

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Irene M. Curtis, East Hampton

File No. 2007-407

AGREEMENT CONTAINING CONSENT ORDER FOR VIOLATIONS OF
CONNECTICUT GENERAL STATUTES § 9-307

This agreement, by and between Margaret Jacobson (hereinafter, the "Respondent") and the 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 Connecticut General Statutes § 4-177 (c). In accordance herewith, the parties agree that:

1. On November 6, 2007, a municipal election was held in the Town of East Hampton. Notably, this was the first election in which the Town of East Hampton utilized the new optical scan voting machines that had been approved by the Office of the Secretary of the State pursuant to Connecticut General Statutes § 9-242a. The Respondent was the Republican Registrar of Voters during that election. Notably, it was her first general election as Registrar of Voters.
2. The Complainant, a resident of East Hampton, challenges the results of that election. She alleges that state election laws were violated during the canvass and recanvass and, as a consequence, the results of the election are erroneous. The Complainant claims that there were four different results for the election which she asserts resulted from the errors that allegedly occurred after the polls were closed on the night of the election and during the first, second, and third counts of the recanvass. She also appears to allege that the different results may have resulted from improprieties on the part of some or all of the election officials. Notably, however, no election contest was filed pursuant to General Statutes § 9-328. Finally, she asserts that procedural errors occurred concerning the Official Checklist
3. At stake in that election were seven Town Council seats. Fourteen candidates appeared on the ballot for those seats; four were Republican candidates (Theodore Hintz, William Devine, Thomas Cordeiro, Melissa Engel), five Democratic candidates (Terry Concannon, John Tuttle, Christopher Goff, Matthew Walton, Alan Hurst), and five Chatham Party candidates (Susan Weintraub, Patience Anderson, Kyle Dostaler, Alison Walck, Scott Minnick). Prior to that election, the Town Council consisted of five Chatham Party members (Walck, Derek Johnson, Robert Berlin, Dostaler, Minnick) and two Republicans (Engel, Devine).
4. After the election, Engle (R), Devine (R), Tuttle (D), Goff (D), Minnick (C), Cordeiro (R), and Weintraub (C) were elected to the Town Council.

5. The election at issue was held in the gymnasium at East Hampton High School. Individuals were to enter the gymnasium through one set of doors and were to proceed to the Official Checker's table to check in to vote. The Official Checker's consulted the Official Checklist each time an individual approached their table. Once checked in, the official checkers would strike out the individual's name on the Official Checklist with a colored pencil. The Registrars of Voters would do the same with respect to those who had voted by absentee ballot.

6. Connecticut General Statutes § 9-307 provides, in relevant part, as follows:

Immediately after the polls are closed, the official checkers, appointed under the provisions of section 9-234, shall make and deliver to the moderator a certificate, in duplicate, stating the whole number of names on the registry list or enrollment list . . . and the number checked as having voted in that election or primary. . . . **Thereupon the registrars or assistant registrars, as the case may be, acting at the respective polls, shall write and sign with ink, on the list or lists so used and checked, a certificate of the whole number of names registered thereon eligible to vote in the election or primary and the number checked as having voted in that election or primary, and deposit it in the office of the municipal clerk of their town on or before the following day.** . . . [Emphasis added.]

7. The Official Checklist was tallied to determine how many individuals checked in to vote or who voted by absentee ballot and an Official Checklist Report was provided in connection with the Moderator's Return. The Respondent admits and the evidence establishes, however, that the Official Checklist was not certified nor deposited with the Town Clerk as required by General Statutes § 9-307. There is no evidence to suggest, however, that her violation of section 9-307 was a knowing and willful violation of the law.

8. The Commission conducted a full tally of the individuals marked as having voted on Election Day, which included those having voted by absentee ballot. The Commission did not uncover any evidence that more ballots were voted than individuals checked as having voted. In other words, the Commission did not uncover an election fraud that arose from or related to the Official Checklist.

9. The Commission also concludes that no evidence has been uncovered that establishes that the Respondent, or any other election official, manipulated or attempted to manipulate the results of the election for Town Council.

10. Nevertheless, the Respondent's failure to properly certify and deposit the Official Checklist violated General Statutes § 9-307.

11. The Democratic Registrar of Voters at the time of the election at issue was Irene Junga. She too violated General Statutes § 9-307 by failing to properly certify and deposit the Official Checklist. However, Ms. Junga no longer lives in the jurisdiction and has

resigned as Democratic Registrar of Voters. As such, a Commission order commanding her to comply with General Statutes § 9-307 in the future would have no effect and thus, will not be pursued.


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 after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in section 9-7b-56 of the Regulations of Connecticut State Agencies.
13. 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.
14. 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.
13. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent with respect to this matter.

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with Connecticut General Statutes § 9-307.

For the State of Connecticut

Dated: 4/3/08

BY: 

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

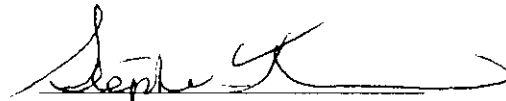
The Respondent,

Dated: 4/2/08



Margaret Jacobson
70 Tartia Road
East Hampton, CT 06424

Adopted this 9th day of April, 2008 at Hartford, Connecticut by vote of the Commission.



Stephen Cashman, Chairman
By Order of the Commission