

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

Objections of: Mae E. Amos)
)
)
To the Nomination) No.: 12-EB-WC-20
Papers of: Vernita McClinton-Farmer)
)
Candidate for the office of Democratic Party)
Ward Committeeman for the 21st Ward, City)
of Chicago)

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 Mae E. Amos (“Objector”) to the nomination papers (“Nomination Papers”) of Vernita McClinton-Farmer, candidate for the office of Democratic Party Ward Committeeman for the 21st Ward in the City of Chicago (“Candidate”) to be elected at the General Primary Election to be held on March 20, 2012, having convened on December 19, 2011 at 8:30 AM, 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 19, 2011 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Terence Flynn 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 Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, Mae E. Amos, by attorney, Randy Crumpton; and the Candidate, Vernita McClinton-Farmer, 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 her 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 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 Electoral Board's file in this case and a copy has been provided or made available to the parties.

12. 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 939;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 2,056;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 1,245;

D. The remaining number of signatures deemed valid as a result of the records examination total 811.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Democratic Party Ward Committeeman for the 21st Ward of the City of Chicago.

14. The Candidate attempted to file a Rule 8 motion within the time prescribed by the Hearing Officer and the rules of the Electoral Board. The motion did not, however, comply with the requirements for timely filing or content. The Hearing Officer therefore struck the Candidate's Rule 8 filings.

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 only 811 valid signatures, which is less than the

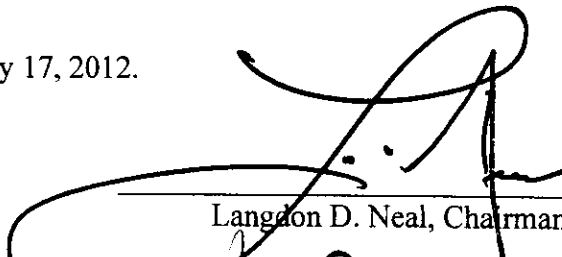
minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Democratic Party Ward Committeeman of the 21st Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

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's report is attached hereto and is incorporated herein and made a part of the Electoral Board's decision in this case.

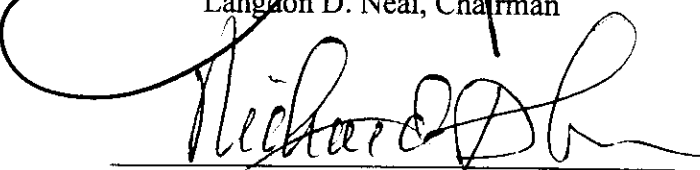
17. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on her nominating petitions and that the Nomination Papers of Vernita McClinton-Farmer are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of Mae E. Amos to the Nomination Papers of Vernita McClinton-Farmer, candidate for the office of Democratic Party Ward Committeeman for the 21st Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Vernita McClinton-Farmer, candidate for the office of Democratic Party Ward Committeeman for the 21st Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 20, 2012.

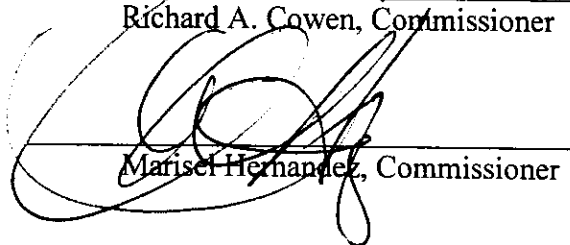
Dated: Chicago, Illinois, on January 17, 2012.



Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner



Marisel 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.

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD FOR THE
HEARING AND PASSING UPON OBJECTIONS TO NOMINATION PAPERS OF
CANDIDATES FOR THE MARCH 20, 2012 GENERAL PRIMARY ELECTION IN THE
CITY OF CHICAGO**

2012 JAN 15 P 4:13
BOARD OF ELECTIONS
COMMISSIONER

Mae E. Amos,)	
Objector)	
vs.)	12-EB-WC-20
)	21 st Ward
Vernita McClinton-Farmer,)	
Candidate)	Recommendation: Candidate off ballot
)	

**Report and Recommendation of Hearing Officer
Terence E. Flynn**

Summary:

Candidate was 128 signatures below the minimum signature requirement of 939 for the office sought after the Rule 6 examination. Her purported Rule 8 Motion did not comply with even the minimal requirements of the Rule. Therefore, the Motion was stricken and she remained 128 signatures below the required minimum.

Procedural Matters:

- 1) Initial Hearing: This matter was assigned by the Board to the undersigned Hearing Officer and the first hearing occurred on 12/19/2011, at which the candidate appeared pro se and the objector by her attorney. The candidate requested a continuance because her attorney, one Sydney Smith, was out-of-town. Although I was prepared to send the matter to a Rule 6 exam, the candidate requested further time for her attorney to get involved; attorney for objector did not object and agreed to a continuance including starting the Rule 6 exam. On that basis, the matter was continued to 12/23/11.
- 2) Second Hearing: On 12/23/11 both parties appeared. The candidate reported that her prospective attorney was not able to represent her. A Records Exam Directive was executed and the matter was continued to 12/29/11 for status on the Rule 6 exam.
- 3) Third Hearing: As the Records exam had not been commenced by 12/29/11, I requested that the Board clerks notify the parties (as of 12/28/11) that the matter would be continued to 1/3/12, rather than the parties attending for no good reason. Unfortunately, this attempt at efficiency

was less than successful because the parties were notified of that date but then, apparently, also notified of a date of 1/5/12. On 1/3/12, on the Record, the candidate shared with this Hearing Officer the preliminary results of the Rule 6 exam. This Hearing Officer also spoke to objector's counsel by phone, with knowledge and consent of the candidate. The purport of both the on-record colloquy and the by-phone conversation was to direct the parties regarding their Rule 8 responsibilities, the timing thereof, and especially the necessity to perform their investigation now because short dates would be set if Rule 8 hearings were held. Given that the parties were informed of a 1/5/12 date, even though this Hearing Officer was not, the matter was continued to that date for further proceedings. Up to this time, there had been no motion or other matter which any party has requested me to rule upon.

- 4) Fourth Hearing: On 1/5/12, a status hearing was convened with all parties appearing. The Rule 6 final results were not yet available, pending the handwriting expert's analysis. Given that they would likely be finalized with the next day, I set a provisional Rule 8 schedule (following the Rule, by 5:00 p.m. the business day following receipt of the final Rule 6 results) and a new hearing date of 1/9/12, with explicit instructions to the parties to commence their investigatory efforts and evidence-gathering now, as the deadlines would be getting shorter.
- 5) Fifth Hearing: Before the Hearing of 1/9/12, the Rule 6 final results were received by all parties (on 1/6/12). The Rule 6 final results showed the candidate 128 signatures below the minimum signature requirement of 939. As a result of my scheduling order and Rule 8 itself, any Rule 8 Motion was to be filed and served by 5:00 p.m. on 1/7/12.

The candidate filed a pleading entitled "Rule 8 Motion for Judgement on the Pleadings", with a Board file stamp notation on the front sheet of "2012 Jan-7 P 4:57". Further the objector's attorney stated that he did not receive the pleading until 1/8/12. The following was developed at the Hearing regarding the filing of this pleading: 1) a Board employee testified that the pleading began to come through the fax at or about 4:57 p.m. on 1/7/12; that he was in telephone contact with the candidate during this time and that some, but not all, of the attachments were received before 5:00 p.m., some were received by the next morning, and some were received later in the day of 1/8/12; the Board employee also testified that there was no receipt problem at the Board's fax machines; 2) the candidate agreed as to the timing with both the testimony of the Board employee and the statement of objector's attorney.

Thus it was clear that there were two separate filings: a partial filing on 1/7/12 and a further filing on 1/8/12 with service on 1/8/12. Those procedural defects, alone, may not have been enough to invalidate the purported Rule 8 Motion. However, the text, structure and contents of

the candidate's purported Rule 8 Motion clearly violated the letter and spirit of Rule 8.

The structure of the purported Rule 8 Motion was composed of two pages of text followed by individual pages of the "Final Petition Detail Report". In the text the candidate states that "the sustaining of signatures not genuine ... and signer's signature printed and not written ... of the recapitulation sheets be made a part of this motion at sheet __ line __ which are **identified and highlighted in yellow.**" (emphasis supplied) The problem for candidate is that neither the Motion and Exhibits served on objector's attorney nor the Motion and Exhibits filed with the Board had any yellow highlighting on them. Nor were there any understandable other identifiers for the supposed signatures that the candidate desired to rehabilitate. (At the Hearing the candidate stated that the "S" and "SP" handwritten on the Exhibits were "identifiers". However, **nowhere in the text** of the Motion is there any explanation for those marks. The transcript of that Hearing was unavailable at the time of writing this Report. I also note that the objections made to the Nomination sheets (Board Group Exhibit A) had a 80% sustained rate.)

Thus the candidate violated Board Rule 8 (c)(i)(1) regarding time for filing and service, the Hearing Officer's scheduling order regarding time for filing, Board Rule 16 regarding service, and most importantly, Board Rule 8(d)(i) and (ii) and (2). As a result, the objector was certainly prejudiced regarding responding to the inadequate and invalid purported Rule 8 filing. Therefore, this Hearing Officer struck the purported Rule 8 filing and the candidate remained 128 signatures below the minimum signature requirement.

Therefore, it is the Recommendation of this Hearing Officer that the name Vernita McClinton-Farmer not appear on the ballot in the March 20, 2012 election for the office of Ward Committeeman (Democratic Party) for the 21st Ward.

Dated: 1/15/12

s/Terence E. Flynn
Hearing Officer