

## STATE OFFICERS ELECTORAL BOARD MEETING

January 3, 2012

### MINUTES

PRESENT: William M. McGuffage, Chairman (Chicago)  
Jesse R. Smart, Vice Chairman (Springfield)  
Harold D. Byers, Member (Springfield)  
Betty J. Coffrin, Member (Springfield)  
Bryan A. Schneider, Member (teleconference)  
Charles W. Scholz, Member (Springfield)

ABSENT: Ernest L. Gowen, Member  
Judith C. Rice, Member

ALSO PRESENT: Rupert Borgsmiller, Executive Director  
James Tenuto, Assistant Executive Director  
Steve Sandvoss, General Counsel  
Darlene Gervase, Administrative Assistant III

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Chairman McGuffage called the January 3, 2012 special meeting of the State Officers Electoral Board to order at 10:43 a.m. Attendance was taken to ensure a quorum. Chairman William M. McGuffage was present in Chicago and Vice Chairman Jesse R. Smart, Members Harold D. Byers, Betty J. Coffrin, Charles Scholz were present in Springfield via videoconference. Member Bryan A. Schneider was present via teleconference. Member Gowen's proxy was held by Member Schneider and Member Rice's proxy by the Chairman.

At this meeting, the Chairman indicated the State Officers Electoral Board will consider requests for subpoenas in connection with challenges to the nominating petition of established party candidates.

Chairman McGuffage called the first case, *Moore v. McCann*, 11SOEBGP102, and asked for appearances. Ms. Emily Rollman was present for Objector Lynn Moore and Attorney John Fogarty appeared for the candidate. Ms. Rollman indicated that it was her understanding that three individuals were not in the presence of the notary when they signed the petition. Mr. Fogarty objected and opposed the request, but if it is granted they will work with counsel. The hearing officer recommended the subpoenas be issued with certain limitations and constraints. Mr. Sandvoss stated the line of questioning should be limited to the issue of whether the circulators executed their respective petition sheets before a notary. This narrow question would be posed to each witness if the Board adopts the recommendation. Member Schneider asked if the parties accepted the limitation and constraints associated with the recommendation. Ms. Rollman and Mr. Fogarty both replied yes. Member Scholz moved to adopt the recommendation of the Hearing Officers and General Counsel and Member Byers seconded the motion which passed unanimously by roll call vote.

The Chairman acknowledged the appearance of John Fogarty for the objector, but no one appeared for the candidate in *Bruch/Marshall v. Navarro*, 11SOEBGP104. However, Mr. Fogarty acknowledged that the candidate was represented by counsel in previous matters. General Counsel Sandvoss summarized the request for subpoenas relating to the filing of petitions and specifically the receipt for the statement of economic interest. He said the candidate's position is that circumstances prevented him from receiving and filing in a timely manner. The objector requested the subpoena to establish what those circumstances are. The hearing officer recommended the subpoena request be granted and Mr. Sandvoss concurred. Vice Chairman Smart moved to grant the motion. Member Scholz seconded the motion which passed unanimously by roll call vote.

Chairman McGuffage called *McSweeney v. Gaffney*, 11SOEBGP502 and accepted the appearances of Attorney Richard Means and objector David McSweeney and Mr. Fogarty for the candidate. Mr. Means indicated he has seven subpoena requests with three basic issues. Whether state employees collected signatures on state time using state resources; to issue subpoenas on the Clerk of the House for public time sheets; Kevin Arnold, the political director of the House Republican organization; and for the records of two state representative district offices where two individuals worked and on the individuals themselves to testify if they gathered petition on state time. Mr. Means tendered the plea agreement of Michael Tristano, former chief of staff for the House Republicans where he details a similar scheme engaged in by the House Republican staff, at Tristano's direction. Mr. Fogarty responded that political territory and criminal territory is being discussed that does not fall under the Board's jurisdiction. The Board considers the sufficiency of the petitions and nominating papers tendered and not to determine whether a state employee has conducted political work on state time. He continued that issuing a subpoena to discover those matters is inappropriate and the candidate objects in the strongest possible manner. Mr. Fogarty rested on his motion to strike and dismiss and incorporates the basis and case law he presents. Further, the House Clerk has rejected their FOIA request and Kevin Arnold appears nowhere within the objector's petition. Mr. Fogarty

objected to the subpoena for Tina Hill, because the Notary Act does not require a notary to know the truth of an oath, it merely requires the notary to know this person and this person's signature is genuine. He acknowledged an understanding with counsel as to many of the individuals subpoenaed, that most of these individuals will be called as witnesses and subpoenas are not necessary. But some of those witnesses have hired their own counsel. Discussion ensued. Mr. Sandvoss concurred with the hearing officer's recommendation as to denying the issuance of subpoenas in paragraph 1, 2A, B and C for the reasons articulated by candidate's counsel. Mr. Sandvoss recommended to deny the subpoena request for Paragraph 4, again for reasons articulated by candidate's counsel. Mr. Sandvoss also recommended to allow the issuance of subpoenas for Paragraph 3 as those three individuals testimony would be relevant to issues raised by the objector whether or by them or by an "impostor circulator". Member Schneider moved to adopt the recommendation of the General Counsel and grant the subpoenas with respect to the issues identified in Paragraph 3 of the objector's motion for issuance of subpoenas and deny the balance. With Member Coffrin's second, the motion passed unanimously by roll call vote. The Chairman reminded Mr. Means that state workers allegedly doing political work on state time is not an issue this Board can hear or decide upon and has no relevancy dealing with objections to nominating petitions. Mr. Sandvoss pointed out that an additional subpoena request was submitted by the candidate for two individuals associated with collection of affidavits. The candidate's request was not contested and he recommended the subpoenas be issued as well. Member Schneider so moved and Member Coffrin seconded the motion. The motion passed 8-0 by roll call vote.

Chairman McGuffage called *Harris v. Harris*, 11SOEBGP507, Mr. Means was present for the Objector and indicated that Attorney James Nally represents the Candidate, but is not present at this meeting. The Objector requested a subpoena to produce Ken Menzel, Deputy General Counsel of the State Board of Elections. Although Mr. Sandvoss indicated he would make Mr. Menzel available, for the purpose of formality, if the objector wishes to have a subpoena issued, the General Counsel concurs with the hearing officer which is to grant the motion as there is no objection from the candidate. Vice Chairman Smart so moved and Member Byers seconded. The motion passed unanimously by roll call vote.

The Board discussed scheduling a meeting for 10:00 a.m., Monday, January 9, 2012 in the event objections were filed to congressional and special judicial candidates.

There being nothing further before the State Officers Electoral Board, Member Byers moved to recess and the Vice Chairman seconded the motion.

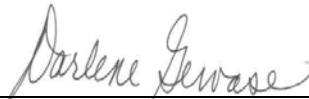
The meeting recessed at 11:30 a.m.

DATED: January 10, 2012

Respectfully submitted,



Rupert Borgsmiller, Executive Director



Darlene Gervase, Administrative Assistant III