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

Objections of: Joseph C. Ziegler, Jr.	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-056
Papers of: Don Beachem	)	
	)	
Candidate for the office of	)	
Alderman of the 18th 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 Joseph C. Ziegler, Jr. ("Objector") to the nomination papers ("Nomination Papers") of Don Beachem, candidate for the office of Alderman of the 18th 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 Lynne R. Ostfeld 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, Joseph C. Ziegler, Jr., by attorney, Russ Stewart; and the Candidate, Don Beachem, 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 found that the Candidate was not a resident at the address of indicated on his Nomination Papers and not a resident of the 18th Ward.

8. The Hearing Officer further found that 108 sheets of the Candidate's Nomination Papers were invalid in that the notary of said pages failed to comply with the Illinois Notary Act. Specifically, Section 6-102 provides:

> (a) In taking an acknowledgment, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the acknowledgment is the person whose true signature is on the instrument.
>
> (b) In taking a verification upon oath or affirmation, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the verification is the person whose true signature is on the statement verified.

(c) In witnessing or attesting a signature, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary and named therein.

(d) A notary public has satisfactory evidence that a person is the person whose true signature is on a document if that person:

(1) is personally known to the notary;

(2) is identified upon the oath or affirmation of a

credible witness personally known to the notary; or

(3) is identified on the basis of identification documents. Until July 1, 2013, identification documents are documents that are valid at the time of the notarial act, issued by a state or federal government agency, and bearing the photographic image of the individual's face and signature of the individual. 10 ILCS 312/6-102

9. In the instant case, the Hearing Officer found that the notary failed to verify the identity of any of the circulators of 108 sheets of the Candidate's Nomination Papers and that the notary did not personally know the persons who appeared before him..

10. The Electoral Board finds that the requirement that a person who circulated the nominating petition sheets personally appear before a notary public to validate the petition is a mandatory requirement and a violation of this requirement invalidates the petition sheets. *Williams v. Butler*, 35 Ill.App.3d 532, 341 N.E.2d 394 (Fourth Dist. 1976); *Bowe v. City of Chicago Electoral Board*, 79 Ill.2d 469, 404 N.E.2d 180 (1980). The authentication provides a significant primary safeguard against fraud by subjecting the circulator to the penalty of a perjury conviction. See e.g. *In re Petition to Form New Park District Coterminous with Village of Maywood, Illinois* 182 Ill.App.3d 973, 538 N.E.2d 849 (1st Dist. 1989).

11. Where the identity of the individual who appears before the notary is not confirmed and Section 6-102 of the Illinois Notary Act has been violated, as here, the purpose of the notary requirement has not been fulfilled. 5 ILCS 312/6-102. However, the remedy for such a violation rests with the Illinois Notary Act and there is no authority to support a finding

that petition sheets infected by the notary's misconduct is thereby invalid. Therefore, the objections as to the notarization of the Candidate's nominating petition sheets is overruled.

12. 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 except as to the issue concerning the invalidation of nominating petition sheets notarized in violation of the Illinois Notary Act.

13. 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 Joseph C. Ziegler, Jr. to the Nomination Papers of Don Beachem, candidate for election to the office of Alderman of the 18th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Don Beachem, candidate for election to the office of Alderman of the 18th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 22, 2010.

Dated: Chicago, Illinois, on January 18, 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.

Objections of: **JOSEPH C. ZIEGLER, JR.,** Petitioner-Objector,	)	
To the Nomination Papers of: **DON BEACHEM**	)	No. **11-EB-ALD-056**
Candidate for the Office of **Alderman of the 18th Ward** in the City of Chicago	)	Lynne R. Ostfeld Hearing Officer

BOARD OF ELECTIONS
2011 JAN -9 A 11: 22

RECOMMENDED DECISION

This matter having come before the Chicago Board of Election Commissioners ("CBOE") on objections of JOSEPH C. ZIEGLER, JR. ("Objector") to the nomination papers of DON BEACHEM ("Candidate"), and the Candidate having filed a Motion to Strike, Lynne R. Ostfeld, Esq., Hearing Officer, finds and recommends as follows:

Background

1. The hearing was begun on December 6, 2010. In attendance at the initial hearing was the Objector, through his attorney Russ Stewart. The Candidate was not initially present and it was determined that personal service had not been made on him. The case was continued so that personal service could be made. However, a friend of the Candidate later notified the Hearing Officer that the Candidate had received notice of the Call through the certified notice sent to him, and picked up at the post office. The Candidate himself subsequently appeared, but after the Objector had left. The Candidate appeared *pro se* and did not retain an attorney throughout the remainder of the procedure. He filed his appearance on December 7, 2010.

2. The Objector had filed a Verified Objector's Petition by which he requested that Don Beachem's name not be printed on the ballot for election to the office of Alderman of the 18th Ward, City of Chicago. The objection was based on two claims: (1) that the Candidate does not reside at the address of his registration, 8113 S. Whipple, Chicago, but at 437 E. Oakwood Blvd, Apt. 241, Chicago; (2) that numerous petition sheets were improperly notarized, rendering them invalid.

3. The Candidate stated his desire to submit a Motion to Strike the objections. The Hearing Officer advised the Candidate of his responsibilities pursuant to the CBOE's Rules of Procedure and made sure that he had a copy. She set a hearing schedule and informed the Objector, through his counsel, of same.

4. On December 7, 2010, the Candidate filed his Motion to Strike Objector's Petition by which he contended that the the objections were invalid for the following reasons:

A. The objections were insufficient in law and in fact inasmuch as they did not identify

specific deficiencies or the relief sought;

B. While the objections attacked the validity of the notarization of numerous sheets, the objections never addressed specific signatures;

C. The Objector claimed that the Candidate did not reside at 8113 S. Whipple, Chicago but at 437 E. Oakwood Blvd., Apt. 241, Chicago. This is where his son Don W. Beachem, J. resides. The Candidate referenced an attached document but none was attached to the copy given to the Hearing Officer or to the CBOE;

D. The Objector did not incorporate the recapitulation pages, exhibits or addendums as part of his Objection and, therefore, they should not be considered as part of the Objection;

E. The Objector resides at 9629 S. Carpenter, Chicago and not at 8529 S. Winchester, Chicago, which he claims as his residence. Therefore, he is not a resident or qualified voter of the 18th Ward and is, therefore, not qualified or eligible to object to the Candidate's Nominating Papers.

5. At a continued hearing on December 18, 2010, counsel for the Objector stated that the Candidate had never served a copy of his Motion to Strike on the Objector. A copy was made by the CBOE for the Objector and he filed his response on December 20, 2010. A review of the file indicates that the Objector had already filed an Answer to Motion to Strike on December 8, 2010. Both Answers address the same issues, except that the second Answer has two additional paragraphs, which argue that the Candidate's Motion to Strike is based on factual, rather than legal, challenges which are improper for a motion to strike, and requests that the Motion be denied.

6. The Candidate did not submit a written response to the Objector's Answer, although given that opportunity.

7. Due to the difficulty of arranging case management hearings which were convenient to both parties, several telephone conferences were held. A hearing on the factual issues was scheduled for December 23, 2010, and held on that date.

8. The Hearing Officer granted certain requests for subpoenas. The Candidate received one for Joseph Ziegler, the Objector. The Objector received them for Charles Seavers, a notary, Don Beachem, Jr., a son of Don Beachem (Sr.), Betty Williams Corbin, owner of 8113 S. Whipple, and J and J Realty, property manager for 437 E. Oakwood Blvd.

9. All of the persons subpoenaed were in attendance at the hearing on December 23, 2010. J and J Realty did not appear. The Objector requested reissuance of the subpoena and it was agreed by the parties that a copy of the lease for 437 E. Oakwood Blvd., Chicago, which would be sent directly to the CBOE, would be sufficient for the Objector's purposes. The parties would make a final

argument on their position once this document was received. However, this was not sent and received until January 5, 2011.

10. As to the issue of the Objector's standing to file his objections to the Candidate's Nominating Papers, Josephf Ziegler, the Objector, was sworn and testified in his own behalf. He also submitted documents in support of his claim to live at 8529 S. Winchester, Chicago, in the 18th Ward. He stated to have moved there in 2005 and to reside there with his wife and son. The house had been purchased in his sister's name in December, 2004, but she does not live there. He owns other property at 9629 S. Carpenter, Chicago which he rents out; he uses it as income producing property. He intends the Winchester address to be his residence.

11. The Objector submitted the following documents in support of his living at 8529 S. Winchester:

Exhibit 1: his driver's license at 8529 S. Winchester, which was issued on 03-14-07;

Exhibit 2: his state income tax refund, sent to him on 08-12-2008 at 85(2)9 S. Winchester;

Group Exhibit 3: vehicle titles; title to his wife's car at the Winchester address; his Jeep and renewal for license plate mailed to Winchester; auto policy renewal declarations June 12, 2010 to June, 2011 which lists both of their cars at Winchester;

Exhibit 4: his voter registration at 8529 S. Winchester, showing that he changed his registration from 9629 Carpenter to 8529 Winchester on 5/19/2005;

Exhibit 5: Homeowner's policy at 8529 S. Winchester with his sister;

Exhibit 6: mailing address for health insurance, including 2009 increase;

Group Exhibit 7: TCF bank statements for 2007, 2009, and 2010 which were mailed to him at 8529 Winchester;

Exhibit 8: lease for the premises at 9629 S. Carpenter with Amanda .Spencer and Megan Spencer, dated August 1, 2008, along with money orders for payment;

Exhibit 9: copies of utility bills sent to him at 8529 S. Winchester.

12. The Hearing Officer found Joseph Ziegler to be a resident of the 18th Ward and overruled that portion of the Candidate's Motion to Strike.

13. As to the issue of the Candidate's being a resident in the 18th Ward for the year prior to the February 22, 2011 election, Don Beachem (Sr.) was sworn in and testified. In response to the Objector's Request to Produce, he produced his Illinois Driver's license (issued 11-07-09), and a copy of an apartment lease at 437 E. Oakwood Blvd. He additionally produced a W2 and Earnings Summary from Cook County for 2008, his Firearm Owner's Identification Card (which expires 10/01/2018), his Blue Cross Blue Shield identification card (for 12-01-05?). These were produced at

the hearing and not to the Objector prior to the hearing. Further, the Candidate did not produce the following documents which were requested, as a copy or in their original form as requested: credit card bills/statements; 2009 1040 federal tax return; 2009 Illinois tax return; vehicle titles; auto insurance bills; lease on property at 8113 S. Whipple, Chicago; utility bills; banking statements; IRA/401 (k) investment statements; cell phone bills.

14. The Candidate stated as follows:

A. He has lived at 8113 S. Whipple since 2007. Both his driver's license, issued 11-07-09, and Firearm Owner's Identification Card show him at this address. He does not own 8113 S. Whipple but this is owned by Betty Corbin, his son's mother-in-law.

Also residing there are Betty Corbin, her brother Joey Corbin, Carmen Beachem, his daughter-in-law, and his son's two children. It is a single family house. He does not know how many bedrooms there are. He has a bedroom in the basement which he occupies by himself. Joey, whose age he does not know although he is an adult, also has a bedroom in the basement. Betty has the first floor, his daughter-in-law and the two children have the second floor, he and Joey have the basement. There are two bathrooms in the house.

He pays $300 per month in rent. Betty has the information regarding whether there is a physical lease or not. He does not know if he has renewed it.

B. He is registered to vote from 8113 S. Whipple. He does not recall voting in 2008 or in the primary. He voted at the school but does not know its name.

C. He has a Ford 500, which is registered in another city. He just purchased it a couple of weeks ago. The owner lived in Countryside and the finance company has the title. Prior to purchasing this car he drove other people's cars.

D. He has no credit cards.

E. He has a checking account at Chase but did not bring any statements to the hearing. They are in the car in the parking lot.

F. His son lives at 437 Oakwood, unit 241. He himself never lived there and has never been to that address. His son could not have voted there because he just moved there.

G. His Candidate's Group Exhibit 1 includes his driver's license, insurance card, FOID card, and W2 earnings summary from Cook Co Sheriff's office for year 2008.

H. It is his son's signature on the Objector's Exhibit 10, which is the lease at 437 Oakwood. He has no idea whose signature is on Objector's Exhibit 11 (a Petition for Ziegler), Sheet No. 3, line 14, where is written the signature of "Don Beachem" at 8114 S. Whipple. He circulated Objector's Exhibit 12, a Petition Sheet for Don Beachem, Sheet No. 3, and the circulator's affidavit is his.

15. Betty Jean Corbin then testified, pursuant to subpoena from the Objector and under oath. She testified as follows:

A. She resides at 8113 S.Whipple. She votes from there. She purchased it in 1993. It is a single family home There are 6 bedrooms in the house. The house is not zoned for rental. The downstairs bedrooms were there when she bought the house. All of the occupants have separate bedrooms

B. Don Beachem is a tenant in the house. He resides in the basement. His room is the size of a bedroom. All of his personal property is in the house: his bed, books, clothing, important papers. All of Don Sr.'s belongings are in his room.

C. Don Beachem Sr. moved in in Oct. 2007. There is a written lease but it is not a "lease lease". They executed it in October, 2007. It is a month to month lease. He pays her $300 per month. She does not have the cancelled checks with her. Sometimes he pays her by check and sometimes by cash, mostly by cash, about 7 cash payments this year.

D. The people living with her are Don Beachem (Sr.), her daughter Carmen Beachem and her two children, and Betty's brother. The children are Don Beachem III and Donovon Beachem. Her brother is Joey Corbin, 55 years old. Carmen Beachem is married to Don Beachem Jr. He used to live there; he moved out 2 months ago. He doesn't live there but they keep in contact.

E. Don Beachem (Sr.)'s car is parked in front of her home, and she doesn't know what kind it is. His sheriff's patrol car is there, and he has a personal car. He's had it a year maybe less. He parks the patrol car and his personal car in front of the house.

F. She's never been to the unit on Oakwood.

G. Don Beachem Sr has use of the entire house.

H. She's a voting resident from the address. She votes every election, at Hayes School.

16. Don Beachem, Jr., testified under oath pursuant to subpoena issued by the Objector. He stated as follows:

A. His driver's license is registered at 8113 S. Whipple.

B. He resides at 437 E Oakwood. It's an apartment, he's in unit 41. He's resided there 2-3 months. He recognizes the Objector's Exhibit 10, which is the lease. He has paid rent for two months. He resides alone there. His father does not reside there.

C. He is not a voter at 437 E. Oakwood but at 8113 S. Whipple.

D. He is not a full time resident at either Oakwood or Whipple. He's a resident at both addresses and sleeps at both addresses. When he resided on Whipple he and his wife had the whole upstairs. Four people are there. There are 3 bedrooms on the second floor. Betty occupies the first floor. His father is in the basement, and Joey is in the basement. Everything in his father's room belongs to his father.

E. As to Objector's Exhibit 11, line 14, it says Don Beachem, 8114 S. Whipple. He did not sign this. He does not recognize this signature.

F. He had been a resident at 8114 S. Whipple over 10 years. His father began living there 2-3 years ago. He can't state the month or year.

G. He circulated petitions for his father's aldermanic race. He doesn't know how many.

H. His father has two Fords, one for personal use and one for work. It's a county owned car, he brings it home every day for the last 30 years. The other car he doesn't know how long he's had it; it's parked in front of the house. Since he's lived there 2-3 years he's always had two cars parked in front of the house, currently a red Ford, before it was a white Buick.

I. He voted in the last election from Whipple, he doesn't know about his father.

17. Charles J. Seavers testified under oath pursuant to subpeona issued by the Objector. He stated as follows:

A. He is a paralegal. He's a trained paralegal and he's a notary public. His commission was issued July, 2007 and expires July, 2011. He's been a notary for a total of 12 years.

B. He lives at 8744 S. Winchester . He works out of his home, and since he retired from Cook Co. His date of birth is 3/17/30.

C. He has know Beachem since 1988.

D. He notarized each and every one of the 112 petition sheets, the loyalty oath, and the statement of candidacy. He notarized them at 7051 S. Damen. It's a combination building of residents upstairs and store front on the lower level.

E. The dates started August 24, 2010. He notarized a dozen or so. He went there 2-3 additional times to notarize sheets.

F. His signature is on the loyalty oath.

G. In November, for the candidacy documents, he was at 367 E 69th St. This is a two flat building, converted to a half-way house. He met Mr. Beachem there, he had met him there before. On that day he met two associates of his but he doesn't know their names. He saw Mr. Beachem sign the loyalty oath at that time.

H. He didn't see anyone else sign anything at that time

I. As to sheets 27, 28, 29, 30, 31 - these were signed by Linda Asima. He thinks that he must have seen her sign but he does not remember. He does not know who Linda Asima is; he does not require that they give him a copy of a driver's license

J. Every time he notarized documents it was at Beachem's office on Damen. He was at 7051 S. Damen, all petitions were done there

K. Regarding sheet no. 21, dated Nov. 21, he recognizes the notary on that sheet. Alan Sanders signed. He vaguely remembers the name but doesn't remember this. He didn't ask for a copy of the driver's license.

L. All of these petitions were notarized at his office on Damen. He doesn't remember notarizing petitions on 69th street. He remembers notarizing the petitions on Damen as the circulators came in. He did this on about 4 occasions.

M. He never asked them to produce any identification but they always signed in front of him. He saw them sign the notary's affidavit.

N. On Nov. 21, there were a number of people. At one time he had 20 people, They all appeared before him and filled out the sheets in front of him. He never asked for identification.

O. As to Sheet No. 43, Durling Robinson. That is his notary seal. There is no date, It was an oversight on his part.

P. As to sheet 43 , he does not know the circulator. As to sheet 40, there is no date or time. As to sheet 26, there is no date or time and he doesn't know the circulator. As to sheet 25 there is no date or time and he doesn't know the circulator.

Q. No one was assisting him when he completed the notary affidavits. Regarding the notary affidavit, the circulator filled it out; he had the circulator complete the affidavit. He only signed the notary line. He witnesses each circulator sign the petitions in his presence. He wanted to make sure that they signed their name and then completed the remaining things. He wanted to make sure that the circulator's signature was signed.

R. He recognizeed Mr. Beachem's son. That is the only one he recognized.

S. He doesn't remember being there 8 times. He was there 4 times to his knowledge. He knows where he was when they signed the sheets but he doesn't know the dates. On Aug 24 he recalls notarizing a large number of petitions.

T. He notarizes other things besides petitions. He's notarized deeds.

U. It is required to see identification but not in a case like this. For a petition for election it is not required to ask for identification; it is only required for property. The person who handed the petition signed it in front of him but he doesn't know if they signed in their own proper

person

18. The Objector rested after calling these witnesses.

19. The Candidate did not call any witnesses.

20. The parties gave their closing arguments, subject to further input upon receipt of a lease from J & J Realty for 437 E Oakwood, unit 41 (or 241?), Chicago, to be sent directly to the CBOE. That arrived on approximately January 5, 2011 and appears to be the same as the copy submitted by the Candidate. That copy indicated that this apartment was leased to Don Beachem, Jr.

21. The Objector argued that "residence" has 3 elements: intent, actual residence and no proof of abandonment. Don Beachem was less than credible. He occupies space at Whipple, he occupies a basement bedroom but there is doubt as to whether he is a resident there. They can't prove if he is a resident elsewhere. Mr. Beachem is a sheriff's police officer, he appears in court, he didn't bring in documents, he didn't know the number of rooms in the house or the people in the house, he didn't supply any checks, he said he paid by checks but she said by cash, he said that there was a lease but she said it was month to month, he said that he bought another car but it's not there because it's in Countryside but both she and the son said that he always parked two cars in front of the house, for several years he's been parking in front of the house, he doesn't know the number of times he's voted but someone running for office should. It's incredible that everything is in a basement room. Mr. Beachem has proven that he occupies space there, and may be a registered voter there, but does he reside there? His presence is insufficient. His own testimony has been dubious and incredible. This should render incredible that he is a resident there.

Mr. Seavers is a very pleasant man. He's 80 years of age. He's been a notary for 12 years. Out of 112 sheets, Mr. Seavers had a duty of inquiry, he had close to 100 people circulating the sheets, there were an additional 50-60 circulators and he had a duty of inquiry relative to the proper person who circulated the sheets. He said that he didn't know any. He did not ask for any identification other than visual. He has a duty of inquiry to ascertain that they are signed in their own proper person. No identification was requested. None was given. He didn't know if they were the people who signed. The standard is that he know. He said that he was on Damen Ave. four times but he was at the office Aug 24, 28, Sept 9, Nov 2, Nov 21 and Nov 13 on which he signed multiple petitions. Mr. Seavers did not retain the threshold of a notary but executed each and every one without fulfilling his duty. They should be stricken because he did not ascertain then that they were being signed in the proper name of the circulator.

22. In his closing argument, the Candidate stated that he is a resident of the 18th ward and qualified to be on the ballot. As to the notary, he takes it as Mr. Seaver's profession that he is a certified notary. Mr. Seavers had good intentions.

23. The Objector further argued that good intentions are insufficient for a notary's legal duty.

24. Those were all the proceedings had. The second subpoena was issued to J and J Realty and this was received by the CBOE on approximately January 5, 2011.

Findings of Fact and Conclusions of Law

25. The Candidate seeks election as Alderman of the 18th Ward, City of Chicago.

26. The Objector had essentially two objections to the Candidate's Nominating Petitions, as follow:

(A) The Candidate does not reside at the address of his registration, 8113 S. Whipple, Chicago, but at 437 E. Oakwood Blvd, Apt. 241, Chicago;

(B) Numerous petition sheets were improperly notarized, rendering them invalid.

27. The Candidate filed a Motion to Strike Objector's Petition which, while a bit confusing, essentially argued that the objections should be dismissed for the following reasons:

A. The objections were insufficient in law and in fact inasmuch as they did not identify specific deficiencies or the relief sought;

B. While the objections attacked the validity of the notarization of numerous sheets, the objections never addressed specific signatures;

C. The Objector claimed that the Candidate did not reside at 8113 S. Whipple, Chicago but at 437 E. Oakwood Blvd., Apt. 241, Chicago. This is where his son Don W. Beachem, J. resides. The Candidate referenced an attached document but none was attached to the copy given to the Hearing Officer or to the CBOE;

D. The Objector did not incorporate the recapitulation pages, exhibits or addendums as part of his Objection and, therefore, they should not be considered as part of the Objection;

E. The Objector resides at 9629 S. Carpenter, Chicago and not at 8529 S. Winchester, Chicago, which he claims as his residence. Therefore, he is not a resident or qualified voter of the 18th Ward and is, therefore, not qualified or eligible to object to the Candidate's Nominating Papers.

28. On December 23, 2010, hearing was held and the first issue addressed was the Objector's standing. This portion of the Candidate's Motion to Strike was overruled at the hearing because the Objector presented ample documentary evidence and testimony that he resided at 8529 S. Winchester and that this was where he intended to reside. The Candidate presented nothing to refute this and made no attempt to do so, despite having early in the proceedings requested a two day hearing on this issue

and multiple subpoenas. These were denied.

29. That portion of the Candidate's Motion to Strike the Objections because they were insufficient in law and in fact is denied. He provided no support for his legal argument and the facts were submitted for hearing.

30. That portion of the Candidate's Motion to Strike the Objections because defects in specific signatures were never addressed is denied because the Objections did not challenge the signatures but the validity of the notarizations.

31. That portion of the Candidate's Motion to Strike the Objections because of the allegations as to the Candidate's residence is denied because that was submitted for hearing and ruling on the facts to be presented.

32. That portion of the Candidate's Motion to Strike the Objections because of the incorporation or failure to incorporate the recapitulation pages, exhibits or addenda is denied. They were part of the Objector's Petition and the Candidate made no argument and, therefore, no showing as to why that was insufficient.

33. The Candidate's Motion to Strike is denied in its entirety.

34. As to the Objector's objections, the first objection was that the Candidate does not reside at 8113 S. Whipple but at 437 E. Oakwood Blvd.

35. One of the requirements to be a candidate for alderman is that a candidate has been a resident of that Ward for at least one year prior to the next election, on February 22, 2011:

(65 ILCS 5/3.1-10-5) (from Ch. 24, par. 3.1-10-5)

> Sec. 3.1-10-5. Qualifications; elective office.
> (c) A person is not eligible for the office of alderman of a ward unless that person has resided in the ward that the person seeks to represent, ... at least one year next preceding the election or appointment, except as provided in subsection (c) of Section 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11.

36. The Candidate stated that he resides at 8113 S. Whipple and that he has resided there since 2007. That is the address on his driver's license and on his Firearm Owner's Identification Card. He stated to have once voted from that address. Betty Corbin, the property owner, stated that he resides there. Don Beachem, Jr. stated that his father resides at the Whipple address and not with him on Oakwood. Everything presented indicates that he resides there.

37. It is the things that the Candidate refused to bring, despite the Request to Produce, sent to him via email on December 21, 2010, that indicate that he may reside elsewhere. He refused to produce any of his financial records other than a redacted W2 form for 2008. Although no mention was made on the record of his employment, he at least once appeared in his Cook County Sheriff's

Department uniform and made frequent references to his work issuing tickets and appearing in court. Thus, he was not unfamiliar with legal proceedings.

38. Further, there was a striking lack of candor in his testimony. It was short and on the hostile side. He knew little about the house he lived in, there were contradictions in testimony about simple things such as where he keeps his car and what his rental arrangements and payment history are.

39. On his W2, the Candidate redacted not only his income but also his marital status. This, the failure to produce any other documents relating to his finances, which would have shown where he received them and from what address he paid income taxes, and the fact that his medical insurance card indicates that he belongs to DuPage Medical Group makes the Hearing Officer wonder whether he lives in DuPage County and maintains a Cook County address in order to work for the Cook County Sheriff.

40. The Objector contends that the Candidate resides at 437 E. Oakwood Blvd., rather than at 8113 S. Whipple. There is no evidence of this. The evidence from the lease and from the testimony indicates that Don Beachem Jr. is the one who lives there.

41. For purposes of determining the right to vote, the word "residence" does not mean the same thing as "domicile". *Stein v. County Bd of School Trustees of DuPage Co.* 85 Ill. App. 2d 251, 229 N.E.2d 165 (2nd Dist. 1967). "For voting purposes, 'residence' means 'permanent abode.' *Id.* at 256. Both physical presence and an intent to remain there as a permanent home are necessary to create a "residence". *Delk v. Board of Election Commissioners of the City of Chicago*, 112 Ill. App. 3d 735, 445 N.E.2d 1232 (1st Dist. 1983). Determination of a person's residence is a question of fact. *Stein*, at 258. Declarations of intent as to where a person resides are important, but acts and surrounding circumstances should be given more weight in determining someone's intent. *Delk v. Board of Election Commissioners of the City of Chicago*, 112 Ill. App. 3d 735, 445 N.E.2d 1232 (1st Dist. 1983).

42. Evidence supports the Candidate having a domicile at 8113 S. Whipple. There is minimal evidence that he actually resides there. While it is the Objector's burden to prove that the Candidate does not reside at 8113 S. Whipple, the Candidate's refusal to produce the requested documents, his lack of candor in his testimony, his stated lack of familiarity with the house on Whipple or the tenants, and his redacting his martial status on his W2 form (from 2008 rather than 2009) speak against 8113 S. Whipple being his residence.

43. Both the Objector and the Candidate challenged the other's residency in the 18th Ward. The Objector came prepared with documents and testimony to show that he has resided there for a number of years. The Candidate presented nothing, and did not even ask any questions, to prove otherwise. The Candidate came with little to prove his residency in the 18th Ward, whether in response to the documents requested by the Objector or on his own initiative. He made few statements in support of his contention that he was a resident of the 18th Ward and lawfully capable of running for

Alderman.

44. The objection to the Candidate being a resident of the 18th Ward and, therefore, a bona fide candidate for Alderman from the 18th Ward is sustained.

45. The second objection went to notarial defects. Most of them alleged that the notarizations were defective because dates were missing, or circulator addresses were invalid, or for some other technical reason.

46. In testimony it came out that the notary did not know any of the circulators whose affidavits he notarized, other than Don Beachem's son and, presumedly, Don Beachem. He notarized the circulator affidavits on three sheets circulated by Don Beachem Jr. and one sheet circulated by Don Beachem. As to all of the other circulators, he stated that he saw them sign the affidavits but that he did not know who they were and that he did not ask them for their identification.

47. Illinois law requires a notary to determine from personal knowledge or from satisfactory evidence that the person appearing before him is the person whose signature is on the document:

(5 ILCS 312/6-102) (from Ch. 102, par. 206-102)

> Sec. 6-102. Notarial Acts.
> (a) In taking an acknowledgment, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the acknowledgment is the person whose true signature is on the instrument.
> (b) In taking a verification upon oath or affirmation, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the verification is the person whose true signature is on the statement verified.
> (c) In witnessing or attesting a signature, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary and named therein.
> (d) A notary public has satisfactory evidence that a person is the person whose true signature is on a document if that person:
> (1) is personally known to the notary;
> (2) is identified upon the oath or affirmation of a credible witness personally known to the notary; or
> (3) is identified on the basis of identification documents. Until July 1, 2013, identification documents are documents that are valid at the time of the notarial act, issued by a state or federal government agency, and bearing the photographic image of the individual's face and signature of the individual.

48. Mr. Seavers did not know any but two of the circulators and did not do anything to determine that the others signed the circulator's affidavits in their own proper person.

49. Out of 112 petition sheets, the notary knew, or had identification for, the circulator on only four sheets, those numbered 17, 23, 33 and 62. The remaining 108 sheets are invalid. The valid sheets had a total count of 35 signatures. The required number of signatures to be placed on the ballot for Alderman from the 18th Ward are 265. The Candidate did not have sufficient signatures, properly

notarized, to meet the minimum number required.

50. The objection to the validity of 108 petition sheets based on defective notarizations is sustained.

51. The objections of JOSEPH C. ZIEGLER, JR., to the Nomination Papers of DON BEACHEM are SUSTAINED.

49. The Hearing Officer recommends that this Board find that the Nomination Papers of DON BEACHEM be declared to be INVALID for the reasons stated above.

50. The Hearing Officer recommends that this Board order that the name of DON BEACHEM NOT be printed on the ballot for the Aldermanic Election, 18th Ward, City of Chicago, to be held on February 22, 2011, for the reasons stated above.

Dated: Chicago, Illinois, this 9th day of January, 2011.

Lynne R. Ostfeld, Hearing Officer