BCCON-ALD

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

Objections of: LARRY G. NELSON	)	
	)	
To the Nomination	)	
Papers of: BRUCE L. JACKSON	)	No.: 03-EB-ALD-021
	)	
Candidate for the office of	)	
Alderman of the Twenty-fourth 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 LARRY G. NELSON ("Objector") to the nomination papers ("Nomination Papers") of BRUCE L. JACKSON, candidate for the office of Alderman of the Twenty-fourth 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 was held on these Objections commencing on December 30, 2002 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner TERENCE E. FLYNN 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, LARRY G. NELSON, by counsel; and the Candidate, BRUCE L. JACKSON, by 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 his duly authorized representative was present during the examination of the registration records at all times.

10. The Objector or his duly authorized representative was present during the examination of the registration records at all times.

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 Board's file in this case and is available 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 520;

    c. The number of signatures deemed invalid because of objections sustained total 171;

    d. The remaining number of signatures deemed valid total 349;

14. 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 be placed upon the ballot as a candidate for election to the office of Alderman of the Twenty-fourth Ward of the City of Chicago.

15. The Electoral Board finds, therefore, that paragraphs 5-9 of the Objector's Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

16. Paragraphs 10-11 of the Objector's Petition alleges that certain petition sheets circulated by Kim B. Owens bear a circulator's affidavit which is not properly sworn to before a notary public in that the notarial jurat lacks a genuine signature of the notary public. These paragraphs also allege that the circulator signed voters' names to the petitions at numerous sheet and line numbers.

17. The circulator of the sheets in question, Kim B. Owens, testified and rebutted the allegations in paragraphs 10 and 11. The Objector produced no other evidence in support of these objections. Therefore, the Hearing Examiner overruled the paragraphs 10 and 11 of the Objections.

18. Paragraphs 14-16 of the Objections allege that certain named individuals signed petitions for another candidate for the same office to which the Candidate is seeking election before they signed the Candidate's petition. Section 10-3 of the Election Code (10 ILCS 5/10-3) provides that a person may sign a petition for one candidate for each office and no more. The Candidate agreed that 8 signatures should be deducted from the total of 349 valid signatures remaining after the records examination, leaving the Candidate with 341 valid signatures.

19. Paragraphs 12 and 13 of the Objections alleges that the Candidate began circulating his nominating petitions in July 2002, well before the September 17, 2002, the date provided by law as the first day on which to begin circulating nominating petition sheets for the February 25, 2003 election.

20. In support of these objections, the Objector submitted 10 affidavits and 5 witnesses to present live testimony. The Objector's affidavits affected 8 petition sheets. The Candidate testified on his own behalf and also called the three other circulators of his petitions to testify. The Candidate also presented one affidavit, which was given no weight by the Hearing Examiner, and two other exhibits, which were admitted for limited purposes.

21. Having heard the testimony and having observed the demeanor of the witnesses, and having considered all of the evidence presented by the Objector and the Candidate, the Hearing Examiner concluded that the Candidate's evidence was more credible than the evidence of the Objector. The Hearing Examiner further concluded that the Objector failed to provide clear evidence rebutting the testimony of the Candidate's circulators who testified that they did not circulate the Candidate's petitions prior to September 17, 2002. Therefore, the Hearing Examiner found that the Candidate's petitions were not circulated prior to September 17, 2002 and overruled paragraphs 12 and 13 of the Objections.

22. The Hearing Examiner also overruled paragraphs 21 and 22 of the Objection that the Candidate's Statement of Candidacy is invalid for the failure to place the ward number in the body of the text. The words "24th Ward" appear in the heading of the Statement of Candidacy and there is substantial compliance with the requirements of the Election Code.

23. Regarding the Objector's objections that there was a pattern of fraud, the Hearing Examiner concluded, based on the evidence presented, that there was no clear and convincing evidence presented by the Objector to sustain a finding of fraud or a pattern of fraud.

24. For the foregoing reasons, the Hearing Examiner has recommended that the Candidate has 341 valid signatures on his Nomination Papers and that the Objections should be overruled.

25. The Electoral Board hereby adopts and incorporates the Hearing Examiner's recommended findings and conclusions of law and further finds that the Objections are overruled and that the Nomination Papers of BRUCE L. JACKSON are valid.

IT IS THEREFORE ORDERED that the Objections of LARRY G. NELSON to the Nomination Papers of BRUCE L. JACKSON, candidate for election to the office of Alderman of the Twenty-fourth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of BRUCE L. JACKSON, candidate for election to the office of Alderman of the Twenty-fourth Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 25, 2003.

Dated: Chicago, Illinois, this Fifth day of February, 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.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

CARRY G NELSON

v.

BOARD OF ELECTION COMMISSIONERS ETAL

No. 03 CO EL 24

ORDER

THIS CAUSE COMING ON TO BE HEARD FOR HEARING ON PETITION FOR JUDICAL REVIEW AND THE COURT HAVING HEARD ARGUMENTS AND BASED ON FINDINGS DESCRIBED IN OPEN COURT

IT IS HEREBY ORDERED:

THE FINDINGS OF THE BOARD ARE SUSTAINED AND PETITIONER'S PETITION IS DENIED. THIS ORDER IS A FINAL AND APPEALABLE ORDER

Atty. No.: 20510
Name: D. HODGKINSON
Atty. for: BRUCE JACKSON
Address: 111 W. WASHINGTON
City/State/Zip: CHICAGO IL 60602
Telephone: 312.236.3360

CIRCUIT COURT OF COOK COUNTY
ENTERED
FEB 14 2003
JUDGE
RAYMOND L. JAGIELSKI-1598

ENTER:

Judge Judge' No.