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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 MARCH 21, 2000 GENERAL PRIMARY ELECTION FOR STATE SENATOR, REPRESENTATIVE IN THE GENERAL ASSEMBLY AND WARD COMMITTEEMAN IN THE CITY OF CHICAGO

Objections of: KENNETH L. FLETCHER	)
	)
To the Nomination	)
Papers of: LOUIS GIOVANETTI	)
	) No. 00-EB-WC-008
Candidate for the office of	)
Ward Committeeman for the 41st Ward of the City of	)
Chicago, Democratic 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 KENNETH L. FLETCHER ("Objector") to the nomination papers ("Nomination Papers") of LOUIS GIOVANETTI, candidate for election to the office of Ward Committeeman for the 41st Ward of the City of Chicago, Democratic Party ("Candidate"), having convened on January 10, 2000, at 9:00 a.m., in Room 800, 69 West Washington Street, 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 January 10, 2000 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner KELLYE KEYES for further hearings and proceedings. At Kelly Keyes request, due to a heavy and conflicting schedule, this matter was re-assigned on January 27, 2000 to Hearing Examiner WILLIAM P. JONES for further proceedings.

6. The Objector and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Examiner on the date and at the time designated in the Call. The following persons, among others, were present at such hearing: the Objector, KENNETH L. FLETCHER, by counsel; and the Candidate, LOUIS GIOVANETTI, by counsel.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by 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 Hearing Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during the record examination.

9. The Candidate or his duly authorized representative(s) was present during the examination of the registration records.

10. The Objector or his duly authorized representative(s) was present during the examination of the registration records.

11. The examination of the registration records and the master file 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 and master file examinations is contained in the Electoral Board's file in this case and is available for inspection upon request of a party.

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

13. The Electoral Board finds that after the completion of the records examination and the master file examination:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 358;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 523;

c. The number of signatures deemed invalid because of objections sustained total 161;

d. The remaining number of signatures deemed valid total 362;

14. At a hearing conducted by the Hearing Examiner pursuant to Rule 8 of the Electoral Board's Rules of Procedure, the Hearing Examiner found that Sheets 12 and 21 of the Candidate's petition were invalid due to the fact that these petition sheets did not contain a signature or seal of a notary public and there was insufficient evidence to find that the circulator's statement at the bottom of these sheets was sworn to before some officer authorized to administer oaths in this State as required by Section 7-10 of The Election Code (10 ILCS 5/7-10). The Electoral Board adopts the recommended findings of the Hearing Examiner in this regard, sustains paragraph 8 of the Objector's Petition, and finds that the 32 signatures on Sheets 12 and 21 are invalid and stricken from the petition, leaving the Candidate with 330 valid signatures, or 28 below the minimum required.

15. Also at the Rule 8 hearing, the Hearing Examiner found that the Candidate had sufficiently restored 7 signatures on the petition, resulting in the Candidate having a total of 337 valid signatures. The Electoral Board adopts the Hearing Examiner's recommended findings in this regard.

16. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination, the master file examination and the Rule 8 hearing is below the minimum number of valid signatures required by law to placed upon the official ballot as a candidate for election to the office of Ward Committeeman for the 41st Ward of the City of Chicago, Democratic Party.

17. The Electoral Board finds, therefore, that paragraph(s) 2-6 of the Objector's Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

18. The Objector also alleges in paragraph 7 of the Objector's Petition that the circulator of the Candidate's petition sheets, who happens to be the Candidate himself, was not a registered voter at the address shown at the bottom of each petition sheet.

19. The Electoral Board finds that the Candidate resides at 7120 W. Farragut, Chicago. Prior to that the Candidate resided at 7618 Talcott Avenue, where he was registered to vote.

20. The Candidate testified that on Thursday, December 16, 1999, he completed a change of address form and mailed it to the Chicago Board of Election Commissioners. The Candidate further testified that all of the signatures on his

nominating petition sheets were executed on Saturday and Sunday, December 18 and 19, 1999, respectively. The Candidate testified that he arrived at the Board of Election Commissioners' office on the Sixth Floor on Monday, December 20, 1999, and checked to see if his registration was still listed at the Farragut address or at the Talcott address. The Candidate further testified that when Board employees told him on December 20 that his registration was listed at the Talcott Avenue address, he completed a change of address form and filed it with the Board.

21. Mr. Robert Sawicki, Assistant Executive Director for the Chicago Board of Election Commissioners, testified that the Board was, as of January 28, 2000, in possession of only one change of address form executed by the Candidate and that such form was date stamped by the Board with a date of "December 20, 1999." Mr. Sawicki testified that he could not determine whether the document was received on such date via mail or in person and that no duplicate form was found. Mr. Sawicki further testified that the Board changed the Candidate's registration address from the Talcott address to the Farragut address on December 29, 1999.

22. The Electoral Board finds that:

(A) Section 7-10 of the Election Code requires that nominating petition sheets be circulated and certified by a person who is "a registered voter of the political division, [and] who has been a registered voter at all times he or she circulated the petition, for which the candidate is seeking a nomination, stating the street address or rural route number of the voter, as the case may be, as well as the voter's city, village or town...."

(B) Section 3-1.2 of the Election Code (10 ILCS 5/3-1.2), as amended by Public Act 91-57 (effective June 30, 1999), requires that to be eligible to circulate a nominating petition, the term "registered voter" shall mean " a person who is registered to vote at the address shown opposite his signature on the petition or was registered to vote at such address when he signed the petition."

(C) Section 6-53 of the Election Code (10 ILCS 5/6-53) provides that, "Any registered voter who changes his residence from one address number or place to another within the same precinct, city, or village or incorporated town, may have his registration transferred to his new address my making and signing an application for such change of residence address upon a form to be provided by such board of election commissioners. Such application may be made to the office of such board or at any place designated in accordance with section 6-51 of this Article."

(D) Section 6-53 further provides that, "Upon receipt of such application the board of election commissioners or officer, employee or deputy registrar designated by such board shall cause the signature of the voter and the data appearing upon the application to be compared with the signature and data on the registration record, and if it appears that the applicant is the

same person as the party previously registered under that name, the transfer shall be made."

23. The Electoral Board finds that:

(A) When the Candidate on December 20, 1999 signed each of the 22 nominating petition sheets as the circulator of said sheets, he stated on said sheets that he resided at 7120 W. Farragut, Chicago, Illinois.

(B) At the time that the Candidate circulated his own nominating petition sheets on December 18 and 19, 1999 and obtained signatures on those sheets, he was not registered to vote at 7120 W. Farragut, Chicago, Illinois, the address shown on the circulator's affidavit at the bottom of each petition sheet.

(C) All of the nominating petition sheets filed by the Candidate are defective in that the circulator of those sheets, the Candidate himself, was not eligible to circulate those sheets and the Candidate's nominating petition sheets violate the requirements of Sections 7-10 and 3-1.1 of the Election Code.

24. Therefore, the Electoral Board sustains the objections contained in paragraph 7 of the Verified Objector's Petition alleging that the Candidate's petition sheets are defective because the circulator of said sheets was not a legal registered voter at 7120 W. Farragut, Chicago, Illinois at the time said sheets were circulated. As a result, all of the Candidate's nominating petition sheets are stricken as defective and all signatures contained on said sheets are invalid.

25. The Electoral Board finds that after striking all 22 of the Candidate's nominating petition sheets, the Candidate is left with zero valid signatures. The minimum number of signatures needed to qualify for the ballot as a candidate for the office of Ward Committeeman for the Democratic Party in the 41st Ward of the City of Chicago is 358.

26. The Objector also alleges in paragraph 9 of the Verified Objector's Petition that the Candidate's Statement of Candidacy is false and perjurious in that at the time the Candidate signed the Statement of Candidacy we was not a qualified voter.

27. The Electoral Board further finds that:

(A) Section 7-8(b) of the Election Code (10 ILCS 5/7-8(b)) provides that "Each candidate for ward committeeman must be a resident of and in the ward where he seeks to be elected ward committeeman." There is no statutory requirement that a candidate for ward committeeman also be a registered voter in the ward.

(B) Section 7-10 of the Election Code (10 ILCS 5/7-10) provides in part that each statement of candidacy must set out the address of the candidate and must include a statement that the candidate is a qualified primary voter of

the party to which the petition relates. There is no requirement in the statute that the statement of candidacy state that the candidate is registered to vote at the address shown on the statement of candidacy or even that the candidate is registered to vote in the political division in which the candidate is seeking election or nomination.

28. Accordingly, the Electoral Board overrules paragraph 9 of the Verified Objector's Petition alleging that the Candidate's Statement of Candidacy is defective because the Candidate was not a qualified voter on the date that he signed his Statement of Candidacy. The Candidate was registered to vote, but at the wrong address.

29. For the reasons stated above, the Electoral Board finds that the Nomination Papers of LOUIS GIOVANETTI are not valid.

IT IS THEREFORE ORDERED that the Objections of KENNETH L. FLETCHER to the Nomination Papers of LOUIS GIOVANETTI, candidate for election to the office of Ward Committeeman for the 41st Ward of the City of Chicago, Democratic Party, are hereby SUSTAINED to the extent and for the reasons set forth above and said Nomination Papers are hereby declared INVALID and the name of LOUIS GIOVANETTI, candidate for election to the office of Ward Committeeman for the 41st Ward of the City of Chicago, Democratic Party, SHALL NOT be printed on the official ballot for the General Primary to be held on March 21, 2000.

Dated: Chicago, Illinois, this 4th day of February, 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.