



DENISE C. DE COSTA
CITY CLERK

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CITY AND COUNTY OF HONOLULU
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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

August 1, 2008

Mr. Kirk Caldwell
2725 Terrace Drive
Honolulu, Hawaii 96822

Dear Mr. Caldwell:

Subject: Candidacy of Kirk Caldwell for City Council District 5

Thank you for your letter received on July 29, 2008, in response to the objection we received from Mr. Lex Smith to your candidacy for the City Council District 5 contest.

Our determination is based upon an examination of the events leading up to and after the close of the filing for candidacy on Tuesday, July 22, 2008.

On July 22, 2008, we received a good faith declaration from your campaign that you were indeed withdrawing from candidacy for the State House District 24 contest. We transmitted this information by telephone and email communication to the State Office of Elections prior to the 4:30 p.m. candidacy filing deadline. We received assurances from the State Office of Elections, that we conveyed to you, that you were noted on its records as withdrawn from the House contest and would be permitted to submit your withdrawal letter to the State Office of Elections the following morning.

Based upon the confirmation we received from the State Office of Elections that you were considered withdrawn from the State House District 24 contest, we accepted and processed your nomination for the City Council District 5 contest.

Thereafter, on July 25, 2008, by its letter to the Democratic Party of Hawaii, we were informed of the State Office of Elections' determination that you had withdrawn your candidacy on Wednesday, July 23, 2008. Please see enclosed letter dated July 25, 2008, from the State Office of Elections, received by our Office on Saturday, July 26, 2008.

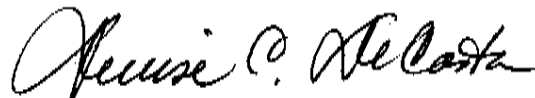
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Accordingly, it has become manifest that notwithstanding the assurances we received on July 22, 2008 from the State Office of Elections concerning the status of your withdrawal of your candidacy from the State House District 24 contest, you remained a candidate in the State House District 24 contest until submission of your withdrawal letter on July 23, 2008. We reluctantly find, pursuant to State election law, Hawaii Revised Statutes Section 12-3, that you could not have filed for nomination for City Council District 5 while still a candidate for the State House District 24 contest.

Consequently, we are compelled to determine that there is merit to the objection submitted by Mr. Smith and notwithstanding our Office's acceptance of your nomination papers for the City Council District 5 contest, those nomination papers cannot be considered validly filed.

We are aware of media reports of a request to the State Office of Elections to investigate the correctness of the date of withdrawal of your candidacy for the State House District 24 contest. Indeed, since our decision is premised upon this decision of the State Office of Elections, should the State Office of Elections change its position in this matter we will promptly review our decision to the full extent permitted by law.

Sincerely,



DENISE C. DE COSTA
City Clerk

DD/DK:sa
Encl.



**STATE OF HAWAII
OFFICE OF ELECTIONS**

402 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

July 25, 2008

KEVIN B. CRONIN
CHIEF ELECTION OFFICER

Via Email and U.S. Mail

Brian Schatz, Chairperson
Democratic Party of Hawai'i
1050 Ala Moana Blvd., Suite D-26
Honolulu, Hawai'i 96814

Dear Mr. Schatz:

Re: Notice of Rep. Kirk Caldwell's Withdrawal

This confirms our telephone conversation this afternoon concerning the above-referenced matter with you and your counsel Paul Alston.

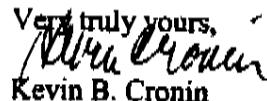
On July 25, 2008, the Chief Election Officer's Statement of Objection and Preliminary Decision in the matter of Chrystn K.A. Eades was issued. See enclosed.

This is to formally notify the Democratic Party, pursuant to Hawai'i Revised Statutes ("HRS") § 11-118(a), that the Office of Elections received Kirk Caldwell's written withdrawal of his candidacy for the State House of Representatives, District 24 seat on July 23, 2008. These events create a vacancy for the State House seat, District 24.

Please be aware that under HRS § 11-118(b), the Democratic Party must submit a candidate to fill the vacancy not later than 4:30 p.m. on the third day after the vacancy occurs, which is Saturday, July 26, 2008.

You may submit the name of the Party's candidate by email to:
Kevin.Cronin@hawaii.gov.

Should you have questions, please call me at (808) 282-0587.

Very truly yours,

Kevin B. Cronin

c. Paul Alston, Esq. (via email)