NBCON-WC

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

Objections of: EARNEST L. THOMAS	)
	)
To the Nomination	)
Papers of: THOMAS M. SWISS	)
	) No. 04-EB-WC-46
Candidate for the office of Ward Committeeman for	)
the 27th Ward of the City of Chicago, Republican	)
Party	)

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Chicago Board of Election 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 EARNEST L. THOMAS ("Objector") to the nomination papers ("Nomination Papers") of THOMAS M. SWISS, candidate for election to the office of Ward Committeeman for the 27th Ward of the City of Chicago, Republican Party ("Candidate"), having convened on January 5, 2004, at 2:00 p.m., in the City Council Chambers, 121 North LaSalle Street, 2nd Floor, 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 5, 2004 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner CHRISTOPHER AGRELLA for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner for a hearing on the date and at the time designated on the Electoral Board's docket. The following persons, among others, were present at such hearing: the Objector, EARNEST L. THOMAS, pro se; and the Candidate, THOMAS M. SWISS, by his attorney.

7. The Candidate filed a motion to strike the Objector's petition, alleging that (1) the one-page Objections did not state the interest of the Objector in filing the Objections, (2) nor did they state fully the nature of the objections, (3) no mention is made within the body of the objection petition to appendices or recapitulation sheets, (4) no appendices or recap sheets were attached to the Objector's petition, and (5) the Objection was insufficient to put the Candidate on notice as to what he was required to defend against.

8. The Objector's petition alleges that (1) the circulator of petition sheet 1 signed it incorrectly, and (2) that "98% of the (signer's) signatures is outside of the 27th Ward." The body or text of the Objector's petition does not specifically identify which signatures he was referring to in his objections. The text of the Objector's petition makes no reference to appendix-recapitulation sheets or any attachments of any kind. The Objector admitted at a hearing that appendix-recapitulation sheets were filed with the Cook County Clerk's Office at the same time he filed his Objector's petition, but the appendix-recapitulation sheets were not attached to the Objector's Petition.

9. The Hearing Examiner concluded that because nowhere in the body of the objections did the Objector provide the requisite specificity as to what the Candidate was being called upon to defend, nor were there any exhibits attached to the Objector's petition that would lend specificity to his claims, the Objections failed to state fully the nature of the objections. In support of his conclusion, the Hearing Examiner cites previous decisions of this Electoral Board in *Alschuler v. Feigenholtz*, 94 EB REP 009 (CBEC, January 19, 1994); *Whitehead v. Gholar*, 91 EB ALD 045 (CBEC, February 1991); and *Matthews v. Clay*, 87 EB ALD 146 (CBEC January 9, 1987).

10. The Electoral Board also finds its earlier decision in *Ramos v. Sandoval*, 87-EB-ALD-77 (January 16, 1987) probative in this matter. In *Ramos*, the Electoral Board decided that because the objector's petition and his specific objections to the candidate's petitions were not filed together as one petition, the objector's petition lacked the specificity required by Section 10-8 of the Election Code.

11. The Electoral Board finds that based on the recommended findings and conclusions of the Hearing Examiner, the Objector's petition fails to fully state the nature of the objections as required by Section 10-8 of the Election Code.

12. The Hearing Examiner also concluded that the Objector's petition fails to state the interest of the objection in filing the objections.

13. The Electoral Board finds that the Objector's petition fails to state the Objector's interest in filing the objections as required by Section 10-8 of the Election Code.

14. The Electoral Board finds that the Objector's petition fails to conform to the requirements of Section 10-8 of the Election Code. Accordingly, the Candidate's motion to strike the Objector's petition is granted and the Objections are stricken and dismissed.

IT IS THEREFORE ORDERED that the Objections of EARNEST L. THOMAS to the Nomination Papers of THOMAS M. SWISS, candidate for election to the office of Ward Committeeman for the 27th Ward of the City of Chicago, Republican Party, are hereby STRICKEN AND DISMISSED and said Nomination Papers are hereby declared VALID and the name of THOMAS M. SWISS, candidate for election to the office of Ward Committeeman for the 27th Ward of the City of Chicago, Republican Party, SHALL be printed on the official ballot for the General Primary Election to be held on March 16, 2004.

Dated: Chicago, Illinois, this 23rd day of January, 2004.

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.