NBCOFF-ALD

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

Objections of: KYLE F. SMITH	)	
	)	
To the Nomination	)	
Papers of: BERTHA BELL	)	No.: 03-EB-ALD-055
	)	
Candidate for the office of	)	
Alderman of the Twenty-ninth 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 KYLE F. SMITH ("Objector") to the nomination papers ("Nomination Papers") of BERTHA BELL, candidate for the office of Alderman of the Twenty-ninth 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 FRANK A. TEDESSO 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, KYLE F. SMITH, by counsel; and the Candidate, BERTHA BELL, pro se.

7. Paragraph 20 of the Objections alleges that the Candidate did not file a receipt for a statement of economic interest with the Chicago Board of Election Commissioners and that her Nomination Papers are invalid.

8. The Candidate admitted that she did not file a Statement of Economic Interest with the Cook County Clerk's Office.

9. The Hearing Examiner has recommended that the failure to file a receipt evidencing that the Candidate filed a Statement of Economic Interests with the appropriate official invalidates the Candidate's Nomination Papers and recommends further that paragraph 20 of the Objections be sustained.

10. The Board, having reviewed the applicable law and having considered the evidence and argument submitted by the parties and the Hearing Examiner's report of recommended findings and conclusions of law, and 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 Candidate failed to file a statement of economic interests in relation to her candidacy with the Cook County Clerk on or before December 16, 2002.

F. 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).

11. The Electoral Board finds, therefore, that the Nomination Papers of the Candidate are invalid and sustains paragraph 20 of the Objector's Petition.

IT IS THEREFORE ORDERED that the Objections of KYLE F. SMITH to the Nomination Papers of BERTHA BELL, candidate for election to the office of Alderman of the Twenty-ninth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of BERTHA BELL, candidate for election to the office of Alderman of the Twenty-ninth 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.