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

Objections of: VICTOR WILSON	)	
	)	
	)	
To the Nomination	)	No.: 23-EB-ALD-003
Papers of: LAWACO TOE	)	
	)	Rel.: 23-EB-ALD-020,
	)	23-EB-ALD-038 and
	)	23-EB-ALD-055
Candidate for the office of	)	
Alderperson of the 21st Ward, City of	)	
Chicago	)	
	)	

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 June A. Brown, 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 VICTOR WILSON ("Objector") to the nomination papers ("Nomination Papers") of LAWACO TOE, for the office of Alderperson of the 21st Ward ("Candidate") at the Municipal General and Alderperson Elections to be held on Tuesday, February 28, 2023, having convened on Friday, December 9, 2022 at 4:00 p.m. 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 legally constituted under 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 or service was waived.

4. A public hearing held on these Objections commenced on Friday, December 9, 2022 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer Demetrius Carney for further hearings and proceedings.

5. 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, VICTOR WILSON, through his attorneys, MATTHEW M WELCH and PAT CONNELLY; and the Candidate, LAWACO TOE.

6. 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.

7. The Hearing Officer directed all parties to appear and be present, either personally and/or by their authorized representatives, during this records examination.

8. The Candidate and/or his duly authorized representative was present during the examination of the registration records.

9. The Objector and/or his duly authorized representative was present during the examination of the registration records.

10. 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.

11. 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 620;

C. The remaining number of signatures deemed valid as a result of the records examination total 57.

12. 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 the office of Alderperson of the 21st Ward.

13. 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 only 57 valid signatures, which is less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for the office of Alderperson for the 21st Ward, and that the Candidate's Nomination Papers should be found invalid.

14. 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 and incorporates the Hearing Officer's recommended findings and conclusions of law.

15. 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 LAWACO TOE are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of VICTOR WILSON to the Nomination Papers of LAWACO TOE, candidate for election to the office of Alderperson of the 21st Ward, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of LAWACO TOE, candidate for the office of Alderperson for the 21st Ward, SHALL NOT be printed on the official ballot for the Municipal General and Alderperson Elections to be held on Tuesday, February 28, 2023.

Dated: Chicago, Illinois, on Friday, January 13, 2023.

Marisel A. Hernandez, Chair

William J. Kresse, Commissioner

June A. Brown, 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
for the Hearing and Passing upon Objections
to Nomination Papers of Candidates
for the February 28, 2023 General Municipal Election for Alderperson of the 21st Ward in the City of Chicago

Objections of: Victor Wilson	)	
	)	
	)	
To the Nomination	)	
Papers of: Lawaco Toe	)	**No. 23-EB-ALD-003**
	)	
	)	
Candidate for the Office of Alderperson	)	**DEMETRIUS CARNEY**
of the 21st Ward of the City of Chicago	)	**HEARING OFFICER**
County of Cook, State of Illinois		

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

This matter coming before the Board of Election Commissioners of the City of Chicago (CBEC or the Board) on the verified objections (Objection or Objections) of Victor Wilson (Objector or Petitioner) to the nomination papers (Nominating Papers) of Lawaco Toe candidate for the Alderperson of the 21st Ward of the CITY OF CHICAGO (Candidate). The Hearing having convened on December 12, 2022. Demetrius Carney, Esq., the duly appointed Hearing Officer, hereby makes the following findings:

1. The Candidate filed Nomination Papers with the CBEC for the Alderperson of the 21st Ward of the City of Chicago, State of Illinois, for the General Municipal Election to be held on February 28, 2023. Such Nomination Papers consisted of:

a) A Statement of Candidacy;

b) Loyalty Oath and

c) 62 Nominating Petition Sheets containing a total of 620 signatures.

2. Objections to the Nomination Papers of the Candidate herein were duly and timely filed. A public hearing, (i.e. initial case conference) on the Objections commenced on December 12, 2022. The Candidate failed to appear. The Objector was represented by his attorney Matthew Welch. The Objector timely filed his appearance and Non-Disclosure and Confidentiality Agreement. The Board entered a notice for a continued hearing on the matter to Friday, December 16, 2022. Status Report entered with a directive to attempt a second service on the Candidate.

I Status Hearing on December 16, 2022

1. The Objector was represented by Counsel.

2. On December 15, 2022 the Sheriff attempted a second service but there was no contact with the Candidate.

3. The Objector entered a Default Motion instanter for failure of the Candidate to appear after a second attempt of service. The Objector argued that a Candidate must avail himself to the proceedings. The Candidate cannot simply evade service that would obviously frustrate the purpose of the statutory election scheme.

4. The Hearing Officer granted the Objector's motion to default the Candidate for failure to appear which resulted in the invalidation of the Candidate's Nomination Papers.

II Case Status update on December 22, 2022

1. The Candidate was present (pro se).

2. The Objector received notice by email of the hearing but did not appear.

3. Candidate filed with the Board an appearance dated December 22, 2022.

4. The Board considers the Candidate's right to be placed on the ballot as a substantial right which is entitled to protection. Since the Candidate was present for the hearing and filed an appearance, the order granting the Objector's motion to default the Candidate for failure to appear was vacated by the Hearing Officer.

5. The Hearing Officer reviewed the Board's procedural rules for a Rule 6 Records Examination (Records Exam) and Rule 8 Motion for Evidentiary Hearing (Rule 8 Motion).

6. The Hearing Officer entered a Directive for a Records Exam and continued the matter until January 5, 2023.

III Case update subsequent to Hearing on December 22, 2022

1. On December 29, 2022 the Electoral Board sent an email notice to the Candidate and the Counsel for the Objector advising that the matter has been scheduled for a Records Exam on **December 30, 2022 at 9:15 AM.** The Candidate acknowledged receipt of the email notice.

2. On December 29, 2022 the Hearing Officer provided an email notice to the Candidate stating that a written Rule 8 Motion will be due no later than 5:00 PM on the next business day after receipt of the final findings of the Records Exam.

IV Case Status Update on January 5, 2023

1. The Candidate was present (pro se).

2. The Objector received notice by email of the Hearing but did not appear.

3. The Records Exam Final Summary Report dated January 5, 2023 disclosed that the Candidate has **416 signatures less that the required minimum.**

4. Candidate represented that he was **not** present for the Records Exam.

5. The Candidate further represented he would seek Counsel and a Rule 8 Motion would be filed by the deadline of 5:00 PM on January 6, 2023.

V Case Update subsequent to Hearing on January 5, 2023

1. On January 6, 2023 at 4:16 PM the Candidate filed a motion by email to the Hearing Officer and Terrence Flynn (Hearing Officer on ALD 055) requesting a second review of the records examination Data result due to a) a misunderstanding in emails and timing and b) the death of a family member. Due to time constraints the Candidate was not able to secure a lawyer.

DISCUSSION

In order to challenge Objections the Candidate or the Candidate's representative must be present at the Rule 6 Records Exam and appeal each finding at the time the finding is entered into the Record Examiner's computer. If the Candidate does not timely appeal the Records Examiner's finding any future appeal (Rule 8

Motion) or reconsideration of the Records Examiner's finding is waived. The Candidate was given notice (Notice) from the Board as to the date and time for the Records Exam and acknowledged receipt of the Notice. The Candidate failed to appear. The Candidate did not immediately notify the Board he would be unable to attend the Records Exam due to the death of a family member.

CONCLUSION

In light of the foregoing, after receiving notice from the Board the Candidate failed to appear at the Records Exam to challenge the Objections and timely appeal the findings of the Record Examiner. Therefore the results of the Final Records Exams Summary Report shall be deemed **final**. It is my recommendation that the name of **Lawaco Toe** as Candidate for the office of Alderperson for the 21st Ward of the City of Chicago, State of Illinois **NOT** be printed on the ballot for the General Election to be held on February 28, 2023.

Respectfully Submitted,

Demetrius Carney, Hearing Officer

1-6-2023