

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

Objections of: MELVIN DELK and)	
LARRY G. NELSON)	
)	
To the Nomination)	No.: 07-EB-ALD-086
Papers of: WILLIE G. BROOKS)	(rel. ALD-183)
)	
Candidate for the office of)	
Alderman of the Twenty-fourth 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 and Richard A. Cowen, 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 MELVIN DELK and LARRY G. NELSON (“Objector(s)”) to the nomination papers (“Nomination Papers”) of WILLIE G. BROOKS, candidate for the office of Alderman of the Twenty-fourth Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 27, 2007, having convened on January 2, 2007, at 10:00 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(s) 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 January 2, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Lynne Ostfeld for further hearings and proceedings.

6. The Objector(s) and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner on the date and at the time designated in the Call. The following persons, among others, were present at such hearing; the Objector(s), MELVIN DELK and LARRY G. NELSON, pro se; and the Candidate, WILLIE G. BROOKS, by counsel, Adam W. Lasker.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by its 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 Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

9. The Candidate or her duly authorized representative was present during the examination of the registration records at all times.

10. The Objector(s) and/or their duly authorized representatives were present during the examination of the registration records at all times.

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 was made available to the parties.

12. The Electoral Board has reviewed the applicable law and has considered all evidence and arguments tendered by the parties and the Hearing Examiner's report of recommended findings and conclusions of law.

13. The Electoral Board finds that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 172.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 593.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 339.

D. The remaining number of signatures deemed valid as a result of the records examination total 254.

14. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for election to the office of Alderman of the Twenty-fourth Ward of the City of Chicago.

15. The Objectors argued after the conclusion of the records examination that the number of sustained objections during the record examination was almost 60% of the total, there should be finding of a pattern of fraud. No such allegation was in the Objector's petition.

16. The Hearing Examiner recommends that this Objection be denied for two reasons. First, the Objections cannot be amended after they are filed. *Stein v. Cook County Officers Electoral Board*, 264 Ill.App.3d 447, 636 N.E.2d 1060 (First Dist. 1994). Second, fraud must be affirmatively established and proved by clear and convincing evidence. *In re Petition for Removal of Bower*, 41 Ill.2d 277, 242 N.E.2d 252 (1968); *Durr v. Chicago Board of Election Commissioners*, 03 CO EL 028 (Cir. Ct. Cook Cty., 2003).

17. The Objector also alleged that the failure of the Candidate to include the number of the Ward in which she is seeking election on her Statement of Candidacy invalidates her Nomination Papers. It was further alleged that the Statement of Candidacy stated that the Candidate was running as a candidate of the Democratic Party, which was unacceptable for a nonpartisan election.

18. The Hearing Examiner found that, in fact, two documents purporting to be the Candidate's Statement of Candidacy had been filed with the Candidate's Nomination Papers, both stamped with the same date and time, thus making it impossible to determine which one had been filed first.

19. However, if the Candidate's Statement of Candidacy did contain a statement that the Candidate was running as a candidate of the Democratic Party, that is not a sufficient ground to invalidate the Candidate's Nomination Papers. The words "Democratic Party" did not appear on her nominating petitions. Aldermanic candidates are nonpartisan and no political party affiliation is allowed on the ballot. Because the words "Democratic Party" were not on the Candidate's petition sheets when they were presented to the voters for signature, there was no misleading or incorrect information concerning party affiliation presented to the voters when signing the candidate's petition sheets. There is no evidence that the voters were confused about

the Candidate's stated or unstated political affiliations. Under these facts, there is not enough to invalidate the Candidate's statement of candidacy simply because it contained extraneous information concerning the Candidate's political party affiliation were none was required. *Dix v. Terry*, 03-EB-ALD-071, CBEC, January 31, 2003.

20. The Candidate's failure to insert the Ward number on her statement of candidacy is not fatal since the Ward designation is clearly listed on each petition sheet. *Morgan v. Stowers*, 87-EB-ALD-140, CBEC, January 20, 1987.

21. The Hearing Examiner has tendered to the Electoral Board her report and recommended decision. The Hearing Examiner recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be found valid.

22. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Examiner, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Examiner's recommended findings and conclusions of law.

23. For the reasons stated above, the Electoral Board overrules the Objections and finds that the Nomination Papers of WILLIE G. BROOKS are valid.

24. The Electoral Board further finds that there was another objection filed against the Candidate's Nomination Paper in case 07-EB-ALD-183, but those objections were overruled.

IT IS THEREFORE ORDERED that the Objections of MELVIN DELK and LARRY G. NELSON to the Nomination Papers of WILLIE G. BROOKS, candidate for election to the office of Alderman of the Twenty-fourth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of WILLIE G. BROOKS, candidate for election to the office of Alderman of the Twenty-fourth Ward of the City of

ORDER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Melvin Delk

v.

Willie G. Brooks, et. al.

No. 07-COEL-00012

ORDER

This matter having been heard in open court pursuant to a previously scheduled trial hearing of the Petitioner's Petition for Judicial Review, present before the court were counsel for defendants Willie G. Brooks and the Chicago Board of Election Commissioners, and the court being advised in the premises;

IT IS HEREBY ORDERED

- ① Petitioner Melvin Delk, having failed to appear at a duly noticed status call on Feb. 5, 2007, at 10:30 a.m., and having not come to court until approximately 2:30 p.m., Mr. Delk was then given in-person personal service by Judge Ballard's clerk and fax service by the Board of the Court's order setting today's hearing date at 9:30 a.m., and
 - ② Mr. Delk having failed to appear for today's 9:30 call as of 9:55 a.m.,
 - ③ It is ordered that the decision of the Board of Elections be affirmed, and
 - ④ It is ordered that Mr. Delk's Petition for Judicial Review be denied.
- It is so ordered.

Atty. No. : 43334
 Name : Adam Lasker
 Atty. for : Defendant Brooks
 Address : 318 N. Jefferson, Ste 102
 City/State/Zip : Chicago IL 60661
 Telephone : (312) 559-0600

ENTER : _____
 Judge _____

ENTERED
 JUDGE MARK BALLARD-1742
 FEB 07 2007
 DOROTHY BROWN
 CLERK OF THE CIRCUIT COURT
 OF COOK COUNTY, IL
 DEPUTY CLERK

Judge's No. _____

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

ORDER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

DOLK

v.

No. 07 002 12

CHICAGO BOARD OF REALTORS

ORDER

THIS CASE OVERRULED TO BE HEARD ON THE
MOTION OF MOWIN DOLK TO VACATE THE ORDER OF
FEBRUARY 7, 2007 AND THE NOTICE NAMED BEN CHUN
AND THE COURT BEING ADJUDICATED IN THE PREMISES.

IT IS HEREBY ORDERED THAT
THE MOTION OF MOWIN DOLK IS GRANTED.

Atty. No. : 70389
Name : LEONARD MANNING
Atty. for : MOWIN DOLK
Address : 737 E. 93RD ST
City/State/Zip : CHICAGO IL 60619
Telephone : 773.402.8426

ENTERED
JUDGE MARK BALLARD-1742
FEB 20 2007
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK
Judge _____ Judge's No. _____

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS