

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

Objections of: ERIC M. GLATSTEIN)	
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To the Nomination)	No.: 15-EB-ALD-031
Papers of: NATHAN BENJAMIN MYERS)	
)	
Candidate for the office of)	
Alderman of the 49th Ward, City of Chicago)	
)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal, Richard A. Cowen, and Marisel A. Hernandez, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of ERIC M. GLATSTEIN ("Objector") to the nomination papers ("Nomination Papers") of NATHAN BENJAMIN MYERS, candidate for the office of Alderman of the 49th Ward in the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014 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 herein 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 Chairman 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 8, 2014 and was continued from time to time.
5. The Electoral Board assigned this matter to Hearing Officer William J. Kresse for further hearings and proceedings.
6. 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, ERIC M. GLATSTEIN, by his attorney, Michael C. Dorf; and the Candidate, NATHAN BENJAMIN MYERS, pro se.
7. The Candidate filed a motion to strike and dismiss the Objector's Petition. The Hearing Officer denied the Candidate's motion.
8. 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.
9. The Hearing Officer directed all parties to appear and be present, either personally and/or by their authorized representatives, during this records examination.
10. The Candidate and/or his duly authorized representative was not present during the examination of the registration records.
11. The Objector and/or his duly authorized representative was present during the examination of the registration records.

12. 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.

13. 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 1,812;
- C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 1,462;
- D. The remaining number of signatures deemed valid as a result of the records examination total 350.

14. 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 election to the office of Alderman of the 49th Ward of the City of Chicago.

15. Neither party filed a Rule 8 motion objecting to the Board's clerk's findings during the records examination.

16. 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 350 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 election to the office of Alderman of the 49th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

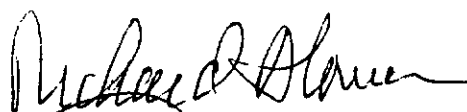
17. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report is attached hereto and is incorporated herein and made a part of the Electoral Board's decision in this case.

18. 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 NATHAN BENJAMIN MYERS are, therefore, invalid.

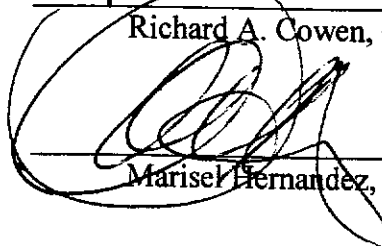
IT IS THEREFORE ORDERED that the Objections of ERIC M. GLATSTEIN to the Nomination Papers of NATHAN BENJAMIN MYERS, candidate for election to the office of Alderman of the 49th Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of NATHAN BENJAMIN MYERS, candidate for election to the office of Alderman of the 49th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

Dated: Chicago, Illinois, on January 5, 2015.

Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner



Marisel Hernandez, 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 NOMINATION
PAPERS OF CANDIDATES FOR THE FEBRUARY 24, 2015 MUNICIPAL GENERAL
ELECTION IN THE CITY OF CHICAGO**

ERIC M. GLATSTEIN,

Objector,

vs.

NATHAN BEN MYERS,

Candidate.

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No. 15-EB-ALD-031

Hearing Officer William J. Kresse

Report and Recommended Decision of the Hearing Officer

To the Board of Election Commissioners of the City of Chicago:

Hearing Officer William J. Kresse reports as follows:

1. This matter came before the Hearing Officer, pursuant to notice, for hearing on December 9, 2014. The Objector was present by counsel. The Candidate was present *pro se*. No issue was raised as to sufficiency or timeliness of notice of the objection or of the hearing. Both parties filed written Appearances and Non-Disclosure Agreements.
2. Without objection, the Candidate's nomination papers for the office of Alderman of the 49th Ward of the City of Chicago were admitted into the record as Group Exhibit A; the Objector's Petition and attachments were admitted into the record as Group Exhibit B; the return of service of process, and a copy of the Call and attachments were admitted into the record as

Group Exhibit C; and the completed Appearance forms and Non-Disclosure Agreement forms were admitted into the record as Group Exhibit D.

The Claim of the Objector's Petition

3. The Objector's Petition, filed on December 3, 2014, asserted in substance as follows: That the Candidate's nomination papers contained fewer than the necessary 473 signatures of duly qualified, registered and legal voters of the 49th Ward.

Motion to Strike and Dismiss the Objector's Petition

4. At the December 9, 2014 hearing, the Hearing Officer asked the parties if they anticipated filing any motions in this case. The Candidate stated that he intended to file a Motion to Strike and Dismiss the Objector's Petition. Accordingly, the Hearing Officer set the following schedule for filing the motion and filing briefs on the motion:

- Motion and supporting brief due by 5:00 pm on Wednesday December 10;
- Response brief due by 5:00 pm on Friday December 12;
- Reply brief, if any, due by 5:00 pm on Sunday December 14.

A hearing on the motion and on status was set for Tuesday December 16 at 10:00 am.

Proceedings at the December 16 Hearing

5. At the December 16, 2014 hearing, the Objector was present by counsel, and the Candidate was present *pro se*. The Hearing Officer asked the parties to orally present their arguments regarding the Candidate's "Motion to Strike and Dismiss Objection's [sic] Petition".

6. After hearing the parties' oral arguments, and after giving due consideration to the parties' briefs and all other matters brought to the attention of the Hearing Officer in the

premises, the Hearing Officer found that the Candidate's argument that the Objector's Petition was a "shotgun" objection and "fishing expedition" was not persuasive given the detailed manner in which the Petition was prepared and in light of the affidavits filed by the Objector in his response brief. In all, the Candidate's motion did not state a sufficient basis in law and the motion was denied.

7. Additionally, in the interim between the hearings, the Objector filed a timely motion for the issuance of subpoenas for three named individuals. The Hearing Officer asked the parties to orally present their arguments regarding the Objector's "Request for Subpoena". After hearing the parties' oral arguments, and after giving due consideration to the parties' briefs and all other matters brought to the attention of the Hearing Officer in the premises, the Hearing Officer determined that the Request was well founded, and that he would recommend to the Electoral Board that the requested subpoenas be issued, provided, however, that issuance be conditional on further proceedings in this case and at the discretion of the Hearing Officer.

8. The Hearing Officer then ordered, without objection from the parties, that a Records Examination be conducted in this case. The Hearing Officer directed the Clerk's Office to schedule a Records Examination and notify the parties as to the date, time and place for said Examination.

9. There being nothing further, this case was continued until December 23, 2014 at 1:00 pm, for a report on the Records Examination and for status.

Proceedings at the December 23 Hearing

10. At the December 23, 2014 hearing, the Objector was present by counsel, and the Candidate was present *pro se*.

11. The Hearing Officer was notified of the following occurrences over the previous two days:

- On Sunday December 21, 2014 at approximately 12:39 pm, the Electoral Board served on the parties via email a Records Examination Directive setting this case for a Records Examination on Monday December 22, 2014 at 1:30 pm.
- On Monday December 22, 2014 at approximately 1:30 pm, the Records Examination in this case commenced.
- On Monday December 22, 2014 at approximately 5:57 pm, the Candidate emailed the Electoral Board, counsel for the Objectors and the Hearing Officer, stating, in part, "This is the first I know about this."
- On Monday December 22, 2014 at approximately 6:43 pm, the Candidate filed his "Motion to Strike Record Examination Results of 12-22-14", stating, in part, that he "first learned of this record examination date about 6 pm today when he first checked his emails.... [he] had checked his email on Sunday morning but apparently before the notification mail was sent."
- The Record Examination that had begun on Monday December 22 was not completed on that date, and was scheduled to continue on Tuesday December 23 at 9:00 am, and was still ongoing at the time of this Hearing.

12. The Hearing Officer asked the parties to orally present their arguments regarding the Candidate's "Motion to Strike Record Examination Results of 12-22-14".

13. After hearing the parties' oral arguments, and after giving due consideration to the Candidate's brief and all other matters brought to the attention of the Hearing Officer in the

premises, the Hearing Officer found that since the Candidate had agreed to service via email, and was served with - and admonished by the Hearing Officer at the initial hearing to read and understand - the "Rules of Procedure for the Board of Election Commissioners of the City of Chicago as the Duly Constituted Electoral Board for Hearing and Passing Upon Objections to Nomination Papers and Petitions for Questions of Public Policy", the Candidate's motion did not state a sufficient basis in law and denied the motion.

14. The Hearing Officer also noted for the record that on December 19 the Electoral Board entered an Order approving the issuance of the subpoenas previously requested by the Candidate, subject to conditions given to the discretion of the Hearing Officer. The Hearing Officer noted that the subpoenas will not be issued at this time, and, if at all, would only be issued upon determination of need after the results of the Records Examination are issued.

15. The Hearing Officer ordered that the Records Examination continue, and ordered this case continued until December 30, 2014 at 1:00 pm, for a report on the Records Examination and for status.

Proceedings at the December 30 Hearing

16. At the December 30, 2014 hearing, the Objector was present by counsel, and the Candidate was present *pro se*.

17. The Hearing Officer was notified that on Sunday December 28, 2014 at approximately 12:05 pm, the Electoral Board served on the parties via email a Final Petition Summary Report.

18. The Hearing Officer also noted for the record that since the issuance and serving of said Final Petition Summary Report neither of the parties filed a motion seeking an

evidentiary hearing pursuant to Rule 8 of the Rules of Procedure for the Board of Election Commissioners of the City of Chicago as the Duly Constituted Electoral Board for Hearing and Passing Upon Objections to Nomination Papers and Petitions for Questions of Public Policy.

19. The Hearing Officer then entered into the record the Final Report of the Records Examination in this case, and read into the record the relevant findings as stated in the Final Petition Summary Report, including, but limited to, the finding that the Candidate's Nomination Papers contained "123 Signatures fewer than the required minimum".

20. At the request of the Candidate, the Hearing Officer stated in the record that all prior motions by the Candidate to strike and dismiss the Objector's Petition were previously dismissed, and if any somehow were not previously ruled upon, were now dismissed for not stating a sufficient legal basis.

Recommended Findings, Conclusions, and Decision

21. Accordingly, on the basis of a Records Examination of the Candidate's nomination papers, the Hearing Examiner recommends that the Board enter the following finding of fact: The Candidate's nomination papers contained only 350 valid signatures.

22. The Hearing Examiner recommends that the Board enter the following conclusions of law:

- a. That it is administratively noticed that the minimum number of valid petition signatures required by law for inclusion on the ballot for the 2015 election for the office of Alderman of the 49th Ward of the City of Chicago is 473.
- b. That the Candidate's nomination papers set forth fewer than the minimum number of petition signatures required by law for inclusion on the ballot for

the 2015 election for the office of Alderman of the 49th Ward of the City of Chicago.

- c. That the Objector's Petition is well founded, and the relief sought therein should be granted.
- d. That the Candidate's nomination papers are not sufficient in law and fact.

Recommended Decision With Regard to the Objector's Petition

19. The Hearing Examiner recommends that the Electoral Board enter the following final administrative decision:

The name of **Nathan Benjamin "Ben" Myers** shall not appear and shall not be printed on the ballot for election to the office of Alderman of the 49th Ward of the City of Chicago to be voted for at the Municipal General Election to be held on February 24, 2015.

Dated: January 2, 2015.

Respectfully submitted,

/s/ William J. Kresse
William J. Kresse
Hearing Officer