NBCOFF-ALD

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

Objections of: Chauncey L. Stroud	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-311
Papers of: Pat (Patricia) Marshall	)	
	)	Related Case: 11-EB-ALD-366
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 Chauncey L. Stroud ("Objector") to the nomination papers ("Nomination Papers") of Pat (Patricia) Marshall, 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 Edwin Reyes 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, Chauncey L. Stroud, pro se; and the Candidate, Pat (Patricia) Marshall, pro se.

7. Section 10-5 of The Election Code (10 ILCS 5/10-5) requires that a candidate's nomination papers include a statement of candidacy setting out the name and address of the candidate, the office for which he or she is a candidate, and stating that the candidate is qualified for the office specified and that the candidate has filed (or will file before the end of the filing period) a statement of economic interests as required by the Illinois Governmental Ethics Act. The statement of candidacy shall request that the candidate's name be placed upon the official ballot and shall be in substantially the form set forth in Section 10-5 and shall be subscribed and sworn to by the candidate before some officer authorized to take acknowledgments of deeds in the State of Illinois.

8. The failure to swear to or sign the statement of candidacy renders it null and void. The word "shall" in statutes providing that 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. *Allen v. Serwinski,* 87-EB-ALD-121, CBEC, January 12, 1987, affirmed *Serwinski v. Chicago Board of Election Commissioners*, 156 Ill.App.3d 257, 509 N.E.2d 509 (First Dist. 1987). See also, *Richardson v. Carr,* 90-EB-CON-20, CBEC, January 12, 1990; *Whitfield v. Shelton,* 87-EB-ALD-200, CBEC, January 16, 1987; *Mitchell and Zuckerman v. Toure,* 99-EB-ALD-107, CBEC, January 8, 1999.

9. Candidate's statement of candidacy, although signed by the candidate, was not subscribed and sworn to by the Candidate before some officer authorized to take acknowledgements of deeds in this state, thus rendering it void. See, *Catherine and Streeter v. Chalmers,* 99-EB-ALD-106, CBEC, January 15, 1999; *Jackson v. Green,* 95-EB-ALD-82, CBEC, January 19, 1995; *McFadden v. Valentine,* 80-EB-AS-6, CBEC, September 17, 1980; *Harris and McDaniel v. Hubbard,* 99-EB-ALD-088, CBEC, January 12, 1999.

10. 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 sustained and that the Nomination Papers be found invalid.

11. 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.

12. For the reasons stated above, the Electoral Board sustains the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are invalid.

13. The Electoral Board made a similar finding in 11-EB-ALD-366.

IT IS THEREFORE ORDERED that the Objections of Chauncey L. Stroud to the Nomination Papers of Pat (Patricia) Marshall, candidate for election to the office of Alderman of

the 24th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Pat (Patricia) Marshall, candidate for election to the office of Alderman of the 24th 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, 2010.

Dated: Chicago, Illinois, on January 13, 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.