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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 MARCH 21, 2000 GENERAL PRIMARY ELECTION FOR STATE SENATOR, REPRESENTATIVE IN THE GENERAL ASSEMBLY AND WARD COMMITTEEMAN IN THE CITY OF CHICAGO

Objections of: ANTHONY O'DONNELL	)	
	)	
To the Nomination	)	
Papers of: PATRICIA YOUNG	)	
	)	No. 00-EB-WC-037
Candidate for the office of Ward Committeeman for	)	
the 42nd Ward of the City of Chicago, Democratic	)	
Party	)	

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 ANTHONY O'DONNELL ("Objector") to the nomination papers ("Nomination Papers") of PATRICIA YOUNG, candidate for election to the office of Ward Committeeman for the 42nd Ward of the City of Chicago, Democratic Party ("Candidate"), having convened on January 10, 2000, 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 January 10, 2000 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner ANTHONY IOSCO but then due to Mr. Iosco's illness reassigned this matter to Hearing Examiner WILLIAM JONES for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Examiner on the date and at the time designated in the Call. The following persons, among others, were present at such hearing: the Objector, ANTHONY O'DONNELL, by his attorneys Raymond Simon and Matthew Simon; and the Candidate, PATRICIA YOUNG, by her attorney Burton S. Odelson.

7. The Candidate filed a motion to strike the Objector's petition, which motion was entered, continued and heard along with the results of a records examination.

8. The Hearing Examiner ordered that an examination of the 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 Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during the record examination.

10. The Candidate or her duly authorized representative(s) was present during the examination of the registration records.

11. The Objector(s) or his duly authorized representative(s) 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 is available for inspection upon request of a party.

13. The Electoral Board has considered all evidence and arguments tendered by the parties.

14. The Electoral Board finds that after overruling 80 of the Objector's objections to individual signatures on the petition, the record examination was stopped by Andy Pappas, the Board's Supervisor of Registration, because the Candidate had another 238 signatures that were not objected to, and adding the 80 signatures for which objections were overruled, the Candidate had at least 318 valid signatures

on his nominating petition. The Candidate needs only 308 valid signatures to be on the ballot for the office in question.

15. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds the minimum number of valid signatures required by law to placed upon the official ballot as a candidate for election to the office of Ward Committeeman for the 42nd Ward of the City of Chicago, Democratic Party.

16. The Electoral Board finds, therefore, that paragraph(s) 10-12 of the Objectors(s)' Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

17. The Objector also alleges in paragraphs 4-9 of his petition that the Candidate's Statement of Candidacy failed to comply with the requirements of Section 7-10 of the Election Code (10 ILCS 5/7-10) in that such Statement fails to include a statement that the Candidate is a qualified primary voter of the Democratic Party.

18. Section 7-10 of the Election Code provides among other things that a statement of candidacy "shall state that the candidate is a qualified primary voter of the party to which the petition relates" (referred to herein as the "party affiliation statement").

19. The Objector contends that the use of the word "shall" in the text of Section 7-10 is indicative of a mandatory, not a directory, provision, citing *Serwinski v. Board of Election Commissioners,* 156 Ill.App.3d 257 (1987). Objector also cites a decision of the Bloom Township Electoral Board holding that the party affiliation statement is mandatory and the candidate's failure to include a party affiliation statement within his statement of candidacy rendered his nomination papers deficient. See, *Objections of Jim Grupp and Robert DeBolt to the Nomination Papers of David M. Zerante,* affirmed, *Zerante v. Bloom Township Electoral Board,* 287 Ill.App. 3d 976, 679, N.E.2d 459 (1st Dist. 1997) (without reaching the issue concerning the lack of a party affiliation statement).

20. The Electoral Board finds that the Statement of Candidacy filed by the Candidate failed to contain a statement that she was a qualified primary voter of the Democratic Party, which is the party to which her nomination papers relate.

21. The Electoral Board further finds that the Candidate's Statement of Candidacy contains (a) a heading stating that she is seeking the office of "Democratic Committeeman, 42nd Ward-City of Chicago," and (b) a statement in the body of the Statement that she was "a candidate of the Democratic Party for election to the office of Democratic Committeeman, 42nd Ward, City of Chicago."

22. The Electoral Board further finds that the Candidate signed sheet 4, line 20 of her nominating petition and that at the top of said sheet there is contained the

statement that, "We, the undersigned, members of and affiliated with the Democratic Party and qualified primary electors of the Democratic Party ...."

23. The Electoral Board finds that although the party affiliation statement provisions of Section 7-10 may be mandatory, substantial compliance with mandatory provisions is sufficient when the invalidating charge concerns technical violations such as in the present case. See, *Madden v. Schumann*, 105 Ill.App.3d 900, 435 N.E.2d 173 (1st Dist. 1982). Nomination Papers may be read as one complete document in order to achieve substantial compliance. See, e.g., *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E.2d 443 (1976). Here, the combination of the Statement of Candidacy's declarations that the Candidate was a candidate of the Democratic Party seeking the office of Democratic Committeeman, together with her signature on Sheet 4, Line 20 of her nominating petition (which discloses her to be a member of, affiliated with and a qualified primary elector of the Democratic Party), constitutes substantial compliance with the mandatory provisions of Section 7-10. Reading the nomination papers as a whole, there is no confusion that the Candidate is affiliated with the Democratic Party. See also, *Schumann v. Kumarich*, 102 Ill. App.3d 454, 430 N.E.2d 99, 102 Ill.App.3d 454; *Stevenson v. County Officers Electoral Board*, 58 Ill.App.3d 24, 373 N.E.2d 1043 (3rd Dist. 1978); *Fouladi v. Ladien*, 95-EB-MUN-5 (CBEC, January 17, 1995).

24. The Electoral Board finds that the case of *Objections of Jim Grupp and Robert DeBolt to the Nomination Papers of David M. Zerante*, affirmed, *Zerante v. Bloom Township Electoral Board*, 287 Ill.App. 3d 976, 679, N.E.2d 459 (1st Dist. 1997), cited by the Objector, is distinguishable in that, unlike the case here, there was no other statement within the nomination papers that the candidate was affiliated with the political party to which petition related. Furthermore, the appellate court never ruled on the party affiliation statement issue.

25. Accordingly, the Electoral Board grants paragraphs 1-12 of the Candidate's motion to strike and dismiss and thus paragraphs 4-9 of the Objector's Petition are overruled and stricken.

26. The Electoral Board denies paragraph 4-9 of the Candidate's motion to strike and dismiss the Objector's Petition alleging that the Electoral Board has lost subject matter jurisdiction over this cause because Section 7-13 requires the Board to certify its decision in ward committeeman objection cases not less than 74 days before a primary election and the deadline for such decision is past. Section 7-13 does not expressly provide or require that the Board lose jurisdiction over an objection merely because the deadline for issuing a decision has passed. The Electoral Board finds that it retains continuing subject matter jurisdiction over this cause. See, e.g., *Sakonyi v. Lindsey*, 261 Ill.App.3d 821, 634 N.E.2d 444 (5th Dist. 1994).

27. For the reasons stated above, the Electoral Board finds that the Nomination Papers of PATRICIA YOUNG are valid.

IT IS THEREFORE ORDERED that the Objections of ANTHONY O'DONNELL to the Nomination Papers of PATRICIA YOUNG, candidate for election to the office of Ward Committeeman for the 42nd Ward of the City of Chicago, Democratic Party, are hereby OVERRULED in accordance with the rulings above and said Nomination Papers are hereby declared VALID and the name of PATRICIA YOUNG, candidate for election to the office of Ward Committeeman for the 42nd Ward of the City of Chicago, Democratic Party, SHALL be printed on the official ballot for the General Primary Election to be held on March 21, 2000.

Dated: Chicago, Illinois, this 28th day of January, 2000.

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.