STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

BCC

ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATING PETITIONS FOR THE OFFICES OF: UNITED STATES REPRESENTATIVE IN CONGRESS; STATE SENATOR AND REPRESENTATIVE IN THE GENERAL ASSEMBLY, STATE OF ILLINOIS; AND WARD COMMITTEEMAN FOR THE HAROLD WASHINGTON PARTY, IN THE CITY OF CHICAGO, STATE OF ILLINOIS, FOR THE MARCH 20,1990 PRIMARY ELECTION

IN RE: Objection of: Thomas Fortas)
)
To the)
Nominating Petition of: Carol Anne Harwell)
)
) NO: 90-EB-REP-6
Candidate for the Office of Representative)
in the General Assembly, 19th Representative)
District, Democratic Party.)

DECISION

The duly constituted Electoral Board, consisting of MICHAEL J. HAMBLET, ARNETTE R. HUBBARD and RAYMOND L. JAGIELSKI, organized by law in response to a Call issued by MICHAEL J. HAMBLET, Chairman of said Electoral Board, for the purpose of hearing and passing upon Objections to Nominating Petitions for the Offices of United States Representative in Congress, State Senator, Representative to the General Assembly and Ward Committeeman for the Harold Washington Party in the City of Chicago, having convened on January 2nd, 1990 at 10:00 a.m. in Room 1703 of the Richard J. Daley Center, Chicago, Illinois; and having heard and determined the objections to the petition in the above entitled matter find that:

1. The said Electoral Board has been legally constituted according to the laws of the State of Illinois;

2. Objections to the nominating petition of the candidate herein were duly filed;

3. A call to the hearing on said objections was duly issued and was served upon the members of the Electoral Board, the Objector and the Candidate by mail and by personal service as provided by statute;

4. A public hearing was held on these objections commencing on January 2nd, 1990;

5. The following persons, among others, were present at such hearings: the members of the Electoral Board, the Objector by counsel, and the Candidate by counsel;

6. The Board having heard and considered all evidence and arguments tendered by those appearing at the hearing;

7. The Board having ordered an examination of the precinct binders to be conducted by its clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board;

8. During examination of the precinct binders, the Board directed all parties to appear and be present, either personally and/or by their authorized representatives, duly appointed and authorized by said parties;

9. The Candidate and/or his duly authorized representatives having been present during the examination of the binders at all times;

10. The Objector and/or his duly authorized representatives having been present during the examination of the binders at all times;

11. Examination of the precinct binders was completed;

12. The Board finds that:

a. The statutory minimum of signatures required for placement on the ballot is 309;

b. The number of signatures filed by the candidate total 650;

c. The number of signatures deemed invalid because of objections sustained total 239;

d. The remaining number of signatures deemed valid total 351;

The written report of the Board's finding overruling signature objections are contained in the Board's file in this cause and is available upon request of a party.

13. The Board further finds that the Candidate failed to file a receipt from the Secretary of State evidencing filing of a Statement of Economic Interests therewith by the last day on which her nomination papers could be filed with the State Board of Elections in violation of §7-12(8) of the Illinois Election Code. Without such receipt, the State Board of Elections, as the certifying officer, did not have the required documentation before it to make a determination on whether the candidate had in fact duly filed such a statement. Such omission led to the filing of this objection.

The mandatory language of the statutory provision at issue, coupled with the past precedent of the Chicago Board of Election Commissioners acting as an Electoral Board, require invalidating the Candidate's nomination papers.

The pertinent provision of §7-12(8) states: "Such receipt shall be so filed not later than the last day on which nomination papers may be filed" (emphasis supplied). As for precedent, in Morgan v Lewis, 83-EB-ALD-65, this Board found that the failure to file such a receipt invalidates the Candidate's nomination papers.

Moreover, in Marshal v Beverly, 87-EB-ALD-4, an aldermanic candidate filed a complete Statement of Economic Interests with his nomination papers in the office of the Chicago Board of Election Commissioners rather than with the Cook County Clerk's Office, the proper repository for such ethics filings. The Electoral Board invalidated the candidate's nomination papers for failure to file a receipt evidencing the filing of a Statement of Economic Interests with the Cook County Clerk's Office. In Beverly v Electoral Board et al., 87 CO 20 and 87 CO 23, the Circuit Court of Cook County affirmed the Electoral Board's decision on the grounds that the candidate failed to file the initial Statement of Economic Interests with the Cook County Clerk's Office.

IT IS THEREFORE ORDERED that the objections of Thomas Fortas to the nomination papers of Carol Anne Harwell, candidate for nomination to the office of Representative in the General Assembly, 19th Representative District, Democratic Party, are hereby sustained and said nomination papers are hereby declared invalid and the name of Carol Anne Harwell, candidate for nomination to the office of Representative in the General Assembly, 19th Representative District, shall not be printed on the Democratic ballot for the Primary Election to be held on March 20th, 1990.

Dated: Chicago, Illinois, this 24th day of January, 1990.

Michael J. Hamblet

MICHAEL J. HAMBLET, CHAIRMAN

Arnette R. Hubbard

ARNETTE R. HUBBARD, COMMISSIONER

Raymond L. Jagielski

RAYMOND L. JAGIELSKI, COMMISSIONER