BCCOFF-ALD

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

Objections of: Michelle Hemphill	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-062
Papers of: Sandra Williams-Bey	)	
	)	Related Cases: 11-EB-ALD-072,
	)	11-EB-ALD-095
Candidate for the office of	)	
Alderman of the 5th 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 Michelle Hemphill ("Objector") to the nomination papers ("Nomination Papers") of Sandra Williams-Bey, candidate for the office of Alderman of the 5th Ward in 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 William P. Jones for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board 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, Michelle Hemphill, by attorney, Jameika Williams Mangum; and the Candidate, Sandra Williams-Bey, pro se.

7. The Hearing Officer ordered that an examination of the voter registration records be conducted by 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 Officer directed all parties to appear and be present, either personally and/or by their authorized representatives, during this records examination.

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

10. The Objector and/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 results of the records examination dated December 18, 2010 indicated that the Candidate's Nomination Papers contained 192 valid signatures, 11 signatures more than the required minimum. However, this

records examination had failed to deduct from the Records Examination 12 "deletions" that had been filed by the Candidate when she filed her Nomination Papers. A revised records examination results report was issued on December 21 that reflected the 12 deletions and the results of the records examination after being corrected indicated that the Candidate had only 180 valid signatures, 1 fewer than the 181 required by law. After conducting a Rule 8 evidentiary hearing, the Hearing Officer concluded that the Candidate had only 179 valid signatures on her nominating petitions, fewer than the number required by law.

12. Following the original records examinations conducted in this and the related cases, the Candidate filed a request pursuant to Rule 20 to address the Board regarding the Hearing Officer's report and recommendations in this case, as well as in cases 11–BB–ALD–072 and 11–EB–ALD–095.

13. The parties in all three related cases contended before the Electoral Board that the records examinations conducted these matters were flawed, alleging a "computer glitch" that distorted the results. The records examinations were conducted on three computer stations, one for each related case. A single clerk made a finding on each objection common to all three cases, and the clerks in the related cases recorded such finding, if relevant to the case, in the Board's electronic records examination system, the Joint Petition Project (or "JPP"). However, the parties alleged that when the JPP produced a written report, the findings in such reports in the individual cases were the opposite of the findings that were allegedly entered into the system.

14. The Electoral Board ordered that new records examinations be conducted in all three related cases. The record examinations would be conducted on three computer stations as was done in the original records examination and they would be performed on the JPP system. However, in addition to entering the results electronically, the results were also to be recorded

manually on paper so that a comparison of the results recorded on paper could be made to the results recorded electronically in the JPP system.

15. No complaints have been made that the second record examination on the JPP system was flawed as a result of any alleged "computer glitch."

16. The results of the second records examination conducted in this matter reflects that the number of signatures deemed valid totaled 181, or exactly the number of valid signatures required by law. However, because of the results of the records examinations and findings in related cases 11-EB-ALD-072 and 11-EB-ALD-095 finding that the Candidate's Nomination Papers contained an insufficient number of valid signatures, the objections in this case are moot.

17. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer finds that the Candidate's Nomination Papers contain exactly 181 valid signatures, the minimum number of valid signatures required by law, and recommends that because of the findings in related cases 11-EB-ALD-072 and 11-EB-ALD-095 the Nomination Papers be found invalid.

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

19. For the reasons stated above, the Electoral Board finds that the Objections in this case are moot in light of the findings in related cases 11-EB-ALD-072 and 11-EB-ALD-095 and that the Nomination Papers of Sandra Williams-Bey are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of Michelle Hemphill to the Nomination Papers of Sandra Williams-Bey, candidate for election to the office of Alderman of the 5th Ward of the City of Chicago are hereby DISMISSED AS MOOT and the name of Sandra Williams-Bey, candidate for election to the office of Alderman of the 5th 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, 2011.

Dated: Chicago, Illinois, on January 18, 2011.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Marisel 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.

BEFORE THE CHICAGO BOARD OF ELECTION COMMISSIONERS

BOARD OF ELECTIONS
2011 JAN 13 P 2:58

Hearing Officer's Report

MICHELLE HEMPHILL, Objector,	)	
vs.	)	NO. 11-EB-ALD-062
SANDRA WILLIAMS-BEY, Candidate.	)	Related Cases: 11-EB-ALD-072, 11-EB-ALD-095

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS (II)

1. Pursuant to the Board's remand order, dated January 3, 2011, this matter was ordered by the hearing officer for further hearings, specifically, that a hearing be conducted at 2:30 p.m., Friday, January 7, 2011. The purpose of this hearing was for status report on the completion of the Second Records Examination together with a case management conference regarding any Rule 8 motions filed.

2. On January 7, 2011, a hearing was conducted. The Candidate appeared *pro se*. The Objector was represented by Attorney Wanemond Smith. It was determined that the Board in fact completed its examinations. Marked and admitted as Board Exhibit I was the Petition Summary Report; marked and admitted as Board Exhibit J was the Petition Detail Report; and marked and admitted as Board Exhibit K was the Report of the Handwriting Expert.

3. Counsel for the Objector Hemphill joined with counsel for Objector Brummit in Brummit's oral motion to strike the Candidate's Rule 8 Motion for lack of filing at the Board and delivery to counsel. As stated in the Brummit (II) decision, this oral motion was denied by the hearing officer.

4. By order of the hearing officer, the parties were to deliver to their opponents no later than 5:00 p.m., Monday, January 10, 2011, any witness list together with copies of any exhibits the parties wish to proffer as evidence at the time of the evidentiary hearing. The evidentiary hearing was scheduled for 10:00 am., on Wednesday, January 12, 2011. The Candidate and Objector Hemphill filed a Rule 8 Motion.

5. On Wednesday, January 12, 2011, the evidentiary hearing commenced and was completed.

6. Marked as Candidate's Exhibit No. 1 (a copy attached and incorporated hereto as Exhibit) was the 2-page document containing 24 lines of signatures and addresses which had been sent by Candidate to Objector's counsel, constituting the entirety of Candidate's submission of evidence.

Candidate represented in her case that this exhibit constituted an "affidavit" and should be admitted. Objector's attorney objected on the basis that the exhibit is neither an affidavit nor a certification pursuant to Section 1-109 of the Code of Civil Procedure. (735 ILCS 5/1-109)

7. The hearing officer sustained Objector's objections and ruled that the exhibit was not admissible because it is neither an affidavit nor a Section 1-109 certification. The ruling completed Candidate's Rule 8 hearing.

8. Objector Hemphill made a presentation based upon her Rule 8 Motion. Objector Hemphill in support of her Rule 8 Motion incorporates Board Exhibit J in Brummit (the Petition Detail Report), Board Exhibit J in Hemphill (the Petition Detail Report), and Board Group Exhibit A (Candidate's Nomination Papers). After discussion, Objector withdrew Paragraphs 15 through 21, inclusive. After this deletion, 4 signatures were left in Objector's Rule 8 Motion, namely:

Sheet 3/Line 1	Sheet 3/Line 13[1]
Sheet 3/Line 9	Sheet 10/Line 2[2]

FINDINGS AND RECOMMENDATIONS

9. The hearing officer finds that, following the records examination (Revised):

(a) The minimum number of valid signature required by law for placement on the ballot for the office in question is 181;

(b) The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 259;

(c) The number of signatures deemed invalid because of Objector's sustained total 78; and

(d) The remaining number of signatures deemed valid total 181, or the required minimum.

10. Candidate's Rule 8 Motion contained the following Sheet and Line Numbers:

Sheet/Line	Sheet/Line
1/14	7/11
2/9	8/7
2/14	8/9
2/16	9/6

[1] Objector Hemphill did not reserve this objection during the Second Records Examination.
[2] Sheet 10/Line 2 was objected on basis of "Signer not proper person and not genuine", which objection is different from the objection within her Rule 8 motion. A signature versus registration issue.

3/2	9/16	
3/11	10/9	
4/3	10/20	
5/10	11/1	
5/13	11/20	
5/18	14/8	(Paragraph 8, Rule 8 Motion)[3]

11. As stated above, the hearing officer finds that Candidate's Exhibit No. 1 is inadmissible and does not constitute evidence in that the document is neither an affidavit nor a Section 1-109 certification. To be an affidavit, the document must be a sworn statement taken before an officer authorized to administer oaths. See Black's Law Dictionary, (Rev. 4th Ed, 1968) and Webster's Ninth New Collegiate Dictionary, (Merriam-Webster, Inc. 1991); nor does Candidate's Exhibit No. 1 contain the necessary certifying language mandated by Section 1-109 of the Illinois Code of Civil Procedure. 735 ILCS 5/1-109. Hence, any admission of such an exhibit would be a violation of Rule 8 of the Rules of Procedure of the Board. See, e.g. Hazard v. Carbol, 04-EB-WC-22 (rel. 04-EB-WC-23) (1/30/2004).

12. With respect to the Objector's three (3) remaining objections, the hearing officer finds, based upon the preponderance of the evidence, that the Board's overruling of the objection for Sheet 10/Line 2 – being interpreted as a "signature" objection shall be upheld. With respect to the registration objections for Sheet 3/Line 1 and Sheet 3/Line 9 being "signer not registered", Objector failed to proffer evidence at the time of the Rule 8 hearing and hearing officer finds that based upon the preponderance of all the evidence, the Board's overruling of these two objections is affirmed. The hearing officer therefore finds that the result of the Second Records Examination (Revised) deeming 181 valid signatures stands.

13. The hearing officer takes notice of the findings and recommendations in the related cases of Brummit v. Williams-Bey, No. 11-EB-ALD-072 and Wohadlo v. Williams-Bey, No. 11-EB-ALD-095. The hearing officer adopts and incorporates those decisions, findings and recommendations as part of the decision, findings and recommendations in this case.

14. For all the foregoing reasons, the hearing officer recommends that the name of Sandra William-Bey not appear on the ballot as a candidate for the office of Alderman of the 5th Ward of Chicago, Illinois.

Dated: January 13, 2011

William P. Jones
Hearing Officer

[3] See Footnote 3 in Wohadlo. [Substitute Paragraph 9 of Rule 8 Motion in Hemphill for Paragraph 4 in Wohadlo.]

NETZERO

: [redacted] swbey27@yahoo.com
: Re: Nov. 11-EB-ALD-062; 11-EB-ALD-072; 11-EB-ALD-095
: Sat, Jan 08, 2011 08:43 PM (HEMPHILL vs WILLIAMS-BEY) (BRUMMIT vs WILLIAMS-BEY) (MOHADLO vs WILLIAMS-BEY)

January 8, 2011

To the Electoral Board and to Whomever Else It May Concern:

We, the undersigned, qualified voters in the 6th Ward of the City of Chicago in the County of Cook and State of Illinois, and residing at the places set opposite our respective names, do hereby affirm that we without hesitation or second thought signed in good faith the petition sheets of Sandra Williams-Bey, who resides at 1522 E. 67th Place, in the City of Chicago 60637, County of Cook, State of Illinois, so as her name would be placed upon the ballot as a candidate for nomination of the office for 5th Ward Alderman full term at the Municipal General Election to be held on February 22, 2011, not more than 90 days preceding the last day for filing of the petitions and this affidavit shall serve as our support for said Candidate.

	Signature	Address
1.	[redacted]	7330 S. Dante Ave
2.	[redacted]	7349 S. DANTE AVE
3.	[redacted]	7411 S. Dante
4.	Crystal Taylor	1532 E. 72nd PL 2ND FL
5.	[redacted]	1509 E 72ND PL.
6.	TINA SUDDUTH	1409 E. 72ND Place
7.	STEVEN DAVIS	1338 E. 72ND Pl.
8.	[redacted]	[redacted]
9.	HARRY GLADNEY	1410 E 71ST PL
10.	ARLILLIAN VAN-COLLINS	7338 S. Dante Ave
11.	ROGER GALLOWAY	7744 S. Kenwood
12.	[redacted]	7333 S. Chappel
13.	Carl M. Carter	1327 S. CHAPPEL
14.	Sherry Shipp	7126 S Woodlawn
15.	Lolita Anderson	1144 E 72nd
16.	Inula Anderson	1144 E 72ND ST
17.	ROOSEVELT DUNBAR JR.	7323 S. Greenwood
18.	Taisha Moon	1338 E. 72nd Pl
19.	[redacted]	1522 E 72ND ST Chgo, IL 60619
20.	[redacted]	1216 E 72nd Pl Chgo

Exhibit

NETZERO

: "westaldolesikool@netzero.com" <westaldolesikool@netzero.com>
: [redacted] swbey2 769 yahoo.com
: RE: Nos. 11-EB-ALD-062; 11-EB-ALD-072; 11-EB-ALD-085
: Sat, Jan 08, 2011 05:43 PM (HENDRIX vs Williams-Bey) (BRUMMIT vs WILLIAMS-BEY, (DONALD vs WILLIAMS-BEY)

January 8, 2011

To the Electoral Board and to Whomever Else It May Concern:

We, the undersigned, qualified voters in the 5th Ward of the City of Chicago in the County of Cook and State of Illinois, and residing at the places set opposite our respective names, do hereby affirm that we without hesitation or second thought, signed in good faith the petition [illegible] placed upon the ballot as a candidate for nomination of the office for 5th Ward Alderman full term at the Municipal General Election to be held on February 22, 2011, not more than 90 days preceding the last day for filing of the petitions and this affidavit shall serve as our support for said Candidate.

	Signature	Address
1.	Kevin Suddeth JR Kevin Suddeth Jr	1409 East 72nd Place
2.	[illegible]	[illegible]
3.	Kiesha Lambert Kiesha Lambert	7321 S. Chappel Ln. Chg. 60649
4.	Willie A O'Neal JR	7347 S. Dante Willie A O'Neal Jr
5.	KALAIA ONEAL Kalaia O'neal	7347 S. DANTE
6.		
7.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
2		

BEFORE THE CHICAGO BOARD OF ELECTION COMMISSIONERS

Hearing Officer's Report

MICHELLE HEMPHILL, Objector,	)	
vs.	)	NO. 11-EB-ALD-062
SANDRA WILLIAMS-BEY, Candidate.	)	

BOARD OF ELECTION
POLLING PLACE DEPT
2010 DEC 27 P 1:03

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

1. This matter was initially called for hearing at approximately 12:00 p.m. on December 6, 2010. The Candidate appeared *pro se*. The Objector was represented by legal counsel, Ms Jameika Mangum.

2. This matter is related to cases: *Martha J. Brummit v. Sandra Williams-Bey*, No. 11-EB-ALD-072, and *Marie J. Wohadlo v. Sandra Williams-Bey*, No. 11-EB-ALD-095.

3. At the time of the first hearing, the Candidate stated that she wished to file a Motion to Dismiss. A Rule 5 briefing schedule was ordered and the matter was scheduled for further hearing at 2:30 p.m. on December 13, 2010. Additionally, a directive was issued for a Records Examination.

4. This matter was called for further hearing on December 13, 2010, for arguments and hearing on the Candidate's Motion to Dismiss and for status of the results of the Records Examination. The Candidate had filed a written Motion to Dismiss. The Objector did not file a written response. Because the Candidate's Motion to Dismiss did not address the legal sufficiecy of the Objector's Petition, the Candidate's Motion to Dismiss was denied.*

*Although the Candidate's Motions to Dismiss were not identical in related cases: *Hemphill*, *Brummit*, and *Wohadlo*, each motion was denied for failure to allege and to establish the legal insufficiency of each of the Objectors' Petitions in *Hemphill*, *Brummit* and *Wohadlo*. Also, none of the Objectors filed written responses to Candidate's Motions to Dismiss.

5. At this time the Records Examination had not been scheduled and further hearing was ordered for 10:00 a.m. on December 20, 2010.

6. This matter came for further hearing on December 20, 2010. This hearing included matters on the related *Brummit* and *Wohadlo* cases. It was reported by counsel in the three (3) related cases that two different Records Examinations took place resulting in two different sets of results for each of the three (3) related cases. The only written Petition Summary Report (printed 12/18/10) was admitted in the related cases as Board Exhibit E. The Petition Detail Report (12/18/10) was admitted in the related cases as Board Group Exhibit F. The Candidate had filed a "Respondent's Petition / Rule 8 Motion" on December 19, 2010, and Objector Hemphill had filed a "Memorandum In Support of Objector's Petition and Objection to Records Examination Results – (Rule 8 Motion)".

7. In *Hemphill*, the Petition Summary Report found that after examination the Board had deemed a remaining 192 valid signatures whereas 181 signatures are required. Further, it was noted that the Candidate had filed a Certification of Deletions as part of her Nomination Papers (Board Exhibit A) and that this document contained 12 deletions.

8. The matter was continued to December 22, 2010 for the purpose of determining the nature, circumstances and results of the Record Examination, for consideration of the Rule 8 Motions, and for the evidentiary hearing on the Objector's Petition in each of the three (3) related cases.

9. Later in the morning of December 20, 2010, the hearing officer met with Board Employee, Steve Cieslicki, on the 6th floor of the Dunne Building relative to the issue of two Records Examinations. Mr. Cieslicki's duties include notifying the parties of the results of Records Examinations. Mr. Cieslicki informed the hearing officer that indeed an initial Records

Examination took place yielding particular results. However, the Board learned that this examination did not include the 12 deletions and, therefore, a second examination occurred. Mr. Cieslicki remembered independently that the number of the total signatures in the first examination was 271 signatures and the number of the total signatures on the second examination was 259 signatures. The results of the second examination was printed and in fact, these results constituted the Petition Summary Report (12/18/2010) that had been admitted as Board Exhibit E. The hearing officer made a written note to the file regarding this interview.

10. The three (3) related cases were called for evidentiary hearing on December 22, 2010. Objector Hemphill had filed on December 21, 2010, a "Request for Production of Witnesses and Documents / Objector's Exhibit and Witness List". The hearing officer placed into record the findings of his interview with Mr. Cieslicki. (See paragraph 9, above.)

11. At this time the Objector called three witnesses for live testimony, one of which was Mr. Glen Ross, a watcher for Objector Hemphill during the Records Examination. Among other things, Mr. Ross testified that while present during the examination, he had taken written notes of the objections, the call, and the results. His notes were marked on forms entitled "Appendix Recapitulation". Mr. Ross made notes for each of the examinations of the Candidate's 14 Sheets. These Ross notes with the Candidate's Sheets were admitted as Hemphill Exhibit 5, over the objection of the Candidate.

12. Mr. Ross testified that with respect to 12 "invalid signature" objections, in person, a finding of "sustained" had been made, but the Report (Board Exhibit E) had registered "overruled" and consistent with the "in person" results of "sustained" the Objector had not sought a review. The following are the sheets and lines of these 12 signatures:

Sheet		Line	
5	.....	4	
7	.....	16	
9	.....	6	
9	.....	7	
9	.....	16	
10	.....	4	
10	.....	7	
10	.....	8	
10	.....	10	
10	.....	20	
11	.....	19	
14	.....	8	(12 signtures)

13. The Objector noted that Paragraph 37 of her Rule 8 Motion contained a typographical error that should read "page 11, line 6". The hearing officer finds an inadvertent clerical error and accepts the correction. During Mr. Ross' testimony, he referred to this sheet and line. The basis for the objection was invalid address. The Board overruled the objection and the Objector entered a "review". The hearing officer finds that the address of "72nd Constance" is legally insufficient and invalid and, therefore, sustains the Objector's objection.

14. The hearing officer finds that based upon the testimony and documents prepared by Mr. Ross, i.e. Hemphill Exhibit 5, that an additional 13 invalid signatures are contained within Candidate's Petition Sheets. Such a finding results in a remaining 179 valid signatures. Additionally, the hearing officer finds that the Candidate had reviewed two rulings: Sheet 11/20, Sheet 13/9. The hearing officer finds that Candidate's "Respondent's Petition", in violation of Rule 8 of the Rules of Procedure, did not "identify by petition sheet and line number" the signatures for reservation at the evidentiary hearing. More importantly, the Candidate did not proffer evidence relative to these two reservations at the time of the evidentiary hearing.

15. Therefore, based upon the foregoing, the hearing officer finds that the Candidate's Nomination Papers contains 179 valid signatures, a number below the minimum number of 181 valid signatures.

16. Based upon these findings, the hearing officer further finds that the additional issues raised in Hemphill's Rule 8 Motion and Rule 6 Motion and the issues raised in the Candidate's "Rule 8 Motion", need not be addressed.

17. For all the foregoing reasons, the hearing officer recommends that the name of Sandra Williams-Bey not appear on the ballot as a candidate for the office of Alderman of the 5th Ward of Chicago, Illinois.

Dated: December 27, 2010

William P. Jones
Hearing Officer