

**CHAMPAIGN COUNTY OFFICIALS ELECTORAL BOARD
AS THE DULY CONSTITUTED ELECTORAL BOARD**

PAT DEVANEY,)
Petitioner-Objector,)
)
-v-)
)
FRANK CALABRESE,)
Respondent-Candidate.)

FINDING AND ORDER OF THE BOARD

The duly constituted Officials Electoral Board of Champaign County, Illinois consisting of Chairman Mark Sheldon (Champaign County Clerk), Fred Wilkinson (Chief Deputy Circuit Clerk of Champaign County) and Steven Ziegler (First Assistant State’s Attorney for Champaign County) organized by law in response to a Call issued by Mark Sheldon, Chairman, for the purpose of passing upon the Objections of PAT DEVANEY (Petitioner-Objector) to the nomination of FRANK CALABRESE (Respondent-Candidate) as a candidate for the Republican Party for the office of Representative in the General Assembly for the 103rd Representative District of the State of Illinois, having met on May 30, 2008 in Courtroom “H” of the Champaign County Courthouse, 101 E. Main Street, Urbana, Illinois, and having heard the evidence and arguments of the parties on the Objector’s Petition, find as follows:

1. The Objector’s Petition herein was duly and timely filed on April 14, 2008.
2. A Call for the hearing on said Objector’s Petition was duly issued by the Chairman of the Electoral Board and served upon the Petitioner-Objector, the Respondent-Candidate and the statutory members of the Electoral Board.
3. Public hearings on the Objector’s Petition were commenced on April 22, 2008 and continued from time to time up to and including the final hearing on May 30, 2008.
4. No candidate the office of Representative in the General Assembly for the 103rd Representative District appeared on the Republican Party primary ballot for the Primary Election held on February 5, 2008.
5. On April 7, 2008, the Republican Party Representative Committee for the 103rd District, composed of members as authorized under 10 ILCS 5/8-5 of the Election Code, met, organized and nominated the Respondent-Candidate, FRANK CALABRESE, as the Republican candidate for said office.

6. On April 7, 2008, the Respondent-Candidate, FRANK CALABRESE, filed his Statement of Candidacy, Loyalty Oath, and the Resolution to Fill Vacancy in Nomination with the Illinois State Board of Elections.
7. The Petitioner-Objector has not challenged the composition of the Representative Committee or the means, method or timing of their selection of the Respondent-Candidate, nor has the Petitioner-Objector raised any issues related to compliance with 10 ILCS 5/7-61.
8. The Representative Committee filed the Certificate of Organization, bearing the names and signatures of the Chairman and Secretary of the Committee, with the Illinois State Board of Elections on April 18, 2008. The addresses of the Chairman and the Secretary do not appear on the face of the Certificate of Organization, but their names and addresses are included in a partial list of Republican precinct committeemen for Champaign County which the parties stipulated was attached to the Certificate of Organization.
9. The filing of the Certificate of Organization with the Illinois State Board of Elections occurred after the filing of the Objector's Petition herein and occurred after the deadline for the filing of such an objection in this matter, which deadline was met by the Petitioner-Objector.
10. The Petitioner-Objector alleges that the Representative Committee failed to comply with the requirement of 10 ILCS 5/8-5 that, "Immediately upon completion of organization, the chairman shall forward to the State Board of Elections, the names and addresses of the chairman and secretary" and that be reason of that alleged failure to comply with the statutory requirement, the Respondent-Candidate's name should be stricken from the General Election ballot. The Petitioner-Objector argues that this provision of 10 ILCS 5/8-5 is mandatory, that the Certificate of Organization does not contain the addresses of the chairman and that the filing of the Certificate of Organization was not done "immediately".
11. The Respondent-Candidate argued that this requirement of 10 ILCS 5/8-5 is directory, rather than mandatory, and that the filing of the Certificate of Organization on April 18, 2008 fulfilled the requirements of 10 ILCS 5/8-5.
12. At the conclusion of the hearing on May 30, 2008, the Electoral Board voted 3-0 to deny the Objector's Petition. The Board finds the requirements of 10 ILCS 5/8-5 to be mandatory, but believed that they could be satisfied by substantial compliance. The Board relies, in part, on the recent decision of the Appellate Court for the Fourth District in Reynolds v. Champaign County Electoral Board (No.4-08-0020, filed Jan. 24, 2008), which held that another mandatory section of the Election Code (10 ILCS 5/7-10) could be satisfied by substantial compliance, "...when the invalidating charge concerns a technical violation of the statute that does not affect the legislative intent to guarantee a fair and honest election." The Board finds that the term "immediately" is not specifically defined in the Election Code and that the Representative Committee did "immediately" file the names and addresses of the chairman and secretary

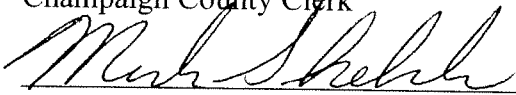
with the State Board of Election by filing the Certificate of Organization on April 18, 2008, with those names set forth on its face and their addresses included in the attachment. More specifically, the Board finds that the Respondent-Candidate and the Representative Committee substantially complied with the requirements of 10 ILCS 5/8-5 taken as a whole as well as substantially complying with the particular requirement to "immediately" file the names and addresses of the chairman and secretary of the Representative Committee with the State Board of Elections.

13. The Board disagreed on only one relevant point. Mr. Shelden stated his belief that, as the Representative Committee was duly constituted and acted in accordance with the statutory requirements for nominating the Respondent-Candidate at their meeting of April 7, 2008, that action could not be later invalidated by the Representative Committee's later failure to file the names and addresses of the chairman and secretary with the State Board of Elections. Mr. Ziegler disagreed, stating his belief that an complete failure to file either the names or addresses of the chairman and secretary with the State Board of Elections would invalidate the authority of the Representative Committee and the candidacy. In this case, however, he believed that the filing of that information with the State Board of Elections on April 18, 2008 was sufficient to substantially comply with the requirement of the statute.

THEREFORE, the Champaign County Officials Electoral Board finds, for the reasons set forth above, that the Objection should be DENIED and that the name of FRANK CALABRESE should appear on the ballot for the General Election of November 4, 2008 as the Republican candidate for the office of Representative in the General Assembly for the 103rd Representative District.

So ruled this 2nd day of June, 2008.

Champaign County Clerk




Mark Shelden, Electoral Board Chair

Champaign County Circuit Clerk

By: 

Fred Wilkinson, Chief Deputy Circuit Clerk

Champaign County State's Attorney

By: 

Steven D. Ziegler, First Assistant State's Attorney