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

Objections of: William Jackson	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-296
Papers of: Chauncey L. Stroud	)	
	)	
Candidate for the office of	)	
Alderman of the 24th 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 William Jackson ("Objector") to the nomination papers ("Nomination Papers") of Chauncey L. Stroud, candidate for the office of Alderman of the 24th 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 Christopher B. Cohen 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, William Jackson, pro se; the Candidate, Chauncey L. Stroud, pro se.

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 and that the Nomination Papers be declared valid.

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 and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of William Jackson to the Nomination Papers of Chauncey L. Stroud, candidate for election to the office of Alderman of the 24th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Chauncey L. Stroud, candidate for election to the office of Alderman of the 24th Ward of the City of Chicago, SHALL 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.

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

Objections of WILLIAM JACKSON To the Nomination Papers of: CHAUNCEY L. STROUD Candidate for the office of Alderman for the Twenty-Fourth Ward, City of Chicago, County of Cook, State of Illinois, to be voted upon at the February 22, 2011 Municipal General Election	)	No. 11-EB-ALD-296

09 DEC 31 PM 3:44 CHICAGO BOARD OF ELECTION COMMISSIONERS

HEARING OFFICER'S RECOMMENDED DECISION

This matter came before the Chicago Board of Election Commissioners ("CBOE" or "Board") on the verified objection petition of WILLIAM JACKSON ("Objector" to the nomination papers of CHAUNCEY L. STROUD ("Candidate"). The Board appointed Christopher B. Cohen, as hearing officer for this case. The hearing officer finds and recommends as follows:

1. The Candidate timely filed nomination papers with the Board for the office of Alderman of the Twenty-Fourth Ward.
2. Objections to the Candidate's nomination papers were timely filed by the Objector on 11/30/10. They consisted of one sheet of paper which was the Board's Appearance Form with the following written at the bottom of the page:
    1) Statement of candidacy
    2) Petition Fraud.
3. The Board's official file contained the original nomination papers of the Candidate and the original Objections of the Objector.
4. A hearing on the Objection Petition was begun December 6, 2010 at 69 W. Washington, Chicago, IL. Objector WILLIAM JACKSON appeared in person and pro se. The Candidate, CHAUNCEY L. STROUD, appeared in person and pro se.
5. The hearing officer handed each party a copy of the Board's Rules and the Index of Electoral Board Decisions dated October 2010.
6. At the 12/6/10 hearing, the Candidate asked to file a Motion to Strike and dismiss the Objection. The hearing officer set a briefing schedule which established deadlines of 5 pm on 12/7/10 for the Candidate to file a motion to Strike and Dismiss, 5 pm on 12/8/10 for the Objector to file any responsive pleadings and 5 pm on 12/9/10 for the Candidate to file any reply.
7. The Candidate's Motion to Strike and Dismiss was time stamped as filed with the Board at 2:44 pm 12/7/10. It raised three issues, to wit, that: a) the Objector failed to fully state the nature of the objections and what relief is sought; b) the Objection lacked sufficient specificity to put the Candidate on notice of the purported deficiencies; and c) Objector failed to state his interest in filing the Objection.

8. At a hearing on 12/10/10, the Objector produced a copy of his email to the Candidate stating that as of 4:04 pm December 8, 2010, the Objector had not received the Candidate's Motion to Strike. The email included the Candidate's response at 10:53 pm 12/8/10 stating that he had misread the Objector's email address when attempting to serve the Objector on 12/7/10 and was attaching his Motion to Strike to the 10:53 email.
9. At a hearing on 12/10/10, the Objector acknowledged receipt of the Candidate's Motion and asked for more time to respond to it. After listening to oral presentations from each of the two parties, and noting that the Candidate's Motion to Strike had been filed with the Board on 12/7/10 and with the Objector on 12/8/10, the hearing officer found good cause had been shown to continue the case and to extend all filing deadlines for all parties. At the Candidate's request, the hearing officer continued the case and established a revised briefing schedule which included a deadline of 5 pm on 12/11/10 for the Objector to file any responsive pleadings and 5 pm on 12/12/10 for the Candidate to file any reply.
10. The Objector's Motion was time stamped as filed with the Board at 3:57 pm on 12/11/10, thus making it timely filed.
11. The hearing set for 5 pm on 12/13/10 was held at that time as scheduled. Both the Candidate and Objector appeared in person and pro se.
12. When asked to elaborate on what the language in his Motion meant, the Objector explained that his Motion was intended to raise the issue that the Candidate improperly used the word "election" instead of "nomination" in his Statement of Candidacy in line 3 and again in line 8.
13. The hearing officer found that the nomination papers, as well as the Objection and the pleadings by each of the parties, were timely filed and that the Objection failed to fully state the nature of the Objections as required by 10 ILCS 5/10-8. That statute reads in part as follows:

> The objector's petition shall give the objector's name and residence address, and shall state fully the nature of the objections to the certificate of nomination or nomination papers or petitions in question, and shall state the interest of the objector and shall state what relief is requested of the electoral board.

14. The hearing officer found that the following language in the Objection:
    1) Statement of candidacy
    2) Petition Fraud

    did not adequately and sufficiently apprise the Candidate of the specificity of the Objection and did not apprise the Candidate of what relief was being sought to comply with the Election Code, thus making evaluation possible. *Kopec v. Sims*, 07-EB-MUN-002, CBEC, January 19, 2007; *Crosby v. Beavers*, 95 EB-ALD-202, CBEC, January 24, 1995. *Elysee v. Patterson*, 04-EB-RGA-14, January 20, 2004. *Alschuler v. Feigenholtz*, 94-EB-REP-009, CBEC, January 19, 1994.
15. In addition, the hearing officer found that the Objection failed to state the relief requested of the electoral board and, thus, did not satisfy §10-8 thus invalidating the Objection. *Yanez v. Martinez*, 86-EB-ALD-7, CBEC, February 3, 1986. This Board has previously dismissed an Objector's petition which failed to state a proper prayer for relief against the Candidate. *Rossi v. Oberg*, 87-EB-ALD-74, CBEC, January 7, 1987.

16. The hearing officer found further that the Objector's Objection did not include the allegation (subsequently found in his Motion) that the Candidate improperly used the word "election" instead of "nomination" in his Statement of Candidacy. The hearing officer found that the Objector could not amend his Objection. The Objection as originally filed did not comply with §10-8 of the Election Code and, pursuant to Board Rule 9 (b), the Objector will not be allowed to cure a defective petition after the deadline for filing Objections as that would only encourage Objectors in the future to file wholly defective Objections simply to beat the statutory deadline for filing Objections. *McCarthy v. Pellett*, 04-EB-WC-04, January 30, 2004.
17. In addition, the hearing officer found that because the Objector failed to state his interest in the Objection the plain language of 10 ILCS 5/10-8 requires the Objection to be invalidated.
18. The hearing officer found that If, *arguendo*, the Objection had included the allegation that the Candidate improperly used the word "election" instead of "nomination" in his Statement of Candidacy, this would not invalidate the Candidate's nominating papers. Use of the word "election" in the statement of candidacy does not invalidate said statement as it is in substantial compliance with §7-10 of the Election Code. *Davis v. Kenary*, 00-EB-WC-020, January 28, 2000; *Arce v. Santos*, 96 EB-WC-34, CBEC, January 29, 1996; *Jackson v. Davis*, 96-EB-WC-55, CBEC, January 19, 1996; *Washington v. Williams*, 92-EB-REP-31, CBEC, February 10, 1992; *Scianna v. Fredrickson*, CBEC, 94-EB-REP-7, January 24, 1994. Use of the word "election" instead of the word "nomination" on the Statement of Candidacy does not render such Statement of Candidacy invalid. *Scianna v. Fredrickson*, 94-EB-REP-7, CBEC, January 24, 1994. Use of the term "election," "nomination" or "election/nomination" in describing the office sought or the political division on either a statement of candidacy or nominating petition substantially complies with the provisions of the Election Code. *Arce v. Santos*, 96 EB-WC-34, CBEC, January 29, 1996. Use of the word "election" on the Candidate's statement of candidacy and the use of the term "election/nomination" on the petition is not contradictory or confusing and will not invalidate the Candidate's nomination papers.

In light of the above, it is my recommendation that the Objector's Petition be stricken and dismissed, that the Candidate's nomination papers be deemed valid and that the name of Candidate CHAUNCEY L. STROUD appear on the ballot at the February 22, 2011 Municipal General Election.

Respectfully submitted,

Christopher B. Cohen
Hearing Officer
December 15 2010