DEFAULT-MUN

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

Objections of: Darryl Gibson	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-MUN-020
Papers of: Rahm Emanuel	)	
	)	Related Cases: 11-EB-MUN-001 thru -019,
	)	-021 thru -024, -027 thru -029, -031, -037,
	)	-039, 11-EB-ALD-233, 11-EB-ALD-352
Candidate for the office of Mayor of 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, Richard A. Cowen, and Marisel A. Hernandez, 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 Darryl Gibson ("Objector") to the nomination papers ("Nomination Papers") of Rahm Emanuel, candidate for the office of Mayor of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 22, 2011, having convened on December 6, 2010, at 9:00 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 December 6, 2010 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Joseph A. Morris for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. On such date and time, the Hearing Officer called the case by calling aloud the case number, the name of the Objector and the name of the Candidate. The following persons, among others, answered and were present at such hearing: the Candidate, through counsel.

7. The Objector, Darryl Gibson, did not answer to the call nor did she appear at the hearing. The case was called again at least two more times at least 15 minutes apart on December 6, 2010 and at no time did the Candidate or any person purporting to represent the Candidate appear.

8. The Electoral Board finds that the Cook County Sheriff attempted to serve the Candidate with a copy of the Objector's Petition and with a copy of the Call to the December 6, 2010 hearing in this cause on December 1, 2010. The return of the Sheriff's office indicated that the reason that the Candidate was not served was "Not Listed." The Candidate was also sent a copy of the Call to the December 6, 2010 meeting by certified mail, but a signed receipt acknowledging receipt of the certified mail item has never been returned by the Postal Service.

9. The initial hearing was continued to December 10, 2010 and the Board was directed to provide for additional service upon the Candidate of a copy of the Objections and notice of the continued hearing. The Cook County Sheriff again attempted to serve the Candidate with a notice of continued hearing on December 8. The Sheriff's return of service indicated that the reason the Candidate was not served on these occasions was "No Contact." A copy of the notice of continued hearing was also sent to the Candidate by certified mail, return receipt requested, but no receipt was returned to the Board by the Postal Service.

10. The Hearing Officer noted correctly that objections to the Candidate in this instance received considerable attention in the press and in other media and that if the Objector wanted to know the status of the case she had considerable opportunity to do so. The Objector could have called the Board or checked on the Board's web site to learn of the status of the objection hearings in the matter.

11. The Electoral Board finds that the Objector, Darryl Gibson, did not appear at any of the duly called hearings conducted in this matter on or before December 13, 2010 after numerous attempts to serve the Candidate with a copy of the Call and the Objector's Petition by the means of service specified in the statute.

12. The Hearing Officer recommended on December 13, 2010 that the Objector be defaulted, and the Board finds, that the Objector has a duty to follow her own case and that she could have readily learned of the scheduled hearings in this matter.

13. The Objector did file a written appearance in his case on December 14, 2010 and was reported to have been present periodically in hearings starting on December 14.

14. The Electoral Board finds that the Objection has abandoned his Objections in this matter by failing to attend any of the noticed hearings conducted in this cause on or before

December 13 and said Objections should be dismissed for want of prosecution. There are additional objections against the Candidate in the related cases identified in the case caption above that are still pending and that will determine whether the Candidate's Nomination Papers are valid or invalid.

IT IS THEREFORE ORDERED that the Objections of Darryl Gibson to the Nomination Papers of Rahm Emanuel, candidate for election to the office of Mayor of the City of Chicago, are hereby DISMISSED for want of prosecution.

Dated: Chicago, Illinois, on December 21, 2010.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Marisel A. Hernandez, 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 5 days after service of the decision of the Electoral Board.