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BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO AS A DULY CONSTITUTED ELECTORAL BOARD

Objections of: PATRICIA A. SCUDIERO	)	
	)	
To the Nomination	)	
Papers of: DAVID TIRADO	)	No.: 03-EB-ALD-002
	)	
Candidate for the office of	)	
Alderman of the Thirty-sixth Ward,	)	
City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal, Theresa M. Petrone, and Richard A. Cowen, 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 PATRICIA A. SCUDIERO ("Objector") to the nomination papers ("Nomination Papers") of DAVID TIRADO, candidate for the office of Alderman of the Thirty-sixth Ward in the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 25, 2003 having convened on December 24, 2002, at 10:00 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 December 24, 2002 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner ROBERT S. ANDREW for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board 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, PATRICIA A. SCUDIERO, by counsel; and the Candidate, DAVID TIRADO, pro se.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by its 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 this records examination.

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

10. The Objector or her duly authorized representative was present during the examination of the registration records.

11. 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.

12. The Electoral Board has considered all evidence and arguments tendered by the parties and the Hearing Examiner's report of recommended findings and conclusions of law.

13. The results of the records examination indicate that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 240;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 358;

    c. The number of signatures deemed invalid because of objections sustained total 108;

    d. The remaining number of signatures deemed valid total 250;

14. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeded the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Alderman of the Thirty-sixth Ward of the City of Chicago.

15. Both the Objector and the Candidate timely filed motions pursuant to Rule 8 of the

Electoral Board's rules of procedure objecting to the findings of the Board's clerks during the records examination. Because the Candidate's Nomination Papers contained more than the minimum number of signatures required by law following completion of the records examination, the Objector was allowed to proceed with his Rule 8 motion in which she objected to the Board's clerk's findings as to 30 signatures. The Objector called two witnesses: Ana Marie Webb and Kimberly Riley. Both of these witnesses testified that they did indeed sign the Candidate's nominating petition. The Objector presented no further evidence in support of her Rule 8 motion. The Hearing Examiner ruled that the Objector's Rule 8 motion failed to overcome the results of the records examination and the Candidate still had 250 valid signatures.

16. The Objector presented evidence in support of his allegations that people who had signed the Candidate's nominating petitions had earlier signed nominating petitions for William Banks, a candidate for the same office that the Candidate is seeking, and that the signatures on the Candidate's nominating petitions were therefore void. The Objector presented 55 affidavits of persons claiming that they signed Mr. Banks' petitions before they signed Candidate Tirado's petitions. The Objector's counsel called the Objector to testify that Mr. Banks' petitions had been notarized prior to the circulation and notarization of Candidate Tirado's petitions. The Objector also called another 14 witnesses who testified that they signed Mr. Banks' petitions before they had signed Candidate Tirado's petitions. Finally, the Objector called the Candidate as a witness. The Candidate testified as to the dates he circulated his nominating petition sheets. From the evidence presented and from an examination of the Candidate's nominating petition and the nominating petition filed by William Banks, the Hearing Examiner found that 54 signatures on the Candidate's nominating petitions were of individuals who had earlier signed nominating petitions for Mr. Banks. Therefore, the Hearing Examiner recommends that these 54 signatures be found invalid, leaving the Candidate with 196 valid signatures.

17. The Hearing Examiner then set a hearing for January 15, 2003 to allow the Candidate and opportunity to present evidence in support of his Rule 8 motion objecting to the Board's clerk's findings during the records examination. Thirty-two affidavits presented earlier by the Candidate were not admitted into evidence by the Hearing Examiner. Although the Candidate had been granted 65 subpoenas to be issued to people who had signed this nominating petition, none of those witnesses were present at the January 15, 2003 hearing. Instead, the Candidate returned the subpoenas to the Hearing Examiner. The Candidate presented no evidence in support of his Rule 8 motion. The Hearing Examiner ruled that the Candidate's Rule 8 motion failed to overcome the results of the records examination and the Candidate still had only 196 valid signatures, taking into account the signatures invalided by evidence presented by the Objector that signers of the Candidate's nominating petition had earlier signed a petition for another candidate for the same office.

18. Based upon the evidence presented, the Hearing Examiner found that the Candidate's Nomination Papers contained only 196 valid signatures and that the Candidate's Nomination Papers should be found invalid.

19. Section 10-3 of the Election Code (10 ILCS 5/10-3) states in part that a voter may subscribe to one independent nomination petition for each office to be filled, and no more.

20. The Electoral Board finds that a voter may sign only one aldermanic petition for the same office in the same election and that the signature executed first in time is the valid one and any subsequent signatures will be stricken. *Sharkey v. Solar,* 99-EB-ALD-072; *Arrington v. Jenkins*, 91-EB-ALD-83; *Frias v. Campos*, 91-EB-ALD-71; *Swain v. Frezados*, 87-EB-ALD-71. Therefore, the Electoral Board finds that the signatures of 54 individuals who signed the Candidate's nominating petition after they had earlier signed a petition sheet for another candidate for the same office in the same election are invalid and stricken.

21. For the reasons stated above, the Electoral Board finds that the Nomination Papers of DAVID TIRADO are not valid.

IT IS THEREFORE ORDERED that the Objections of PATRICIA A. SCUDIERO to the Nomination Papers of DAVID TIRADO, candidate for election to the office of Alderman of the Thirty-sixth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of DAVID TIRADO, candidate for election to the office of Alderman of the Thirty-sixth Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 25, 2003 .

Dated: Chicago, Illinois, this Twenty-Fourth day of January, 2003.

Langdon D. Neal, Chairman

Theresa M. Petrone, Commissioner

Richard A. Cowen, 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.