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

Objections of: DUANE E. BURGESS	)	
	)	
	)	
To the Nomination	)	No.: 15-EB-ALD-121
Papers of: JEFFREY L. LEWIS	)	
	)	Rel. ALD-139
Candidate for the office of	)	
Alderman of the 16th 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 DUANE E. BURGESS ("Objector") to the nomination papers ("Nomination Papers") of JEFFREY L. LEWIS, candidate for the office of Alderman of the 16th Ward in the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014 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 8, 2014 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Eileen Letts for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board 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, DUANE E. BURGESS, by his attorney, James P. Nally P.C.; and the Candidate, JEFFREY L. LEWIS, by his attorney, Stephen Stern.

7. The Hearing Officer ordered that an examination of the 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 Objector and/or his duly authorized representative was present during the examination of the registration records.

11. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination

conducted by its clerks and agents. The written report of the result of the registration records examination is contained in the Electoral Board's file in this case and a copy has been provided or made available to the parties.

12. The results of the records examination indicate that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 473;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 839;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 413;

D. The remaining number of signatures deemed valid as a result of the records examination total 426.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was less 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 16th Ward of the City of Chicago.

14. The Hearing Officer conducted a hearing to allow the Candidate an opportunity to present evidence in support of his Rule 8 motion objecting to the Board's clerk's findings during the records examination.

15. 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 less 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 16th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

16. 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 Officer's report is attached hereto and is incorporated herein and made a part of the Electoral Board's decision in this case.

17. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on his nominating petitions and that the Nomination Papers of JEFFREY L. LEWIS are, therefore, invalid.

18. The Electoral Board further finds that additional objections to the Candidate's Nomination Papers were filed in related case ALD-139, but those objections are moot in light of the decision in this case.

IT IS THEREFORE ORDERED that the Objections of DUANE E. BURGESS to the Nomination Papers of JEFFREY L. LEWIS, candidate for election to the office of Alderman of the 16th Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JEFFREY L. LEWIS, candidate for election to the office of Alderman of the 16th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

Dated: Chicago, Illinois, on January 9, 2015.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Marisel 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 A DULY CONSTITUTED ELECTORAL BOARD

Objections of: DWAYNE BURGESS	)
	)
To the nomination	)
Papers of JEFFREY L. LEWIS	) No.: 15-EB-ALD-121
	)
Candidate for the Office of Alderman,	)
16th Ward, City of Chicago, State of Illinois	) Eileen M. Letts
	) Hearing Officer
	)
	)

HEARING OFFICER'S FINDINGS AND RECOMMENDATION

In the matter of DWAYNE BURGESS, (Objector) regarding the Nomination Papers of JEFFREY L. LEWIS, candidate for the nomination for the Office of Alderman, 16th Ward in the City of Chicago, State of Illinois (Candidate), the hearing having initially convened on December 9, 2014. Eileen M. Letts, Esq, duly appointed hearing officer in this matter, hereby makes the following report and recommended findings to the Board of Election Commissioners of the City of Chicago ("CBEC"):

1. The candidate filed Nomination Papers with the CBEC for the nomination for the Office of Alderman, 16th Ward in the City of Chicago, State of Illinois, for the Municipal General Election to be held on February 24, 2015. Such Nomination Papers consisted of: a) A Statement of Candidacy; b) Receipt for the Candidate's Statement of Economic Interest; c) Nominating Petition Sheets; d) and the loyalty

oath. The Candidate's Nomination Papers were marked as Board Group Exhibit A, and admitted into evidence.

2. The Verified Objector's Petition was timely filed on December 3, 2014. Such petition was marked as Board Group Exhibit B and admitted into evidence.
3. A Call to the hearing on said objections was duly issued by the Chairman of the CBEC and served upon all parties. Specifically, Board Group Exhibit C includes the following: proof of service of the call, the objector's proof of service, the objector's petition to the candidate, postal service receipts, and sheriff's return of service.
4. The initial hearing on these objections was called on December 9, 2014, at which time the objector, Dwayne Burgess appeared through his counsel Scott B. Erdman (on behalf of James P. Nally), and the candidate, Jeffrey L. Lewis appeared through his counsel Stephen Stern. The appearances in this matter were filed by Mr. Nally and Mr. Stern. Such appearances and nondisclosure forms were marked and admitted into evidence as Board Group Exhibit D.
5. All Parties stated that they were familiar with the Rules of Procedure of the CBEC.
6. At the initial hearing, Mr. Stern agreed to service via email. Mr. Erdman stated he would consult with Mr. Nally re: service via email. Mr. Nally later agreed to service via email. It was agreed that the Candidate would file his Motion to Strike and Dismiss Parts of Objector's Petition on or before December 10, 2014. It was further agreed that the Objector would file any response to said motion on or by December 11, 2014 at 5:00 p.m. The matter was set for further case management conference on December 18, 2014, at 10:00 a.m.

7. The Record Examination was completed on December 14, 2014. The Results of the Record Examination were as follows:

Signature Required: 473

Total Pages: 88

Total Signatures: 839

Total Objections: 593

Total Ruled On: 593

Total Remaining: 0

Total Sustained: 413

Total Overruled:180

For Review (Candidate): 282

For Review (Objector): 58

Total Valid Signatures: 426

Total Unchallenged Signatures: 246

47 Signatures fewer than the required minimum

8. On December 18, 2014, the parties appeared for status. At that time, the Hearing officer stated that she received two motions. She received a Motion to Strike and Dismiss part of the objector's petition as well as the Candidate's Rule 8 Motion. The Hearing Officer entered and continued the Motion to Strike and Dismiss parts of the Objector's petition until they made a determination on the Rule 8 Motion. The Hearing Officer set the Rule 8 hearing for December 22, 2014, at 2:00 p.m. The Candidate's counsel, Stephen Stern, agreed to provide affidavits in support of his Rule 8 Motion by December 22, 2014, at 9:00 a.m.

9. On December 22, 2014, at 2:00 p.m., the Candidate's counsel Stephen Stern, and the Objector's counsel James P. Nally were present for the Rule 8 hearing.

10. The Candidate specifically delineated 53 signatures that he would seek to rehabilitate at the Evidentiary Hearing. The Candidate supplied 53 affidavits from individuals stating that it was their signature on the Candidate's Petition in support of the Candidate's Rule 8 Motion. These affidavits were admitted into evidence.
11. The Rule 8 hearing included the review of the following documents: the petitions, the affidavits of the individual who signed the petition as alleged and the clip of the signatures from the registration records.
12. The Hearing Officer examined and ruled on 22 of the signatures that the Candidate submitted to support his attempt at rehabilitation. The Hearing Officer sustained the Board's ruling invalidating 16 of the signatures. The Hearing Officer overruled the Board on 6 of the signatures.
13. Based on the Hearing Officer's rulings, the Candidate waived further examination because he would be unable to reach the requisite number of signatures to validate his candidacy. Mr. Stern explained that the Candidate had 53 affidavits. He needed 47 additional signatures to meet the minimum number of 473 signatures required. The Hearing Officer sustained the Board's ruling on 16 of the signatures; therefore, the Candidate concluded it would be impossible for the candidate to obtain the requisite number of signatures, and further examination was unnecessary.
14. The Objection to the Nomination Papers in this case must be sustained. The failure to file a sufficient number of signatures renders the Candidate's Nomination Papers invalid. *See Miranda v. Cummings*, 06-EB-NPP-02, CBEC, August 9, 2006.

See also, Bowe v. Board of Election Commissioners of the City of Chicago, 614 F.2d 1147 (7th Cir. 1980).

15. Accordingly, the Board should declare the Nomination Papers in this case invalid.

16. The Candidate's Motion to Strike was not ruled upon as the Candidate did not have the requisite signatures to remain on the ballot.

17. The Candidate's Nomination Papers were also objected to in case number 15-EB-ALD-139. The ruling in this matter takes priority over the objections in case number 15-EB-ALD-139; therefore, no ruling will be made in case number 15-EB-ALD-139.

RECOMMENDED DECISION

It is the recommendation of this Hearing Officer that the Nomination Papers in this case be declared invalid, and that the name of JEFFREY L. LEWIS, candidate for the nomination of the Office of Alderman, 16th Ward in the City of Chicago, State of Illinois, SHALL NOT be printed on the official ballot for the Municipal election to be held on February 24, 2015.

Dated: Chicago, Illinois, on January 7, 2015.

Respectfully Submitted By:

Eileen M. Letts, Hearing Officer

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