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

Objections of: ANDRE M. THAPEDI	)	
	)	
	)	
To the Nomination	)	No.: 20-EB-RGA-019
Papers of: RICKY GANDHI	)	
	)	
Candidate for the nomination of the	)	
Democratic Party for the office of	)	
Representative in the General Assembly, 32nd	)	
Representative District of the State of Illinois	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of Election Commissioners for the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse and Jonathan T. Swain, organized by law in response to a Call issued by Marisel A. Hernandez, Chair of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of ANDRE M. THAPEDI ("Objector") to the nomination papers ("Nomination Papers") of RICKY GANDHI, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly, 32nd Representative District of the State of Illinois ("Candidate") at the General Primary Election to be held on March 17, 2020, having convened on December 16, 2019 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 were duly and timely filed.

2. The Electoral Board was constituted according to the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chair 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 16, 2019 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer John Ashenden for further hearings and proceedings.

5. 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, ANDRE M. THAPEDI, by Attorney MICHAEL J KASPER; the Candidate, RICKY GANDHI, by Attorney ANDREW FINKO.

6. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid.

7. The Objector filed a Rule 20 Motion seeking review by the Electoral Board of the Hearing Officers final report and recommended decision. The Board provided a Rule 20 hearing to the parties, and as a result it denied the Objector's motion.

8. 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.

9. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of ANDRE M. THAPEDI to the Nomination Papers of RICKY GANDHI, candidate for the nomination of the DEMOCRATIC Party for the office of Representative in the General Assembly, 32nd Representative District of the State of Illinois, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of RICKY GANDHI, candidate for the nomination of the DEMOCRATIC Party for the office of Representative in the General Assembly, 32nd Representative District of the State of Illinois, SHALL be printed on the official ballot for the General Primary Election to be held on March 17,2020.

Dated: Chicago, Illinois, on January 14, 2020.

Marisel A. Hernandez, Chair

William J. Kresse, Commissioner

Jonathan T. Swain, 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

ANDRE M. THAPEDI, Petitioner Objector, vs. RICKY GANDHI, Respondent Candidate.	)))))))	 No. 20-EB-RGA-19 John Ashenden Hearing Officer

HEARING OFFICER'S FINDINGS AND RECOMMENDATION

This matter having come before the Chicago Board of Election Commissioners ("CBOE") on the Objector's Petition of Andre M. Thapedi ("Objector") to the nomination papers of Ricky Gandhi ("Candidate") for the for the Office of Representative in the General Assembly 32nd Representative District, State of Illinois, John Ashenden, Hearing Officer, finds and recommends as follows:

December 16, 2019 Initial Hearing

1. Candidate appeared through legal counsel, Andrew Finko. The Objector appeared through Attorney Michael Kasper. Candidate Nomination Papers, Objector's Petition, Returns of Service and Appearances, were marked and admitted as Board Group Exhibits A through D respectively. The Office requires no fewer than 500 qualified district voter signatures. Counsel agreed that residency is the only issue raised in Objector's Petition. Candidate's Counsel did not file a motion to dismiss. Objector is to produce documents supporting the residency and Candidate to produce documents. Parties agreed to exchange documents via email. Status set 12/20/19.

Objectors' Petition and Document Production

2. Objectors' Petition alleges Candidate's Nomination Papers do not qualify Candidate for Office of Representative since he does not satisfy the residency requirements of Article IV, Section 2 (c) of the Illinois Constitution where a Candidate for this Office must have been a resident of the applicable district for the two years preceding the election. (Par. 5 Obj Pet.); Objector alleges Candidate has not been a resident of the 32nd Representative District for two years that will precede the November 2020 General election. (Par. 6 Obj Pet.); Instead Candidate abandoned his Illinois residence. He has been a resident of the District of Columbia for at least a portion of the two years preceding the November, 2020 General election. Objector alleges the Candidate is not constitutionally eligible and Candidate's Statement of Candidacy that he is "qualified for the office" is inaccurate, false and in violation of the Illinois Election Code. (Par. 7 Obj Pet.)

3. Objector produces Candidate's LinkedIn social media page mentioning that he is a Junior Adjunct Fellow at the American Security Project in the "Washington D.C. metro area from January 2016 until the Present" (Par. 1 Obj Production); Objector alleges that the same social media page indicates that he was an economist for the United States Senate from March 2018 to August 2019 (Par. 2 Obj Production) and Vice President of Programs at the Young Professionals in International Affairs from January 2018 until August 2019 in the "Washington D.C. metro area" (Par. 3 Obj

Production) and other positions Candidate has held in the Washington D.C. area dating back until at least 2015 (Par. 4 Obj Production).

4. At the December 20, 2019 status hearing on Residency document production, Objector's counsel argued Candidate hadn't produced documents pertaining to his D.C lease nor any ride sharing app records such as Uber; Attorney Finko claimed Candidate deletes his emails from Uber, does not have any lease agreement for the time period mentioned in the Objector's petition and he does not uses any food services apps; Objector's counsel stated that he might issue subpoenas to Candidate's parents, to Candidate's DC roommates and for Uber records; Hearing Officer reminded counsel the subpoena deadline is 5 pm on December 21st, 2019.

5. On December 23, 2019 Objector's late requests for Subpoenas was received. Objector argues this is a durational residency case. To be constitutionally eligible for the office, Candidate must have been a resident of the Representative District for two years preceding the November, 2020 General Election. Objector claims Candidate has worked at a series of jobs in the Washington D.C. since 2015 until August 2019 and as such Candidate's Statement of Candidacy, wherein he swears that he is "qualified" for the office is false. (Par.2 Obj Subpoena Request.) Objector's counsel emailed seven (7) subpoenas seeking employment records from the Candidate's employers viz. American Security Project, United States Senate, Young Professionals in International Affairs, Bureau of Labor Statistics, Office of United States Senator Jeff Merkley and Small Business Administration and lease records for Candidate from Greystar Real Estate Partners.

6. Candidate's counsel argued the 7 subpoenas be denied as untimely and overly broad; the Objector filed for subpoenas two days after the deadline. Also, Rule 14 allows a hearing officer to strike a motion (for subpoenas) if the Objector or the Candidate fails to adhere to the rules of the Electoral Board. Under Rule 19 Objector has not identified the purpose of each of the subpoenas and why each might be relevant to the issue of residence. Candidate cited Nader v Illinois State Board of Elections, 354 Ill.App.3d 335 and stated that "the Electoral Board may only issue subpoenas that are germane to issues raised in the Objector's petition, and requests for subpoenas beyond the scope of the Electoral Board's inquiry should be rejected."

Hearing Officer's Recommended Denial of Subpoena Request

7. The Hearing Officer found Objector's subpoena requests to be untimely under Rule 19 where "the party requesting the subpoena must submit...not later than five (5) business days after the first hearing...". Since the hearing convened on December 16, 2019, the request for subpoenas must have been submitted by December 21, 2019. Instead, Objector emailed the subpoenas two days after the deadline and provided only a list of names and addresses and failed to correlate the requests to the allegations in the petition.

December 26, 2019 Status Hearing on Production of Documents

8. Counsels agreed to consider stipulations as to candidate addresses in DC and in Illinois. Candidate produced additional documents from Uber, Lyft and Chase Bank; Candidate hasn't yet been able to obtain tax documents from his accountant. Candidate's Counsel to prepare certificate

of completeness. Candidate to testify at January 8th, 2020 evidentiary hearing. The Candidate's parents will not testify. Parties to submit legal briefs on residency issue.

January 6th, 2020 Status hearing on Residency Documents

9. The Objector orally stipulated that Candidate is a registered voter at an address in Burbank, Illinois. Objector stipulated to Candidate's Illinois DL. Candidate produced a State Farm Auto Insurance document, parents pay for the insurance. Objector asserted that the ride sharing app records. Objector requested Candidate's DC tax return documents; Objector asserted Candidate's DC lease not yet produced; Only Candidate to testify at January 8th Evidentiary Hearing.

January 8, 2020 Evidentiary Hearing

10. Candidate testified he's now 28 years old and continues to reside at his parents' Burbank, Illinois home where he has lived through high school and most of college. After College he moved to DC, and to Brussels for various internships and short-term jobs. When moving to DC, he brought only a couple of suitcases with clothes and books. He did not hire movers. No furniture was moved from his parents' house in Illinois where he is a registered Illinois voter. He has his own bedroom with his belongings; memorabilia. He still resides at his parents' home for two reasons: 1) to save money; and 2) he follows the prevalent Indian culture where families including grand parents live together. Candidate maintained his Illinois Chase Account while working in DC. During his stay in DC, he did not intend to buy a condo but rather rented apartments with roommates. Candidate also clarified that the Uber records do not show a lot of transactions in Illinois because he has a registered Illinois driver's license and he drove his parents' cars with their permission whenever he has visited home. Candidate also mentioned he has been receiving Foreign Affairs Magazine at his parents' house which he collects during his visits. The parties' attorneys moved that following exhibits be entered: Objector Exhibit 1, LinkedIn copies regarding Candidate's internships; jobs; Exhibit 2 Candidate's Uber records; Exhibit 3 Candidate's Chase Bank records; Exhibit 4 Candidate's checking account info.; Exhibit 5 Candidate's State Firm Auto Insurance records. Candidate Exhibit: 1 American Security Project information; Exhibit 2 Candidate's internship program; Exhibit 3 Group photographs: Exhibit 4 screenshots of Candidate's text messages.

Parties' Residency Memorandums

11. Candidate argues that access to the ballot is a substantial right and should not be denied (Candidate's Memo Par A) and cites Kreitz v Behrensmeyer, 125 Ill. 141, 195, 17 N.E. 232 (1888) "the shortest absence, if at the time intended as a permanent abandonment, is sufficient, although the party may soon afterwards change his intention; while, on the other hand, an absence for months, or even years, if all the while intended as a mere temporary absence for some temporary purpose, to be followed by a resumption of the former residence, will not be abandonment." Candidate also cites Maksym v Bd. Of Elec. Comm, 242 Ill.2d 303 and Clark v Quick, 377 Ill.424, 427, 36 N.E.2d 563 (1941) and asserts "a residence is not lost by temporary removal with the intention to return or even with a conditional intention of acquiring a new residence, but when one abandons his home and takes up his residence in another county or election district." (Candidate's Memo Par B). Candidate argues the burden of proof is on the Objector and argues to overrule Objector's petition. (Candidate's Memo Par C).

12. Objector argues the Candidate is a 28 year old man and he has lived apart from his parents for the past five years in Washington DC where he has also earned income and paid taxes; Objector draws a comparison between Rahm Emanuel's situation and that of the Candidate's and argues unlike Emanuel, the Candidate does not own a house in Illinois and has worked full time jobs in Washington DC until August 2019; Objector refers to ILL.CONST., 1970, art. IV, S. 2 (C) and Stein v. County Board of School Trustees, 40 Ill.2d 477 (1968) and argues the Candidate's acts support the conclusion that he legally abandoned his parents' home when he moved; Objector also pleads that the gap in the Candidate's State Farm insurance records is a proof that Candidate did not qualify for coverage because he did not live with his parents, whereas Candidate's ride sharing records, credit card charges, billing etc support the conclusion that he resided in DC until August 2019.

Hearing Officer Findings and Recommended Decision

13. The Hearing Officer heard the testimony of the Candidate, the legal arguments of the parties, and considered the evidence offered. Hearing Officer finds the Candidate has proven his intention to return to his parents' home in Illinois and that he has not legally abandoned his parents' home. This is supported by the candidate's testimony and by the parties' written stipulations entered before the evidentiary hearing where it was agreed that over the years the Candidate has been a registered voter at 8526 Menard Ave, Burbank IL 60459 and has either voted physically or via absentee ballot from Washington DC in Cook County, IL. Established Illinois case law such as Smith v. People ex rel. Frisbie, 44 Ill.16 (1867) holds "residence is lost...by a union of intention and acts" which are to "be inferred from the surrounding circumstances." Whether a person abandoned his residency depends his intent. Hearing Officer finds the Candidate has pursued his entire education in Illinois and has resided in his parents' home during most of that that period. Candidate moved to Washington DC for internships and other full-time jobs. During his stay in DC, Candidate rented an apartment with roommates. Although the Candidate looked-for full-time opportunities in the field of economics, national security, non-profits, civil services, all his employment records show that he was primarily looking for short term employment while he lived in DC. Moreover, the Candidate never transferred his medical care to DC, has full access to his parents' home, possesses the keys to his parents' house and also has a separate bedroom there. When the Candidate moved to DC, he only carried clothes and books but did not move any memorabilia or other personal belongings to the DC apartment. The Candidate's situation seems to be similar to that of Rahm Emanuel where the Candidate had a registered voter address in Illinois, had renewed a driver's license in Illinois, did not own a car in DC. Here Candidate also testified that he lives with his parents to save money and because it is prevalent in the Indian culture for the entire family to live together. Further, in Maksym v Bd. Of Election Comm'rs, the Illinois Supreme Court of Illinois established that it is the Candidate's intent, gathered from his actions, his maintenance of significant family contacts, which establish his Illinois residency. Hearing Officer finds the Objector failed to establish the candidate abandoned his Burbank residence while he lived in Washington, DC. for the sole purpose of working.

Conclusion

14. In the light of the foregoing, the Hearing Officer recommends that the objections of Andre Thapedi to the nominating papers of Ricky Gandhi be overruled and it is recommended that the nominating papers of Ricky Gandhi for the office of Representative in the General Assembly 32nd Representative District, State of Illinois be deemed valid and that the name of Ricky Gandhi for said office be printed on the ballot.

John R. Ashenden, Hearing Officer
20-EB-RGA-19