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: ADRIENNE A. SMITH	)	
	)	
To the Nomination	)	
Papers of: ROOSEVELT ELY, III	)	No.: 99-EB-ALD-144
	)	
Candidate for the office of	)	
Alderman of the 21st 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 ADRIENNE A. SMITH to nomination papers ("Nomination Papers") of ROOSEVELT ELY III, candidate for the office of Alderman of the 21st 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 Objector, ADRIENNE A. SMITH, pro se; and the Candidate, ROOSEVELT ELY, III, pro se.

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

7. The Objector alleges that the Candidate's statement of candidacy was not notarized as required by law.

8. Section 10-5 of the Election Code (10 ILCS 5/10-5) states in part 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.

9. The Candidate's handwritten Statement of Candidacy does not contain a space or line for the signature of the person notarizing the document and, in fact, the signature of the notary does not appear on the Candidate's Statement of Candidacy. The handwritten jurat on the statement of candidacy reads as follows: "subscribed sworn to or affirmed before me by who is to me personally known this 14 Dec. 98 day of Ad 1998."

10. The Electoral Board finds that the failure to swear to or sign the statement of candidacy renders it null and void. The word "shall" in statutes providing that the statement of candidacy shall be subscribed and sworn to by candidates, required the candidate to subscribe and swear to the statement of candidacy. The provision is mandatory rather than directory. *Swerinski v. Chicago Board of Election Commissioners,* 156 Ill.App.3d 257, 509 N.E.2d 509 (First Dist. 1987).

11. The Electoral Board therefore sustains the objector's petition and finds that the Candidate's Nomination Papers are invalid.

12. The Electoral Board further finds that there is another objection filed against the Candidate's Nomination Papers in case 99-EB-ALD-146 which sustained the objections against the Candidate for insufficient valid signatures on his nominating petitions and failure to notarize the statement of candidacy.

IT IS THEREFORE ORDERED, that the Objections of ADRIENNE A. SMITH to the Nomination Papers of ROOSEVELT ELY III, candidate for election to the office Alderman of the 21st Ward for the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of ROOSEVELT ELY III, candidate for election to the office of Alderman of the 21st 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 Twenty-Eighth 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.