BCCON-ALD

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

Objections of: FREIDA ROBINSON	)	
	)	
To the Nomination	)	**No.: 07-EB-ALD-043**
Papers of: TYRONE DE'ANDRE	)	**(rel. ALD-022)**
HAWTHORNE	)	
	)	
Candidate for the office of	)	
Alderman of the Seventeenth 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 and Richard A. Cowen, 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 FREIDA ROBINSON ("Objector") to the nomination papers ("Nomination Papers") of TYRONE DE'ANDRE HAWTHORNE, candidate for the office of Alderman of the Seventeenth Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 27, 2007, having convened on January 2, 2007, at 10:00 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 was held on these Objections commencing on January 2, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Frank Tedesso for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner on the date and at the time designated in the Call. The following persons, among others, were present at such hearing; the Objector, FREIDA ROBINSON, by counsel, James P. Nally, PC; and the Candidate, TYRONE DE'ANDRE HAWTHORNE, pro se.

7. The Hearing Examiner 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 Hearing Examiner 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 at all times.

10. The Objector and/or her duly authorized representatives were present during the examination of the registration records at all times.

11. The examination of the registration records was suspended after examining the first 23 sheets of the Candidate's nominating petition and determining that the Candidate had at least 318 valid signatures on his petitions. The minimum signature requirement is 178.

12. 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 Board's file in this case and a copy was made available to the parties.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for election to the office of Alderman of the Seventeenth Ward of the City of Chicago.

14. The Objector also raised objections to the Candidate's residency, claiming that he did not actually reside at the address listed on his Nomination Papers.

15. Finally, the Objector alleged that the Candidate's nominating petition sheets were not consecutively numbered, in violation of section 10-4 of the Election Code.

16. The Hearing Examiner has tendered to the Electoral Board his report and recommended decision. The Hearing Examiner recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be found valid.

17. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Examiner, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Examiner's recommended findings and conclusions of law. A copy of the Hearing Examiner's Recommended Decision is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

18. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of FREIDA ROBINSON to the Nomination Papers of TYRONE DE'ANDRE HAWTHORNE, candidate for election to the office of Alderman of the Seventeenth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of TYRONE DE'ANDRE HAWTHORNE, candidate for election to the office of Alderman of the Seventeenth Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 27, 2007.

Dated: Chicago, Illinois, this 28th day of January, 2007.

Langdon D. Neal, Chairman

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.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE OFFICE OF ALDERMAN OF THE 17TH WARD, CITY OF CHICAGO TO BE VOTED UPON AT THE FEBRUARY 27, 2007 MUNICIPAL GENERAL ELECTION

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FREIDA ROBINSON,	)	
Petitioner-Objector,	)	
	)	
v.	)	**07-EB-ALD-043**
	)	
TYRONE DE'ANDRE HAWTHORNE,	)	
Respondent – Candidate.	)	

HEARING EXAMINER'S RECOMMENDED DECISION

1. Respondent – Candidate, TYRONE DE'ANDRE HAWTHORNE, filed Nomination Papers for nomination to the Office of Alderman of the 17th Ward of the City of Chicago, to be voted upon at the 2007 Municipal General Election to be held on February 27, 2007.

2. Petitioner– Objector, FREIDA ROBINSON, filed a petition objecting to the Nomination Papers of the Candidate.

3. That on January 2, 2007, this matter appeared on the initial trial call. The Candidate and Objector each appeared in person and filed their written appearance. The Hearing Examiner received certain Board documents into evidence including the following: Board Group Exhibit A consisting of the Candidate's Nomination Papers; Board Group Exhibit B consisting of the Objector's Petition; Board Group Exhibit C consisting of the Call and the poof of service of the Call; and Board Group Exhibit D consisting of the parties' appearance. The Candidate requested leave to file a Motion to Strike and Dismiss the Objector's Petition and was granted until January 3, 2007 to file said motion, the Objector was granted until January 4, 2007 to file her response, and the

Respondent was granted until January 5, 2007 to file any reply. The Hearing Examiner also signed a directive for a Record's Examination.

4. Both parties appeared on January 9, 2007, and the Hearing Examiner heard argument on the Candidate's Motion to Strike and Dismiss. The candidate argued the objector's petition should be dismissed because there was no record that the objector personally reviewed the nomination papers of the candidate. The candidate further argued that the objector's petition constituted a shot gun approach and was therefore invalid. On a motion to dismiss, "All pleadings are construed in the light most favorable to the non-moving party, and all well plead facts in a complaint, as well as reasonable inferences drawn there from, are taken as true. *Weiss vs. Waterhouse Securities, 335 Ill.App.3d 875 at 882 (First District 2002.* Objector's petition contains well plead facts that if true would result in the removal of the candidate from the ballot. The Candidate's Motion to Strike and Dismiss is denied.

5. On January 9, 2007 a Record Examination was conducted in this matter. After working the first 23 petition sheets, the candidate has 190 valid signatures. In addition, petition sheets 24 through 42 contained 127 signatures for which there was no objection. The records examination was halted in that the candidate had 318 valid signatures and the minimum signature requirement is 178 signatures.

6. On January 19, 2007, this matter proceeded to an evidentiary hearing on the remaining issues of residency and consecutive numbering of the petition sheets. The objector presented the following evidence at the evidentiary hearing:

a. Objector called the candidate as an adverse witness. The candidate testified that he resides at 7410 S. Sangamon, Chicago, Illinois and has

resided at said address in excess of 10 years. His mother resides at the residence and his niece, Akeera Hawthorne, stays at the residence when she is not attending school in Atlanta, Georgia. Hawthorne resided at 2021 W. 70th Street when he was 20 years old for one year and has never resided at another address. Hawthorne testified that he is not married and he has two children who reside with their mother Laverne Watts. The candidate testified that he occasionally spends the night at his children's residence. The candidate identified exhibit #1 as a photograph of the residence 7410 S. Sangamon and described the residence as having two levels and a finished basement. The candidate indicated he does not have a written lease agreement with his mother, does not pay real estate taxes at the residence and contributes to the utility bills that are in his mother's name. Candidate was shown objector's exhibit #2 that is a list of voters registered at 7410 S. Sangamon. The candidate identified the others listed on the exhibit as family members of the candidate. The candidate further testified that he owns a Ford Expedition and a Chevy Astrovan. He testified that his bank accounts at Chase and Bridgeview Bank contain the address of 7410 S. Sangamon.

b. Barbara Dixon was called by the objector and her testimony was allowed over the objection of the candidate. Ms. Dixon testified that she is a licensed private detective and employed by Execu-Pro Investigations. She was assigned to investigate the candidate and received information from a confidential source of an address at 3171 W. 84th Place, Chicago, Illinois

as a possible address for the candidate. 3171 W. 84th Place is in the 18th Ward and not the 17th Ward.

Ms. Dixon testified that she conducted surveillance at 7410 S. Sangamon on November 18, 2006, December 19, 2006, December 20, 2006, December 20, 2006, January 3, 2007, and January 7, 2007. Dixon testified that on all dates she conducted surveillance she did not observe the presence of Mr. Hawthorne or his vehicles.

Dixon also conducted surveillance at 3171 W. 84th Place on December 19, 2006, December 20, 2006, December 22, 2006, and January 3, 2006. On December 19, 2006 she observed Hawthorne's green Ford Expedition with plate number 576 7796 parked on the street in front of the apartment building. Ms. Dixon testified that she entered the building and observed the mail box with a picture of Hawthorne and Hawthorne's name and Watt's name on the photo. It appears that Hawthorne's name is printed and Watts name is hand written on the photo. Dixon testified that she took photographs on December 19, 2006 and identified objector's exhibit #3, #4, and #5 as photographs of the mailbox inside the building located at 3171 W. 84th Place. Dixon identified objector's exhibit #6 as a photo of 3171 W. 84th Place, exhibit #7 as a photo of 3171 W. 84th Place, exhibit #8 as a picture of 3171 W. 84th Place with the street sign visible indicating the streets of Kedzie and 84th Place, exhibit #9 being a photograph of

candidates Expedition parked outside of 3171 W. 84th Place, exhibit #10 being a photograph of the buildings address and exhibit 11 being a photograph of candidate's Ford Expedition and the street sign. On December 20th and 22nd, Dixon observed the candidate's Ford Expedition parked at 3171 W. 84th Place; however, she did not photograph the vehicle. On January 3, 2007, she also observed candidate's Ford Expedition parked in front of 3171 W. 84th Place. On January 18, 2007, Ms. Dixon conducted surveillance at 3171 W. 84th Place and she observed the candidate's Chevrolet Astrovan parked in front of the building and she took photographs of the vehicle in front of the building. She identified objector's exhibits #12, #13, #14, and #15 as pictures of the Astrovan parked in front of the building.

On cross-examination Ms. Dixon testified that she did not know what times she visited 7410 S. Sangamon or 3171 W. 84th Place on the dates in question. That she did not spend more than an hour outside the residence at a time. That she never saw both vehicles parked outside 3171 W. 84th Place at the same time.

c. Keith Barnes testified that he is a licensed private detective and was with Ms. Dixon when she conducted surveillance. His testimony was similar to Ms. Dixon's with the addition that on January 18, 2007 he served a subpoena at 7410 S. Sangamon on a Carl Hawthorne and that Martese Hawthorne accepted service for Carl Hawthorne.

d. Willie Rhodes testified that he also was employed by Execu-Pro and conducted surveillance at 3171 W. 84th Place on January 7, 2007, January 9, 2007, January 18, 2007 and January 19, 2007. On January 7th and 9th, he observed the Astrovan parked in front of the residence at 3171 W. 84th Place. On January 18, 2007 he observed the Astrovan pull away from the residence at 3171 W. 84th Place but he did not see the person driving. And on January 19, 2007 at 4:49 a.m. he observed Hawthorne enter the Astrovan at 3171 W. 84th Place and drive away southbound on Kedzie. On cross examination, Mr. Rhodes testified that it was dark out at the time he observed Hawthorne and he had only seen candidate on one prior occasion.

e. Objector also admitted objector's exhibit #16 being Commonwealth evidence records showing the account in the name of Tyrone Hawthorne for Unit B at 3171 W. 84th Place.

f. Candidate presented the following evidence: candidate's exhibit #1 being his Illinois Driver's License showing his address as 7410 S. Sangamon, exhibit #2 being his voter's registration card listing his address as 7410 S. Sangamon, exhibit #3 SEIU card showing an address of 7410 S. Sangamon, and Board records of his voter's registration showing an address of 7410 S. Sangamon and Nomination Papers filed with the Board for the 2003 Municipal Election showing an address of 7410 S. Sangamon.

7. In regard to the issue of consecutive numbering of the petition sheets the parties stipulated that sheets 21, 81, and 94 were not for the candidate but for Denise Brown running for the office of Alderman of the 16th Ward. Objector argued that this violated the consecutive numbering provisions of section 10-4 of the Election Code and therefore the nomination papers were invalid in their entirety. Candidate argued that the sheets in question were placed therein by mistake and that those sheets should be stricken and his nomination papers deemed valid as in substantial compliance with section 10-4.

8. The Hearing Examiner makes the following recommended findings of fact:

a. That the objector failed to meet its burden of a preponderance of the evidence to prove that the candidate does not reside at 7410 S. Sangamon.

b. That candidate's children live with their mother at 3171 W. 84th Place, Chicago, Illinois.

c. That candidate is not married to his children's mother.

d. That the candidate resides at 7410 S. Sangamon, Chicago, Illinois.

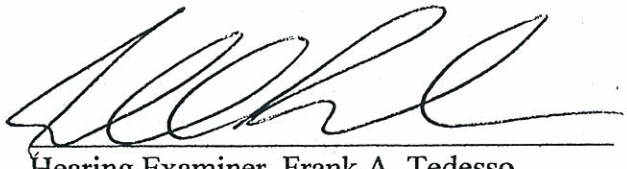
e. That the candidate's nomination petitions were consecutively numbered.

f. That petition sheets 21, 81, and 94 were not for the candidate but for Denise Brown running for the office of Alderman of the 16th Ward.

g. That the petition sheets are in substantial compliance with the numbering requirement of section 10-4.

h. That the candidate has 318 valid signatures and the minimum signature requirement is 178 signatures.

9. It is the recommended decision of the hearing examiner that the Candidate's name be placed on the ballot.



Hearing Examiner, Frank A. Tedesso