



¶ 2 The petitioner, Robert J. Streit (hereinafter Streit), appeals from an order of the Illinois State Board of Elections (hereinafter the Board) dismissing his complaint, alleging a violation of section 9-9.5 of the Illinois Election Code (Election Code) (10 ILCS 5/9-9.5 (West 2012)), otherwise known as the Campaign Disclosure Act, against the candidate political committee for the respondent, Sandra L. Bury (hereinafter Bury). On appeal, the petitioner contends that this court should reverse the Board's dismissal of his petition and remand for further proceedings because he demonstrated justifiable grounds for such further proceedings before the Board. Alternatively, the petitioner asks that we remand to the Board to articulate the factual findings for its determination. For the reasons that follow, we disagree, and affirm the Board's decision.

¶ 3 **II. BACKGROUND**

¶ 4 At the outset we begin by setting forth the established administrative procedures which govern this case. Pursuant to section 9-20 of the Election Code (ILCS 5/9-20 (West 2012), any person may file a verified complaint with the Board alleging a campaign disclosure violation. Upon receiving such a complaint, the Board holds a closed preliminary hearing to determine whether it "appears to have been filed on justifiable grounds." 10 ILCS 5/9-21 (West 2012); see also 26 Ill. Admin. Code § 125.252 ("closed preliminary hearing \*\*\* shall be an inquiry to elicit evidence on whether the complaint was filed on justifiable grounds and has some basis in fact and law"); 26 Ill. Admin. Code § 125.245 (hearing officer shall conduct closed preliminary hearing). At this hearing, the petitioner bears the burden of introducing sufficient evidence or information for the Board to conclude that the complaint is filed on justifiable grounds. See 26 Ill. Admin. Code §§ 125.252(c)(4) ("The complainant bears the burden of introducing evidence or information sufficient \*\*\* for the Board to conclude that the complaint has been filed on justifiable grounds.") After the hearing officer makes a recommendation, the Board's general

counsel reviews the recommendation for questions of law and evidence and then makes his own recommendations on all matters of law. See 26 Ill. Admin. Code §125.252(d) (responsibility of hearing officer), §125.253 (duties of general counsel). Thereupon, the Board is permitted to consider and discuss the matter in executive session, after which it must determine whether the complaint was filed on justifiable grounds. See 10 ILCS 5/9-21 (West 2012) ("Upon receipt of a complaint \*\*\* the Board shall hold a closed preliminary hearing to determine whether or not the complaint appears to have been filed on justifiable grounds.") If the Board determines that the complaint was not filed on justifiable grounds it must dismiss the complaint. See 10 ILCS 5/9-21 (West 2012) ("If the Board fails to determine that the complaint has been filed on justifiable grounds, it shall dismiss the complaint without further hearing."). Any dismissal by the Board may be appealed directly to this court. See 10 ILCS 5/9-22 (West 2012) ("[A]ny person who files a complaint on which a hearing was denied \*\*\* may obtain judicial review. \*\*\* (1) such judicial review shall be afforded directly in the Appellate Court for the District in which the cause of action arose and not in the Circuit Court.")

¶ 5 In the present case, the petitioner, Streit, has filed such an appeal. Streit is a resident and the elected Trustee of the Third District of the Village of Oak Lawn (hereinafter the Village). The respondent, Bury, is the elected Mayor of the Village.

¶ 6 On April 7, 2015, after running against two opponents and as the incumbent, Streit was reelected to his position as Trustee of the Village's Third District. Two months after this election, on June 1, 2015, Streit filed a *pro se* complaint against Bury, who had registered a political committee with the Board, alleging that she had violated section 9-9.5 of the Election Code (10 ILCS 5/9-9.5 (West 2012)), by mailing a letter to the residents of the Third District, dated March 31, 2015, endorsing one of his opponents for Third District Trustee over him, but

failing to indicate an attribution of source (*i.e.*, who had paid for the mailing). In support of his complaint, Streit attached a copy of a letter addressed to the "The Bringes," at an address in the Village. The top of the letter contained a horizontal banner with the words, "From the Desk of Mayor Bury," along with Bury's photograph. The salutation read, "Dear 3rd District Resident," and the body of the letter named Streit and his two opponents in the election, and Bury's endorsement of one of Streit's opponents and her reasons for that endorsement. The signature block read, "Sincerely, Mayor Sandra Bury" and the signature "Sandy" appeared within that block. The letter did not include an attribution of source.

¶ 7 A closed preliminary hearing was conducted on July 14, 2015, by a hearing officer of the Board (the respondent, Andrew Nauman) to determine whether the complaint was filed "on justifiable grounds" so as to proceed to a public hearing. See 10 ILCS 5/9-21 (West 2012). During the hearing, Streit appeared *pro se*, and Bury was represented by her attorney.

¶ 8 On July 15, 2015, the hearing officer filed a written report in which he summarized the proceedings and made conclusions and recommendations. According to that report, at the hearing, Streit stated that Bury sent out a letter dated March 31, 2015, to residents of the Village endorsing one of his opponents in the April 7, 2015, election. Streit introduced into evidence the same letter he had attached to his complaint (petitioner's exhibit No. 1) and explained that Rita Bringe, a Village resident, had received that letter at her residence and had then given it to him. Streit pointed out that this letter did not display the statutorily mandated attribution of source. In addition, he believed that if he were given an opportunity he could obtain additional copies of Bury's letter without an attribution of source, from individuals within the district.

¶ 9 At the hearing, Bury objected to the introduction of petitioner's exhibit No. 1 on the basis of

hearsay. She argued that no testimony had been provided by the Bringes about the origin of that letter, or if that exhibit was the actual letter that they had received. Over Bury's objection, the hearing officer allowed the letter into evidence.

¶ 10 In her case-in-chief, Bury testified under oath and introduced two exhibits into evidence. First, she tendered respondent's exhibit No. 1, a letter dated March 31, 2015, addressed to Alice Collins (hereinafter Collins) at an address in the Village. A horizontal banner appeared at the top of that letter, akin to the one on petitioner's exhibit No. 1 that stated "From the Desk of Mayor Bury" along with the mayor's photo. With one exception, the written content of respondent's exhibit No. 1 was identical to the content of petitioner's exhibit No. 1. The exception was that, unlike in petitioner's exhibit No. 1, an attribution of source appeared at the bottom of respondent's exhibit No. 1, beneath the signature block, explicitly stating: "Paid for by Sandra Bury for Mayor of Oak Lawn. A copy of our report filed with the State Board of Elections is (or will be) available on the Board's official website ([www.elections.il.gov](http://www.elections.il.gov)) or for purchase from the State Board of Elections, Springfield, Illinois."

¶ 11 At the hearing, Bury testified under oath that her exhibit 1 was a true and correct copy of the mailers she distributed the first week of April 2015. She explained that every mailer she sent at that time contained the attribution of source specifying that her political committee (Sandra Bury for Mayor of Oak Lawn) paid for the mailer, along with the language about the availability of her committee's report. Bury testified that the cost of that mailer would be reported on her committee's upcoming quarterly report to be filed with the Board.

¶ 12 In addition, at the hearing, Bury also introduced respondent's exhibit No. 2, a copy of an article from the website of the Oak Lawn Leaf, an online publication. The article, titled "Bury Ordered to Appear at Hearing for Campaign Violation," appeared in the publication on July 14,

2015, the same date as the closed preliminary hearing. The article reported about that day's closed preliminary hearing for Bury's alleged "campaign disclosure violations" and stated that Bury's political committee, "of which she serves as its chairman and treasurer, did not identify itself as the payor for the mailing, which hit mailboxes in the days just prior to the April 7, 2015, election." The article concluded by quoting Streit saying, "Once again, it seems like the Mayor wants to pick and choose what rules she plays by, while chastising others. We all play by the same rules." In addition, the beginning of the article included a large image of what appeared to be the Board's official seal.

¶ 13 According to the hearing officer's report, after the article was introduced into evidence, Bury argued that the Board's rules required that the closed hearing be kept confidential and requested that the hearing officer admonish Streit for violating those rules and remind him that the hearing is to be kept confidential until the Board makes it a public matter. Bury asserted that the article showed that the filing of the complaint had been politically motivated and that, as such, the credibility of the entire complaint should be brought into question. According to Bury, the complaint was nothing more than an attempt to create publicity and make it appear that a violation of the election code had been committed, when in fact, it had not.

¶ 14 The hearing officer recommended that Streit's complaint be found to have been filed upon justifiable grounds and that the matter proceed to a public hearing. In doing so, the hearing officer stated that he had not been provided with "enough information to determine" whether the letters dated March 31, 2015, from Bury contained "an attribution of source on each letter, only some of the letters contained an attribution of source, or none of the letters contained an attribution of source." The hearing officer noted that the contradictory exhibits provided by the parties revealed certain differences, including: (1) that the two letters were positioned slightly

differently; (2) that the signatures on the letters were in different locations; (3) the weight of the card stock was completely different; and (4) one letter contained an attribution of source while the other one had not. As a result, the hearing officer did not believe that a conclusion could be made without further information, if at all, as to whether "all, some, or none" of the distributed letters from Bury "contained an attribution of source." Nonetheless, the hearing officer concluded that the complaint introduced enough information to question whether the attribution of source requirement had been met, so as to proceed the matter to a public hearing.

¶ 15 Thereafter, the Board's general counsel reviewed the hearing examiner's report. On September 16, 2015, counsel made a written recommendation to the Board advising that he concurred with the recommendations contained in the hearing officer's report.

¶ 16 On September 21, 2015, the Board held a closed executive session (with all eight members present) to consider Streit's complaint. Both Bury and Streit were represented by counsel. At the outset, the Board's general counsel recounted to the Board the allegations in Streit's complaint, the evidence presented during the hearing, and the recommendations of the hearing officer with which the general counsel had concurred. No additional evidence was presented before the Board. The Board, however, entertained extensive arguments by both parties.

¶ 17 The transcript of the Board's meeting reveals the following. Bury urged the Board to reject the hearing officer's recommendation because Streit had not met his burden in sufficiently pleading justifiable grounds to proceed to a public hearing. Bury contended that respondent's exhibit No. 1, the letter she submitted, contained a proper attribution of source. She pointed out that, in contrast, petitioner's exhibit No 1. looked like it had been altered so that the attribution of source would not appear at the bottom of the page. In any event, Bury asserted that petitioner's exhibit No. 1 was not competent evidence because there was no affidavit, or even a statement

from the Bringes, the letter's alleged recipients, stating that the exhibit was the actual letter that they had received in the week prior to the election. As a result, Bury argued that Streit had failed to meet his burden in establishing that there was not a proper attribution of source on the mailer.

¶ 18 Bury further argued that her exhibit No. 2, the online article by which Streit had violated the Administrative Code's and Board's confidentiality rules, revealed Streit's animus towards her, and his motivations in filing the complaint. Bury therefore characterized the complaint as an attempt to get the Board to intervene in the parties' political differences and to "turn them into a public spectacle."

¶ 19 Alternatively, Bury contended that even if there had been no attribution of source on her mailer (*i.e.*, a statement indicating that the letter had been "paid for by" her political committee), the letter itself made clear that it was from Bury. Specifically, Bury pointed out that the very top of the letter contains her picture and the statement: "From the desk of Mayor Bury," followed by the reasons why she was endorsing Streit's opponent. In addition, the bottom of the letter contained her name and signature. Since the purpose of the statutory attribution of source requirement is to ensure that a mailer identifies who it is from, so that there are no anonymous mailers attacking a candidate, Bury argued that there was no statutory violation here because the letter itself (including her photograph and name at the top, her signature, and the reasons she was supporting Streit's opponent) identified her as the source of the letter.

¶ 20 On the other hand, before the Board, Streit argued that his complaint was filed on justifiable grounds and should proceed to a public hearing because his exhibit sufficiently established that Bury's mailer lacked an attribution of source. With respect to the letter offered by Bury, which contained an attribution of source, Streit argued that it was not the original letter, nor a true copy of the letter that was mailed. In any event, Streit argued that because there were two

contradictory exhibits presented to the Board, a public hearing was necessary to permit discovery to determine why there were differences in those exhibits. In that respect, Streit asserted that he should be permitted to proceed to a public hearing so as to be able to, *inter alia*: (1) compel the disclosure of the original, full, color political mailer that Bury had mailed to her constituents in April 2015; (2) subpoena the original electronic word processor file for respondent's exhibit No. 1; and (3) subpoena Rita Bridges and Collins, and any other constituents that could be found who had received the same mailer.

¶ 21 Additionally, Streit rejected Bury's argument that the mailer had sufficiently indicated its source regardless of the lack of attribution language. He argued that in order to comply with statutory requirements, the letter had to identify specifically who was responsible for it—*i.e.*, Bury's political committee or Bury herself, so that her name and signature at the bottom and top of the mailer were not enough.

¶ 22 Streit also denied that he filed his complaint in bad faith, contending: (1) that nothing prohibited him from disclosing to the public that he had filed a complaint against Bury; and (2) that nothing in the online article discussed what happened during the closed preliminary hearing.

¶ 23 After the parties' arguments, the Board proceeded to discuss its concerns over the complaint, after which a vote was taken on the issue. The Board determined that the complaint was filed without justifiable grounds and therefore required dismissal.

¶ 24 During their discussion, at the executive session, on the record, the Board members articulated two reasons for their decision: (1) that Streit had failed to introduce any competent evidence to support a finding of "justifiable grounds;" and (2) that, regardless, the public policy goal of disclosure had sufficiently been met.

¶ 25 With respect to the evidence introduced by Streit, the Board members questioned the

authenticity of the letter he offered. Specifically, the respondent Board member, Andrew K. Carruthers (hereinafter Carruthers) confirmed that there was no affidavit or "anything" on file from the Bringes stating that the letter was the letter that the Bringes had received in its original condition, without being tampered. Similarly, the respondent Board member Casandra B. Watson (hereinafter Watson) noted that Streit had presented nothing to authenticate his exhibit and there was nothing from the Bringes about the origin of that letter or whether that exhibit was the actual letter that they had received. As Watson explained, "I don't kn[ow] who [the] Bringes [are]. I don't [even] know [the] Bringes exist." Similar statements were echoed by the respondent Board member William M. McGuffage (hereinafter McGuffage), who agreed that without such confirmation from the Bringes there was no competent evidence to warrant a public hearing on the complaint. As McGuffage stated: "So the 51% preponderance standard hasn't been met to show that the complaint was filed on justifiable grounds and that it should proceed to a public hearing."

¶ 26 With respect to the second reason, the Board members indicated that regardless of the competence of Streit's exhibit, because there was no question that the mailer (without the attribution language) had come from Bury, it was sufficiently explicit to preclude a violation that would warrant a public hearing. In this effort, McGuffage pointed out that "Mayor Bury" appeared on the letter and that Streit had admitted in the online article that Mayor Bury had paid for it. Similarly, the respondent Board member William J. Cadigan (hereinafter Cadigan) explained that the "public policy goal that there be disclosure of who actually paid for the communication," was met here. As Cadigan explained, in this case the "public has ample notice of who's paid for [the mailer]," and Bury will file the required quarterly statement with the Board reflecting that her committee paid for it. Accordingly, Cadigan believed that discovery (which

would include subpoenaing electronic records) was "a little too much in a case like this when the goal of disclosure of who's actually paid for [the mailer] has been met." With respect to Streit's argument that the mailer needed to be specific and identify whether Bury's political committee or Bury herself had paid for the mailer, Cadigan responded: "from our perception, the better thing to do is to view these complaints as a civic-minded individual to advance the noble public goal of disclosure and not trying to play this kind of tit for tat that your comments suggest we might be dealing with here."

¶ 27 Based on the foregoing, two days later, on September 23, 2015, the Board issued its final written order stating that it did not adopt the findings of either its hearing officer, or its general counsel, but rather concluded that insufficient grounds existed to warrant a public hearing. Streit now appeals the Board's dismissal of his complaint, contending that the Board erred when it found that his complaint was not filed on justifiable grounds.

¶ 28 II. ANALYSIS

¶ 29 Before addressing the merits of Streit's contentions, we must first determine our standard of review. It is well-accepted that "[a]n electoral board is viewed as an administrative agency." *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200, 209, (2008). In reviewing an administrative agency's findings, the standard of review is defined by the types of questions addressed by the agency's decision. *Cinkus*, 228 Ill. 2d at 210. An administrative agency's findings on questions of fact will be reversed only if they are against the manifest weight of the evidence. *Cinkus*, 228 Ill.2d at 210. An agency's decisions on matters of law are reviewed *de novo*. *Cinkus*, 228 Ill. 2d at 211. An agency's application of law to established facts is a mixed question of fact and law that will not be reversed unless it is deemed "clearly erroneous." *Cinkus*, 228 Ill. 2d at 211.

¶ 30 In the present case, the parties dispute the appropriate standard of review. The Board and Bury argue that the question before us is one of mixed law and fact, which must be reviewed for clear error. On the other hand, Streit urges us to adopt a *de novo* standard of review because the Board made no factual findings in its written order. In fact, according to Streit, the Board failed to provide any formal explanation for dismissing his complaint. As such, in the very least, Streit argues that before we can review the decision of the Board under any standard other than *de novo* review, this cause must be remanded to the Board with directions to provide a statement articulating its reasoning. For the reasons that follow, we disagree.

¶ 31 Initially we find disingenuous Streit's characterization of the record as being "entirely void of any reasons" for the Board's decision. As articulated above, a review of the transcript from the Board's executive session reveals that the Board members articulated on the record two distinct reasons for concluding that Streit's petition had failed to set forth justifiable grounds to move forward to a public evidentiary hearing.

¶ 32 Contrary to Streit's position the reasons underlying the Board's decision need not be specified in the Board's written order. Neither the election code nor the Administrative Review Law make such a requirement. In fact, to be judicially reviewable, the only requirement is that the reasons or grounds for the Board's decision must be "clearly disclosed" in the record. See *Reinhardt v. Board of Education of Alton Community Unit School District No. 11*, 61 Ill. 2d 101, 103 (1975) (The grounds for the agency's action must be "' clearly disclosed and adequately sustained.' [Citation.]"); see also *Cook County Republican Party*, 232 Ill. 2d at 243 ("[W]e do not believe the absence of specific factual findings adopted by a majority of the Board prevents or impedes review.")

¶ 33 In *Cook County Republican Party*, our supreme court held that a judicial review of the

Board's written orders merely adopting the recommendation of its general counsel, could be accomplished even though the orders contained no specific or written factual findings. See *Cook County Republican Party*, 232 Ill. 2d at 242-43. In that case, the record contained only a copy of the general counsel's detailed recommendations, and the Board members recorded votes. See *Cook County Republican Party*, 232 Ill. 2d at 242-43. Nonetheless, the court held that under those circumstances the grounds for the agency's decision were clearly disclosed and therefore judicial review was possible. *Cook County Republican Party*, 232 Ill. 2d at 242-43.

¶ 34 The same applies here. While the Board in this case rejected the recommendations of its hearing officer and general counsel, those recommendations are detailed and contained in the record before us. What is more, in this case, during the Board's executive session (the transcript of which is before this court), in their lengthy discussion of the complaint, the Board members very clearly articulated two distinct reasons for rejecting the hearing officer's recommendations. Accordingly, we find that the record before us is sufficient to review the Board's findings.

¶ 35 In doing so, we have considered the decision in *Thompson v. Gorman*, 405 Ill. App. 3d 979 (2010), cited to by Streit and find it inapposite. In *Thompson*, the appellate court remanded the cause requiring the Board to state on the record its reasons for finding that the petitioner's complaint was not filed on justifiable grounds because the Board's decision "provided no explanation" for its finding. *Thompson*, 405 Ill. App. 3d at 983. In *Thompson*, although the Board had purportedly relied upon the general counsel's recommendation in dismissing the complaint, the Board never specified in its written order that it adopted that recommendation. More glaringly, the recommendation was not part of the record on appeal. Under those circumstances the court found that it was unable to review the dismissal on the basis of lack of "justifiable grounds." *Thompson*, 405 Ill. App. 3d at 983.

¶ 36 Unlike in *Thompson*, in the present case, the Board's written order expressly articulates that the Board does not adopt the recommendations of the hearing officer and general counsel. In addition, unlike in *Thompson*, both the hearing officer's recommendations and general counsel's written adoption of those recommendations are part of the record before us. What is more, as already articulated above, the record here includes a transcript from the Board's executive session wherein the Board members articulated their reasons for rejecting the hearing officer's recommendations. Accordingly, under the record before us, we may proceed to review the merits of Streit's claims.

¶ 37 With respect to the proper standard of review, we note that contrary to Streit's position, our supreme court has previously held that a review of a Board's decision regarding whether a petitioner has presented sufficient justifiable grounds to permit his or her complaint to proceed to a public hearing is a mixed question of law and fact reviewable under the clearly erroneous standard. See *Cook County Republican Party v. Illinois State Bd. Of Elections*, 232 Ill. 2d 231, 244-45 (2009). In *Cook County Republican Party*, our supreme court explicitly rejected a party's argument that the question of whether the complaint set forth justifiable grounds to proceed to an evidentiary hearing was a question of law subject to *de novo* review. See *Cook County Republican Party*, 232 Ill. 2d at 244 ("[D]e novo review would interfere with the Board's function of determining whether the facts establish that the complaints were filed on justifiable grounds"); see also *Abrahamson v. Illinois Department of Professional Regulations*, 152 Ill. 2d 76, 88 (1992) (holding that it is not the court's function on administrative review to reweigh evidence or make an independent determination of the facts). In doing so, our supreme court explained, that "the statutory standard of 'justifiable grounds' focuses on the complaint's factual and legal sufficiency." *Cook County Republican Party*, 232 Ill. 2d at 245. As the court noted:

"The essential inquiry is whether the complaint is factually and legally justified. \*\*\*  
[Accordingly,] the Board is \*\*\* required to apply the Election Code provisions to the facts  
presented at the closed preliminary hearing to determine whether the complaint was filed on  
justifiable grounds.

In our view, this inquiry presents a mixed question of fact and law." *Cook County  
Republican Party*, 232 Ill. 2d at 245.

¶ 38 Accordingly, we review the Board's decision here for clear error. A decision is "clearly  
erroneous" only if the reviewing court is left with a "definite and firm conviction that a mistake  
has been committed." (Internal quotation marks omitted.) *Cinkus*, 228 Ill. 2d at 211; see also  
*Cook County Republican Party*, 232 Ill. 2d at 245 ("The standard of review is deferential,  
providing for reversal only when the reviewing court has a definite and firm conviction that a  
mistake has been made."); see also *Sorock v. Illinois State Board of Elections*, 2012 IL App (1st)  
112740, ¶ 10 ("The clearly erroneous standard provides some deference based upon the agency's  
experience and expertise \*\*\*.")

¶ 39 Turning to the merits, we must determine whether the Board's finding that Streit's complaint  
was not filed on justifiable grounds was clearly erroneous. For the reasons that follow, we find  
that it was not.

¶ 40 Section 9-9.5 of the Code provides that "any political committee" that "makes an expenditure  
for a \*\*\*communication" that is "directed at voters and mention[s] the name of a candidate" in  
the upcoming election "shall ensure that the name of the political committee paying for any part  
of th[at] communication \*\*\* is identified clearly within the communication as the payor." 10  
ILCS 5/9-9.5 (West 2012).

¶ 41 In order for the Board to permit Streit's complaint to proceed to a public evidentiary hearing,

Streit had the burden to "introduce evidence or information sufficient" for the Board to determine that the complaint, alleging a violation of the aforementioned section of the Election Code, was filed on justifiable grounds. 26 Ill. Admin. Code § 125.252(c)(4); *Sorock*, 2012 IL App (1st) 112740, ¶ 4 ("The complainant bears the burden of introducing sufficient evidence of information for the Board to conclude that the complaint has been filed on justifiable grounds"). As our supreme court has explained the focus of "the statutory standard for 'justifiable grounds'" is the complaint's "factual and legal sufficiency." *Cook County Republican Party*, 232 Ill. 2d at 231. Accordingly, the "essential inquiry is whether the complaint is factually and legally justified." *Cook County Republican Party*, 232 Ill. 2d at 231.

¶ 42 In the present case, Streit's complaint solely relied on one exhibit, the letter Streit said he received from the Bringes, and which allegedly failed to include an attribution of source. On appeal, Streit contends that this letter alone was a sufficient to demonstrate that his complaint was filed on justifiable grounds. We disagree.

¶ 43 The Board explicitly rejected Streit's exhibit as incompetent evidence, noting that the letter was not authenticated or verified. The Board members explained that Streit had failed in his burden to present any testimony, supporting affidavits, or statements from the Bringes confirming the origin of that letter, or that it was the unaltered letter that they had received in its original condition prior to the election. On the other hand, during the closed hearing before the hearing officer, Bury testified under oath that all of the mailers she sent in the week preceding the election contained language specifying that her political committee had paid for them. Bury also stated that the cost of those mailers would be reported on the quarterly report that she would file for the second quarter of 2015. In addition, Bury offered into evidence a copy of one such mailer, which she testified was a true and correct copy of what she sent her constituents. Under

this record, the Board concluded that Streit had failed in his burden to provide sufficient information or evidence to show that his complaint was filed on justifiable grounds, and dismissed the complaint. We find nothing clearly erroneous in this decision. See *e.g.*, *Illinois Campaign for Political Reform v. Illinois State Board of Elections*, 388 Ill. App. 3d 517, 521-22 (2009) (holding that the Board did not clearly err in dismissing complaint where it "rejected hearing examiner's recommendation which was based on an inference that depended on the precise wording of a statement that was both paraphrased and hearsay.") For this reason alone, we find that the Board's decision was proper.

¶ 44 Nonetheless, in his reply brief, for the first time, Streit attempts to argue that the Board should have considered his exhibit as competent evidence of Bury's campaign disclosure violation because during the closed preliminary hearing, *inter alia*: the hearing officer is required to liberally interpret the rules regarding admissibility of evidence (even considering hearsay testimony) and therefore the Board should have been required to do the same; and Streit was a *pro se* litigant, who did not have the power to subpoena witnesses until the matter proceeded to a public hearing. Streit further asserts that his rights to due process and equal protection were violated when the Board did not require Bury to provide an affidavit from Collins, the alleged recipient of the letter Bury offered into evidence. Finally, Streit also argues that the Board violated section 2(e) of the Illinois Open Meetings Act (5 ILCS 120/2(e) (West 2012)), when it made its decision in a closed-door executive session without publically articulating the reasons for the dismissal of his complaint.

¶ 45 We need not, however, address any of these contentions, since Streit failed to raise them both before the Board and in his opening brief filed before this court. "It is quite established that if an argument, issue, or defense is not presented in an administrative hearing, it is procedurally

defaulted and may not be raised for the first time" on administrative review. *Cinkus*, 228 Ill. 2d at 212. "The rule of procedural default specifically requires first raising an issue before an administrative tribunal rendering a decision from which an appeal is taken to the courts." *Cinkus*, 228 Ill. 2d at 212. As our supreme court has explained, this rule is premised on "the demands of orderly procedure and the justice of holding a party to the results of his or her conduct where to do otherwise would surprise the opponent and deprive the opponent of an opportunity to contest an issue in the tribunal that is supposed to decide it." *Cinkus*, 228 Ill. 2d at 213. The same rationale applies to issues raised for the first time in an appellant's reply brief. Illinois Supreme Court Rule 341(h)(7) clearly provides that points not argued in an opening brief "are waived and shall not be raised in the reply brief, in oral argument, or on a petition for rehearing." Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). Accordingly, since Streit has waited until his reply brief to raise the aforementioned issues, those issues are forfeited. See *Vancura v. Katris*, 238 Ill. 2d 352, 369 (2010) ("the failure to argue a point in the appellant's opening brief results in forfeiture of the issue"). *Richard*, 2015 IL App (1st) 143492, ¶ 30.

¶ 46 For all of the aforementioned reason, we affirm the Board's order dismissing Streit's complaint.

¶ 47 Affirmed.