

Objections of: EMMA JEAN ROBINSON)
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To the Nomination) No.: 15-EB-ALD-124
Papers of: TAMMIE VINSON)
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Candidate for the office of)
Alderman of the 28th Ward, City of Chicago)

The duly constituted Electoral Board, consisting of Board of Election Commissioners of 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 EMMA JEAN ROBINSON (“Objector”) to the nomination papers (“Nomination Papers”) of TAMMIE VINSON, candidate for the office of Alderman of the 28th Ward in the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014 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 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, TAMMIE VINSON, attorney, Scott B. Erdman, P.C..

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 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 1,105;
- C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 681;
- D. The remaining number of signatures deemed valid as a result of the records examination total 424.

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 his Rule 8 motion objecting to the Board's clerk's findings during the 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 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.

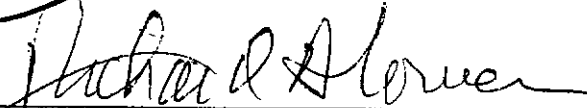
17. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on his nominating petitions and that the Nomination Papers of TAMMIE VINSON are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of EMMA JEAN ROBINSON to the Nomination Papers of TAMMIE VINSON, 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 TAMMIE VINSON, 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.

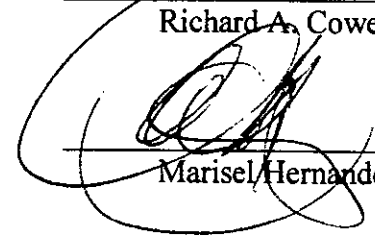
Dated: Chicago, Illinois, on January 9, 2015.



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

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15-EB- ALD- 124

Tammie Vinson,
Respondent – Candidate

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

CHICAGO BOARD OF
ELECTION COMMISSIONERS
2015 JAN -7 A 9:15

I) Procedural Background

a) Initial Statuses:

- 1) This matter was called for initial hearing on December 10, 2014.
- 2) Objector appeared by Attorney James Nally. Candidate appeared by Attorney Scott Erdman.
- 3) The Objection was timely filed. No motion was filed attacking the legal sufficiency of the pleadings. It appearing from the Objection that a Rule 6 records examination was called-for, and with the agreement of the parties, a Rule 6 Record Examination Directive was issued on December 10th.
- 4) Interim statuses were held on 12/19/14 and 12/23/14 to determine the scheduling and progress of the Rule 6 examination. A further status was ordered for 12/29/14.
- 5) The Rule 6 examination commenced on 12/23/14, after the status of that morning. There was a “record exam recall” issued on 12/26/14 for 12/27/14 to “rework 15 lines” of allegations.
- 6) At the status of 12/29/14, the parties informed the Hearing Officer that the Rule 6 examination had concluded but they did not have results from the exam. On that basis, the matter was continued to December 31, 2014, to allow for the final Rule 6 examination results and for Rule

8 motions, if any.

- 7) At the status of 12/31/14, two matters occurred: a) the setting of the evidentiary hearing for 1/6/15, given objector's attorney's evidentiary hearing schedule in other Board matters; and b) allowance of candidate's Rule 8 motion to be filed given that the attachment sheet to the Final Rule 6 Petition Summary Results showed that no service of the document was executed to candidate's attorney and candidate's attorney's representation that he had not in fact received the document in a timely fashion. Thus a formal objection by objector to the "late" filing was overruled. As of the conclusion of the Rule 6 examination, the candidate was 49 signatures below the minimum signature requirement of 473.

II) The Evidentiary Hearing of 1/6/15

- 8) At the evidentiary hearing, Attorney Nally appeared for objector and Attorney Erdman appeared for candidate. The candidate was also present. In her Rule 8 rehabilitation effort, candidate offered affidavits, registration documents and a legal argument regarding the Rule 6 "recall" of some 14 signature lines by the Board.

Each will be discussed in turn.

a) Affidavits

- 9) Candidate offered 24 affidavits in total purporting to overcome invalid signature rulings by the Board in the Rule 6 examination. They were marked as Candidate's Exhibits 1 – 24.

The affidavits' form was not objected-to by objector and, independently, this Hearing Officer took no exception to either the notarization or the verbiage of the affidavits.

Twenty-one (21) of the affidavits were accepted, after examination of the affidavit signature and that of the petition sheet. No one asked for a further inquiry. The three that were not accepted were:

Candidate's Ex. 1, because that signature was already in the candidate's count; Candidate's Ex. 10, because the sheet/line ruling in the Rule 6 examination had not been preserved for review; and

Candidate's Ex. 18, because there were two objections sustained at the Rule 6 examination, one for invalid signature and one for "not registered" – of course, the affidavit did not cure the registration ruling and therefore was not accepted.

At the conclusion of the Candidate's offer into evidence of affidavits, the candidate was below the minimum signature requirement by 28: (49-21).

b) Registration Evidence

10) The Candidate then proceeded to request petition-signature rehabilitation relief through introduction of registration records of the Board. The Candidate requested overturning the Rule 6 call on 13 signatures: sheet 57/line 18; 60/11; 62/1; 63/10; 64/4; 12/12; 15/4; 16/19; 26/5; 27/3; 41/20; 43/5; 43/10.

On sheet 12/line 12, the registration evidence was accepted, over objection by counsel for objector, on the basis that a mark that may have looked like the numeral "1" on the street address line, which the Rule 6 examiner could not dismiss, causing signature disqualification for a "bad" address, was, in this Hearing Officer's estimation and discretion, a "stray" mark, separated from the otherwise-correct address. Thus the Candidate gained one signature, now 27 below the minimum signature requirement.

On sheet 43/line 10, the registration evidence was not accepted as the address on the petition sheet and that of the registration record were sufficiently numerically distinct as to not allow this Hearing Officer any discretion.

Regarding the remaining 11 signatures (listed above), the Final Petition Sheet Summary showed "no objection" by Candidate in the "for review" column and therefore there was no appeal before me.

At the conclusion of the registration evidence, the candidate was 27 signatures below the minimum requirement.

c) Legal Argument Regarding the Board's "Recall" on Rule 6 and Its Implications

11) The Candidate's last effort at rehabilitation concerns the "recall" of the parties to the Board after the conclusion of the preliminary Rule 6 exam, apparently to assess yet again 15 lines of Candidate's petitions. On 12/26/14, an email was sent to the parties stating "A Record Exam Recall As (sic) Been Issued To Rework 15 Lines Allegations" and setting that "recall" for the next day, 12/27/14. Both parties had "watchers" at the "recall".

The parties' descriptions of the facts leading to this "recall" are vividly different and are all based on hearsay. Objector's attorney, not directly involved, initially ascribed the recall to a bureaucratic inputting error where all objections were not before the Board's Rule 6 examiner – i.e., objections to both signature and registration had been made in the Objection, but less than all objections were before the Rule 6 examiner. That description is belied by two preliminary results involving the 15 lines brought to my attention by candidate's attorney. In sheet 14/line 8 and in sheet 14/line 10 – purported to be among the 15 lines subject to the "recall" – multiple objections were shown on the preliminary results sheets and multiple objections were ruled upon, so it would appear that mere "inputting error" was not the reason for the recall.

Interestingly, another line brought to my attention – sheet 16/line 4 – shows a semi-incomprehensible preliminary result: invalid signature and non-registration objections are both overruled in Candidate's favor, yet the result also shows "not in system"-- suggesting that something was wrong with the initial Rule 6, but we don't know with precision what that problem was.

As mentioned above, these two competing scenarios are based on hearsay: no party requested the evidence of any Board employee regarding the reason – good, bad, or indifferent – that the "recall" was ordered. No party put on testimony from anyone regarding this Rule 6 "recall" situation.

Candidate argues the following: the recall – for whatever reason it was ordered – allowed objector to object to signatures not previously objected-to. Shouldn't Candidate, she says, under the goose-gander theory, enjoy the same benefit. The Candidate argues that 11 signatures involved in Candidate's registration evidence were rejected in the Rule 8 by this Hearing Officer because Candidate apparently, from the Record, did not preserve the objections in the Rule 6. Can we trust the Record, asks Candidate, when we have this problematic recall? Why did Objector receive this relief and if inappropriate, should not Candidate receive similar relief, in the form of excusing "no appeal" in the "for review" column so that the Hearing Officer may entertain the registration evidence?

- 12) This Hearing Officer has no idea what went on with this "recall". I was not presented with competent evidence regarding the issue: again, neither party put forth any evidence, under oath or otherwise, regarding the factual background that triggered the Rule 6 "recall". It certainly seems that the scenario presented by objector's attorney is less-than accurate, again, given the rife hearsay, no debit to the attorney. The two examples proffered – sheet 14/line 8 and 14/10 – suggest the "bureaucratic inputting error" was not the reason. On the other hand, sheet 16/line 4, certainly suggests that something was amiss when objections to both invalid signature and registration are overruled yet the person is "not in system". Then, in the Final Report (at page 23) there is a new category entitled "new ruling", where the "not in system" requires a ruling against Candidate.

This all-too lengthy discussion appeared necessary to give appropriate background and context to the Candidate's argument.

- 13) Of course, the proponent of the request for relief – here, the Candidate – carries the burden of persuasion, both by evidence and precedent. While the examples proffered by Candidate were illustrative of a serious dysfunction at this particular Rule 6 examination, they do not get her

over the deficit in signatures. First, the "goose-gander theory": "if they can get a re-do on 'recall' of Rule 6, we should be able to appeal when the Rule 6 Final Summary says we did not preserve the objection". There is no real equivalence here. Candidate was notified of the "recall" and most importantly, objected to each and every "new" call by the Board. Yet, Candidate did not individually present in the Rule 8 any of the "recall" rulings : she preserved the legal issue regarding the recall, but she did not appeal the specific results. To the extent that this whole process is a search for the reality or unreality of objections for the integrity of the ballot, Candidate could have and should have brought forth evidence regarding where the "recalled" determinations erred, but she refrained from doing so.

- 14) Even if the 14 (of 15) lines in the "recall" were allotted to Candidate – and I do not see sufficient reason to do so – she still would be 13 signatures below the minimum requirement. She then will ask that her own failure to object be absolved, on the basis that the Rule 6 Record cannot be trusted (see ¶¶ 10 and 11 above), to potentially give her 11 more signatures (and one more from one excluded affidavit). Yet that would still be insufficient to meet the minimum signature requirement. Finally, of course, this would give the Candidate a double benefit: both the benefit of the "recall" lines and the benefit of appealing from apparently unobjected-to Rule 6 determinations. Such treatment is unauthorized and unwarranted.

III) Findings of Fact

- 15) This extended discussion, solely to ensure that the Electoral Board has all the arguments and facts in its possession, results in the following findings of fact: a) Candidate was 49 signatures down at the conclusion of the Rule 6 examination; b) 21 affidavits (out of 24 proffered) were credited to Candidate; c) 1 signature was credited to Candidate from the registration evidence. 11 of the signatures put in issue having not been preserved by Rule 6 objection; d) the Candidate's argument regarding the "recall" on Rule 6 has some merit, but she failed to provide

evidence on any of the 14 lines in question and her requested remedy is unauthorized.

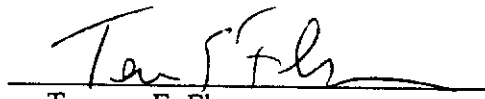
IV) Conclusions of Law

- 16) The Candidate has failed in her burden of persuasion and her burden of proof. On any view of the evidence and the arguments, she is still below the minimum signature requirement. As found here, she is 27 below.

Recommendation

It is the recommendation of this Hearing Officer that the name Tammie Vinson not be printed on the ballot in the February 24, 2015 election for 28th Ward Alderman.

Dated: 1/7/15


Terence E. Flynn
Hearing Officer