

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

Objections of: GEORGE BROWN)
)
)
To the Nomination) No.: 15-EB-ALD-022
Papers of: MARCIA BROWN-)
) Rel. ALD-034
Candidate for the office of)
Alderman of the 9th 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 GEORGE BROWN (“Objector”) to the nomination papers (“Nomination Papers”) of MARCIA BROWN-, candidate for the office of Alderman of the 9th Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014, 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 8, 2014, and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Yamil E. Colon 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, GEORGE BROWN, by his attorneys, Luke J. Keller and Lauren Glennon; and the Candidate, MARCIA BROWN-, pro se.

7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer recommends that paragraphs 16-19 of the Objector's Petition be sustained and that the Candidate's Nomination Papers be declared invalid.

8. The Candidate filed a motion pursuant to Rule 20 of the Electoral Board's Rules of Procedure to address the Board concerning the Hearing Officer's report and recommendations. In her motion, the Candidate contends that admits she filed her Statement of Economic Interests with her Nomination Papers when she filed them with the Chicago Board of Election Commissioners on November 18, 2014. She claims, however, that the Board's "accepting clerk" reviewed her Nomination Papers, prepared a receipt checking off the box for "Statement of Economic Interests," and informed her nothing else was needed. She further

claims, however, that she received on November 22, 2014 a letter from the office of the "Election Commissioners" notifying her that "Statement of Economic Interests" was not properly prepared. (Rule 20 motion, ¶ 6) The Candidate has not produced a copy of such letter.

9. The Candidate further claims in her Rule 20 motion that on November 24, 2014, she returned "to the office of Election Commissioners' Office prepared and made corrections to 'Statement of Economic Interest' per the instruction of Election Commissioners' Office at the Board of Ethics." (Rule 20 motion, ¶ 7). She then states, "Upon preparing and making the correction to 'Statement of Economic Interest' the 'Accepting Clerk' assure [sic] her nothing else was needed and of [sic] her documents were in full compliance and filed. In fact, the clerk said to Ms. Brown that this form that she completed and submitted was the only form needed." (Rule 20 motion, ¶ 8)

10. Candidate contends in her Rule 20 motion that the Election Commissioners' office knows what documents and forms one must file with its office and with the Cook County Clerk's Office and that the Election Commissioners had a fiduciary duty to direct her and inform her on how to prepare and correct her nomination papers and that she had to file a Statement of Economic Interests with the Cook County Clerk's office and a receipt of the filing with the Election Commissioners. (Rule 20 motion, ¶¶ 10-11). The Candidate claims that the Election Commissioners breached such fiduciary duty. (Rule 20 motion, ¶ 12)

11. Finally, the Candidate contends that on November 24, "upon meeting with the 'accepting clerk' the Candidate believed and was assured by the 'accepting clerk' that her nomination papers were in full compliance and properly filed." (Rule 20 motion, ¶ 13)

12. There is no evidence that the Chicago Board of Election Commissioners ever sent the letter she claims she received on November 22, 2014 notifying her that her Statement of Economic Interests was not properly filed.

13. There is no evidence concerning what the so-called "accepting clerk" said to the Candidate on either November 18, when the Candidate filed her Nomination Papers, or on November 24, when she allegedly returned to the Board of Election Commissioners to make "corrections" to her Statement of Economic Interests.

14. There is no evidence of any "corrections" being made to the Candidate's Statement of Economic Interests on November 24, 2014 or on any other date.

15. The Candidate has not provided any legal authority to support her proposition that the Board of Election Commissioners has a fiduciary duty to direct or inform the Candidate on how to prepare and/or correct her nomination papers.

16. This Electoral Board has previously held that a candidate who filed with the Board of Election Commissioners a statement of economic interests with the receipt attached to said statement and who claimed that he was told by an employee of the Board of Election Commissioners that said employee would file the candidate's statement of economic interests with the Cook County Clerk would not be excused from filing the statement of economic interests in the correct office. *Barnes v. Sneed*, 95-EB-ALD-216, CBEC (1995).

17. The law in Illinois is well established that filing a statement of economic interests in the wrong place invalidates a candidate's nomination papers. *See, Ferrand v. City of Chicago Board of Election Commissioners*, 2014 IL App (1st) 140225, 6 N.E.3d 779 (2014).

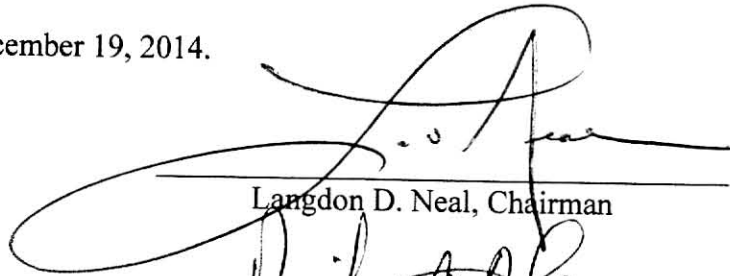
18. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law,

hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report is attached hereto and is incorporated herein and made a part of the Electoral Board's decision in this case.

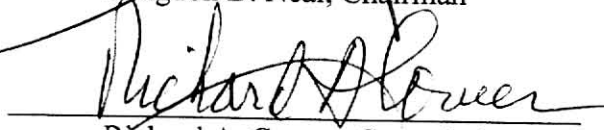
19. For the reasons stated above, the Electoral Board finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of GEORGE BROWN to the Nomination Papers of MARCIA BROWN-, candidate for election to the office of Alderman of the 9th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of MARCIA BROWN-, candidate for election to the office of Alderman of the 9th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

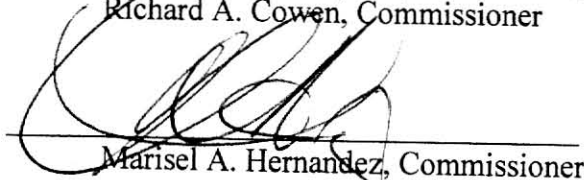
Dated: Chicago, Illinois, on December 19, 2014.



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**

GEORGE BROWN,)	
)	
Petitioner-Objector,)	
)	
v.)	NO. 15 EB-ALD 022
)	
MARCIA BROWN,)	
)	
Respondent- Candidate.)	

HEARING OFFICER'S REPORT AND RECOMMENDATION

This matter came to be heard initially on December 10, 2014. The Objector, Mr. George Brown, was represented by Odelson & Sterk, Ltd.. The Candidate, Ms. Marcia Brown, appeared *pro se*. After the initial Case Management Conference, the Candidate was granted time to respond in writing to the Objector's Petition. The matter was then set for hearing on December 12, 2014.

ISSUES RAISED

The Objector's Petition alleged that the Candidates nomination papers were not lawful in that they contained a variety of defects including: petition sheets containing signatures that are not genuine; signatures not of properly registered voters; signatures of individuals not residing within the 9th Ward of the City of Chicago; voters' signatures with incomplete or missing addresses; repeat signatures; fraud by the circulators for verifying alleged forged signatures; invalid State Of Economic Interest ("SOEI") as being incomplete; invalid Statement of Candidacy because Candidate Marcia Brown is not a registered voter at the address shown; Candidate used names of Marcia Brown and Marcia Brown-Williams interchangeably in the Nomination Papers; Statement of Candidacy did not specify office sought and included a specific party in non-partisan election; the Candidate failed to file a receipt for her SOEI with her Nomination Papers with the County Clerk; and failing to file her SOEI with the County Clerk.

FACTS AND EVIDENCE PRESENTED BY THE PARTIES

The evidence presented consisted of the Nomination Papers of the Candidate contained in the Board of Elections File, and the testimony of the Candidate and documents in support of her testimony, including her Illinois Driver's License and her purported divorce decree.

After each party made an opening statement outlining the issues raised in their Petitions and Motions, the candidate was called to testify. The Candidate testified under oath that her name is Marcia Brown. She stated that she assumed the name of Marcia Brown-Williams during her marriage because she had a son and wanted to preserve the common family name. She testified that she was entitled to use the name Marcia Brown because she was granted leave to do so, pursuant to her divorce decree. The Candidate then presented for the hearing officer to examine a single page document in support of that testimony. The document appeared to be a copy of the last page of a divorce decree representing that she may resume the use of her maiden name of Marcia Brown.

However, this document was missing the case caption page indentifying the jurisdiction, the parties, and the docket number. All of the pages preceding the last page were not presented. The Candidate testified that her use of Marcia Brown and Marcia Brown-Williams was no different than any of the other candidates using their nicknames of "Noonie" and "Ted". She further asserted that women should not be treated any different when they want to use their maiden names, particularly since it was changed legally by her divorce decree.

During her testimony, the Candidate was requested to produce her Illinois Drivers License. The Candidate produced her Driver's License, which the Hearing Officer reviewed and read into the record the pertinent identifying information, including the license number; date of issuance and expiration, and her name, Marcia Brown-Williams.

When asked by counsel for the Objector whether or not she had filed her SOEI with the County Clerk, she vacillated between yes and no three times. The candidate similarly wavered back and forth when asked if she had filed her receipt for the SOEI. Finally, when the Hearing Officer asked her to answer yes or no to whether she filed her SOEI with the County Clerk, she responded no. Likewise, the Candidate was then asked if she filed a receipt for the SOEI, to which she also responded no.

CASE REVIEW AND FINDINGS

The Candidate filed with the Board of Elections on November 18, 2014 two Statements of Economic Interests with her Nomination Papers. One was filed under the name of Marcia Brown, and the other was filed under the name Marica Brown-Williams.

Both SOEI failed to identify the office for which the statement was filed. Instead, she listed her employment as an "Insurance Agent with Farmer's Insurance". In addition, both of the SOEI which she filed with the Board of Elections contained no answers to questions 1 through 8 of the statements. However at the hearing, the Candidate submitted two new, unfiled SOEI containing answers to questions 1 through 8.

The Candidate admitted under oath that she failed to file her SOEI with the County Clerk and that she failed to file her receipt for the SOEI pursuant to the Illinois Governmental Ethics Act, 5 ILCS 420/4A 101 and 106, and Illinois Election Code 10 ILCS 5/10-5.

The Candidate's Nomination Papers suffer from various defects. However, failure by a candidate to file her SOEI and its receipt absolutely invalidates the Candidates Nomination Papers. (See *Henning v. Lawrence*, 07 -EB-ALD-052 and *Bolger v. Electoral Board of the City of McHenry*, 210 Ill.App3d 958, 569 N.E.2d. 628 (2nd Dist 1991)).

CONCLUSIONS AND RECOMMENDATION

The Candidate, Ms. Marcia Brown's, Nomination Papers do not meet the required standard imposed by Illinois law for her name to appear on the election ballot. Her failure to file her Statement of Economic Interest, and receipt thereof in the proper venues invalidate her Nomination Papers. Therefore, the Objector's Petition is sustained and it is recommended that the Candidates' name should be excluded from the February 24, 2015 election ballot.

Respectfully Submitted,

S/ Yamil E. Colón

Hearing Officer

December 15, 2014