NBCOFF-ALD

**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 23, 1999 MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER AND ALDERMAN
IN THE CITY OF CHICAGO**

Objections of: KENNETH HARRIS and ROSE MCDANIEL	)	
To the Nomination Papers of: CYNTHIA Y. HUBBARD	)	No.: 99-EB-ALD-088
Candidate for the office of Alderman of the 6th Ward	)	

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 Theresa M. Petrone, 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 KENNETH HARRIS and ROSE MCDANIEL to nomination papers ("Nomination Papers") of CYNTHIA Y. HUBBARD, candidate for the office of Alderman of the 6th Ward for the City of Chicago ("Candidate"), having convened on December 28, 1998, at 9:00 a.m., in the City Council Chambers, City Hall, 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(s) 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 28, 1998 and was continued from time to time.

5. The following persons, among others, were present at such hearing: the members of the Electoral Board, the Objectors, KENNETH HARRIS and ROSE MCDANIEL, by counsel; and the Candidate, CYNTHIA Y. HUBBARD, pro se.

6. The Electoral Board assigned this matter to Hearing Examiner RODNEY STEWART for further hearings and proceedings.

7. Paragraph 7 of the Objector's petition alleges that the Candidate failed to have the circulator's affidavit on her petition sheets sworn to before a notary public or other appropriate officer as required by law.

8. Paragraph 9 of the Objector's petition alleges that the Candidate failed to have her Statement of Candidacy sworn to before a notary public or other appropriate officer as required by law.

9. Section 10-4 of the Election Code (10 ILCS 5/10-4) provides in part that "at the bottom of each sheet of such petition shall be added a statement, signed by a register voter of the political subdivision, who has been a registered voter at all times he or she circulated the petition, for which the candidate or candidates shall be nominated; stating the street address or rural route number of the voter...and certifying that to the best of his knowledge and belief the persons so signing were at the time of signing the petition duly registered voters under Articles 4, 5 or 6 of the Code of the political subdivision or district for which the candidate or candidates shall be nominated, and certifying that their respective residences are correctly stated therein. Such statement shall be sworn to before some officer authorized to administer oaths in this State."

10. Section 10-5 of the Election Code (10 ILCS 5/10-5) provides in part for the form of a statement of candidacy and states that the statement of candidacy "shall be subscribed and sworn to by such candidate before some officer authorized to take acknowledgments of deed in this State..."

11. The Electoral Board finds that the Candidate, CYNTHIA Y. HUBBARD, failed to have her nominating petitions sworn to before a Notary Public or some officer authorized to administer oaths in this State.

12. The Electoral Board finds that the Candidate, CYNTHIA Y. HUBBARD, failed to have her Statement of Candidacy sworn to before a Notary Public or some officer authorized to administer oaths in this State.

13. The Electoral Board finds that the failure to notarize the petition sheet invalidates the Candidate's Nomination Papers. The requirement in the Election Code that the person who circulated nominating petitions personally appear before a notary public to validate the petition has been held to be mandatory and not directory. Thus, a violation of that section invalidates the petition sheet. *Bowe v. Chicago Electoral Board,* 79 Ill.2d 469,

404 N.E.2d 180 (1980); *Williams v. Butler,* 35 Ill.App.3d 532, 341 N.E.2d 394 (Fourth District, 1976).

14. The Electoral Board finds that the failure to swear to the Statement of Candidacy invalidates the Candidate's Nomination Papers. The failure to swear to or sign the statement of candidacy renders it null and void. The word "shall" in statutes providing that statement of candidacy shall be subscribed and sworn to by candidates, required the candidate to subscribe and swear to the statement of candidacy. *Serwinski v. Chicago Board of Election Commissioners,* 156 Ill.App.3d 257, 509 N.E.2d 509 (First Dist. 1987); *Allen v. Serwinski,* 87-EB-ALD-121, CBEC, January 12, 1987; *Whitfield v. Shelton,* 87-EB-ALD-200, CBEC, January 16, 1987; *Richardson v. Carr,* 90-EB-CON-20; *Jackson v. Green,* 95-EB-ALD-082, CBEC, January 19, 1995.

15. The Electoral Board finds, therefore, that the Nomination Papers of the Candidate, CYNTHIA Y. HUBBARD, are invalid and sustains paragraphs 7 and 9 of the Objector's Petition.

IT IS THEREFORE ORDERED, that the Objections of KENNETH HARRIS ROSE MCDANIEL to the Nomination Papers of CYNTHIA Y. HUBBARD, candidate for election to the office Alderman of the 6th Ward for the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of CYNTHIA Y. HUBBARD, candidate for election to the office of Alderman of the 6th Ward for the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election for Mayor, City Clerk, City Treasurer and Alderman to be held on February 23, 1999.

Dated: Chicago, Illinois, this Twelfth day of January, 1999.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Theresa M. Petrone, 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 10 days after the decision of the Electoral Board.