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

Objections of: Darcene Webb	)	
	)	
	)	
To the Nomination	)	No.: 16-EB-RGA-09
Papers of: Darryl D. Smith	)	
	)	
Candidate for the nomination of the	)	
Democratic Party for the office of	)	
Representative in the General Assembly of the	)	
6th Representative District, State of Illinois	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners for the City of Chicago Commissioners Marisel A. Hernandez, William J. Kresse and Jonathan T. Swain, organized by law in response to a Call issued by Marisel A. Hernandez, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of Darcene Webb ("Objector") to the nomination papers ("Nomination Papers") of Darryl D. Smith, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly of the 6th Representative District of the State of Illinois ("Candidate") at the General Primary Election to be held on March 15, 2016, having convened on December 14, 2015, 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 14, 2015 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Frank 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, Darcene Webb, by her attorney, Randy Crumpton; and the Candidate, Darryl D. Smith, 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 his 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 then revised. The Electoral Board hereby adopts and incorporates by reference the results of the revised records examination conducted by its clerks and agents. The written report of the result of the revised 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.

12. The results of the revised 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 500.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,281.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 785.

D. The remaining number of signatures deemed valid as a result of the records examination total 496.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the revised records examination was less than the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for the nomination of the Democratic Party to the office of Representative in the General Assembly for the 6th Representative District of the State of Illinois.

14. The Hearing Officer conducted a hearing to allow the parties an opportunity to present evidence in support of their respective Rule 8 motions objecting to the Board's clerk's findings during the revised records examination.

15. 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 504 valid signatures, which exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate of the Democratic Party for the office of Representative in the General Assembly for the 6th Representative District of the State of Illinois, and that the Candidate's Nomination Papers should be found valid.

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

17. 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 Darryl D. Smith are, therefore, valid.

IT IS THEREFORE ORDERED that the Objections of Darcene Webb to the Nomination Papers of Darryl D. Smith, candidate for nomination of the Democratic Party for the office of Representative in the General Assembly for the 6th Representative District of the City of State of Illinois, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Darryl D. Smith, candidate for nomination of the Democratic Party for the office of Representative in the General Assembly for the 6th Representative District of the City of State of Illinois, SHALL be printed on the official ballot for the General Primary Election to be held on March 15, 2016.

Dated: Chicago, Illinois, on January 19, 2016.

Marisel A. Hernandez, Chairman

William J. Kresse, Commissioner

Jonathan T. Swain, 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 NOMINATION TO THE OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 6th REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS TO BE VOTED UPON AT THE MARCH 15, 2016 GENERAL PRIMARY ELECTION

DARCENE WEBB,	)	
Petitioner-Objector,	)	
	)	
v.	)	**Case No. 16-EB-RGA-09**
	)	
DARRYL SMITH,	)	
Respondent-Candidate.	)	

HEARING OFFICER'S RECOMMENDED DECISION

1. The Respondent – Candidate, DARRYL SMITH, filed Nomination Papers for nomination to the Office of Representative in the General Assembly for the 6th Representative District of the State of Illinois, Democratic Party, to be voted upon at the March 15, 2016 General Primary Election.

2. That the Petitioner– Objector, DARCENE WEBB, filed an Objector's Petition objecting to the Nomination Papers of the Candidate.

3. On December 14, 2015, this matter appeared on the Board's Initial Trial Call. Petitioner-Objector appeared through her attorney Randy Crumpton, and Respondent-Candidate appeared pro se. The Hearing Officer entered the following Board Documents 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 of the call; and "Board Group Exhibit D" consisting of the parties' appearances and executed non-disclosure agreements. The hearing Officer granted the Respondent leave to file his Motion to Strike and Dismiss and granted

Objector time to respond. The Hearing Officer also signed a directive for a Rule 6 Records Examination.

4. Respondent's Motion to Strike alleged the objections were in bad faith, the petition was a shot-gun petition, and the objector's petition was not notarized. The Hearing Officer denied the Motion to Strike in that he found the Objector's Petition was not a shot gun petition, the objections were in good faith, and the Election Code does not mandate that an objector's petition be notarized.

5. On December 28, 2015, the Records Examination was completed. The results of the records examination indicated that the Candidate had 529 valid signatures. The Objector filed a Rule 8 Motion and the Candidate did not file a Rule 8 Motion.

6. On December 31, 2015, the matter appeared on the Hearing Officer's Call for an evidentiary hearing on the Rule 8 Motion. The Objector alleged that certain signatures that were ruled in district in fact were out of district and that their objection to the clerk's ruling was not documented at the Records Examination for 17 sheet and line numbers where the objection was the signer did not reside in the 6th Representative District. The Hearing Officer had an evidentiary hearing in regard to the issue. The Hearing Officer heard the testimony of Board employee Hattie Calvin and the Objector's watchers at Records Examination, Kenyatta Vaughn and Duane Lanier. The Hearing Officer found that at least 30 separate sheet and line numbers had an incorrect ruling in regard to whether the signer was in or out of district and suspended the Rule 8 hearing and requested that Mr. Charles Holiday investigate the matter and report back to the Hearing Officer on January 3, 2016.

7. On January 3, 2016, the Hearing Officer heard the testimony of Mr. Holiday. Mr. Holiday advised that there was a coding error that occurred in certain split precincts that were in more than one representative district. The coding error was corrected and it would take approximately 1 day to re-do the records exam for all out of district objections. Over the Objector's objection, the Hearing Officer ordered that all objections in which it was alleged the signer resided out of district be re-checked. The Hearing Officer also granted both parties leave to file a Rule 8 Motion or an Amended Rule 8 Motion upon the completion of the Corrected Records Examination. The Hearing Officer entered said order finding that it was necessary to protect the integrity of the process.

8. On January 4, 2016, the Revised Records Examination Results were completed with the following results:

- Number of Signatures on Petition: 1281
- Total Objections: 981
- Number of Objections Overruled: 196
- Number of Objections Sustained: 785
- Valid Signatures: 496
- Minimum Signature Requirement: 500

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

9. On January 10, 2016, the matter proceeded to an evidentiary hearing on the parties respective Rule 8 Motions. The Candidate called the following witnesses who testified as follows:

Robert Allen: Robert Allen testified that he resides at 5757 S. Throop, Chicago, Illinois. He remembers signing the Candidate's Petition Sheet and his signature appears at sheet 25/line 11. Candidate's exhibit 1 is an affidavit that he signed the Candidate's petition and his signature appears on the affidavit.

John Strickland: John Strickland testified that he resides at 6531 S. Racine. He remembers signing the Candidate's Nominating Petition and his signature appears at sheet 17/line 8. He also signed Candidate's Exhibit #2 which is an affidavit that he signed the Candidate's petition. On Cross Examination the witness provided his Illinois Driver's License to the Objector's counsel and said Driver's License had the same address that appears on the petition.

Annette Roberts: Annette Roberts testified that she resides at 6024 S. Green Street, Chicago, Illinois. She signed Candidate's petition at sheet 11/line 9. She remembers signing the nominating petition and Candidate's Exhibit 3 being an affidavit that she signed his nominating petition. On cross examination, Ms. Roberts provided attorney for objector her Illinois Driver's License and the address was the same as the affidavit.

Shenica Crosby: Shenica Crosby testified that she resides at 6333 S. Morgan #1, Chicago, Illinois. She remembers signing the Candidate's Nominating Petition at Sheet 47/line 8. The signature appearing on the Nominating Petition at said sheet and line number is her signature. She also signed Candidate's Exhibit 4 being an Affidavit that she signed the Nominating Petition at sheet 47/line 8. On Cross Examination Ms. Crosby provided an Illinois Driver's License to Objector's attorney that states her address is 6333 S. Morgan.

Marchand Robinson: Marchand Robinson testified that he resides at 6345 S. Morgan. He remembers signing the Candidate's Nominating Petition and his signature appears at sheet 47/line 13. He also signed Candidate's Exhibit #5 which is an affidavit that he signed the Candidate's petition. On Cross Examination the witness provided his Illinois Commercial Driver's License to the Objector's counsel and said Driver's License had the same address that appears on the petition.

After hearing the testimony of the above witnesses and reviewing their respective affidavits and the original petition sheets, the Hearing Officer made the following rulings in regard to the signatures on the above sheet and line numbers:

- Robert Allen – Sheet 25, Line 11 – Objection overruled;
- John Strickland – Sheet 17, Line 8 – Objection overruled;
- Annette Roberts – Sheet 11, Line 9 – Objection overruled;
- Machand Robinson – Sheet 47, Line 13 – Objection overruled;
- Shenica Crosby – Sheet 47, Line 8 – Objection sustained.

The Candidate also submitted the Candidate's Exhibits 6-15 being the affidavits of the signatories of certain sheet and line numbers and requested the Hearing Officer reverse the Clerk's finding that the signature was not genuine. The Hearing Officer received the affidavits into evidence and heard argument from the parties in regard to the signatures contained on the following sheet and line numbers. The Hearing Officer also reviewed the original petition sheets, the affidavits, and the signature contained in the Board's records and made the following recommended decision regarding the objections to the signatures for the following sheet and line numbers:

- Alicia Boose – Sheet 1, Line 7 – Objection sustained
- Bessie Barr – Sheet 1, Line 10 – Objection overruled
- Michael Scurlock – Sheet 1, line 12 – Moot signature ruled valid at records exam
- Erin Berry – Sheet 1, Line 15 – Objection overruled
- Ashley M. Ray – Sheet 2, Line 2 – Objection sustained
- Della Daney – Sheet 5, Line 10 – Objection sustained
- Carol Braddock – Sheet 7, Line 7 – Objection sustained
- Henry Wright – Sheet 7, Line 10 – Objection sustained
- Andrew Smith – Sheet 8, Line 7 – Objection overruled
- Charles Clark – Sheet 8, Line 10 – Objection overruled

The Candidate also submitted Candidate's Group Exhibit 1 consisting of an additional 46 affidavits. The Hearing Officer received said affidavits into evidence and reserved ruling on the Candidate's challenge to the Clerk's findings. The Objector did not present any evidence. The Hearing Officer finds that the Candidate has 504 valid signatures which exceeds the minimum signature requirement for placement on the ballot. The Hearing Officer recommends the Candidate appear on the March 15, 2016 General Primary Election Ballot as a Candidate for Representative in the General Assembly for the 6th Representative District of Illinois.

H.O. Frank A. Tedesso