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

Objections of: CARMELA SANCHEZ and SANDRA LETTEN	)	
To the Nomination Papers of: JOSEPH E. MERCADO	)	No.: 23-EB-ALD-024
Candidate for the office of Alderperson 12th Ward	)	

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 CARMELA SANCHEZ and SANDRA LETTEN ("Objectors") to the nomination papers ("Nomination Papers") of JOSEPH E. MERCADO, candidate for the office of Alderperson of the 12th 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 Objectors 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 James Rosas for further hearings and proceedings.

5. The Objectors 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 Objectors, CARMELA SANCHEZ and SANDRA LETTEN, through their attorneys, BURTON S. ODELSON and ROSS D. SECLER; and the Candidate, JOSEPH E. MERCADO and his attorney STEPHEN BOULTON.

6. 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 failed to file a Statement of Economic Interests as required. The Hearing Officer found, therefore, that the Candidate's Nomination Papers are invalid.

7. The Candidate filed a Motion pursuant to Rule 20 of the Board's Rules of Procedure in which the Candidate alleged that equitable estoppel should apply because the Candidate filed his Statement of Economic Interests with the Chicago Board of Ethics in reliance on misleading printed information from the Board of Ethics.

8. The Electoral Board finds that the Board of Ethics is a different governmental entity from the Chicago Board of Elections. To invoke estoppel against a public body, a litigant must establish an affirmative act on the part of the public body that induced reliance. *Heabler v Municipal Officers Electoral Board*, 338 Ill. 3d 1059, 780 N.E.2d 854. No evidence was

presented to establish that the Chicago Board of Elections induced the Candidate's error by providing inaccurate information.

9. The Electoral Board further finds that the requirement to file a receipt evidencing that the Statement of Economic Interests was properly filed with the correct office is mandatory and the failure to do so renders the Candidate's nominating papers invalid.

10. 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.

11. For the reasons stated above, the Electoral Board finds that the Objections filed in this matter should be sustained and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of CARMELA SANCHEZ and SANDRA LETTEN to the Nomination Papers of JOSEPH E. MERCADO, candidate for the office of Alderperson of the 12th Ward, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JOSEPH E. MERCADO, candidate for the office of Alderperson for the 12th 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, December 30, 2022.

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.