BCTON-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-149
Papers of: Michele A. Tankersley	)
	) Related Cases: 11-EB-ALD-064,
	) 11-EB-ALD-092
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 Michele A. Tankersley, candidate for the office of Alderman of the 5th Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Elections 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'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, Martha J Brummit, by attorney, Keri-Lyn Krafthefer; and the Candidate, Michele A. Tankersley, pro se.

7. The Hearing Officer ordered that an examination of the Board's 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 examination of the registration records of the Board was terminated after it was determined that even if all of the remaining objections to individual signatures on the petition were sustained in favor of the Objector, the Candidate would still have more than the minimum number of valid signature on her nominating petitions to qualify for a place on the ballot for the office of Alderman of the 5th Ward of the City of Chicago.

10. 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's Nomination Papers contained at least 212 signatures, which is more than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Alderman of the 5th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found valid.

11. 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. A copy of the Hearing Officer's report and recommendations is attached hereto and incorporated herein as a part of the Electoral Board's decision.

12. The Electoral Board finds that the Candidate has a sufficient number of valid signatures on her Nomination Papers to be placed upon the ballot as a candidate for election to the office of Alderman of the 5th Ward of the City of Chicago.

13. The Electoral Board further finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Martha J Brummit to the Nomination Papers of Michele A. Tankersley, candidate for the office of Alderman of the 5th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Michele A. Tankersley, candidate for election to the office of Alderman of the 5th Ward of the City of Chicago, SHALL be printed on the ballot for the Municipal General Election to be held on February 22, 2011.

Dated: Chicago, Illinois, on December 29, 2010.

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 CHICAGO BOARD OF ELECTION COMMISSIONERS

Hearing Officer Report

BOARD OF ELECTION
POLLING PLACE DEPT
2010 DEC 23 P 3:47

MARTHA J. BRUMMIT, Objector,	)	
vs.	)	NO. 11-EB-ALD-149
MICHELE A. TANKERSLEY, Candidate.	)	

HEARING OFFICER'S FINDINGS AND RECOMMENDATIONS

1. The initial hearing was called on December 6, 2010 at 1:45 p.m. The Candidate appeared *pro se*. The Objector was represented by legal counsel, Ms. Keri-Lyn J. Krafthefer. The Candidate stated that she wished to file a Motion to Dismiss and a Rule 5 briefing schedule was ordered. A hearing date was scheduled for 9:30 a.m. on December 15, 2010. Also a directive was issued for a Records Examination.

2. The matter was called for hearing on December 15, 2010. The Records Examination had not taken place. A hearing on the Candidate's Motion to Dismiss proceeded. After hearing the Candidate's Motion the hearing officer denied the Candidate's Motion to Dismiss because in large part the bases for the Motion were "signature-related", which would be subject to a subsequent evidentiary hearing. Further, the hearing officer found that the Objector's Petition was legally sufficient. The matter was continued to December 22, 2010 at 10:00 a.m. for status of Records Examination results and the evidentiary hearing on Objector's Petition.

3. This matter came to hearing on December 22, 2010. Board Exhibits E, F, and G were marked and admitted as Petition Summary Sheet., Worksheets with Page Detail, and Charles Holiday 12/20/10 Memorandum, respectively, which memorandum stated that a total of

615 signatures were filed by the Candidate, that there were no objections to 161 signatures and after working 260 objections, the Candidate had 225 valid signatures, whereas 181 signatures are the minimum required. Therefore, the Board suspended the record examination.

4. Objector's attorney stated that she did not intend to file a Rule 7/Rule 8 Motion. It was determined that the only remaining contested issues were contained in Paragraphs 10 and 11 of Objector's Petition and Paragraph 13 through 17, inclusive, of Objector's Petition. Objector proceeded with argument.

5. Section 10-4 of Election Code (Bound and Secure Papers).

The Objector argued that the Nomination Papers were filed unbound, not fastened and simply held in a yellow folder. During the last two hearings on this matter, the Candidate stated she had filed her papers having been stapled within a yellow folder. At the time of the hearings on this matter, the papers were held together with a black clasp. The hearing officer examined the papers, especially the Petition Sheets and found evidence of stapling of the papers in the upper left corner of the documents. The hearing officer also found the Candidate's statements on the record as credible.

The hearing officer also finds that the Receipt for Nomination Papers – City of Chicago (contained in Board Exhibit A) has the "Yes" box marked to the question: "Are the Nominating Papers bound? If yes, describe how they are bound: File Folder (yellow)" (emphasis added).

The hearing officer finds as a matter of fact that the Candidate's Nominations were securely bound and fastened in book form. Furthermore, the hearing officer concludes that the Candidate complied with Section 10-4 of the Election Code, 10 ILCS 5/10-4 (West 2008). Therefore, the hearing officer overrules Paragraph 10 and 11 of the Objector's Petition.

6. Defective Nomination Papers/Not a Qualified Voter.

With respect to Paragraphs 13 through 17, inclusive, of Objector's Petition, the Objector introduced Brummit Exhibit No. 1, a certified copy of a Board of Election Commissioners copy of the original registration card and voter change information (if any), a five-page document. This document pertained to voter:

Michele Tankersley
1526 E. 62 ST 3H
Chicago, Illinois 60637

Essentially, the argument raised by the Objector is that because the Candidate's Petition Sheets (sheets which are submitted to individual signers) has the address as 1526 E. Park Shore East, Apt. 3H, Chicago, Illinois 60637, the Candidate is not properly registered to vote. Note must be made that the second page of Brummit Exhibit 1 appears to indicate that the address was registered as of 1982.

Among other things, the Objector argued that the Statement of Economic Interests was materially defective, citing the case of *Jones v. Municipal Officers, Etc.*, 112 Ill.App.3d 926, 446 N.E.2d 256 (1st Dist. 1983). However in *Jones* the "Office" description only stated "3rd Ward". In the instant case, the Statement of Economic Interests contains the words "5th Ward Alderman". Additionally, Objector cited *Lewis v. Dunne*, 63 Ill.2d 48, 344 N.E. 2d 443 (1976). Yet, Board Exhibit A establishes substantial compliance. See also, *Wohadlo v. Tankersley*, 11-EB-ALD-092 (related case) written decision of hearing officer.

Secondly, the Nomination Papers of Candidate Tankersley may contain two addresses (for the same location), the papers have different address descriptions but these descriptions are not contradictory, inconsistent and do not lead to petition/voter confusion. Hence, the opinions of *Catherine and Streeter vs. Chalmers*, 99-EB-ALD-106 (1/15/99) and

Slywczuk v. Schreiner, 03-EB-ALD-026 (2/10/03) cited by Objector's counsel are significantly distinguishable.

7. The hearing officer hereby adopts and incorporates hereto Paragraph 6 (Findings of Fact) of the Hearing Officer's Findings and Recommendations in the related case of *Wohadlo v. Tankersley*, No. 11-EB-ALD-092, as Paragraph 7 herein, and as the Findings of Fact herein, including Exhibits 1 and 2 of *Wohadlo*, attached hereto as Exhibits 1 and 2.

8. For the foregoing reasons, the hearing officer concludes that Paragraphs 13 through 17 of the Objector's Petition are overruled.

9. Moreover, based upon the foregoing, the hearing officer concludes that the Candidate's Nomination Papers substantially complied with the provisions of the Election Code and any relevant sections of the Illinois Governmental Ethics Act.

10. Board Exhibit G establishes that after suspending the record examination the Board had deemed that 225 valid signatures existed whereas 181 signatures are the minimum needed. The hearing officer finds 13 signatures deleted in the Candidate's Certification of Deletions. Based upon past practice, the hearing officer finds that these deletions most likely were not included in the results contained in Board Exhibit G (and Board Exhibit E). Therefore, the hearing officer finds that at present there are 212 valid signatures and thus, the tallied sheets contain more than the 181 signature minimum.

11. For all the foregoing reasons, the hearing officer recommends that the name of Michele A. Tankersley appear on the ballot for the office of 5th Ward Alderman of the City of Chicago.

Date: December 23, 2010

William P. Jones
Hearing Officer