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

Objections of: JASON C. ERVIN	)	
	)	
To the Nomination	)	
Papers of: WILLIAM "MIKE" BAXTER	)	No.: 03-EB-ALD-048
	)	
Candidate for the office of	)	[related to 03-EB-ALD-092]
Alderman of the Twenty-eighth 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 JASON C. ERVIN ("Objector") to the nomination papers ("Nomination Papers") of WILLIAM "MIKE" BAXTER, candidate for the office of Alderman of the Twenty-eighth 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 RICHARD E. ZULKEY 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, JASON C. ERVIN, by counsel; and the Candidate, WILLIAM "MIKE" BAXTER, pro se.

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(s) was present during the examination of the registration records.

10. The Objector or his duly authorized representative(s) 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 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 325;

    c. The number of signatures deemed invalid because of objections sustained total 155;

    d. The remaining number of signatures deemed valid total 170;

14. 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 Twenty-eighth Ward of the City of Chicago.

15. The Electoral Board finds, therefore, that paragraph(s) 2-8 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. Paragraph 19 of the Objections alleges that the Nomination Papers do not contain a receipt for a Statement of Economic Interest in violation of the law and that the Nomination Papers are invalid in their entirety.

17. The Hearing Examiner found that no receipt evidencing the filing by the Candidate of a Statement of Economic Interest was included with the Candidate's Nomination Papers and recommends that the Candidate's Nomination Papers be held to be invalid for failing to file a receipt for a Statement of Economic Interest.

18. The Electoral Board 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 to 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 failure to 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).

19. The Electoral Board finds, therefore, that the Nomination Papers of the Candidate are invalid for failing to 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 and sustains paragraph 19 of the Objector's Petition.

20. For the reasons stated above, the Electoral Board finds that the Nomination Papers of WILLIAM "MIKE" BAXTER are not valid.

21. Because the Candidate's Nomination Papers have been found to be invalid for the reasons stated above, it is not necessary for the Electoral Board to rule upon the objections in paragraph 20 alleging that the Candidate's Nomination Papers are invalid because the Candidate's Statement of Candidacy asks that the Candidate's name be placed on the Democratic primary ballot for the election and the Board is not ruling upon said objection.

22. The Electoral Board notes that another objection – 03-EB-ALD-092 – has been filed against this Candidate but that the Objector in that case is or was defaulted and the objections therein were stricken and dismissed.

IT IS THEREFORE ORDERED that the Objections of JASON C. ERVIN to the Nomination Papers of WILLIAM "MIKE" BAXTER, candidate for election to the office of Alderman of the Twenty-eighth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of WILLIAM "MIKE" BAXTER, candidate for election to the office of Alderman of the Twenty-eighth 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.