NBCON-ALD

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

Objections of: Devon Reid	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-198
Papers of: Roberto Maldonado	)	
	)	
Candidate for the office of	)	
Alderman of the 26th 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 Devon Reid ("Objector") to the nomination papers ("Nomination Papers") of Roberto Maldonado, candidate for the office of Alderman of the 26th 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 William P. Jones 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, Devon Reid, by attorney Andrew Finko; the Candidate, Roberto Maldonado, by attorney Richard K. Means.

7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that in favor of the Candidate on the two issues raised in the Objector's Petition and recommends that the Candidate's Motion to Dismiss the Objector's Petition in its entirety be granted.

8. 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. A copy of the Hearing Examiner's Report and Recommended Decision is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

9. The Electoral Board finds that the Candidate's Motion to Dismiss the Objector's Petition in its entirety should be, and the same is hereby, granted.

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

IT IS THEREFORE ORDERED that the Objections of Devon Reid to the Nomination Papers of Roberto Maldonado, candidate for election to the office of Alderman of the 26th Ward of the City of Chicago, are hereby DISMISSED and said Nomination Papers are hereby declared VALID and the name of Roberto Maldonado, candidate for election to the office of Alderman of the 26th 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 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.

BEFORE THE CHICAGO BOARD OF ELECTION COMMISSIONERS

Hearing Officer's Report

DEVON REID,
Objector,

vs.

ROBERTO MALDONADO,
Candidate.

No. 11-EB-ALD-198

BOARD OF ELECTION
POLLING PLACE DEPT
2010 DEC 11 A 11:50

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

1. The initial hearing commenced at approximately 2:15 p.m., December 6, 2010. The Candidate appeared through legal counsel, Richard K. Means. The Objector appeared in person and through legal counsel, Andrew Finko.

2. The Candidate stated that a Motion to Dismiss would be filed. The hearing officer scheduled a Rule 5 briefing schedule. Additionally, the hearing on the Motion to Dismiss was scheduled for 2:15 p.m., December 10, 2010. The hearing would include testimony from notary Gladys Ruiz.

3. Based upon the limited scope of the Objector's Petition, no Records Examination was directed. The validity of individual signatures was not put into issue.

4. Objector's Petition states two issues which are contained in Paragraphs 7 through 11 of the Petition:

(a) Candidate's Statement of Economic Interests is defective and invalid because Paragraph 8 of the Statement is blank;

(b) The Notary signature of Gladys Ruiz on the Statement of Candidacy is false.

5. Objector's Petition argues that each of these defects is sufficient to invalidate the Candidate's Nomination Papers.

6. Candidate's Motion to Strike and Dismiss asserts that the Board's jurisdiction is limited to establishing that a Statement of Economic Interest is filed and not to determine the sufficiency of the contents. Candidate cites to *Welch vs. Johnson*, 147 Ill.2d 40, 588 N.E. 2d 1119 (1992) on this point.

7. Additionally, Candidate's Motion to Dismiss notes that Gladys Ruiz will be produced at the time of hearing to establish the genuineness of her notary signature.

8. Objector filed no written Response to Candidate's Motion to Dismiss and any response would be oral

9. This matter was called for hearing at 2:25 p.m. on Friday, December 10, 2010, for purposes of a hearing on Candidate's Motion to Dismiss and on evidentiary hearing related to the genuineness of the notarization by Gladys Ruiz on the Statement of Candidacy.

10. Arguments were presented on the legal issue relative to Paragraph 8 of the Statement of Economic Interests.

11. The Candidate called notary Gladys Ruiz as a witness. Ms. Ruiz, when shown the Statement of Candidacy, testified that she had signed and notarized the Statement of Candidacy and such notarization was completed when the Candidate signed the document.

12. After the testimony of Ms. Ruiz, the Objector sought to call Objector Devon Reid to testify that the voter registration card signed by Ms. Ruiz was different from her signature on the notarization on the Statement of Candidacy. The hearing officer denied calling the Objector because no foundation was established to qualify the Objector with any particular expertise in handwriting analysis. However, the hearing officer permitted the Objector to testify as an Offer of Proof.

13. The Objector's Petition did not contest the validity of any individual signatures. The minimum amount of valid signatures needed is 109 signatures. The nomination papers in Board Group Exhibit A contain 238 sheets.

14. The hearing officer concludes that as a matter of law the Statement of Economic Interest is valid pursuant to the holding in *Welch vs. Johnson*, 147 Ill.2d 40, 50, 580 N.E.2d 1119 (1992), which states removal from the ballot is not a permissible sanction for an incomplete Statement of Economic Interest when due to inadvertence. Appendix B to Candidate's Motion is the Candidate's Affidavit. Paragraph 6 of the Affidavit states that the Candidate neglected to complete Paragraph 8 of the Statement of Economic Interest. Therefore, Paragraphs 7 through 10 of the Objector's Petition is dismissed.

15. The hearing officer further finds as a matter of fact based upon the sworn testimony of notary Gladys Ruiz that the notary's signature on the Statement of Candidacy is the genuine signature of notary Gladys Ruiz. Therefore, Paragraph 11 of the Objector's Petition is dismissed.

16. Having found in favor of the Candidate upon the two issues, the Candidate's Motion to Dismiss the Objector's Petition in the entirety is granted.

17. Based upon all the circumstances, the hearing officer finds that the Candidate's Petition has more than the 109 valid signatures minimum number.

18. For all the foregoing reasons, the hearing officer recommends that the name of Roberto Maldonado appear on the ballot as a candidate or Alderman of the 26th Ward in the City of Chicago.

Date: December 11, 2010

William P. Jones

Hearing Officer
William P. Jones