BCCOFF-ALD

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

Objections of: Rosa Kelly and Pat J. Kelly	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-033
Papers of: Matthew J. Robertson	)	
	)	
Candidate for the office of	)	
Alderman of the 39th 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, 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 Rosa Kelly and Pat J. Kelly ("Objectors") to the nomination papers ("Nomination Papers") of Matthew J. Robertson, candidate for the office of Alderman of the 39th Ward in 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 Objectors 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 Travis Richardson for further hearings and proceedings.

6. The Objectors 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. The following persons, among others, were present at such hearing: the Objectors, Rosa Kelly and Pat J. Kelly, by attorney, Thomas A. Jaconetty; and the Candidate, Matthew J. Robertson, by attorney, Russ Stewart.

7. The Objector alleges that the Candidate's Nomination Papers are invalid because they refer to the Candidate in both the petitions and the Statement of Candidacy as an independent candidate. The Hearing Officer found that reference to the Candidate as independent rather than non-partisan was not a sufficient basis to invalidate the Nomination Papers.

8. The Objector further alleges that the Candidate's Nomination Papers are invalid because the petition sheets do not refer to the signers as qualified voters of the 39th Ward of the City of Chicago but rather only refer to the signers as "qualified voters of the City of Chicago". However, the petition sheets do contain the ward in which the Candidate is running and the circulator's affidavit also refers to the signers as "registered voters in the political division in which the candidate is seeking elective office". The Hearing Officer found that the petition

sheets were in substantial compliance with the Election Code and that the objection did not set forth a sufficient basis to invalidate the Candidate's Nomination Papers.

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

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

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

12. The Objectors and/or they duly authorized representative was present during the examination of the registration records.

13. 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 or made available to the parties.

14. 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 159;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 216;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 141;

D. The remaining number of signatures deemed valid as a result of the records examination total 75.

15. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was 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 39th Ward of the City of Chicago.

16. No one on behalf of the Candidate appeared at the records examination and, therefore, no appeals were preserved by the Candidate. After Candidate's counsel explained that he was unable to contact his client to advise him of the records examination, the Hearing Officer granted the Candidate leave to file his motion pursuant to Rule 8 of the Board's Rules of Procedure and a hearing was scheduled for presentation of evidence pursuant to the motion.

17. At the hearing, the Candidate indicated that he had not collected a sufficient number of affidavits to bring the Candidate above the minimum signature requirement and requested a continuance which was denied by the Hearing Officer.

18. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate's Nomination Papers contained only 75 valid signatures, which 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 39th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

19. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law.

20. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on his nominating petitions and that the Nomination Papers of Matthew J. Robertson are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of Rosa Kelly and Pat J. Kelly to the Nomination Papers of Matthew J. Robertson, candidate for election to the office of Alderman of the 39th Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Matthew J. Robertson, candidate for election to the office of Alderman of the 39th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

Dated: Chicago, Illinois, on January 21, 2011.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Marisel 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.