NBCON-WC

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: SHERRI WATSON DACE	)	
	)	
To the Nomination	)	
Papers of: WILLIAM LUCKETT	)	
	)	No. 00-EB-WC-013
Candidate for the office of Ward Committeeman for	)	
the 20th Ward of the City of Chicago, 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 SHERRI WATSON DACE ("Objector(s)") to the nomination papers ("Nomination Papers") of WILLIAM LUCKETT, candidate for election to the office of Ward Committeeman for the 20th Ward of the City of Chicago, Republican 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 Objectors(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 January 10, 2000 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner ROBIN SHOFFNER for further hearings and proceedings.

6. The Objector(s) 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(s), SHERRI WATSON DACE, by counsel; and the Candidate, WILLIAM LUCKETT, pro se.

7. The Objector alleges that the Candidate was not a registered voter at the address set forth in his nomination papers as required by law.

8. The Electoral Board finds that the Candidate's nominating papers state that he is a registered voter at 429 West 65th Place, Chicago, Illinois. The Electoral Board finds that the Candidate is a registered voter at 429 West 65th Place since November, 1999. Therefore, the Electoral Board overrules this objection.

9. The Objector also alleges that the Candidate's nominating petition sheets are not numbered consecutively and securely fastened as required by the Election Code.

10. The Board finds that the Candidate filed three nominating petition sheets, none of which were numbered.

11. The Electoral Board finds that the minimum signature requirement for candidates for the office of Ward Committeeman for the 20th Ward, Republican Party, is 3, while the maximum signature requirement is 54.

12. Section 7-10 of the Election Code (10 ILCS 5/7-10) provides that "Such [petition] sheets before being filed shall be neatly fastened together in book form, by placing the sheets in a pile and fastening them together at one edge in a secure and suitable manner, and the sheets shall then be numbered consecutively." The courts are split whether this provision is mandatory or directory, and if mandatory, whether substantial compliance with its provisions is sufficient. In *Williams v. Butler*, 35 Ill.App.3d 532, 535 (4th Dist. 1976), the Fourth District Appellate Court held that the statutory requirement found in Section 7-10 that petition "pages be numbered consecutively cannot be said in any way to relate to preservation of the integrity of the electoral process." The court also added that "Noncompliance with the provision in the failure to insert or number a page is a mere technicality and cannot invalidate a petition," and that "It seems to us irrelevant whether we would conclude that there was at least substantial compliance as in *Madison v. Sims*, [citation], or whether we construe the statutory requirement as merely directory and noncompliance is of no legal consequence." In *Wollan v. Jacoby*, 274 Ill.App.3d 388, 394 (1st Dist. 1995), the

First District Appellate Court held that although Section 10-4 of The Election Code containing similar provision is mandatory, Section 7-10 does not contain a penalty provision as provided in section 10-4." The court further held that, "In addition, it uses 'substantial compliance'-type language, rather than 'shall' language, indicating the statutory requirements are directory and not mandatory." The Second District Appellate Court, on the other hand, held that "the principles of statutory construction compel the conclusion that the provision of section 7-10 regarding page numbering is mandatory." *El-Aboudi v. Thompson*, 293 Ill.App.3d 191, 192 (2nd Dist. 1997). Where appellate court districts reach different decisions, this Electoral Board is compelled to follow the case decisions of the First District. In addition, the First District has also held in *King v. Justice Party*, 284 Ill.App.3d 886 (1st Dist. 1996), in ruling on a failure number petition pages under Section 10-4 of the Election Code, that although the page-numbering requirement if mandatory, substantial compliance can satisfy even mandatory provisions.

13. The Electoral Board finds that although the prevailing law is that the page-numbering requirements of Section 10-4 have been held to be mandatory, the prevailing law in the First Appellate District is that the page-numbering provisions of Section 7-10 of the Election Code are directory, not mandatory.

14. Even if the page-numbering provisions of Section 7-10, the Electoral Board finds that in these limited circumstances, where the minimum signature requirement of 4 could have been satisfied by the filing of a single nominating petition sheet, the failure to number 3 petition sheets does not threaten the integrity of the electoral process, there is little potential for confusion or fraud, and the Candidate has substantially complied with the requirements of Section 7-10.

15. For the reasons stated above, the Electoral Board overrules the objections and finds that the Nomination Papers of WILLIAM LUCKETT are valid.

IT IS THEREFORE ORDERED that the Objections of SHERRI WATSON DACE to the Nomination Papers of WILLIAM LUCKETT, candidate for election to the office of Ward Committeeman for the 20th Ward of the City of Chicago, Republican Party, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of WILLIAM LUCKETT, candidate for election to the office of Ward Committeeman for the 20th Ward of the City of Chicago, Republican Party, SHALL be printed on the official ballot for the General Primary Election 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.