STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

NBC-ALD

ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS OF CANDIDATES FOR THE OFFICES OF MAYOR, CITY CLERK, CITY TREASURER AND ALDERMAN FOR THE CITY OF CHICAGO FOR THE FEBRUARY 28, 1995 ALDERMANIC AND MUNICIPAL PRIMARY ELECTIONS.

Objection of: Valerie Smith)
)
To the)
Nomination Papers of: Estanislao "Stan" Vargas) **No.: 95-EB-ALD-064**
Candidate for the Office)
of Alderman of the 27th Ward.)

DECISION

The duly constituted Electoral Board, consisting of MICHAEL J. HAMBLET, ARNETTE R. HUBBARD, and RICHARD A. COWEN, organized by law in response to a Call issued by MICHAEL J. HAMBLET, Chairman of said Electoral Board, for the purpose of hearing and passing upon Objections to Nomination Papers of Candidates for the Offices of Mayor, City Clerk, City Treasurer and Alderman for the City of Chicago, having convened on January 3 1995, at 1:00 p.m., in having heard and determined the Objections to the Nomination Papers in the above entitled matter find that:

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

2. Objections to the Nomination Papers of the Candidate herein were duly filed;

3. A Call to the hearing on said Objections was duly issued and served upon the members of the Electoral Board, the Objector and the Candidate, by mail and by personal service, as provided by statute;

4. A public hearing was held on these Objections commencing on January 3, 1995;

5. The following persons, among others, were present at such hearing: the members of the Electoral Board, the Objector by counsel, and the Candidate pro se;

6. The Board finds that the Candidate filed with the Board of Election Commissioners on December 14, 1994 his Nomination Papers which included a Statement of Economic Interests filed in relation to his Candidacy. A receipt for said Statement was still attached to the Statement and was blank.

7. The Board finds that Section 10-5 of the Election Code provides that nomination papers filed pursuant to that Section are not valid if the candidate named therein fails to file a Statement of Economic Interests as required by the Illinois Governmental Ethics Act in relation to his candidacy with the appropriate officer by the end of the period for the filing of nomination papers unless he has filed a Statement of Economic Interests in relation to the same governmental unit with that officer during the same calendar year as the year in which such nomination papers were filed. If the nomination papers of any candidate and the Statement of Economic Interests of that candidate are not required to be filed with the same officer, the candidate must file with the officer with whom the nomination papers are filed a receipt from the officer with whom the Statement of Economic Interests is filed showing the date on which such Statement was filed. Such receipt shall be so filed not later than the last day on which nomination papers may be filed.

8. The Board finds that Statements of Economic Interests required of Candidates for the office of Alderman of the City of Chicago are required to be filed with the County Clerk of Cook County. 5 ILCS 420/4A-106.

9. The Board finds that by filing his Statement of Economic Interests with the Board of Election Commissioners, and not with the Cook County Clerk, that the Candidate filed such Statement in the wrong office.

10. The Board finds that the Candidate is ineligible for office due to the fact that he filed his Statement of Economic Interests with the wrong governmental unit or office. Havens v. Miller, 102 Ill.App.3d 558, 429 N.E.2d 1292 (First District, 1981); Beverly v. Electoral Board, 87 CO 20 and 87 CO 23, Cir.Ct. Cook County.

11. The Board further finds that the Candidate apparently did file a Statement of Economic Interests in relation to his Candidacy with the Office of the Cook County Clerk but that such filing occurred on January 10, 1995 as evidenced by the date stamp applied by the Cook County Clerk's Office to the receipt for such Statement.

12. Section 10-5 of the Election Code requires that a Statement of Economic Interests in relation to a Candidate's Candidacy must be filed with the Cook County Clerk by the end of the period

for the filing of nomination papers. Therefore, the Board finds that the Candidate's Statement of Economic Interests filed with the Cook County Clerk on January 10, 1995, was not timely filed and that the failure to timely file such Statement must result in the Candidate's name being stricken from the ballot. Miceli v. Lavelle, 114 Ill.App.3d 311, 448 N.E.2d 989 (First District, 1983).

13. The Board further finds that the Candidate failed to file with the Board of Election Commissioners before the end of the filing period for Nomination Papers a receipt showing that the Candidate filed a Statement of Economic Interests with the Cook County Clerk's Office. The failure to file such a receipt with the Board of Election Commissioners on or before the last day on which Nomination Papers may be filed invalidates the Candidate's Nomination Papers. Bolger v. Electoral Board of City of McHenry, 210 Ill.App.3d 958, 569 N.E.2d 628 (Second District, 1991).

14. Therefore, the Board sustains the Objections to the Candidate's Nomination Papers and declares the Candidate's Nomination Papers to be invalid.

15. The Board also finds that another Objection was filed against the Candidate's Nomination Papers in Case 95-EB-ALD-215 and that the Objections filed therein are rendered moot by virtue of the Board's Decision in this case.

IT IS THEREFORE ORDERED, that the Objections of Valerie Smith to the Nomination Papers of Estanislao "Stan" Vargas, Candidate for election to the office of Alderman of the 27th Ward, are hereby sustained and said Nomination Papers are hereby declared invalid and the name of Estanislao "Stan" Vargas, Candidate for election to the office of Alderman of the 27th Ward, shall not be printed on the ballot for the Aldermanic Election to be held on February 28, 1995.

Dated: Chicago, Illinois, this 23RD day of January, 1995.

Michael J. Hamblet
MICHAEL J. HAMBLET, Chairman

Arnette R. Hubbard
ARNETTE R. HUBBARD, Commissioner

Richard A. Cowen
RICHARD A. COWEN, Commissioner