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

Objections of: NICHOLAS SLYWCZUK, TERRENCE W. BOYKE, JR., AND WILLIAM PAULSON	)
To the Nomination Papers of: ROBERT A. BANK	) No. 04-EB-WC-77
Candidate for the office of Ward Committeeman for the 45th Ward of the City of Chicago, Democratic 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 NICHOLAS SLYWCZUK, TERRENCE W. BOYKE, JR., AND WILLIAM PAULSON ("Objector(s)") to the nomination papers ("Nomination Papers") of ROBERT A. BANK, candidate for election to the office of Ward Committeeman for the 45th Ward of the City of Chicago, Democratic 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(s) 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 RICHARD E. ZULKEY for further hearings and proceedings.

6. The Objector(s) 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(s), NICHOLAS SLYWCZUK, TERRENCE W. BOYKE, JR., AND WILLIAM PAULSON, by their attorneys; and the Candidate, ROBERT A. BANK, pro se.

7. The Objections allege that the headings of the petition signature sheets fail to indicate whether the Candidate is seeking "election" or "nomination".

8. The Electoral Board finds that the Candidate's petition sheets state that the Candidate is seeking "election/nomination" for the office thereinafter specified.

9. The Electoral Board finds that the use of the term "election", "nomination" or "election/nomination" in describing the office sought or the political division on either a statement of candidacy or nominating petition substantially complies with the provisions of the Election Code. *Arce v. Santos,* 96 EB-WC-34, CBEC, January 29, 1996. Use of the word "election" on the candidate's statement of candidacy and the use of the term "election/nomination" on the petition is not contradictory or confusing and will not invalidate the candidate's nomination papers.

10. The Objections allege that the circulator's affidavit at the bottom of each petition sheet fails to certify that the persons signing the petition were "qualified" voters of the Democratic Party.

11. The Electoral Board finds that the circulator's affidavit certifies that the signers of the petition were "registered" voters of the Democratic Party.

12. The Electoral Board finds that Section 3-1.2 of the Code provides that for the purpose of determining eligibility to sign a nominating petition or a petition proposing a public question the terms "voter", "registered voter", "qualified voter", "legal voter", "elector", "qualified elector", "primary elector", and "qualified primary elector" shall mean a person who is registered to vote at the address shown opposite his signature on the petition or was registered to vote at such address when he signed the petition. Therefore, objection that "qualified voter" should appear in the circulator's affidavit in lieu of "registered voter" should be and are hereby overruled. *Murphy v. Hurst,* 88-EB-SMAY-1, CBEC, January 19, 1989.

13. The Objections allege that the circulator's affidavit at the bottom of each petition sheet fails to state that the signers of the petition reside in the political division from which the Candidate is seeking "election."

14. The Electoral Board finds that the circulator's affidavit at the bottom of the Candidate's petition sheets state that the signers of the petition are registered voters in the political division in which the candidate is seeking "elective office." The Electoral Board further finds that Section 7-10 does not require that the word "election" be used and that the use of the term here of "elective office" carries substantially the same meaning and is sufficient. Accordingly, the Electoral Board overrules this objection.

15. The Objector further objects that the terms discussed above are used inconsistently in the Candidate's nomination petitions and on his Statement of Candidacy and are inherently contradictory, confusing and inconsistent.

16. For the reasons above, the Electoral Board finds that the use of the terms discussed above are not contradictory, confusing and inconsistent even if used interchangeably. Therefore, this objection is overruled.

17. The Objections allege that the Candidate's Nomination Papers are legally insufficient for failure to properly indicate and disclose with proper specificity the office the Candidate is seeking, i.e., the "Democratic Ward Committeeman of the 45th Ward."

18. The Electoral Board finds that the Candidate's Statement of Candidacy contains at the top of said document five boxes. In the box titled "Office," the Statement of Candidacy states "Ward Committeeman." In the box titled "District," the Statement states "45th Ward of the City of Chicago Cook County State of Illinois." In the box titled "Party," the Statement of Candidacy states "Democratic." In the narrative text of the Statement of Candidacy, the Candidate states that he is a qualified primary voter of the Democratic Party and that "I am a candidate for Election to the office of Ward Committeeman in the 45th Ward." The Statement of Candidacy further requests that the Candidate's name be printed upon the official Democratic Primary ballot for election for such office.

19. The Electoral Board further finds that the Candidate's nominating petition sheets contain a heading stating that the petitioners were petitioning that "the following named person or persons shall be a candidate(s) of the Democratic Party for the election/nomination for the office or offices hereinafter specified …." Below this heading are three boxes, one of which is titled "Office." In this box, the Candidate's petitions state "Ward Committeeman of the 45th Ward in the City of Chicago, Cook County, State of Illinois."

20. The Electoral Board finds that, as regards the Candidate's nominating petition sheets, the facts in this case are almost identical to the facts presented in *Scimo v. Jekiel*, 96 EB-WC-046, CBEC, January 29, 1996. In that case, this Electoral Board found that, whether read together with the Statement of Candidacy or separately, the Statement of Candidacy and the petition sheets clearly set forth the office and district sought and that the candidate's nomination papers substantially

complied with Section 7-10 of the Election Code, citing *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976); *Madison v. Sims*, 6 Ill.App.3d 795, 286 N.E.2d 592; and *Stevenson v. County Officers Electoral Board*, 58 Ill.App.3d 24, 372 N.E.2d 1043 (1978).

21. The Electoral Board finds that both the Statement of Candidacy and the Candidate's nominating petition sheets, whether read together or read separately, adequately describe the office sought by the Candidate. Therefore, the Electoral Board overrules the objections.

22. The Electoral Board notes that the Hearing Examiner assigned to this matter has recommended that the Objections be sustained and that the Candidate's Nomination Papers be declared invalid. However, for the reasons above, the Electoral Board declines to adopt the Hearing Examiner's recommendations. Instead, the Electoral Board finds that the Objections are overruled and that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of NICHOLAS SLYWCZUK, TERRENCE W. BOYKE, JR., AND WILLIAM PAULSON to the Nomination Papers of ROBERT A. BANK, candidate for election to the office of Ward Committeeman for the 45th Ward of the City of Chicago, Democratic Party, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of ROBERT A. BANK, candidate for election to the office of Ward Committeeman for the 45th Ward of the City of Chicago, Democratic Party, SHALL be printed on the official ballot for the General Primary Election to be held on March 16, 2004.

Dated: Chicago, Illinois, this 27th day of January, 2004.

Langdon D. Neal, Chairman

DISSENTING: 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.

ORDER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

SLYWCZUK, et al

v.

No. 04 COEL 00006

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO, et al.

ORDER

This matter coming before the Court for hearing on the Petition for Judicial Review, the parties being present and the Court being advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

1. The Candidate's Statement of Candidacy and nominating petition sheets were in strict compliance with the requirements of Section 7-10 of the Election Code providing that such papers be "in substantially the following form" and there was no confusion as to which Office the Candidate was seeking.
2. The Electoral Board did not violate the Due Process Clause in that its decision was not a departure from prior Board decisions and was grounded in prior decisions of the Board.
3. For these reasons and for the reasons stated by the Court on the record and in open court, the Petition for Judicial Review is denied.
4. This is a final judgment and there is no just cause to delay enforcement or appeal.

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Atty. No.: 70383

Name: Trevor M Scanlon

Atty. for: Bd of Election Commissioners

Address: 8 S. Michigan Ave #3500

City/State/Zip: Chicago IL 60603

Telephone: 312-782-8163

CIRCUIT COURT OF COOK COUNTY
ENTERED
FEB 19 2004

ENTER:

JUDGE
SUSAN FOX GILLIS-1793

Judge Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS