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

Objections of: HAZEL HAYNES	)	
	)	
	)	
To the Nomination	)	**No.: 07-EB-ALD-016**
Papers of: MICHAEL SMITH	)	**(rel. 07-EB-ALD-140, ALD-150)**
	)	
Candidate for the office of	)	
Alderman of the Fifteenth 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 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 HAZEL HAYNES ("Objector") to the nomination papers ("Nomination Papers") of MICHAEL SMITH, candidate for the office of Alderman of the Fifteenth Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 27, 2007, having convened on January 2, 2007, 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 January 2, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner William Jones 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(s), HAZEL HAYNES, by counsel, Dan Johnson-Weinberger and Michael Kreloff; and the Candidate, MICHAEL SMITH, pro se.

7. The Objections allege that the because the Candidate's nominating petitions sheets included with this nomination papers did not properly identify in the heading of each sheet the office which the Candidate is seeking, such nominating petition sheets to not comply with Section 10-4 of the Election Code. As result, the Objections allege that the Candidate's Nomination Papers are invalid.

8. The Candidate is seeking election to the office of Alderman of the 15th Ward, according to his statement of candidacy which correctly lists the office. However, none of the Candidate's nominating petition sheets include any identification whatsoever of the office which is sought, i.e., Alderman, much less the Alderman of the 15th Ward. The Candidate used a petition form that contains a box in the heading of each sheet for the candidate to insert the "Office." Below the word "Office" appears the following words: "(circle one) full term or

vacancy." Today Candidate's nominating petition sheets contained in a circle around the words "full term." No other information is provided in the space reserved for inserting the title of the office.

9. The Hearing Examiner has recommended that the objections be sustained and that the Candidate's Nomination Papers be declared invalid due to the fact that the Candidate's nominating petition sheets fail to include any designation whatsoever of the office for which the candidate is seeking election.

10. Section 10-4 of the Election Code (10 ILCS 5/10-4) provides that all petitions for nomination under Article 10 for candidates for public office shall, among other things, consists of sheets which shall contain above the space for signatures an appropriate heading giving information as to, among other things, the office to which the candidate is seeking.

11. Nominating petitions submitted by candidate for alderman are not valid if the candidate fails to identify on the petition sheets signed by voters the office he sought, even though his statement of candidacy correctly lists the office. *Salgado v. Marquez,* 356 Ill.App.3d 1072, 828 N.E.2d 805 (Ill.App. 2 Dist. 2005) (holding that due to the failure to list the office on the petition, voters are completely unaware of which office candidate sought and the nominating petitions did not reveal whether the candidate demonstrated a minimal appeal to voters as a candidate for alderman as opposed to one of the other municipal offices that were up for election).

12. Nominating petitions signed by voters are intended to expand informed participation of voters in elections, and should be free from any basis for confusion as to office for which they are filed. A potential signatory has right to know the specific office or vacancy sought by the candidate so as to make informed decision to sign petition or support another

candidate for the same office or vacancy. *Zapolsky v. Cook County Officers Electoral Board*, 296 Ill.App.3d 731, 695 N.E.2d 1329 (First Dist. 1998) (holding that nominating petitions of candidate for Water Reclamation District of Greater Chicago that failed to specify that candidate was seeking two-year term to fill a vacancy instead of full six-year terms which were also on the ballot were invalid).

13. Sheets of the candidate's nominating petitions that do not contain the ward number identifying the office the candidate is seeking, as required by law, are invalid. The failure to state the office sought on the candidate's nominating petition sheets is a violation of the mandatory requirement and the nominating sheet is therefore invalid. *Lowe and Hurston v. Orozco,* 99-EB-ALD-070, CBEC, January 28, 1999; see also, *Garcia v. Villasenor,* 88-EB-WD-88, CBEC, January 12, 1988 (candidate for ward committeeman who failed to state the office sought on his nominating petition sheets was in violation of the mandatory requirement of Section 7-10 of the Election Code and his nominating petition sheets were therefore found invalid).

14. For the reasons stated above, the Electoral Board adopts the Hearing Examiner's recommended findings and conclusions. The Electoral Board, therefore, sustains the Objections and finds that the Candidate's Nomination Papers are invalid.

15. The Electoral Board further finds that there were two other objections filed against the Candidate's Nomination Papers in 07-EB-ALD-140, which were withdrawn, and in 07-EB-ALD-150, which are moot due to the decision in this case finding that the Candidate's Nomination Papers are invalid

IT IS THEREFORE ORDERED that the Objections of HAZEL HAYNES to the Nomination Papers of MICHAEL SMITH, candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of MICHAEL SMITH, candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 27, 2007.

Dated: Chicago, Illinois, this 16th day of January 2007.

Langdon D. Neal, Chairman

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.