DEFAULT-ALD

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

Objections of: MARGARET WILSON	)	
	)	
To the Nomination	)	
Papers of: EDGAR RUBIO	)	No.: 03-EB-ALD-120
	)	
Candidate for the office of	)	
Alderman of the Twenty-seventh 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 MARGARET WILSON ("Objector") to the nomination papers ("Nomination Papers") of EDGAR RUBIO, candidate for the office of Alderman of the Twenty-seventh 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. The Electoral Board assigned this matter to Hearing Examiner CASSANDRA B. WATSON for further hearings and proceedings.

5. 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. A public hearing held on these Objections commenced on January 2, 2003. The following persons, among others, were present at such hearing; the Objector, Margaret Wilson, by counsel; and the Candidate Edgar Rubio, by counsel.

6. The Candidate filed a motion to strike and dismiss the Objections and the Objector filed a

response. A hearing was held on January 9, 2003 at which time counsel for the Candidate and the Objector appeared. At that hearing, the Candidate's motion to strike was denied by the Hearing Examiner. The matter was then re-set for January 15, 2003 for a status on the records examination and for scheduling of an evidentiary hearing on the issue of the Candidate's residency.

7. On January 10, 2003, the Objector served on Candidate's counsel a notice to produce documents.

8. At the previously set hearing on January 15, 2003, the Objector appeared through counsel. Neither the Candidate nor his counsel appeared. The Objector requested and was granted 25 subpoenas. The Candidate had not yet produced any of the requested documents pursuant to the Objector's notice to produce. The matter was re-set for January 21, 2003 at 11:30 AM.

9. At the previously set hearing on January 21, 2003, the Objector appeared through his counsel. Again, neither the Candidate nor his counsel appeared. The matter was re-set again for January 22, 2003 at 11:30 A.M.

10. At the preciously set hearing on January 22, 2003, the Objector appeared through his counsel. For the third time, neither the Candidate nor his counsel appeared.

11. The Hearing Examiner spread of record the failure of the Candidate or his counsel to appear at three successive hearings. The Hearing Examiner also examined the Objector's petition which alleges (a) that the Candidate is not a resident at the address shown on his Nomination Papers as required by law and that his Statement of Candidacy is false and perjurious (Objector's Petition, ¶12); and (b) that the Candidate is not qualified for the office because the Candidate does not satisfy the residency requirements set forth in the Illinois Municipal Code and thus the Statement of Candidacy is false and perjurious (Objector's Petition, ¶13). The Hearing Examiner concluded that, taken as true, these objections are sufficient to invalidate the Candidate's Nomination Papers. The Hearing Examiner recommends, therefore, that the Candidate be defaulted pursuant to Rule 1 of the Electoral Board's Rules of Procedure.

12. The Electoral Board hereby adopts and incorporates herein the Hearing Examiner's recommended findings and conclusions of law and finds that the Candidate is in default for failing to appear at three successive hearings in this matter without good cause shown. The Electoral Board further finds that the Objector's petition, on its face, contains sufficient allegations, if accepted as true, to invalidate the Candidate's Nomination Papers.

13. Therefore, the Electoral Board finds that the Candidate, EDGAR RUBIO, is in default, that the Objections are sustained, and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of MARGARET WILSON to the Nomination Papers of EDGAR RUBIO, candidate for election to the office Alderman of the Twenty-seventh Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of EDGAR RUBIO, candidate for election

to the office of Alderman of the Twenty-seventh 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 Fifth 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.