

BEFORE THE HEARING BOARD  
OF THE  
ILLINOIS ATTORNEY REGISTRATION  
AND  
DISCIPLINARY COMMISSION

**FILED**  
NOV 19 2010  
ATTY REG & DISC COMM  
CHICAGO

In the Matter of:

THOMAS O. FINKS,  
Attorney-Respondent,  
No. 6188071.

Commission No. 2010PR00163

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Peter L. Rotskoff, pursuant to Supreme Court Rule 753(b), complains of Respondent, Thomas O. Finks, who was licensed to practice law in Illinois on November 16, 1984, and alleges that Respondent has engaged in the following conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute:

COUNT I

*(Improper conduct in judicial election)*

A. *Respondent's decision to run for Circuit Judge*

1. At all times alleged in this complaint, Respondent was the elected state's attorney of Christian County, Illinois.
2. On or about June 7, 2009, 4<sup>th</sup> Judicial Circuit Judge John P. Coady announced his retirement.
3. On or about June 8, 2009, Respondent publicly announced his candidacy for Circuit Court Judge for the seat then held by Judge Coady.

4. Between June 8, 2009, and at least October 15, 2009, Respondent actively campaigned for the Judge Coady vacancy and he circulated nominating petitions in each of the nine counties comprising the 4<sup>th</sup> Judicial Circuit.

5. Pursuant to Chapter 10 ILCS 5/7-10 (Illinois Election Code), Respondent was required to file at least 500 signatures on nominating petitions with the Illinois State Board of Elections, on or before November 2, 2009, in order to be placed on the ballot to run for Circuit Judge in the 4<sup>th</sup> Judicial Circuit.

*B. Altering nominating petitions*

6. At all times alleged in this complaint, the following statutes were in effect:

Chapter 10 ILCS 5/29-12 (Illinois Election Code) provided that any person who knowingly violated the election code is guilty of a Class A Misdemeanor;

Chapter 10 ILCS 5/7-10 (Illinois Election Code) required that the top portion of each nominating petition, including the specific judicial vacancy the candidate was seeking, be completed prior to circulation.

7. On various occasions between June 8, 2009, and October 15, 2009, Respondent and/or persons acting at Respondent's direction, circulated and obtained signatures on nominating petitions which omitted and left blank the information concerning the specific judicial vacancy he sought.

8. On or about October 15, 2009, Respondent decided not to run for the Judge Coady seat and to instead run for a different judicial vacancy in the 4<sup>th</sup> Judicial Circuit, which was the seat then held by Judge Kathleen Moran, who had also announced her retirement.

9. Between October 16, 2009, and November 2, 2009, Respondent or someone acting at Respondent's direction, inserted the name "Kathleen Moran" on some of the nominating petitions after the petitions had been signed by eligible voters. Some of the signers would not have signed the petitions had they known that Respondent was seeking the nomination for the Judge Moran seat, rather than the Judge Coady seat.

C. *False signatures and notarizations*

10. At all times alleged in this complaint, the following statutes also were in effect:

Chapter 5 ILCS 5/7-10 (Illinois Election Code) required that each nominating petition be signed by the circulator and that the circulator's signature be notarized;

Chapter 5 ILCS 312/7-105 (Notary Public Act) provided that a notary public who knowingly violated that Notary Public Act is guilty of Official Misconduct, a Class A Misdemeanor;

Chapter 5 ILCS 312/6-102 (Notary Public Act) required that the signer of a document personally appear before a notary public before the notary public attested to the signature;

Chapter 5 ILCS 312/7-102 (Notary Public Act) provided that an employer of a notary public was liable for all damages caused by the notary's official misconduct if the notary public was acting within the scope of the notary public's employment and the employer consented to the notary public's official misconduct.

11. Some of the nominating petitions Respondent received back from circulators were not signed by the circulators. Others were signed by the circulators but their signatures had not been notarized.

12. At all times alleged in this complaint, Evelyn Hager ("Hager"), was employed in the Christian County's State's Attorney's office. Hager was Respondent's personal secretary and reported directly to him. She was also a notary public.

13. On or about November 2, 2009, Respondent directed Hager to notarize the signatures of some circulators on the nominating petitions, even though the circulators had not personally appeared before Hager. In some instances, Respondent's wife, Valerie Finks, signed the name of the circulator to the petition and Hager then notarized the purported signature.

14. On November 2, 2009, Respondent filed the nominating petitions described in paragraphs 9 and 13 above, with the State Board of Elections.

15. On November 9, 2009, a group of objectors filed a "Verified Objectors' Petition" to Respondent's nominating petitions. The objectors raised numerous issues concerning Respondent's nominating petitions.

16. On November 9, 2009, Respondent withdrew as candidate for the 4<sup>th</sup> Judicial Circuit.

17. By reason of the conduct outlined above, Respondent has engaged in the following misconduct:

- a. committing criminal acts that reflect adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer and other respects, in violation of Rule 8.4(a)(3) of the Illinois Rules of Professional Conduct (1990);
- b. conduct involving dishonesty, deceit, fraud or misrepresentation, in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct (1990);
- c. failure, while having direct supervisory authority over a nonlawyer, to make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer, in violation of Rule 5.3(b) of the Illinois Rules of Professional Conduct (1990);
- d. conduct by a lawyer, as a candidate for judicial office, which, if the lawyer were a judge, would be a breach of the Code of Judicial Conduct, to wit Rules 61, 62A, 67A(3)(a), in violation of Rule 8.2(b) of the Illinois Rules of Professional Conduct (1990); and

- e. conduct which tends to defeat the administration of justice or bring the Courts or legal profession into disrepute in violation of Supreme Court Rule 770.

COUNT II  
*(Political work on county time)*

18. The Administrator realleges and incorporates paragraphs 1 through 4 of Count I above.

19. At all times alleged in this complaint, Chapter 720 ILCS 33-3(b) provided, in part, that a public officer or employee commits Official Misconduct when, in his official capacity, he knowingly performs an act which he knows he is forbidden by law to perform.

20. At all times alleged in this complaint, Christian County Ethics Ordinance 2004 CB 013 prohibited county employees from engaging in “prohibited political activity” during any time worked by or credited to the employee. The ordinance also barred county office holders from engaging in “prohibited political activity” on work premises or when the office holder was executing his or her official duties. County employees and officers were also barred from using County property or resources in connection with any “prohibited political activity.” Prohibited political activity included, “initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office.”

21. On various occasions between June 8, 2009 and November 2, 2009, Respondent and Hager performed work related to Respondent’s campaign for judicial office during work hours in the State’s Attorney’s office. The work included typing information on nominating petitions, making telephone calls and notarizing circulators signatures on nominating petitions. Some of the work was performed using County equipment.

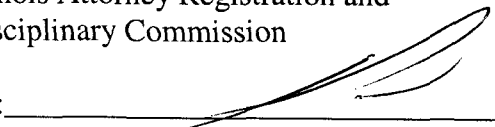
22. By reason of the conduct outlined above, Respondent has engaged in the following misconduct:

- a. committing criminal acts that reflect adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, in violation of Rule 8.4(a)(3) of the Illinois Rules of Professional Conduct (1990);
- b. conduct involving dishonesty, deceit, fraud or misrepresentation, in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct (1990);
- c. failure, while having direct supervisory authority over a nonlawyer, to make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer, in violation of Rule 5.3(b) of the Illinois Rules of Professional Conduct (1990); and
- d. conduct which tends to defeat the administration of justice or bring the Courts or legal profession into disrepute in violation of Supreme Court Rule 770.

WHEREFORE, the Administrator requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held, and that the panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator  
Illinois Attorney Registration and  
Disciplinary Commission

By:   
Counsel for the Administrator

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