NBCON-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: ADRIENNE A. SMITH	)	
	)	
To the Nomination	)	
Papers of: JAMES C. DATES	)	No.: 99-EB-ALD-133
	)	
Candidate for the office of	)	
Alderman of the 21st 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 ("Objections") of ADRIENNE A. SMITH to the nomination papers ("Nomination Papers") of JAMES C. DATES, candidate for the office of Alderman of the 21st 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 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(s), ADRIENNE A. SMITH; and the Candidate, JAMES C. DATES.

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

7. The Objector's Petition alleges that sheets 14-31 of the Candidate's nominating petition should be stricken in their entirety because the circulator of these sheets failed to print his name and address in the spaces provided in the circulator's certification at the bottom of those sheets.

8. Section 10-4 of the Election Code (10 ILCS 5/10-4) requires that each petition sheet include a statement of the circulator of that sheet which shall be sworn to before some officer authorized to administer oaths in this State. The circulator's statement shall include the circulator's street address or rural route of the circulator, as the case may be, as well as the circulator's city, village or town.

9. The Electoral Board finds that the Candidate, JAMES C. DATES, circulated and signed all 31 sheets of his nominating petition. The Board finds that the Candidate also included his address in the circulator's statement at the bottom of 13 of his 31 petition sheets. The Board further finds that the Candidate' address in printed in the heading at the top of each petition sheet where the petition sheet includes information regarding the Candidate's name, the office sought, and the Candidate's address.

10. The Electoral Board finds that the Candidate, by his own testimony, signed all 31 petition sheets in the presence of the same notary public identified on all of the sheets and the Objector offered no evidence to contradict the Candidate's testimony. Furthermore, the Board finds that the Objector produced no witnesses or documents in support of his petition nor did he make any showing of any fraud in the execution of any of the 31 petition sheets.

11. One purpose of the requirement that the circulator's statement at the bottom of the petition sheet include the circulator's address is to protect the integrity of the electoral process by enabling electoral board to locate the circulator, question him or her about signatures, and hold the circulator responsible for his or her oath. *Sakonyi v. Lindsay,* 261 Ill.App.3d 821, 826, 634 N.E.2d 444, 447 (Fifth Dist. 1994). It is assumed by the circulator's sworn statement at the bottom of the petition sheet that the circulator is subjecting himself or herself to possible perjury prosecution, which is a meaningful and realistic method of eliminating fraudulent signatures and protecting the integrity of the political process. *Id.* The presence of the circulator's address on other petition sheets substantially satisfies the statute's requirements, even though the circulator's address may not be included in the affidavit of a particular sheet. *Id.* The requirement that the circulator enter his or her address on each petition sheet only serves purpose of administrative convenience. By writing the circulator's address on the top of at least one

petition that he or she signed as a petitioner, the circulator fulfills the purpose of protecting the integrity of the electoral process by providing electoral board with ready access to her. Because the circulator signed each of the affidavits, the circulator is subjected to possibility of penalties of perjury notwithstanding the failure to include the address on each sheet. *Id.*

12. The Electoral Board finds that by including his address in the circulator's affidavit at the bottom of 13 of his petition sheets, the Candidate substantially complied with the requirement of Section 10-4 that the circulator of the petition sheet state his or her address in the circulator's affidavit.

13. The Electoral Board further finds that by stating his address at the top of each sheet in the heading that includes information about the candidate, the Candidate substantially complied with the requirement of Section 10-4 that the circulator of the petition sheet state his or her address in the circulator's affidavit. See, e.g., *Schumann v. Kumarich*, 102 Ill.App.3d 454, 459, 430 N.E.2d 99 (First. Dist. 1981) (Although the circulator/candidate's address was not included in the circulator's affidavit at the bottom of each sheet, it was given at the top of each page of his own petition and this substantially complies with Section 10-4).

14. The Objector's Petition also alleges that because the circulator's name was not inserted on the line provided in the notarial certificate on any of the petition sheets, the notary jurat is defective and renders all of the petition sheets invalid.

15. The Electoral Board finds that on each of the petition sheets submitted by the Candidate, the space provided in the notarial certificate stating that the document was "SUBSCRIBED AND SWORN TO ME BY _____" was left blank.

16. Where an affiant is otherwise identified, mere clerical errors by a notary such as naming the wrong person in the jurat, or even omitting from the jurat the affiant's name entirely, can be overlooked and such an error or omission does not render the petition sheet invalid. *Cintuc, Inc. v. Kozubowski,* 230 Ill.App.3d 969, 974 (First Dist. 1992).

17. The Electoral Board finds, therefore, that the omission of the Candidate's name from the space provided for the insertion of his name by the notary does not invalid the petition sheets.

18. For the reasons stated above, the Electoral Board overrules all of the Objector's objections and finds that the Candidate's Nomination Papers are valid.

19. Similar objections were made against the Candidate's Nomination Papers in case number 99-EB-ALD-133, Hicks v. Dates, and those objections were also overruled.

IT IS THEREFORE ORDERED that the Objections of ADRIENNE A. SMITH to the Nomination Papers of JAMES C. DATES, candidate for election to the office of Alderman of the 21st Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of JAMES C. DATES, candidate for election to the office of Alderman of the 21st 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 Twenty-Ninth 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.