

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Kirsten Griebel, Simsbury

File No. 2007-382

FINDINGS AND CONCLUSIONS

Complainant, Kirsten Griebel, brings this Complaint pursuant to Connecticut General Statutes § 9-7b, and alleges that the Simsbury Republican Town Committee (hereinafter "SRTC") and Simsbury Town Clerk Carolyn C. Keily violated election law when the SRTC was permitted by the Town Clerk to amend its Certificate of Endorsement for the November 6, 2007 municipal election in Simsbury.

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

1. At the beginning of July 2007, the Simsbury Town Clerk mailed a copy of the List of Offices to be Filled to the major party chairmen and to two members of Simsbury Citizens First, who had requested the same. The Simsbury Republican caucus was held on July 17, 2007, and a certificate of endorsement was filed with the Town Clerk's office on July 19, 2007.
2. Complainant alleged that the Simsbury Town Clerk after receiving the SRTC Certificate of Endorsement on July 19, 2007, permitted the SRTC to amend its Certificate of endorsement after the July 25, 2007 deadline.
3. Complainant alleges that the SRTC by letter of August 23, 2007 amended their endorsement claiming a "simple clerical error" had been made on the prior endorsement. Complainant believes that the amendment as it occurred under these circumstances was a "violation of election law."
4. On July 31, 2007 a legal notice of under endorsement for each party was placed by the Simsbury Town Clerk and was published in *The Hartford Courant* pursuant to Conn. Gen. Stats. § 9-395, as amended by Sec. 15 of P.A. 07-194.
5. Following such notice, SRTC members Ms. Mary Turner and Mr. Thomas Rechen contacted the Town Clerk following such notice, in an effort to correct the endorsement. The claimed errors on the Certificate of Endorsement included two names certified for three positions on Planning Commission Full Term and no name certified for the single position on Planning Commission to Fill a Vacancy for Two Years. This same error occurred with regard to endorsements for Zoning Commission Full Term and Zoning Commission to Fill a Vacancy for Two Years.
6. Subsequently, the Town Clerk contacted the Office of the Secretary of the State (hereinafter "SOTS"), whose staff directed her to inform the SRTC that they should contact the Republican state central party committee (hereinafter "Connecticut Republicans").

7. In addition, SOTS indicated that the SRTC should review the minutes of the caucus to determine where or how the error occurred. The SOTS advised that if Connecticut Republicans agreed that the SRTC could determine their intent at the caucus through evidence, then the Town Clerk could accept a corrected endorsement.

8. Connecticut General Statutes § 9-387, provides in pertinent part:

The state rules of each party shall prescribe the manner in which any dispute as to the endorsement by such party of a candidate for state, district or municipal office or for town committee member, or as to the selection by such party of a delegate to a convention, including conflicting claims to such endorsement or selection, shall be resolved.

[Emphasis added.]

9. Connecticut General Statutes § 9-390, provides in pertinent part:

(a) Except as provided in subsection (g) of this section, party-endorsed candidates of any party in any municipality for municipal office *shall be selected, in accordance with the rules of such party, by: (1) The enrolled members of such party in such municipality in caucus, (2) delegates to a convention chosen in accordance with such rules by such enrolled members, or (3) the town committee of such party.* The town chairman or his designee shall give notice in a newspaper having a general circulation in the town of the date, time, location and purpose of a caucus held pursuant to subdivision (1) of this subsection. Such notice shall be given not less than five days prior to the date set for the caucus; provided, if the rules of the party in any municipality require earlier notice, such party rules shall prevail. ...

(d) The selection of party-endorsed candidates in the manner provided in subsection (a) or (c) of this section and the selection of delegates to conventions in the manner provided in subsection (b) of this section *shall be made and certified to the clerk of the municipality or the Secretary of the State, as the case may be, within the time specified in section 9-391. ...*

10. Connecticut General Statutes § 9-391, provides in pertinent part:

(a) *Each endorsement of a candidate to run in a primary for the nomination of candidates for municipal office to be voted upon at a municipal election, or for the election of town committee members shall be made under the provisions of section 9-390 not earlier than the fifty-sixth day or later than the forty-ninth day preceding the day of such primary.* The endorsement shall be certified to the clerk of the municipality by either (1) the chairman or presiding officer, or (2) the secretary of the town committee, caucus or convention, as the case may be, not later than four o'clock p.m. on the forty-eighth day preceding the day of such primary. Such certification shall contain the name and street address of each person so endorsed, the title of the office or the position as committee member and the name or number of the political subdivision or district, if any, for which each such person is endorsed.

If such a certificate of a party's endorsement is not received by the town clerk by such time, such certificate shall be invalid and such party, for purposes of sections 9-417, 9-418 and 9-419, shall be deemed to have neither made nor certified such endorsement of any candidate for such office.

[Emphasis added.]

11. Connecticut General Statutes § 9-395 as amended by Sec. 15 of P.A. 07-194, provides, in pertinent part:

(a) *Forthwith upon the certification provided in section 9-391, the clerk of the municipality shall publish, in a newspaper having a general circulation in such municipality, the fact of such certification and that a list of the persons endorsed as candidates is on file in his office and copies thereof are available for public distribution. If, with respect to any office or position to be filled, the clerk of the municipality has failed to receive the certification of the name of any person as a party-endorsed candidate within the time limited in section 9-391, such fact shall be published by the clerk of the municipality. Together with such information, the clerk shall publish a notice that a primary will be held for the nomination by such political party of a candidate for the offices to be filled or for the election of members of the town committee, as the case may be, if a candidacy is filed in accordance with the provisions of sections 9-382 to 9-450, inclusive. Such notice shall specify the final date for the filing of such candidacy and the date of the primary, shall state where forms for petitions may be obtained and shall generally indicate the method of procedure in the filing of such candidacy. The Secretary of the State shall prescribe the form of such notice. The clerk shall forthwith publish any change in the party-endorsed candidates, listing such changes.*

[Emphasis added.]

12. The Chairman of the Connecticut Republicans in an August 21, 2007 letter, received by the Town Clerk on August 23, 2007, indicated that an examination of the minutes and record of the July 17th Simsbury Republican caucus made clear that a candidate was properly endorsed for each office. The Connecticut Republicans claim that the failure to distinguish the Planning and Zoning Commissions endorsements by the term of office on the original Certificate of Endorsement was a "simple clerical error."
13. The SRTC at the advice of the Town Clerk, the SOTS, and the Connecticut Republicans, resubmitted their Certificate of Endorsement after determining that the original intent of the caucus specified terms of office for each nominee.
14. The procedure followed was done with the advice and consent of the SOTS who confirmed that on issues of ministerial matters, where a Certificate Endorsement was timely filed but contains errors, an amendment can be made.
15. The Commission has reviewed the minutes of the caucus and concludes that the amended Certificate of Endorsement reflects the true intent of the caucus endorsement.


16. There was no challenge candidate who petitioned seeking the party nomination for the under endorsed positions
17. It is concluded that the SRTC, the Town Clerk, and the Connecticut Republicans pursuant to Conn. Gen. Stats. § 9-387, following the advice of legal counsel for the SOTS resolved the dispute as to the endorsement by a proper means and that the results confirmed the original intent of the July 17, 2007 SRTC caucus.
18. The Town Clerk acted in compliance with the law, in the first instance, in publishing the notice of under endorsement, and in the second instance, in accepting the amended endorsement under the facts and circumstances of this case.
19. In this instance the original SRTC Certificate of Endorsement was filed in a timely, albeit incomplete, manner and therefore is distinguishable from situations where certificates of endorsement are either filed late or not filed at all, which are invalid pursuant to Conn. Gen. Stat. §9-391, and the endorsement is deemed by operation of law, to never have been made.

ORDER

The following Order is recommended on the basis of the aforementioned finding:

That the complaint be dismissed.

Adopted this 13th day of Feb . of 2008 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission