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BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO AS THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS OF CERTAIN CANDIDATES AND TO PETITIONS FOR THE SUBMISSION OF QUESTIONS OF PUBLIC POLICY FOR THE MARCH 17, 1998 PRIMARY ELECTION IN THE CITY OF CHICAGO

Objections of: Antonio Fernandez, Jr. and Ted Antonczak	)	
To the Nomination Papers of: William "Willie" Delgado	)	No.: 98-EB-RGA-05
Candidate for the Nomination of the Democratic Party for the Office of Representative in The General Assembly for the 3rd Representative District, State of Illinois	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal, Richard A. Cowen, and Theresa M. Petrone, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon Objections of Antonio Fernandez, Jr. and Ted Antonczak to Nomination Papers of William "Willie" Delgado, Candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 3rd Representative District of the State of Illinois, having convened on December 29, 1997, in City Hall, 121 North LaSalle Street, Chicago, Illinois, and having heard and determined the Objections to the Nomination Papers in the above entitled matter, 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 Papers of the Candidate herein were duly and timely filed.

3. A Call to the hearing on said Objections was duly issued by the Chairman of the Electoral Board and served upon the members of the Electoral Board, the Objectors and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing was held on these Objections commencing on December 29, 1997 and was continued from time to time.

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

6. The Board assigned this matter to Hearing Examiner John Ashenden for further hearings and proceedings

7. The Board adopts the recommended findings and proposed decision of the Hearing Examiner. The Board finds that on December 8, 1997, the Candidate timely filed his Statement of Economic Interests in relation to his candidacy with the appropriate office, the Illinois Secretary of State. The nominating papers were bound together with the receipt for the Candidate's Statement of Economic Interests issued to him and then filed with the Board of Elections.

8. The Objectors object that since the receipt does not contain the Candidate's actual name and address, it is as such invalid and therefore said Candidate should be removed from the ballot. The Objector's, however, do not cite any statutory provision or case law that directly support this claim.

9. The Board further finds that Section 7-10(1) and 8-8 of the Election Code (10 ILCS 5/7-10(1) and 8-8) in part provides that a candidate's nominating papers must include a "statement of candidacy" and this statement shall state among other things, "that the [candidate] has filed (or will file before the close of the petition filing period) a statement of economic interests as required by the Illinois Governmental Ethics Act." Section 7-12(8) of the Election Code (10 ILCS 5/7-12(8)) in part provides that the "[n]omination papers filed...are not valid if the candidate named therein fails to file a statement of economic interests as required by the Illinois Governmental Ethics Act.*** If the nomination papers of any candidate and the statement of economic interest 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."

10. The Board finds that the Candidate was in compliance with Sections 7-10(1), 8-8 and 7-12(8) of the Election Code. The receipt in question reflects that the Candidate timely filed his Statement of Economic Interests with the appropriate office and the receipt properly listed the office to which the Candidate seeks election. In addition, the Candidate filed the receipt along with the nominating papers with the Board of Elections as required by the Election Code. The Candidate's Statement of Economic Interests is accessible to the public at the office of the Secretary of State with the information provided by the nominating papers, which were filed by the Candidate.

11. The Board finds that neither Sections 7-10, 7-12, 8-8 or any other provision of the Election Code impose a requirement on the candidate to add the name and address onto the receipt issued to him for filing the Statement of Economic Interests. To invalidate the Candidate's nominating papers because of this unlegislated technicality would be tantamount to creating a new requirement for the candidate by the Election Board.

12. The Board finds that the Illinois Supreme Court in *Welch v. Johnson*, 147 Ill.2d 40, 588 N.E.2d 1119 (1992) concluded that the legislature did not intend the removal of a candidate's name from the ballot to be a proper sanction for inadvertently filing an untrue, inaccurate, or incomplete statement of economic interests. The *Welch* case underscores that courts are loath to impose such an extreme penalty upon a candidate. In this case, the Objector's claim that the Candidate's receipt is invalid on its face is not supported by any provision of the Election Code or case law.

13. The Board finds, therefore, that the Candidate's motion to strike and dismiss the objector's verified petition should be and hereby is granted. The Board finds that the Candidate William "Willie" Delgado should not be removed from the ballot for filing with the Board the receipt issued to him by the Illinois Secretary of State for filing his Statement of Economic Interests without adding his name and address on the receipt.

IT IS THEREFORE ORDERED that the Objections of Antonio Fernandez, Jr. and Ted Antonczak, to the Nomination Papers of William "Willie" Delgado, Candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 3rd Representative District of the State of Illinois, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of William "Willie" Delgado, Candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 3rd Representative District of the State of Illinois, SHALL be printed on the ballot for the General Primary Election to be held March 17, 1998.

Dated: Chicago, Illinois, this 14th day of January, 1998.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner/Member

Theresa M. Petrone, Commissioner/Member

NOTICE: Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved of this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Cook County within 10 days after the decision of the Electoral Board.