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

Objections of: Thomas C. Bush	)
	)
	)
To the Nomination	) No.: 11-EB-ALD-130
Papers of: Curtis Myles	)
	) Related Cases: 11-EB-ALD-186,
	) 11-EB-ALD-255
Candidate for the office of	)
Alderman of the 29th 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 Thomas C. Bush ("Objector") to the nomination papers ("Nomination Papers") of Curtis Myles, candidate for the office of Alderman of the 29th 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 Terence E. Flynn 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, Thomas C. Bush, by attorney, James P. Nally; and the Candidate, Curtis Myles, pro se.

7. The Objections allege that the because the Candidate's nominating petitions sheets included with this nomination papers did not properly identify in the heading of each sheet the office which the Candidate is seeking (Alderman, 29th Ward), such nominating petition sheets to not comply with Section 10-4 of the Election Code. Not even the Candidate's Statement of Candidacy contains such information. As result, the Objections allege that the Candidate's Nomination Papers are invalid.

8. Section 10-4 of the Election Code (10 ILCS 5/10-4) provides that all petitions for nomination under Article 10 for candidates for public office shall, among other things, consists of sheets which shall contain above the space for signatures an appropriate heading giving information as to, among other things, the office to which the candidate is seeking.

9. Nominating petitions submitted by candidate for alderman are not valid if the candidate fails to identify on the petition sheets signed by voters the office he sought, even

though his statement of candidacy correctly might correctly list the office. *Salgado v. Marquez,* 356 Ill.App.3d 1072, 828 N.E.2d 805 (Ill.App. 2 Dist. 2005) (holding that due to the failure to list the office on the petition, voters are completely unaware of which office candidate sought and the nominating petitions did not reveal whether the candidate demonstrated a minimal appeal to voters as a candidate for alderman as opposed to one of the other municipal offices that were up for election). Here, not even the Statement of Candidacy correctly lists the office the Candidate is seeking.

10. Nominating petitions signed by voters are intended to expand informed participation of party members in primary elections, and should be free from any basis for confusion as to office for which they are filed. Potential signatory has right to know specific vacancy sought by candidate so as to make informed decision to sign petition or support another candidate for the same vacancy. *Zapolsky v. Cook County Officers Electoral Board*, 296 Ill.App.3d 731, 695 N.E.2d 1329 (First Dist. 1998) (holding that nominating petitions of candidate for Water Reclamation District of Greater Chicago that failed to specify that candidate was seeking two-year term to fill a vacancy instead of full six-year terms which were also on the ballot were invalid).

11. Sheets of the candidate's nominating petitions that do not contain the ward number identifying the office the candidate was seeking, as required by law, are invalid. The failure to state the office sought on the candidate's nominating petition sheets is a violation of the mandatory requirement and the nominating sheet is therefore invalid. *Lowe and Hurston v. Orozco,* 99-EB-ALD-070, CBEC, January 28, 1999; see also, *Garcia v. Villasenor,* 88-EB-WD-88, CBEC, January 12, 1988 (candidate for ward committeeman who failed to state the office sought on his nominating petition sheets was in violation of the mandatory requirement of

Section 7-10 of the Election Code and his nominating petition sheets were therefore found invalid).

12. Section 10-5 of the Election Code (10 ILCS 5/10-5) requires that a candidate's nomination papers include as a part thereof a statement of candidacy that includes, among other information, "the office for which he is a candidate."

13. Here, the Candidate's Statement of Candidacy fails to correctly identify the office for which he is a candidate.

14. 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 failure to correctly identify the office the candidate is seeking on the statement of candidacy or on the nominating petition sheets rendered the Candidate's Nomination Papers invalid.

15. 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.

16. For the reasons stated above, the Electoral Board finds that the Candidate's Nomination Papers are invalid. A similar result was reached in the related cases identified in the case caption above.

IT IS THEREFORE ORDERED that the Objections of Thomas C. Bush to the Nomination Papers of Curtis Myles, candidate for election to the office of Alderman of the 29th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Curtis Myles, candidate for election to the office of Alderman of the 29th 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, 2010.

Dated: Chicago, Illinois, on December 17, 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.