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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: PAUL SUSSMAN	)
	)
To the Nomination	)
Papers of: DONALD R. LOCKART	)
	) No. 00-EB-WC-032
Candidate for the office of Ward Committeeman for	)
the 32nd 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 PAUL SUSSMAN ("Objector") to the nomination papers ("Nomination Papers") of DONALD R. LOCKART, candidate for election to the office of Ward Committeeman for the 32nd 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 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 GREGORY GINEX for further hearings and proceedings.

6. The Candidate filed a motion to strike and dismiss the Objector's Petition.

7. 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, PAUL SUSSMAN, by his attorney; and the Candidate, DONALD R. LOCKART, by his attorney.

8. 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.

9. The Hearing Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during the record examination.

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

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

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

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

14. The Electoral Board finds that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 38;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 118;

c. The number of signatures deemed invalid because of objections sustained total 56;

d. The remaining number of signatures deemed valid total 62;

15. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds 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 32nd Ward of the City of Chicago, Republican Party.

16. The Electoral Board finds, therefore, that paragraph(s) 7-14 and 16 of the Objector's Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

17. Paragraphs 17-19 of the Objector's Petition alleges that the Candidate's Nomination Papers were signed by voters who are not qualified primary electors of the Republican Party in the 32nd Ward in that said persons have not and would not affirm themselves as such electors, and they were fraudulently and falsely induced to sign the petition in a manner in which it was not disclosed to them that the candidate was a candidate in the Republican Party, or that the signor was required to be a qualified primary elector in the Republican Party and that if such information was made clear and know to the signor, said person would not have affixed his or her signature to the petition.

18. The Board finds that there was no allegation that the voters were forced to sign any petition sheets and petition signers are presumed to inform themselves and be knowledgeable of what they are signing when they do so of their own free will. For example, one is under a duty to learn, or know, the contents of a written document before he or she signs it, and is under a duty to determine the obligations which he undertakes by the execution of a written agreement. (17 C.J.S. Contracts s 137b.) And the law is that a party who signs an instrument relying upon representations as to its contents when he has had an opportunity to ascertain the truth by reading the instrument and has not availed himself of the opportunity, cannot be heard to say that he was deceived by misrepresentations. (*Nathan v. Leopold*, 108 Ill.App.2d 160, 247 N.E.2d 4.) Accordingly, the Candidate's motion to strike paragraphs 17-19 of the Objector's Petition is granted and said paragraph and allegations are stricken.

19. Paragraph 7 of the Objector's Petition alleges that the two persons who circulated the Candidate's nominating petitions – Paul Kerwin and the Candidate himself— were not properly registered at the address shown on the petition and that their addresses were incomplete.

20. The Board finds that Mr. Kerwin and the Candidate are co-tenants in a 3-story coach house at 1846 W. School Street, Chicago. The coach house is not attached

to the front 3-story building at 1846 W. School Street, but is on the rear portion of the same city lot. The mail box for the coach house is in the main (front) building. The front building contains all common areas for the 3 apartments in the front building and for the coach house; namely, electrical area, laundry area, storage area, etc. Both Kerwin and the Candidate have keys to these areas. The coach house has no separate address designation on it, the only address listing is for 1846 W. School Street.

21. The Board finds that the Candidate was registered at 1846 W. School Street and had noted on his registration change form in October 1999 "coach house" in the box noted for apartment number. The Candidate's Statement of Candidacy disclosed the Candidate's address as "1846 W. School Street, Coach House," and all printed petition forms had the words "coach house" printed at the top of each petition sheet.

22. The Board finds that neither the Candidate nor Mr. Kirwin put the "coach house" designation in the address portion of the circulator's oath on any of the petition sheets. Mr. Kerwin testified that he did not include the coach house designation in his circulator's oath because "there was no room." However, Mr. Kerwin did sign Sheet 4, Line 1 of the Candidate's petition and designated his address as "1846 W. School Street, Coach House."

23. The failure to include a circulator's residence address in the circulator's certification at the bottom of a petition sheet will render the petition invalid. *Havens v. Miller*, 102 Ill.App.3d 558, 429 N.E.2d 1292 (1st Dist. 1981). However, inclusion of the circulator's street and number on another sheet of the petition constitutes substantial compliance that would satisfy this requirement. *Panarese v. Hosty*, 104 Ill.App.3d 627, 432 N.E.2d 1333 (1st Dist. 1982); *Sakonyi v. Lindsey,* 261 Ill.App.3d 821, 634 N.E.2d 444 (5th Dist. 1994).

24. 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 the electoral board to locate the circulator, question him or her about signatures, and hold the circulator responsible for his or her oath. 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. 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. The requirements that the circulator enter his or her address on each petition sheet only serves the 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 the electoral board with ready access to her. Because the circulator signed each of the affidavits, the

circulator is subjected to the possibility of penalties of perjury notwithstanding the failure to include the address on each sheet. By stating the address at the top of each sheet in the heading that includes information about the candidate, the candidate substantially complied with the requirement that the circulator of the petition sheet state his or her address in the circulator's affidavit. *Lowe and Hurston v. Orozco,* 99-EB-ALD-070, CBEC, January 28, 1999; *Smith v. Dates,* 99-EB-ALD-133, CBEC, January 29, 1999; *Hicks v. Dates,* 99-EB-ALD-141, CBEC, January 29, 1999.

25. The Board finds here that both the Candidate and Paul Kerwin sufficiently and completely stated their residence address elsewhere in the petition and that this substantially complies with the requirements of the Election Code.

26. The Board further finds that the address listed by the circulators here sufficiently identified their residence address. Both the coach house, in which the circulators reside, and the front building are identified by a common address and all mail addressed to the circulators is delivered to a common mailing address at 1846 W. School Street. The coach house designation is analogous to an apartment number and, indeed, the Candidate's registration record lists "coach house" in the box reserved for the apartment number. Even the failure to designate an apartment number at the designated address is not a defect under the law. See, e.g., *Scimo v. Maina*, 96-EB-WC-43, CBEC, January 29. 1996. There is no confusion regarding where the circulators here reside. See also, *James and Klovstad v. Balos,* 99-EB-ALD-79, CBEC, January 19, 1999. Accordingly, paragraph 7 of the Objector's Petition is overruled and the Candidate's motion to strike is granted.

27. For the reasons stated above, the Electoral Board finds that the Nomination Papers of DONALD R. LOCKART are valid.

IT IS THEREFORE ORDERED that the Objections of PAUL SUSSMAN to the Nomination Papers of DONALD R. LOCKART, candidate for election to the office of Ward Committeeman for the 32nd Ward of the City of Chicago, Republican Party, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of DONALD R. LOCKART, candidate for election to the office of Ward Committeeman for the 32nd 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 1st 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.