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