NBCOFF-ALD

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

Objections of: Leola Chambers	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-105
Papers of: William N. Burch, III	)	
	)	
Candidate for the office of	)	
Alderman of the 15th 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 Leola Chambers ("Objector") to the nomination papers ("Nomination Papers") of William N. Burch, III, candidate for the office of Alderman of the 15th 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 Travis Richardson 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, Leola Chambers, by attorneys Sally H. Saltzberg and Michael Kreloff; and the Candidate, William N. Burch, III, pro se.

7. The Objector alleges that the Candidate's Statement of Candidacy is deficient and that the Candidate is ineligible to seek the office of Alderman of the 15th Ward in the City of Chicago because of the Candidate's failure to remedy an indebtedness to the City of Chicago arising out of numerous unpaid parking tickets that were due and owing to the City at the time the Candidate filed his Statement of Candidacy.

8. 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 sustained and that the Nomination Papers be found invalid.

9. 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.

10. For the reasons stated above, the Electoral Board sustains the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of Leola Chambers to the Nomination Papers of William N. Burch, III, candidate for election to the office of Alderman of the 15th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of William N. Burch, III, candidate for election to the office of Alderman of the 15th 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 18, 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.

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO

BOARD OF ELECTIONS
2011 JAN 19 A 11:45

Objections of:
LEOLA CHAMBERS,

To the Nomination Papers of:
WILLIAM M. BURCH, III,

Candidate for the Office of Alderman
of the 15th Ward, City of Chicago
General Primary Election, February 22, 2011

No. 11-EB-ALD-105

Travis Richardson
Hearing Examiner

HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION

This matter came before the Hearing Examiner on December 6, 2010. Leola Chambers ("Objector") appeared through her attorneys, Michael Kreloff and Sally Saltzberg. William M. Burch, III ("Candidate"), appeared *pro se*.

I. OBJECTION PRESENTED

The Objector asserts that the Candidate's Statement of Candidacy is deficient as a matter of law and he is ineligible to seek the office of Alderman of the 15th Ward of the City of Chicago, State of Illinois, because of the Candidate's failure to remedy an indebtedness to the City of Chicago arising out of numerous unpaid parking tickets that were due and owing to the City at the time that the candidate filed his Statement of Candidacy.

II. FINDINGS OF FACT

On November 30, 2010, Objector filed with the Board, through her attorneys, Michael Kreloff and Sally Saltzberg, a petition objecting to the nomination papers of the Candidate. The

petition was assigned case number 11-EB-ALD-105 and contained a single objection, as outlined in Section I, above.

This matter's first and only hearing occurred on December 6, 2010. The Objector appeared through her attorneys, Michael Kreloff and Sally Saltzberg. The Candidate appeared *pro se*. After it was determined that all the parties were present and Group Exhibits A (Candidate's nomination papers), B (Objector's petition), C (proof of service), and D (Objector's and Candidate's appearance forms) were received into evidence, the Hearing Examiner requested that the parties define the factual and legal issues involved with this case.

There was only one straight-forward issue identified- the Candidate's alleged arrearage to the City of Chicago in the form of unpaid parking tickets. The Candidate admitted and stipulated that he indeed did have a number of unpaid parking tickets that were due and owing to the City at the time he find his Statement of Candidacy. Further, the Candidate admitted that that the debt was still outstanding. The Hearing Examiner finds that this is a fatal defect to the Candidate's nomination papers.

III. LEGAL ANALYSIS

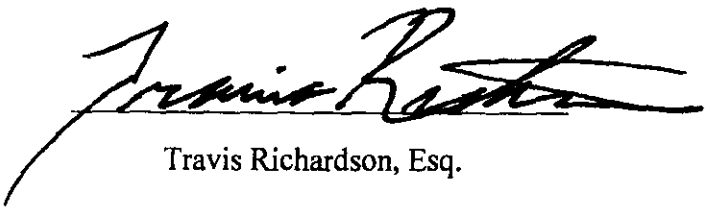
The Candidate in the instant matter stipulated that he had a number of unpaid, outstanding parking tickets issued to him by the City of Chicago at the time that he filed his nomination papers. A person is not eligible for an elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality. 65 ILCS 5/3.1-10-5(b). That eligibility is determined at the time that the Candidate files his nomination papers. *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. Cinkus then paid or attempted to pay the debt with the village. The electoral board removed Cinkus from the ballot and the matter ultimately went to the Illinois Supreme Court, wherein the Court addressed the question of whether a violation of the Illinois Municipal Code's arrearage prohibition, read in conjunction with the statement of candidacy provisions of Section 10-5 of the Election Code, bars a candidate from the ballot. The Court ultimately held that an arrearage not only precludes a person from taking office, but also precludes a person from even *running* for office. *See Cinkus* at 1023-24 (emphasis added).

Accordingly, since the Candidate was in arrearage on his debt to the City of Chicago in the form of unpaid parking tickets at the time of the filing of his nomination papers, it is the opinion of the Hearing Officer that the Candidate's nomination papers are deficient as a matter of law and that he is ineligible to run as a candidate for the position of Alderman of the 15th Ward.

IV. RECOMMENDATION

In light of the above findings of fact and legal analysis, it is the recommendation of the Hearing Examiner that the Chicago Board of Election Commissioners adopt the findings, decisions and recommendations herein, and that the nomination papers of the Candidate, William M. Burch, III, be declared insufficient as a matter of law and of fact and that his name not be printed on the ballot for Alderman from the 15th Ward, City of Chicago, in the General Primary Election to be held on February 22, 2011.



Travis Richardson, Esq.

Hearing Examiner

Travis Richardson, Esq.

407 S. Dearborn, Ste. 1260

Chicago, Illinois 60605

(312) 922-5206 o / (312) 296-9706 c

(312)922-5216 f

tr06@msn.com