

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

Objections of: Reginald Lockette)
)
)
To the Nomination) No.: 11-EB-ALD-016
Papers of: Sandra J. Walters)
)
Candidate for the office of)
Alderman of the 9th 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, 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 Reginald Lockette (“Objector”) to the nomination papers (“Nomination Papers”) of Sandra J. Walters, candidate for the office of Alderman of the 9th Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 22, 2011, having convened on December 6, 2010, 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 6, 2010 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Richard E. Zulkey for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board's Call served upon them 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, Reginald Lockette, by attorney, Adam Lasker; and the Candidate, Sandra J. Walters, by attorney, Evangeline Levison.

7. The sole issue raised in the Objector's Petition was whether the Candidate failed to meet the eligibility requirements to run for office as a result of outstanding indebtedness to the City of Chicago and, therefore, whether the Candidate's Statement of Candidacy was invalid and perjurious.

8. In support of his objections, the Objector introduced evidence that the Candidate had a water bill with the bill date of November 2, 2010 and the due date of November 23, 2010.

9. Section 3.1-10-5(b) of the Illinois Municipal Code provides that:

(b) A person is not eligible for an elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

The objector based his argument on the case of Cinkus v the Village of Stickney Municipal Officers Electoral Board, 886 N.E.2d 1011, 228 Ill. 2d 200 (2008).

In Cinkus, a candidate, John Cinkus (“Cinkus”) sought to run for village trustee. After Cinkus filed his nominating papers, he received notice by way of an objection that he owed a debt to the village in the amount of \$100. The objection alleged that Section 3.1-10-5(b) precluded Cinkus from running for office because he was in violation of said section. The court determined that the indebtedness resulted in the candidate being ineligible to run for office.

The Cinkus case represents a departure from prior rulings in which it was held that an outstanding debt precluded candidates from *taking* office but did not preclude them from *running* for office. Since the Cinkus case, the current state of the law is that a candidate is precluded from *running* for municipal office if, at the time he files his nominating papers, he owes a debt to the municipality in which he is running.

10. The Hearing Officer concluded that inasmuch as the water bill was not overdue on the date the Candidate filed her nominating papers, there was no indebtedness which would render the Candidate ineligible to run for office.

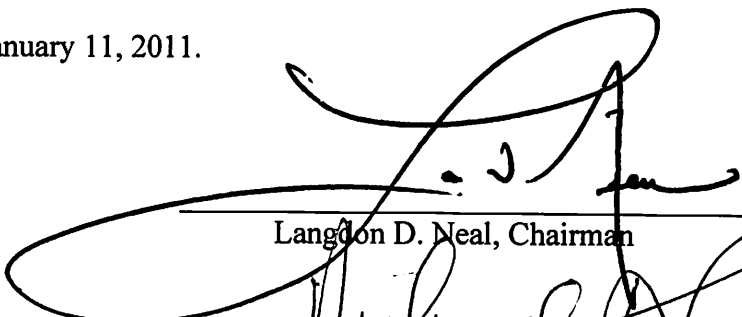
11. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate’s Nomination Papers be overruled and that the Nomination Papers be declared valid.

12. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer’s recommended findings and conclusions of law. A copy of the Hearing Officer report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

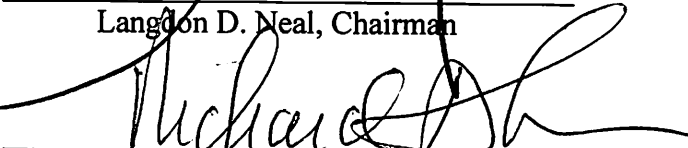
13. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Reginald Lockette to the Nomination Papers of Sandra J. Walters, candidate for election to the office of Alderman of the 9th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Sandra J. Walters, candidate for election to the office of Alderman of the 9th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

Dated: Chicago, Illinois, on January 11, 2011.



Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner

Marisel A. 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 ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
FEBRUARY 22, 2011 ELECTION**

REGINALD LOCKETTE]	
Objector]	
v.]	No. 11-EB-ALD-016
]	Ward 9
SANDRA J. WALTERS]	Hearing of December 14, 2010
Candidate]	

**BOARD OF ELECTION
POLLING PLACE DEPT.
2010 DEC 26 A 11: 27**

RECOMMENDATION OF HEARING OFFICER

This cause came on to be heard for decision.

Objector is Reginald Lockette represented by Adam Lasker, attorney.

Candidate is Sandra J. Walters represented Evangeline Levison, attorney.

1. SUMMARY OF FACTS:

An objection was filed alleging that the Candidate is a debtor to the City of Chicago and owes money to the City.

Hearing was held on December 14, 2010. Objector presented his Exhibits A and B from City of Chicago Department of Revenue Freedom of Information. Exhibit A had an attached computer generated water bill for \$361.80 due on November 23, 2010. Candidate's Exhibit A showed the bill for a non metered account showing the amount due of \$361.80 with a bill date of November 2, 2010 and a due date of November 23, 2010.

The Candidate filed her nomination papers on November 19, 2010, prior to the due date. Since this time, the water bill was paid. The Candidate never received a past due notice. Candidate also presented a definition of "arrearages" from Wikipedia free encyclopedia (copy attached). One definition "is a legal term for the part of a debt that is over due after missing one or more required payments.

A Motion to Strike was filed by the Candidate. This Motion was tantamount to an answer denying the objection. It did not test the legal sufficiency of the Objection. Hence, it was denied.

2. REVIEW OF LAW:

A review of Cinkus v. Village of Stickney, 228 Ill. 2d 200, 886 N.E. 2d 1011 (2008) is appropriate. Indeed, this an Illinois Supreme Court case that is quite explicit in its treatment of municipal candidacy and debts owed to the municipality. Cinkus was indebted to Stickney for \$100 for fine on a citation. On November 16, 2006, he failed to appear at a hearing and a judgment was entered. On November 21, 2006 notice of this judgment was sent. Nomination papers for trustee were filed on February 5, 2007. On the date of filing these nomination papers, the judgment to Stickney was unpaid.

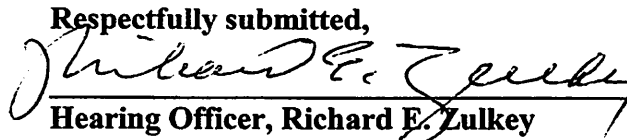
Arguments were made about the judgment being ambiguous and vague. No due date was given, and without a due date, there could be no arrearage. The Court did not accept this argument. Cinkus was not eligible to run because he was in arrears of a debt owed to the village at the time he filed his nomination papers.

The Court emphasized that the Statement of Candidacy and the accompanying oath are mandatory requirements. However, the Court stated that 10-5 of the Election Code is phrased in the present tense. It does not speak to future events or contingencies. The Candidate was not eligible to run for trustee because he was in arrears of a debt owed to the village at the time he filed his nomination papers.

Looking at the facts in the instant case and applying them to Cinkus, they show the nomination papers were filed on November 19, 2010 while the water bill had a due date of November 23, 2010. No past due arrearages had accrued. Reading the "present tense" standard of Cinkus, Cinkus cannot be applied here to remove the Candidate from the ballot.

3. RECOMMENDATION:

It is recommended that the Candidate's name appear on the ballot.

Respectfully submitted,

Hearing Officer, Richard E. Zulkey

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