BCCON-ALD

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

Objections of: Denise Smith	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-069
Papers of: Brian E. Sleet	)	
	)	Related Case: 11-EB-ALD-309
Candidate for the office of	)	
Alderman of the 6th 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 Denise Smith ("Objector") to the nomination papers ("Nomination Papers") of Brian E. Sleet, candidate for the office of Alderman of the 6th 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 was held on these Objections commencing on December 6, 2010 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Frank A. Tedesso 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 Call. The following persons, among others, were present at such hearing; the Objector, Denise Smith, by attorney, Chester Slaughter; and the Candidate, Brian E. Sleet, pro se.

7. The Electoral Board finds that the Candidate's Motion to Strike and Dismiss was correctly denied by the Hearing Officer for the reasons set forth in the Hearing Officer's report and recommended decision.

8. 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.

9. The Hearing Officer directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

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

11. The Objector and/or her duly authorized representative were present during the examination of the registration records.

12. 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 Board's file in this case and a copy has been provided or made available to the parties.

13. The results of the records examination indicate that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 261.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 419.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 159.

D. The remaining number of signatures deemed valid as a result of the records examination total 260.

14. 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 6th Ward of the City of Chicago.

15. The Hearing Officer conducted a hearing to allow the Objector an opportunity to present evidence in support of her Rule 8 motion objecting to the Board's clerk's findings during the records examination.

16. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that after

the Rule 8 hearing, the Candidate's Nomination Papers contained 263 valid signatures, which 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 6th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found valid.

17. 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.

18. For the reasons stated above, the Electoral Board finds that the Candidate has a sufficient number of valid signatures on his nominating petitions and that the Nomination Papers of Brian E. Sleet are, therefore, valid.

19. The Electoral Board further finds that it also found the Candidate's Nomination Papers to be valid in Related Case 11-EB-ALD-309.

IT IS THEREFORE ORDERED that the Objections of Denise Smith to the Nomination Papers of Brian E. Sleet, candidate for election to the office of Alderman of the 6th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of BRIAN E. SLEET, candidate for election to the office of Alderman of the 6th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

Dated: Chicago, Illinois, on January 3, 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.

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 SIXTH (6TH) WARD OF THE CITY OF CHICAGO, STATE OF ILLINOIS TO BE VOTED UPON AT THE FEBRUARY 22, 2011 MUNICIPAL GENERAL ELECTION

DENISE SMITH,	)	
Petitioner – Objector,	)	
	)	
v.	)	**11-EB-ALD-069**
	)	
BRIAN E. SLEET,	)	
Respondent – Candidate.	)	

BOARD OF ELECTION
POLLING PLACE DEPT
2010 DEC 29 P 3:20

HEARING OFFICER'S RECOMMENDED DECISION

1. Respondent – Candidate, BRIAN E. SLEET, filed Nomination Papers for Election to the Office of Alderman of the 6th Ward of the City of Chicago, to be voted upon at the February 22, 2011 Municipal General Election .

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

3. On December 6, 2010, this matter appeared on the Board's Initial Trial Call. The Hearing Officer received the following Board Group Exhibits into evidence: Board Group Exhibit A consisting of the Candidate's Nomination Papers; Board Group Exhibit B consisting of the Objector's Petition and Attachments; Board Group Exhibit C consisting of a copy of the call and proof of service; and Group Exhibit D consisting of the parties' appearances. The parties acknowledged service and waived any and all issues regarding service. The Hearing Officer granted the Candidate until 5:00p.m. to file a Motion to Strike and Dismiss the Objector's Petition, granted the Objector until December 8, 2010 at 5:00 p.m. to respond. The matter was continued until December 9, 2010 for hearing on the Candidate's Motion to Strike

and Dismiss. The Hearing Officer also signed a Directive for a Record's Examination pursuant to Rule 6 of the Board's Rules of Procedure.

4. The Candidate filed a timely Motion to Strike and Dismiss the Objector's Petition and the Objector filed a timely Response.

5. On December 9, 2010 and December 13, 2010, the matter proceeded to a hearing on the Candidate's Motion to Strike and Dismiss. The Candidate's motion sought dismissal of the Objector's Petition for the following reasons:

a. The Petitioner lacked standing for failure to cite any statutory provision or legal authority in support of her Petition;

b. The Objector's Petition failed to adequately identify the objector in that it identifies the Objector as Denise Smith, and the Objector is registered to vote as Denise Horton-Smith;

c. The objections contained in page 7 of the Appendix and Recapitulation attached to the Objector's Petition does not contain the name of the Candidate; and

d. The objections in subparagraph (b) of paragraph 2 of the Objector's Petition fail to plead sufficient facts to support the allegation that the "signatures are not genuine and are forgeries."

6. The Hearing Officer denied the Motion to Strike and Dismiss the Objector's Petition finding as follows:

a. The objector has standing in that she is a legal voter of the 6th Ward and brings the petition pursuant to the Illinois Election Code;

b. The objector stated her name of Denise Smith and her residence address of 8812 S. Indiana, Chicago, Illinois as required by 10 ILCS 5/10-8;

c. The omission of the Candidate's name on page 7 of the Appendix Recapitulation Sheets attached to the Objector's Petition does not invalidate the objections contained therein in that said Appendix and Recapitulation Sheet is attached to the Objector's Petition and the objections are identified by sheet and line number;

d. Subparagraph (b) of paragraph 2 of the Objector's Petition states valid objections in that the signatures are objected to as "being not signed in their own proper persons and said signatures are not genuine". The use of the term "forgery" and the failure to allege facts in support of the allegation of forgery do not invalidate the objections that specific signatures are not signed in their own proper persons and said signatures are not genuine.

7. On December 17, 2010, the Records Examination was completed with the following results:

*Number of Signatures on Petition:	419
*Total Objections:	187
*Number of Objections Overruled:	28
*Number of Objections Sustained:	159
*Valid Signatures:	260
*Minimum Signature Requirement:	261

A copy of the Petition Summary Sheet is attached hereto as Hearing Officer's Exhibit 1.

8. On December 23, 2010, this matter proceeded to an evidentiary hearing on Rule 8 Motions and any remaining objections contained in the Objector's Petition. In support of his Rule 8 Motion, the Candidate presented the following evidence: an affidavit of Mutiat Williams (Candidate's Exhibit 1); an affidavit of Shawn L. Williams (Candidate's Exhibit 2); and an

affidavit of Janice Vinson (Candidate's Exhibit 3). The hearing officer entered said exhibits into evidence.

The Objector did not present any evidence in support of her allegations that all of the signatures contained in sheets 25, 40, 41, and 42 of the Candidate's Petition Sheets should be invalidated due to the circulator, Theodore B. Ellis III., not residing at 8231 S. Prairie, Chicago, Illinois. The Objector rested without presenting any evidence.

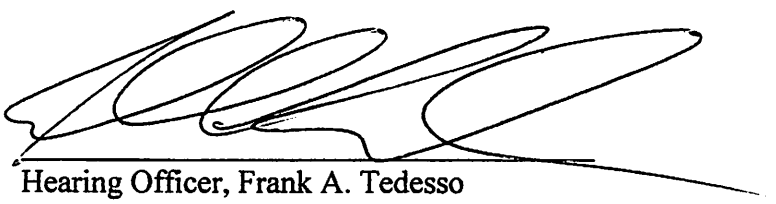
The Hearing Officer heard arguments of the parties. The Objector argued that the Clerk's findings at the Records Examination should stand and the Candidate should not appear on the ballot due to his having less than the 261 required signatures. The Candidate argued that the affidavits presented rehabilitate the three signatures, and the objections to said signatures should be overruled due to the signers attestation that it is their signature that appears on the sheet and line in question and that they signed their signatures in support of the Candidate for election to the Office of Alderman of the 6th Ward of the City of Chicago.

9. The Hearing Officer recommends the objections to the signature that appears on sheet 53, line 3 of the Candidate's Petition sheets be overruled. The affidavit of Mutiat Williams establishes that she signed the Candidate's Petition on Sheet 53, Line 3; she is a duly registered voter at 9853 S. Forest Ave in the 6th Ward of the City of Chicago under the name of Mutiat Dosunmu; Mutiat Williams is the same person as Mutiat Dosunmu, and she still resides at 9853 S. Forest Ave in the 6th Ward of the City of Chicago. A person's name can change without affecting the person's ability to vote or sign candidate petitions as long as the voter's precinct remains the same. *Sumlin v. Newell*, 07-EB-ALD-174, CBEC, January 29, 2007. The Hearing Officer finds that Mutiat Williams is the same person as Mutiat Dosunmu and that she is registered to vote at 9853 S. Forest Ave under the name of Mutiat Dosunmu; therefore, the

objections to said signature as being not genuine and the signer not being registered are overruled and said signature should be added to the Candidate's total giving him 261 valid signatures.

10. The Hearing Officer recommends the objections to the signatures that appear on sheet 34, line 8 and sheet 13, line 3 of the Candidate's Petition sheets be overruled. The affidavit of Janice L. Vinson establishes that she signed the Candidate's Petition on Sheet 34, Line 8, and she is a duly registered voter at 8126 S. Michigan Avenue in the 6th Ward of the City of Chicago. The affidavit of Shawn L. Williams establishes that he signed the Candidate's Petition on Sheet 13, Line 3, and he is a duly registered voter at 319 E. 82nd Street 6th Ward of the City of Chicago. The objector did not offer any evidence to rebut the affidavits, and the Hearing Officer finds that the affidavits are sufficient to overrule to the objection that the signatures on said sheet and line numbers are not genuine. Therefore, the Hearing Officer recommends that the signatures on sheet 34, line 8 and sheet 13, line 3 be found to be valid and finds that the Candidate has submitted 263 valid signatures appearing on his petition sheets.

11. The Hearing Officer finds that the Candidate's Nomination Papers contain in excess of the minimum signature requirement of 261 and recommends the Candidate, Brian E. Sleet, appear on the February 22, 2011 Municipal General Election ballot as a Candidate for Alderman of the 6th Ward of the City of Chicago.



Hearing Officer, Frank A. Tedesso