NBCON-ALD

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

Objections of: Joseph C. Ziegler, Jr.	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-058
Papers of: Lona Lane	)	
	)	
Candidate for the office of	)	
Alderman of the 18th 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 Joseph C. Ziegler, Jr. ("Objector") to the nomination papers ("Nomination Papers") of Lona Lane, candidate for the office of Alderman of the 18th Ward 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 Lynne R. Ostfeld 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 Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, Joseph C. Ziegler, Jr., by attorney, Russ Stewart; the Candidate, Lona Lane, by attorneys Burton S. Odelson and Matthew M. Welch.

7. The Hearing Officer has tendered to the Electoral Board her report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid.

8. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

9. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Joseph C. Ziegler, Jr. to the Nomination Papers of Lona Lane, candidate for election to the office of Alderman of the 18th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Lona Lane, candidate for election to the office of Alderman of the 18th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

Dated: Chicago, Illinois, on January 3, 2011.

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.

BOARD OF ELECTION
POLLING PLACE DEPT

2010 DEC 20 A 8:33

Objections of: **JOSEPH C. ZIEGLER, JR.,**
Petitioner-Objector,

To the Nomination
Papers of: **LONA LANE,**

Candidate for the Office of
Alderman of the 18th Ward
in the City of Chicago

No. **11-EB-ALD-058**

Lynne R. Ostfeld
Hearing Officer

RECOMMENDED DECISION

BOARD OF ELECTION
POLLING PLACE DEPT
2010 DEC 20 A 8:33

Background

This matter having come before the Chicago Board of Election Commissioners ("CBOE") on objections of JOSEPH C. ZIEGLER, JR. ("Objector") to the nomination papers of LONA LANE ("Candidate"), and the Candidate having filed a Motion to Strike and Dismiss Objector's Petition, Lynne R. Ostfeld, Esq., Hearing Officer, finds and recommends as follows:

1. The hearing was begun on December 6, 2010. In attendance at the hearing were the Objector, through his attorney Russ Stewart, and the Candidate, through his attorney Burton S. Odelson.

2. The objector requested that Lona Lane's name not be printed on the ballot for election to the office of Alderman of the 18th Ward, City of Chicago, based on the following objections:

A. the petition sheets were not numbered in accordance to the rules because page 2 was omitted and not bound with the petition sheets which were, consequently, numbered 1, 3-151;

B. all petition sheets beyond the page number of 1 are invalid, null and void;

C. on petition sheet 1, the circulator does not live at the address attested so that the signatures on this sheet are null and void;

D. 14 signatures on petition sheet 1 are either not genuine or the person is not registered at the address shown;

E. the candidate has fewer than the 265 valid signatures required to place her name on the election ballot.

3. The Candidate stated that, for purposes of expediency, she would admit all allegations regarding petition sheet 1 and only argue the lack of legal support to reject petition sheets numbered 3-151.

4. A briefing schedule was entered with the Candidate's Motion to Strike due by 5:00 p.m. on December 7, 2010 and the Objector's Response due by 5:00 p.m. on December 10, 2010. The Candidate waived her right to file a reply. Both parties waived the need for oral argument and stated that they would defer to the Hearing Officer's written decision.

5. The Candidate submitted her Motion to Strike and dismiss Objector's Petition on December 7, 2010 at 4:15 p.m. The Objector submitted his Reply to Candidate's Motion to Strike on December 8, 2010 at 7:10 p.m. Both parties furnished copies of the cases cited to the Hearing Officer.

Findings of Fact and Conclusions of Law

6. It is not in dispute that the Candidate submitted nominating petitions numbered 1, 3-151

and that she has well in excess of the required 265 valid signatures needed to be placed on the ballot.

7. The only dispute is whether one missing page out of 151 voids her nominating papers for failure to have all of the nominating papers consecutively numbered.

8. Petition sheets must be numbered consecutively. 10 ILCS 5/10-4. This provision is mandatory. *King v. Justice* Party, 284 Ill. App. 3d 886, 672 N.E.2d 900 (1st Dist. 1996).

9. However, courts allow failure to insert one or a few pages in nominating petitions containing many pages to be considered a mere technicality which does not invalidate the entire petition. Substantial compliance is tolerated as regards this provision of the Code. *King* at 903-904. Only where a party makes no attempt to comply substantially with the numbering requirement should the entire nominating petition be invalidated. *El-Aboudi v Thompson*, 293 Ill. App. 3d 191, 687 N.E.2d 1166 (2nd Dist. 1997).

10. This Board has a history of not invalidating petitions which do not strictly comply with 10 ILCS 5/10-4 but substantially comply. In *Martin v. Olivier-Harris*, 03-EB-ALD-034 (Jan. 28, 2003), this Board found substantial compliance with the requirement although there were no petition sheets numbered 77, 78 or 81 out of sheets numbered 1 through 99. In *Prince v Douyon*, 06-EB-RGA-10 (Jan. 26, 2006), this Board found substantial compliance where only one numbered sheet was missing.

11. The cases cited by the Objector are not applicable to the instant case. This Board invalidated the nomination papers in *Mitchell v Smith*, 99-EB-ALD-113 because only 8 sheets out of 54 nominating petition sheets were numbered and those 8 did not correlate with their order in the set of petition sheets. In *Robinson v Llongbey*, 95-EB-ALD-088, no mention was made as to the number of sheets not numbered, whether they were all of them, many of them, or a few of them.

12. The Hearing Officer holds that the Candidate is in substantial compliance with 10 ILCS 5/10-4 inasmuch as she consecutively numbered 148 pages and is only missing one page from the set of 151.

13. The Hearing Officer recommends that this Board find that the Nomination Papers of LONA LANE be declared to be VALID for the reasons stated above.

14. The Hearing Officer recommends that this Board order that the name of LONA LANE BE printed on the ballot for the Aldermanic Election, 18th Ward, City of Chicago, to be held on February 22, 2011, for the reasons stated above.

Dated: Chicago, Illinois, this 19th day of December, 2010.

Lynne R. Ostfeld, Hearing Officer