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

Objections of: IRENE SMITH	)	
	)	
To the Nomination	)	
Papers of: VICTORIA L. JOHNSON	)	No.: 03-EB-ALD-011
	)	
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 VICTORIA L. JOHNSON, candidate for the office of Alderman of the Seventh 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 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

Call. The following persons, among others, were present at such hearing: the Objector, IRENE SMITH, by counsel; and the Candidate, VICTORIA L. JOHNSON, pro se. The Candidate subsequently obtained legal counsel.

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 her 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 report of the records examination indicates 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 422;

    c. The number of signatures deemed invalid because of objections sustained total 205;

    d. The remaining number of signatures deemed valid total 217;

14. A master file was completed on January 24, 2003 which yielded the same results.

15. On January 25, 2003, the Candidate filed a document titled "Victoria L. Johnson's Rule 8 Objection." The Objector objected to the purported Rule 8 request arguing that it was not timely filed and that it did not state the grounds for each objection. The Hearing Examiner denied the objection that it was not timely filed; however, the Hearing

Examiner sustained the objection that the request did not comply with Rule 8 because the request did not state the grounds for the objection. Accordingly, the Hearing Examiner struck the purported Rule 8 motion.

16. Because the Candidate did not properly preserve her objections for an evidentiary hearing under Rule 8 and because Rule 8 states that any objection not properly preserved is deemed waived, the Hearing Examiner did not schedule nor did she conduct an evidentiary hearing.

17. The Hearing Examiner recommends that the Objections be sustained in part and that the Candidate's Nomination Papers be invalidated for failing to contain a sufficient number of valid signatures.

18. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination and the master file examination is below 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 Seventh Ward of the City of Chicago.

19. The Electoral Board finds, therefore, that the Objector's Petition is sustained in part and overruled in part as more fully indicated in the results of the records examination.

20. For the reasons stated above, the Electoral Board finds that the Nomination Papers of VICTORIA L. JOHNSON are not valid.

IT IS THEREFORE ORDERED that the Objections of IRENE SMITH to the Nomination Papers of VICTORIA L. JOHNSON, candidate for election to the office of Alderman of the Seventh Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of VICTORIA L. JOHNSON, 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 Thirty-First day of January, 2003.

Langdon D. Neal, Chairman

Theresa M. Petrone, Commissioner

COMMISSIONER COWEN, DISSENTING: Johnson did file a Rule 7 and a Rule 8 motion denying her the right to have a hearing on the affidavits is an unreasonably narrow and technical application of Rule 8.

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.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Victoria L. Johnson
Petitioner

v.

Board of Electoral Commissioners and Irene Smith
Respondents

No. 03 CO EL 18

ORDER

This cause coming on for hearing on the Petition for Judicial Review, the Court having reviewed all briefs and memorandums filed and having heard the arguments of the parties, finds as follows: (1) The decision of the Electoral Board is affirmed; (2) The Rules of the Board, as to Rule 8 and its application is affirmed; (3) If there is a sanction or consequence within a directive, it is mandatory, as specified in Rule 8; (4) The oral reasonings and decision of the Court is incorporated in this order; (5) This is a final and appealable order.

Atty. No.: 91071
Name: Odelson & Sterk, Ltd
Atty. for: Respondent Smith
Address: 3318 W 95th St
City/State/Zip: Evergreen Park, Ill.
Telephone: 708-424-5678

CIRCUIT COURT OF COOK COUNTY
ENTERED
FEB 20 2003
JUDGE
RAYMOND L. JAGIELSKI - 1509

ENTER:

Judge

Judge' No.