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

Objections of: JOHN A. RICE	)	
	)	
To the Nomination	)	**No.: 07-EB-ALD-077**
Papers of: RICHARD BEHRENDT	)	
	)	
Candidate for the office of	)	
Alderman of the Thirty-sixth 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 JOHN A. RICE ("Objector") to the nomination papers ("Nomination Papers") of RICHARD BEHRENDT, candidate for the office of Alderman of the Thirty-sixth Ward in 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 John Ashenden for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, JOHN A. RICE, by counsel, Michael Kasper and Elias Mossos; and the Candidate, RICHARD BEHRENDT, pro se.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by its clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

8. The Hearing Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

9. The Candidate and/or his duly authorized representative was present during the examination of the registration records.

10. The Objector and/or his duly authorized representative was present during the examination of the registration records.

11. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination

conducted by its clerks and agents. The written report of the result of the registration records examination is contained in the Electoral Board's file in this case and a copy has been provided to the parties.

12. The Electoral Board has considered all evidence and arguments tendered by the parties and the Hearing Examiner's report of recommended findings and conclusions of law.

13. The results of the records examination indicate that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 204;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 214;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 63;

D. The remaining number of signatures deemed valid as a result of the records examination total 151.

14. Based upon the evidence presented, the Hearing Examiner found that the Candidate's Nomination Papers contained only 151 valid signatures and that the Candidate's Nomination Papers should be found invalid.

15. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination is less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Alderman of the Thirty-sixth Ward of the City of Chicago.

16. For the reasons stated above, the Electoral Board sustains the Objections and finds that the Nomination Papers of RICHARD BEHRENDT are not valid.

IT IS THEREFORE ORDERED that the Objections of JOHN A. RICE to the Nomination Papers of RICHARD BEHRENDT, candidate for election to the office of Alderman of the Thirty-sixth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of RICHARD BEHRENDT, candidate for election to the office of Alderman of the Thirty-sixth 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 28th 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.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR THE FEBRUARY 27, 2007 MUNICIPAL GENERAL ELECTION FOR THE OFFICE OF ALDERMAN OF THE THIRTY-SIXTH (36TH) WARD OF THE CITY OF CHICAGO

JOHN A. RICE,	)	
	)	
Petitioner-Objector,	)	
	)	
v.	)	**07-EB-ALD-077**
	)	
RICHARD BEHRENDT,	)	
	)	
Respondent-Candidate.	)	

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HEARING EXAMINER'S REVISED RECOMMENDED DECISION

The Respondent-Candidate, RICHARD BEHRENDT, filed Nomination Papers for the Office of Alderman of the 36th Ward, City of Chicago, Cook County, Illinois, to be voted upon at the Municipal General Election to be held on February 27, 2007. On December, 26, 2006, the Petitioner-Objector, JOHN A. RICE, filed a petition objecting to the Nomination Papers of the Candidate. The minimum number of required signatures for the office of 36th Ward Alderman is 204. The Candidate's Nominating Papers contain approximately 210 voter signatures.

The Objectors' Petition contains the following objections:

1. The Candidate's Nomination Papers are invalid because they are not numbered consecutively (Objector's Petition, Paragraph 4).

2. The Candidate's Nomination Papers contain signatures of people who are not registered voters, or who are not registered voters at the address specified in the petition (Objector's Petition, Paragraph 6).

3. The Candidate's Nomination Papers contain signatures that are not genuine (Objector's Petition, Paragraph 7).

4. The Candidate's Nomination Papers contain signatures of persons who live outside of the 36th Ward (Objector's Petition, Paragraph 8).

5. The Candidate's Nomination Papers contain signatures for which the address is either missing or incomplete (Objector's Petition, Paragraph 9).

6. The Candidate's Nomination Papers contain duplicate signatures (Objector's Petition, Paragraph 10).

7. The Candidate's Nomination Papers contain signatures of people that had previously signed nomination petitions for another candidate for the same office (Objector's Petition, Paragraph 11).

8. The Nomination Papers contain less than the minimum number of signatures required (Objector's Petition, Paragraph 12).

On January 2, 2007, this matter appeared on the initial trial call. The Objector, John Rice, was represented by attorneys Elias Mossos and Michael Kasper. The Candidate failed to appear at the scheduled hearing time of 2:00 P.M on January 2, 2007. Per the hearing examiner's Procedures, the file was checked to determine if the Candidate had been served. The Sheriff's receipt indicated that service had been made at the Candidate's home at 3507 N. Narragansett, Chicago, Illinois on December 28, 2006 at 10:30 A.M. Hearing Transcript, 6: 1-6 (January 2, 2007). The Candidate still had not appeared after a second and third call. Hearing Transcript, 3: 2-16 (January 2, 2007). On January 8, 2007 the hearing examiner entered an order of default against the Candidate for failing to appear and respond to the objector's petition. The order was

submitted to the Board for circulation among the parties.

On January 9, 2007, the Board of Elections received a handwritten letter received from the Candidate responding to the Objector's Petition. A copy of this letter was faxed by the Board to the hearing examiner. In the letter, the Candidate responded to the objection that his Nomination Papers were invalid because he failed to number his petition sheets. He pointed out that the petitions sheets were in fact numbered on the back of the pages. (Candidate's Letter dated January 4, 2007 at Paragraph 1.) On January 10, 2007, an order vacating the default was filed by facsimile with the Board and a new status date was set for January 16, 2007.

At the hearing on January 16, 2007, the Objector was represented by Michael Kasper. The Candidate appeared *pro se*. Mr. Kasper objected to the reopening of the case, and informed the hearing examiner that he had not received the Candidate's response, nor the order of default that had been entered and later vacated. Hearing Transcript, 6: 5-7, 8: 6-7 (January 16, 2007). The Candidate was given an opportunity to supplement his handwritten letter but he declined. Hearing Transcript, 14: 13-24 (January 16, 2007). The only other filing received from the Candidate was a typewritten version of the letter he had previously submitted to the Board of Elections. No additional objections to the Objector's Petition were raised in the typewritten version.

The hearing examiner recommended that the objections raised in the Objector's Petition regarding the validity of the signatures be addressed in a records examination and a records exam directive was executed and delivered to the Board.

On January 24, 2007 the Records Examination was completed and the candidate was left with 151 valid signatures with 204 being the requirement for this office. The results were read

into the record. The *Pro Se* Candidate objected to the Objector's signature on the petition as "invalid" this objection was raised in the Candidates handwritten letter and then in a printed motion to the Board. An evidentiary hearing was conducted and John A. Rice testified to the validity of his signature on the objectors petition. The Hearing Examiner overruled candidate's objection on this point.

The Candidate went on to request a handwriting analyst review the sustained objections. However, as many as 13 objections did not require any handwriting analysis. Additionally at the record exam the candidate appealed only about 8 sustained objections. So even if all of the Candidate's appealed objections were sustained this candidate would still fall far below the minimum signature requirement.

Therefore, it is recommended that the objectors petition be granted because the candidates nominating papers are insufficient in law and that the name of Richard Behrendt not appear on the ballot for the office of Alderman of the 36th Ward.

John R. Ashenden, Hearing Examiner

Dated: January 25, 2007