NBCON-ALD

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

Objections of: Sylvia Y. Jones	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-350
Papers of: Catherine D' Tycoon	)	
	)	Related Case: 11-EB-ALD-235
Candidate for the office of	)	
Alderman of the 21st 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 Sylvia Y. Jones ("Objector") to the nomination papers ("Nomination Papers") of Catherine D' Tycoon, candidate for the office of Alderman of the 21st 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 Gerald B. Mullin 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, Sylvia Y. Jones, pro se; the Candidate, Catherine D' Tycoon, 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.

10. The Electoral Board further finds that there are additional objections pending in Related Case 11-EB-ALD-235 that will determine whether the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Sylvia Y. Jones to the Nomination Papers of Catherine D' Tycoon, candidate for election to the office of Alderman of the 21st Ward of the City of Chicago, are hereby OVERRULED.

Dated: Chicago, Illinois, on January 7, 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 DULYCONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE OFFICE OF ALDERMAN OF THE 21st WARD IN THE CITY OF CHICAGO TO BE VOTED UPON AT THE ELECTION TO BE HELD ON FEBRUARY 22, 2011

2010 DEC 27 A 11:40

SYLVIA Y. JONES		
PETITIONER-OBJECTOR	)	
	)	
	)	
	)	
V.	)	**11—EB-ALD-350**
	)	
	)	
	)	
CATHERINE D'TYCOON	)	
CANDIDATE	)	

Hearing officer: Gerald B. Mullin

HEARING OFFICER'S RECOMMENDATION

This matter cam on for hearing on December 14, 2008. The Candidate was represented by Adam Lasker, Esq. The Objector was present pro se.

The following colloquy was had: Hearing Officer:"We were here on what I understood to be a single issue .....The objection that was made was that the Candidate failed to file a Statement of Economic Interest at the time of filing nomination papers. Is that correct, Miss Jones? The Objector: That is correct, Mr. Mullin." (transcript, page 3)

It follows that whether the Objector's Petition should be overruled or sustained is entirely dependent on this single issue.

The file indicated that all required filings, including the Statement of Economic Interest, as shown on the Apparent Conformity Checklist were present in the file at the time the file was checked by the clerk.

Cindi Jones, called to testify for the Objector, testified that she works for the Objector as her campaign manager. (transcript page 4) that she went to the Election Board offices "possibly on the 3rd or 4th of December," (transcript page 8) and that even though the check Apparent Conformity Checklist showed that the Statement of Financial Interest had been filed, "they had put an X there stating that she had filed her Statement..." it was not in the file. (transcript page 9) The witness further testified that she did not see the candidate hand in her nominating papers on November 22, 2010, although she was at the Board of Elections on that date. (transcript, page 12-13)

The Candidate testified that she filed a Statement of Economic Interest before the end of the closing period for nominations (transcript page 20) . The Candidate then tendered a copy of the Statement of Economic Interest bearing a time stamp of September 28, 2010 at 2:18 PM. (transcript page 25)

On redirect examination, Cindi Jones sought to change her testimony as to the date "possibly on the 3rd or 4th of December," on which she had gone to the Board Of Election office to check the file. (transcript, page 29) and testified that "it was a couple of days after the 22nd" (transcript, page 30)

Recommendation: The Hearing Officer found Cindi Jones testimony not credible, and the Objector has not overcome the presumption that all required filings, including the Statement of Economic Interest, on the Apparent Conformity Checklist were present in the file at the time the file was checked by the clerk. It is the recommendation of the hearing officer that the Objector's Petition be overruled and the objection be dismissed. However, since there is a companion case, Dana Bryant v. Catherine D'Tycoon, 11-EB-ALD-235 in which a Rule 8 proceeding is scheduled on December 27, 2010, the question as to whether the Candidate's name should appear on the ballot cannot be determined at this time.

December 24, 2010

Gerald B. Mullin