DEFAULT-ALD

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

Objections of: Rachel Roberson Agustin	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-050
Papers of: Janice V. Thomas	)	
	)	Related Case: 11-EB-ALD-080
Candidate for the office of	)	
Alderman of the 46th Ward, City of Chicago	)	

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 Marisel A. Hernandez, 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 Rachel Roberson Agustin ("Objector") to the nomination papers ("Nomination Papers") of Janice V. Thomas, candidate for the office of Alderman of the 46th Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 22, 2011, having convened on December 6, 2010, 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 December 6, 2010 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer William J. Cadigan for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. On such date and time, the Hearing Officer called the case by calling aloud the case number, the name of the Objector and the name of the Candidate. The following persons, among others, answered and were present at such hearing: the Objector, by attorney Dan Johnson Weinberger. The Candidate, Janice V. Thomas, did not answer to the call nor did she appear at the hearing. The case was called again at least two more times at least 15 minutes apart on December 6, 2010 and at no time did the Candidate or any person purporting to represent the Candidate appear.

7. The Electoral Board finds that the Cook County Sheriff attempted to serve the Candidate with a copy of the Objector's Petition and with a copy of the initial Call to the December 6, 2010 hearing in this cause on December 3, 2010.

8. The initial hearing was continued to December 9, 2010 to allow for additional service upon the Candidate of a copy of the Objections and notice of hearing.

9. The Electoral Board also finds that Cook County Sheriff attempted to serve the Candidate with a Notice of Continued Hearing December 8, 2010.

10. The Electoral Board further finds that both returns of the Sheriff's office indicated that the reason that the Candidate was not served was "No Contact."

11. The Electoral Board also finds that the Candidate was sent a copy of the Call to the December 6, 2010 meeting by certified mail, but a signed receipt acknowledging receipt of the certified mail item has never been returned by the Postal Service. A copy of the notice of continued hearing was also sent to the Candidate by certified mail, return receipt requested, but no receipt was returned to the Board by the Postal Service.

12. The Electoral Board finds that the Candidate, Janice V. Thomas, did not appear at any of the duly called meetings and hearings conducted in this matter after numerous attempts to serve the Candidate with a copy of the Call and the Objector's Petition by the means of service specified in the statute.

13. A candidate cannot evade the effects of a duly filed objection to his or her nomination papers by simply being unavailable for service of papers nor should the objections be rendered moot by virtue of the fact that a candidate cannot be found by the statutory methods of service. If this were permitted, candidates would simply go into "hiding" until the objection process had run its course, thereby frustrating the statutory scheme for testing whether the candidate is eligible to be on the ballot.

14. The Electoral Board further finds that the Objector's petition, on its face, contains sufficient allegations, if accepted as true, to invalidate the Candidate's Nomination Papers.

15. Therefore, the Electoral Board finds that the Candidate, Janice V. Thomas, is in default, that the Objections are sustained, and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of Rachel Roberson Agustin to the Nomination Papers of Janice V. Thomas, candidate for election to the office of Alderman of the 46th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Janice V. Thomas, candidate for election to the office of Alderman of the 46th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

Dated: Chicago, Illinois, on January 3, 2011.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Marisel A. Hernandez, 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.