' district court brief not only raises the issue (restriction disallowing a voter to sign more than one nominating position), but does so in 3 places in its brief at page 15, at page 30, and attached to the brief was an affidavit [see Exh. 3] from a prominent election attorney who asserts that there is a one signature requirement, although, the Defendant-Appellee argues otherwise (see Jan. 4, 2011 district court transcript).

On January 4, 2011, before District Court Judge Dow, counsel for Defendant-Appellee was asked if the Board does impose a one-signature restriction. Two of Defendant-Appellee's attorney were present (Paul Michalik and Terrence Michael Burns). Attorney Burns stated not to his knowledge (for the exact language-response, the transcript was ordered February 16, 2011 and should be in possession of the Seventh Circuit by the time of Oral Argument).

By Attorney Finko's affidavit (Exh. 3 and attached to this Reply); case law¹; and the Defendant-Appellee's own published material (see "2011 ELECTION INFORMATION PAMPHLET & CALENDAR") attached in part to this Reply Brief as Plaintiffs-Appellants' Exh. 6, it is absolutely clear that counsel for Defendant-Appellee misled the district court. A reasonable person can assume that the response to Judge Dow was made with the intent of causing the district court to conclude that it was not necessary to address the issue of a one signature requirement; along with the intent to win in this litigation at any cost, including asserting that a restriction that is imposed by the Board on voters and candidates, is not imposed.

The aforementioned booklet (*2011 Election Information Pamphlet & Calendar*) is authored by the Defendant-Appellee. On Page 6 of the booklet (see attached Exh. 6), there is the header that reads:

SIGNING AND CIRCULATING PETITION SHEETS
Signing petition sheets

The final sentence/paragraph under the header reads:

"Petition signers may not sign more than one nominating petition for the same office. [10 ILCS 5/10-3]." At page 6 of 2011 Election Information Pamphlet & Calendar, revised July 16, 2010.

The booklet\pamphlet entry unequivocally contradicts opposing counsel's representation to the district court. The booklet\pamphlet

¹ See Exh.16 in Doc. 33

bolsters the very argument that Plaintiffs-Appellants' made in their district court Brief by way of narrative and Attorney Finko's affidavit (Exhibit 3): that there is a one signature requirement ballot access restriction imposed by the Chicago Board of Elections and that it has impacted the most recent mayoral election and others (to include the office of City Clerk and that of City Treasurer). Attached as Plaintiffs-Appellants' Exh. 7 is an affidavit by Elida Cruz. She was running for City Treasurer in the upcoming 2011 election. Although, she filed approximately 23,500 signatures, she was booted from the ballot because the Defendant-Appellee decided that less than 12,500 of her filed signatures were "certifiable." Ms. Cruz recalls encountering registered voters who indicated to her that they were unable to sign her petition, since they had already signed a petition for another candidate. Plaintiff-Appellant Howard Ray, one-time candidate for mayor for the 2011 election also encountered countless voters who would not sign his petition, since they had already signed another mayoral candidate's petition. See Exh. 8.

Plaintiffs-Appellants ask the Seventh Circuit to consider other phenomena that they (Plaintiffs-Appellants) assert represent ballot access restrictions. In the form of a question: Whether the 12,500 signature requirement should be deemed constitutional where there are [other] ballot access impediments: (a). one signature per nominating petition requirement; (b). that individuals must run as non-partisan; (c).

that there is a short, 90-day collection period; (d). a crowded field of candidates collecting signatures; and (e) a magnitude of resources (money in particular) needed by a candidate in order to be able to collect 12,500 certifiable signatures.

Totality of Ballot Access Laws² to include the One Signature Requirement

Candidates for mayor of Chicago are burdened by having to run as non-partisan candidates as per 65 ILCS 20/21-5. They are not permitted to run as a part of a political party. If the law were otherwise, perhaps, mayoral candidates would be held to a lower signature requirement as is a partisan candidate running for governor of Illinois. A partisan candidate running for governor needs to collect only 5,000 signatures verses 25,000 signatures. 10 ILCS 5/7-10(a).

The Election Code does not bar Chicago voters from signing more than one petition (as in signing for more than one candidate); however, as evinced by plaintiffs' Exhibits 3 and 16 (Doc.30 & Doc.33), there is evidence (including case law to which the Defendant points, See Exh. 16 in Doc. 33) that the Board of Elections for the City of Chicago interprets ILCS 5-7/10 as applicable to the Chicago mayoral election. Based on reasonable information and belief, enforcement of this statute [adversely]

² The Storer Court held that impact of a ballot access law is judged by looking to history and to how the state's other ballot access laws may amplify the burden of the signature requirement. *Storer v. Brown*, 415 U.S. 724, 739, 743 (1974).

affected the collection period for which this case is germane.

Plaintiffs' contend that voters have a First Amendment right to champion for more than one candidate to "get on" the ballot. The petition signature collecting period should be one in which voters need not [to] decide for whom they intend to cast their vote on election day. This democratic, First Amendment endowed grace period enables voters to associate with more than one candidate who espouses their views in the days preceding the election. Come voting day, the voter must select just "one" candidate and such a rule is sensible and just. In violation of the U.S. Constitution, ILCS 5-7/10 and 10 ILCS 10/3 (neither or which should apply to the Chicago mayoral election) wrongly deny voters a legal opportunity to sign more than one petition. See Exh. 16 (Doc.33) which shows the Board of Elections applying ILCS 5-7/10 to aldermanic candidates who, like mayoral candidates, fall under the purview of 65 ILCS 20/21-28. Additionally, attached to Doc.30 is PF. Exh. 3, an affidavit from a Chicago area Election attorney. He asserts the prevalence of a Board enforcement and application of ILCS 5-7/10 (1 sig. rule).

A False Notion of Chaos and a Telephone Book Ballot

The Defendant-Appellee argued in its Reply Brief that Chicago must maintain its current 12,500-signature requirement to avoid "chaos" and a list of candidates the size of a "telephone book." The table below shows that the Appellee's claims are contrary to the facts and

experiences of other large cities. Houston and San Antonio had seven (7) candidates run for mayor in 2009. Houston and San Antonio mayoral candidates were given access to the ballot by submitting zero (0) signatures. Dallas had the most people running for mayor with eleven (11) candidates. The .55% signature requirement of Dallas is 1/5 of Chicago's 2.7% signature requirement. Houston and San Antonio's seven candidates and Dallas' eleven candidates do not represent ballots that approached the size of a "telephone book." The table below shows that the claims by the Appellee in its Response Brief are false and belied by the facts and experiences of/from other cities. The table below illustrates. (The remainder of the page is blank in order that the table is presented on the page that follows in full rather than in part on one page and then in second part on another.)

Number of Candidates Who Ran Mayor in the 10 Largest Cities

<u>City</u>	<u>Number of Required Signatures</u>	<u>Required Signatures in percent</u>	<u>Number of Candidates who Ran for Mayor</u>
New York	(Now 3,750 as of November 2, 2011; was 7,500)	0.32% now; was 0.64%	10
Los Angeles	500 \$300.00 Filing Fee	0.16%	10
Los Angeles	1000 No Filing Fee	0.32%	10
Chicago	12,500	2.70%	3
Houston	0 \$1,250 Filing Fee	0%	7
Phoenix	1,500	1.50%	2
Philadelphia	1,000	0.34%	9
San Antonio	0 \$100.00 Filing Fee	0%	7
San Antonio	361	0.52%	7
Dallas	461	0.55%	11
San Diego	200 \$500 Filing Fee	0.09%	5
San Diego	2,200 No Filing Fee	1.03%	5
San Jose	50	0.04%	4

*3

³ **Table Sources**

1. New York: <http://vote.nyc.ny.us/results.html> (See General Election 2009 - November 3, 2009)
2. Los Angeles: http://ens.lacity.org/clk/elections/clkelections309862717_09292009.htm (See Summary of Total Votes Cast by vote, by mail & precinct)
3. Chicago: http://chicagoelections.com/wdlevel3.asp?elec_code=65 (View Mayor)
4. Houston: <http://www.houstontx.gov/citysec/elections/> (See Election 11/3/09)
5. Phoenix: <http://phoenix.gov/election/resultmore.html> (see Sept. 11, 2007 Citywide Summary Results)
6. Philadelphia: (For Democratic Primary Election, see following link) <http://www.ourcampaigns.com/RaceDetail.html?RaceID=91002> (For Republican

Defendant-Appellee's Response Brief shows a Lack of Understanding of "the" History

The February 2007 Chicago Municipal Election was the first election after the signature requirement dropped from 25,000 to 12,500. In the Defendant-Appellee's Response, the State wrote: "*History and the facts do not support plaintiffs.*" In response, the undersigned attorney writes on behalf of his clients: The actual history and application of elementary statistics shows that the Chicago Board of Elections is wrong.

In the 2007 Municipal (Citywide) General Election, in which the 12,500 signature requirement first applied, seven candidates appeared on the municipal ballot: three for mayor; three for city clerk; one for treasurer.⁴ The Defendant-Appellee's Response Brief reiterated its previous argument (from the district court Brief) for 2007, [that] a total of

Primary Election see following link)

<http://www.ourcampaigns.com/RaceDetail.html?RaceID=91003> (For General Election see following link) <http://www.ourcampaigns.com/RaceDetail.html?RaceID=224123>

7. San Antonio:

<http://www.sanantonio.gov/clerk/elections/OfficialPastElectionsResults.aspx> (View the Official Past Election Results of May, 12, 2007)

8. Dallas: <http://enr2.clarityelections.com/Default.aspx?page=S&c=dallas&eid=126> (View Dallas Place 15-Mayor for initial non-partisan election) and <http://enr2.clarityelections.com/Default.aspx?c=dallas&eid=143> (View: Dallas Place 15-Mayor for runoff election)

9. San Diego: <http://www.sandiego.gov/city-clerk/elections/city/past/results.shtml> (View Candidates Races, Mayor)

10. San Jose:

<http://www.smartvoter.org/2010/06/08/ca/scl/race/5200/> and <http://www.ourcampaigns.com/RaceDetail.html?RaceID=643292>

⁴ The number of 2007 citywide candidates is listed at

http://chicagoelections.com/election3.asp?change_language=en (view Mayor, Clerk, and Treasurer

seven candidates were certified (approved) to run for citywide offices (Mayor, Treasurer and Clerk) after the signature requirement was reduced to 12,500.

In the 2003 Municipal Election (the election prior to the 2007 Municipal Election), there were a total of six (6) citywide candidates.⁵ The State correctly asserted there were a total of seven (7) citywide candidates in the 2007 Municipal Election. An increase of one (1). This is a nominal increase. Once again, in the 2003 election there were six citywide candidates and the signature requirement was 25,000. In 2007, the requirement was reduced to 12,500, and there was ONLY an increase of one (1) citywide candidate. This fact shows the signature requirement was not reduced enough. See tables below.

**Number of 2003 Mayor, Clerk, and Treasurer Candidates
(25,000 Signatures Required For Ballot Access)¹**

Year of Election	Candidates for Mayor	Candidates for City Clerk	Candidates for City Treasurer	Total Number of Candidates
2003	4	1	1	6

Each time a No. 1 appears in the table, a candidate ran unopposed.

Number of 2007 and 2011 Mayor, Clerk, and Treasurer Candidates

⁵ The number of 2003 citywide candidates is listed at http://chicagoelections.com/wdlevel3.asp?elec_code=110 (view Mayor, Clerk, and Treasurer).

(12,500 Signatures Required For Ballot Access)

Year of Election	Candidates for Mayor	Candidates for City Clerk	Candidates for City Treasurer	Total Number of Candidates
2007	3	3	1	7
2011	6	2	1	9

Each time a No. 1 appears in the table, a candidate ran unopposed.

For the February 2011 election, there are a total of nine (9) candidates for the office of mayor, clerk and treasurer.⁶ The State's argument that the current 12,500 signature requirement enhanced ballot access is false because after the General Assembly reduced the signature requirement to 12,500, only one (1) additional citywide candidate ran in the 2007 Municipal Election and only three (3) additional citywide candidates are running in the February, 2011 Municipal Election. (Id.) The increase of one (1) 2007 citywide candidate and three (3) 2011 citywide candidates is an average increase of less than one (1) political candidate for each 2007 and 2011 citywide office.

The additional one (1) candidate who ran in the 2007 Municipal Election and the additional three (3) candidates who are running in the

⁶ The source for the number of 2011 citywide candidates is the Board of Election Commissioners for the City of Chicago First Amended Certification for the February 22, 2011 Election (Dated January 7, 2011). See:

<http://chicagoelections.com/>

2011 Municipal Election are not the result of a reduced signature requirement (from 25,000 to 12,500). By example, the 2007 City Clerk election attracted more candidates because the City Clerk's election was an open race after the incumbent City Clerk James Laski resigned and pled guilty to bribery in March 2006.

There are a combined total of nine (9) citywide races for the 2003, 2007, and 2011 elections for Mayor, City Clerk, and City Treasurer. Candidates in four (4) of the nine (9) races had no political competition. In 2003, one candidate for City Clerk and City Treasurer ran unopposed. In 2007, one candidate for City Treasurer ran unopposed. In 2011, one candidate for City Treasurer is running unopposed. (Id.) The reduction of the signature requirement from 25,000 to 12,500 signatures has not changed the fact that citywide candidates run unopposed nearly 50% of the time.

Citywide candidates running unopposed in nearly 4 out of 9 races (nearly 50%) is proof that the 12,500-signature requirement is onerous and restricts ballot access.

5% is Not a Hard & Fast Requirement

Finally, the Defendant-Appellee has argued that any signature requirement of 5% or less is acceptable. It is worth considering the following hypothetical: What would be the signature requirements in America's 10 largest cities if the cities adopted a 5% signature

requirement of (?) The table below compares each city's actual signature requirement with a hypothetical 5% signature requirement. The table below shows how absurd ballot access would be and what would ensue if American cities adopted a 5% signature requirement.

The mean or average signature requirement for the 10 largest U.S. cities is .60%. Chicago's signature requirement of 2.7% is more than the four times the average signature requirement of the 10 largest U.S. cities. The trend in American cities is to reduce the number of required signatures to make ballot access easier. The table illustrates how Chicago's signature requirement should be trending downward to the 10 largest U.S. cities' mean of .60% instead of staying at 2.7%. The table below illustrates.

(The remainder of the page is blank in order that the table is presented on the page that follows in full rather than in part on one page and then in second part on another.)

**Increase in Number of Required Signatures If Cites Adopt a
5% Signature Requirement**

<u>City</u>	<u>Number of Voters in Last Election</u>	<u>City's Required Signatures in percent</u>	<u>Number of Signatures Currently Required</u>	<u>Number of Signatures if the City Adopts a 5% Signature Requirement</u>
New York	1,178,057	0.64% 0.32%	7,500 (Before Nov. 2010) 3,750 (After Nov. 2010)	58,903
Los Angeles	309,048	0.16%	500 Signatures With \$300 Filing Fee	7,726 Signatures with a \$9,271.00 Filing Fee
Los Angeles	309,048	0.32%	1000 Signatures No Filing Fee	15,452
Chicago	456,708	2.70%	12500	22,835
Houston	176,968	0.00%	0 Signatures with a \$1,250 Filing Fee	8,848
Phoenix	97,973	1.50%	1,500	4,899
Philadelphia	291,492	0.34%	1,000	14,575
San Antonio	69,271	0.00%	0 Signatures With \$100 Filing Fee	0 Signatures with a \$1,015.00 Filing Fee
San Antonio	69,271	0.52%	361 Signatures No Filing Fee	3,664
Dallas	84,590	0.55%	461	4,230
San Diego	214,572	0.09%	200 Signatures with \$500 Filing Fee	975 Signatures with a \$3,900 Filing Fee
San Diego	214,572	1.03%	2,200 Signatures with No Filing Fee	10,729
San Jose	134,320	0.04%	50	6,716
		.60 is the Mean or Average Signature Requirement		

*7

⁷ **Table Sources**

Table Explanation: Each city's Required Signatures in Percent (Column 3) is derived from dividing the number of signatures currently required (Column 4) by the number of voters in the last election (Column 2). For example, in San Jose, 134,320 voters participated in the city's last municipal election for mayor. San Jose required each candidate for mayor to submit 50 signatures. The required signatures in percent is .04% ($134,320 / .027 = .04\%$).

The Number of Signatures if a city adopts a 5% Signature Requirement (Column 5) is arrived at by multiplying 5% times the Number of Voters in the Last Election (Column 2). For example, San Diego 214,572 voters in its last election. If San Diego adopted a 5% signature requirement the formula is $214,572 \times .05 = 10,729$ required signatures.

Los Angeles, San Antonio, and San Diego allow candidates to submit less signatures if candidates pay a filing fee. For cities with filing fees, the number of signatures is pro-rated based on the fee per signature. For example, the San Diego candidates' filing fee is \$4.00 per signature (2,000 signatures divided by \$500.00 filing fee = \$4.00 per signature). (975 required signatures \times \$4.00 per signature = \$3,900 Filing Fee.)

-
1. New York: <http://vote.nyc.ny.us/results.html> (See General Election 2009 - November 3, 2009)
 2. Los Angeles: http://ens.lacity.org/clk/elections/clkelections309862717_09292009.htm (See Summary of Total Votes Cast by vote, by mail & precinct)
 3. Chicago: http://chicagoelections.com/wdlevel3.asp?elec_code=65 (View Mayor)
 4. Houston: <http://www.houstontx.gov/citysec/elections/> (See Election 11/3/09)
 5. Phoenix: <http://phoenix.gov/election/resultmore.html> (see Sept. 11, 2007 Citywide Summary Results)
 6. Philadelphia: (For Democratic Primary Election, see following link) <http://www.ourcampaigns.com/RaceDetail.html?RaceID=91002> (For Republican Primary Election see following link) <http://www.ourcampaigns.com/RaceDetail.html?RaceID=91003> (For General Election see following link) <http://www.ourcampaigns.com/RaceDetail.html?RaceID=224123>
 7. San Antonio: <http://www.sanantonio.gov/clerk/elections/OfficialPastElectionsResults.aspx> (View the Official Past Election Results of May, 12, 2007)
 8. Dallas: <http://enr2.clarityelections.com/Default.aspx?page=S&c=dallas&eid=126> (View Dallas Place 15-Mayor for initial non-partisan election) and <http://enr2.clarityelections.com/Default.aspx?c=dallas&eid=143> (View: Dallas Place 15-Mayor for runoff election)
 9. San Diego: <http://www.sandiego.gov/city-clerk/elections/city/past/results.shtml> (View Candidates Races, Mayor)
 10. San Jose: <http://www.smartvoter.org/2010/06/08/ca/scl/race/5200/> and <http://www.ourcampaigns.com/RaceDetail.html?RaceID=643292>

CONCLUSION

Plaintiffs' First and Fourteenth Amendment rights as both candidates and voters have been abridged. Illinois cannot demonstrate that the restrictions imposed by 65 ILCS 20/are narrowly drawn to advance the state's interest in minimizing ballot clutter.

While Illinois is permitted to require candidates for the office of mayor to demonstrate a substantial modicum of support, the state cannot erect such high signature requirements so as to effectively bar the development of candidates who are not financially wealthy, or who are unknown, or who are unaffiliated. *Cf. Jenness v. Fortsen*, 403 U.S. 431, 442 (1971), citing *Williams v. Rhodes*, 393 U.S. 23 (1968); and *Storer v. Brown*, at 739.

WHEREFORE, Plaintiffs-Appellants respectfully ask this Honorable Court reverse the decision of the district court.

Respectfully Submitted, February 22, 2011
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CERTIFICATE OF COMPLIANCE WITH F.R.A.P. RULE 32(a)(7)

The undersigned, counsel of record for the Plaintiff-Appellant, furnishes the following in compliance with [F.R.A.P Rule 32\(a\)\(7\)](#): I hereby certify that to the best of my ability and average computer knowledge, this brief conforms to the rules contained in for a brief produced with a proportionally spaced font. The length of this brief is approximately 3119 words.

Respectfully Submitted, February 22, 2011
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CIRCUIT RULE 30(d) STATEMENT

Pursuant to Circuit Rule 30(d), counsel certifies that all material, to the best of knowledge and required by Circuit Rule 30(a) and (b) are included in the appendix.

Respectfully Submitted, February 22, 2011
s\Christopher C. Cooper, ESQ., PHD., Counsel for Plaintiffs-Appellants

CIRCUIT RULE 31(E) CERTIFICATION

The undersigned hereby certifies that I have filed electronically, pursuant To Circuit Rule 31(e), versions of the brief and all of the appendix items that are available in non-scanned PDF format.

Respectfully Submitted, Saturday, February 22, 2011
s\Christopher C. Cooper, ESQ., PHD., Counsel for Plaintiffs-Appellants

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PROOF OF SERVICE

The undersigned, counsel for the Plaintiff-Appellant hereby certifies that on January 12, 2011 the foregoing brief was filed on ECF and defendant is a registered E-filer. On February 23, 2011, hard copies will be placed into the mail addressed to Defendant's attorneys.

Respectfully Submitted, February 22, 2011
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APPENDIX

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EXHIBIT 3

AFFIDAVIT OF ANDY FINKO AS TO THE ONE SIGNATURE REQUIREMENT

AFFIDAVIT OF ATTORNEY ANDY FINKO

The undersigned, having having been first duly sworn, under oath deposes and states as follows:

1. Since November 1992, I have continuously been licensed to practice law in the State of Illinois, and have continuously practiced law in the Chicago area.
2. Since approximately 2005, I have represented political parties, candidates and objectors in relation to elections in the state of Illinois, including representing candidates for state, county, and municipal elections during the petition challenge processes and appeals.
3. I am currently representing candidates for mayor, treasurer and aldermen for the Municipal General Election to be held in Chicago on February 22, 2011, and am familiar with the Illinois Election Code, the Illinois Municipal Code, and relevant Chicago Ordinances applicable to elections for municipal office in Chicago, as well as the Rules of Procedure for the various Electoral Boards.
4. I have in previous years represented candidates before the Chicago Electoral Board and am currently representing many candidates and objectors before the Chicago Electoral Board.
5. The City of Chicago chose to use the "non-partisan" provisions of the Illinois Election Code to govern its election, and the Election Code (10 ILCS 5/10-3.1) provides that the provisions applicable to "independent" candidate petitions shall apply to "non-partisan" petitions.
6. The Illinois Election Code and the reported decisions of the Chicago Electoral Board prohibit a person from signing the nominating petitions of more than one candidate for the same office, as reported in the 2010 Index of Electoral Board Decisions (excerpted from page 41 as follows):

SAME SIGNATURE ON MORE THAN ONE INDEPENDENT NOMINATION PETITION

Section 10-3 of the Election Code (10 ILCS 10/3) states in part that a voter may subscribe to one independent nomination petition for each office to be filled, and no more. Candidate's nominating petitions contain 30 signatures that are also found on the nominating petitions of two other candidates. Through testimony it was determined that these signatures were circulated before the date of notarization on the petition sheets of the two other candidates. The Board found these 30 signatures on the Candidate's nominating petitions to be valid. *Swift v. Solar*, 99-EB-ALD-013, CBEC, January 28, 1999.

Pursuant to Section 10-3 of the Election Code (10 ILCS 10/3), a voter may subscribe to one independent nomination petition for each office to be filled, and no more. Candidate testified that five signatures on her nominating petitions appear on another candidate's nominating petitions, and that these five voters affixed their signature to the other candidate's nominating petitions before signing the Candidate's nominating petitions. These five signatures are invalid as a voter may sign only one aldermanic petition for the same office in the same election and the signature executed first in time is the valid one and any subsequent signatures will be stricken. Sharkey v. Solar, 99-EB-ALD-072, CBEC, January 28, 1999, citing Swain v. Frezados, 87-EB-ALD-071, CBEC, 1987; Frias v. Campos, 91-EB-ALD-071, CBEC, 1991; Arrington v. Jenkins, 91-EB-ALD-083, 1991; Mitchell, Scheff and Zuckerman v. McCain, 99-EB-ALD-119, CBEC, February 2, 1999.

See also, Slywczuk v. Powers, 03-EB-ALD-025, CBEC, February 7, 2003; Rice v. Tirado, 07-EB-ALD-075, CBEC, January 28, 2007; Rice v. Diliberto, 07-EB-ALD-076, CBEC, January 28, 2007.

7. Of the registered voters that are eligible to sign a candidate's nominating petition, the foregoing prohibition is also a practice and policy that which is well-known to candidates, objectors and Electoral Board which further hampers Candidates in gathering signatures upon their petitions.

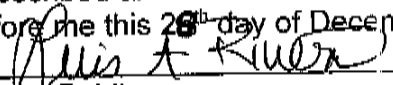
8. Since candidates with money to hire teams of people to gather signatures obtained many times the number of signatures necessary for the February 22, 2011 Municipal General Election, I do believe that the prohibition of signing more than one petition affected and impaired the collection of signatures during the relevant time frame in the matter Stone v. Neal, et. al.

9. Under penalty of law, I swear the foregoing is true and accurate based on my knowledge, experience and belief.

DATED 12/25/2010



Andrew Finko

Subscribed and Sworn to
before me this 26th day of December, 2010.


Notary Public



EXHIBIT 6

PAGES FROM CHICAGO BOARD OF ELECTIONS PUBLICATION ENTITLED:

2011 Election Information Pamphlet & Calendar

For complete publication: <http://www.chicagoelections.com/page.php?id=10>

REVISED JULY 16, 2010

Board of Election Commissioners
for the
City of Chicago

2011 ELECTION INFORMATION
PAMPHLET & CALENDAR

REVISED JULY 16, 2010

Please note that this publication may be revised.

Please periodically consult the Board's Web site for the most current information.

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2011 Election Information Pamphlet and Calendar

Revised July 16, 2010

**CHANGES IN REVISION #1 (JULY 16, 2010) TO
2011 ELECTION INFORMATION PAMPHLET & CALENDAR**

NEW OR REVISED DATES AS A RESULT OF P.A. 96-1008

Page 6:

- No petition sheet shall be circulated more than 90 days preceding the last day provided by law for filing the petition. Therefore, the first day that petition sheets may be circulated for the February 22, 2011 election is *Tuesday, August 24, 2010*. [10 ILCS 5/10-4]

Page 7:

When: Nomination papers shall be filed not earlier than *Monday, November 15, 2010* and not later than *Monday, November 22, 2010*. [10 ILCS 5/10-6(4)]

Page 10:

Saturday, July 10, 2010

First day to circulate petitions for the submission of a Local Option referendum under the Liquor Control Act for the February 22, 2011 Municipal General Election if filing petition on last day permitted by law (November 10, 2010). [235 ILCS 5/9-2]

Tuesday, August 24, 2010

First day to circulate for signature candidate nominating petitions for the offices of Mayor, Clerk, Treasurer and Alderman. [10 ILCS 5/10-4]

Wednesday, November 10, 2010

Last day to file petitions for the submission of a Local Option Referendum under the Liquor Control Act for the February 22, 2011 Municipal General Election. File in the office of the City Clerk. [235 ILCS 5/9-2]

Monday, November 15, 2010

First day to file candidate nomination papers for the offices of Mayor, Clerk, Treasurer and Alderman with the Board of Election Commissioners. [10 ILCS 5/10-6(4)]

Monday, November 22, 2010

Last day to file candidate nomination papers for the offices of Mayor, Clerk, Treasurer and Alderman with the Board of Election Commissioners. [10 ILCS 5/10-6(4)]

Last day to file petitions for the submission of a question of public policy under Article 28 of the Election Code for the February 22, 2011 Municipal General Election. File in the office of the Board of Election Commissioners. [10 ILCS 5/28-2]

Wednesday, November 24, 2010

Last day for the Board of Election Commissioners to notify any candidate who filed multiple sets of nomination papers for the same office of his or her multiple petition filings and that the candidate has 3 business days after receipt of the notice to notify the Board that he or she may cancel prior sets of petitions. If the candidate notifies the Board, the last set of petitions filed shall be the only petitions to be considered valid by the Board. If the candidate fails to notify the Board, then only the first set of petitions filed shall be valid and all subsequent petitions shall be void. [10 ILCS 5/10-6.2]

2011 Election Information Pamphlet and Calendar

Revised July 16, 2010

SIGNING AND CIRCULATING PETITION SHEETS

Signing petition sheets

- Each person signing the petition must personally sign the petition. No one may sign another person's name or signature on the petition, including spouses or members of the family for another person. [10 ILCS 5/10-4]
- The signer's residence address must be written or printed opposite his or her name and shall include the street address, city and county, except that the City of Chicago and Cook County may be printed on the petition forms. [10 ILCS 5/10-4]
- Each petition signer must, at the time he or she signs the petition, be registered to vote at the address shown opposite his or her signature on the petition, and such address must be within the ward in which the candidate is seeking election. [10 ILCS 5/3-1.2, 5/10-4]
- Petition signers may not sign more than one nominating petition for the same office. [10 ILCS 5/10-3]

Circulating petition sheets

- No petition sheet shall be circulated more than 90 days preceding the last day provided by law for filing the petition. Therefore, the first day that petition sheets may be circulated for the February 22, 2011 election is Tuesday, August 24, 2010. [10 ILCS 5/10-4]
- Petition circulators must be at least 18 years of age and be citizens of the United States. They need not be registered to vote nor are they required to be residents of the City or of the Ward in which they circulate petitions. [10 ILCS 5/10-4]
- A candidate may circulate his or her own petition sheets. [10 ILCS 5/10-4]
- All signatures on a single petition sheet must be signed in the presence of the circulator of that sheet. [10 ILCS 5/10-4]
- Each petition sheet must contain at the bottom a statement completed and signed by the circulator of that sheet certifying that the signatures were signed in his or her presence, that the signatures are genuine, that none of the signatures were signed more than 90 days preceding the last day for filing the petitions, that to the best of his or her knowledge and belief the persons signing the petition were at the time of signing the petition duly registered voters of the political subdivision or district in which the candidate is seeking election, and that the respective addresses of the signers are correctly stated on the petition sheet. Such statement must be sworn to by the circulator before some officer authorized to administer oaths in the State of Illinois. [10 ILCS 5/10-4]

FILING OF NOMINATION PAPERS

Assembling the nomination papers before filing

- Only original signed nominating petition sheets may be filed. Photocopies are not permitted.
- All the original petition sheets must 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. Photocopies or duplicates are not sufficient. [10 ILCS 5/10-4]
- All petition sheets must be numbered consecutively. [10 ILCS 5/10-4]
- Nomination papers must include

EXHIBIT 7

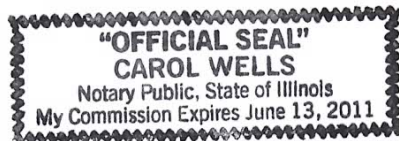
AFFIDAVIT OF ELIDA CRUZ

AFFIDAVIT OF ELIDA CRUZ

Taken on this 22nd day of February 2011 in the City of Chicago

- (1) I Elida Cruz, a legal adult, was a candidate for Chicago City Treasurer for the 2011 election.
- (2) I was required by the Board of Election Commissioners for the City of Chicago to file 12,500 signatures in order to have my name placed on the mayoral ballot.
- (3) I did file with the Board of Elections Commissioners for the City of Chicago approximately 23,500 signatures.
- (4) My name was removed from the ballot since the Board ruled that less than 12,500 of my signatures were certifiable.
- (5) I participated in collecting the approximately 23,500 signatures along with persons hired to collect signatures on my behalf.
- (6) When I was collecting signatures, many people told me that they could not sign my nominating petition (and that they did not) because they had already signed another petition of a candidate running for Chicago City Treasurer for 2011.

Signature *Elida Cruz* NOTARY SEAL



Subscribed and sworn to before me
this 22nd day of February 2011
at Chicago, County of Cook, State of Illinois.
Notary Public *Carol Wells*

EXHIBIT 8

AFFIDAVIT OF HOWARD RAY

AFFIDAVIT OF HOWARD RAY

Taken on this 22nd day of February 2011 in the City of Chicago

- (1) I Howard Ray, a legal adult, was a candidate for mayor of the City of Chicago for the 2011 election.
- (2) I was required by the Board of Election Commissioners for the City of Chicago to file 12,500 signatures in order to have my name placed on the mayoral ballot.
- (3) I did file with the Board of Elections Commissioners for the City of Chicago approximately 2,625 signatures.
- (4) My name was not placed on the ballot, since the Board ruled that I had filed less than 12,500 signatures.
- (5) I participated in collecting the approximately 2,625 signatures.
- (6) When I was collecting signatures, many people told me that they could not sign my nominating petition (and that they did not) because they had already signed another petition of a candidate running for mayor of the City of Chicago for the 2011 election.

Signature_____ NOTARY SEAL

***Copy with Notarized Signature is contained in Hardcopy. Signed and notarized by Benjamin Brockman on 01/21/11**