

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

Objections of: LATOYA L. PETERSON)	
)	
To the Nomination)	No.: 19-EB-ALD-057
Papers of: NATHAN BENJAMIN MYERS)	
)	Rel.: 19-EB-ALD-007
)	
Candidate for the office of Alderman 49th)	
Ward of the 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 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 LATOYA L. PETERSON (“Objector”) to the nomination papers (“Nomination Papers”) of NATHAN BENJAMIN MYERS, candidate for the office of Alderman for the 49th Ward of the City of Chicago (“Candidate”) at the General Municipal Election to be held on Tuesday, February 26, 2019, having convened on Monday, December 10, 2018, at 8:30 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 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 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 Monday, December 10, 2018 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Ellen K. Raymond for further hearings and proceedings.

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, LATOYA L. PETERSON, and/or her Attorney, Michael C. Dorf.

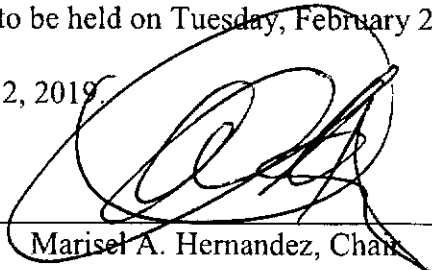
7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate failed to file a receipt for a Statement of Economic Interests form in violation of the Illinois Governmental Ethics Act (5 ILCS 420/1-101, *et seq.*) and section 10-5 of the Election Code (10 ILCS 5/10-5). The Hearing Officer found, therefore, that the Candidate's Nomination Papers are invalid.

8. 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.

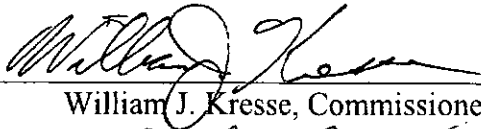
9. For the reasons stated above, the Electoral Board finds that the Objections filed in this matter should be sustained and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of LATOYA L. PETERSON to the Nomination Papers of NATHAN BENJAMIN MYERS, candidate for the office of Alderman for the 49th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of NATHAN BENJAMIN MYERS, candidate for the office of Alderman for the 49th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

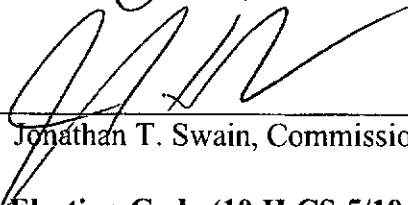
Dated: Chicago, Illinois, on Wednesday, January 2, 2019.



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.

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO AS THE DULY
 CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON
 OBJECTIONS TO THE NOMINATING PAPERS OF CANDIDATES FOR THE
 FEBRUARY 26, 2019 MUNICIPAL ELECTION FOR
 ALDERMAN OF THE 49th WARD IN THE CITY OF CHICAGO**

LATOYA L. PETERSON,)	
)	
Petitioner-Objector)	
)	
vs.)	No. 19-EB-ALD-057
)	
NATHAN BENJAMIN MYERS,)	
)	
Respondent - Candidate)	
)	

2018 DEC 18 P 2:10
 COURT REPORTER

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

Objector Latoya L. Peterson ("Objector") filed an objection petition challenging the nominating papers for election of The Office of Alderman of the 49th Ward of the City of Chicago in the State of Illinois filed by the Candidate Nathan Benjamin Myers ("Candidate"). This matter was first heard on December 10, 2018. The Objector appeared through counsel, Michael C. Dorf, who filed his appearance. The Candidate failed to appear. There was no Proof of Service returned for the Candidate and; accordingly, the matter was continued for a hearing on December 18, 2018. At the December 18, 2018 hearing, the Objector's Counsel appeared. The Candidate failed to appear. The matter was continued twice in 15 minute intervals with the Candidate failing to appear. The hearing moved forward.

Service of the Candidate

The matter was reviewed for proof of service. Service of the call stating the day, hour and place at which the electoral board will hear and pass upon the objections to the nominating papers shall be done by registered or certified mail and the sheriff. 10 ILCS 5/10-10. The record showed an effort to serve the Candidate by the Sheriff. The Sheriff's Office of Cook County, IL Affidavit of Service dated December 7, 2018 at 3:01pm by Star #10684 showed that the Sheriff was unable to serve the Candidate because "Per Mr. Jones, no such person at address". The attempted service was made at 1102 W. North Shore Ave. Chicago, IL 60626, the same address listed by Candidate in the Nomination Papers.

All objections and dates of hearings are made publically available on the City of Chicago Board of Elections website at <https://chicagoelections.com>. There is no reason the Candidate would not know of Objections filed against him and the dates of the hearings where he was given the opportunity to defend his Nomination Papers.

In this matter, the record shows that the Candidate was not available for service at the address provided by the Candidate. A candidate cannot evade the effects of a duly filed objection by being unavailable for service of the papers. *Gladstein v. Beachman*, 15-EB-ALD-029 (Chicago Electoral Board 2014).

Based on the foregoing, the Hearing Officer made a finding that service could not be made because the Candidate made himself unavailable for service by either providing a false address or being unavailable at the address he provided.

Default Judgment

The Objector orally moved for the entering of a default judgment against the Candidate. The Objector alleged that the Candidate failed to file a Statement of Economic Interests with the Cook County Clerk, filed a “false and perjurious” Statement of Candidacy in which the Candidate swore that he filed or would file by the close of the petition filing period a Statement of Economic Interests, and that the Candidate failed to file a receipt for the Statement of Economic Interests with his Nomination Papers. The Objector presented his offer of proof which included the Receipt for Nomination Papers—City of Chicago for the February 26, 2019 Municipal Election for the Candidate which indicated “No” for “Receipt for Statement of Economic Interests,” (Obj., Ex. “A”), the receipt for the City of Chicago 2018 Statement of Financial Interests, (Obj., Ex. “B”), and an email dated 11/30/18 at 1:54pm from Christina T. Lynch, Staff Attorney, Cook County Clerk, stating no Candidate Statement of Economic Interests was on file for Nathan Benjamin Myers (Obj., Ex. “C”).

As to the failure to file a Receipt for the Statement of Economic Interests with the Nomination Papers, The Objector’s petition and offer of proof pled a factual issue that does not require an evidentiary hearing but; instead, can be determined by a review of the nominating papers on their face. It is clear that no Receipt for Statement of Economic Interests was filed with the Nomination Papers and this fact was collaborated by the entry of “No” for Receipt for Statement of Economic Interests on the Candidate’s Receipt for Nomination Papers—City of Chicago for the February 26, 2019 Municipal Election .

Failure to file a Receipt evidencing the filing of a Statement of Economic Interests with the Cook County Clerk's Office is fatal and invalidates the Candidate's Nomination Papers. 10 ILCS 5/10-5; *Bolger v. Electoral Board of City of McHenry*, 210 Ill.App.3d 958, 569 N.E.2d 628 (Second Dist. 1991); *Wojkowski v. Hamblet*, 95 CO 12 (Cir. Ct. Cook co. 1995), affirmed 1-59-0374 (Ill.App.Ct. 1995); *Henning v. Lawrence* (Chicago Electoral Board 2007), affirmed, *Lawrence v. Board of Election Commissioners, et al.*, Cir. Ct. Cook Co., 2007 COEL 0008, affirmed Illinois Appellate Court, No. 1-07-0286 (unpublished order).

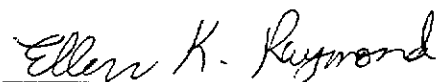
Instead of filing the required Receipt for Statement of Economic Interests, the Candidate filed a receipt evidencing the filing of a Statement of Financial Interests with the Chicago Board of Ethics. Such filing does not cure the fatality of not filing a Receipt for the Statement of Economic Interest. The two receipts are not interchangeable. *Woods v. Healy*, 03-EB-ALD-023 (2003).

Based on the foregoing, the Hearing Officer made a finding that the nominating papers were invalid. As the nomination papers were found to be invalid, the other objections were mooted and not ruled on.

Conclusion

It is my recommendation that 1) the nominating papers for the Candidate, Nathan Benjamin Myers, be found invalid and 2) that the Candidate's name, Nathan Benjamin Myers, shall not be on the ballot.

Respectfully Submitted,



Ellen K. Raymond, Hearing Officer

12/18/18