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

Objections of: RAYMOND T. NICE	)	
	)	
	)	
To the Nomination	)	**No.: 07-EB-ALD-071**
Papers of: "ZSA" ZDZISLAWA POPIELARCZYK	)	**(rel. 07-EB-ALD-070)**
	)	
	)	
Candidate for the office of	)	
Alderman of the Thirteenth 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 RAYMOND T. NICE, ("Objector") to the nomination papers ("Nomination Papers") of "ZSA" ZDZISLAWA POPIELARCZYK, candidate for the office of Alderman of the Thirteenth 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 Richard Zulkey 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, RAYMOND T. NICE, by counsel, Michael Kasper; and the Candidate, "ZSA" ZDZISLAWA POPIELARCZYK, by counsel, Roderick F. Mollison.

7. The Candidate's attorney stated that the Candidate had not been served with a copy of the Objector's Petition and a copy of the Call to the meeting, refused to waive service or acknowledge receipt of copies of those documents tendered to him, and otherwise contested the jurisdiction of the Electoral Board.

8. An examination of the file revealed that there was no proof of service of the Call and the Objector's Petition on the Candidate. On December 28, 2006, the Cook County Sheriff made several attempts to serve the Candidate at the residence address listed on the Candidate's Nomination Papers. For case 07-EB-ALD-070, the Sheriff's return was marked "no contact"; for case 07-EB-ALD-071, the return was marked "moved."

9. The Hearing Examiner proceeded to set the matter for further hearing on January 5, 2006 to give the Candidate and her attorney an opportunity to review the papers.

10. On January 5, the Candidate appeared with her attorney. The attorney filed motions contesting jurisdiction and the propriety of service.

11. The Objections alleged that the Candidate's Nomination Papers did not contain a receipt evidencing that the Candidate had filed a Statement of Economic Interests with the Cook County Clerk.

12. The Hearing Examiner reviewed the Candidate's Nomination Papers and found that there was, in fact, a completed Statement of Economic Interests was stamped with the Chicago Board of Elections' stamp and was in the file. However, no Statement of Economic Interests receipt evidencing that a Statement of Economic Interest was filed with the Cook County Clerk was in or with the Candidate's Nomination Papers.

13. The Hearing Examiner has recommended that the Objections be sustained and that the Candidate's Nomination Papers be declared invalid.

14. Section 10-5 of the Election Code (10 ILCS 5/10-5) provides that nomination papers are not valid if the candidate fails to file a statement of economic interests as required by the Illinois Governmental Ethics Act in relation to his candidacy with the appropriate officer by the end of the period for the filing of nomination papers unless he has filed a statement of economic interests in relation to the same governmental unit with that officer during the same calendar year as the year in which such nomination papers were filed. If the nomination papers of the candidate and the statement of economic interests of the candidate are not required to be filed with the same officer, the candidate must file with the officer with whom the nomination papers are filed a receipt from the officer with whom the statement of economic interests is filed showing the date on which such statement was filed. Such receipt shall be so filed not later than the last day on which nomination papers may be filed.

15. The Illinois Governmental Ethics Act requires that persons who are candidates for nomination or election to office in a unit of local government to file their statements of economic interests with the county clerk of the county in which the principal office of the unit of local government is located. (5 ILCS 420/4A-101(g), 4A-106) Therefore, candidates for nomination or election to office in the City of Chicago are required to file their statements of economic interests with the Cook County Clerk.

16. Because statements of economic interests of candidates for nomination or election to the office of Alderman in the City of Chicago are required to be filed with the Cook County Clerk and the nomination papers of those candidates are required to be filed with the Chicago Board of Election Commissioners, a candidate for the office of Alderman in the City of Chicago is required by Section 10-5 of The Election Code to file with the Chicago Board of Election Commissioners a receipt from the Cook County Clerk showing the date on which the candidate's statement of economic interests was filed. Such receipt was required to be filed with the Chicago Board of Election Commissioners not later than the last day on which nomination papers were permitted to be filed, or December 18, 2006.

17. The Electoral Board finds that the Candidate failed to file with the Chicago Board of Election Commissioners not later than December 18, 2006, a receipt from the Cook County Clerk showing the date on which the Candidate's statement of economic interests was filed.

18. The Electoral Board finds that the failure to file with the Chicago Board of Election Commissioners a receipt showing that the Candidate filed a statement of economic interests with the Cook County Clerk invalidates the Candidate's Nomination Papers. *Kellogg v. Cook County Illinois Officers Electoral Board*, 347 Ill.App.3d 666, 807 N.E.2d 1161 (First Dist. 2004); *Bolger v. Electoral Board of City of McHenry,* 210 Ill.App.3d 958, 569 N.E.2d 628

(Second Dist. 1991); *Mobley v. Beard*, CBEC, 95-EB-MUN-7 (January 23, 1995); *Geiren v. Norris*, CBEC, 95-EB-ALD-44 (January 17, 1995); *Jackson v. Washington*, CBEC, 95-EB-ALD-85 (January 23, 1995); *Williams v. Brown*, CBEC, 95-EB-ALD-131 (January 27, 1995); *Robinson v. Nalls*, CBEC, 95-EB-ALD-181, (January 28, 1995).

19. The Electoral Board finds, therefore, that the Nomination Papers of the Candidate are invalid and the Objector's Petition is sustained.

20. The Electoral Board reached the same result on similar objections filed against the Candidate's Nomination Papers in case 07-EB-ALD-070, finding that the Candidate's Nomination Papers were invalid in that case as well.

IT IS THEREFORE ORDERED that the Objections of RAYMOND T. NICE, to the Nomination Papers of "ZSA" ZDZISLAWA POPIELARCZYK, candidate for election to the office of Alderman of the Thirteenth Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of "ZSA" ZDZISLAWA POPIELARCZYK, candidate for election to the office of Alderman of the Thirteenth 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 12th 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.

ORDER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

POPIELARCZYK

v.

NEAL, ET AL.

No. 07 COEL 0003
07 COEL 0004
(CONSOLIDATED)

ORDER

This CAUSE COMING ~~to~~ to be heard upon PETITIONERS' PETITION for JUDICIAL REVIEW, all PARTIES being present by counsel, it is hereby ordered:

(1) The PETITION for JUDICIAL REVIEW is denied.

(2) The decision of the ELECTORAL BOARD is affirmed.

(3) This is a final, appealable ORDER.

Atty. No.: 33837

Name: MICHAEL KASPER

Atty. for: Respondents Tully + Nice

Address: 222 N. LaSalle #300

City/State/Zip: Chicago IL 60601

Telephone: 312. 704. 3292

ENTERED
JUDGE ROBERT W. LENTUCCI - 1584

ENTER: FEB 01 2007

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Judge

Judge's No.

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