

**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-023
Papers of: J T Thomas)
)
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 J T Thomas, 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 was held on these Objections commencing 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 to appear before the Hearing Officer on the date and at the time designated in the Call. 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; and the Candidate, J T Thomas, by attorney Glenn L. Udell.

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 were 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 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 194.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 880.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 338.

D. The remaining number of signatures deemed valid as a result of the records examination total 542.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for election to the office of Alderman of the 9th Ward of the City of Chicago.

14. The sole remaining issue presented in the Objector's Petition was whether the candidate was ineligible for office as a result of a debt owed to the City of Chicago arising out of outstanding tickets. 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 (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.

15. The *Cinkus* case further establishes that Electoral Boards have jurisdiction to hear evidence of a candidate's indebtedness. However, nothing in *Cinkus* can be construed as authorizing an Electoral Board to entertain collateral attacks on the validity of the indebtedness.

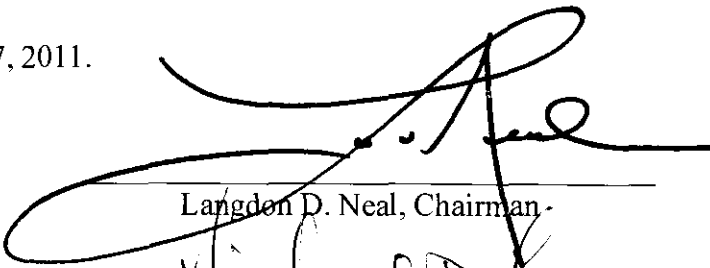
16. The Electoral Board further finds that the Objector established that the candidate was indebted to the City of Chicago on the payment of outstanding tickets at the time he filed his nominating papers. The candidate's defense that he did not own the automobile which gave rise to the outstanding tickets constitutes a collateral attack on the validity of the indebtedness over which the Electoral Board has no jurisdiction.

17. 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 reverses the Hearing Officer's recommended findings and conclusions of law.

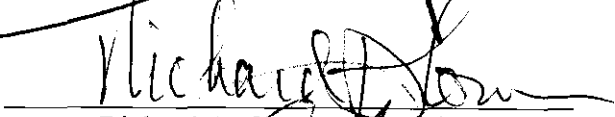
18. For the reasons stated above, the Electoral Board finds that the Objections should be and are sustained and that the Nomination Papers of J T Thomas are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of Reginald Lockette to the Nomination Papers of J T Thomas, candidate for election to the office of Alderman of the 9th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of J T THOMAS, candidate for election to the office of Alderman of the 9th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

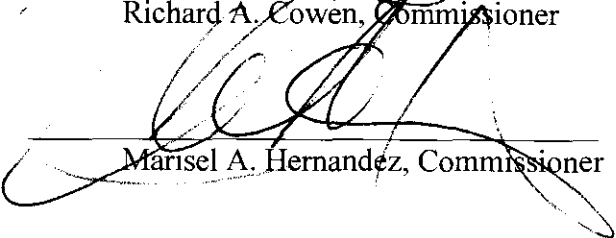
Dated: Chicago, Illinois, on January 7, 2011.



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.