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STATE OF CONNECTICUT

STATE ELECTIONS 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 STAUTES § 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.

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ORDER

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