BCCON-ALD

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

Objections of: ALICIA DURR and KENNETH CARPENTER	)	
To the Nomination Papers of: MICHAEL SMITH	)	No.: 03-EB-ALD-093
Candidate for the office of Alderman of the Fifteenth 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 ALICIA DURR and KENNETH CARPENTER ("Objectors") to the nomination papers ("Nomination Papers") of MICHAEL SMITH, candidate for the office of Alderman of the Fifteenth 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 Objectors 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 KELLYE A. KEYES for further hearings and proceedings.

6. The Objectors 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 Objectors, ALICIA DURR and KENNETH CARPENTER, by counsel; and the Candidate, MICHAEL SMITH, 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 was present during the examination of the registration records at all times.

10. The Objectors or their duly authorized representatives were 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 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 711;

    c. The number of signatures deemed invalid because of objections sustained total 422;

    d. The remaining number of signatures deemed valid total 289.

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 Fifteenth Ward of the

City of Chicago.

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

16. The Objectors also allege that sheets 10 and 11 of the Candidate's nominating petition sheets fail to contain in the circulator's affidavits of those sheets the words "at the time they signed the petition,", thus invalidating those sheets. The Electoral Board finds that this phrase is indeed missing on sheets 10 and 11, but is contained on all of the other petition sheets submitted by the Candidate.

17. Section 10-4 of the Election Code requires that at the bottom of each petition sheet there be a circulator's statement certifying in part that "to the best of his knowledge and belief the persons so signing were *at the time of signing the petition* duly registered voters *** of the political subdivision or district."

18. The Electoral Board finds that the prefatory language to the Candidate's nominating petition sheets at the top of each of those sheets, including sheets 10 and 11, contain the statement "We, the undersigned, *qualified* voters of the 15th Ward in the City of Chicago, County of Cook and State of Illinois do hereby petition that the following named person shall be a candidate for election to the office hereinafter specified ...." A "qualified" voter means the same thing as a "registered" voter. See 10 ILCS 5/3-1.2. In *Nolan v. Cook County Officers Electoral Board,* 329 Ill.App.3d 52, 58, 768 N.E.2d 216 (1st Dist. 2002), the court held that where the prefatory language of a candidate's signature sheets sufficiently represents that all the signers satisfy a particular certification requirement, it neither serves a useful purpose nor aids in preserving the integrity of the electoral process to exclude a candidate from participation for failure to demonstrate strict compliance with the relevant statutory provisions.

19. Accordingly, the Electoral Board finds that sheets 10 and 11 of the Candidate's Nomination Papers substantially comply with the statutory requirements of Section 10-4 and overrules the objections on these grounds.

20. For the reasons stated above, the Electoral Board finds that the Nomination Papers of MICHAEL SMITH are valid.

IT IS THEREFORE ORDERED that the Objections of ALICIA DURR and KENNETH CARPENTER to the Nomination Papers of MICHAEL SMITH, candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of MICHAEL SMITH, candidate for election to the office of Alderman of the Fifteenth 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 Tenth 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.