



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

MINUTES OF THE
STATE ELECTIONS ENFORCEMENT COMMISSION
REGULAR MEETING
5th Floor Conference Room
August 5, 2009

I. Call to Order

Chairman Cashman called the meeting to order at 9:05 A.M. Commissioners Jenkins, Gerratana, Bozzuto and Ms. Stankevicius were present. Agency staff was also present.

II. Oath of Office to Patricia Stankevicius

Chairman Cashman administered the Commissioner's Oath to Patricia Stankevicius. The Commissioners and Staff congratulated and welcomed her.

III. Approval of the Minutes

Approval of the Minutes of the July 1, 2009 Regular Meeting

It was moved by Commissioner Jenkins and seconded by Commissioner Gerratana to approve the Minutes of the July 1, 2009 Regular Meeting. So voted.

III. Consideration of Hearing Officers Report

1. In Re: Complaint by Shirley Surgeon, Hartford
File No. 2007-336
Hearing Officer: Commissioner Theresa B. Gerratana
Respondent: Beatriz Roman
Prosecutors: Attorney Marc W. Crayton & Attorney Kevin Ahern

Chairman Cashman noted for the record that Respondent Beatriz Roman was present and has submitted a letter requesting an opportunity to address the Commission. She has also submitted a memorandum stating her position on the Hearing Officer's Report. Chairman Cashman granted her request to be heard today. Chairman Cashman also noted that a brief has been submitted by the State expressing their position on the Hearing Officer's Report.

Chairman Cashman called upon Attorney Crayton to address the Commission. Attorney Crayton stated that he supported the findings of the Hearing Officer including the facts and conclusions of law in the Hearing Officer's Proposed Final Decision and the State urges its adoption with suggested amendments found in the State's response to the proposed Final Decision. Attorney Crayton then yielded the floor to Ms. Roman as she was the aggrieved party based upon the Hearing Officer's Report.

Ms Roman was then given the opportunity to address the Commission. She briefly summarized her position on the proposed Final Decision.

Commission Gerratana, as Hearing Officer in this matter, then summarized the series of events and clarified the facts that were established by the evidence presented at the hearing. She reiterated that she took all the facts and circumstances into consideration when drafting her report.

The Commission discussed all of the facts and events that led up to the complaint, the legal issues and the proposed decision by the Hearing Officer. Commissioner Cashman stated that the conclusion in this particular case is that the Respondent did violate the law which is a civil violation. The decision is an administrative finding that evidence supports the findings that Respondent circulated petitions for more than one candidate. All mitigating circumstances have been taken into consideration.

Attorney Crayton stated for the record that instructions were included with the petition pages that clearly set forth the restrictions on circulating a petition for more than one candidate for the same office. He then suggested two proposed amendments to the proposed Final Decision that he would like considered by the Commission. The Commission agreed to the first suggested amendment in line three of paragraph 3 and to substitute the word "inadvertent" for "technical," in line two of paragraph 18.

It was moved by Commissioner Gerratana and seconded by Commissioner Jenkins to adopt the Hearing Officers Report as a Final Decision as amended. So voted. A copy of the Final Decision is attached and incorporated herein as part of these minutes.

IV. Pending Complaints and Investigations

A. Public Session

2. In the Matter of a Referral by SEEC Audit & Disclosure Unit
File Nos. 2008-050 NF, 2008-100 NF & 2008-191 NF
Proposed Consent Agreement and Order
Respondent: China Byrd, Treasurer
AFSCME Local 478 PAC
Investigators: Attorney Shannon Bergquist &
Attorney William B. Smith
Managing Attorney: Joan M. Andrews

Attorney Andrews summarized the above referenced matter stating that this matter was scheduled for a hearing with Attorney Garfield as Hearing Officer. Before the hearing was held, the Respondent agreed to sign a proposed Consent Agreement and Order and pay a civil penalty of \$2400 for a series of violations. The Commission adopted the proposed Consent Agreement and Order contingent upon receipt of the original signed agreement. The civil penalty has been paid but only a faxed signature has been received. All of the terms have been met except the original signature has not been received, which we have been requesting for months. Attorney Andrews recommended that the Commission accept the faxed

signature under these unusual circumstances and adopt the decision for a final resolution to this matter.

It was moved by Commissioner Jenkins and seconded by Commissioner Gerratana to readopt the proposed Consent Agreement and Order in File Nos. 2008-050 NF, 2008-100 NF and 2008-191 NF. So voted. A copy of the Consent Agreement and Order is attached and incorporated herein as part of these minutes.

3. In the Matter of a Complaint by Lillian Arciniegas, Hartford
File No. 2008-152
Proposed Consent Agreement and Order
Respondents: Daphne Joseph
Investigators: Attorney William B. Smith &
Gilberto Oyola, Lead Legal Investigator
Managing Attorney: Joan M. Andrews

Attorney Andrews summarized the above referenced complaint and the proposed Consent Agreement and Order. She recommended adoption of the proposed Consent Agreement and Order. The matter is still pending with respect to an additional Respondent.

It was moved by Commissioner Gerratana and seconded by Commissioner Bozzuto to adopt the proposed Consent Agreement and Order in File No. 2008-152. So voted. A copy of the Consent Agreement is attached and incorporated herein as part of these minutes.

4. In the Matter of a Complaint by Rae Tramontano & Sharon Ferrucci,
Registrars of Voters, New Haven
File No. 2009-013
Proposed Findings and Conclusions
Investigator: Attorney William B. Smith
Managing Attorney: Joan M. Andrews

Attorney Andrews summarized the above referenced complaint and the proposed Findings and Conclusions recommending dismissal of the complaint. She recommended adoption of the proposed Findings and Conclusions.

It was moved by Commissioner Gerratana and seconded by Commissioner Jenkins to adopt the proposed Findings and Conclusions in File No. 2009-013. So voted. The complaint is dismissed for the reasons stated. A copy of the Findings and Conclusions is attached and incorporated herein as part of these minutes

5. In the Matter of a Complaint by Claude L. Holcomb, Hartford
File No. 2009-029
Proposed Findings and Conclusions
Investigator: Attorney William B. Smith
Managing Attorney: Joan M. Andrews

Attorney Andrews summarized the unique circumstances in the above referenced complaint and the proposed Findings and Conclusions recommending dismissal

of the complaint. She recommended adoption of the proposed Findings and Conclusions.

It was moved by Commissioner Bozzuto and seconded by Commissioner Gerratana to adopt the proposed Findings and Conclusions in File No. 2009-092. So voted. The complaint is dismissed for the reasons stated. A copy of the Findings and Conclusions is attached and incorporated herein as part of these minutes.

VI. Notice of Administrative Compliance

This matter was taken out of order.

7. File Nos. 2008-204 NF, 2009-028 NF and 2009-045 NF
Respondent: William Ospina, Milford Police Union Political Action Committee
Investigator: Attorney Kevin Ahern
Managing Attorney: Joan M. Andrews

It was moved by Commissioner Jenkins and seconded by Commissioner Gerratana that the Commission takes administrative notice that Respondent William Ospina complied with the Commission's directive and accepts the payment of \$600.00 as a settlement to the State of Connecticut. The Commission will take no further action with respect to these matters. So voted.

B. Executive Session per C.G.S. 1-200(6)(B) and (E), and 1-210(b)(3) and (4)

It was moved by Commissioner Jenkins and seconded by Commissioner Gerratana at 9:37 A.M. to proceed into Executive Session Pursuant to C.G.S. §1-200(6)(B) and (E) and §9-210(b)(3) and (4) to discuss strategy and negotiations with respect to pending claims and exempt records relating thereto, listed as item six (6) on the agenda. So voted. Commissioner Cashman, Jenkins, Gerratana, Bozzuto and Stankevicius were present. Staff members present were Mr. Garfield, Ms. Andrews, Mr. Smith, Mr. Crayton, Mr. Ahern, Ms. Blackburn, Ms. Rotman, Ms. Nicolescu, Ms. Kief, Ms. Sadowski, Ms. Leibenhaut, Mr. Urso, Ms. Adams, Ms. Zaccagnino, Mr. Gebo, Ms. Kulmacz, Ms. Howard, Ms. Staniewicz, Ms. Waterman, Ms. Pulaski, Mr. Boutin, Ms. Varrs, Ms. Cruz-Cabrera, Ms. Baral and Mr. Olinski.

It was moved by Commissioner Bozzuto and seconded by Commissioner Jenkins at 9:43 A.M. to return to public session. So voted.

The Commission took the following action:

6. In the Matter of a Complaint by Therese Pac, Bristol Town Clerk
File No. 2008-221
Proposed Findings and Conclusions
Respondents: Monica Matos-Desa & Katherine Irene Magyar
Investigator: Gilberto Oyola, Lead Legal Investigator
Managing Attorney: Joan M. Andrews

Attorney Andrews summarized the above referenced complaint and the two proposed Findings and Conclusions with respect to two individual respondents. She recommended adoption of the proposed Findings and Conclusions recommending dismissal of the complaint.

It was moved by Commissioner Gerratana and seconded by Commissioner Jenkins to adopt the proposed Findings and Conclusions in File No. 2008-221 with respect to Respondent Katherine Irene Magyar. So voted. The complaint is dismissed for the reasons stated. A copy of the Findings and Conclusions is attached and incorporated herein as part of these minutes.

It was moved by Commissioner Bozzuto and seconded by Commissioner Jenkins to adopt the proposed Findings and Conclusions in File No. 2008-221 with respect to Respondent Monica Matos-Desa. So voted. The complaint is dismissed for the reasons stated. A copy of the Findings and Conclusions is attached and incorporated herein as part of these minutes.

VII. *Executive Session per C.G.S. §§ 1-200(6)(B) and (E), and 1-210(b)(1),(3) and (4)*
(Preliminary draft and agency consideration of enforcement action and exempt records relative thereto)

It was moved by Commissioner Jenkins and seconded by Commissioner Gerratana at 9:45 A.M. to proceed into Executive Session Pursuant to C.G.S. §1-200(6)(B) and (E) and §9-210(b)(1) and (4) to discuss preliminary drafts of audit reports and agency consideration of enforcement action and exempt records relative thereto listed on the agenda as item A. Consideration of Draft Audit reports. So voted. Commissioners Cashman, Jenkins, Gerratana, Bozzuto and Stankevicius were present. Staff members present were Mr. Garfield, Ms. Andrews, Mr. Smith, Mr. Crayton, Mr. Ahern, Ms. Blackburn, Ms. Rotman, Ms. Nicolescu, Ms. Kief, Ms. Sadowski, Ms. Leibenhaut, Mr. Urso, Ms. Adams, Ms. Zaccagnino, Mr. Gebo, Ms. Kulmacz, Ms. Howard, Ms. Staniewicz, Ms. Waterman, Ms. Pulaski, Mr. Boutin, Ms. Varrs, Ms. Cruz-Cabrera, Ms. Baral and Mr. Olinski.

It was moved by Commissioner Bozzuto and seconded by Commissioner Gerratana at 10:45 A.M. to return to public session. So voted.

The Commission took the following action:

A. Consideration of Draft Audit Reports
Final Audit Reports for Special Elections (October 2007, January 2008, March 2008)

1. Friends of Kenny
2. Friends of Jim Oraziotti
3. Rob Kane for Senate
4. Russo for Senate
5. Tom Mulligan for State Senate

It was moved by Commissioner Bozzuto and seconded by Commissioner Jenkins to approve the issuance of the draft Audit Reports for the committees of "Friends of

Kenny”, “Friends of Jim Oraziotti”, “Rob Kane for Senate” and “Tom Mulligan for State Senate” as Final Audit Reports. So voted.

It was moved by Commissioner Bozzuto and seconded by Commission Gerratana to initiate further investigation and possible enforcement action into the “Russo for Senate” campaign based upon the findings in the draft Audit Report pursuant to C.G.S. §9-7b. So voted.

VIII. Consideration of Proposed Advisory Opinion Concerning Principals of a State Contractor

This matter was tabled until the next meeting.

IX. Administrative Reports

Mr. Garfield informed the Commission that he had been invited and did appear and testify before the Congressional Committee on House Administration at the request of Congressman John Larson who is the primary sponsor of a comprehensive campaign finance reform bill before Congress that is modeled after the Connecticut law. Mr. Garfield stated that after speaking with Chairman Cashman regarding payment of the trip to Washington, it was agreed that the state would not pay for the trip. Because it was by request from Congressman Larson, the federal government paid for his expenses. Mr. Garfield summarized his experience during the trip. Ms. Rotman noted that she accompanied him to give him support. She stated that she has been working with others on the actual bill Congressman Larson has been working on for the past six months. Mr. Garfield thanked all who contributed their efforts to help him prepare for the hearing.

Mr. Garfield stated that the CEP Report is being finalized for the Commission’s review and consideration. The new Electronic Document Management System project which is being coordinated by the IT team with all of the units in the agency is making progress. The purchase of a new software application will be the first priority when the budget impasse is broken.

Mr. Garfield updated the Commission on the ongoing budget delay and the effects on this agency and the CEP funds.

Ms. Rotman thanked her report staff for their contributions in gathering the statistics from the 2008 CEP program that were included in Mr. Garfield’s testimony in Washington. She distributed to the Commissioners charts that represented statistics from the first run of the CEP program.

Ms. Nicolescu informed the Commission that the summer interns will be leaving to return to school. The Commission thanked them and wished them well.

Mr. Garfield congratulated Ms. Nicolescu in celebrating her 15 years with the State of Connecticut.

The Commission discussed a change in date of the next meeting. They agreed that the September 2nd meeting will be rescheduled to September 1st.

X. *Executive Session of Personnel Search Committee per C.G.S. §§1-200(7) and 1-210(b)(2)*
(Discussion of appointment of public employee and exempt records relating thereto)

Personnel Matter "Executive Director" personnel search or update.

It was moved by Commissioner Gerratana and seconded by Commissioner Jenkins at 11:10 A.M. to proceed into Executive Session Pursuant to C.G.S. §1-200(6)(A) and (E) and §9-210(b)(2) for the discussion of the Personnel matter listed as item X. on the agenda. So voted. Commissioners Cashman, Jenkins, Gerratana, Bozzuto and Stankivicius were present. The only staff member present was Mr. Garfield.

It was moved by Commissioner Bozzuto and seconded by Commissioner Gerratana at 12:13 P.M. to return to public session. So voted.

No votes were taken.

XI. *Adjournment*

It was moved by Commissioner Bozzuto and seconded by Commissioner Gerratana at 12:13 P.M. to adjourn the meeting. So voted.

Unless otherwise indicated, all votes of the Commission were unanimous.

Respectfully submitted,



Lois Blackburn
Clerk of the Commission

Adopted this 1st day of September, 2009 at Hartford, Connecticut.



Stephen F. Cashman, Chairman
By Order of the Commission

The next regular meeting will be held on Tuesday, September 1, 2009 at 9:00 A.M., in the 5th Floor Conference Room.

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re Complaint by Shirley Surgeon

RESPONDENT:
Beatriz Román
75 Franklin Ave.
Hartford, CT 06114

File No. 2007-336
FINAL DECISION

August 5, 2009

FINAL DECISION

The State Elections Enforcement Commission designated Theresa Gerratana to serve as Hearing Officer in this matter at a meeting held by the Commission on November 19, 2008. This matter was heard as a contested case on February 10, 2009 pursuant to Chapter 54 of the Connecticut General Statutes, §9-7b of the Connecticut General Statutes, and §9-7b-35 of the Regulations of Connecticut State Agencies. Attorneys Marc Crayton and Kevin Ahern appeared on behalf of the State of Connecticut, and the Respondent Beatriz Román appeared *pro se*. Both sides presented evidence consisting of testimony and documentary evidence.

After consideration of the entire record, the following facts are found and conclusions of law are made:

1. In a sworn letter dated August 9, 2007, Complainant Shirley Surgeon, then the Democratic Registrar for the City and Town of Hartford, filed this complaint with the Commission, stating that “many individuals” had circulated primary petitions for more than one mayoral candidate, apparently in violation of Section 9-410 (c). *See Joint Ex. 1*. Complainant-registrar did not identify individuals who she believed had violated this statute. Ms. Surgeon asked the Commission to investigate the matter, stating: “Although it is the City of Hartford’s position that it acted properly and in compliance with Connecticut law when the aforementioned petitions were rejected, I believe that it is my obligation, as Democratic Registrar of Voters, to inform the Commission of this violation of State election law so a thorough investigation of it can occur.” *Joint Ex. 1*.
2. The Commission’s Regulations authorize a Hearing Officer in a contested case to “take administrative notice of judicially cognizable facts, including the records and the prior decisions and orders of the Commission.” Regs., Conn. State. Agencies § 9-4b-41 (d).
3. Pursuant to Section 9-4b-41 (d) of the Regulations of Connecticut State Agencies, the Hearing Officer takes administrative notice of the legislative act amending Gen. Stat. § 9-410 (c), three prior court decisions related to this case, and 12 final decisions approved by the Commission that arose out of the same set of operative facts at the case addressed in this report. Specifically, the Hearing Officer takes notice of the following: Public Act 78-125 “An Act Concerning Election Complaints and the Revision of Primary Petition Circulation to Preclude Possible Fraud;” *Gonzalez v. Surgeon*, 2007 WL 2742318 (Conn. Super., Aug. 29, 2007); *Gonzalez v.*

Surgeon, 284 Conn. 554 , 937 A.2d 13 (Sept. 19, 2007); *Gonzalez v. Surgeon*, 284 Conn. 5573 , 937 A.2d 24 (Sept. 19, 2007); Final Decision, State Elections Enforcement Commission, Case No. 2007-336 (Maria Diaz, Respondent) (Feb. 10, 2009); and Final Decision, State Elections Enforcement Commission, Case No. 2007-336 (Ramfis Borque-Colon, Respondent) (Feb. 26, 2009).

4. In 2007, Respondent circulated a primary petition for Minnie Gonzalez in support of Gonzalez's failed attempt to secure ballot status for a Hartford mayoral primary. See ***Joint Ex. 6B***. Respondent circulated the single petition sheet of signatures in support of Gonzalez's candidacy on Saturday, July 21, 2007, and Sunday, July 22, 2007. ***Román Hearing Testimony***. The Respondent's single primary petition supporting Gonzalez was notarized on July 23, 2007. ***Joint Ex. 6B***.
5. On Tuesday, July 24, 2007, several individuals, including Respondent, filed an application for primary petition and a candidate consent form to obtain petitions allowing them to appear as a challenge slate on the Democratic ballot for the primary. The challenge slate's consent form named Andrea Comer, Eric Crawford, Maria Diaz, David Morin, Paolo Mozzicato and Beatriz Roman as candidates for the court of common council and Jonathan Clark as a candidate for the office of mayor. ***Gonzalez v. Surgeon*, 284 Conn. 573, 577, 937 A.2d 24 (Conn. 2007)**.
6. After registering the challenge slate on Tuesday, July 24, 2007, Respondent read the instructions for circulating petitions. ***Román Hearing Testimony***. In reviewing the circulator's instructions that accompanied the primary petitions that she received for her candidacy, Respondent realized that by circulating petitions for Gonzalez and the challenge slate she could violate Section 9-410 (c). ***Id.*** Respondent testified that she contacted other members of her slate as well as candidate Minnie Gonzalez. ***Id.*** Respondent testified that she asked Gonzalez whether Respondent could violate the law by circulating primary petitions for both the challenge slate and Gonzalez. ***Id.***
7. According to her uncontroverted hearing testimony, it is Respondent's understanding that Gonzalez then sought a clarification of the prohibition in Section 9-410 (c) from Complainant-Registrar. ***Román Hearing Testimony***. Respondent was told by Gonzalez that Complainant-Registrar had indicated that respondent could turn in the petition signatures she had collected for Gonzalez without penalty. ***Id.***
8. After asking Gonzalez to find out about the propriety of submitting the petitions, Respondent ceased collecting signatures on behalf of Gonzalez and collected signatures exclusively for the challenge slate. ***Román Hearing Testimony***. Respondent relied on Gonzalez who communicated Complainant-Registrar's interpretation of Section 9-410 (c) that submitting the primary petition signatures that Respondent had collected prior to the creation of the challenge slate would not violate the statute. ***Id.***
9. Complainant-Registrar Surgeon consulted the Secretary of the State's office for advice on how to handle the primary petitions submitted by those cross-circulators. She received verbal advice, which was later provided also in writing. See ***Respondent's Ex. A. Electronic Mail Message from Ted Bromley to***

SURGS001@hartford.gov “FW: Primary Petitions” (August 16, 2007), including Memorandum to Lesley D. Mara, Deputy Secretary of State, from Mike Kozik, Managing Attorney, “Circulation of Primary Petitions in Violation of CGS § 9-410(c)” (Aug. 9, 2007). The Secretary of the State’s office informed the Complainant-Registrar that she had the discretion to accept some of the primary petitions gathered by Respondent and the other circulators based on when those signatures were collected:

If the Registrars (sic) of Voters is able to determine that some of the primary petitions in question were in fact circulated in advance of a competing candidacy, the Registrar would have the discretion to validate and count the signatures on those petition pages; for example, where there is satisfactory proof that a circulator ceased circulating petitions for one candidate before circulation began exclusively for another candidate. *Id.*

Managing Attorney for the Secretary of the State Mike Kozik stated that, in reaching the conclusions contained in the advice of the Secretary of the State, he had reviewed prior decisions of the Secretary of the State as well as legislative history surrounding the adoption of the restrictions on cross-circulation included in General Statutes § 9-410 (c). *Id.* Ted Bromley, a staff attorney with the Secretary’s Legislation and Elections Administration Division, noted in an August 16, 2007 electronic message to Complainant-Registrar that accompanied the Kozik memorandum that the registrar could count the petition signatures if the petitions “were not circulated simultaneously” and remarked that he understood that Complainant-Registrar Surgeon had already followed the Secretary of the State’s advice in this matter. *Id.*

10. General Statutes § 9-3 designates the Secretary of the State as the state’s “Commissioner of Elections” and specifies that any written decisions rendered by the Secretary of the State on an election question shall be presumed correct in the administration of elections and primaries. *See Gen. Stat. § 9-3 (2009).*
11. On August 6, 2007, Complainant-Registrar validated the primary petition signatures that Respondent collected for both Gonzalez and the challenge slate, based on the fact that the signature page Respondent submitted in support of Gonzalez was notarized before the formation of the challenge slate. *Surgeon Hearing Testimony. See also Joint Ex. 6a & 6b.* Complainant-Registrar certified the 18 signatures that Respondent collected as valid and included them in the final tally of the total petition signatures collected in support of Gonzalez’s candidacy. *See Joint Exhibit 6b.* In contrast, Complainant-Registrar Surgeon invalidated petition signatures collected by other circulators who had cross-circulated primary petitions for two separate mayoral candidates, namely Jonathan Clark and Minnie Gonzalez. *See, e.g., Joint Ex. 5a and 5b (Petitions Circulated by Borque-Colon); Joint Ex. 7a and 7b (Petitions Circulated by Maria Diaz).*

12. On August 8, 2007, the deadline date for filing the petitions, Complainant-Registrar informed Gonzalez that she had rejected some of the petitions submitted on Gonzalez' behalf. Several days later, Complainant-Registrar determined that neither Gonzalez nor the challenge slate had obtained enough signatures on valid petitions to qualify to appear on the primary ballot. *Gonzalez v. Surgeon*, 284 Conn. 573, 577, 937 A.2d 24 (Conn. 2007).
13. On August 20, 2007, Gonzalez and certain members of the slate sued complainant-registrar in Hartford Superior Court to enjoin her invalidation of the primary petitions. *See Gonzalez v. Surgeon*, 2007 WL 2742318, at *1 (Conn. Super., Aug. 29, 2007), *aff'd*, 284 Conn 573, 579. Respondent was a plaintiff in a companion case that was consolidated with the *Gonzalez* matter. *Id.* (identifying Román as plaintiff in *Comer v. Surgeon*, Docket No. CV 07 4032321, which was consolidated with *Gonzalez v. Surgeon* at trial). The consolidated cases quickly reached the Connecticut Supreme Court, which upheld the lower court's decision that the invalidation of certain primary petitions was proper. *See Gonzalez v. Surgeon*, 284 Conn. 554, 937 A.2d 13 (Conn., Sept. 19, 2007). Neither the trial nor appellate courts considered the propriety of petitions circulated under the facts of the matter presenting before this Hearing Officer.
14. In September 2007, the Connecticut Supreme Court determined that the timing of the circulation of the petitions, upon which the Secretary of the State had based her verbal advice as memorialized in the August 9, 2007 memorandum, did not affect the application of Gen. Stat. § 9-410 (c). Noting that the Court was not asked to rule on the validity of petition signatures collected before the creation of the challenge slate on July 24, 2007, such as the ones that Respondent Román had collected, the Court remarked that the analysis it had applied to the broader application of the statute would likely apply in that situation as well and would lead to the invalidation of the nominating petitions submitted by Respondent as well.

As we have indicated, in this case, Surgeon accepted all petitions that were circulated on behalf of Gonzalez before the challenge slate submitted its application for primary petition to Surgeon on July 24, 2007, regardless of whether the petitions were submitted by persons who subsequently circulated petitions for the challenge slate. In doing so, Surgeon followed the advice of the secretary of the state. That action has not been challenged in this appeal. In light of the foregoing analysis, however, we can see no reason to distinguish petitions filed on behalf of Gonzalez before the official creation of the challenge slate from petitions filed later for purposes of § 9-410 (c).

Gonzalez v. Surgeon, 284 Conn. 554, 568, FN 11, 937 A.2d 13, 22 (2007).

15. It appears under the Supreme Court's analysis in the above-cited case that the Respondent's circulation of a primary petition for Gonzalez and for Respondent's own challenge slate that included mayoral candidate Jonathan Clark violated Gen. Stat. § 9-410 (c).¹
16. But Respondent's actions in this case indicate that she took every step possible to avoid violating the statute, including alerting Gonzalez and other circulators about the potential problems that could arise if they circulated primary petitions for Gonzalez and the challenge slate; waiting for advice from the registrar before submitting signatures she had collected for Gonzalez; and ceasing to collect signatures in support of Gonzalez's primary petition once the challenge slate was formed.² *Román Hearing Testimony.*
17. Nothing in the documentary or testimonial record contradicts Respondent's testimony that she alerted Gonzalez about the "cross circulation" issue and that she sought advice regarding § 9-410 (c) from Complainant-Registrar Surgeon, albeit through Gonzalez instead of directly. The Hearing Officer finds Respondent's testimony in this regard credible and overrules any hearsay objection to Respondent's testimony evidence, citing Complainant-Registrar's validation of Respondent's primary petitions on behalf of Gonzalez as corroborating evidence that Complainant-Registrar believed Respondent's primary petitions were valid under § 9-410 (c).
18. Because of the Supreme Court's analysis of § 9-410 (c) issued in September 2007, however, the Commission must find an inadvertent violation of that statute because of Respondent's circulation of primary petitions in July 2007 for "more than the maximum number of candidates to be nominated by a party for the same office" *Gen. Stat. § 9-410 (c) (2009)*. In this instance, Respondent circulated primary petitions for mayoral candidates Gonzalez and Clark.
19. It is concluded that the Respondent violated Gen. Stat. § 9-410 (c) by circulating primary petitions for two candidates for the same office in the 2007 Democratic Primary for the City of Hartford.
20. The Commission's regulations allow the Commission to reduce a civil penalty based on mitigating factors. *See Reg. of State Agencies § 9-7b-48 (2009)*. (allowing Commission to determine the amount of the civil penalty to be imposed and requiring it "to consider, among other mitigating or aggravating circumstances, (1) the gravity of the act or omission; (2) the amount necessary to insure immediate and continued compliance; (3) the previous history of similar acts or omissions; and (4)

¹ Applying this analysis to its logical conclusion, it would also appear that the complainant-registrar acted improperly when validating certain signatures submitted by respondent and other circulators based on the date on which those primary petitions were notarized.

² In contrast to similarly situated respondents Maria Diaz and Ramfis Borque-Colon, who negotiated a settlement with the Commission and paid a \$200 civil penalty each, Respondent Román did not circulate primary petitions for Gonzalez after the creation of the challenge slate on July 24, 2007. Both Diaz and Borque-Colon circulated primary petitions for Gonzalez after July 24, 2007.

whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.”)

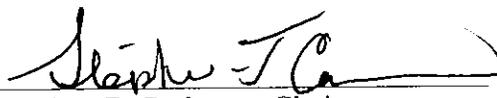
21. In this case, full mitigation is an appropriate resolution. Among the factors that the Commission may consider are the gravity of the act; previous history, and showing of good faith in attempting to comply with the statute. *Id.* Román ceased collecting petition signatures once she registered as a member of a challenge slate and began petitioning for that slate; she has no previous history with the Commission; and she submitted the petition signatures she had collected for Minnie Gonzalez only after receiving advice through Gonzalez from the registrar of voters that doing so would not violate Section 9-410 (c). The signatures that Respondent collected bore no significance in relation to the election since neither Gonzalez nor the challenge slate collected enough signatures to qualify for the ballot. Based upon the facts found, the Respondent has shown good faith in attempting to comply with applicable provisions of the General Statutes. She sought advice and followed the advice that she received. Although the Connecticut Supreme Court ultimately disagreed with the Secretary of the State’s analysis, the Respondent could not have foretold this. At the time she acted, she was acting in accord with the advice being issued by the Secretary of the State and the Complainant–Registrar.

The following is hereby ordered on the basis of these findings and conclusions:

ORDER

IT IS ORDERED that henceforth the Respondent shall circulate petitions only for a single candidate, in compliance with Gen. Stat. § 9-410(c).

Adopted this 5th day of August, 2009 at Hartford, Connecticut.



Stephan F. Cashman, Chairman
By Order of the Commission

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by
Elections Officer

File Nos. 2008-050NF,
2008-100NF, 2008-191NF

AGREEMENT CONTAINING CONSENT ORDER AND A PAYMENT OF A
CIVIL PENALTY FOR VIOLATIONS OF
CONNECTICUT GENERAL STATUTES § 9-608 & § 9-623

This Agreement, by and between China Byrd, hereinafter referred to as the Respondent, of the City of New Haven, County of New Haven, State of Connecticut and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Connecticut General Statutes § 4-177 (c) and section 9-7b-54 of the Regulations of Connecticut State Agencies and.

In accordance herewith, the parties agree that:

1. The Respondent is the treasurer for "AFSCME Local 478 PAC," an ongoing political committee (the "Committee") established by AFSCME Local 478, a labor organization. Respondent was designated treasurer of that committee on June 11, 2007 and remained treasurer of that Committee during all times relevant to these matters.
2. General Statutes § 9-608, provides in pertinent part:

(1) Each campaign treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603, (A) on the tenth calendar day in the months of January, April, July and October, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day, (B) on the seventh day preceding each regular state election [Emphasis added.]
3. General Statutes § 9-623 provides in pertinent part as follows:

(b) (1) If any campaign treasurer . . . fails to file the statements required by section 9-608 or subsection (g) of section 9-610. . . within the time required, the campaign treasurer . . . , shall pay a late filing fee of one hundred dollars.

(2) In the case of any such statement or certification that is required to be filed with the State Elections Enforcement Commission, the commission shall, not later than ten days after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than twenty-one days after such notice, the person is in violation of . . . 9-608
4. The Respondent had been the subject of four prior enforcement proceedings in File Nos. 2007-208NF, 2007-284NF, 2007-391NF, and 2008-034 in addition to the matters that are the subject of this Agreement, due to her failure to timely file disclosure statements

as required by General Statutes § 9-608. In connection with those matters she has paid a total of \$900.00 in penalties to the Commission.

5. With respect to the present matters, on April 21, 2008, an Elections Officer mailed a notice to Respondent via certified mail, return receipt requested, that she failed to file the April 10, 2008 *Itemized Campaign Finance Disclosure Statement* (SEEC 20), for the Committee. Respondent did not respond to that notice. Thus, on May 12, 2008, pursuant to General Statutes § 9-623, Respondent was referred to the Legal Enforcement Unit for failure to file the April 10, 2008 statement. That referral resulted in enforcement proceeding File No. 2008-050NF, which is disposed of as part of this Agreement.
6. On June 16, 2008 a demand letter was issued to the Respondent concerning File No. 2008-050NF. In that letter, the Commission requested the April 10, 2008 filing and sought a penalty of \$700.00. The Respondent did not, however, provide the Commission with the untimely filing until October 8, 2008.
7. In addition, on July 21, 2008, an Elections Officer mailed notice to Respondent via certified mail, return receipt requested, that she failed to file the July 10, 2008 *Itemized Campaign Finance Disclosure Statement* (SEEC 20), for the Committee. Respondent failed to respond to that notice. Thus, on August 12, 2008, pursuant to General Statutes § 9-623, Respondent was referred to the Legal Enforcement Unit for failure to file the July 10, 2008 Statement. This referral resulted in enforcement proceeding File No. 2008-100NF, which is disposed of as of this agreement.
8. On August 29, 2008 a demand letter was issued to the Respondent concerning File No. 2008-100NF requesting the July 10, 2008 filing and seeking a civil penalty of \$800.00. The Respondent did not, however, provide the Commission with the untimely filing until October 8, 2008.
9. Finally, on November 7, 2008, an Elections Officer mailed notice to Respondent via certified mail, return receipt requested that she failed to file the October 28, 2008 *Itemized Campaign Finance Disclosure Statement* (SEEC 20), for the Committee. On December 16, 2008, pursuant to General Statutes § 9-623, Respondent was referred to the Legal Enforcement Unit for failure to file that Statement. This referral resulted in enforcement proceeding File No. 2008-191NF, which is disposed of as part of this agreement.
10. On December 30, 2008 a demand letter was issued to the Respondent concerning File No. 2008-100NF requesting the October 28, 2008 filing and seeking a civil penalty of \$900.00. The Respondent did not, however, provide the Commission with the untimely filing until January 27, 2009.
11. It is therefore concluded that the Respondent failed to timely file three *Itemized Statements of Receipts and Expenditures* on behalf of the Committee, each instance constituting a violation of General Statutes § 9-608.
12. The Commission notes that Respondent could have settled each of the above matters by paying a civil penalty of \$100 and filing the requisite disclosure statements within 21 days of the original notice to Respondent pursuant to General Statutes § 9-623.

13. It is also noteworthy that with respect to File Nos. 2008-050NF and 2008-100NF, the Respondent was repeatedly assisted by Commission staff assigned to investigate those matters. Specifically, Commission staff mailed the Respondent a 2008 filing calendar as well as the requisite forms and their instructions. Commission staff also followed up with the Respondent to ensure that she understood her filing responsibilities pursuant to General Statutes § 9-608.
14. Furthermore, prior to the Respondent's October 28, 2008 filing deadline, Commission staff repeatedly reminded the Respondent during a telephone conversation that she needed to meet that filing requirement. Again, Commission staff mailed the Respondent the requisite forms along with their instructions. The Respondent acknowledged that she understood the filing requirement and planned to comply with it.
15. As such, the Commission also concludes that the Respondent was fully aware of the filing requirements prescribed in General Statutes § 9-608 relating to her filing responsibilities as treasurer of the Committee. Nevertheless, the Respondent failed to meet her October 28, 2008 filing requirement in violation of General Statutes § 9-608.
16. Finally, General Statutes § 9-623 provides that "[t]he penalty for any violation of section . . . 9-608 . . . shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both." As of this date, the Respondent has only paid \$1,000.00 toward the \$2400.00 in civil penalties offered as settlements in File Nos. 2008-050NF, 2008-100NF, and 2008-191NF. It should be noted that Respondent's exposure is up to \$6,000 in fines, and if this matter proceeded to a hearing, that the enforcement staff would likely be seeking her removal as treasurer.
17. The Respondent has resisted being removed treasurer, and agrees to resolve this matter understanding that should she miss another filing date, the Commission will seek her removal as treasurer, seek maximum fines, and may refer her to the Chief State's Attorney's office for criminal prosecution.
18. Connecticut General Statutes § 9-7b(a)(2) provides that the Commission may assess a civil penalty of two thousand dollars or twice the amount of the improper contribution or expenditure for each violation of Chapter 155 of the General Statutes. Pursuant to Regulations of Connecticut State Agencies §9-7b-48, in determining the amount of a civil penalty, the Commission shall consider, among other mitigating and aggravating factors:
 - (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
19. The Commission finds that Respondent has deprived the public of information which is a serious offense; and has, despite a prior history of failing to file with the Commission, not shown good faith efforts to comply with the matters addressed by this agreement.

20. It is understood and agreed that this Agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.

21. The Respondent waives:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the agreement or Order entered into pursuant to this Agreement.

22. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall pay a civil penalty to the State of Connecticut in the sum of two thousand four hundred dollars (\$2,400.00), \$1,000 due upon adoption of this agreement. The Respondent shall make payment of the remaining fourteen hundred dollars (\$1,400) of the civil penalty being paid as follows: \$250 by February, 28, 2009; \$250 by March 31, 2009; \$250 by April 30, 2009; \$250 by May 29, 2009; \$250 by June 30, 2009; and the remaining \$150 by July 31, 2009.

IT IS FURTHER ORDERED that the Respondent shall henceforth comply with Connecticut General Statutes §§ 9-608 and 9-623.

This matter will remain open until such time as payment is made in full. The Respondent understands and agrees that his failure to meet the terms of this Agreement shall result in legal action by the Commission to enforce it and that the prevailing party shall be entitled to court costs, attorney's fees, and interest calculated from the date of the delinquency. Further, the Respondent understands that her failure to meet the terms of this agreement will result in the Commission's initiation of removal proceedings against her pursuant to General Statutes § 9-7b(a)(3)(b).

For the Respondent:
Commission:

By: *China Byrd*
China Byrd
1 Brewery Square
New Haven, Connecticut

For the State Elections Enforcement

By: *Joan Andrews*
Joan M. Andrews, Esq.
Director of Legal Affairs and
Enforcement and Authorized
Representative of the
State of Connecticut,
State Elections Enforcement
Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: _____

Dated: _____

Adopted this 17th day of Aug of 2009 at Hartford, Connecticut.

Stephen F. Cashman
Stephen F. Cashman
Chairman
By Order of the Commission

JUL 24 2009

STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION **ENFORCEMENT
COMMISSION**

In the Matter of a Complaint by
Lillian Arciniegas, Hartford

File No. 2008-152

**AGREEMENT CONTAINING CONSENT ORDER
FOR A VIOLATION OF GENERAL STATUTES § 9-140(a)**

This agreement by and between Daphne Joseph, of the City of Hartford, County of Hartford, State of Connecticut, hereinafter referred to as the Respondent, and the undersigned authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. The Respondent at all relevant times served as Director of Therapeutic Recreation at Ellis Manor, 210 George Street, Hartford.
2. Complainant, who worked to get-out-the vote for Carmen I. Sierra a candidate for state representative at the August 12, 2008 City of Hartford Democratic primary, alleged that various private individuals and officials at the Hartford Town Clerk's office violated election laws pertaining to absentee ballot applications and absentee balloting pertaining to that primary.
3. Specifically, Complainant alleged that:
 - (1) A resident of 65 Eaton Street, Hartford, claimed she did not sign an absentee application that was signed by an assister and dated by the Town Clerk's office July 2, 2008;
 - (2) Seven absentee applications from 65 Eaton Street signed by the same assister, as referenced immediately above, were received and date stamped by the Town Clerk's Office at 4:33 AM – 4:34 AM, which, because the Town Clerk's Office is not open at this time, evidenced "tampering" with the date and time stamp machine;
 - (3) On August 5, 2008, supervised absentee balloting was conducted at 65 Eaton Street, despite there not being the necessary amount of absentee ballot applications to allow for supervised balloting at this residence;
 - (4) A staff member at 210 George Street, Hartford, signed the signature line on absentee ballot applications of three residents without signing the word "by" before their signatures and

possibly without their consent, and that these ballots could have possibly been cast by this staff member;

(5) Individuals who conducted supervised balloting at 65 Eaton Street were providing residents, who had already voted, absentee ballots to assist other residents to vote who were incapable of attending the supervised balloting held in the recreational room. These residents were not supervised by the those conducting absentee balloting;

(6) An individual was issued her absentee ballot on July 25, 2008 although the ballot application was received on July 3, 2008. This ballot should have been issued on July 22, 2008 just like the other applications received prior to July 22, 2008;

(7) An individual from 288 White Street lost the first absentee ballot and was sent another absentee ballot in its place. On the form requesting an additional ballot the date stamp was July 32, 2008 at 7:32 AM. This is evidence of "tampering" with the date stamp machine; and,

(8) Several absentee ballots were sent out late (all within five business days), and not within the twenty-four hour period from receipt of the applications as required. Absentee ballot applications received from members of Complainant's slate of candidates, were sent out late and her slate was "treated unfairly" regarding submission of absentee ballot applications as compared to the opposition slate of candidates.

4. The only allegation implicating the Respondent is *Allegation Four*. The other allegations are addressed with other Respondents or potential Respondents in other documents.
5. Ellis Manor at 210 George Street, Hartford is an institution and a mandatory supervised absentee voting location, pursuant to General Statutes § 9-159q.
6. General Statutes § 9-140 provides in pertinent part:
 - (a) Application for an absentee ballot shall be made to the clerk of the municipality in which the applicant is eligible to vote or has applied for such eligibility. Any person who assists another person in the completion of an application shall, in the space provided, sign the application and print or type his name, residence address and telephone number. Such signature shall be made under the penalties of false statement in absentee balloting. The municipal clerk shall not invalidate the application solely because it does not contain the name of a person who assisted the applicant in the completion

of the application. ... The application shall be signed by the applicant under the penalties of false statement in absentee balloting on (1) the form prescribed by the Secretary of the State pursuant to section 9-139a, ...

Any such absentee ballot applicant who is unable to write may cause the application to be completed by an authorized agent who shall, in the spaces provided for the date and signature, write the date and name of the absentee ballot applicant followed by the word "by" and his own signature. If the ballot is to be mailed to the applicant, the applicant shall list the bona fide personal mailing address of the applicant in the appropriate space on the application.

[Emphasis added.]

7. Respondent acknowledges that she signed the names of three residents at Ellis Manor at 210 George Street on their absentee ballot applications. Respondent further acknowledges that she signed each application as an assister but did not write the word "by" next to her name each application.
8. Respondent claims that she assisted the applicants at their behest, but was unaware of the requirement to write the word "By" on each application, although notice of said requirement is contained on the absentee ballot application form. Respondent denies, however, that she voted their absentee ballots.
9. The Commission finds that Respondent signed the application as assister and provided her name, address and telephone number, and made no effort to conceal her involvement.
10. The Commission concludes that Respondent violated General Statutes § 9-140(a) by not writing "By" and signing her name when she signed the names of each of the three individuals.
11. Complainant alleged that Respondent "possibly" voted the ballots of the individuals referenced in paragraphs 7 and 8 above, but did not otherwise specify the basis for her allegation. Respondent denies this allegation, and the Commission has uncovered no evidence to the contrary.
12. The Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and Order entered into after a full hearing and shall become final when adopted by the Commission.

13. The Respondent waives:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this agreement.

14. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her.

15. It is understood and agreed that this agreement will be submitted to the Commission for consideration at its next meeting and, if it is not accepted by the Commission, it is withdrawn and may not be used as an admission in any subsequent hearing, if the same becomes necessary.

JUL 13 2009

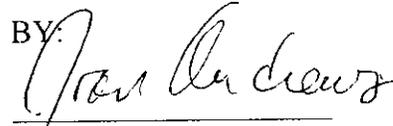
ORDER

ENFORCEMENT
COMMISSION

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-140(a).

For the State of Connecticut

Dated: 7/22/09

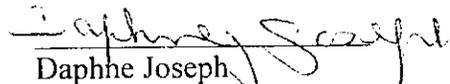
BY: 

Joan M. Andrews, Esq.,
Director of Legal Affairs and Enforcement
and Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

The Respondent

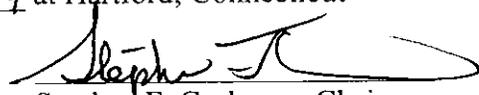
Dated:

BY:



Daphne Joseph
210 George Street
Hartford, Connecticut

Adopted this 5th day of Aug of 2009 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Rae Tramontano and Sharon Ferrucci,
Registrars of Voters, New Haven

File No. 2009-013

FINDINGS AND CONCLUSIONS

The Complainants, City of New Haven Registrars of Voters, filed this complaint with the Commission, pursuant to Connecticut General Statutes §9-7b(a)(1), alleging that Andrew N. Patrick voted in both Glastonbury and in the New Haven at the November 4, 2008 presidential election.

After an investigation of this matter, the following findings and conclusions are made:

1. The Respondent's name appeared on both the Town of Glastonbury and City of New Haven official active list of voters for the November 4, 2008 presidential election. Respondent completed a voter registration application for Glastonbury dated October 18, 2004, and subsequently, a registration application for New Haven dated October 23, 2008.
2. The voter history section of the Connecticut Voter Registry System for both Glastonbury and New Haven indicate that Respondent voted in person in both locations at the November 4, 2008 presidential election. The Respondent's name is crossed off at each address on the official voter registry list at his registration address in each town, District 6 in Glastonbury and District 9 in New Haven.
3. Respondent's voter registration card from New Haven provides an 18 Cottage Street #2 address, and his voter registration card from Glastonbury provides an address of 19 Bidwell Street. When Respondent registered in New Haven, he disclosed 19 Bidwell Street, Glastonbury, in the "Name or Address Change" data field. Voting District 6 in Glastonbury is at Glastonbury High School.
4. General Statutes § 9-360 provides:

Any person not legally qualified who *fraudulently votes in any town meeting, primary, election or referendum in which the person is not qualified to vote*, and any legally qualified person who, at such meeting, primary, election or referendum, *fraudulently votes more than once at the same* meeting, primary, *election* or referendum, shall be fined not less than three hundred dollars or more than five hundred dollars and shall be imprisoned not less than one year or more than two years and shall be disfranchised. ... [Emphasis added.]

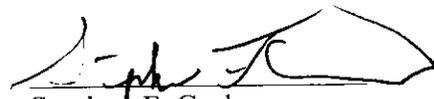
5. The Respondent, asserts that he moved from Glastonbury to New Haven in March 2005, denies voting in Glastonbury, and asserts that he voted only in New Haven at the November 4, 2008 election.
6. The Respondent's father, a resident of Glastonbury who voted at the District 6 polling place at Glastonbury High School on November 4, 2008, indicated that he and his other son announced their names at the checker's table on November 4, 2008 when they went to vote together, and that the checker mistakenly crossed off Andrew Patrick's name rather than that of his brother Jordan Patrick, whose name is adjacent to his on the voting list and was present to vote.
7. The District 6 Moderator in Glastonbury on November 4, 2008, completed a Form 6 "*Re: Remedy When Elector's Name Erroneously Checked Off List*" that indicates that the "Checker crossed [Respondent's] name off in error when [Respondent's] brother came to vote." Further, the Moderator's diary for that day records this error and indicates that Respondent's brother, who was registered at 19 Bidwell Street, presented himself to vote and that his name was erroneously checked off as that of Respondent.
8. The Commission concludes that Respondent's name was crossed off as having voted in Glastonbury at the November 4, 2008 election, in error, when his brother presented himself at the checker's table to vote. The Commission concludes that the Respondent only voted in New Haven on November 4, 2008 and therefore did not violate General Statutes § 9-360.
9. The Commission considers double voting an egregious act, and commends the Complainants, as the City of New Haven Republican and Democratic Registrars of Voters, for their diligence in calling this potentially serious infraction to its attention.

ORDER

The following order is issued on the basis of the aforementioned findings and conclusions:

That the complaint is dismissed, and based upon the evidence gathered in this matter, the Glastonbury Registrars of Voters should be instructed to remove Andrew N. Patrick from the Glastonbury voter registry list, if they have not already done so.

Adopted this 5th day of Aug, 2009 at Hartford, Connecticut.



Stephen F. Cashman
Chairman
By Order of the Commission

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Claude L. Holcomb, Hartford

File No. 2009-029

FINDINGS AND CONCLUSIONS

The Complainant filed this complaint with the Commission, pursuant to Connecticut General Statutes §9-7b(a)(1), alleging that it took four hours to cast his vote by phone upon arriving at his polling place on November 4, 2008.

After an investigation of this matter, the following findings and conclusions are made:

1. Complainant alleged that he went to vote on November 4, 2008 at the District 9 Burns Elementary School polling place in Hartford. After checking in to vote by Accessible Vote-by-Phone System (AVS), he discovered that the facsimile machine for the vote-by-phone system was not correctly hooked up to receive calls, and he was not able to use the system without extensive delay.
2. After unsuccessful attempts by the District 9 Moderator and polling place officials to activate the vote-by-phone system, Complainant was still not able to vote. Complainant proceeded to the Office of the Secretary of State's office, to seek assistance from the Elections Division to get the District 9 AVS system operational.
3. The AVS was selected by the Office of the Secretary of the State (SOTS) to comply with the Help America Vote Act of 2002 (HAVA) which requires at least one voting system equipped for individuals with disabilities at each polling place. The SOTS chose the Inspire Vote-by-Phone System ("IVS") to satisfy this requirement, and refers to it as the Accessible Vote-by-Phone system. The Attorney General of Connecticut has issued an opinion which requires that the AVS be used in all elections in Connecticut.
4. The Office of the Secretary of the State was able to coordinate with the Democratic Registrar of Voters and affect a solution to his problems with voting. After receiving information that the District 9 vote-by-phone system was functioning properly, Complainant returned to his polling place and was able to cast his ballot using the system.
5. Therefore, after approximately four hours, Complainant was finally able to vote using the vote-by-phone system, after the intervention by both the officials at the Office of the Secretary of the State and the Democratic Registrar of Voters.

6. General Statutes § 9-236b, provides in pertinent part:

(a) The Secretary of the State shall provide each municipality with sufficient quantities of a poster size copy, at least eighteen by twenty-four inches, of a Voter's Bill of Rights, which shall be posted conspicuously at each polling place. The text of the Voter's Bill of Rights shall be:

"VOTER'S BILL OF RIGHTS

Every registered voter in this state has the right to:

...

(9) Vote independently and in privacy at a polling place, regardless of physical disability. ...

7. The Commission finds that, although, there is little question that the Complainant had considerable difficulty voting using the vote-by-phone system when he first arrived at the polls due to equipment failure and lack of adequate set-up prior to the opening of the polls, the Complainant was eventually able to cast his vote privately and independently by use of the vote-by-phone system.
8. Therefore, the Commission concludes that because Complainant was ultimately able to vote privately and independently at the District 9 Burns Elementary School polling place there was no violation of General Statutes § 9-236b(a)(9).
9. General Statutes § 9-247, provides in pertinent part:

The registrars of voters shall, before the day of the election, ***cause the mechanic or mechanics to insert on each machine the ballot labels corresponding with the sample diagrams provided and to put each such machine in order in every way and set and adjust the same so that it shall be ready for use in voting when delivered at the polling place.*** Such registrars shall cause the machine so labeled, in order and set and adjusted, to be delivered at the polling place, together with all necessary furniture and appliances that go with the same, at the room where the election is to be held, not later than six o'clock in the afternoon of the day preceding the election. Each ***voting machine*** shall be furnished with light sufficient to enable electors while voting to read the ballot labels and suitable for use by the election officials in examining the counters. A pencil shall also be provided, within each voting machine, for use in casting a write-in ballot.

10. The Commission finds that, to the extent § 9-247 provides authority for the Commission over set-up of voting machines prior to an election, the statute clearly contemplates the lever voter machines, which are no longer in use, and has not been amended to incorporate current voting technologies such as the voting tabulators and the vote-by-phone system at issue in this complaint.
11. The Commission concludes therefore, despite any errors in setting up the vote-by-phone system machine at the District 9 polling place or the failure to have it functioning at the opening of the polls, which appears to have occurred in this instance, the Commission lacks the ability to rely on General Statutes § 9-247 to fashion a remedy due to that statute's antiquated references to a voting technology that is no longer used in Connecticut.
12. The Commission further considered whether election officials were properly trained on the new technology. In that regard, General Statutes § 9-249, provides, in pertinent part:

(a) Before each election, the registrars of voters, certified moderator and certified mechanic shall instruct the election officials. Any provision of the general statutes or of any special act to the contrary notwithstanding, election officials shall be appointed at least twenty days before the election except as provided in section 9-229. The registrars, certified moderator and certified mechanic shall instruct each election official who is to serve in a voting district in which a voting machine is to be used in the use of the machine and his duties in connection therewith, and for the purpose of giving such instruction, such instructors shall call such meeting or meetings of the election officials as are necessary. Such instructors shall, without delay, file a report in the office of the municipal clerk and with the Secretary of the State, (1) stating that they have instructed the election officials named in the report and the time and place where such instruction was given, and (2) containing a signed statement from each such election official acknowledging that the official has received such instruction.

(b) The election officials of such voting districts shall attend the elections training program developed under subdivision (1) of subsection (c) of section 9-192a and any other meeting or meetings as are called for the purpose of receiving such instructions concerning their duties as are necessary for the proper conduct of the election.

...

(d) No election official shall serve in any election unless the official has received such instruction and is fully qualified to perform the official's duties in connection with the election, but this shall not prevent the appointment of an election official to fill a vacancy in an emergency. [Emphasis added.]

13. The Commission finds that training sessions for election officials, as well as an extra-statutory training session occurred for moderators prior to the November 4, 2008, which included training on the AVS vote-by- phone system.
14. In addition, the Commission concludes based upon its investigation that there was ample available information to the Hartford Registrars of Voters pertaining to the training of election officials, and specifically regarding the set-up and operation of the vote-by-phone system, which has been in use in Connecticut since November 2006, prior to the November 2008 election, and Complainant's problems with using the vote-by-phone system could have been avoided with due diligence.
15. The Commission concludes therefore that the Hartford Registrars of Voters did not violate General Statutes § 9-249, and trained election officials as required prior to the November 4, 2008 election.
16. Turning to the next allegation, Complainant also alleged that he witnessed Hartford Councilman Calixto Torres casting a vote for an elderly woman.
17. General Statutes § 9-264 provides:

(a) An elector who requires assistance to vote, by reason of blindness, disability or inability to write or to read the ballot, may be given assistance by a person of the elector's choice, other than (1) the elector's employer, (2) an agent of such employer or (3) an officer or agent of the elector's union. The person assisting the elector may accompany the elector into the voting machine booth. Such person shall register such elector's vote upon the machine as such elector directs. Any person accompanying an elector into the voting machine booth who deceives any elector in registering his vote under this section or seeks to influence any elector while in the act of voting, or who registers any vote for any elector or on any question other than as requested by such elector, or who gives information to any person as to what person or persons such elector voted for, or how he voted on any question, shall be fined not more than one thousand dollars or imprisoned not more than five years or both.

[Emphasis added.]

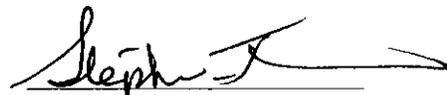
18. The Commission concludes that there is insufficient evidence to establish that Mr. Torres violated General Statutes § 9-264 by instructing an individual how to cast their ballot.
19. The Commission considers an individual's right to cast a vote privately and independently as a fundamental guarantee in any election. Therefore, the Commission finds Complainant's allegations and lengthy ordeal highly problematic.
20. Furthermore, the Commission finds, based on the facts supporting Complainant's allegations, and information that the City of Hartford had been aware of Complainant's previous difficulties in casting votes in District 9, prior to the November 4, 2008, that the Complainant's experience of waiting over four hours to cast a vote privately and independently deeply disturbing. Also troubling, was the City of Hartford's inability to anticipate, avoid or alleviate Complainant's problem prior to the opening of the polls on November 4, 2008.
21. Nevertheless, although such a system is required by the federal Help America Vote Act, state law has not kept pace. The AVS system used in Connecticut to comply with HAVA is not codified in Connecticut election law or regulation, leaving the Commission without a remedy for the undue delay and difficulties experienced by the Complainant.

ORDER

The following order is issued on the basis of the aforementioned findings and conclusions:

That the complaint is dismissed.

Adopted this 5th day of Aug, 2009 at Hartford, Connecticut.



Stephen F. Cashman
Chairman
By Order of the Commission

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Therese Pac, Bristol

File No. 2008-221

FINDINGS AND CONCLUSIONS

Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and alleges that a voter, **Katherine Irene Magyar** (hereinafter "Respondent Magyar"), attempted to commit voter fraud during the November 4, 2008 Presidential Election by completing and submitting an Absentee Ballot to the Town Clerk of Bristol and also appearing at the Southside School polling place and voting in person.

After an investigation of the complaint, the following Findings and Conclusions are made:

1. The Respondent Magyar is a registered voter of the Town of Bristol and first time elector for the November 4, 2008 presidential election. She is a full time student attending the Mount Holyoke College in South Hadley, Massachusetts. During the school year she resides, temporarily, in Massachusetts, but her permanent resident is in Bristol, CT.
2. On September 30, 2008, Respondent Magyar completed and submitted an application for absentee ballot to the office of the Bristol Town Clerk. Respondent Magyar checked off on such application that she was requesting an absentee ballot because of "*my absence from the town during all the hours of voting.*" The Respondent signed and submitted the application under penalty of false statement.
3. The Respondent Magyar was issued an absentee ballot for the November 4, 2008 Presidential Election, which she completed and mailed to the Office of the Town Clerk. The ballot was received at the Office of the Town Clerk on or about November 4, 2008.
4. When the Town Clerk received the ballot, as was customary, the Registrars of Voters were informed and call was made to the polling place, and an official responded that Respondent Magyar's name was checked as having voted in person. The Registrars of Voters rejected her ballot, since it appeared she had already voted in person.
5. Connecticut General Statutes §9-135, provides:

(a) Any elector eligible to vote at a primary or an election and any person eligible to vote at a referendum may vote by absentee ballot if he is unable to appear at his polling place during the hours of voting for any of the following reasons: (1) His active service with the armed forces of the United States; (2) his absence from the town of his voting residence during all of the hours of voting; (3) his illness; (4) his physical disability; (5) the tenets of his religion forbid secular activity on the day of the primary, election or referendum; or (6) the required performance of his duties as a primary, election or referendum official at a polling place other than

his own during all of the hours of voting at such primary, election or referendum.

(b) No person shall misrepresent the eligibility requirements for voting by absentee ballot prescribed in subsection (a) of this section, to any elector or prospective absentee ballot applicant.

6. Connecticut General Statutes §9-159o provides:

Any elector who has returned an absentee ballot to the clerk and who finds he is able to vote in person shall proceed before ten o'clock a.m. on election, primary or referendum day to the municipal clerk's office and request that his ballot be withdrawn. The municipal clerk shall remove the ballot from the sealed package and shall mark the serially-numbered outer envelope, which shall remain unopened, "rejected" and note the reasons for rejection. The elector shall also endorse the envelope. The rejected ballot shall then be returned to the sealed package until delivered on election, primary or referendum day to the registrars of voters in accordance with section 9-140c. The clerk shall then give the elector a signed statement directed to the moderator of the voting district in which the elector resides stating that the elector has withdrawn his absentee ballot and may vote in person. Upon delivery of the statement by the elector to the moderator, the moderator shall cause the absentee indication next to the name of the elector to be stricken from the official checklist and the elector may then have his name checked and vote in person. In the case of central counting, the clerk shall make a similar notation on the duplicate checklist to be used by the absentee ballot counters.

7. Connecticut General Statutes § 9-359a provides:

(a) A person is guilty of false statement in absentee balloting when he intentionally makes a false written statement in or on or signs the name of another person to the application for an absentee ballot or the inner envelope accompanying any such ballot, which he does not believe to be true and which statement or signature is intended to mislead a public servant in the performance of his official function.

(b) False statement in absentee balloting is a class D felony.

8. Connecticut General Statutes § 9-360 provides:

Any person not legally qualified who fraudulently votes in any town meeting, primary, election or referendum in which the person is not qualified to vote, and any legally qualified person who, at such meeting, primary, election or referendum, fraudulently *votes more than once at the same* meeting, primary, *election* or referendum, shall be fined not less than three hundred dollars or more than five hundred dollars and shall be imprisoned not less than one year or more than two years and shall be disfranchised. Any person who votes or attempts to vote at any election, primary, referendum or town

meeting by assuming the name of another legally qualified person shall be guilty of a class D felony and shall be disfranchised.

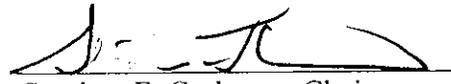
9. Respondent Magyar maintains that she did not vote in person in Bristol on November 4, 2008, and that she only voted by absentee ballot due to her school commitments on Election Day. She stated that she was eligible to vote by absentee ballot because she was out of town throughout all the hours of voting on November 4, 2008 and was never present in Bristol, Connecticut.
10. According to the Respondent Magyar's mother, Paula Magyar, when she showed up to vote in person at the Southside School a checker asked her if a member of her family had come to vote earlier on the day. Paula Magyar claimed that she and her husband, Keith Magyar, were the only members of her family that showed up to vote in person at the Southside School polling place and that her daughter, Katherine was voting absentee. Further, she explained that her husband went to vote at about 7:00 a.m. It was then that the checker told her that she made a mistake by marking Respondent Katherine Magyar's name off as voting in person instead of her husband's name.
11. The aforementioned checker has acknowledged marking the wrong name and stated that after Paula Magyar left the polling place she checked off Keith Magyar's name and wrote an "A" (for absentee voter) over the check mark that she had placed earlier next to Respondent Magyar's name. She indicated that no one instructed her to do that and that she did it herself. She added that she was concerned with balancing the numbers at the end of day. The checker was unaware at that time that a call had been placed from Town Hall earlier in the day concerning the Respondent's absentee ballot, which was rejected due to the Respondent's name being checked off as having voted in person.
12. The investigation revealed that Respondent Katherine Magyar's name was checked off instead of her father's name, Keith Magyar, when her father presented himself, in person, to vote on November 4, 2008. Respondent Magyar attempted to vote only once via absentee ballot in Bristol and did not vote more than once in the November 4, 2008 presidential election.
13. The Commission concludes that no violation of either Conn. Gen. Stats. §§9-359a or 9-360 by the Respondent occurred under the facts and circumstances of this case.
14. The Commission regrets that no polling place official aware of the error contacted Town Hall in an effort to resuscitate Respondent Magyar's rejected absentee ballot, but can find no law requiring an affirmative duty to do so.

ORDER

The following order is issued on the basis of the aforementioned findings and conclusions:

That the complaint be dismissed.

Adopted this 5th day of Aug. of 2009 at Hartford, Connecticut.



Stephen F. Cashman, Chairman
By Order of the Commission

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Therese Pac, Bristol

File No. 2008-221

FINDINGS AND CONCLUSIONS

Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and alleges that a voter, **Monica Matos-Desa** (hereinafter "Respondent Matos-Desa"), attempted to commit voter fraud during the November 4, 2008 Presidential Election by completing and submitting an Absentee Ballot to the Town Clerk of Bristol and also appearing at the Edgewood School polling place and voting in person.

After an investigation of the complaint, the following Findings and Conclusions are made:

1. The Respondent Matos-Desa is a registered voter of the Town of Bristol and first time elector for the November 4, 2008 presidential election. She is a full time law student attending the Benjamin N. Cardozo School of Law in New York. During the school year she resides, temporarily, in New York, but her permanent resident is in Bristol, CT.
2. On October 19, 2008, Respondent Matos-Desa completed and submitted an application for absentee ballot to the office of the Bristol Town Clerk. Respondent Matos-Desa checked off on such application that she was requesting an absentee ballot because of "*my absence from the town during all the hours of voting.*" The Respondent signed and submitted the application under penalty of false statement.
3. The Respondent Matos-Desa was issued an absentee ballot for the November 4, 2008 Presidential Election, which she completed and mailed to the Office of the Town Clerk. The ballot was received at the Office of the Town Clerk on or about November 3, 2008.
4. When the Town Clerk received the ballot, as was customary, the Registrars of Voters were informed and a call was made to the polling place, and an official responded that Respondent Matos-Desa's name was checked as having voted in person. The Registrars of Voters rejected her ballot, since it appeared she had already voted in person.
5. Connecticut General Statutes §9-135, provides:

(a) Any elector eligible to vote at a primary or an election and any person eligible to vote at a referendum may vote by absentee ballot if he is unable to appear at his polling place during the hours of voting for any of the following reasons: (1) His active service with the armed forces of the United States; (2) his absence from the town of his voting residence during all of the hours of voting; (3) his illness; (4) his physical disability; (5) the tenets of his religion forbid secular activity on the day of the primary, election or referendum; or (6) the required performance of his duties as a primary, election or referendum official at a polling place other than

his own during all of the hours of voting at such primary, election or referendum.

(b) No person shall misrepresent the eligibility requirements for voting by absentee ballot prescribed in subsection (a) of this section, to any elector or prospective absentee ballot applicant.

6. Connecticut General Statutes §9-159o provides:

Any elector who has returned an absentee ballot to the clerk and who finds he is able to vote in person shall proceed before ten o'clock a.m. on election, primary or referendum day to the municipal clerk's office and request that his ballot be withdrawn. The municipal clerk shall remove the ballot from the sealed package and shall mark the serially-numbered outer envelope, which shall remain unopened, "rejected" and note the reasons for rejection. The elector shall also endorse the envelope. The rejected ballot shall then be returned to the sealed package until delivered on election, primary or referendum day to the registrars of voters in accordance with section 9-140c. The clerk shall then give the elector a signed statement directed to the moderator of the voting district in which the elector resides stating that the elector has withdrawn his absentee ballot and may vote in person. Upon delivery of the statement by the elector to the moderator, the moderator shall cause the absentee indication next to the name of the elector to be stricken from the official checklist and the elector may then have his name checked and vote in person. In the case of central counting, the clerk shall make a similar notation on the duplicate checklist to be used by the absentee ballot counters.

7. Connecticut General Statutes § 9-359a provides:

(a) A person is guilty of false statement in absentee balloting when he intentionally makes a false written statement in or on or signs the name of another person to the application for an absentee ballot or the inner envelope accompanying any such ballot, which he does not believe to be true and which statement or signature is intended to mislead a public servant in the performance of his official function.

(b) False statement in absentee balloting is a class D felony.

8. Connecticut General Statutes § 9-360 provides:

Any person not legally qualified who fraudulently votes in any town meeting, primary, election or referendum in which the person is not qualified to vote, and any legally qualified person who, at such meeting, primary, election or referendum, fraudulently *votes more than once at the same* meeting, primary, *election* or referendum, shall be fined not less than three hundred dollars or more than five hundred dollars and shall be imprisoned not less than one year or more than two years and shall be disfranchised. Any person who votes or attempts to vote at any election, primary, referendum or town

meeting by assuming the name of another legally qualified person shall be guilty of a class D felony and shall be disfranchised.

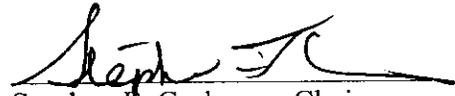
9. Respondent Matos-Desa maintains that she did not vote in person in Bristol on November 4, 2008, and that she only voted by absentee ballot due to her school commitments on Election Day. As she stated: *"I had three classes and attended all of them. My first class, Evidence was from 8:30 a.m. until 10:00 a.m. My second class, Copyright, was from 11:00 a.m. until 12:00 p.m. My final class, Corporations, was from 2:00 p.m. until 3:45 p.m."* She maintains that she was eligible to vote by absentee ballot because she was out of town throughout all the hours of voting on November 4, 2008 and was never present in Bristol, Connecticut.
10. A witness can account for the Respondent's presence at school in New York between approximately 8:00 a.m. to 4:00 p.m. The witness stated that Respondent Matos-Desa does not own a car and would have to take the train or a bus to get to Connecticut. The witness considered it extremely unlikely that, after 4:00 p.m., Respondent Matos-Desa could have traveled between Queens, New York and Bristol, CT to vote and be back in school the next morning. The investigation revealed that her name was crossed off earlier in the day.
11. The Respondent's mother, Marta T. Desa, is a school teacher in Bristol and claimed that she was the only member of her family that showed up to vote in person at the Edgewood Elementary School polling place. Further, she explained that when her daughter, Respondent Matos-Desa, travels to Connecticut, she has to pick her up *"from either the Metro North train station in Waterbury or New Haven, or Union Station in Hartford in order to drive her to wherever she may need to go."* She claimed that she was at work all day and did not make any trips to pick up Respondent Matos-Desa on Election Day.
12. The investigation revealed that the checker at the Edgewood Elementary School polling place marked off Respondent Monica Matos-Desa's name instead of her mother's, Marta T. Desa, when her mother presented herself, in person, on November 4, 2008. Respondent Matos-Desa attempted to vote only once via absentee ballot in Bristol and did not vote more than once in the November 4, 2008 presidential election.
13. The Commission concludes that no violation of either Conn. Gen. Stats. §§9-359a or 9-360 by the Respondent occurred under the facts and circumstances of this case.

ORDER

The following order is issued on the basis of the aforementioned findings and conclusions:

That the complaint be dismissed.

Adopted this 5th day of Aug of 2009 at Hartford, Connecticut.



Stephen F. Cashman, Chairman
By Order of the Commission