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: KIMBERLY ALLEN-JONES	)	No.: 03-EB-ALD-136
	)	
Candidate for the office of	)	[related to 03-EB-ALD-075]
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 KIMBERLY ALLEN-JONES, 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'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, TERRY MILLER, pro se, the Candidate, KIMBERLY ALLEN-JONES, by counsel. The Candidate filed her motion to strike and dismiss the Objector's Petition, a briefing schedule was set on the motion, and this matter was then continued for hearing before the Hearing Examiner on the Candidate's motion.

7. Paragraph 9 of the Objector's Petition alleges that the Candidate's nominating petition sheets do not contain numbered lines, making verification of voter registration tortuous and in violation of the Election Code. The Hearing Examiner granted the Candidate's motion to strike paragraph 9 in that there is no requirement that the lines on a petition sheet be numbered.

8. Paragraph 8 of the Objector's Petition alleges that the Candidate's Nomination Papers were not fastened together in book form at the edge in a secure and suitable manner in violation of the Election Code. In support of this allegation, the Objector presented the original nomination papers which were not fastened at the time of the hearing. No other proof was offered by the Objector to support the allegation.

9. The Candidate testified that the Nomination Papers were in fact stapled on the left side with three staples at the time they were submitted. The testimony of Board employee Jeff Fedderke further established that it is the practice of the Board when receiving nomination papers that once the papers are unbound for copying, they are not re-bound or re-stapled. The Hearing Examiner's review of the Nomination Papers corroborated the Candidate's testimony in that three staple imprints along the left side of the Nomination Papers were readily apparent. Accordingly, the Hearing Examiner granted the Candidate's motion to strike paragraph 8 of the Objector's Petition.

10. Paragraph 3 of the Objector's Petition alleges that the Statement of Candidacy is deficient in that there are three distinct names published for the Candidate resulting in confusion to the voters in violation of the Election Code. An examination of the Statement of Candidacy indicates that the Candidate included in her signature the middle initial "E" and that her name in the notary jurat appears as Kimberly Allen. However, the name Kimberly Allen-Jones was clearly printed in the heading of the Statement of Candidacy and in the text of the Statement of Candidacy as well as on each sheet of the nominating papers. Therefore, there was no confusion as to the Candidate's name or reasonable possibility that the voters would be confused for any reason. Any deviations in the candidate's name on the Statement of Candidacy were de minimis, at best, and an insufficient basis to invalidate the nomination papers. Accordingly, the Hearing Examiner granted the Candidate's motion to strike paragraph 3 of the Objector's Petition.

11. Paragraph 17 of 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.

12. 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 17 of the Objector's Petition, citing *Cintuc v. Kozubowski,* 596 N.E.2d 101 (1st Dist. 1992).

13. It was determined that there were insufficient sheet and line allegations to invalidate the Nomination Papers. Accordingly, the Hearing Examiner granted the Candidate's motion to strike the remainder of the Objector's Petition.

14. 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 dismisses the Objector's Petition.

15. The Electoral Board further finds that there is another objection filed against the Candidate's Nomination Papers in case 03-EB-ALD-075 in which the Board has determined that the objections are overruled and the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of TERRY MILLER to the Nomination Papers of KIMBERLY ALLEN-JONES, candidate for election to the office of Alderman of the Twentieth Ward of the City of Chicago, are hereby STRICKEN AND DISMISSED and said Nomination Papers are hereby declared VALID and the name of KIMBERLY ALLEN-JONES, 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 Third 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.