

FINDINGS AND DECISION

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 Terence E. 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, EMMA JEAN ROBINSON, by her attorney, James P. Nally P.C.; and the Candidate, JASMINE JACKSON, by her attorney, Mable Taylor.

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 473;
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,700;
- C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 1,282;
- D. The remaining number of signatures deemed valid as a result of the records examination total 418.

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 Alderman of the 28th Ward of the City of Chicago.

14. The Hearing Officer conducted a hearing to allow the Candidate an opportunity to present evidence in support of her Rule 8 motion objecting to the Board's clerk's findings during the records examination. The record examination results showed that the Candidate was 55 signatures below the minimum signature requirement of 473; however, the Candidate had evidence to rehabilitate only 52 signatures at best.

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

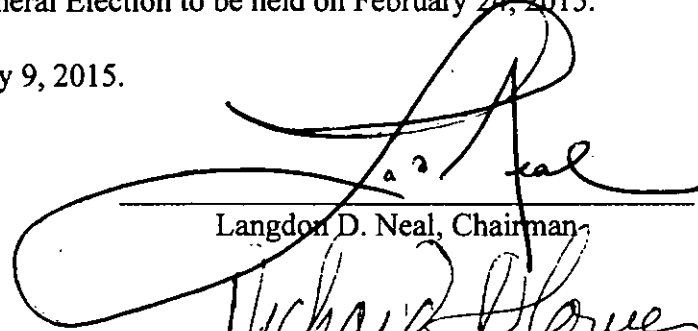
Candidate's Nomination Papers contained less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Alderman of the 28th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

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.

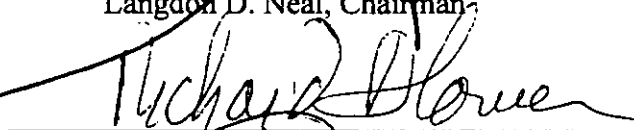
17. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on her nominating petitions and that the Nomination Papers of JASMINE JACKSON are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of EMMA JEAN ROBINSON to the Nomination Papers of JASMINE JACKSON, candidate for election to the office of Alderman of the 28th Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JASMINE JACKSON, candidate for election to the office of Alderman of the 28th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

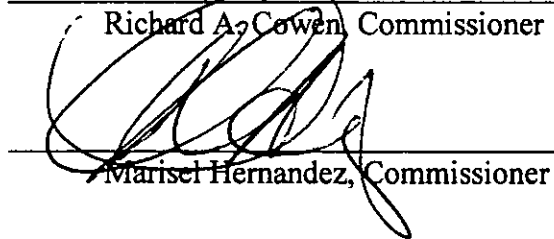
Dated: Chicago, Illinois, on January 9, 2015.



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.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND
PASSING UPON OF OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR
ELECTION TO THE OFFICE OF ALDERMAN OF THE
28th WARD, CITY OF CHICAGO, TO BE VOTED UPON AT THE FEBRUARY 24, 2015
MUNICIPAL GENERAL ELECTION**

Emma Jean Robinson
Petitioner – Objector

15-EB-ALD- 122

Jasmine Jackson
Respondent – Candidate

Report and Recommendation of Hearing Officer Terence E. Flynn

I) Procedural Background

a) The Motion to Strike

- 1) This matter was initially called for hearing on December 10, 2014. Attorney James Nally appeared for objector and attorney Mabel Taylor appeared for the candidate. The objection appeared to be timely filed. It was indicated that candidate would be filing a Motion to Strike the Verified Objection and therefore a briefing schedule was set. It also appeared that a Rule 6 Records Examination was appropriate, and with the concurrence of the parties, a Rule 6 Record Examination Directive was issued on December 10th.
- 2) At the next hearing, December 15th, the fully-briefed Motion to Strike was argued. In essence, the candidate argued that the Objector's Petition was vague, diffuse, unclear, did not give sufficient notice to candidate of the nature of the objections and should be stricken in its entirety. The candidate also claimed that the Verified Objection was violative of §2-619 (a)(9), in that no facts were alleged supporting certain paragraphs of the Objection.. The objector responded that the Verified Objection was in the usual form previously approved in other cases

CHICAGO BOARD OF
ELECTION COMMISSIONERS
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by the Board and that the Appendix-Recapitulation sheets provided sufficient specificity in both sheet and line numbers tied with specific objections by category. This Hearing Officer found that there was sufficient clarity and specificity provided by the Appendix-Recapitulation sheets to inform the candidate of the nature of the objections and therefore denied the Motion to Strike the entirety of the Verified Objection. However, there appeared to be a number of paragraphs in the Objection that were not tied to Appendix-Recapitulation objection-categories and candidate deserved to know upon which paragraphs of the Objection the matter was proceeding. This Hearing Officer was prepared to analyze the Objection paragraph-by-paragraph. However, in light of these remarks, objector's attorney voluntarily withdrew ¶¶ 7, 8, 10, 11, 14, 15, 18 and 21 from consideration. As stated, the remainder of the Motion to Strike was denied without prejudice to a further factual attack after the Rule 6 examination and/or through the Rule 8 process. (See Transcript of 12/15/14.)

b) Subpoena Requests and the Record Examination

- 3) A request for subpoenas was filed by objector on 12/14/14. Candidate initially indicated an objection to some or all, but at the status of 12/16/14, candidate withdrew any objections. A written recommendation to approve the subpoena request was filed by this Hearing Officer on 12/16/14 and on 12/19/14 same was approved by the Board. Of course, the subpoenas were not finalized and issued at that time because the Rule 6 records examination had not as yet commenced.
- 4) At the next status of 12/23/14, it was reported by counsel for the parties that the Rule 6 examination was to commence that afternoon. The Rule 6 results were issued and filed on December 29, 2014, showing the candidate 55 signatures below the minimum signature requirement of 473.
- 5) At the next scheduled status – 12/30/14 – the parties both indicated that Rule 8 motions would

be filed by 5:00 p.m. that day, as required by Rule 8. The subpoenas requested by objector were signed and dated by me and given to objector's attorney for service. The date of the evidentiary hearing on the dueling Rule 8 motions was set for 1/5/15. On 12/31/14 this Hearing Officer entered an order requiring certain Board documents relevant to the Rule 8 motions – i.e., “signature clips” – be produced to the Hearing Officer at the evidentiary hearing for the usual comparison purposes.

c) Objector's Motion to Strike Candidate's Rule 8 Motion

6) On 12/31/14, objector filed a Motion to Strike Candidate's Rule 8 Motion on the sole basis that it was filed 7 minutes after 5:00 p.m. on 12/30/14, the appropriate date for filing, and thus was filed 7 minutes late. No prejudice to the objector was alleged – nor could it be – in the Motion. The Motion was summarily denied by this Hearing Officer by order of 12/31/14 (see file).

II) The Rule 8 Evidentiary Hearing of 1/5/15

7) At the evidentiary hearing on Rule 8 motions filed by both sides, the candidate's attorney went first, the candidate being 55 signatures below the minimum signature requirement of 473. In her opening statement, candidate's attorney outlined three branches or prongs to her effort to rehabilitate signatures and place the candidate above the minimum signature requirement: a) affidavits of petition signors to whom objections were sustained in the Rule 6 examination; b) registration records regarding certain signors who were found not registered; and c) a review without other evidence of certain “invalid signature” determinations in the Rule 6 examination, preserved by objection and by inclusion in the Rule 8.

Each will be discussed in turn.

a) Affidavits Proffered by Candidate

- 8) Candidate offered into evidence 52 affidavits (Candidate Exhibits 1-52) purportedly by people who had signed candidate's petitions but whose signatures had been disqualified, for whatever reason, in the Rule 6 examination. The form of the affidavits was not objected to by objector's attorney and, independently, this Hearing Officer was satisfied with the form of the affidavits, both in their notarization and in the verbiage of the affidavits themselves.
- 9) There were objections to 9 of the affidavits proffered by candidate. Six were agreed to: Ex.4, the signor's invalid signature call by the Board was overruled by the Board's independent signature expert, and therefore was already in the candidate's count; Ex.13, withdrawn as there was no objection preserved at the Rule 6 exam; Ex.18, again, no objection recorded at Rule 6; Exs.22 & 43, already in candidate's count; Ex.44, withdrawn as there was no objection preserved to the sheet and line number involved. With regard to Ex.49, initially "called" out-of-district; however candidate procured a Board document showing the error of that "call", and therefore it was added to candidate's count, without objection.
- Then there were two affidavits – Exs. 14 & 36 – where the address on the petition was not the registration address (Ex.14) or was not conforming to the registration address (Ex.36). Regarding, Ex.14, candidate's attorney argued that the signor was in a shelter at the time of the petition signing, but, of course, that argument was not evidence. With regard to the latter, Ex.36, the candidate's attorney argued that not all change-of-address forms had been inputted, citing a conversation with Mr. Charles Holiday of the Board, and that therefore more time should be given to determine the correct registration

address. That request was denied. Neither was included in the candidate's total.

b) Conclusion on Affidavits:

Candidate proffered 52 affidavits, 3 fewer than the number that candidate was below the minimum signature requirement (55). Six were rejected without any argument or preserved objection by candidate. Two were excluded (Exs. 14 & 36, see above discussion) with objections preserved by candidate. Thus, even crediting the remaining affidavits, candidate had either 44 increased signatures (or 46, including Exs. 14 & 36).¹ Either way, at the conclusion of the affidavit process, candidate was below the minimum signature requirement of 473 by either 11 or 9.

c) Registration Evidence by Candidate

10) The second branch or prong of candidate's rehabilitation effort targeted registration issues.

Candidate proffered 5 voter registration numbers that she believed were wrongly decided by the Board's call at the Rule 6 examination. All were preserved by appropriate objection at the Rule 6 exam. This Hearing Officer requested copies of the voter registration records of those 5 during a break in the proceedings and the documents responsive to that request were marked as Board Ex. E, and copies were delivered to both sides. One was not objected-to by objector's attorney and therefore was added to candidate's count. One was seemingly a wrong voter i.d. number and was rejected, with candidate preserving objection for appeal. One was "no record found" and therefore was dismissed. Two were not at the address of the petition sheet and were therefore rejected. Candidate's attorney argued that she had had a conversation with Mr. Charles Holiday, Manager of Registration Department of the Board, and that there may have been change-of-address cards that did not make it into the system prior to this (1/5/15) recapture of records. The

¹ As said above in ¶ 8, the form of the affidavits was proper. This Hearing Officer examined 10 of the 44 admitted affidavits for their conformance with the petition-sheet signature and signature on the registration card. However, not all the affidavits were so examined. Thus, for purposes of this Report, we assume the remainder would also pass the inspection outlined above.

Hearing Officer rejected that proffer. Thus only one was added to the count, officially.

d) Conclusion on Registration Evidence:

11) One registration appeal was added without objection. That would raise candidate's total to either 10 or 8 below the signature requirement. If all the registration issues (recalling that one was "not found" and another was simply the wrong person), but if all the remainder were added: that would bring the candidate closer by four: either 6 or 4 below the minimum, but, unfortunately for the candidate, still below the minimum.

e) The Request for Review of Invalid Signatures Absent Affidavits

12) This brings us to the fundamental issue that confronted this Hearing Officer. No matter how much credit² this candidate is given on signatures, she is still below the minimum signature requirement.

Then the third branch or prong of candidate's signature rehabilitation is in issue: the "100" or so signatures listed in candidate's Rule 8 motion for which she requests one or more of the following relief: a) that the independent signature expert of the Board review his own work, once again, and/or b) that the Hearing Officer conduct a de novo review of the signatures put forth by candidate in her Rule 8 motion and, where the Hearing Officer sees fit, he should substitute his judgment for that of the independent signature expert, upon looking at the signatures on the petition sheet and voter signature card, as did the independent signature expert the first time around.

Problems with this Request:

First, there was a stipulation of counsel at the hearing of 1/5/15 that the independent signature expert had reviewed every "invalid signature" call by the Board Rule 6 examiner. Indeed, Exs. 4, 22 and 43, discussed above in ¶ 9, show that the Board's independent expert reversed certain calls in favor

² See footnote 1 above.

of the candidate. Second, this Hearing Officer requested attorneys for both parties to assess whether there was any precedent for or against such a request that a Hearing Officer conduct essentially a de novo review, in the absence of affidavits or other affirmative extrinsic evidence. No Board case precedent was cited by either side. Third, clearly, this Hearing Officer does not have the expertise to overrule the Board's expert, absent other evidence that may not have been available to that expert, such as affidavits. Finally, to order the expert to review his own work, without any indicia of evidence that it was suspect, would be the height of speculation. Thus this Hearing Officer denied both the request for me to potentially substitute my judgment and secondly, for the signature expert to give a "do-over" on certain of his prior decisions. (And this despite candidate's counsel's representation that the expert was "on his way in".) Again, it would have been an adventure in speculation, not authorized by any evidence, to have done either, no matter how close or how far the candidate was from meeting the minimum signature requirement.

III) Findings of Fact

a) At the conclusion of the Rule 6 examination, the candidate was 55 signatures below the minimum signature requirement of 473.

b) At the Rule 8 hearing, candidate proffered 52 affidavits, 6 of which were excluded from evidence either because no objection was preserved in the Rule 6 examination or because the signature involved was already credited to candidate. No exception was taken by candidate to those six rulings.

c) Also, regarding affidavits proffered, two others were excluded on the basis that the address in the petition sheet was at odds with the registration address (Exs. 14 & 36). They were excluded from the candidate's total, and exception was taken by candidate to those two rulings.

d) The candidate also requested ruling on (initially) 5 registration issues. In one, no registration record was found. In another, the requested registration was simply wrong. In a third, there was

agreement that the Rule 6 "call" was wrong and therefore it was added to candidate's total. In the last two, candidate requested further time due to information received regarding the deadline for change-of-address cards and whether they were or were not in the system. That further, indefinite, time request was denied.

e) The Rule 6 results were known and issued to the parties on 12/29/14, six full days before the Rule 8 hearing. Of course, individual Rule 6 calls were known even before the final results, in an examination that commenced on 12/23/14. Finally, the 1/5/15 hearing was scheduled on 12/30/14, all a lengthy time-period in which to gather affidavits. Yet fewer affidavits were proffered than candidate was below the minimum signature requirement.

f) Even taking the most liberal view of candidate's written evidence – affidavits and registration issues – she did not reach the minimum signature requirement.

g) Candidate provided no evidentiary basis for her requests i) to have the signature expert review yet again the work already performed and/or ii) to have the Hearing Officer substitute his judgment, with no other affirmative evidence presented, for that of the signature expert.

h) Granted that resources may be scarce to hire a counter-expert, but insufficient affidavits were proffered which only required time, time that was provided, and no evidence was presented that would allow delving further into Rule 6 signature "calls", other than the affidavits already submitted.

i) Forty-four affidavits were credited and one of the registration issues, leaving a deficit of 10 against candidate. Even if she were credited with two other affidavits and even all other registration issues (against the evidence), she still would be four down. And again, that does not involve whatever objector's Rule 8, preserved herein, might yet cause further debits.

IV) Conclusions of Law

1) The candidate, on any view of the evidence presented, was below the minimum signature requirement.

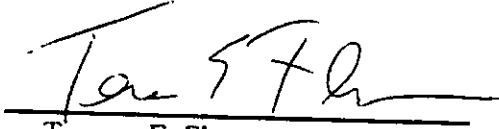
2) No basis was presented, either in fact or in law, that would have justified the request for either a) a re-review by the Board's independent signature expert or b) for a review by the Hearing Officer of the decisions by that independent expert in which the Hearing Officer would have been asked to substitute his judgment for that of the Board's independent expert.

3) As a result, the candidate did not meet the minimum signature requirement.

Recommendation:

It is the recommendation of this Hearing Officer, based upon the above discussion and findings of fact, that the name Jasmine Jackson not appear and not be printed on the ballot in the February 24, 2015 election for the office of Alderman of the 28th Ward.

Dated: 1/6/15


Terence E. Flynn
Hearing Officer