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**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE FEBRUARY 23, 1999 MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER AND ALDERMAN
IN THE CITY OF CHICAGO**

Objections of: SHARITA SMITH	)	
	)	
To the Nomination	)	
Papers of: TRACY T. JENNINGS	)	No.: 99-EB-ALD-121
	)	
Candidate for the office of	)	
Alderman of the 34th 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 Theresa M. Petrone, 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 SHARITA SMITH to the nomination papers ("Nomination Papers") of TRACY T. JENNINGS, candidate for the offices of Alderman of the 34th Ward in the City of Chicago ("Candidate"), having convened on December 28, 1998, at 9:00 a.m., in the City Council Chambers, City Hall, 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(s) 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 28, 1998 and was continued from time to time.

5. The following persons, among others, were present at such hearing: the members of the Electoral Board, the Objector(s), SHARITA SMITH; and the Candidate, TRACY T. JENNINGS. The Candidate later became represented by counsel.

6. The Electoral Board assigned this matter to Hearing Examiner LEE JANGER for further hearings and proceedings.

7. The Electoral Board ordered that an examination of the registration records be conducted by its clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

8. The Electoral Board directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

9. The Candidate or his duly authorized representative was present during the examination of the registration records.

10. The Objector or her duly authorized representative was present during the examination of the registration records.

11. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination conducted by its clerks and agents. The written report of the result of the registration records examination is contained in the Electoral Board's file in this case and is available for inspection upon request of a party.

12. The Electoral Board has considered all evidence and arguments tendered by the parties.

13. The Electoral Board finds that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 196;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 325;

    c. The number of signatures deemed invalid because of objections sustained total 110;

    d. The remaining number of signatures deemed valid total 215;

14. A further review of the report of the records examination reflect that the number of sustained objections was miscalculated and that the correct number of remaining valid signatures following the records examination should be and is 214. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating

petition following the records examination is 18 signatures above the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Alderman of the 34th Ward of the City of Chicago.

15. Following the records examination, the Hearings Examiner conducted further proceedings at which the Candidate testified that he was the sole circulator of all 13 petition sheets attached to his Nomination Papers. The Candidate testified that he witnessed 325 different people sign his nomination petition in his presence. James Hayes, a handwriting expert for the Board of Election Commissioners, testified that he examined 10 different circumstances in which he found significant similarities with specific signatures and was almost certain of common authorship. Mr. Hayes further testified that in his opinion far fewer than 25 different individuals signed sheets 10-13. He testified that almost all of the signatures on pages 11 through 13 had significant similarities in size, slant, and movement.

16. The Objector also produced the notarized affidavit of Tamika Monroe in which she stated she signed her name and her mother's name to lines 11 and 12 on sheet 10 of the Candidate's nominating petition. Hayes gave testimony regarding his comparison of the signatures appearing on lines 19-22 of sheet 10, as well as of lines 24 and 25 of sheet 10. Hayes testified that signatures on lines 19-22 showed common authorship and the signatures on lines 24 and 25 showed common authorship. Hayes testified that the signatures on sheet 10, lines 11 and 12 also showed significant similarities and he was almost certain of common authorship.

17. The Hearing Examiner also noted that the records examination struck over one-third of the Candidate's signatures. The Hearing Examiner further regarded the uncontested testimony of James Hayes as very persuasive when coupled with a review of the nominating petitions. The Hearing Examiner concluded that sheets 11-13, when taken as a whole, show extensive similarities between the various signatures even to a non-expert and that Hayes' testimony regarding these similarities indicated that a pattern of abuse and misconduct had occurred in obtaining signatures on sheets 10-13. Such a pattern of abuse strongly indicates a false swearing by the circulator in spite of his circulator's affidavit that the sheets were signed in his presence and that the signatures are genuine and in spite of his own testimony that the sheets were signed in his presence and that the petition was signed by 325 different individuals.

18. In the face of evidence that numerous signatures on sheets 10 through 13 are similar and of common authorship, the Hearing Examiner recommended that sheets 10 through 13 be stricken entirely from the Candidate's Nomination Papers because such false swearing evidences a clear pattern of disregard of the Election Code, citing *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (First Dist. 1984); *Huskey v. Municipal Officers Electoral Board*, 156 Ill.App.3d 201, 509 N.E.2d 555 (First Dist. 1988); and *Canter v. Cook County Officers Electoral Board*, 170 Ill.App.3d 364, 523 N.E.2d 1299 (First Dist. 1988).

19. The Electoral Board hereby adopts the Hearing Examiner's recommended findings and conclusions of law and finds that Objector's Petition is sustained in part and overruled in part as more fully indicated in the results of the records examination and as articulated in the Hearing Examiner's findings above.

20. As a result of striking petition sheets 10 through 13 and the invalidation of the 33 remaining signature thereon, the Candidate has only 182 valid signatures on his Nomination Papers, below the minimum signature requirement of 196.

21. For the reasons stated above, the Electoral Board finds that the Nomination Papers of TRACY T. JENNINGS are not valid.

IT IS THEREFORE ORDERED, that the Objections of SHARITA SMITH to the Nomination Papers of TRACY T. JENNINGS, candidate for election to the office of Alderman of the 34th Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of TRACY T. JENNINGS, candidate for election to the office of Alderman of the 34th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election for Mayor, City Clerk, City Treasurer and Alderman to be held on February 23, 1999.

Dated: Chicago, Illinois, this Twenty-Eighth day of January, 1999.

Langdon D. Neal, Chairman

Theresa M. Petrone, Commissioner

SPECIALLY CONCURRING IN THE DECISION:

I concur in the decision not to certify Tracy T. Jennings as a candidate based on the following:

1. The fact that one member of a household signs the name of other members of the household to a petition is not "false swearing" or a "pattern of fraud." Therefore, I would overrule the Hearing Examiner's report with respect to sheet 10.

2. The evidence fully sustains the Hearing Examiner's recommendations with respect to sheets 11, 12 and 13. Based on the expert testimony of James Hayes, these sheets exhibit a pattern of fraud on the part of the circulator/candidate.

3. The pattern of fraud with respect to sheets 11, 12 and 13 justifies disqualifying all 13 sheets circulated by Tracy T. Jennings.

A. Sheets 11, 12 and 13 represent a substantial percentage (23%) of the total number of sheets (13) circulated by Jennings.

B. Jennings' testimony before the Hearing Examiner that he personally saw each person sign all petition sheets is not credible.

C. No evidence was offered by the Candidate to rehabilitate any of the questioned signatures.

D. The testimony of James Hayes established pervasive, wide ranging examples of persons not signing in their own proper person as required by the Election Code, even after those signing on behalf of others in their household are disregarded. This affected petition sheets in addition to sheets 11, 12 and 13.

Richard A. Cowen, 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 10 days after the decision of the Electoral Board.