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

Objections of: JAMES HUDSON	)	
	)	
	)	
To the Nomination	)	No.: 24-EB-SBD-005
Papers of: ANDRE SMITH	)	
	)	Rel.: 24-EB-SBD-035
Candidate for the office of Member of the	)	
Chicago Board of Education, 6th District,	)	
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 JAMES HUDSON ("Objector") to the nomination papers ("Nomination Papers") of ANDRE SMITH, candidate for the office of Member of the Chicago Board of Education, 6th District ("Candidate") at the General Election to be held on Tuesday, November 5, 2024, having convened on Tuesday, July 9, 2024, at 10:30 a.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 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 and service by email was authorized.

4. A public hearing held on these Objections commenced on Tuesday, July 9, 2024 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer Frank Tedesso for further hearings and proceedings.

5. 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, JAMES HUDSON, and/or his Attorneys KEVIN MORPHEW, STEVEN H. FINE, MICHAEL KRELOFF, AND MICHAEL J. KASPER; the Candidate, ANDRE SMITH, and/or his Attorney ANDREW FINKO.

6. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate filed his Statement of Economic Interests in the proper office and filed with his nominating papers a receipt evidencing said filing. The Hearing Officer further found that the omission of the office sought on Candidate's Statement of Economic Interests was not a fatal defect which would justify invalidating the nominating papers. As a result, the Hearing recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid.

7. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer Report and Recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

8. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of JAMES HUDSON to the Nomination Papers of ANDRE SMITH, candidate for the office of Member of the Chicago Board of Education, 6th District, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of ANDRE SMITH shall be printed on the official ballot for the General Election to be held on Tuesday, November 5, 2024.

Dated: Chicago, Illinois, on Tuesday, August 27, 2024.

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.

BEFORE THE DULY CONSTITUED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS OF CANDIDATES FOR NOMINATION TO THE OFFICE OF MEMBER OF THE CHICAGO BOARD OF EDUCATION, 6TH DISTRICT, TO BE VOTED UPON AT THE NOVEMBER 5, 2024, GENERAL ELECTION.

JAMES HUDSON,	)	
	)	
Petitioner-Objector,	)	
V.	)	**Case No. 24-EB-SBD-005**
	)	
ANDRE SMITH,	)	
Respondent-Candidate.	)	

HEARING OFFICER'S RECOMMENDED DECISION

1. Respondent -Candidate, **ANDRE SMITH**, filed Nomination Papers for nomination to the Office of Member of the Chicago Board of Education, 6th District, City of Chicago, State of Illinois, to be voted upon at the November 5, 2024, General Election.
2. Petitioner-Objector, **JAMES HUDSON**, filed a timely Objector's Petition objecting to the Nomination Papers of the Candidate.
3. On July 9, 2024, this matter appeared on the Board's Initial Trial Call. Petitioner-Objector appeared through his attorney, Kevin Morphew, and Respondent-Candidate appeared through his attorney, Andrew Finko. Both parties waived any issues regarding service and provided emails where they could be served. The following Board Documents were entered into evidence by the Hearing Officer: "Board Group Exhibit A" consisting of the Candidate's Nomination Papers; "Board Group Exhibit B" consisting of the Objector's Petition and attachments; "Board Group Exhibit C" consisting of a copy of the call and proof of service of the call; and "Board Group Exhibit D" consisting of the parties' appearances and non-disclosure agreements. The Hearing Officer granted the Candidate

leave to file a Motion to Strike and Dismiss the Objector's Petition and set a briefing schedule. The Hearing Officer continued the matter for hearing on any motions on July 15, 2024.

MOTION TO DISMISS PARAGRAPHS 8-14

4. On July 15, 2024, the matter appeared hearing on the Candidate's Motion to Dismiss the Objector's Petition.
5. Candidate seeks to dismiss paragraphs 8-14 of the Objector's Petition for failure to identify any line-by-line signature objections and objector's failure to attach an Appendix-Recapitulation Sheets to the Objector's Petition.
6. An objector's petition shall give the objector's name and residence address and shall state fully the nature of the objections to the certificate of nomination or nomination papers or petitions in question. *10 ILCS 5/10-8.*
7. Paragraphs 8-14 of the petition do not identify any line-by-line signature objections. Furthermore, the objector did not attach Appendix Recapitulation Sheets to the Objector's Petition.
8. The Hearing Officer recommends Paragraphs 8-14 of the Objector's Petition be dismissed for failure to "fully state the nature of the objections" as required by Section 10-8 of the Election Code.

MOTION TO DISMISS PARAGRAPHS 5-7

9. In paragraphs 5-7 of the Objector's Petition, Objector seeks to invalidate the Candidate's Nomination Papers for the following reasons:

a. The Candidate failed to file a Statement of Economic Interest in relation to his candidacy pursuant to the Illinois Governmental Ethics Act as required by the Election Code and the School Code.

b. The Candidate failed to file a receipt evidencing the filing of a Statement of Economic Interests in relation to the candidacy sought pursuant to the Illinois Governmental Ethics Act.

c. The Candidate's Statement of Candidacy is false in that the Candidate's states under oath that I filed a Statement of Economic Interests as required by the Illinois Governmental Ethics Act.

10. Candidate filed a Motion to strike and dismiss paragraphs 5-7 of the Objector's Petition. The Candidate argues that the Illinois School Code does not contain the "in relation to his candidacy" language present in the Illinois Election Code on which the Objector bases his objection. The Candidate further asserts that even under Section 10-5 of the Election Code, deficiencies in the Statement of Economic Interest receipt do not support removal from the ballot. Candidate argues that the failure to specify the office for which the candidate seeks nomination on the receipt for the statement of economic interest is not a sufficient basis for invalidating the nomination papers and removal from the ballot is not an appropriate sanction. Candidate cites McCord v. Penn, 02 EB-RGA-15 (Chicago Elec Bd. 2002), citing Requena v. Cook County Officers Electoral Board, 295 Ill.App.3d 728 (1st Dist. 1998); McDaniel v. Baker, 03-EB-ALD-150 (Chicago Elec. Bd. 2003); Brown v. Washington, 11-EB-ALD-009 (Chicago Elec. Bd. 2011); Brown v. LaFargue, 15-EB-ALD-017 (Chicago Elec. Bd. 2015) in support of his Motion to Dismiss. Candidate argues that the weight of authority holds that a candidate has met his relevant obligations

under Section 10-5 of the Election Code when he seasonably files a statement of economic interest, and he submits the receipt of filing with his nomination papers. Haynes v. Mallory, 07-EB-ALD-021 (Chicago Elec. Bd. 2007), Guerrero v. Municipal Officers Electoral Board of Franklin Park, 2017 IL App(1st) 170486.

11. Objector argues that the Illinois Governmental Ethics Act requires candidates for elective office in a unit of local government to file a statement of economic interests with the County Clerk in relation to their candidacy. *5 ILCS 420/4A-101(g).* Objector further asserts that Section 10-5 of the Election Code provides that "Nomination papers filed under this Section are not valid if the candidate named therein fails to file a statement of economic interests as required by the Illinois Governmental Ethics Act in relation to his candidacy with the appropriate officer by the end of the period for the filing of nomination papers." *10 ILCS 5/10-5.* Objector contends that the filing of a Statement of Economic Interests in "relation to his candidacy" is mandatory, and that the Candidate's failure to list the office sought on the Statement of Economic Interest and the Receipt of Filing of the Statement of Economic Interest renders the Candidate's filing invalid. The Objector relies upon Jones v. Municipal Officers Elec Bd, 112 Ill.App.3d 926, 931 (1st Dist. 1983), where the Appellate Court held that when a candidate fails to specify the office on the Statement of Economic Interests, then the candidate's nomination papers are invalid. Jones v. Municipal Officers Elec. Bd, 112 Ill.App.3d 926, 931 (1st Dist. 1983). Id. at 930. Objector asserts there is no substantive difference between the facts in Jones, and the facts here; the Statement of Economic Interests is completely missing the office or position to which the Statement relates.

ANALYSIS

12. The Candidate's Nomination Papers include a "Receipt of Statement of Economic Interest Form" filed with the Cook County Clerk. The Receipt in the blank ~~in~~ where it requests the Candidate "list each office or position of employment for which this statement is filed below" states DNA.

13. Section 10-5 of the Election Code provides that "Nomination papers filed under this Section are not valid if the candidate named therein fails to file a statement of economic interests as required by the Illinois Governmental Ethics Act in relation to his candidacy. *10 ILCS 5/10-5.* If the nomination papers of any candidate and the statement of economic interest of that candidate are not required to be filed with the same officer, the candidate must file with the officer with whom the nomination papers are filed a receipt from the officer with whom the statement of economic interests is filed. *10 ILCS 5/10-5.*

14. The Illinois Governmental Ethics statute requires that candidates for nomination or election to an office in a local government must file a Statement of Economic Interest with the county clerk. 5 ILCS 420/4A-101.5.

15. The failure to file a Receipt of the Filing of the Statement of Economic Interests from the County Clerk with Candidate's filing will result in invalidation of the nomination papers. Bolger v. Electoral Board of the City of McHenry, 210 Ill.App.3d 958, 959-60, 569 N.E.2d 628 (2nd Dist.1991)

16. In this case, the Candidate did file a Receipt of the Filing of his Statement of Economic Interest with the Cook County Clerk as required by Section 10-5 of the Election Code.

The issue in this case is whether the Candidate's failure to identify the office on the Receipt is fatal to his candidacy.

17. In Jones v. Municipal Officers Electoral Board, 112 Ill.App.3d 926 (1st Dist. 1983), the court held that the candidate's nomination papers were invalid where the candidate's statement of economic interest failed to designate the office sought. Jones v. Municipal Officers Electoral Board, 112 Ill.App.3d 926 (1st Dist. 1983).

18. In Requena v. Cook County Officers Electoral Board, 295 Ill.App.3d 728, 692 N.E.2d 1217 (First Dist. 1998), the court held that removal from ballot was not appropriate sanction for failure to accurately identify the office that candidate for judicial vacancy was seeking on statement of economic interests. Requena v. Cook Cnty. Officers Electoral Bd., 295 Ill. App. 3d 728, 692 N.E.2d 1217 (1st Dist. 1998)

19. In Requena, the candidate did not accurately identify the office that she was seeking on statement of economic interests by including the phrase "Circuit Court of Cook County;" when statement should indicate the office sought as that of judge of the circuit court of Cook County, and, ideally though not necessarily, the description should include the vacancy sought. Requena v. Cook Cnty. Officers Electoral Bd., 295 Ill. App. 3d 728, 692 N.E.2d 1217 (1st Dist. 1998).

20. In Cardona v. Bd. of Elections Com'rs of City of Chicago, 346 Ill. App. 3d 342, 805 N.E.2d 360 (1st Dist. 2004), the court held that "nothing in the Election Code required that the receipt filed with nominating petitions, which evidenced filing of a statement of economic interests, had to identify office candidate was seeking. Cardona v. Bd. of Elections Com'rs of City of Chicago, 346 Ill. App. 3d 342, 805 N.E.2d 360 (1st Dist. 2004).

21. The Hearing Officer recommends that the objections in paragraphs 5-7 of the Objector's Petition be overruled as the Candidate did file a Receipt of the Filing of his Statement of Economic Interest with his nomination papers.

22. It is the Hearing Officer's recommendation that the Respondent – Candidate, **ANDRE SMITH**, appear on the November 5, 2024, ballot as a Candidate for the Office of Member of the Chicago Board of Education, 6th District.

HO Frank A. Tedesso

Statement of Economic Interests Form
Instructions, Receipt and FAQ

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CANDIDATES ONLY

Instructions

- **You may find the following documents helpful in completing this form:**
  - Federal income tax returns.
    - → Including any related schedules, attachments, and forms.
  - Investment and brokerage statements.
- **To complete this form, you do not need to...**
  - Disclose specific amounts or values.
  - Report interests relating to political committees registered with the Illinois State Board of Elections, or political committees, principal campaign committees, or authorized committees registered with the Federal Election Commission.
    - → The information you disclose will be available to the public.
- **You must answer all 7 questions.**
  - Certain questions will ask you to report any applicable assets or debts held in, or payable to, your name; hel jointly by, or payable to, you with your spouse; or held jointly by, or payable to, you with your minor child.
- **If you have any concerns about whether an interest should be reported,** please consult your Department's Ethics Officer, if applicable *(See the State Officials and Employees Ethics Act, 5 ILCS 430).*
  - Please ensure that the information you provide is complete and accurate.
  - All filers, **including candidates,** without ethics counsel should consult an attorney.
    - → The Cook County Clerk cannot provide legal advice.
- **If you need more space than the form allows,** please attach additional pages for your response.
- **If you are subject to the State Officials and Employees Ethics Act,** your Ethics Officer must review your Statement of Economic Interests before you file it.
- **Failure to complete the statement in good faith and within the prescribed deadline may subject you to fine: imprisonment, or both.**

Receipt of Statement of Economic Interests Form *(CANDIDATES ONLY)*

1. **Complete** the receipt information below.
2. **Bring this page,** with your completed Statement of Economic Interests Form, to the Cook County Clerk's office to be stamped and filed.

- **List each office or position of employment for which this statement is filed below:**

DNA

.....

.....

Name: Andre Smith

Address: 6032 S Wabash

City: Chicago State: IL Zip: 60637

- Receipt is hereby acknowledged of your Statement of Economic Interests.
  - → Filed pursuant to the Illinois Governmental Ethics Act.
  - → Filed as of this date

OFFICE OF THE CLERK
2024 JUN 24 PM 4:06
ELECTION DEPT.

BOARD OF ELECTION COMM
JUN 24 '24 PM5:00