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BEFORE THE SOUTH MOLINE

TOWNSHIP OFFICERS ELECTORAL BOARD

KIM LAZENBY,)
)
Petitioner-Objector,)
)
vs.) Docket No.
) 16-TOEB-01
RICK MELLINGER,)
)
Respondent-Candidate,)
)

WHEREUPON, THE TOWNSHIP OFFICERS

ELECTORAL BOARD MEETING called and commenced pursuant to the Open Meetings Act and the provisions of the Electoral Board and the Illinois State Statues governing same as they apply to the taking of Electoral Board hearings, taken before Kathy L. Johnson, C.S.R., a Notary Public in and for the County of Henry, State of Illinois, on December 12th, 2016, at the hour of 1:00 p.m., at the Offices of the Moline Township of South Moline, 2521 53rd Street, Moline, Illinois, 61265.

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I N D E X

EXHIBITS:

Exhibit No. 1

Exhibit No. 2

Exhibit No. 3

Exhibit No. 4

(Retained by Board.)

(Exhibits Nos. 5 and 6 were to be entered
at a later time.)

CERTIFICATE OF REPORTER 52

1 A P P E A R A N C E S
2
3 SORLING, NORTHRUP, HANNA, CULLEN
& COCHRAN, LTD.
4 BY: MR. GABRIEL H. NEIBERGALL
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9 McCARTHY, CALLAS & FEENEY, P.C.
BY: JOHN E. REMUS
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10 329 Eighteenth Street
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11 Rock Island, IL 61201
309-788-2800
12 jremus@mcfe-law.com
Appeared on behalf of the
13 Respondent-Candidate;
14
15 ALSO PRESENT:
16
17 SOUTH MOLINE TOWNSHIP BOARD MEMBERS:
18
19 MR. TRACY BEST
MS. ANDREA ANDERSON
MR. ROBERT VYNCKE
MS. LISA GRIFFIN
MS. CONNIE MOHR-WRIGHT
20
21 MS. KIM LAZENBY
22
23 MIDWEST LITIGATION SERVICES
Kathy Johnson, Court Reporter
711 North 11th Street
24 St. Louis, Missouri 63101
314-644-2191

1 (Meeting start time: 1:00 p.m.)

2 MR. BEST: We'll call the meeting to
3 order. I'm the Supervisor, Tracy Best. This is
4 a hearing of the South Moline Township Officers
5 Electoral Boards set for December 12th, 2016, at
6 1:00 p.m. Central Standard time.

7 The time is now 1:01 p.m. and we are
8 meeting in the Town Hall, the Township's usual
9 meeting place. And, again, I am the Supervisor,
10 Tracy Best, Chairman of the Electoral Boards,
11 number 16-TOEB-01, 16-TOEB-02, and 16-TOEB-03.

12 Whereas, Lisa Griffin is the Board Chair
13 for number 16-TOEB-04. The other Board members
14 for each are as follows. And do we do that now,
15 Gabe?

16 MR. NEIBERGALL: No.

17 MR. BEST: No? Okay. We'll read those
18 later. These Boards have been called into
19 session pursuant to my Calls and Mrs. Griffin's
20 Call after a set of objections were filed
21 regarding validity of the nomination papers for
22 four different candidates for various offices of
23 the South Moline Township for the February 28th,
24 2017 consolidated primary election.

1 Let the record reflect that we have with
2 us this afternoon a court reporter and Gabe
3 Neibergall, one of the Township attorneys who
4 will be assisting us. This is Gabe.

5 MR. NEIBERGALL: And I just want to, this
6 is Gabe Neibergall talking now. This is an
7 introduction portion that Mr. Best is going to be
8 doing most of the reading on as Chair of three
9 of the four Boards, and I wanted to see if the
10 candidates and the objector would agree to
11 certain procedure here.

12 We could do this same introduction four
13 different times for each Board, or we could just
14 do it once where we let Miss Griffin chime in
15 when it's appropriate for her Board instead of
16 each Board individually reading the whole
17 introduction, doing the roll call separately, and
18 many other procedural things we're going to take
19 care of.

20 So I'd like to ask if there's any
21 questions about that. And then individually if I
22 could ask the objector if she has any issue with
23 that, doing it collectively for the four boards
24 versus individually, and then each candidate I

1 will ask as well.

2 MS. LAZENBY: This is Kim Lazenby. I
3 have no objection to that.

4 MR. NEIBERGALL: And Mr. Mellinger?

5 MR. MELLINGER: Yeah. This is Rick
6 Mellinger. I have no objection to that.

7 MR. NEIBERGALL: Mr. Saucedo?

8 MR. SAUCEDO: No objection.

9 MR. NEIBERGALL: Mr. Vyncke?

10 MR. VYNCKE: No objection.

11 MR. NEIBERGALL: Mr. Puentes?

12 MR. PUENTES: No objections.

13 MR. NEIBERGALL: Okay. So we can proceed
14 as we've --

15 MR. BEST: I will call the roll of each
16 Board's members so that the record will reflect
17 their presence. Board number one, 16-TOEB-01;
18 Tracy Best, Rob Vyncke, Andrea Anderson. Board
19 two, Tracy Best, Rob Vyncke, Connie Mohr-Wright.

20 Board three, Tracy Best, Lisa Griffin,
21 Andrea Anderson.

22 MS. GRIFFIN: Board four, 16-TOEB-04;
23 Lisa Griffin, Robert Vyncke, Andrea Anderson.

24 MR. BEST: The majority is present.

1 MR. NEIBERGALL: So did we, let's have
2 each person on each Board indicate that they're
3 present and then we'll --

4 MR. BEST: So call them out again?

5 MR. NEIBERGALL: If you could call them
6 out and have a here. Sorry.

7 MR. BEST: Could I have a full voice
8 call? Tracy Best? Here. Rob Vyncke?

9 MR. VYNCKE: Here.

10 MR. BEST: Andrea Anderson?

11 MS. ANDERSON: Present.

12 MR. BEST: That was Board one. Board
13 two. Tracy Best? Here. Rob Vyncke?

14 MR. VYNCKE: Here.

15 MR. BEST: Connie Mohr-Wright?

16 MS. MOHR-WRIGHT: Present.

17 MR. BEST: Board three. Tracy Best?
18 Here. Lisa Griffin?

19 MS. GRIFFIN: Here.

20 MR. BEST: Andrea Anderson?

21 MS. ANDERSON: Present.

22 MS. GRIFFIN: Board four. Lisa Griffin?
23 Here. Robert Vyncke?

24 MR. VYNCKE: Here.

1 MS. GRIFFIN: Andrea Anderson?

2 MS. ANDERSON: Present.

3 MR. BEST: A majority is present in each
4 of the Electoral Boards. Let the record further
5 reflect that notices of these meetings were
6 posted on December 9th pursuant to the Open
7 Meetings Act and that these notices contained an
8 agenda.

9 Again, there are four different Boards
10 for the four distinct cases. Objections,
11 petitions. What's --

12 MR. NEIBERGALL: Just, I was, this is
13 Gabe Neibergall. I was trying to clarify that
14 whether you call them cases or petitions there's
15 four different matters.

16 MR. BEST: The first case is Lazenby
17 versus Mellinger. This is number 16-TOEB-01. Is
18 there anyone present on behalf of the objector?

19 MS. LAZENBY: The objector is present.

20 MR. BEST: Is there anyone here on behalf
21 of the candidate?

22 MR. REMUS: My name's John Remus. I'm
23 present on behalf of the candidate.

24 MR. BEST: I ask that you both get an

1 appearance form from the Township attorney and
2 return them to the Board at this time.

3 MR. NEIBERGALL: I will note that I've
4 already received Mr. Remus' appearances for all
5 four Boards. Did you fill out that one
6 appearance?

7 MS. LAZENBY: You asked me to wait.

8 MR. NEIBERGALL: Okay. If you could
9 complete that now I'll collect it from you
10 whenever you're finished.

11 MS. LAZENBY: And did you want all four
12 names listed on one?

13 MR. NEIBERGALL: Yes, please.

14 (Whereupon, Ms. Lazenby completed and
15 gave the form to Mr. Neibergall.)

16 MR. NEIBERGALL: Continue.

17 MR. BEST: The second case is Lazenby
18 versus Saucedo, number 16-TOEB-02. Is there
19 anyone present on behalf, on behalf of, we did
20 that.

21 MR. NEIBERGALL: You have to say that for
22 each case.

23 MR. BEST: Okay. That's right. Is there
24 anyone here for the objector?

1 MS. LAZENBY: Lazenby is here.

2 MR. BEST: Lazenby. Is there anyone here
3 on behalf of the candidate? And he said that he
4 is. Okay. And I ask both of you to get an
5 appearance form from the Township attorney and
6 return them to the Board at this time, and that's
7 been taken care of.

8 The third case is Lazenby versus Vyncke,
9 number 16-TOEB-03. Is there anyone here on
10 behalf of the objector?

11 MS. LAZENBY: Lazenby is present.

12 MR. BEST: Is there anyone here on behalf
13 of the candidate?

14 MR. REMUS: John Remus is present on
15 behalf of the candidate.

16 MR. BEST: I ask that you both get an
17 appearance form from the Township attorney and
18 return them to him at this time. It's taken care
19 of.

20 So the fourth case, well, that would be,
21 the fourth case is Lazenby versus Puentes, number
22 16-TOEB-04. Again, for that particular Board
23 Lisa Griffin will serve as the Chair.

24 MS. GRIFFIN: Is there anyone present on

1 behalf of the objector?

2 MS. LAZENBY: Lazenby is present.

3 MS. GRIFFIN: Is there anyone present on
4 behalf of the candidate?

5 MR. REMUS: John Remus present on behalf
6 of the candidate.

7 MS. GRIFFIN: I ask both of you to get an
8 appearance form from the Township attorney and
9 return it to the Board at this time.

10 MR. BEST: The first order of business is
11 the adoption of the rules of the Electoral
12 Boards. These rules have been prepared by our
13 attorneys, and we understand that they have been
14 used by other Electoral Boards throughout the
15 State, including the State Board of Elections and
16 others.

17 Is there a motion to adopt the rules?

18 MR. NEIBERGALL: Each individual Board,
19 please?

20 MR. BEST: Do we have a motion for --

21 MR. VYNCKE: I make a motion to adopt the
22 rules.

23 MR. BEST: From Board number one?

24 MS. ANDERSON: I'll second.

1 MR. BEST: A second. All in favor?

2 (Board one responded aye.)

3 (Board one signing document.)

4 MR. NEIBERGALL: How about the Board sign
5 the rules, please?

6 MR. BEST: Okay.

7 (Board signing document.)

8 MR. BEST: For Board number two, we call
9 Board number two. May I have a motion, that's
10 Best, Vyncke and Connie Mohr-Wright. May I have
11 a motion?

12 MS. MOHR-WRIGHT: I move to adopt the
13 rules.

14 MR. VYNCKE: I second.

15 MR. BEST: A second. All in favor?

16 (Board two responded aye.)

17 (Board two signing document.)

18 MR. BEST: And Board number three, Tracy
19 Best, Lisa Griffin, Andrea Anderson. May I have
20 a motion?

21 MS. ANDERSON: I make a motion to accept
22 the rules.

23 MR. BEST: May I have a second?

24 MS. GRIFFIN: Second.

1 MR. BEST: All in favor?

2 (Board three responded aye.)

3 (Board three signing document.)

4 MR. NEIBERGALL: And Board four, Miss
5 Griffin.

6 MS. GRIFFIN: Do I have a motion to
7 accept the rules?

8 MS. ANDERSON: I'll make a motion.

9 MR. VYNCKE: I second.

10 MS. ANDERSON: All in favor.

11 MS. GRIFFIN: All in favor?

12 (Board four responded aye.)

13 (Board four signing document.)

14 MR. NEIBERGALL: Will you sign as Chair,
15 please, Miss Griffin? On the sixth page there.

16 (Ms. Griffin signing document.)

17 MR. BEST: Okay. The Township attorney
18 will maintain the official record of the Board's
19 proceedings and any pleadings, motions and
20 similar documents may be served on the Township
21 attorney during the regular office hours or
22 during the Board hearing.

23 Copies of any documents should be faxed
24 or emailed to the Township attorney in care of

1 Gabriel H. Neibergall Law firm as indicated in
2 the rules. Mr. Neibergall, please enter the
3 rules into the Board's record as Exhibit
4 Number 1.

5 MR. NEIBERGALL: So entered.

6 (Exhibit No. 1 entered into the record.)

7 MR. BEST: Board's number two?

8 MR. NEIBERGALL: So entered.

9 (Exhibit No. 1 entered into the record.)

10 MR. BEST: And Board's number three?

11 MR. NEIBERGALL: So entered.

12 (Exhibit No. 1 entered into the record.)

13 MS. GRIFFIN: Board's number four?

14 MR. NEIBERGALL: So entered.

15 (Exhibit No. 1 entered into the record.)

16 MR. BEST: Thank you. We ask that the
17 parties note that the Electoral Board has
18 arranged to have these proceedings recorded by a
19 court reporter. The Board will continue this
20 practice during the Board's hearing hours, not
21 during any record check that may be conducted.

22 The Board does not plan to have a
23 transcript prepared unless the Board needs a
24 transcript for particular purposes. Should the

1 party be dissatisfied with the Board's decision,
2 a complete record will be furnished to the
3 Circuit Court at the Board's expense, subject to
4 limitations as may be provided in the
5 Administrative Review Act.

6 The court reporter's transcript will be
7 the minutes of the Electoral Board's meetings if
8 they are needed.

9 I will now enter into the record for
10 Board's number one, two and three the following
11 documents; Calls of each Board as Exhibits
12 Number 2.

13 MR. NEIBERGALL: Just one moment. Can we
14 start with Board number one?

15 MR. BEST: Oh, okay. Board number one.
16 I'm sorry.

17 MR. NEIBERGALL: So entered.

18 (Exhibit No. 2 entered into the record.)

19 MR. BEST: Board number two?

20 MR. NEIBERGALL: So entered.

21 (Exhibit No. 2 entered into the record.)

22 MR. BEST: And Board number three?

23 MR. NEIBERGALL: So entered.

24 (Exhibit No. 2 entered into the record.)

1 MS. GRIFFIN: Board number four?

2 MR. NEIBERGALL: So entered.

3 (Exhibit No. 2 entered into the record.)

4 MR. BEST: Let's see. We go down to the
5 Open Meetings Act notice of Board's, Exhibit
6 number 5? Is that what we drop down to, Gabe?

7 MR. NEIBERGALL: Yes, sir. This is Gabe
8 Neibergall. We have, we don't have return of
9 receipts for service yet, but it appears that all
10 parties are present. We will have those back at
11 my office so I'll enter those as exhibits later
12 on as he'll explain, so we're going to skip down
13 to the Open Meetings Act, which is Exhibit 3 for
14 each Board.

15 MR. BEST: Oh. The Open Meetings Act
16 notice of Board number, Exhibit Number 3. Are
17 there any questions regarding these documents?
18 If not, they will be entered into the record as
19 the Board's aforementioned exhibits.

20 Any returns of service that we receive
21 later will be added into the record by our
22 attorney. Lisa?

23 MS. GRIFFIN: Do I repeat that? Are
24 there any questions regarding these documents?

1 MR. NEIBERGALL: Sure.

2 MS. GRIFFIN: If not, they will be
3 entered into the record as the Board's
4 aforementioned exhibits. Any returns of service
5 that we receive later will be added into the
6 record by our attorney.

7 MR. NEIBERGALL: So at this time for
8 Board's one, two and three a Call is Exhibit
9 Number 2, and the Open Meetings Act notice is
10 Exhibit 3. For Board number four, the Call is
11 Exhibit Number 2. The Open Meetings Act notice
12 is Exhibit 3.

13 (Exhibit No. 3 for all four Boards
14 entered into the record.)

15 MR. BEST: So I go to, without reading
16 them in full we will also enter into the record
17 the original objection petitions as Board's
18 Exhibit Number 6. Or that's going to be --

19 MR. NEIBERGALL: Exhibit Number 4.

20 MR. BEST: Exhibit Number 4. Lazenby
21 versus Mellinger for 16-TOEB-01; Lazenby versus
22 Saucedo for 16-TOEB-02; Lazenby versus Vyncke for
23 16-TOEB-03. Each of those objection petitions
24 includes as attachments the nomination papers for

1 each representative candidate. Lisa Griffin.

2 MS. GRIFFIN: Without reading them in
3 full we will also enter into the record the
4 original objection petitions as, for Lazenby
5 versus Puentes for 16-TOEB-04, Exhibit 6.

6 MR. NEIBERGALL: So those objection
7 petitions for Boards one through three would be
8 Exhibit Number 4. And for Board four they would
9 also be Exhibit Number 4.

10 (Exhibit No. 4 for all four Boards
11 entered into the record.)

12 MR. BEST: Okay. At this time we turn
13 this over to our attorney to begin the hearing
14 process. Gabe will handle the Call for dockets
15 for each starting with 16-TOEB-01.

16 MR. NEIBERGALL: At this point, this is
17 Gabe Neibergall. Does anyone have any questions?
18 And we're talking as the whole group right now.
19 Does the group have any questions before we get
20 into the first case, which is Mr. Mellinger's
21 case? No questions?

22 MS. LAZENBY: This is Kim Lazenby. I
23 have a couple questions. Can you tell us as far
24 as opening statements in the process through that

1 up to the closing?

2 MR. NEIBERGALL: Yes. So on the Open
3 Meetings Act notice I've indicated the Call of
4 the docket will be for each case, and for each
5 case we would go through four different steps.

6 The first step would be preliminary
7 matters which would be motions, if either the
8 party, the objector or candidate, has a motion,
9 we would address motions first.

10 The Board would then make a determination
11 on the motions. Then after the motions were
12 completed, that portion, if any, we would move
13 into the hearing on the actual merits of the
14 argument for each objection. So after that they
15 would consider the merits as well.

16 So there's basically a preliminary
17 argument that can be made, if any. And then
18 there's the actual merits of each petition. So
19 if you wanted to make an opening statement when
20 we got to the hearing for the actual merits, that
21 would be fine.

22 MS. LAZENBY: Thank you.

23 MR. NEIBERGALL: Any other questions?

24 MS. LAZENBY: No.

1 MR. NEIBERGALL: Okay. So if we could
2 rearrange, we've got the Board as it is for Board
3 number one, is that correct?

4 MR. BEST: Correct.

5 MR. NEIBERGALL: Okay. And we have the
6 candidate's representation, the objector. At
7 this time we would move into preliminary matters
8 for Board number 16-TOEB-01, Lazenby v.
9 Mellinger. And at that point I'll turn it over
10 to the candidate's counsel.

11 MR. REMUS: Your Honors, Board, we have a
12 Motion to Dismiss that we'd like to file in this
13 case. I've provided a copy of the Motion to
14 counsel, and I've got copies I would like to have
15 the Board review as well.

16 MR. NEIBERGALL: Okay. So these are them
17 right here?

18 MR. REMUS: The top copies are all
19 originals.

20 MR. NEIBERGALL: Okay.

21 MR. REMUS: So these are going to be
22 copies for this specific hearing.

23 MR. NEIBERGALL: Okay. For the Board.
24 Okay. For the specific hearing. So we've got

1 three copies, four copies here. One for me. And
2 if you pass those down it appears to be a Motion
3 regarding Mr. Mellinger's objection petition. So
4 if you guys could review that for two or
5 three minutes, and then when everybody's done
6 look up at me and we'll begin.

7 (Board reviewing.)

8 MR. BEST: I've read it.

9 MR. VYNCKE: We're done.

10 MR. NEIBERGALL: All right. Mr. Remus.

11 MR. REMUS: Board, the Statute cited in
12 this Motion is straight out of the Illinois
13 Election Code. This is 10 ILCS 5/10-8. This is
14 the section dealing on objections to nomination
15 certificates.

16 This specific part of the Election Code
17 lays out the requirements that must be found in
18 the objector's petition in order for that
19 petition to basically be valid.

20 The language is pretty clear. It says
21 the objector's petition shall give the objector's
22 name and residence address and shall state fully
23 the nature of the objections to the certificate
24 of nomination or nomination papers for petitions

1 in question, and shall state the interest of the
2 objector and shall state what relief is requested
3 of the Electoral Board. Turning to Mr.
4 Mellinger's objection petition, if you review the
5 petition you will see that the objector's
6 address, her residence address, is not included
7 on this petition. This is a firm, mandatory
8 requirement. It is not directory.

9 The case Pochie versus Cook County
10 Officers of the Electoral Board states in clear
11 language the resident's address requirement of
12 Section 10-8, the section that I just cited to
13 the Board of the Election Code, is mandatory and
14 not directory. The address is just not there.

15 On that grounds alone I think that we
16 have a valid Motion to Dismiss. But further
17 examining the requirements of the Statute, it
18 seems clear that Miss Lazenby does not state what
19 her interest is as an objector.

20 That would be found presumably at the
21 beginning of her objection petition, and that
22 language is just not included. So we've got now
23 two requirements of the Statute that have not
24 been complied with.

1 In addition, as you review the specific
2 points of the petition she's got kind of it
3 broken down into headings, nominating petition
4 sheets and statement of economic interest
5 received with respect to Mr. Mellinger's
6 objection petition.

7 She's not requesting any specific relief
8 of this Board. She's just stating that certain
9 requirements have not been met under the
10 requirements for filing nomination papers.

11 She cites to the Candidate's Guide and to
12 public acts, and again to the Election
13 Candidate's Guide of 2017, but doesn't
14 specifically request this Board to do anything.

15 So, again, without her having a specific
16 request to make of this Board it's difficult for
17 the Board to take action with that. It's not
18 clear what she's even asking for.

19 So those are the grounds for our Motion
20 to Dismiss, and I would be happy to entertain any
21 questions.

22 MR. NEIBERGALL: I'd like to give you an
23 opportunity to respond in just a moment, but I'd
24 also like to hand out some of the documents that

1 you've referenced. I've already handed out
2 Section 10-8 to all the people involved I
3 believe, and I could also have the case law that
4 you cited if you'd like.

5 MR. REMUS: Sure.

6 MR. NEIBERGALL: Okay.

7 (Handing out documents.)

8 MR. NEIBERGALL: Has everyone had time to
9 review those documents? And I'd like to give the
10 objector time to respond.

11 MS. LAZENBY: This is Kim Lazenby.
12 Having had a brief period of time to review this,
13 the Cook County Officers Electoral Board is cited
14 in this case. Cook County is set aside as a
15 special jurisdiction that does not have the same
16 jurisdictions as the rest of the State of
17 Illinois.

18 Cook County is clearly set aside
19 separately in most instances of any of the Code
20 and the Illinois State Board of Elections
21 Candidate's Guide and the referenced law in that
22 Candidate's Guide.

23 The nomination papers that are objected
24 to list that I am a citizen of South Moline

1 Township, and I'm also a Trustee in South Moline
2 Township. I was served by the Deputy Sheriff at
3 my home with the paperwork for this proceeding.
4 My address is on that. And I was also served by
5 certified mail from Sorling Northup Attorneys at
6 my mailing address. My address is clearly known.

7 In addition, the relief requested in your
8 Motion to Dismiss is clearly noted where it's
9 stated that the statement filed and the paperwork
10 filed is incomplete and should not be counted.
11 Thus, the candidate fails to meet the filing
12 requirements for elected office.

13 The interest of the objector falls under
14 the category of myself being a registered voter
15 in South Moline Township. And I believe that
16 that covers all of the objections in the Motion
17 to Dismiss.

18 MR. NEIBERGALL: Miss Lazenby, would you
19 like any more time to review the case law or the
20 Statute that were cited by --

21 MS. LAZENBY: Yes.

22 MR. NEIBERGALL: Okay. Go ahead and do
23 so now, and whenever you're ready to proceed I'll
24 allow him to respond to your argument.

1 (Miss Lazenby reviewing document.)

2 MR. NEIBERGALL: Miss Lazenby, have you
3 had enough time to review?

4 MS. LAZENBY: Yes.

5 MR. NEIBERGALL: Do you have any more
6 arguments?

7 MS. LAZENBY: I would reiterate the fact
8 that I'm a registered voter. I am a legally
9 elected official in South Moline Township, and I
10 have standing in this objection --

11 MR. MR. NEIBERGALL: Any other argument?

12 MS. LAZENBY: -- as a resident.

13 MR. NEIBERGALL: Is that all?

14 (Ms. Lazenby nodded affirmatively.)

15 MR. NEIBERGALL: Okay. And if you'd like
16 to respond.

17 MR. REMUS: Yeah, just briefly. Board,
18 Miss Lazenby is correct in our Statutes that
19 govern our State, a lot of times Cook County is
20 carved out and treated differently. If you
21 review this Statute that you've been provided
22 that's not the case here in this specific
23 instance.

24 This is governing everybody in the State

1 of Illinois. Illinois is not treated, or Chicago
2 rather, is not treated as a separate jurisdiction
3 in this case. Miss Lazenby stated that she was
4 served at her residence address and that everyone
5 knows where she is. If you review the case law
6 that you've been handed, this has to be clear on
7 the face of the petition.

8 And that petition, if you look at the
9 second page at the very bottom of the left hand
10 column, this Petitioner in his objection,
11 actually his objection petition, he said the
12 objector resides at 11006, Chicago, Illinois,
13 60655, in the 28th Representative District of the
14 State of Illinois.

15 He tried to actually share what his
16 address was, and there's no such finding here.
17 The Court goes on to state later in the opinion
18 on the third page in the second, there's a, in
19 the left hand column a paragraph that's got a two
20 at the beginning.

21 At the end of that paragraph the Court
22 says: In our view, whether or not an objector
23 has standing is determined according to the face
24 of the petition and not according to what can be

1 found in the records of the Election Commission.
2 Everyone may well know that Miss Lazenby lives
3 where she lives, but it's got to be on the face
4 of the petition, and it's not. This is a
5 mandatory thing, and I think the Board has to
6 dismiss on those grounds.

7 Miss Lazenby also states that her relief
8 is requested clearly in her objection petition.
9 It is not. It's phrased in a statement manner.
10 Just looking at paragraph 1-A of her objection
11 petition, it says none of the three petition
12 signature sheets are numbered, petitions are not
13 numbered with sheet numbers contrary to the
14 requirements for filing nominating papers and
15 therefore should not be counted.

16 She's making a statement, she's not
17 making a request. It's typical in these type of
18 filings to say something to the effect of
19 wherefore, I would request that, insert whatever
20 relief you're requesting.

21 If it's to the, the candidate be struck
22 from the ballot, then that should be spelled out.
23 I would also note that she may well have an
24 interest as a voter in the South Moline Township

1 to object to petitions, but she doesn't lay that
2 out in here. So we would just ask that this
3 Board dismiss the objection petition as it
4 relates to Mr. Mellinger.

5 MS. LAZENBY: I have a rebuttal.

6 MR. NEIBERGALL: Go ahead.

7 MS. LAZENBY: If you look at page three
8 of my objection it clearly states that it's
9 therefore incomplete and should not be counted.
10 Thus, the candidate fails to meet the filing
11 requirement for elected office. Fails to meet
12 the requirement for elected office.

13 MR. REMUS: It does say that, but it
14 doesn't say what this Board should do about it.

15 MR. NEIBERGALL: Any other additional
16 argument on that point?

17 MS. LAZENBY: That it fails to meet the
18 requirement.

19 MR. NEIBERGALL: Okay. All right. Any
20 other argument regarding this preliminary matter,
21 the motion filed by Mr. Remus on behalf of Mr.
22 Mellinger?

23 MR. REMUS: No, I have no other
24 arguments.

1 MS. LAZENBY: Failing to meet the
2 requirements means that this Board is not able to
3 find in favor of the candidates.

4 MR. NEIBERGALL: Okay. I'll turn it over
5 to the Board to discuss the preliminary motion.

6 MR. BEST: Okay. It was mentioned that
7 it was a Cook County or State law. I have
8 reviewed some of these and it is a requirement,
9 is it not, to have the address, a mandatory
10 requirement, on the petition or not? Can you
11 give us any other information on that, Gabe?

12 MR. NEIBERGALL: Thank you. This is Gabe
13 Neibergall. If you can turn back to
14 Section 10/8, the Statute that was handed to you
15 that was cited by Mr. Remus, we'll just go
16 through it in the actual Statute and indicate
17 exactly where he's referring to.

18 This is on page two of the document that
19 you have. The second paragraph down it says:
20 The objector's petition shall give the objector's
21 name and residence address, and shall state fully
22 the nature of the objections to the certificate
23 of nomination or nomination papers or petitions
24 in question, and shall state the interests of the

1 objector and shall state what relief is requested
2 of the electoral Board. And that is 10 ILCS
3 5/10-8. So to answer your question, Mr. Remus is
4 correct that this is a State statutory
5 requirement. This isn't specific at least here
6 to Cook County.

7 So this does state that you need a
8 residence address. And the case law that he's
9 cited interprets that requirement. So if you
10 wanted to move next to the case law, which is
11 Pochie is how I would pronounce it, P-o-c-h-i-e.

12 This is 289 Illinois Appellate 3rd 585
13 from 1997. And this is a First District Court of
14 Appeals case which is significant in my, in my
15 understanding of the argument here is that Miss
16 Lazenby is saying this might be Cook County.

17 But my understanding of Illinois law is
18 that there is one technical Appellate Court in
19 the State, even if it's the First District. They
20 speak, unless there is contrary case law they
21 speak for the whole State as an Appellate Court.

22 So my interpretation of authority would
23 be that this is an authoritative case unless
24 there's contrary case law in the actual District

1 where we reside. So if we don't, and I'll let
2 Miss Lazenby to see if she has any case law that
3 responds to that.

4 MS. LAZENBY: And that is my question to
5 you is we did not have this information before
6 this hearing. How do we know that there's not
7 any contrary case law?

8 MR. NEIBERGALL: My answer would be I
9 don't know that there isn't any contrary, but
10 I've reviewed this individually. This is the
11 case that I found, and there isn't a case. If
12 you look at the top of the, page one, it's called
13 a key cite, which is a West Law, West Law is a
14 provider for legal research, and they would
15 normally, if this had been overruled have a red
16 flag and say this other case overrules this case.

17 And the only Court that could overrule
18 this would be the Supreme Court. And now if that
19 other case, Morton v. State of Officers Electoral
20 Board, had been one that actually contradicted
21 this in a different District there might be a
22 question for the Supreme Court.

23 I've reviewed that case, Morton v. State
24 Officers Electoral Board, and it actually doesn't

1 address the same residency issue that we're
2 talking about here. It doesn't contradict this
3 case. So my, if you're asking me do I know the
4 case that exists that's contrary, I do not. So
5 that's, that's how it is. Any other question
6 about that?

7 MS. LAZENBY: That was in the year 2000?

8 MR. REMUS: It's a 1997 decision.

9 MR. NEIBERGALL: I think she's referring
10 to Morton v. State Officers Electoral Board,
11 Illinois Appellate 4, which is a year 2000 case.

12 MR. REMUS: Yes.

13 MR. NEIBERGALL: So back to the Board.
14 Do you have any questions about this case, the
15 Statute, or any of the arguments made by the
16 objector or the counsel?

17 MR. BEST: Well, further, he said that
18 there was no relief put out, you know, as to what
19 she actually asked for. He mentioned like to be,
20 have him taken from the ballot or something. How
21 definite is that?

22 MR. NEIBERGALL: This is Gabe Neibergall
23 to answer that. It's very definite that it's
24 required. As I, as I cited in the Statute, it

1 says shall. However, this, this one I don't have
2 case law on, and I don't, because we're talking
3 about a contextual argument such that Miss
4 Lazenby is saying what I said was enough of a
5 relief stated.

6 Mr. Remus is saying it's not. That would
7 be something for the Board to decide based on the
8 language that they see in the petition itself. I
9 don't have any case law that says this is
10 sufficient, this is insufficient. But it does
11 say it shall state the relief requested.

12 MR. BEST: Right. It does say the relief
13 requested. And that would be an example of
14 saying what, that they should be removed from the
15 ballot or something other than it just doesn't,
16 it doesn't count?

17 MR. NEIBERGALL: Yeah.

18 MS. ANDERSON: So it's up to us to
19 determine whether it should not be counted
20 because --

21 MR. BEST: Right. Right.

22 MR. NEIBERGALL: Correct. So if you'd
23 like to review the petition and look at the
24 language and then if you have any questions of

1 the objector or the candidate's attorney I would
2 urge you to ask.

3 MR. VYNCKE: It says so fully, state
4 fully the nature of the objection, so.

5 MS. ANDERSON: I mean, it should not be
6 counted as enough but --

7 (Whereupon, the Board was discussing
8 inaudibly amongst themselves.)

9 MR. NEIBERGALL: If you guys, I'm sorry,
10 guys. If you're going to speak --

11 MR. BEST: Okay. I'm sorry.

12 MR. NEIBERGALL: -- let's do it
13 individually so we can record it. So why don't
14 we just start. Mr. Vyncke, do you have any
15 questions or comments about the issue of relief
16 requested?

17 MR. VYNCKE: I'm Rob Vyncke. The count
18 is, she clearly does not have an address and it
19 states shall state fully the nature of the
20 objections and what she wants done, and she has
21 not stated any of those.

22 MR. NEIBERGALL: And I guess I want to
23 move issue by issue here. Sorry to boil it down,
24 but I'm talking about specifically the issue

1 of --

2 MR. BEST: The relief.

3 MR. NEIBERGALL: -- if she's, if she's
4 requesting relief. Do you have any comments on
5 that?

6 MR. VYNCKE: No.

7 MR. NEIBERGALL: Okay. Mr. Best?

8 MR. BEST: Just that, I mean, relief. I
9 mean, you're asking for a definite, would you say
10 that they're asking for a definite thing? You
11 know, just, do you, is that full enough, you
12 know, just saying they shouldn't be counted?
13 That's not really asking for a decision.

14 MR. NEIBERGALL: You guys are the judges
15 in this.

16 MR. BEST: Yes.

17 MR. NEIBERGALL: All I can do is address
18 your comments and questions, and then once we're
19 done addressing each individual issue we'll talk
20 about your decision on each issue.

21 MS. ANDERSON: I think that, you know, my
22 only question is that's a vague statement and for
23 me to look at it and say it should not be counted
24 is clear enough, but that's up to perception on

1 each individual. But --

2 MR. NEIBERGALL: So, Miss Lazenby, do you
3 want to make a comment?

4 MR. LAZENBY: Exhibit A is attached to my
5 objection petition in where I was directed by the
6 Township Clerk that people that were circulating
7 petitions required 19 signatures. And when I
8 used the terminology should not be counted, that
9 these nomination papers should not be counted,
10 that would mean that you couldn't count any of
11 those signature and they would not have the
12 signatures necessary to be placed on the ballot.

13 MR. REMUS: I would object to the Board's
14 consideration of Exhibit A. I don't think that
15 we've gotten to that point of the proceeding yet.

16 MS. LAZENBY: It's still relevant.

17 MR. NEIBERGALL: Just wait. One at a
18 time.

19 MR. REMUS: It's outside of the scope of
20 my Motion, and what we're doing is discussing my
21 Motion at this juncture and getting into the
22 merits of Miss Lazenby's objection petition is,
23 we're not to that stage of the proceeding yet so
24 I would object to the Board considering Exhibit

1 A.

2 MR. NEIBERGALL: I would agree that we're
3 not to that stage of the proceeding, but I also
4 understand your point that this exhibit is
5 speaking to the relief requested. However, I
6 think we should wait to address that actual
7 exhibit until later.

8 So any other comments from the Board on
9 relief requested as one of the deficiencies
10 pointed out by Mr. Remus?

11 MR. BEST: No.

12 MR. NEIBERGALL: Okay. So the ones
13 remaining here, it looks like we've addressed
14 residence address requirement, which is number
15 two in his Motion.

16 MR. BEST: On the address requirement I
17 see that it says State law. I mean, State law
18 means State law. It has to be on the front page
19 and the address should be there. Is that how we
20 are to read that State law?

21 MR. NEIBERGALL: How do you feel about it
22 other Board members?

23 MR. VYNCKE: That's the way I interpret
24 it.

1 MR. BEST: Residence address requirements
2 in the Statute governing an election objection
3 petition is mandatory. It's an election law
4 here. It says that.

5 MR. NEIBERGALL: Miss Anderson?

6 MS. ANDERSON: I don't disagree with
7 that. Yeah, I can see that it says name and
8 residence address.

9 MR. NEIBERGALL: Okay. So the only item
10 we haven't addressed, we have to deal with
11 actually a decision on this. You want to talk
12 about address again?

13 MS. LAZENBY: I would like to, this is
14 Lazenby again. I would like to bring up the word
15 shall. And Illinois law and the Board of
16 Elections use the term must when there's an
17 absolute requirement that you must. And the word
18 must means the requirement is mandatory and not
19 discretionary.

20 The worst, the use of the word shall is
21 not the must that the State Board of Elections
22 and that the Illinois law and the Statutes
23 requires.

24 MR. NEIBERGALL: Is that your argument?

1 MS. LAZENBY: Yes, it is.

2 MR. NEIBERGALL: Do you have any
3 response?

4 MR. REMUS: The Legislature uses the word
5 shall all the time. The Candidate's Guide is,
6 it's put into place to kind of, it's easier to
7 read. It's user friendly that way. The
8 Legislature when they use the word shall they
9 mean shall and have to. It's synonymous with
10 must.

11 MR. BEST: Well, on this, what was passed
12 out here says requirement of Statute governing
13 election law petitions is mandatory. In this
14 pass-out, I mean, mandatory is mandatory.

15 MR. NEIBERGALL: All right. I want to
16 move through the other items in this motion --

17 MR. BEST: Okay.

18 MR. NEIBERGALL: -- so that we can reach
19 an understanding before we make a decision on the
20 Motion itself. One thing that hasn't been
21 addressed here is number four; the objection
22 petition filed by Kim Lazenby in this matter does
23 not state the interest of the objector.

24 We've talked about relief, we've talked

1 about address. Let's talk about the interest.
2 Do you have any questions about whether or not it
3 states the interest or the arguments that were
4 made by --

5 MR. BEST: The interest, I mean, does it,
6 it says why I'm petitioning and, I mean, what,
7 what --

8 MS. ANDERSON: Yeah, what is interest?

9 MR. BEST: A little clarification maybe,
10 please.

11 MR. NEIBERGALL: On this one, honestly,
12 there isn't much clarification. I think that
13 you'd have to interpret the arguments made by
14 both Miss Lazenby and Mr. Remus here. I think to
15 summarize, and please jump in if I misquote you,
16 your argument was that as a registered voter in
17 the County and in this Township that that is your
18 interest?

19 MS. LAZENBY: That's correct.

20 MR. NEIBERGALL: And, Mr. Remus, I don't
21 remember your response to that particular point.

22 MR. REMUS: Well, my response to that
23 point would be that if you're filling out
24 something you need to say, just lay it out what

1 exactly you're getting at. Her interest, I mean,
2 I can fill in the blank for her, is to see that
3 viable and qualified candidates are being put on
4 the ballots and that unqualified candidates are
5 kept off of the ballots.

6 That's what her interest is. And she
7 doesn't say that in here. Again, it's a
8 mandatory requirement under this Statute. It
9 says shall.

10 MR. NEIBERGALL: Miss Lazenby, any
11 response?

12 MS. LAZENBY: One of the things that was
13 mentioned was this being a Candidate's Guide,
14 which is guided by and quoted chapter and verse
15 throughout the entire Guide, Illinois State
16 Statute.

17 MR. NEIBERGALL: I guess I don't
18 understand your point, but if you could make it
19 clear for me.

20 MS. LAZENBY: My point is when it's
21 guiding people it also states what the actual
22 Statutes say, and therefore is more of a
23 definitive than, as if it was just someone
24 counseling someone on how to do this.

1 MR. NEIBERGALL: So you're referring to
2 specifically the interest argument or are you
3 referring to the whole argument of shall versus
4 must or --

5 MS. LAZENBY: All of that.

6 MR. NEIBERGALL: Okay.

7 MS. LAZENBY: All of the above.

8 MR. NEIBERGALL: So I would note that the
9 petition itself springs to life from the Statute
10 that I'm referring to. So Section 10-A that
11 we've been talking about is actually the section
12 that lays out the foundation of what you've done
13 by objecting. So I would think that it's
14 authoritative as to the language.

15 I do agree that there might be some other
16 persuasive language in that document or other law
17 might say must, but I guess when I see shall I
18 also see that commonly in legislative documents
19 and Statutes.

20 So I don't, I think they're the same
21 thing to me. But if you have any comments on
22 those arguments.

23 MR. BEST: Requirements are requirements
24 I guess. I don't know what --

1 MR. NEIBERGALL: Okay. So we've
2 addressed each individual item on the motion.
3 We're still in the preliminary matters here of
4 Mr. Remus' motion. Overall, do you want to
5 decide now?

6 Do you feel like you understand the
7 issues enough now to decide whether or not this
8 Motion dismisses the objection petition? Do you
9 guys feel like you're ready to do that?

10 MR. VYNCKE: Rob Vyncke. I do.

11 MR. NEIBERGALL: Okay.

12 MR. VYNCKE: I think it's pretty cut and
13 dry, unfortunately.

14 MR. BEST: I'm, you know, when it says
15 address requirements and relief, I'm not sure
16 that those requirements have been met, or the
17 actual interest. It's somewhat vague. What are
18 your thoughts?

19 MS. ANDERSON: Address is the only one I
20 would have a problem with. I think the other two
21 are clear enough to me.

22 MR. NEIBERGALL: And when you say you
23 have a problem with it, what do you mean?

24 MS. ANDERSON: I think that's the only

1 piece that I could deem that hasn't been met
2 because the other two are perceptual and to me
3 they have been met, so.

4 MR. NEIBERGALL: Okay. So essentially
5 Board member Anderson is saying the main issue is
6 the address. Do you agree, Chair Best, and do
7 you agree, Mr. Vyncke?

8 MR. BEST: I agree, I agree that it's an
9 issue, yes. It hasn't been met I don't think.
10 And the other ones I'm, you know, perceptual, I
11 don't know.

12 Are we supposed to have to perceive what
13 someone's writing or is it, it should be there
14 very plain and, you know, I'm concerned that we
15 don't have a good candidate here?

16 MR. NEIBERGALL: Do you want to hear any
17 additional argument on the address requirement or
18 do you have enough at this time?

19 MR. BEST: If one piece is found not to
20 be in requirement then the whole thing is gone,
21 right?

22 MR. NEIBERGALL: The case cited by Mr.
23 Remus which I've, we've gone over earlier,
24 Pochie, states that the objection petition was

1 dismissed pursuant to being deficient in that
2 respect. Only the address was the issue. It
3 wasn't there. And that was enough to actually
4 defeat and dismiss the objection petition. So if
5 we're talking about whether or not that is fatal
6 to an objection petition, this case says it is.

7 Is there other authority out there? I'm
8 not aware of any. So unless there's other
9 authority that says otherwise, I would agree that
10 that issue is the determining issue.

11 MR. BEST: The fatal issue?

12 MR. NEIBERGALL: Correct. Do you want
13 any final argument?

14 MS. LAZENBY: Based on the things that I
15 outlined in my objection petition and in my
16 opening comments, I believe that that overcomes
17 the deficiency that you're seeing.

18 MR. NEIBERGALL: What exactly overcomes
19 the address, the address issue?

20 MS. LAZENBY: That all of the items that
21 are enumerated in my petition and in my opening
22 statement.

23 MR. NEIBERGALL: So collectively your
24 issues are enough to overcome what would be a

1 procedural requirement in the Statute?

2 MS. LAZENBY: Yes.

3 MR. NEIBERGALL: Okay. Is that all the
4 argument that you have?

5 MS. LAZENBY: At this time.

6 MR. NEIBERGALL: Any response, Mr. Remus?

7 MR. REMUS: I would just cite the same
8 language one more time to the Board from this
9 case. In our view whether or not an objective
10 has standing is determined according to the face
11 of the petition and not according to what we
12 found in the records of the Election Commission.

13 That's just not on the petition. It's a
14 requirement and it's not there.

15 MS. LAZENBY: One other item. We have
16 not even gotten into the records of the election
17 official.

18 MR. NEIBERGALL: That's correct. Because
19 this is a preliminary matter. A deficiency here
20 will not even let us get to the merits of your
21 argument. So that's why it's preliminary is that
22 if something is wrong with your petition, that
23 it's failed to your petition, we don't address
24 the merits of whether there are good merits in

1 the petition. We don't even get to them.

2 That's my understanding of this case and
3 of the case regarding this issue. Do you have
4 any questions about that?

5 MS. LAZENBY: No.

6 MR. NEIBERGALL: Okay. At this time
7 would the Board want to make a ruling on this
8 preliminary matter, which would be the motion
9 made by Mr. Remus?

10 MS. ANDERSON: So if we, so if we pull in
11 one particular direction, is it, is it with
12 prejudice or without prejudice?

13 MR. NEIBERGALL: Well, my understanding
14 is that the objection petitions cannot be
15 amended, and there's case law to support that.
16 So I think the time for filing an objection
17 petition is passed is also my understanding.

18 So whether or not it's with prejudice,
19 there can't be another document filed --

20 MS. ANDERSON: Because the time --

21 MR. NEIBERGALL: -- so it is, in essence
22 It would be with prejudice.

23 MR. VYNCKE: Do we make a motion here or
24 what do we do?

1 MR. NEIBERGALL: You guys are the Board.

2 MR. BEST: This is a requirement. I'm
3 sorry, but, oh. I'm sorry.

4 MS. LAZENBY: Do they generally have
5 their discussion in front of everyone?

6 MR. NEIBERGALL: This is kind of a new
7 area and I don't see why they wouldn't. I think
8 it's appropriate that everybody be apprised of
9 what's being said. It's an open meeting, so in
10 my opinion it's fine to do the discussion in
11 front of everyone.

12 MR. BEST: I guess in my mind this is a
13 requirement of the address being on the front
14 page and that, and I'm afraid it hasn't been met.

15 MR. VYNCKE: I would agree with that even
16 though that the implications are there, and just
17 like on our petitions all the implications are
18 there too but, you know, but it's a law so, it's
19 a law.

20 MS. ANDERSON: I would agree with the
21 address deficiency only.

22 MR. NEIBERGALL: Okay. So I guess I
23 would ask you individually starting with the
24 Chair if you, actually I'll end with the Chair.

1 Who would grant the motion as the Board vote to,
2 vote to grant the Motion to Dismiss this
3 objection petition?

4 MR. VYNCKE: I vote in favor of the
5 Motion.

6 MR. NEIBERGALL: Okay. Miss Anderson?

7 MS. ANDERSON: I'll grant the motion.

8 MR. BEST: In favor of the motion.

9 MR. NEIBERGALL: So that's three votes to
10 zero votes to dismiss this petition.

11 MR. BEST: Yes.

12 MR. NEIBERGALL: With that, I think that
13 that is the end of this particular petition
14 unless you have any comments. I do believe that
15 is the case. But, Miss Lazenby, do you have any
16 comments on that?

17 MS. LAZENBY: No.

18 MR. NEIBERGALL: Okay. Mr. Remus, do you
19 have any comments on that?

20 MR. REMUS: No.

21 MR. NEIBERGALL: Okay. So at this time
22 the Board for 16-TOEB-01, Lazenby v. Mellinger,
23 has granted a Motion to Dismiss the objection
24 petition, and this case would be done at this

1 point. Okay.

2

3 (Meeting end time: 2:02 p.m.)

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CERTIFICATE OF REPORTER

I, KATHY JOHNSON, CSR, a Certified Court Reporter in the State of Illinois, do hereby certify that the proceedings in the above-entitled hearing were taken by me to the best of my ability and thereafter reduced to writing; that I am neither counsel for, related to, nor employed by any of the parties to the action, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

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