

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS AND ETHICS**

In Re:  
"Obama for DC" Slate

Administrative Hearing  
No. 08-003

Re: Appeal of Preliminary  
Determination of Ineligibility

**MEMORANDUM OPINION AND ORDER**

This matter came before the Board of Elections and Ethics (hereinafter "the Board") on Thursday, July 17, 2008, and involved an appeal of the Acting Registrar of Voters' preliminary determination that several groups seeking to attain ballot access as members of the "Obama for DC" slate did not meet the requirements for ballot access. Chairman Errol R. Arthur and Board Member Dr. Lenora Cole presided over the matter. The appeal was brought by the fourteen (14) prospective candidates ("the Candidates") adversely affected by the Acting Registrar's preliminary determination, and they were represented by Frederick D. Cooke, Jr., Esq. of Rubin, Winston, Diercks, Harris & Cooke, L.L.P.

According to the evidence presented, the following groups of candidates each circulated a single nominating petition with the intention of collectively forming (along with other candidates and groups of candidates) the "Obama for DC" slate:

**At-Large Committee Members of the Democratic State Committee ("At-Large Group")**

Lenwood "Lenny" Johnson  
James "Jim" Berry  
Ronnie L. Edwards  
Douglas "Doug" Foster  
Joshua Lopez  
Linda Jo Smith

Aimee Occhetti  
Sharon R. Robinson

**Ward 4 Member of the Democratic State Committee (“Ward 4 Group”)**

Ella Creech Peete  
Donna J. Ellis  
Charles Gaither

**Ward 6 Member of the Democratic State Committee (“Ward 6 Group”)**

Sheila White  
Elizabeth L. Pierce  
Ronald R. Collins<sup>1</sup>

On July 9, 2008 and July 14, 2008, the Acting Registrar of Voters, Karen Brooks, issued letters to each of the Candidates informing them of her preliminary determination that they did not meet the requirements to appear on the ballot for the September 9, 2008 Congressional and Council primary elections because they did not file Statements of Slate Registration with the Board. On July 14, 2008, the Candidates appealed this adverse determination, asserting that a proper and complete Statement of Slate Registration had been timely filed with the Board on May 23, 2008. In support of their claim, the Candidates submitted an attachment comprised of 12 (twelve) Statement of Slate Registration forms containing, *inter alia*, their signatures. None of the Statement of Slate Registration forms containing the signatures of the Candidates bore a time-stamp indicating the date upon which the forms had been received by the Board. Moreover, one of the forms lacking a time-stamp precisely matches a form in the Board’s records which contains

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<sup>1</sup> The At-Large group picked up petitions on May 30, 2008 and filed the same with the Board on July 2, 2008. The Ward 4 Group picked up petitions on May 30, 2008 and filed the same with the Board on July 1, 2008. The Ward 6 Group picked up petitions on May 30, 2008 and filed the same with the Board on June 30, 2008. Accordingly, each group of candidates timely filed its nominating petition by the July 2, 2008 deadline.

a time-stamp indicating a receipt date of May 30, 2008.<sup>2</sup>

Earlier on July 14, 2008, Lenwood Johnson and Mary Parham Wolfe submitted an incomplete version of the appeal, indicating that the attachment referenced therein would be brought in by Deborah Royster, another member of the “Obama for DC” slate, before the close of business. Attached to this version of the appeal were several original copies of Statements of Slate Registration which the Candidates alleged had been submitted to the Board on May 23, 2008.

During the Board’s hearing on July 17, 2008, counsel for the Candidates acknowledged that, while they believed that they had complied with the Statement of Slate Registration filing deadline and filed the form on May 23, 2008, certain facts demonstrated that they had not actually done so. Consequently, counsel for the Candidates requested that the Board exercise its discretion to waive its filing deadline in the instant matter in light of the fact that the Candidates had otherwise substantially complied with the Board’s ballot access requirements by timely filing petitions with the requisite number of signatures - which went unchallenged - and the necessary supporting documents.

A slate of candidates may be formed: “(a) Where two (2) or more individual candidates have qualified by filing separate nominating petitions; (b) Where a group of candidates have qualified by filing a single nominating petition; or (c) Where a combination of individual candidates or groups of candidates have qualified by filing separate nominating petitions.” D.C. Mun. Regs. tit. 3 § 1702.1 (2008). The act that, in

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<sup>2</sup> The individuals whose signatures appear on this Statement of Slate Registration are Deborah M. Royster, Charles Gaither, and Joshua Lopez. The Board’s records also contain a Statement of Slate Registration form signed by Amanda (Amy) Hatcher-Lyon, also dated May 30, 2008. Because Royster and Hatcher-Lyon circulated a single nominating petition bearing their names and had a Statement of Slate Registration submitted on their behalf, they were granted ballot access. Because Gaither and Lopez circulated two different petitions as part of two distinct groups of candidates for whom the Board has no Statements of Slate Registration, they were denied ballot access.

fact, creates a slate is the submission of the Statement of Slate Registration.<sup>3</sup> This form must be submitted to the Board no later than the third (3<sup>rd</sup>) day after the nominating petition filing deadline.<sup>4</sup>

As counsel for the Candidates argued, and as the Board's records reflect, the Candidates did timely submit nominating petitions and other supporting documentation in support of their efforts to attain ballot access. These petitions were not challenged. (Indeed, the representative of an opposing slate, who certainly could have challenged the Candidates' petitions, has indicated that she has no objection to the Candidates being granted ballot access in spite of its failure to timely file a Statement of Slate Registration.) The Candidates' only shortcoming was its failure to file a Statement of Slate Registration.

Pursuant to D.C. Mun. Regs. tit. 3 § 1705.6(c), the Board may waive formal errors committed by candidates in connection with the submission of the documentation necessary to achieve ballot access. In instances such as this, where substantial compliance with the Board's ballot access requirements has occurred, it is suitable for the Board to exercise its discretion to waive formal error. It remains the case, however, that

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<sup>3</sup> In order to be deemed proper and complete, the Statement of Slate Registration must contain:

- (a) The name, address, telephone number and signature of the individual who is authorized to represent the slated candidates in matters before the Board;
- (b) A complete listing of the candidates who are members of the slate and the office to which each seeks election;
- (c) A statement that each candidate gives his or her permission to be identified as a member of the slate;
- (d) The slate name, which shall be sufficiently concise to permit the Board to print the name on the ballot on the same line with each candidate's name; and
- (e) The signatures and printed name of each of the candidates who are members of the slate; Provided, that where candidates have qualified as a group, using a single nominating petition, all candidates listed on the petition must be signatories.

D.C. Mun. Regs. tit. 3 § 1702.3 (2008).

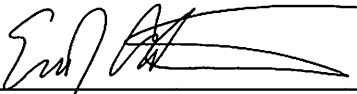
<sup>4</sup> See D.C. Mun. Regs. tit. 3 § 1702.2 (2008).

the Candidates are still not in total compliance with the Board's regulations regarding slate formation; the Board still has not received a proper and complete Statement of Slate Registration containing the signatures of all of the Candidates. Until the candidates submit this form, they will continue to be ineligible for ballot access.

Accordingly, it is hereby

**ORDERED** that the above-named Candidates, prospective members of the proposed "DC for Obama" slate, be granted access to the ballot in the September 9, 2008 Congressional and Council primary election, provided they submit a proper and complete Statement of Slate Registration containing the original signatures of each proposed member no later than the close of business on July 18, 2008.

July 18, 2008  
Date

  
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Errol R. Arthur, Esq.  
Chairman, D.C. Board of Elections & Ethics