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: GERALD NICHOLS	)	
	)	
To the Nomination	)	
Papers of: EDWARD D. FIELDS	)	No.: 99-EB-ALD-153
	)	
Candidate for the office of	)	
Alderman of the 8th 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 GERALD NICKOLS to the nomination papers ("Nomination Papers") of EDWARD D. FIELDS, candidate for the office of Alderman of the 8th 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, GERALD NICHOLS, by counsel; and the Candidate, EDWARD D. FIELDS.

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

7. Paragraphs 26-28 of the Objector's Petition allege that the Candidate failed to file a statement of candidacy with his Nomination Papers.

8. Section 10-5 of The Election Code (10 ILCS 5/10-5) requires that a candidate's nomination papers include a statement of candidacy setting out the address of the candidate, the office for which he or she is a candidate, and stating that the candidate is qualified for the office specified and that the candidate has filed (or will close before the end of the filing period) a statement of economic interests as required by the Illinois Governmental Ethics Act. The statement of candidacy shall request that the candidate's name be placed upon the official ballot and shall be in substantially the form set forth in Section 10-5 and shall be subscribed and sworn to by the candidate before some officer authorized to take acknowledgments of deeds in the State of Illinois.

9. The Electoral Board finds that the Candidate did not file a Statement of Candidacy with his Nomination Papers as required by Section 10-5 of The Election Code and sustains paragraphs 26-28 of the Objector's petition.

10. The Electoral Board finds that the failure to file a statement of candidacy renders the Candidate's nomination papers invalid. *Purnell v. Alcozer*, 95-EB-ALD-28, CBEC, 1995; *Hernandez v. Alcozer,* 95-EB-ALD-39, CBEC, 1995; *Mobley v. Beard*, 95-EB-MUN-07, CBEC, 1995; *Lacy v. Sias*, 92-EB-WC-35, CBEC, 1992.

11. Paragraph 30-32 of the Objector's petition allege that the Candidate failed to file a statement of economic interests as required by law.

12. 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.

13. 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.

14. 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.

15. The Electoral Board finds that the Candidate, EDWARD D. FIELDS, 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.

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. The Electoral Board finds, therefore, that the Nomination Papers of the Candidate, EDWARD D. FIELDS, are invalid and sustains paragraphs 30-32 of the Objector's Petition.

18. Paragraph 22 of the Objector's petition alleges that the Candidate's nominating petition sheets were not properly notarized.

19. Section 10-4 of The Election Code requires that at the bottom of each petition sheet shall be added a statement by the circulator of the sheet containing the elements required by that section. Such statement must be sworn to before some officer authorized to administer oaths in this State.

20. The Electoral Board further finds that none of the Candidate's nominating petition sheets were sworn to before some officer authorized to administer in this State and sustains paragraph 22 of the Objector's petition.

21. The Electoral Board finds that the requirement in the Election Code that the person who circulated the nominating petition sheets personally appear before a notary public to validate the petition is a mandatory requirement and a violation of this requirement invalidates the petition sheets. *Williams v. Butler*, 35 Ill.App.3d 532, 341 N.E.2d 394 (Fourth Dist. 1976); *Bowe v. City of Chicago Electoral Board*, 79 Ill.2d 469, 404 N.E.2d 180 (1980).

IT IS THEREFORE ORDERED, that the Objections of GERALD NICHOLS to the Nomination Papers of EDWARD D. FIELDS, candidate for election to the office Alderman of the 8th Ward for the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of EDWARD D. FIELDS, candidate for election to the office of Alderman of the 8th 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 Eighth 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.