

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

Objections of: GIA D. SMITH)
)
)
To the Nomination) No.: 15-EB-ALD-132
Papers of: HOWARD B. BROOKINS, JR.)
) Rel. ALD-025
Candidate for the office of)
Alderman of the 21st 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 GIA D. SMITH ("Objector") to the nomination papers ("Nomination Papers") of HOWARD B. BROOKINS, JR., candidate for the office of Alderman of the 21st Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014, 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 8, 2014 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Richard E. Zulkey 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, GIA D. SMITH, by her attorney, Nicholas C. Kefalos; the Candidate, HOWARD B. BROOKINS, JR., by his attorney, Michael J. Kasper.

7. The Candidate filed a motion to strike and dismiss the Objector's Petition in its entirety. The Objector filed a response in opposition to the Candidate's motion to strike and dismiss.

8. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Candidate's motion to strike and dismiss the Objector's Petition be granted, that the Objections be dismissed and that the Candidate's Nomination Papers be declared valid.

9. 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

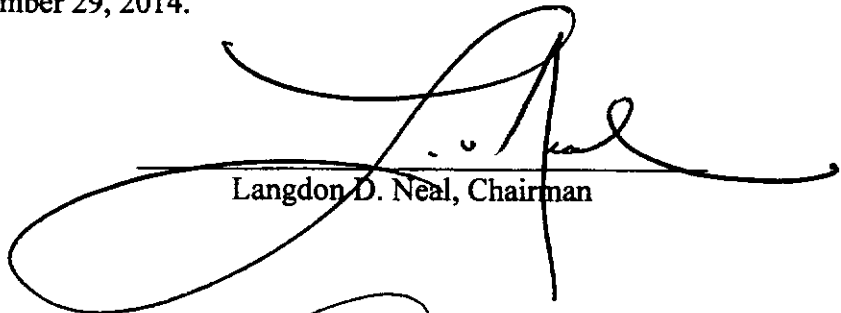
recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

10. For the reasons stated above, the Electoral Board dismisses the Objections to the Candidate's Nomination Papers.

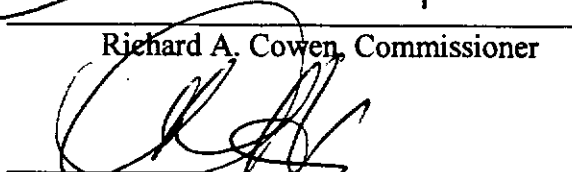
11. The Electoral Board further finds, however, that there is another objection to the Candidate's Nomination Papers in related case ALD-025 still pending that will determine whether the Candidate's Nomination Papers are valid or invalid.

IT IS THEREFORE ORDERED that the Objections of GIA D. SMITH to the Nomination Papers of HOWARD B. BROOKINS, JR., candidate for election to the office of Alderman of the 21st Ward of the City of Chicago, are hereby DISMISSED.

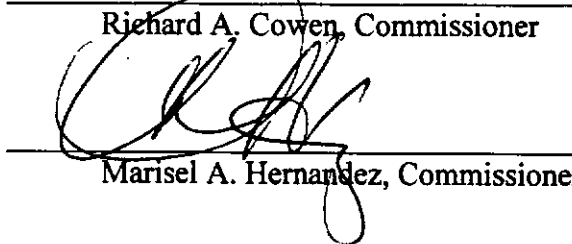
Dated: Chicago, Illinois, on December 29, 2014.



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
CITY OF CHICAGO, ILLINOIS

GIA D. SMITH		
Objector		
vs.		15-EB-ALD-132
HOWARD B. BROOKINS, JR.		
Candidate		Related Case 15-EB-ALD-025

RECOMMENDATION

THIS CAUSE COMES on to be heard on December 18, 2014.

Objector: Gia D. Smith was represented by attorney Nicholas C. Kefalos.

Candidate: Howard B. Brookins, Jr. was represented by Michael J. Kasper of Fletcher, O'Brien, Kasper and Nottage, P.C.

Pleadings: The pleadings filed were:

1. Verified Objector's Petition;
2. Motion to Strike the Objector's Petition;
3. Petitioner-Objector's Response to Respondent - Candidate's Motion to Strike; and
4. Reply Memorandum Concerning the Motion to Strike and Dismiss the Objector's Petition.

Objections: The objections raised in the Verified Objector's Petition were:

1. In Paragraph 5, it states that 37 petition sheets, namely: 5, 20, 34, 46, 48, 54, 57, 64, 69, 72, 81, 82, 84, 85, 87, 89, 91, 92, 124, 134, 135, 142, 150, 151, 152, 154,

155, 156, 157, 158, 159, 160, 161, 162, 163, 164, and 171 are invalid because the signatures are not genuine as "said petition sheets have been round tabled."

2. In Paragraph 6, it states that these sheets "appear to have been round tabled and, as such, shows a pattern and practice to willfully violate the dictates of the Election Code."
3. In Paragraph 7, it states the jurat on sheets 26, 49, and 52 are not sworn nor signed by the circulator in the presence of the notary.
4. In Paragraph 8, it states that the jurat on sheets 20, 22, 23, 26, 49, 50, 51, 52, 56, 90, 99, 122, 133, and 138 are not complete by not including the name, address, city, town, village or zip code of the circulator.
5. In Paragraph 9, it states the jurat on sheets 23, 33, 50 and 121 are not complete as the dates are blank.
6. In Paragraph 10, it states the jurat on sheets 34, 36, 46, 58, 68, 69, 72, 105, 122, 137, and 142 have dates scratched out, whited out or otherwise mutilated or have multiple dates.
7. In Paragraph 11, it states the jurat on sheets 56, 57, and 61 have either the name of the circulator, address or signature scratched out, whited out, written over or mutilated.
8. In Paragraph 12, it states notary Andrea Brookins notarized 156 petition sheets of 171 sheets but did not follow notary rules because at least one circulator did not sign the petition sheets.

9. In Paragraph 13, it states the notary Andrea Brookins signed petition sheets 36 as a registered voter in the 21st Ward while having a homestead tax exemption in Homewood.

There are no challenges to any specific signatures for any of the many petition sheets filed by the Candidate. There is no appendix recapitulation attached.

Motion to Strike or Dismiss Objections

The Candidate moves to strike urging that none of the allegations state a claim upon which the Candidate's sheets could be declared invalid. As no signatures are challenged, the result is a lack of specificity as to round tabling. Likewise, the objections regarding the jurats are vague and lack specificity.

Many of the Objections are technical and do not render the sheets of the Candidate invalid.

Petitioner-Objector's Response to Respondent-Candidate's Motion to Strike

The Objector avers that his Petition is adequately pled. The claims are against circulators and specific sheets are cited reflected claims of round-tabling as well as specific sheets having incomplete circulator data.

Also, in Paragraph 8, a new claim is raised as to sheets 63, 65, 113, 123, 129, 131, 132, 133, 134, 137, 147, 148, 151, 154, 155, and 164. In these 16 sheets it is claimed that Derrick Butler, a circulator, does not reside at the address stated in the jurat. This is supported by an affidavit marked as **(Exhibit A)** wherein the owner of the purported residence of Derrick Butler, at 9050 South Normal, Chicago, Illinois, states that "Derrick Butler is not a resident of my household and I have no knowledge of this individual."

Reply Memorandum Concerning the Motion to Strike and Dismiss the Objector's Petition

The Candidate argues that the objections are vague and without any specificity. This seems to be applicable to most of the objections offered. Also, the Candidate claims the Objector adds allegations that are not in the original objections. This is the reference to Derrick Butler as the particularly challenged circulator.

Signature Information

Petition Summary Report from Board of Elections

Signatures Required	473
Pages	171
Total Signatures	3,146
Total Valid Signatures	3,146
Unchallenged Signatures	3,146

2,673 signatures more than needed.

Physical Information as to File

It is noted that the file contains petition sheets that have 20 spaces for signatures per sheet.

Discussion

The thrust of the Objections made are 37 pages claimed to be round-tabled. These petitions are specifically cited in Paragraph 5 of the Objections. No specific signatures are cited nor is there any appendix-recapitulation tendered as part of the objection petition. Also, although the petition sheets have lines for 20 signatures, not every line in each of these specified sheets was completed.

The Objection (Paragraph 5) states that "numerous persons who are not in fact duly qualified registered and legal voters at the address shown opposite their names "on 37 designated sheets are not genuine, because said petition sheets have been "round-tabled." There is no mention of any circulators who purported to circulate the petitions nor are there any other details setting forth the manner or method of the round-tabling process.

The more this objection is read, the more it appears to lack the requirements of Section 10-8 of the Election Code that requires that the objector's petition "shall state fully the nature of the objections" to the nomination papers. These objections do not fully apprise the Candidate of any alleged defects enabling the Candidate to affirmatively defend against the objections. Sutor v. Accvedo, 06-EB-RGA-04, CBEC (Jan. 30, 2006) citing Pochie v. Cook County Electoral Board, 289 Ill. App. 3d 585, 682 N.E. 2d 258 (157) and Ligas v. Martinez, 95-EB-ALD-134, CBEC. (Jan. 17, 1995).

It must be observed that this objection, if accepted with the assumption that all of the 37 pages were filled with 20 signatures per page, these would be 740 invalid signatures. There are 3,146 unchallenged signatures. This leaves the Candidate with 2,406 signatures.

The Objections in Paragraph 7, 8, 9, 10 and 11 relate to the jurat. These encompass a total of 35 pages. There is some overlap with the earlier cited sheets relating to round-tabling. A random review of these jurat pages shows several of these sheets that comply with the requirements where circulator is named, addresses are stated with required dates.

Some pages have white out or corrections, but this was all done prior to documents being timely filed with the Board.

These errors appear to be based on sloppiness. However, if these added 35 sheets, assuming they all have 20 pages, will have 700 signatures. The Candidate still will have 1,706 valid signatures. These are high estimates.

This analysis is not an intent to casually dismiss objections. It does render a practical approach to resolve these issues. If all objections were sustained and the Candidate papers would still contain more than the minimum number of valid signatures, the objection would be properly dismissed. Reynolds v. Berrios, 14-EB-RGA-31, CBEC, (Jan. 6, 2014).

In Paragraph 12, it is alleged that the notary did not sign the sheets as required by the notary act as one circulator in the group of 156 sheets failed to sign in her presence. The objection must fall for the vice of vagueness and the lack of specificity. It fails to name the circulator, cite any petitions to do anything else to apprise the Candidate of any defect. An objection is required to fully state its nature and adequately apprise the candidate of the specificity of each objection. Kopec v. Sims, 07-EB-MUN-002, CBEC (Jan. 19, 2007), and Elysee v. Patterson, 04-EB-RGA-14 (Jan. 20, 2004). No information is provided to pursue this "one circulator".

The notary in paragraph 13 is charged with signing the petition sheets as a resident of the 21st Ward. It is alleged that this is a false swearing because the notary claims a homestead tax exemption in Homewood. There is no swearing to anything by the notary. Also, the homestead exemption requires much more detail to possibly create some kind of issue. Indeed, the last such exemption had to be taken in 2013 based on the taxation cycle in Cook County. Again, there is an insufficient basis to support any valid objection as to this notary signature.

Another issue is presented in the Petitioner-Objector's Response. It is said that 16 Petition sheets numbered in this document's Paragraph 8, have a purported circulator who does not reside at the address set forth in the jurat. An affidavit (Exhibit A) is presented by the building owner stating she did not know this circulator, Derrick Butler, and that this circulator was not a "resident of my household." Indeed, this allegation is a new one, it is tantamount to an amendment to the original objection. This does not comply with 10-8 of the Election Code. McCarthy v. Pellett, 04-EB-WC-004 (Jan. 30, 2004).

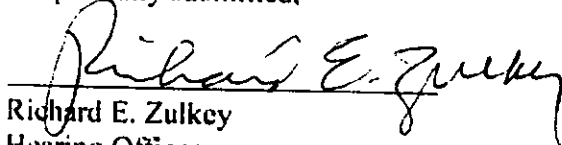
As an aside some of the petitions filed without objections made were circulated by Delma Butler at the same address listed by Derrick Butler. From this, some further explanation to this set of circumstances may be had although not within this present scope.

No great detail has been directed to the number of invalid pages in the objections relating to the jurat with the circulators and the dates as it is unnecessary. To reiterate, the counting all of these pages and giving them all full weight, will result in an overwhelming excess of signatures beyond the required minimum of 473.

Recommendation

It is recommended that Howard B. Brookins, Jr. be placed on the ballot as a candidate for alderman.

Respectfully submitted,


Richard E. Zulkey
Hearing Officer

77 W. Washington St., #1300
Chicago, IL 60602
tel. 312/372-5541
fax 312/372-5545
rezulkey@comcast.net
Atty. No. 20881