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

Objections of: Beverly J. Allison and Marsha Gordon	)	
To the Nomination Papers of: Matthew Johnson	)	No.: 11-EB-ALD-121
Candidate for the office of Alderman of the 3rd 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 Beverly J. AllisonMarsha Gordon ("Objectors") to the nomination papers ("Nomination Papers") of Matthew Johnson, candidate for the office of Alderman of the 3rd Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Elections 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 Christopher Agrella for further hearings and proceedings.

6. The Objectors 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 Objectors, Beverly J. Allison and Marsha Gordon, by attorney, James P. Nally; and the Candidate, Matthew Johnson, pro se.

7. The Hearing Officer ordered that an examination of the Board's 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.

8. The Hearing Officer 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 Objectors and/or their duly authorized representative was present during the examination of the registration records.

11. The examination of the registration records of the Board was terminated after it was determined that even if all of the remaining objections to individual signatures on the

petition were sustained in favor of the Objectors, the Candidate would still have more than the minimum number of valid signature on his nominating petitions to qualify for a place on the ballot for the office of Alderman of the 3rd Ward of the City of Chicago.

12. 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 at least 249 signatures, which is more 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 3rd Ward of the City of Chicago.

13. The Electoral Board finds that the Candidate has a sufficient number of valid signatures on his Nomination Papers.

14. The Objector further alleges in his Objector's Petition that the Candidate has filed a false and perjurious Statement of Candidacy in that the Candidate is not qualified to be a candidate because he is in arrears on the payment of debts to the City of Chicago, "including but not limited to ordinance violation ticket citations as set forth on the attached Exhibit A, attached and made a part of this Objector's Petition, and other debt[sic] in arrears owed to the City of Chicago at the time the statement of candidacy was filed." (Objector's Petition)

15. The Candidate moved to strike portions of the Objector's Petition including the foregoing allegation regarding the Candidate's indebtedness. The Hearing Officer concluded that while the Objector's Petition contained sufficient information regarding traffic violations as set forth in Exhibit A to the Objector's Petition and therefore adequately apprised the Candidate of the nature of the objections, evidence of any other debts would not be admitted as they were not specifically plead in the Objector's Petition. Therefore, the Hearing Officer granted in part and

denied in part the Candidate's Motion to Strike and Dismiss in regard to the issue of indebtedness.

16. The Hearing Officer conducted an evidentiary hearing in which the Objector presented evidence of the Candidate's indebtedness in the form of a print out from the City of Chicago Department of Revenue indicating that the Candidate had 24 outstanding tickets with a total indebtedness of $3,101.80 due and owing the City of Chicago.

17. The Candidate presented testimony that he and his twin brother have the same driver's license number, that he has no outstanding tickets and that even if he did, you could not ascertain which ones should be attributed to the Candidate as some of them should be attributed to his brother. The Candidate also testified that two sets of license plates were registered to him.

18. After the close of the proofs, the Objector filed a Motion for Reconsideration and to Open Proofs in order to rebut the Candidate's testimony and evidence and to otherwise clarify which portion of the outstanding indebtedness could be attributed to the Candidate.

19. The Hearing Officer denied the Motion because the Objector had not previously requested a continuance during the hearing, because the issue of duplicate driver's licenses was first disclosed by the candidate on December 14, 2010 and because the issue of the Candidate having two license plates was also known to the Objector at the time the Objection was filed.

20. The Electoral Board finds that the Objector met his burden of establishing that the Candidate was indebted to the City of Chicago through Objector's Exhibit 1. Candidate's argument that the debt did not belong to him or that some portion of the debt should not be attributed to him constitutes a collateral attack on the validity of the indebtedness over which the Electoral Board has no jurisdiction.

21. The Electoral Board further finds that if the Electoral Board has jurisdiction to address a Candidate's collateral attack on the validity of a purported indebtedness, the Objector should have the opportunity to present further evidence to rebut the collateral attack. In this case, the Objector was precluded from doing so by not being permitted to present evidence to clarify which portion of the indebtedness should be attributed to the Candidate. If the evidence submitted pursuant to Objector's Motion for Reconsideration and to Reopen Proofs were admitted, it would have conclusively established which portion of the indebtedness could be attributed to the Candidate.

22. 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 reverses the Hearing Officer's recommended findings and conclusions of law.

23. For the reasons stated above, the Electoral Board further finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of Beverly J. Allison and Marsha Gordon to the Nomination Papers of Matthew Johnson, candidate for the office of Alderman of the 3rd Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Matthew Johnson, candidate for election to the office of Alderman of the 3rd Ward of the City of Chicago, SHALL NOT be printed on the ballot for the Municipal General Election to be held on February 22, 2011.

Dated: Chicago, Illinois, on January 11, 2011.

Richard A. Cowen, Commissioner

Marisel A. Hernandez, Commissioner

DISSENTING:

Langdon D. Neal, Chairman

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.