BCCOFF-ALD

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

Objections of: Martha J. Brummit	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-072
Papers of: Sandra Williams-Bey	)	
	)	Related Cases: 11-EB-ALD-062,
	)	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 Martha J. Brummit ("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, Martha J. Brummit, by attorney Tiffany Nelson-Jaworski; 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 188 valid signatures, 7 signatures more than the required minimum. However, the

Hearing Officer found that the results of the records examination and the findings in 11–EB–ALB–062, which found that the Candidate's Nomination Papers contain fewer than the minimum number of required signatures, controlled the outcome in this case and that the Candidate's Nomination Papers should, therefore, be declared invalid.

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–062 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 invalid because of objections sustained totaled 93 and that the remaining number of signatures deemed valid totaled 166, or 15 signatures below the minimum requirement of 181.

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 fewer that the 181 valid signatures required by law and recommends that the Objections to the Candidate's Nomination Papers be sustained and that 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 Candidate has an insufficient number of valid signatures on her nominating petitions and that the Nomination Papers of Sandra Williams-Bey are, therefore, invalid.

20. The Electoral Board finds that it made a similar finding in related case 11-EB-ALD-095.

IT IS THEREFORE ORDERED that the Objections of Martha J. Brummit 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 SUSTAINED and said Nomination Papers are hereby declared INVALID 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

Hearing Officer's Report

MARTHA J. BRUMMIT, Objector,	)	
vs.	)	NO. 11-EB-ALD-072
SANDRA WILLIAMS-BEY, Candidate.	)	Related Cases: 11-EB-ALD-062, 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 Tiffany Nelson-Jaworski. 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. The Candidate stated that she had prepared and sent a Rule 8 Motion to Objector's counsel. Objector's counsel represented that they had never received a copy of Candidate's Rule 8 Motion and further stated that the Board had indicated that no Rule 8 Motion had been filed. Objector's counsel made an oral motion to strike Candidate's Rule 8 Motion. After listening to argument, the hearing officer denied Objector's Motion to Strike Candidate's Rule 8 Motion. The hearing officer noted that Objector had been given the Rule 8 Motion during the hearing; that the Rule 8 Motion was not complicated or lengthy; and that no violation of due process would occur since the Objector would have had notice of the contents and have an opportunity to be heard at the time of the later evidentiary hearing. 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.

4. On Wednesday, January 12, 2011, the hearing began by considering Objector's written "Objector's Motion to Strike Candidate's Rule 8 Motion". Objector's counsel noted that in the interim between the January 7th hearing and the January 12th evidentiary hearing, it was determined that in fact the Candidate had served Objector's counsel with her Rule 8 Motion. Therefore, Objector's counsel sought to withdraw certain paragraphs of the Motion to Strike,

namely, Paragraphs 5, 7, 8, 9, 10, 11, 12 and 17. Additionally, the hearing officer ruled that portions of the Motion to Strike would be construed as a Motion in Limine. Objector's Motion to Strike Paragraphs 13, 14, 15, 14 [sic 16], 15 [sic 17], taken as a Motion in Limine, were granted. Details of these Sheet and Line Numbers will be furnished below. Paragraph 16 [sic 18] was denied because it was subject to proof at the time of the evidentiary hearing. Paragraph 17 [sic 19] was denied. Objector argued that Supreme Court Rule 137 had been breached because the Candidate failed to sign the Rule 8 Motion. The hearing officer denied the Motion in Limine, ruling that though error occurred, it was a harmless error.

5. On Wednesday, January 12, 2011, the evidentiary hearing commenced and was completed. Pursuant to Board Rule 8, the hearing officer ruled that since the Candidate had obtained less than the minimum valid signatures as the result of the Second Records Examination, the Candidate had the burden of going forward. [Rule 8(e)(iv), Rules of Procedure]

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.[1]

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 is not admissible because it is neither an affidavit nor a Section 1-109 certification. The ruling completed the Rule 8 hearing.

FINDINGS AND RECOMMENDATIONS

8. The hearing officer finds that, following the records examination:

(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 93; and

[1] The original Candidate's Exhibit No. 1 was inserted in the Wohadlo file by the hearing officer. This exhibit, being identical to each of the exhibits sent to each of Objectors' counsel, was utilized in Wohadlo, Brummit and Hemphill.

(d) The remaining number of signatures deemed valid total 166, or 15 signatures below the minimum requirement.

9. Candidate's Rule 8 Motion contained the following Sheet and Line Numbers:[2]

Sheet/Line	Sheet/Line	Sheet/Line
1/14	6/9	11/13
1/18	7/11	11/18
2/9	8/7	11/20
2/14	9/6	14/3
2/16	9/10	14/4
3/2	9/12	14/5
3/11	10/1	14/7
3/12	10/9	14/8
4/19	11/1	
5/18	11/12	

(Paragraph 3, Rule 8 Motion)[3]

10. As stated above, based on Objector's Motion in Limine, certain Sheet and Line Numbers from Candidate's Rule 8 Motion were stricken:

(a) Sheet 1, Line 14
Sheet 1, Line 18
Sheet 5, Line 18
Sheet 11, Line 1
Sheet 11, Line 20

because these objections were sustained as not being registered at address versus "signature" issues raised in Candidate's Rule 8 Motion.

(b) Sheet 1, Line 18
Sheet 2, Line 9
Sheet 5, Line 18
Sheet 7, Line 11
Sheet 10, Line 9
Sheet 14, Line 7

were stricken from Candidate's Rule 8 Motion because in actuality these objections had been overruled by the Board and thus have been counted in favor of Candidate as valid signatures.

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

[2] Objector Brummit did not file a Rule 8 Motion.
[3] Paragraph 4 of Rule 8 Motion contains Sheet 11/Line 19. This Sheet and Line Number was not objected to by Brummit. Also, with respect to Sheet 2/Line 6, Candidate's Ex. No. 1 (purported affidavit) did not contain any reference to the signer of Sheet 2/Line 6.

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. Objector Brummit made an argument alternative to the blanket inadmissibility ruling that Candidate's Exhibit 1 in its entirety is not competent evidence since it is neither an affidavit nor a certification under Section 1-109 of the Code of Civil Procedures. Objector argued that with respect to Candidate's Exhibit No. 1, Lines 11, 13, 14, and 17 of Page 1 of the exhibit and Lines 3, 4 and 5 of Page 2 of the exhibit are not signers of Candidate's Petition. The hearing officer finds that except for Page 2, Line 4 and Line 5, said Lines on Page 1 and 2 of Candidate's Exhibit No. 1 are in fact not contained in the Candidate's Petition.

13. The hearing officer finds that since Candidate's Exhibit No. 1 constitutes the entirety of the Candidate's Rule 8 hearing presentation, no changes to the Board's Second Records Examination result. Therefore, the hearing officer finds that the total amount of valid signatures contained in the Candidate's Nomination Papers (Board Group Exhibit A) is 160 or 21 signatures fewer that the required minimum of 181.

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

NETZERO

: [redacted]
: [redacted] swbey27@yahoo.com
: Rs: Nos. 11-EB-ALD-062; 11-EB-ALD-072; 11-EB-ALD-095
: Sat, Jan 08, 2011 05:43 PM (HEMAHILL 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 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 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]	[redacted]	7350 S. Dante Ave
2.	[redacted]		7349 S. DANTE AVE
3.	[redacted]	[redacted]	7411 S. Dante
4.	Crystal Taylor	Crystal Taylor	1532 E. 72nd PL 2nd FL
5.	[redacted]	[redacted]	1509 E 72ND PL
6.	TINA Sudduth	[redacted]	1409 E. 72ND Place
7.	STEVEN DAVIS	Steven Davis	1338 E. 72ND Pl.
8.	[redacted] Erwin Clark	ERVIN CLARK	[redacted]
9.	HARRY CLADNEY	[redacted]	1410 E 71ST PL
10.	ARLILLIAN VAN-COLLINS	Arlillian Van Collins	7338 S. Dante Ave
11.	ROGER GALLOWAY	Roger Galloway	7744 S. Kenwood
12.	Mary Frances B Ransom	Mary Frances B. Ransom	7333 S. Chappel
13.	Carl M. Carter	Carl M. Carter	1327 S. CHAPPEL
14.	Sherry Shipp	Sherry Shipp	7126 S Woodlawn
15.	Lolita Anderson	Lolita Anderson	1144 E 72Nd
16.	Inula Anderson	Inula Anderson	1144 E 72ND ST
17.	ROOSEVELT DUNBAR (JR)	Roosevelt Dunbar (JR)	213 Greenwood
18.	[redacted] Taisha Moon	Taisha Moon	1338 E. 72nd Pl
19.	[redacted]	1528 E 72ND ST	Chgo, IL 60619
20.	X		1211 E 72nd Pl Apt 1

NETZERO

: "[redacted]" <[redacted]>
: [redacted] swbey2 [redacted] 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, (WOHADLO vs Williams-Bey)

January 8, 2011

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[redacted]	Signature	Address
1. Kevin Suddath JR	Kevin Suddath JR	1109 East 72nd Place
2. [illegible]	[illegible]	7345 S Dante, Chicago IL 6-0637
3. Kiesha Lambert	Kiesha Lambert	7321 S. Chappel LB Chg 60649
4. Willie A O'Neal Jr	Willie A O'Neal Jr	7347 S. Dante Willie A O'Neal Jr
5. KALAIA D'NEAL	Kalaia O'neal	7347 S. DANTE
6.		
7.		
8.		
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16.		
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BEFORE THE CHICAGO BOARD OF ELECTION COMMISSIONERS

Hearing Officer's Report

MARTHA J. BRUMMIT, Objector,	)	
vs.	)	NO. 11-EB-ALD-072
SANDRA WILLIAMS-BEY, Candidate.	)	

BOARD OF ELECTION
POLLING PLACE
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 Keri-Lyn Krafthefer.

2. This matter is related to cases: *Michelle Hemphill v. Sandra Williams-Bey*, No. 11-EB-ALD-062, and *Marie J. Wohadlo v. Sandra Williams-Bey*, No. 11-EB-ALD-095.

3-14. The hearing officer adopts and hereby incorporates into this written decision, the findings contained in Paragraph 3 through Paragraph 14, inclusive, of the Hearing Officer's Findings and Recommendations in *Michelle Hemphill v. Sandra Williams-Bey*, No. 11-EB-ALD-062 as Paragraphs 3 through 14, inclusive, as the findings herein.

15. Based upon these findings, the hearing officer finds that any additional issues raised in the Objector's Petition need not be addressed.

16. Based upon the foregoing, the hearing officer finds that the results, findings, and recommendations in the *Hemphill* case control the determinations of all issues in the instant case. Therefore, the hearing officer finds that the instant case is rendered moot by the controlling findings in the *Hemphill* case.

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