DEFAULT-ALD

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

Objections of: MICHAEL R. REYES	)	
	)	
To the Nomination	)	
Papers of: JAY W. FELDMAN	)	No.: 03-EB-ALD-005
	)	
Candidate for the office of	)	
Alderman of the Twenty-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 MICHAEL R. REYES ("Objector") to the nomination papers ("Nomination Papers") of JAY W. FELDMAN, candidate for the office of Alderman of the Twenty-sixth Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 25, 2003, having convened on December 30, 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. The Electoral Board assigned this matter to Hearing Examiner BARBARA GOODMAN for further hearings and proceedings.

5. The Objector and the Candidate were directed by the Electoral Board to appear for a case management conference before the Board's General Counsel, James M. Scanlon, on the date and at the time designated in the Trial Call. The case management conference was held on these Objections on January 2, 2003 at 10:40 AM. The following persons, among others, were present at such hearing; the Objector, Michael R. Reyes, by counsel. The Candidate, MICHAEL R. REYES, did not answer to the call nor did he appear at the

hearing. The case was called again at least three times on January 2, 2003 and at no time did the Candidate or any representative of the Candidate appear.

6. The Electoral Board finds that the Cook County Sheriff attempted to serve the Candidate with a copy of the Objector's Petition and with a copy of the Call to the January 2, 2003 hearing on three separate occasions: December 17, 2002 at 10:40 AM; December 30, 2002 at 11:40 AM and again on December 30, 2002 at 4:32 PM. The return of the Sheriff's office indicated that the reason that the candidate was not served was "No Contact." The Candidate was also sent a copy of the Call to the January 2, 2003 meeting by certified mail, but a signed receipt acknowledging receipt of the certified mail item has never been returned by the Postal Service.

7. The initial hearing was continued to January 13, 2002 to allow the Board an additional opportunity to serve the Candidate with a copy of the Objections and notice of hearing. The Cook County Sheriff again attempted to serve the Candidate with a notice of continued hearing for the January 13, 2002 hearing on January 7, 2003 at 6:30 PM and again on January 8, 2003 at 8:42 AM. The Sheriff's return of service indicated that the reason the Candidate was not served on these occasions was "PER MR. GUERRO NO SUCH PERSON AT GIVEN." A copy of the notice of continued hearing was also sent to the Candidate by certified mail, return receipt requested, but no receipt was returned to the Board by the Postal Service.

8. The Electoral Board finds that the Candidate, JAY W. FELDMAN, did not appear at any of the duly called meetings and hearings conducted in this matter after numerous attempts to have the Candidate served with a copy of the Call by the means of service specified in the statute.

9. A candidate cannot evade the effects of a duly filed objection to his or her nomination papers by simply being unavailable for service of papers nor should the objections be rendered moot by virtue of the fact that the Candidate cannot be found by the statutory methods of service. If this were permitted, candidates would simply go into "hiding" until the objection process had run its course, thereby frustrating the statutory scheme for testing whether the candidate is eligible to be on the ballot.

10. The Electoral Board further finds that the Objector's petition, on its face, contains sufficient allegations, if accepted as true, to invalidate the Candidate's Nomination Papers.

11. Therefore, the Electoral Board finds that the Candidate, JAY W. FELDMAN, is in default, that the Objections are sustained, and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of MICHAEL R. REYES to the Nomination Papers of JAY W. FELDMAN, candidate for election to the office Alderman of the Twenty-sixth Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JAY W. FELDMAN, candidate for election to the office of Alderman of the Twenty-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 Thirty-First 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.