STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

BEFORE THE MUNICIPAL OFFICERS ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATING PETITIONS FOR THE OFFICE OF ALDERMAN OF THE CITY OF CHICAGO, 25TH WARD.

IN RE:	
OBJECTION OF LEAH I. KADDEN TO THE NOMINATING PETITION OF FRANK BACON, CANDIDATE FOR THE OFFICE OF ALDERMAN OF THE CITY OF CHICAGO, 5TH WARD.	CASE NO. 83 EB-ALD-36
OBJECTION OF JUAN A. VELAZQUEZ TO THE NOMINATING PETITITION OF VITO MARZULLO, CANDIDATE FOR THE OFFICE OF ALDERMAN OF THE CITY OF CHICAGO, 25TH WARD.	CASE NO. 83-EB-ALD-9 CONSOLIDATED

D E C I S I O N

The duly constituted Municipal Officers Electoral Board consisting of Michael E. Lavelle, James R. Nolan and Corneal A. Davis, organized by law in response to a Call issued by Michael E. Lavelle, Chairman of said Electoral Board, for the purpose of hearing and passing upon (a) Objections to Nomination Petitions for the Office of Alderman of the City of Chicago, 5th Ward, and (b) Nomination Petitions for the Office of Alderman of the City of Chicago, 25th Ward, having convened on January 13, 1983, at 9:30 a.m., in Room 1707, Richard J. Daley Center, Chicago, Illinois, and having consolidated the above entitled matters by agreement of the parties, and having heard and determined the objections to the petitions in the above entitled matters, finds that:

1. The said Electoral Board has been legally constituted according to the laws of the State of Illinois;

2. Objections to the nomination petitions of the candidates herein were duly filed;

3. A call to the hearing on said objections was duly issued and was served upon the members of the Electoral Board, the objectors and the candidates by mail and by personal service as provided by statute;

4. A public hearing was held on these objections commencing January 13, 1983;

5. The following persons, among others, were present at such hearings: the members of the Electoral Board, the objectors by counsel; and the candidates by counsel.

6. A. The Electoral Board finds that two petition sheets of both candidates' nomination papers list different candidates seeking different offices, and therefore finds said sheets are not in compliance with sec. 10-4 of the Election Code. As filed, (a) the petitions in Case No. 83-EB-ALD-36 relating to the 5th Ward contain a total of 2300 signatures, while the petition sheets properly relating to Respondent Bacon's candidacy contain a total of 2250 signatures and (b) the petitions in Case No. 83-EB-ALD-9 relating to the 25th Ward contain a total of 1150 signatures, while the petition sheets properly relating to Respondent Marzullo's candidacy contain a total of 1100 signatures. The Electoral Board hereby strikes the non-conforming signatures from the total number of signatures filed by the candidates and further finds that the remaining conforming signatures exceed the statutory minimum requirement for placement of the candidates' names upon the ballot. See Richards v. Lavelle, 620 F2d.144 (7th Cir., 1980). The Electoral Board further finds that the objectors' reliance upon Arens v. Lara, 79 EBA-16 (1979) is misplaced. There, the candidate was removed because of a violation of the Illinois Governmental Ethics Act. See page 82 of the Transcript of Proceedings held January 16, 1979 wherein the sole motion to sustain the objection, which was unanimously adopted, was made as follows:

> "... that the candidate's name (Lara) not be printed on the ground there has been a failure to comply with the Illinois Governmental Ethics Act." (Parenthetical information added.)

While the Lara Electoral Board decision also finds that different headings on the petition sheets were not in compliance with Section 10-4 of Chapter 46 of the Illinois Revised Statutes, the decision, read together with the Lara transcript of proceedings, clearly indicates that Lara was not removed for violating the provisions of Section 10-4. Indeed the Circuit Court, upon review, in Lara v. LaVelle, 70 Co. 505 (1979) mandamus denied in Lara v. Schneider, 75 Ill. 2nd 63 (1979), affirmed the decision of the Electoral Board solely upon the ground that Lara had violated the Illinois Governmental Ethics Act.

B. Accordingly the candidates' motions to strike are granted in both Case No. 83-EB-ALD-36 and Case No. 83-EB-ALD-9.

IT IS THEREFORE ORDERED that the name of FRANK BACON, Candidate for the Office of Alderman of the City of Chicago, 5th Ward and the name of Vito Marzullo,

Candidate for the Office of Alderman of the City of Chicago, 25th Ward shall be printed on the ballot for the Aldermanic Election to be held on February 22, 1983.

Dated: Chicago, Illinois, this 24th day of January, 1983.

Michael E. Lavelle
Chairman

James R. Nolan
Member

Edward J. Kus
Member