OBJDISMISS2-ALD

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

Objections of: Marshall Addison	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-106
Papers of: Marshall E. Hatch, Sr.	)	
	)	Related Cases: 11-EB-ALD-131,
	)	11-EB-ALD-257
Candidate for the office of	)	
Alderman of the 29th 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 Marshall Addison ("Objector") to the nomination papers ("Nomination Papers") of Marshall E. Hatch, Sr., candidate for the office of Alderman of the 29th Ward in 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 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 Frank A. Tedesso 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 Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, Marshall Addison, by attorney, Prentis L. Johnson; and the Candidate, Marshall E. Hatch, Sr., by attorney, Adam W. Lasker.

7. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled.

8. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

9. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers.

10. The Electoral Board further finds that there are additional Objections filed against the Candidate's Nomination Papers in 11-EB-ALD-131 and 11-EB-ALD-257 that will determine whether the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Marshall Addison to the Nomination Papers of Marshall E. Hatch, Sr., candidate for election to the office of Alderman of the 29th Ward of the City of Chicago, are hereby OVERRULED.

Dated: Chicago, Illinois, on December 21, 2010.

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.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE OFFICE OF ALDERMAN OF THE TWENTY-NINTH (29TH) WARD OF THE CITY OF CHICAGO, STATE OF ILLINOIS TO BE VOTED UPON AT THE FEBRUARY 22, 2011 MUNICIPAL GENERAL ELECTION

MARSHALL ADDISON,	)	
Petitioner – Objector,	)	
	)	
v.	)	**11-EB-ALD-106**
	)	
MARSHALL E. HATCH, SR.,	)	
Respondent – Candidate.	)	

BOARD OF ELECTION
POLLING PLACE DEPT
2010 DEC 18 A 11: 36

HEARING OFFICER'S RECOMMENDED DECISION

1. The Respondent – Candidate, MARSHALL E. HATCH, SR, filed Nomination Papers for election to the Office of Alderman of the 29th Ward of the City of Chicago, to be voted upon at the February 22, 2011Municipal General Election.

2. Petitioner – Objector, MARSHALL ADDISON, filed a timely petition objecting to the Nomination Papers of the Candidate.

3. On December 6, 2010 this matter appeared on the Board's Initial Trial Call. The Hearing Officer received the following Board Group Exhibits into evidence: Board Group Exhibit A consisting of the Candidate's Nomination Papers; Board Group Exhibit B consisting of the Objector's Petition and Attachments; Board Group Exhibit C consisting of a copy of the call and proof of service; and Group Exhibit D consisting of the parties appearances. The parties acknowledged service and waived any and all issues regarding service. The Hearing Officer granted the Candidate leave to file a Motion to Strike and Dismiss and granted the Objector leave to file his Response. The matter was continued until December 9, 2010 for argument on Candidate's Motion to Strike and Dismiss and hearing on the non-signature issues raised in the Objector's Petition.

4. The Objector's Petition seeks to invalidate the Candidate's Nomination Papers for the following reasons:

a. "The Candidate swears in his Statement of Candidacy that he is a qualified primary voter of the Democratic Party and requests that his name be printed on the official Democratic Non Partisan Primary ballot, in violation of the Illinois Election Code, and accordingly, the Nomination papers are invalid in their entirety. *(Objector's Petition para. 5)*; and

b. The petition sheets filed by the Candidate as part of the Nomination Papers contain a circulator's affidavit wherein the purported circulator swears the signers are "qualified voters of the Democratic Party, in violation of the Illinois Election Code, and accordingly, the Nomination papers are invalid in their entirety. *(Objector's Petition para. 6)*.

5. The Candidate filed a Motion to Dismiss the Objector's Petition. The Candidate's Motion argued that the objections to his Nomination Papers concerning party affiliation in his Statement of Candidacy and the identification of the signers of the petition sheets as qualified voters of the Democratic Party were legally insufficient to bar him from placement on the ballot.

6. On December 13, 2010, the Hearing Officer heard argument on the Motion to Strike and Dismiss and received evidence on the non-signature issues raised in the Objector's petition. The Hearing Officer makes the following recommended findings of fact:

a. The Candidate's Statement of Candidacy identified the Candidate as a Democrat; and

b. The Candidate's petition sheets did not identify the Candidate has a Democrat but identified the signers as democrats in the circulator affidavit

7. The identification of the Candidate as a Democrat on his Statement of Candidacy where the Petition Sheets had no indication of party affiliation does not invalidate the Candidate's Nomination Papers. *Dix v. Terry*, 03-EB-ALD-071, CBEC, January 31, 2003.; accord, *Moses v. Austin*, 07-EB-ALD-004, CBEC, January 23, 2007; *Anderson v. Ward*, 07-EB-ALD-034, January 25, 2007. Furthermore, the Candidate's Petition Sheets do not indentify the Candidate as a Democrat or having a party affiliation of any type; therefore, the Hearing Officer finds that the identification of the signers as qualified voters of the Democratic Party in the circulator affidavit is a kin to the Board's decision in *Dix v. Terry*, 03-EB-ALD-071, CBEC, January 31, 2003 and does not invalidate the Candidate's Nomination Papers.

8. The Hearing Officer recommends that the Board of Elections Commissioners of the City of Chicago overrule the objections contained in the Objector's Petition. The Hearing Officer defers recommendation of whether the Candidate's name shall appear on the ballot pending the proceedings in cases 11-EB-ALD- 131 and 11-EB-ALD-257.

Hearing Officer, Frank A. Tedesso

ADDISON
Objector(s)

vs.

HATCH
Candidate

) Case No. 11-EB-ACO-106

) Hearing Officer: TEDESSO

PROOF OF SERVICE

I, Steven Cieslak, certify that on Dec 14 I served a copy of the HEARING OFFICER'S RECOMMENDED DECISION (a copy of which is attached) on the Objector(s) and Candidate(s) listed on the attached document and/or their attorney(s) of record ("Party" or "Parties") either by (a) personally handing a copy of the document to such Party, (b) faxing or emailing the document to the fax number or email address listed on the Appearances on file with the Electoral Board, (c) by placing a telephone call to or leaving a message on the telephone number listed on the Appearance on file for any Party who did not list a fax number or email address, or (d) where no fax number, email address or telephone number is listed on the Party's Appearance or where no Appearance was filed, by depositing a copy of the document in the United States mail, first class postage prepaid, addressed to the Party at the address on record on the Party's Appearance or on the Party's nomination papers or objector's petition if no Appearance is on file.

Dated: 12/15/2010

Steven Cieslak