BCCON-ALD

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE FEBRUARY 23, 1999 MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER AND ALDERMAN
IN THE CITY OF CHICAGO**

Objections of: IRENE C. SMITH	)	
	)	
To the Nomination	)	
Papers of: KEITH B. KYSEL	)	No.: 99-EB-ALD-028
	)	
Candidate for the office of	)	
Alderman of the 7th Ward,	)	
City of Chicago		

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 ("Objection") of IRENE C. SMITH to the nomination papers ("Nomination Papers") of KEITH B. KYSEL, candidate for the office of Alderman of the 7th Ward for the City of Chicago ("Candidate"), having convened on December 28, 1998, at 9:00 a.m., in the City Council Chambers, City Hall, Chicago, Illinois; and having heard and determined the Objections to the Nomination Papers in the above-entitled matter finds that:

1. Objections to the Nomination Papers of the Candidate herein were duly and timely filed.

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

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 Objector(s) 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 28, 1998 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 Objector, IRENE C. SMITH, by counsel; and the Candidate KEITH B. KYSEL, pro se.

6. The Electoral Board assigned this matter to Hearing Examiner BRYAN SCHNEIDER for further hearings and proceedings.

7. The Electoral Board ordered that an examination of the registration records be conducted by its clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

8. The Electoral Board directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

9. The Candidate and/or his duly authorized representative were present during the examination of the registration records at all times.

10. The Objector and/or her duly authorized representatives were present during the examination of the registration records at all times.

11. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination conducted by its clerks and agents. The written report of the result of the registration records examination is contained in the Board's file in this case and is available upon request of a party.

12. The Board has considered all evidence and arguments tendered by the parties.

13. The Board finds that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 189;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 652;

    c. The number of signatures deemed invalid because of objections sustained total 319;

    d. The remaining number of signatures deemed valid total 333;

14. The Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for election to the office of Alderman of the 7th Ward of the City of Chicago.

15. The Board finds, therefore, that paragraphs 5-10 of the Objector's Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

16. The Objector alleges that the Candidate's Nomination Papers demonstrate a pattern of fraud and should be invalidated in their entirety. The Objector alleges that the Candidate did not circulate sheet 26 of his nominating petitions demonstrating a pattern of fraud and false swearing.

17. The Electoral Board finds that the Candidate testified that he did not circulate sheet 26 of his nominating petition sheets. The Candidate testified that sheet 26 was inadvertently mixed into a stack of sheets that the Candidate had circulated, and he mistakenly signed sheet 26. The Electoral Board finds the Candidate's testimony in regards to sheet 26 to be credible. The signatures on sheet 26 were found to be invalid during the records examination. However, due to the Candidate's credible admission that he did sign sheet 26 as the circulator in error, this does not establish an intent to deceive or disregard the provisions of the Election Code such as to establish a "pattern of fraud."

18. The Objector alleges that a number of signatures on petition sheets circulated by the Candidate were found to be not genuine, suggesting a pattern of fraud. The Objector did not introduce any evidence that the persons whose signatures were rejected as not genuine did not in fact sign the petition sheets. Rather, the Objector relied on the fact that a number of signatures on sheets circulated by the Candidate were found to be invalid as not genuine during the records examination.

19. The Electoral Board finds that there is insufficient no evidence that the Candidate engaged in a pattern of fraud or intentional disregard of the requirements of the Election Code in gathering signatures for his nominating petitions. Accordingly, those objections are overruled.

20. For the reasons stated above, the Board finds that the Nomination Papers of KEITH B. KYSEL are valid.

IT IS THEREFORE ORDERED that the Objections of IRENE C. SMITH to the Nomination Papers of KEITH B. KYSEL, candidate for election to the office of Alderman of the 7th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of KEITH B. KYSEL, candidate for election to the office of Alderman of the 7th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election for Mayor, City Clerk, City Treasurer and Alderman to be held on February 23, 1999.

Dated: Chicago, Illinois, this Second day of February, 1999.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Theresa M. Petrone, Commissioner

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.