NBCOFF-ALD

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

Objections of: Jason T. Olsen	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-073
Papers of: Roosevelt (Ross) Akins	)	
	)	
Candidate for the office of	)	
Alderman of the 49th 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 Jason T. Olsen ("Objector") to the nomination papers ("Nomination Papers") of Roosevelt (Ross) Akins, candidate for the office of Alderman of the 49th 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 Gerald B. Mullin 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, Jason T. Olsen, by attorney, Keri-Lyn J. Krafthefer; and the Candidate, Roosevelt (Ross) Akins, pro se.

7. Objector alleges that the Candidate is ineligible for elective municipal office because he is in arrears in the payment of a tax or other indebtedness to the City of Chicago, in violation of Section 3.1-10-5(b) of the Illinois Municipal Code (65 ILCS 5/3.1-10-5), which states: "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...." According to Objector, the Candidate is indebted to the City of Chicago, is in arrears in the payment of said debt and is not legally qualified to hold office, citing *Cinkus v. Village of Stickney Municipal Officers' Electoral Board*, 228 Ill.2d 200, 886 N.E.2d 1011 (2008).

8. Specifically, the Objector presented evidence consisting of official business records from the City of Chicago Department of Revenue indicating that the Candidate has an outstanding debt owed to the City for unpaid tickets, tow, boot and storage fees. At a hearing on

December 6, 2010 the Candidate admitted that he had an outstanding debt to the City of Chicago and was in arrears in the payment of such debt in the amount of $1,610.40 as of the time that he filed his nomination papers on November 22.

9. In the *Cinkus* case, the Illinois Supreme Court made it clear that if a candidate was in arrears in the payment of any tax or indebtedness owed to the municipality on the date that he files his nomination papers, such candidate would be ineligible to be a candidate for elective municipal office. *Cinkus* holds that a candidate's statement of candidacy swears that the candidate is eligible and holds all the qualifications for office as of the date he or she files a statement of candidacy and that if such candidate is still in arrears in payment of any tax or indebtedness to the city at such time, the statement of candidacy is thus rendered false.

10. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the law and the evidence presented, the Hearing Officer has recommended that the Objections be sustained, and that the Candidate's Nomination Papers be declared invalid.

11. 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 adopts the Hearing Officer's recommended findings and conclusions of law.

12. For the reasons stated above, the Electoral Board finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of Jason T. Olsen to the Nomination Papers of Roosevelt (Ross) Akins, candidate for election to the office of Alderman of the 49th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Roosevelt (Ross) Akins, candidate for election to the office

of Alderman of the 49th 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, 2010.

Dated: Chicago, Illinois, on January 21, 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.