NBCOFF-ALD

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

Objections of: DONALD J. HOHENADEL	)	
	)	
To the Nomination	)	
Papers of: ROOSEVELT AKINS	)	No.: 03-EB-ALD-110
	)	
Candidate for the office of	)	
Alderman of the Fortieth 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 DONALD J. HOHENADEL ("Objector") to the nomination papers ("Nomination Papers") of ROOSEVELT AKINS, candidate for the office of Alderman of the Fortieth 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 January 2, 2003 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner JOSEPH A. MORRIS 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, DONALD J. HOHENADEL; and the Candidate, ROOSEVELT AKINS.

7. Paragraphs H and I of the Objector's Petition allege that none of the Candidate's nominating petition sheets were signed by the circulator in the presence of a notary public, were not signed by a notary public, and were not signed and subscribed to by the circulator under oath.

8. The Candidate admitted before the Hearing Examiner that he was the sole circulator of all petition sheets included with his Nomination Papers. The Candidate further admitted that he did not sign any of the petition sheets as the circulator of the sheets before a notary; and that none of the petition sheets were notarized.

9. The circulator's statement appearing at the bottom of each nominating petition sheet "shall be sworn to before some officer authorized to administer oaths in this State". (10 ILCS 5/10-4) The requirement that nominating petitions be notarized is not necessarily impracticable or unduly burdensome on the right to access to the ballot. *Bowe v. City of Chicago Electoral Board*, (First Dist. 1980) 81 Ill.App.146, 401 N.E.2d 1270, rev. on other grounds, 79 Ill.2d 469, 404 N.E.2d 180. The requirement in the Election Code that the person who circulated nominating petitions personally appear before a notary public to validate the petition has been held to be mandatory and not directory. Thus, a violation of that section invalidates the petition sheet. *Bowe v. Chicago Electoral Board,* 79 Ill.2d 469, 404 N.E.2d 180 (1980); *Williams v. Butler,* 35 Ill.App.3d 532, 341 N.E.2d 394 (Fourth District, 1976).

10. The Electoral Board finds that the failure to have petition sheets notarized invalidates the Candidate's nomination papers. The requirement in the Election Code that the person who circulated nominating petitions personally appear before a notary public to validate the petition is mandatory and not directory. Thus a violation of that section invalidates the petition sheet. *Harris and McDaniel v. Hubbard,* 99-EB-ALD-088, CBEC, January 12, 1999. Accordingly, each and every nominating petition sheet filed by the Candidate is invalid and there no valid signatures of qualified electors in the Fortieth Ward of the City of Chicago remaining on the Candidate's Nomination Papers.

11. The minimum number of petition signatures required by law for petitions for candidates for the office of Alderman of the Fortieth Ward of the City of Chicago for the February 25, 2003 Municipal General Election is 240.

12. The Electoral Board finds, therefore, that the Candidate's Nomination Papers fail to contain the requisite number of signatures of qualified electors in the Fortieth Ward of the City of Chicago. The Electoral Board sustains the Objections filed against the Candidate's Nomination Papers and the Electoral Board finds that the Candidate's Nomination Papers are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of DONALD J. HOHENADEL to the Nomination Papers of ROOSEVELT AKINS, candidate for election to the office of Alderman of the Fortieth Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of ROOSEVELT AKINS, candidate for election to the office of Alderman of the Fortieth 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 Seventh 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.