STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Antonio Magno, Hartford

File No. 2007-352

FINDINGS AND CONCLUSIONS

Complainant brings this complaint pursuant to Connecticut General Statutes §9-7b, alleging possible violations of Connecticut General Statutes §§ 9-236, 9-262, and 9-436a, in connection with an unidentified poll worker that provided assistance to Spanish speaking voters unfamiliar with the operation of a tabulator machine. The apparent assistance allegedly consisted of showing voters how to vote and telling voters who to vote for.

After the investigation of the Complainant's complaint, the Commission makes the following findings and conclusions:

1. The complainant was a candidate checker at the Koppel Community Sports Complex – District 13 polling place during the September 11, 2007 Democratic primary for Mayor in Hartford. He represented the Art Feltman campaign at that polling place.

2. The Complainant alleged that an unidentified candidate checker told Spanish speaking voters, in Spanish, to vote for Mayor Eddie Perez in addition to accompanying those voters into the voting booth. He described the unidentified candidate checker as bilingual (English-Spanish) and stated that he identified himself as being from the City of New Haven, Connecticut.

3. Connecticut General Statutes § 9-236 provides in pertinent part:

   (a) On the day of any primary, referendum or election, ***no person shall solicit in behalf of or in opposition to the candidacy of another*** or himself or in behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person ***within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach***, except as provided in section 9-294. ...

   (c) No person except those permitted or exempt under this section or section 9-236a and primary or election officials and ***party checkers appointed under section 9-235*** shall be allowed within any polling place except for the purpose of casting his vote. ... Any person who violates any provision of this section or, while the polls are open for voting, removes or injures any such distance marker, shall be fined not more than fifty dollars or imprisoned not more than three months or both.

4. Connecticut General Statutes § 9-262, as amended by PA 07-194, provides in pertinent part:

   During the entire period of an election, at least one of the election officials, to be designated from time to time by the moderator, shall be stationed beside the

entrance to the voting machine booth to regulate the admission of electors thereto, and shall see that it is properly closed after an elector has entered it to vote. He shall also, at such intervals as he deems proper or necessary, examine the face of the machine to ascertain whether it has been defaced or damaged and to detect the wrongdoer and repair the damage. After the opening of the polls, ***no election official shall allow any person other than the election officials to pass within the railing to the part of the room where the machine is situated, except for the purpose of voting or except as provided in this part***; and no such official shall permit more than one elector at a time to be in such part of the room. ***No election official shall remain or permit any person to remain in any position or near any position that would permit him to see or ascertain how an elector votes or how he has voted.***

5. Connecticut General Statutes § 9-436a provides in pertinent part:

> Each group of candidates whose names appear in one single row on the official ballot in a voting district for a primary to be held by a political party may designate, for each line of electors voting in such primary at such voting district, ***not more than two electors <u>enrolled in such party in the town</u> in which such voting district is located, to serve as candidate checkers on behalf of the candidates whose names appear in such row***, provided a registrar may establish two or more shifts for candidate checkers, in which case each such group of candidates may designate the candidate checkers for each shift. ***No primary official shall perform the functions of a candidate checker pursuant to this section. The candidates shall submit a list of the names of such designees to the registrar of voters for such party not later than forty-eight hours before the primary. The registrar shall notify the candidates of this obligation. Such registrar of voters shall verify that each such designee is enrolled in such party in such town and shall appoint in each voting district not more than two such designees***, for each line, to serve each such row for each shift. ***The registrar shall, at the request of such a group of candidates, <u>change such designations</u> at any time before the closing of the polls on the day of a primary***. No candidate for nomination in such primary may be a candidate checker at such primary. The registrar of voters shall furnish each candidate checker one copy of the list or lists of electors eligible to vote in such primary. ***Candidate checkers may remain within the polling place for the purpose of checking their own copy of such list to indicate the names of electors who have voted.*** Such checkers may enter and leave the restricted area surrounding the polling place during the hours of voting for the purpose of taking such information outside said area. ***If any such candidate checker interferes with the orderly process of voting or attempts to influence any elector, he shall be evicted by the moderator.*** A candidate checker appointed pursuant to this section may receive compensation from the municipality in which the primary is held.

6. The unidentified candidate checker was not on the original proposed candidate checker list submitted by the Perez campaign to the Registrar. Another individual was identified, who did not show up at the District 13 polling place.

7. Later in the morning, the unidentified candidate checker arrived at the polling place and claimed to be candidate checker for the Perez campaign. The moderator maintains that she spoke by telephone with the Registrars of Voters Office and received approval on change of designation and permission for him to remain, however, the Registrars of Voters office has no log or notation, or person willing to confirm this call.

8. Moderator Mone Branch allowed the unidentified candidate checker to remain, and began to rely on him for assistance with Spanish speaking electors, as no fluent Spanish speaking poll workers had been assigned to her polling place.

9. All polling place officials were interviewed and they all, except the moderator, attested to the veracity of the Complainant's allegations against the unidentified candidate checker. However, none could remember the name or provide any further descriptive or identifying information that could have helped the Commission to identify the candidate checker in question.

10. The Commission has requested the assistance of the Perez campaign, who provided names of runners, drivers and/or candidate checkers but no one met the unidentified candidate checker's description. The Perez campaign maintains that it is unaware of the identity of the complained of candidate checker.

11. According to the moderator, Mone Branch, the alleged incident regarding accompanying voters into the privacy booth occurred only once, and she maintains that she immediately addressed it. Her recollection of the event is that the unidentified candidate checker was simply explaining the ballot to voters and not engaging in advocacy. She could not recall the name of the unidentified candidate checker, but hinted a name/nickname.

12. Based on the proposed name/nickname offered by the moderator, a suspect was identified and a photo for that individual obtained. A photo array was prepared and shown to the Complainant, but he did not identify the individual in the photo array as the candidate checker he worked with that day.

13. A review of the Perez campaign finance disclosure statements similarly did not reveal a worker with a name similar to that recalled by witnesses.

14. The Complainant, polling officials, and the respective candidate committee and its treasurer have thus far been unable to identify the individual at the Koppel Community Sports Complex – District 13 polling place during the September 11, 2007 Democratic primary that apparently assisted Spanish speaking voters by showing them how to vote and who to vote for.

15. There is insufficient evidence at this time to determine who the complained of unofficial candidate checker was.

16. By all indications, a substitute candidate checker from another town should <u>not</u> have been designated or permitted to substitute for the previously designated candidate checker in this Hartford polling place. Conn. Gen. Stat. § 9-436a requires a candidate checker to be an enrolled party member in the town conducting the primary. This further frustrated the Commission's attempt to identify the individual.

17. Given the language of Conn. Gen. Stat. §§ 9-236 and 9-436a, no unidentified person should be permitted to be or remain in a polling place. Any substitution of a candidate checker must not only be "designated by the Registrar" pursuant to Conn. Gen. Stat. § 9-436a but provide information concerning his or her identity to the polling place moderator, who shall make a record of the same if the designation is confirmed orally but not in writing.

18. Such last minute designation expressly permitted by Conn. Gen. Stat. § 9-436a frustrates the purpose of the prior written designation requirements and inhibits the Registrars ability to check the designee's status as an enrolled elector in the town.

19. The Commission concludes that in the future, such substitution must be in writing or recorded by the moderator for an individual to remain in a polling place pursuant to Conn. Gen. Stats. §§ 9-236 and 9-436a.

ORDER

The following Order is issued on the basis of the aforementioned findings:

That the matter is dismissed without prejudice, subject to being reopened in the event further evidence identifying the responsible individual is obtained.

Adopted this 6th day of May, 2009 at Hartford, Connecticut.

Stephen F. Cashman, Chairperson
By Order of the Commission