

**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-021
Papers of: Harold "Noonie" Ward)
)
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 Harold "Noonie" Ward, 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, Harold "Noonie" Ward, pro se.

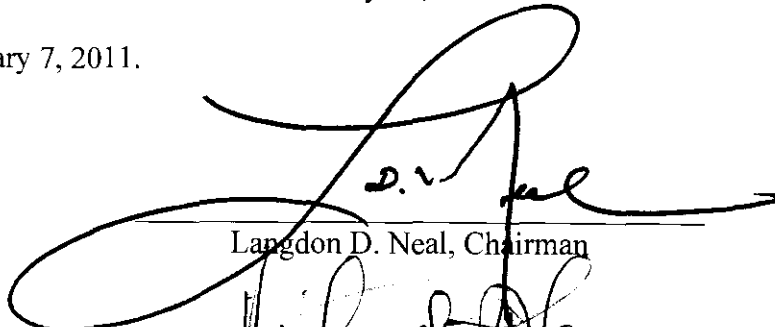
7. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid.

8. The Electoral Board, 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.

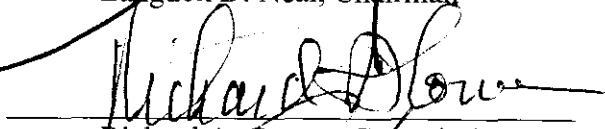
9. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Reginald Lockette to the Nomination Papers of Harold "Noonie" Ward, 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 Harold "Noonie" Ward, 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.

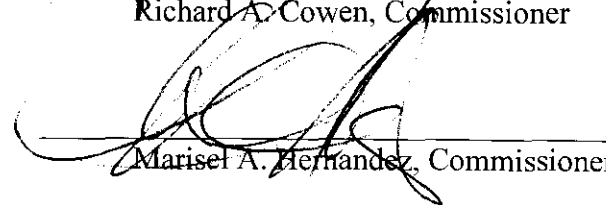
Dated: Chicago, Illinois, on January 7, 2011.



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-021
		Ward 9
HAROLD "NOONIE" WARD		Hearing of December 13, 2010
Candidate		

BOARD OF ELECTION
POLLING PLACE DEPT
2010 DEC 29 P 2:31

RECOMMENDATION OF HEARING OFFICER

This cause came on to be heard for decision.

Objector is Reginald Lockette represented by Adam Lasker, attorney.

Candidate is Harold "Noonie" Ward represented *pro se*.

1. SUMMARY OF FACTS:

Objection filed alleging that the Candidate should be stricken from the ballot because he owed money to the City of Chicago at the time his nomination papers were filed. This involved a water bill.

2. MOTION TO STRIKE:

Candidate filed a Motion to Strike arguing *Mitchell v. Bolden*, 03 EB ALD 106, CBEC, January 31, 2003. Here it said disqualification for debt would apply to the holding of office and not the election. However, this was overruled by Supreme Court case, *Cinkus v. Village of Stickney*, 228 Ill. 2d 200, 886 N.E. 2d 1011 (2008). It stated that being in arrears in payment of a tax or other indebtedness due to a municipality renders a candidate ineligible to run for municipal office if not remedied by the time the candidate files his or her nomination papers. Hence, the Motion to Strike does not attack the legal sufficiency of the objection and must be denied.

The Motion to Strike is denied.

3. HEARING:

Objector:

Objector produced official documents marked Objector's **Exhibit A** and **B** which were admitted. These were Chicago Department of Revenue Freedom of Information documents. Exhibit A was dated on September 16, 2010 and appeared to show a debt of \$243.00 for 1 ticket where the last notice was on October 27, 2004.

Exhibit B was also a Freedom of Information document dated December 9, 2010 relating to a ticket issued on August 24, 2009. At one point, this document shows an indebtedness of \$144 as of a notice date of October 16, 2009 (1 of 2). It states this is "Due Today". Thereafter, a reference is to November 19, 2010 where a payment of \$100 was made leaving a balance of \$244. In this same Exhibit B of the Objector, there are water bills due in over a period of time of \$1,061.20 or \$1,071.94 showing a current due date of December 8, 2010. These were admitted.

Candidate: the Candidate responded by denying the arrearages of any traffic tickets and showing a deed marked Candidate's **Exhibit I**, and admitted into evidence. This deed purported to convey 501 East 130th Street, Chicago, Illinois to Mozell Barnes on July 10, 2003. This was recorded with the Recorder of Deeds as documents 0319939051. He averred that he does not own the property at 501-507 East 130th Street as it had been conveyed in 2003. He stated that this was a place of business.

As to the other address requested, 13074 S. Drexel, Chicago, Illinois, he stated it was his present residence. He could not owe any bill for it because this property was owned by the Chicago Housing Authority. Mr. Ward lives in the "projects".

I must also be noted that the documents produced from the Freedom of Information have been redacted. Certainly, this adds to confusion.

4. REVIEW OF LAW:

In the Board evidentiary hearing proceeding, Board Rule 8 (b) sets a burden of proof to be a preponderance of evidence. Board Rule 10 (a) permits reliable hearsay. Hence, the Objector proceeded to make his *prima facie* case through official records, and this procedure would be acceptable in a court of law. Loughnane v. Chicago, 188 Ill. App 3d 1078, 136 Ill. Dec. 626, 545 N.E. 2d 150 (1989). Only facts contained in these public records can be admitted. Statements drawing conclusions or other statements calling for the exercise of discretion are not included. Barker v. Eagle Food Courts, 261 Ill. App. 3d 1068, 199 Ill. Dec. 922, 634 N.E. 2d 1276 (1994).

So, Objector made his *prima facie* case through the records. However, this did not stop the candidate from trying to explain these documents or even to show confusion in their interpretation so as not to bear the credibility they might appear to have.

In the instant case, the data appeared to be confusing and requiring interpretation that denied them of the exactness that would be desired. The redaction, although required by privacy law, does not help.

In turn, the Candidate testified and he denied these obligations. Some were stale October 27, 2004, on Objector's Exhibit A. In Objector's Exhibit B, they did not connect. Also, the pending water bill had to connect to a property not owned by the candidate. Note Candidate's Exhibit I, the deed.

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 the debt 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. This debt was an imminent fact known to the Candidate and it was not the result of historical searching.

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.

There is a distinction that must be made in the treatment of the debt in *Cinkus*, and in the instant case. Cinkus was procedurally defaulted. He tried to argue the judgment in the Circuit Court, but he was denied this opportunity because he failed to bring it up before the administrative proceedings.

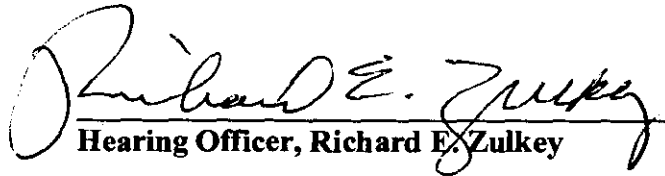
In the instant case, the issue of the underlying debts is being argued in the administrative proceeding. This is where it can be argued. In the arguments, the official documents just do not seem to meet the burden of proof when faced with oral testimony explaining circumstances and other facts to counter the inferences of the official documents. This hearing officer feels the

official documents alone could meet the burden, but they fail to do so when viewed with all of the rebuttal testimony and evidence.

5. RECOMMENDATION:

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

Respectfully submitted,


Hearing Officer, Richard E. Zulkey

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