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

Objections of: DELLA NELSON	)	
	)	
To the Nomination	)	
Papers of: MYRTIS L. HYMAN	)	No.: 03-EB-ALD-028
	)	
Candidate for the office of	)	[related to 03-EB-ALD-114]
Alderman of the Sixteenth 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 DELLA NELSON ("Objector") to the nomination papers ("Nomination Papers") of MYRTIS L. HYMAN, candidate for the office of Alderman of the Sixteenth 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 WILLIAM P. JONES 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 Trial Call. The following

persons, among others, were present at such hearing: the Objector, DELLA NELSON, by counsel; and the Candidate, MYRTIS L. HYMAN, pro se. Both parties filed written appearances with the Board at this time. At no time during this hearing did the Candidate inform the Hearing Examiner that she had not been served with a copy of the Objector's Petition or with a copy of the Call.

7. The Candidate was allowed to and did file a motion to strike and dismiss the Objector's Petition. In her motion, the Candidate alleged, for the first time, that she had not been served with a copy of the Objector's Petition or with the Electoral Board's Call. The Electoral Board's file did not contain any record that the Candidate had been served with a copy of the Objector's Petition or with the Call by either Sheriff's service or by certified mail.

8. At the next hearing on January 9, 2003, the Candidate stated on the record that she had obtained a copy of the Objector's Petition on either Friday, January 3, or on Monday, January 6, 2003 while at the Board. The Hearing Examiner then gave the Candidate additional time until January 13, 2003 to file a motion to strike if she so desired. The hearing was then continued to January 15, 2003.

9. The Candidate did file a motion to strike the Objector's Petition on January 13, 2003 and the Objector filed a response thereto on January 14, 2003.

10. At the hearing on January 15, 2003, the Hearing Examiner denied the Candidate's motion to strike the Objector's Petition. The matter then proceeded on the Objector's Petition and the results of the records examination.

11. The Hearing Examiner had 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.

12. The Hearing Examiner had directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

13. The Candidate or her duly authorized representative was present during the examination of the registration records.

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

15. 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.

16. 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.

17. The Electoral Board finds 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 251;

    c. The number of signatures deemed invalid because of objections sustained total 104;

    d. The remaining number of signatures deemed valid total 147;

18. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records 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 Sixteenth Ward of the City of Chicago.

19. The Electoral Board finds, therefore, that paragraph C1-C7 of the Objector's Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

20. As to the Candidate's contention that she was not properly served with a copy of the Objector's Petition or with the Electoral Board's Call, she did appear and file a written appearance at the first hearing in this matter on January 2, 2003. The Candidate, therefore, waived any defect in service. Moreover, the Candidate was later given adequate time to defend against the Objections and did defend against those Objections so the lack of formal service did not deprive her an opportunity to defend against the Objections.

21. For the reasons stated above, the Electoral Board finds that the Nomination Papers of MYRTIS L. HYMAN are not valid.

22. The Electoral Board also notes that another set of objections have been filed against the Candidate in case number 03-EB-ALD-114 but that the decision in this case renders that case moot.

IT IS THEREFORE ORDERED that the Objections of DELLA NELSON to the Nomination Papers of MYRTIS L. HYMAN, candidate for election to the office of Alderman of the Sixteenth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of MYRTIS L. HYMAN, candidate for election to the office of Alderman of the Sixteenth 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.