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

Objections of: James Fernandez	)	
	)	
	)	
To the Nomination	)	No.: 12-EB-DEL-1
Papers of: Willie L. Fleming	)	
	)	
Candidate for election to the office of Delegate	)	
to the Democratic Party National Nominating	)	
Convention (Obama) for the 7th Congressional	)	
District, State of Illinois	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners for 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 James Fernandez ("Objector") to the nomination papers ("Nominating Papers") of Willie L. Fleming, candidate for election to the office of Delegate to the Democratic Party National Nominating Convention (Obama) for the 7th Congressional District for the State of Illinois ("Candidate") at the General Primary Election to be held on March 20, 2012, having convened on January 23, 2012, at 9:00 AM.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. The Objector and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Electoral Board on January 23, 2012 at 9:00 a.m.

5. A public hearing held on these Objections commenced on January 23, 2012.

6. The following persons, among others, were present at such hearing: the Candidate, Willie L. Fleming, who filed an appearance pro se. Mr. Marc Loveless also spoke for the Candidate. The Objector did not appear.

7. The Affidavit of Service provided by the Cook County Sheriff's Office indicated that on January 19, 2012 at approximately 6:13 p.m., the Sheriff attempted to serve the Objector at the address at the address listed on his Objector's Petition with a copy of the Call to the January 23, 2012 hearing. The Affidavit states that the Objector was not served because the Sheriff could not gain access to the house and the front gate was locked. See Group Exhibit C.

8. The USPS Delivery Tracking sheet for the certified mail addressed to the Objector at the address listed on his Objector's Petition indicates that it was shipped on January 18, 2012 and that as of January 20, 2012 (updated on January 25, 2012) its status was "Attempted/Notice Left." See Group Exhibit C and Supplement #1.

9. The Electoral Board finds that it fulfilled the statutory requirements for service of the Call to meeting upon the Objector. Nevertheless, the Objector did not appear at either the January 23 or the January 25 hearing conducted in this matter and the Objector has at no time

contacted anyone at the Board of Election Commissioners regarding the status of his Objector's Petition.

10. The Electoral Board provided the Candidate with copies of what were marked as Board Exhibits E through I. After some discussion between the Electoral Board, the Candidate and Mr. Loveless, the Candidate requested more time to review the exhibits provided to him and an opportunity to seek legal counsel and to seek more information from the State Board of Elections. The hearing was recessed until January 25, 2012 at 10:30 a.m.

11. The hearing was re-convened on Wednesday, January 25, 2012 at 10:30 a.m. The Candidate was present. The Objector was not present.

12. Without objection, the following exhibits were marked and received into evidence:

A. Board Group Exhibit A, consisting of the following:

(i) Statements of Candidacy for the following individuals: Willie L. Fleming, Fred McGee, Michael A. Finney, Janette Maldonado, Raymond A. Lopez.

(ii) Statements of Declaration of Preference for President of the United States for the following individuals: Willie L. Fleming, Fred McGee, Michael A. Finney, Janette Maldonado, Raymond A. Lopez.

(iii) Withdrawal of Candidacy for Frederick Hampton.

(iv) Delegate Primary Petition for Election for Willie L. Fleming, Frederick J. Hampton, Fred McGee, Michael A. Finney, Janette Maldonado, Raymond A. Lopez, with sheets numbered 1 through and including 38.

B. Board Group Exhibit B, consisting of the Verified Objector's Petition filed by or on behalf of James Fernandez.

C. Board Group Exhibit C, consisting of proof of service of the Call to the Candidate and to the Objector.

D. Board Group Exhibit D, consisting of the Appearance forms filed by or on behalf of the Candidate and the Objector.

13. Also marked as exhibits and received into evidence were the following:

A. Board Exhibit E, consisting of a copy of the State Board of Elections' Candidate's Guide, 2012, Presidential Preference Delegate & Alternate Delegates (excerpted), found at http://www.elections.state.il.us/Downloads/ElectionInformation/PDF/2012Pres_DelegateGuide.pdf.

B. Board Exhibit F, consisting of a January 19, 2012 letter on the letterhead of Rupert T. Borgsmiller, Executive Director, State Board of Elections, State of Illinois, and addressed to "Election Authority," regarding a list of Presidential and Delegate/Alternate Delegate candidate slates whose nominating petitions have been objected to.

C. Board Exhibit G, consisting of a January 20, 2012 letter from Hon. Michael J. Madigan, Chairman, Democratic Party of Illinois, to William McGuffage, Chairman, Illinois State Board of Elections, submitting list of approved delegate candidates submitted by President Obama's campaign.

14. The Candidate filed nomination papers seeking to be a delegate to the 2012 Democratic Party National Convention committed to Barack Obama.

15. Illinois statutes governing procedures for becoming a delegate to an established political party's national nominating convention are found generally in Article 7 of the Election

Code (10 ILCS 5/7-1, *et seq.*). Section 7-14.1 of the Code provides, however, that notwithstanding anything to the contrary in Article, the Code shall be superseded by the delegate selection rules and policies of the national political party. Moreover, Section 1A-18(14) of the Code (10 ILCS 5/1A-18(14)), in enumerating the powers and duties of the State Board of Elections, provides in part that the State Board shall "take such action as may be necessary or required to give effect to directions of the national committee or State central committee of an established political party under Sections 7-8, 7-11 and 7-14.1 or such other provisions as may be applicable pertaining to the selection of delegates and alternate delegates to an established political party's national nominating conventions ****."

16. The State Board of Elections provides at page 15 of its 2012 Candidate's Guide for Presidential Preference, Delegates & Alternate Delegates,

> "Under the provisions of the Illinois Delegate Selection Plan for the 2012 Democratic Convention, the Presidential candidate or authorized representative has the option of approving delegate and alternate delegates when more candidates file as committed to a Presidential candidate than can be elected in a district. The Presidential candidate will provide a list of approved delegate and alternate candidates to the SBE and the State Party Chair by 5:00 p.m. on January 20, 2012. *Those candidates who are not approved by the candidate will not appear on the primary ballot.* (Illinois Delegate Selection Plan for the 2012 Democratic National Convention, Section III, A.5.)" (Italics added)

17. Pursuant to its powers under Section 1A-18(14) of the Code, the State Board of Elections has informed election authorities that the Candidate here, Willie L. Fleming, along with another candidate, "are not eligible to be placed on the ballot since there were not on the

Approved Delegate Candidate List submitted by President Obama to the Illinois Democratic Party Chairman and therefore cannot appear on the ballot per Section 1A-8(14) [sic] of the Election Code and Democratic Party Rules." See Board Exhibit E. The State Board of Elections' communication to election authorities notes that its directive is based upon the "Approved Delegate Candidate List" received from the President's campaign.

18. Pursuant to (a) the powers invested in the State Board of Elections under Section 1A-18(14) of the Election Code, (b) the State Board of Elections' 2012 Candidate's Guide for Presidential Preference Delegate & Alternate Delegates (Board Exhibit I), and (c) the State Board of Elections' January 19, 2012 directive to this Election Authority advising that the exclusion of Willie L. Fleming's name from President Obama's approved list of delegates has the effect of rendering objections to him moot, the Electoral Board finds that the Objections in this case are moot.

19. The Electoral Board further finds that the Objector is, pursuant to Rule 12 of the Board's Rules of Procedure, defaulted for failing to appear at the initial meeting of the Electoral Board on January 23, 2012 and at the continued meeting on January 25, 2012. The Objections are, therefore, stricken and dismissed.

IT IS THEREFORE ORDERED the Objections to the Nomination Papers of Willie L. Fleming, candidate for election to the office of Delegate to the Democratic Party National Nominating Convention (Obama) for the 7th Congressional District of the State of Illinois, are DISMISSED.

Dated: Chicago, Illinois, on January 25, 2012.

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.