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

Objections of: MARCEL BRIGHT and DARYL LENOIR	)	
To the Nomination Papers of: SHERRI BOLLING	)	No.: 19-EB-ALD-030
	)	Rel.: 19-EB-ALD-036
Candidate for the office of Alderman 8th Ward of the City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the 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, Chair of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of MARCEL BRIGHT and DARYL LENOIR ("Objectors") to the nomination papers ("Nomination Papers") of SHERRI BOLLING, candidate for the office of Alderman for the 8th Ward of the City of Chicago ("Candidate") at the General Municipal Election to be held on Tuesday, February 26, 2019, having convened on Monday, December 10, 2018, at 8:30 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 were duly and timely filed.

2. The Electoral Board was legally constituted under the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chair of the Electoral Board and served upon the members of the Electoral Board, the Objectors 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 Monday, December 10, 2018 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Yolanda Carrillo for further hearings and proceedings.

6. The Objectors 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 Objectors, MARCEL BRIGHT and DARYL LENOIR, and/or their Attorney, ED MULLEN and the Candidate, SHERRING BOLLING and/or her attorney MAX SOLOMON.

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 the records examination.

9. The Candidate and/or her duly authorized representative was present during the examination of the registration records.

10. The Objectors and/or their duly authorized representative was present during the examination of the registration records.

11. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination

conducted by its clerks and agents. The written report of the result of the 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.

The results of the 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 473.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 788.

C. The remaining number of signatures deemed valid as a result of the records examination total 396, said number being 77 below the statutory number of required signatures.

12. Both parties filed motions pursuant to Rule 8 of the Board's Rules of Procedure ("Rule 8 Motion"). However, the Hearing Officer found that the Candidate's Rule 8 Motion failed to contain the required elements of a Rule 8 Motion and further found that the Candidate failed to incorporate a sufficient number of signatures for rehabilitation to bring the Candidate's total above the statutory minimum.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination is below the statutory minimum required by law to be placed upon the ballot as a candidate for the office of Alderman for the 9th Ward of the City of Chicago.

14. The Electoral Board further finds that there is another objection filed against the Candidate's Nomination Papers in related case 19-EB-ALD-036 which found that the Candidate's Nomination Papers are invalid.

15. For the reasons stated above, the Electoral Board finds that the Objections filed in this matter should be sustained and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of MARCEL BRIGHT and DARYL LENOIR to the Nomination Papers of SHERRI BOLLING, candidate for the office of Alderman for the 8th Ward of the City of Chicago. are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of SHERRI BOLLING, candidate for the office of Alderman for the 8th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

Dated: Chicago, Illinois, on Tuesday, January 8, 2019.

Marisel A. Hernandez, Chair

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.

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO AS THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO THE NOMINATING PAPERS OF CANDIDATES FOR THE FEBRUARY 26, 2019 MUNICIPAL ELECTION FOR ALDERMAN OF THE 8th WARD IN THE CITY OF CHICAGO

MARCEL BRIGHT and DARYL LENOIR, Petitioner-Objectors	)	
v.	)	19-EB-ALD-030
SHERRI BOLLING, Respondent - Candidate	)	

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

Objectors Marcel Bright and Daryl Lenoir ("Objectors") filed an objection petition challenging the nominating papers for election of The Office of Alderman of the 8th Ward of the City of Chicago in the State of Illinois filed by the Candidate Sherri Bolling ("Candidate"). This matter was first heard on December 10, 2018. At that time, the parties did not anticipate filing any preliminary motions. Subsequently, a records examination was ordered. The records examination took place December 17, 2018 and the parties received notice of the Final Petition Summary Report on December 19, 2018.

A status hearing took place on December 20, 2018. The parties confirmed they received the Final Petition Summary Report and the Candidate and the Objector indicated that they would each be filing a Rule 8 Motion requesting an evidentiary hearing. The parties were informed that the deadline to file a Rule 8 Motion was December 20, 2018 at 5:00 pm. In anticipation of a Rule 8 motions being

filed, a Rule 8 evidentiary hearing was scheduled for December 27, 2018 with exhibits, evidence and witness lists exchanged by December 26, 2018.

At the time of the hearing on December 20, 2018, the Candidate raised the issue of signatures being invalidated during the records examination because the signer was "Not in the System". Candidate was told that the issue raised was noted and would be addressed, if appropriate at the Rule 8 evidentiary hearing, the Candidate was further told that she should include the issue raised in her motion. The Candidate stated the issue would be raised in the Rule 8 Motion.

The Candidate and the Objector both timely filed their Rule 8 Motions on December 20, 2018. Neither the Candidate nor the Objector served any exhibits, evidence or witness lists by December 26, 2018.

The Candidate's Rule 8 Motion

At the December 27, 2018 hearing, the Objector appeared but the Candidate failed to appear. The Candidate was aware of the hearing date and time. After waiting for over 15 minutes for the Candidate to appear, the hearing move forward. At that time, the Objector raised two objections to the Candidate's Rule 8 Motion: 1) the motion did not comply with Rule 8 by failing to state a basis for objecting to each signature and 2) the Candidate sought to rehabilitate less signatures than the 77 signatures she was determined to be short by. The Hearing Officer sustained both objections.

a. Failure to State Factual or Legal Basis

The Rules of Procedure for the Board of Commissioners specify in Rule 8 how a party can request a hearing to present additional evidence and arguments related to the findings made during the records examination. Specifically, Rule 8(d) states that the contents of the motion to request a hearing include the following: a written statement or outline sufficient to advise the other parties of the *factual and/or legal issues to be addressed by the moving party.* Section 8(d)(i) further, specifies that it is not acceptable to "merely incorporate, adopt or use the Board's petition summary report, petition detail report or other Board record examination report as the Party's Rule 8 motion".

Here, the Candidate's Rule 8 Motion failed to state the legal or factual basis for the Candidate's objections. For example, the candidate did not specify whether the signatures were in fact authentic, the registered addresses were proper or otherwise. Without specifying the basis for the objection in its motion, as is the case here, the opposing party, would have to review the Final Petition Summary Report and Final Petition Detail Report to identify the basis for the objection, thus incorporating the Petition Summary Report to the Rule 8 Motion, something the rules specifically address as not acceptable. *See* Sanchez v. Bocanegra, 15 EB ALD 053 (CBEC 2015); *see also* Salazar, et al. v. DeMay, 15 EB ALD 052 (CBEC 2015).

Based on the foregoing, a finding that the Rule 8 Motion does not comply with Rule 8 is made.

Further, a finding is made that the results of the records examination stand. Those results show that the Candidate is 77 signatures below the required 473.

b. *Rehabilitation of Insufficient Signatures*

Rule 8(e)(iv) states that where the records examination contains fewer than the number of signatures required by law, then the burden of proof shifts to the Candidate during a Rule 8 hearing. Rule 8(d)(ii)(2) requires that a party present evidence or arguments as to signatures examined in a records examination only to those signatures identified by petition sheet and line number in the party's motion.

Here, assuming arguendo the Rule 8 Motion filed by the Candidate was proper, the Candidate listed only 62 signatures by petition sheet and line number. Therefore, should the Hearing Office find that the 62 signatures objected to by the Candidate were in fact valid, contrary to the findings of the records examination, the Candidate would still be short of the minimum required signatures by 15 signatures. No possible arguments or evidence presented would allow the candidate to rehabilitate enough signatures to meet the required number. *See* Cochran v. Davis, 15 EB ALD 149 (CBEC, 2015); *see also* Sanchez v. Bocanegra, 15 EB ALD 053 (CBEC, 2015). Thus, a Rule 8 evidentiary hearing is not necessary and is therefore moot.

Based on the foregoing, a finding is made that the number of identified signatures to rehabilitate listed by the Candidate in her Rule 8 Motion is insufficient to meet her burden by 15 signatures. Therefore, the Candidate is unable to meet her burden of showing that that has the required minimum signatures of 473.

Conclusion

It is my recommendation that 1) the nominating papers for the Candidate, Sherri Bolling, be found invalid and 2) that the Candidate's name, Sherri Bolling, not appear on the February 26, 2019 ballot for Alderman in the 8th Ward.

Date: December 31, 2018

Respectfully Submitted,

s/Yolanda Carrillo
Yolanda Carrillo
Hearing Officer