NBCON-ALD

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

Objections of: Avis Miller	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-225
Papers of: Tom Courtney	)	
	)	Related Case: 11-EB-ALD-260
Candidate for the office of	)	
Alderman of the 27th 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 Avis Miller ("Objector") to the nomination papers ("Nomination Papers") of Tom Courtney, candidate for the office of Alderman of the 27th 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 Edna Turkington for further hearings and proceedings. Upon motion of the Objector, the matter was reassigned to Hearing Officer Barbara Goodman by James Scanlon, the Board's General Counsel.

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, Avis Miller, by attorney Randy Crumpton; and the Candidate, Tom Courtney, by attorney, James Nally.

7. The Objector's Petition contained allegations regarding the validity of certain signatures as set forth in an appendix-recapitulation. However, even if all of the objections were sustained, there were an insufficient number to invalidate the nominating papers.

8. The other issue presented in the Objector's Petition was whether the candidate's use of the name "Tom" as a candidate and the use of the name "Thomas" as a circulator violated the Election Code.

9. The Candidate filed a Motion to Strike and Dismiss alleging that the use of the name "Tom" is permitted pursuant to 10-5.2 and that there were insufficient sheet and line allegations to invalidate the nominating papers.

10. The Hearing Officer recommends that the Motion to Strike and Dismiss be granted in that the allegations in the Objector's Petition did not set forth a basis upon which the nominating papers could be invalidated.

11. 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 stricken and dismissed and that the Nomination Papers be declared valid.

12. 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.

13. For the reasons stated above, the Electoral Board finds that the Objections to the Candidate's Nomination Papers are hereby stricken and dismissed and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Avis Miller to the Nomination Papers of Tom Courtney, candidate for election to the office of Alderman of the 27th Ward of the City of Chicago, are hereby STRICKEN AND DISMISSED and said Nomination Papers are hereby declared VALID and the name of Tom Courtney, candidate for election to the office of Alderman of the 27th 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 11, 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 COMMISSIONERS OF THE CITY OF CHICAGO AS THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR THE FEBRUARY 22, 2011 MUNICIPAL GENERAL ELECTION IN THE CITY OF CHICAGO

AVIS MILLER	)	
	)	
Objector	)	
	)	11 EB ALD 225
-v-	)	(REL. 11 EB ALD 260)
	)	
TOM COURTNEY	)	
	)	
Candidate	)	

BOARD OF ELECTIONS
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HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION

This matter was first assigned to Hearing Officer Edna Turkington. Upon motion of the Objector, the matter was reassigned to this Hearing Examiner by order of James Scanlon, the Board's General Counsel. The matter was first heard on December 6, 2010. The Objector appeared through counsel Randy Crumpton and the candidate appeared through counsel James Nally. The parties were given the opportunity to file preliminary motions. The Candidate filed a Motion to Strike and Dismiss. The matter was set for further hearing and inasmuch as there were allegations regarding the sufficiency of the signatures contained in the nominating papers, a records examination was ordered.

In addition to the specific sheet and line allegations regarding the signatures, the objector also alleged that the candidate's use of name variations in the

nominating papers constituted a violation of the election code. The candidate moved to strike the objections in that the use of a nickname is permitted pursuant to 10 ILCS 5/10-5.2 Section 10-5.2 provides that ***"[i]n the designation of the name of a candidate on a certificate of nomination or nomination papers the candidate's given name or names, initial or initials, a nickname by which the candidate is commonly known or a combination thereof, may be used in addition to the candidate's surname."***

A review of the petitions indicates that the only name used by the candidate on the petitions and the Statement of Candidacy was "Tom" which is a common nickname for Thomas. The candidate used the name "Thomas" when signed as circulator. The use of the name Tom as the candidate and Thomas as the circulator does not violate the Election Code and, in fact, is permitted pursuant to 10-5.2 of the Election Code. Accordingly, the objections regarding the candidate's name variation should be stricken and dismissed.

Additionally, after the matter was sent for a records examination, it was determined that even if all of the individual sheet and line allegations were sustained, candidate would still have 126 valid signatures, said number being over the minimum number of 111 for placement on the ballot.

Accordingly, the candidate's Motion to Strike and Dismiss was granted.

RECOMMENDATION

In light of the foregoing, it is my recommendation that the objections of Avis Miller to the nominating papers of Tom Courtney be **stricken and dismissed** and

that the candidate's nominating papers be deemed **valid.** It is my further recommendation that the name of candidate Tom Courtney for the office of Alderman of the 27th Ward of the City of Chicago **be** printed on the ballot at the February 22, 2011 General Municipal Election.

Respectfully submitted,

Barbara Goodman /s/

Barbara Goodman, Hearing Examiner
1/4/11