NBCOFF-ALD

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

Objections of: Henry Moses	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-189
Papers of: Gregory Snowden	)	
	)	
Candidate for the office of	)	
Alderman of the 34th 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 Henry Moses ("Objector") to the nomination papers ("Nomination Papers") of Gregory Snowden, candidate for the office of Alderman of the 34th 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 Richard E. Zulkey 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, Henry Moses, by attorney, Peter Cleary; and the Candidate, Gregory Snowden, pro se.

7. Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the nominating papers were not fastened in any fashion in violation of Section 10-4 of the Election Code. 10 ILCS 5/10-4. Section 10-4 provides that petition sheets shall be neatly fastened together in book form, by placing the sheets in a pile and fastening them together at one edge in a secure and suitable manner, and the sheets shall then be numbered consecutively. Section 10-4 further provides that noncompliance with its provisions "shall" invalidate the signatures on a nominating petition. Specifically, the Code states: "No signature shall be valid or be counted in considering the validity or sufficiency of such petition unless the requirements of this Section are complied with." Based upon that language which imposes sanctions in the event the provisions of the Code are not complied with, coupled with the use of the word "shall," the requirements of section 10-4 are mandatory rather than directory. *Bendell v. Education Officers Electoral Board*

for School Dist. 148, 338 Ill.App.3d 458, 463, 788 N.E.2d 173 (1st Dist. 2003). "Inasmuch as section 10-4 is mandatory, compliance with its provisions must be strict rather than substantial." (*Id.*)

8. The Hearing Officer also found that the circulator's oaths were not notarized. Section 10-4 of the Election Code requires that at the bottom of each petition sheet shall be added a statement by the circulator of the sheet containing the elements required by that section. Such statement must be sworn to before some officer authorized to administer oaths in this State.

9. The Electoral Board further finds that none of the Candidate's nominating petition sheets were sworn to before some officer authorized to administer in this State.

10. The Electoral Board finds that the requirement in the Election Code that the person who circulated the nominating petition sheets personally appear before a notary public to validate the petition is a mandatory requirement and a violation of this requirement invalidates the petition sheets. *Williams v. Butler*, 35 Ill.App.3d 532, 341 N.E.2d 394 (Fourth Dist. 1976); *Bowe v. City of Chicago Electoral Board*, 79 Ill.2d 469, 404 N.E.2d 180 (1980).

11. 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.

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

IT IS THEREFORE ORDERED that the Objections of Henry Moses to the Nomination Papers of Gregory Snowden, candidate for election to the office of Alderman of the 34th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Gregory Snowden, candidate for election to the office of

Alderman of the 34th 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 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.