NBCON-ALD

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

Objections of: TERRY MILLER	)	
	)	
To the Nomination	)	
Papers of: HOWARD KENNER	)	No.: 03-EB-ALD-133
	)	
Candidate for the office of	)	
Alderman of the Twentieth 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 TERRY MILLER ("Objector") to the nomination papers ("Nomination Papers") of HOWARD KENNER, candidate for the office of Alderman of the Twentieth 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 BARBARA GOODMAN 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. In the Hearing Examiner's absence, a case management conference was conducted by the Board's

General Counsel, James M. Scanlon. The following persons, among others, were present at such case management conference; the Objector, TERRY MILLER, pro se; and the Candidate, HOWARD KENNER, pro se. The parties were given an opportunity to file preliminary motions and responses. A memorandum of law was filed by the Objector. No other pleadings were filed. This matter was then continued to January 8, 2003 for hearing before the Hearing Examiner on the Candidate's motion.

7. The Objector's Petition alleges that the Nomination Papers circulator's affidavit contained neither the genuine signature of the circulator in accordance with the State of Illinois election laws nor the Model Notary Act of 2002, as set forth by the objections recorded in the Appendix-Recapitulation attached to the Objector's Petition. The Objector argued that the written or printed name of the circulator in the notary jurat had to match the signature of the circulator as contained on the line designated in the petition as "Signature of Person Making this Affidavit." Where they do not match, the Objector argued that the Model Notary Act was violated.

8. The Hearing Examiner found that there is no support in the law for such a contention and granted the Candidate's motion to strike paragraph 14 of the Objector's Petition, citing *Cintuc v. Kozubowski,* 596 N.E.2d 101 (1st Dist. 1992).

9. It was subsequently determined by the Board's staff that there were insufficient sheet and line allegations to invalidate the Nomination Papers absent the Objector prevailing on the issue of the notary. Accordingly, the Hearing Examiner has recommended that the Objections be overruled.

10. The Electoral Board, having reviewed the applicable law and having considered all the evidence and argument submitted by the parties as well as the Hearing Examiner's report of recommended findings and conclusions of law, hereby adopts the Hearing Examiner's recommended findings and conclusions of law and overrules the Objector's Petition.

IT IS THEREFORE ORDERED that the Objections of TERRY MILLER to the Nomination Papers of HOWARD KENNER, candidate for election to the office of Alderman of the Twentieth Ward of the City of Chicago are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of HOWARD KENNER, candidate for election to the office of Alderman of the Twentieth 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 Twenty-Fourth 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.