NBCON-WC

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

Objections of: CRAIG GERNHARDT	)
	)
To the Nomination	)
Papers of: DAVID FAGUS	)
	) No. 04-EB-WC-83
Candidate for the office of Ward Committeeman for	)
the 49th 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 CRAIG GERNHARDT ("Objector") to the nomination papers ("Nomination Papers") of DAVID FAGUS, candidate for election to the office of Ward Committeeman for the 49th 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 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 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, CRAIG GERNHARDT, by his attorney; and the Candidate, DAVID FAGUS, by his attorney.

7. The Objections in this case consist of printed e-mail correspondence between the Objector and the Candidate from October 16, 2003 through October 20, 2003 in which the Objector expresses criticisms of the manner in which the Candidate's nominating petitions were circulated. The Objector's petition does not contain the residence addressing of the Objector, does not state fully the nature of the objections, does not state the interest of the Objector, nor does it state the relief requested.

8. The Candidate filed a motion to strike and dismiss the Objector's petition, alleging that it fails to comply with the mandatory requirements of Section 10-8 of the Election Code.

9. The Electoral Board finds that Section 10-8 of the Election Code requires that the objector's petition shall (a) give the objector's name and residence address; (b) state fully the nature of the objections to the certificate of nomination or nomination papers; (c) state the interest of the objector; and (d) state what relief is requested of the electoral board. The Electoral Board finds that these requirements are mandatory and that there must be substantial compliance with the requirements. See, e.g., *Pochie v. Cook County Officers Electoral Board*, 289 Ill.App.3d 585, 682 N.E.2d 258, (1st Dist. 1997)

10. The Electoral Board finds that the Objector's petition filed in this case satisfies none of the requirements of Section 10-8. Accordingly, the Electoral Board grants the Candidate's motion to strike and dismiss the Objector's petition and the same is stricken and dismissed. In the absence of any valid objections thereto, the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of CRAIG GERNHARDT to the Nomination Papers of DAVID FAGUS, candidate for election to the office of Ward Committeeman for the 49th Ward of the City of Chicago, Democratic Party, are hereby STRICKEN AND DISMISSED and said Nomination Papers are hereby declared VALID and the name of DAVID FAGUS, candidate for election to the office of Ward Committeeman for the 49th 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 20th 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.