

**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-017
Papers of: Eddie M. Reed)
)
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 Eddie M. Reed, 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 W. Lasker, Lauren M. Davalle, Burton S. Odelson; the Candidate, Eddie M. Reed, pro se.

7. 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.

8. The Electoral Board agrees with the Hearing Officer that the motion to strike and dismiss should be granted inasmuch as the objection stating that the Candidate's Statement of Candidacy is invalid and perjurious because the Candidate is a debtor to and owes money to the City of Chicago and does not meet the qualifications for office as specified in the Illinois Statutes does not state fully the nature of the objections as required by Section 10-8 of the Election Code.

9. Section 10-8 of the Election Code requires that the objector's petition shall (a) give the objector's name and residence address; (b) state fully the nature of the objections to the certificate of nomination or nomination papers; (c) state the interest of the objector; and (d) state

what relief is requested of the electoral board. If the objector's petition substantially complies with the requirements of Section 10-8 of the Election Code, it is a valid objector's petition.

Crosby v. Beavers, 95-EB-ALD-202, CBEC, January 24, 1995.

10. An objection is required to fully state the nature of the objections and what relief is being sought to comply with the Election Code. *Kopec v. Sims*, 07-EB-MUN-002, CBEC, January 19, 2007; *Crosby v. Beavers*, 95 EB-ALD-202, CBEC, January 24, 1995. An objection petition must adequately and sufficiently apprise the candidate of the specificity of each objection, thus making evaluation possible. *Elysee v. Patterson*, 04-EB-RGA-14, January 20, 2004.

11. Here, even if the objection were to pass muster under Section 10-8, no arrearage in the payment of a tax or indebtedness to the City of Chicago sufficient to disqualify the Candidate under Section 3.1-10-5 of the Illinois Municipal Code has been proven by the preponderance of the evidence.

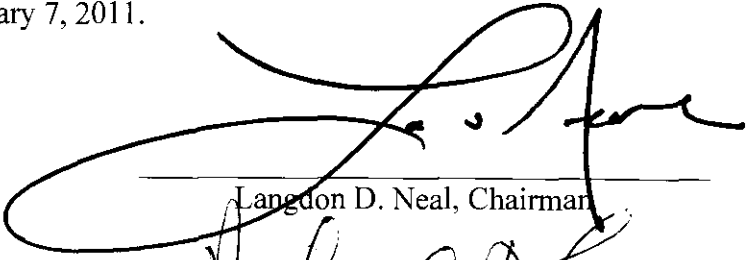
12. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. 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.

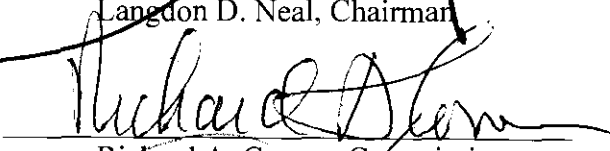
IT IS THEREFORE ORDERED that the Objections of Reginald Lockette to the Nomination Papers of Eddie M. Reed, candidate for election to the office of Alderman of the 9th

Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Eddie M. Reed, 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.

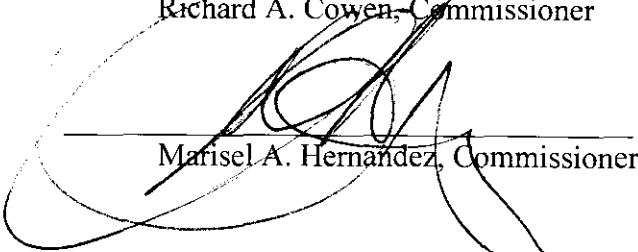
Dated: Chicago, Illinois, on January 7, 2011.



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-017
		Ward 9
EDDIE M. REED		
Candidate		

BOARD OF ELECTION
POLLING PLACE DEPT
2010 DEC 26 A 11:29

RECOMMENDATION OF HEARING OFFICER

This cause came on to be heard for decision.

Objector is Reginald Lockette represented by Adam Lasker and Burton Odelson, attorneys.

Candidate is Eddie M. Reed represented Andrew Finko, attorney.

1. SUMMARY OF FACTS:

The objection alleges generally that the candidate is a debtor to the City of Chicago. A hearing was held on December 8, 2010 where the attorney Andrew Finko filed his appearance for the candidate. At first instance, candidate made an oral motion to strike and dismiss arguing the vagueness and lack of specificity of the objection.

The objector argued that proper notice was given to the candidate. This was taken under advisement.

A hearing on the merits ensued. Objector produced his **Exhibit A** which was a Freedom of Information computer print out from the City of Chicago showing a current water bill due on November 19, 2010. The nomination papers were filed on November 17, 2010 and the Statement of Candidacy was sworn.

It was argued that this evidence of debt caused the Statement of Candidacy to be perjurious and under *Cinkus v. Village of Stickney*, 228 Ill. 2d 200, 219 Ill Dec. 887, 886 N.E. 2d 1011 (2008)required the disqualification of the candidate.

The candidate presented his Group Exhibit A and testified that payments were made on line on November 16, 2010. December 1, 2010 and December 5, 2010. This bill was for services

November 1, 2010 thru April 30, 2011. There were no penalties. As a Chicago fire fighter, he must adhere to the policy of being current on bills to the City or face suspension. The Fire Department notifies fireman of any debt. This obligation was not in arrears at the time of filing the Statement of Candidacy.

2. DISCUSSION OF LAW:

As to the oral motion to strike, it is believed that the objection was vague and lacked specificity. The objection had certain information before he filed the objection and could have just as well stated there was water bill due rather than a general statement of a debt to the City. Valid objections must "fully state the nature of the objections". 10 ILCS 5/10-8. See Kopec v. Simz, 07-EB-MUN-002 (2007). The hearing officer would grant the Motion to Strike the objections.

If, however, this is set aside, upon review by the Board, there were facts presented through documents and testimony at a hearing. The issue is whether a City of Chicago current water bill can be a debt that is in arrears and so disqualify a candidate.

The Cinkus case covers a lot of territory - election law, administrative law, and statutory construction. The debt question is an issue of public interest. However, the case states the Candidate was procedurally defaulted by his failure to claim a lack of evidence in support of the debt by the objector.

The circumstances were that the candidate owed \$100 to Stickney by virtue of a disorderly conduct citation. A fine was entered on September 28, 2006. Around November 21, 2006, a notice of judgment was served. Nomination papers were filed on February 5, 2007.

This obligation was in arrears as defined in **Black's Law Dictionary**, 9th Ed. as "the state of being behind in the payment of a debt or the discharge of an obligation... an unpaid or overdue debt".

In the instant case there was pending an outstanding bill issued and due on November 19, 2010. This bill was not in arrears when the nomination papers were filed. This is not the kind of obligation that would come under the application of Cinkus.

An allegation was that the Statement of Candidacy was perjurious. The Criminal Code, 720 ILCS 5/32-2 defines perjury as:

a person commits perjury when under oath or affirmation, in a proceeding or in any other matter where by law such oath or affirmation is required, he makes a false statement material to the issue or point in question, which he does not believe to be true.

Indeed, administrative notice is taken of common experience relating to the payment of Chicago water bills that this obligation is not in arrears. There is no suggestion of a scoff law which Cinkus seems to suggest.

The obligation in arrears has not been proven and the candidate's nomination papers are valid.

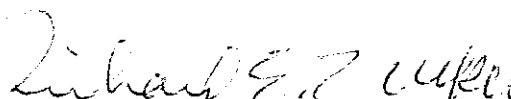
3. RECOMMENDATION:

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

Hearing of December 8, 2010.

Written decision - December 15, 2010.

Respectfully submitted,



Hearing Officer, Richard E. Zulkey

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