NBCON-REP

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO AS THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO RESOLUTIONS TO FILL VACANCIES IN NOMINATION FOR THE NOVEMBER 7, 2000 GENERAL ELECTION FOR STATE SENATOR AND REPRESENTATIVE IN THE GENERAL ASSEMBLY

Objections of: JOSEPH M. LYONS	)
	)
To the Resolution to Fill a Vacancy in Nomination	)
nominating: MITCHELL A. KULWIN	)
	) No. 00-EB-RES-002
Candidate for the office of Representative in the	)
General Assembly for the 15th Representative	)
District, State of Illinois, Republican Party	)

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 JOSEPH M. LYONS (the "Objector") to the resolution to fill a vacancy in nomination ("Resolution") nominating MITCHELL A. KULWIN as a candidate for the office of Representative in the General Assembly for the 15th Representative District, State of Illinois, Republican Party ("Candidate"), having convened on June 6, 2000, at 3:00 p.m., in Room 800, 69 West Washington Street, Chicago, Illinois; and having heard and determined the Objections to the Resolution in the above-entitled matter finds that:

1. Objections to the Resolution nominating 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 June 6, 2000 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Jacqueline A. Walker for further hearings and proceedings.

6. The Hearing Examiner conducted a hearing in this matter on June 7, 2000 at 2:30 P.M. The following persons, among others, were present at such hearing: the Objector, JOSEPH M. LYONS, by counsel, David Ellis; and the Candidate, MITCHELL A. KULWIN, by counsel, Scott Nelson.

7. At a continued hearing conducted on June 23, 2000, attorney Colleen Burke appeared on behalf the Objector, substituting for David Ellis.

8. The sole allegation in the Objections is that the Candidate is not constitutionally qualified for the office of Representative in the General Assembly for the 15th Representative District of the State of Illinois because the Candidate does not satisfy the residency requirements set forth in the Illinois Constitution and that the Candidate's Statement of Candidacy submitted with the Resolution is false and perjurious.

9. Article IV, Section 2(c) of the Illinois Constitution provides in part that "to be eligible to serve as a member of the General Assembly, a person must be *** for the two years preceding his election or appointment a resident of the district which he is to represent."

10. The Hearing Examiner recommends that the Board find that:

    (A) Prior to August 1997, the Candidate resided at 5975 North Odell, Chicago, Illinois, an address that is located outside of the 15th Representative District. The Candidate became registered to vote at this address in January 1995.

    (B) In August 1997, the Candidate purchased and then moved into a house located at 5254 North Lieb, Chicago, Illinois. The Candidate has resided at such address as his primary residence since August 1997. The address 5254 is located within the 15th Representative District.

    (C) At the November 3, 1998 General Election, the Candidate voted after having signed an application for ballot that listed his address as 5975 N. Odell Avenue.

    (D) The Candidate testified that he did not certify that 5975 N. Odell was his current address when he signed the application for ballot on November 3, 1998; rather, he simply intended to certify that he was a registered voter who was eligible to vote. The Candidate further testified that although he

had moved from 5975 N. Odell, he wanted to vote but he had not taken steps to re-register at his new address. The Candidate did re-register in December 1998 using the 5254 N. Lieb address.

(E) The November 3, 1998 application for ballot signed by the Candidate did not require him to certify that 5975 N. Odell was his current address.

(F) The Objector's evidence consisted of the Candidate's registration records and the November 3, 1998 ballot application. However, this evidence fails to establish that the Candidate will not have resided at 5254 N. Lieb for at least two years prior to the November 7, 2000 General Election.

12. The Hearing Examiner recommends, therefore, that the objections of Joseph M. Lyons be overruled and that the name of the Candidate be printed on the ballot as a candidate of the Republican Party for the office of Representative in the General Assembly for the 15th Representative District of the State of Illinois to be voted on at the November 7, 2000 General Election.

13. The Electoral Board hereby adopts the findings and recommendations of the Hearing Examiner and finds:

A. The Objector has failed to sustain his burden of proof.

B. The Objections shall be overruled.

C. The name of the Candidate shall be printed upon the ballot as a candidate of the Republican Party for the office of Representative in the General Assembly for the 15th Representative District of the State of Illinois to be voted upon at the November 7, 2000 General Election.

IT IS THEREFORE ORDERED that the Objections of JOSEPH M. LYONS to the Resolution to fill a vacancy in nomination nominating MITCHELL A. KULWIN as a candidate of the Republican Party for election to the office of Representative in the General Assembly for the 15th Representative District, State of Illinois, are hereby OVERRULED and said Resolution is hereby declared VALID and the name of MITCHELL A. KULWIN, candidate of the Republican Party for election to the office of Representative in the General Assembly for the 15th Representative District, State of Illinois, SHALL be printed on the official ballot for the General Election to be held on November 7, 2000.

Dated: Chicago, Illinois, this 27th day of June, 2000.

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.