NBCOFF-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: GILBERT C. DELGADO	)	
	)	
To the Nomination	)	
Papers of: KENNETH E. LADIEN	)	No.: 99-EB-ALD-126
	)	
Candidate for the office of	)	
Alderman of the 10th Ward	)	

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 ("Objections") of GILBERT C. DELGADO to the nomination papers ("Nomination Papers") of KENNETH E. LADIEN, candidate for the office of Alderman of the 10th 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 and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing held on these Objections commenced 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, GILBERT C. DELGADO, by counsel; and the Candidate, KENNETH E. LADIEN, by counsel.

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

7. Paragraph 3 of the Objector's Petition alleges that the Candidate failed to file a statement of economic interests with the Cook County Clerk as required by law.

8. Paragraph 4 of the Objector's Petition alleges that the Candidate failed to file a receipt for the statement of economic interests with his Nomination Papers.

9. Section 10-5 of the Election Code (10 ILCS 5/10-5) provides in part that the Statement of Candidacy "shall be subscribed and sworn to by such candidate before some officer authorized to take acknowledgments of deeds in this State."

10. Section 10-5 of the Election Code (10 ILCS 5/10-5) provides that nomination papers are not valid if the candidate 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 interest 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 the candidate and the statement of economic interests of the 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.

11. The Illinois Governmental Ethics Act requires that persons who are candidates for nomination or election to office in a unit of local government to file their statements of economic interest with the county clerk of the county in which the principal office of the unit of local government is located. (5 ILCS 420/4A-101(g), 4A-106) Therefore, candidates for nomination or election to office in the City of Chicago are required to file their statements of economic interests with the Cook County Clerk.

12. Because statements of economic interests of candidates for nomination or election to the office of Alderman in the City of Chicago are required to be filed with the Cook County Clerk, and the nomination papers of those candidates are required to be filed with the Chicago Board of Election Commissioners, those candidates are required by Section 10-5 of The Election Code to file with the Chicago Board of Election Commissioners a receipt from the Cook County Clerk showing the date on which the candidates' statement of economic interests were filed. Such receipt was required to be filed with the Chicago Board of Election Commissioners not later than the last day on which nomination papers were permitted to be filed, or December 14, 1998.

13. The Electoral Board finds that the Candidate, KENNETH E. LADIEN, failed to file with the Chicago Board of Election Commissioners not later than December 14, 1998, a receipt from the Cook County Clerk showing the date on which the Candidate's statement of economic interests was filed.

14. The Electoral Board finds that the Candidate, KENNETH E. LADIEN, failed to file a statement of economic interests in relation to his candidacy with the Cook County Clerk on or before December 14, 1998 and in fact filed the statement of economic interests with the Chicago Board of Election Commissioners.

15. The Electoral Board finds that the failure to file a statement of economic interests with the correct office invalidates the Candidate's Nomination Papers. Since a statement of economic interest must also be filed as part of the nomination papers, a candidate is ineligible for office if he files his statement with the wrong governmental unit or office. *Havens v. Miller,* 102 Ill.App.3d 558, 429 N.E.2d 1292 (First Dist, 1981). Where a candidate failed to file a statement of economic interests with his nomination papers, but attached a statement of economic interest and a blank receipt with his nomination papers, there was no evidence that the candidate filed a statement of economic interest with the county clerk as required by law. *Curtis v. Municipal Officers Electoral Board,* 95 CO 33 (Cir. Ct. Cook Co., 1995), *Sneed v. Board of Election Commissioners,* 95 CH 1140 (Cir. Ct. Cook Co., 1995) .

16. The Electoral Board finds that the failure to file with the Chicago Board of Election Commissioners a receipt showing that the Candidate filed a statement of economic interests with the Cook County Clerk 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 Dist. 1991); *Mobley v. Beard*, CBEC, 95-EB-MUN-7 (January 23, 1995); *Geiren v. Norris*, CBEC, 95-EB-ALD-44 (January 17, 1995); *Jackson v. Washington*, CBEC, 95-EB-ALD-85 (January 23, 1995); *Williams v. Brown*, CBEC, 95-EB-ALD-131 (January 27, 1995); *Robinson v. Nalls*, CBEC, 95-EB-ALD-181, (January 28, 1995).

17. Paragraph 5 of the Objector's Petition alleges that the Candidate failed to consecutively number the petition sheets as required by law.

18. Section 10-4 of The Election Code (10 ILCS 5/10-4) requires that petition sheets, before being presented to the electoral board or filed with the proper officer shall be neatly fastened together in book form and the sheets shall then be numbered consecutively.

19. The Electoral Board finds none of the Candidate's 16 nominating petition sheets are numbered or numbered consecutively in violation of the page-numbering requirement of Section 10-4 of The Election Code.

20. The Electoral Board finds that the failure to consecutively number the petition sheets invalidates the Candidate's Nomination papers. The page numbering requirement in

Section 10-4 is mandatory rather than directory and the failure to comply invalidates the petition. *Wollan v. Jacoby,* 274 Ill.App.3d 388, 653 N.E.2d 1303 (First Dist, 1995).

21. Paragraph 2 of the Objector's Petition alleges that the signature on the Statement of Candidacy is not properly notarized.

22. Section 10-5 of The Election Code (10 ILCS 5/10-5) requires that a candidate's nomination papers include a statement of candidacy that shall be subscribed and sworn to by the candidate before some officer authorized to take acknowledgments of deeds in the State of Illinois.

23. The Candidate's pre-printed Statement of Candidacy form does not contain a space or line for the signature of the person notarizing the document and, in fact, the signature of the notary does not appear on the Candidate's Statement of Candidacy. However, there is line on the document stating that the document is "Subscribed and sworn to (or affirmed) before me by [Kenneth E. Ladien's name is hand printed in this space] who is to me personally known, this [6th is hand printed in this space] day of [December is hand printed in this space] A.D. 1998." Above this line is affixed in black ink the "'Official Seal' of Bonnie Wisdom, Notary Public, State of Illinois, My Commission Expires 03/19/00."

24. The Board finds that Section 6-103 of the Illinois Notary Public Act (5 ILCS 312/6-103) requires that "a notarial act must be evidenced by a certificate signed and dated by the notary public."

25. The Board also finds that Section 3-102 of the Illinois Notary Public Act (5 ILCS 312/3-102) requires that "at the time of notarization, a notary public shall officially sign every notary certificate and affix the rubber stamp clearly and legibly using blank ink, so that it is capable of photographic reproduction."

26. The Electoral Board finds that the notary's affixation of her rubber stamp containing her official seal without her signature on the notary certificate substantially complies with the requirements of Section 10-5 of the Election Code.

27. The Electoral Board finds, therefore, that the Nomination Papers of the Candidate, KENNETH E. LADIEN, are invalid and sustains paragraphs 3, 4 and 5 of the Objector's Petition and overrules paragraph 2 of the Objector's Petition.

IT IS THEREFORE ORDERED, that the Objections of GILBERT C. DELGADO to the Nomination Papers of KENNETH E. LADIEN, candidate for election to the office Alderman of the 10th Ward for the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of KENNETH E. LADIEN, candidate for election to the office of Alderman of the 10th Ward for the City of Chicago, SHALL NOT 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 Twelfth day of January, 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.