

COPY

2013 MAR 19 PM 1:18  
DAUPHIN COUNTY  
PENNA  
RECEIVED  
OFFICE OF  
PROTHONOTARY  
B  
2/10/2

Karen M. Balaban, Esquire  
223 State Street, Suite 200  
Harrisburg, PA 17101  
Phone 717.232.3708  
e-mail: [KMBalaban@BalabanLLC.com](mailto:KMBalaban@BalabanLLC.com)

**IN THE MATTER OF THE  
NOMINATION PETITION OF  
JENNIFER L. SMALLWOOD  
(FOR THE OFFICE OF  
HARRISBURG CITY CONTROLLER)**

**IN THE COURT OF COMMON PLEAS  
DAUPHIN COUNTY**

2013 CV 2399 EL  
(ELECTION LAW)

**PETITION TO SET ASIDE NOMINATION PETITION**

The Petitioner, Paul N. Thompson, by his attorney, Karen M. Balaban, of Karen M. Balaban LLC, respectfully represents that:

1. This Court has original jurisdiction pursuant to 42 Pa.C.S. § 931 and 25 P.S. § 2937.
2. This cause of action is authorized under the Election Code, 25 P.S. § 2937, which designates the initial filing as a petition.
3. Petitioner Paul N. Thompson is an adult individual who resides at 2343 Swatara Street, City of Harrisburg, Dauphin County, Pennsylvania, 17104 (the "Objector").
4. Petitioner is a qualified elector in the City of Harrisburg and is a registered and enrolled member of the Democratic Party in the 13<sup>th</sup> Ward 3<sup>rd</sup> Precinct.



5. On or about March 12, 2013, Jennifer L. Smallwood (the "Candidate") filed a nomination petition for the office of City Controller for the City of Harrisburg as a candidate seeking the nomination of the Democratic Party in the Municipal Primary scheduled for Tuesday, May 21, 2013 ("Nomination Petition").

6. Candidate's Nomination Petition consists of 21 sheets containing in excess of 100 signatures and appended thereto are 13 pages containing affidavits, i.e. Affidavit of Circulator and Candidate's Affidavit. (A copy of the Nomination Petition, the affidavits of the circulator for the respective sheets of the Nomination Petition, and the two executed Candidate's Affidavit are attached as Appendix A which is incorporated herein.) The number of valid signatures of registered and enrolled members of the Democratic Party required for a nomination petition for City Controller is 100. (25 P.S. § 2872.1(23)).

7. Each sheet of the Nomination Petition has appended thereto the affidavit of the person who circulated each sheet, i.e. the Affidavit of Circulator. Jennifer L. Smallwood is the only person identified as the circulator of the sheets of the Nomination Petition for all signatures contained in the Nomination Petition (the "Circulator"). Circulator did not obtain all of the signatures on all of the sheets of the Nomination Petition, therefore each Affidavit of Circulator is false.

8. Neither the Circulator nor the person(s) who actually circulated the sheets of the Nomination Petition

a. appeared personally before the Notary Public to swear to the statements contained in each Affidavit of Circulator,

b. subscribed her/his name to each Affidavit of Circulator in the presence the Notary Public on the date identified in each Affidavit of Circulator.

9. There are two executed Candidate's Affidavit (see pages 3 & 6 of Appendix A).

Candidate did not



a. personally appear before the Notary Public to swear to the statements contained in each Candidate's Affidavit,

b. subscribe her name to each Candidate's Affidavit in the presence of the Notary Public on the date identified in each Candidate's Affidavit.

10. At the time Candidate signed and completed each Candidate's Affidavit, Candidate did not consent to be a candidate for the office of City Controller. At the time the Notary Public attached her jurat to each Candidate's Affidavit, the "title of office" was identified as "School Board".

11. Each Candidate's Affidavit and each Affidavit of Circulator do not comply with the provisions of Sections 976, 909, and 910 of the Election Code (25 P.S. § 2936, §2869, and §2870).

12. Each Candidate's Affidavit and each Affidavit of Circulator are falsely certified and all affidavits are void.

13. The aforesaid objections to the Affidavit of Circulator and Candidate's Affidavit, if proven to be true, would result in striking the signatures on all sheets of Candidate's Nomination Petition.

14. Candidate's Nomination Petition should be set aside for failure to satisfy the requirements of the Election Code, Act of June 3, 1937, P.L. 1933, as amended (25 P.S. §2601 et seq.) and the laws of this Commonwealth.

15. For the foregoing reasons, Candidate's name must be removed from the Democratic Party ballot for the office of city controller for the City of Harrisburg in the May 21, 2013 Municipal Primary.

WHEREFORE, Petitioner respectfully requests the Court to enter an Order:

a. to set aside the Nomination Petition of Jennifer L. Smallwood as a candidate for the nomination of the Democratic Party for the office of City Controller for the City of Harrisburg, to be voted on at the May 21, 2013 Municipal Primary, for failure to satisfy the requirements of the Election Code, 25 P.S. § 2601 et seq., as aforesaid;



b. removing Candidate's name from the Democratic Party ballot for the May 21, 2013 Municipal Primary;

c. directing Candidate to pay the costs of the proceedings, including witness fees; and

d. providing for such other relief and sanctions against the Candidate as the Court may deem appropriate.

Respectfully submitted,  
Karen M. Balaban LLC

Date: March 19, 2013

by: Karen M. Balaban  
Karen M. Balaban  
Attorney I.D. 28160