NBCOFF-ALD

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

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| Objections of: IRENE SMITH | ) | |
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| To the Nomination | ) | |
| Papers of: JOSEPH J. RAINEY | ) | No.: 03-EB-ALD-007 |
| | ) | |
| Candidate for the office of | ) | |
| Alderman of the Seventh 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 IRENE SMITH ("Objector") to the nomination papers ("Nomination Papers") of JOSEPH J. RAINEY, candidate for the office of Alderman of the Seventh 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. A public hearing held on these Objections commenced on December 30, 2002, and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner LINDA CRANE for further hearings and 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

Trial Call. The following persons, among others, were present at such hearing; the Objector, IRENE SMITH, by counsel; and the Candidate, JOSEPH J. RAINEY, pro se.

7. Paragraph 5 of the Objections alleges that there are no page numbers on the Candidate's petition sheets in violation of Illinois law, thus invalidating all of the petition sheets.

8. The Candidate admitted that he did not number any of the 38 nominating petition sheets that he filed.

9. Paragraphs 6-8 of the Objections alleges that the Candidate failed to file a Statement of Economic Interests in relation to his candidacy within the calendar year with the Cook County Clerk as required by law and that he failed to file a receipt for the filing of said Statement with his nomination papers before the last day permitted by law for filing the nomination papers.

10. The Candidate admitted that he did not file a Statement of Economic Interests in relation to his candidacy with the Cook County Clerk and that he did not file the receipt for the filing of said Statement with his nomination papers before the deadline for filing such receipt. The Candidate stated that he attempted to file a Statement of Economic Interests and a receipt with the Board of Election Commissioners after December 16, 2002, but that the Board's employees would not accept such filings.

11. Paragraphs 9-10 of the Objections allege that the Candidate failed to file a Statement of Candidacy during the filing period as required by law and that as a result of said failure his Nomination Papers are invalid in their entirety.

12. The Candidate admitted that he did not file a Statement of Candidacy during the filing period for filing his Nomination Papers.

13. The Hearing Examiner has recommended that the Electoral Board find that (1) the Candidate's failure to file a Statement of Economic Interest in a timely manner invalidates his Nomination Papers as a matter of law; (2) the page numbering provision of the Illinois Election Code is mandatory and not directory and the Candidate's failure to consecutively number all of his petition sheets before they were filed, invalidates them as a matter of law; and (3) the Candidate has failed to meet the qualifications as a candidate for the office of Alderman of the 7th Ward in the February 25, 2003 municipal election.

14. The Electoral Board, having considered the applicable law, the evidence and argument of the parties and the recommended findings and conclusions of law of the Hearing Examiner, finds that:

A. Section 10-4 of The Election Code provides that "No signature shall be valid or be counted in considering the validity or sufficiency or such petition unless the requirements of this Section are complied with." 10 ILCS 5/10-4.

B. Section 10-4 of The Election Code (10 ILCS 5/10-4) requires that petition sheets, before being presented to the electoral board or filed with the proper officer shall be neatly fastened together in book form and the sheets shall then be numbered consecutively.

C. The Board finds that none of the 38 petition sheets filed by the Candidate as part of his Nomination Papers are numbered and they are not numbered consecutively as required by Section 10-4 of The Election Code.

D. The Electoral Board finds that the Candidate's failure to number any of the 38 pages of his nominating petition fails to substantially comply with the requirements of Section 10-4 of the Election Code and such failure invalidates his Nomination Papers. *Wollan v. Jacoby*, 274 Ill.App.3d 388, 653 N.E.2d 1303 (First Dist. 1995).

15. The Electoral Board further finds that:

A. Section 10-5 of the Election Code (10 ILCS 5/10-5) provides that nomination papers are not valid if the candidate fails to file a statement of economic interests as required by the Illinois Governmental Ethics Act in relation to his candidacy with the appropriate officer by the end of the period for the filing of nomination papers unless he has filed a statement of economic interest in relation to the same governmental unit with that officer during the same calendar year as the year in which such nomination papers were filed. If the nomination papers of the candidate and the statement of economic interests of the candidate are not required to be filed with the same officer, the candidate must file with the officer with whom the nomination papers are filed a receipt from the officer with whom the statement of economic interests is filed showing the date on which such statement was filed. Such receipt shall be so filed not later than the last day on which nomination papers may be filed.

B. The Illinois Governmental Ethics Act requires that persons who are candidates for nomination or election to office in a unit of local government must file their statements of economic interest with the county clerk of the county in which the principal office of the unit of local government is located. (5 ILCS 420/4A-101(g), 4A-106) Therefore, candidates for nomination or election to office in the City of Chicago are required to file their statements of economic interests with the Cook County Clerk.

C. Because statements of economic interests of candidates for nomination or election to the office of Alderman in the City of Chicago are required to be filed with the Cook County Clerk, and the nomination papers of those candidates are required to be filed with the Chicago Board of Election Commissioners, those candidates are required by Section 10-5 of The Election Code to file with the Chicago Board of Election Commissioners a receipt from the Cook County Clerk showing the date on which the candidates' statement of economic interests were filed. Such receipt was required to be filed with the Chicago Board of Election Commissioners not later than the last day on which nomination papers were permitted to be filed, or December 16, 2002.

D. The Electoral Board finds that the Candidate failed to file with the Chicago Board of Election Commissioners not later than December 16, 2002, a receipt from the Cook County Clerk showing the date on which the Candidate's statement of economic interests was filed.

E. The Electoral Board finds that the Candidate failed to file a statement of economic interests in relation to his candidacy with the Cook County Clerk on or before December 16, 2002.

F. The Electoral Board finds that the failure to timely file with the Chicago Board of Election Commissioners a receipt showing that the Candidate filed a statement of economic interests with the Cook County Clerk invalidates the Candidate's Nomination Papers. *Bolger v. Electoral Board of City of McHenry,* 210 Ill.App.3d 958, 569 N.E.2d 628 (Second Dist. 1991); *Mobley v. Beard*, CBEC, 95-EB-MUN-7 (January 23, 1995); *Geiren v. Norris*, CBEC, 95-EB-ALD-44 (January 17, 1995); *Jackson v. Washington*, CBEC, 95-EB-ALD-85 (January 23, 1995); *Williams v. Brown*, CBEC, 95-EB-ALD-131 (January 27, 1995); *Robinson v. Nalls*, CBEC, 95-EB-ALD-181, (January 28, 1995).

16. The Electoral Board further finds that:

A. Section 10-5 of The Election Code (10 ILCS 5/10-5) requires that a candidate's nomination papers include a statement of candidacy setting out the address of the candidate, the office for which he or she is a candidate, and stating that the candidate is qualified for the office specified and that the candidate has filed (or will close before the end of the filing period) a statement of economic interests as required by the Illinois Governmental Ethics Act. The statement of candidacy shall request that the candidate's name be placed upon the official ballot and shall be in substantially the form set forth in Section 10-5 and shall be subscribed and sworn to by the candidate before some officer authorized to take acknowledgments of deeds in the State of Illinois.

B. The Electoral Board finds that the Candidate did not file a Statement of Candidacy with his Nomination Papers as required by Section 10-5 of The Election Code.

C. The Electoral Board finds that the failure to file a statement of candidacy renders the Candidate's nomination papers invalid. *Purnell v. Alcozer*, 95-EB-ALD-28, CBEC, 1995; *Hernandez v. Alcozer,* 95-EB-ALD-39, CBEC, 1995; *Mobley v. Beard*, 95-EB-MUN-07, CBEC, 1995; *Lacy v. Sias*, 92-EB-WC-35, CBEC, 1992.

17. For the reasons state above, the Electoral Board finds that the Objections will be sustained and that the Candidate's Nomination Papers are invalid as a matter of law.

18. Because the Electoral Board has found that the Candidate's Nomination Papers are invalid as a matter of law for the reasons stated above, it is unnecessary for the Electoral Board to consider and rule upon paragraph 11 of the Objection alleging that the

Candidate has not been a resident, for the two years prior to the election, of any ward containing a part of the Seventh Ward as it was configured prior to the 2002 redistricting nor has he been a resident of the Seventh Ward for two years prior to the election.

IT IS THEREFORE ORDERED that the Objections of IRENE SMITH to the Nomination Papers of JOSEPH J. RAINEY, candidate for election to the office of Alderman of the Seventh Ward of the City of Chicago are hereby SUSTAINED in part and said Nomination Papers are hereby declared INVALID and the name of JOSEPH J. RAINEY, candidate for election to the office of Alderman of the Seventh 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 Fourteenth 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.**