

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

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Objections of: DAVID HERRERA	)	
	)	
	)	
To the Nomination	)	No.: 19-EB-ALD-151
Papers of: MIRKO "LIMO MIKE Z." ZAPLATIC JR.	)	
	)	Rel.: 19-EB-ALD-054, 19-EB-ALD-094
	)	
Candidate for the office of Alderman 26th 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, Chairwoman of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of DAVID HERRERA ("Objector") to the nomination papers ("Nomination Papers") of MIRKO "LIMO MIKE Z." ZAPLATIC JR., candidate for the office of Alderman for the 26th 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 Richard Zulkey 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, DAVID HERRERA, and/or his Attorneys, Elizabeth Homsy and Ed Mullen; and the Candidate, MIRKO "LIMO MIKE Z." ZAPLATIC JR., his Attorney PERICLES ABBASI.

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's Nomination Papers designate a ballot name that includes a prohibited nickname suggesting or implying a professional status in violation of section 10-5.1 of the Election Code 10 ILCS 5/10-5.1 ("...No other designation such as a political slogan, title, or degree, or **nickname suggesting or implying possession of a title, degree or professional status**, or similar information may be used in connection with the candidate's surname.") (Emphasis added.) The ballot name designated on the Candidate's Nomination Papers is Mirko "Limo Mike Z" Zaplatic, Jr. and the Candidate does not refute that he works as a limousine driver. 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 and incorporates them herein by this reference. The Electoral Board finds that the nickname "Limo" suggests or implies a professional status in violation of section 10-5.1, and that the Board is therefore required to strike the Candidate's entire name from the ballot. Although the Board recognizes the Candidate's important right to seek elective office and the harsh result of invalidating his entire candidacy, such is the result that the Electoral Board is required by appellate court mandate to apply under these circumstances.

9. Nicknames suggesting or implying a professional status have been previously litigated, and Illinois courts have already affirmed electoral board decisions to invalidate entire candidacies for such violations of section 10-5.1. For example, the nickname "Reverend" is prohibited (*Jones v. Municipal Officers Electoral Board*, 112 Ill.App.3d 926 (1<sup>st</sup> Dist. 1983)), as is "Doc" (*Hart v. Shepard*, 1989-CO-39 (Cir. Ct. Cook Cty., 1989) and the nickname "Coach" for a candidate who was a volunteer baseball coach in a local league (*Rita v. Mayden*, 364 Ill.App.3d 913, 847 N.E.2d 578 (1<sup>st</sup> Dist. 2006)). In the *Rita* case, the appellate court discussed its similar prior ruling in *Jones* and explained why such a harsh result is required:

This is a harsh remedy. We note, however, that striking a candidate's name from the ballot is necessary when a candidate uses an improper designation because it taints the nominating process itself, not simply the ballot. See *Jones*, 112 Ill. App.3d at 931, 68 Ill.Dec. 522, 446 N.E.2d 256 (striking from the ballot the name of a candidate who used an improper designation). As this court noted in that case:

"It is possible that a voter, seeing the title 'Reverend' [or 'Doc,' 'Coach' or 'Limo'] on a nominating petition, would be induced to sign that petition on the strength of that title, whether or not he was familiar with the candidate's abilities. We do not know whether that was the case here, but the statute was designed to eliminate the need for inquiry into the reasoning processes of the numerous persons who sign a candidate's petition." *Jones*, 112 Ill.App.3d at 931, 68 Ill.Dec. 522, 446 N.E.2d 256.

The *Jones* court rejected the candidate's argument that striking his name from the ballot was too harsh of a remedy. *Jones*, 112 Ill.App.3d at 931, 68 Ill.Dec. 522, 446 N.E.2d 256 (rejecting the argument that merely removing the title "Reverend" from the ballot would be a reasonable sanction). The court noted that it was concerned "not merely with orderly procedure but with conduct in direct violation of the Electoral Code." *Jones*, 112 Ill.App.3d at 931, 68 Ill.Dec. 522, 446 N.E.2d 256. Further, in *Jones*, as in the instant case, the harm had already occurred by the time the candidate filed his nominating papers; any unfair advantage created by use of the improper designation had already tainted the nominating process itself; this cannot be corrected by simply removing the offensive title. See *Jones*, 112 Ill.App.3d at 931, 68 Ill.Dec. 522, 446 N.E.2d 256. As the *Jones* court noted, the only possible remedy in a case like this is removal of the offending candidate's name from the ballot; to do otherwise "might encourage others in the future to consider the use of titles on nomination papers knowing that it would result only in the removal of the titles on the ballots." *Jones*, 112 Ill. App.3d at 931, 68 Ill.Dec. 522, 446 N.E.2d 256.

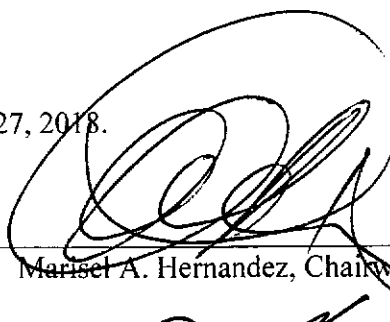
*Rita v. Mayden*, 847 N.E.2d at 585-586.

10. 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.

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IT IS THEREFORE ORDERED that the Objections of DAVID HERRERA to the Nomination Papers of MIRKO "LIMO MIKE Z." ZAPLATIC JR., candidate for the office of Alderman for the 26th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of MIRKO "LIMO MIKE Z." ZAPLATIC JR., candidate for the office of Alderman for the 26th 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 Thursday, December 27, 2018.



Marisel A. Hernandez, Chairwoman



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.