

DEC 2 2008

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In The Matter of a Complaint by
Joyce P. Mascena, Glastonbury

File No. 2008-128

**AGREEMENT CONTAINING CONSENT ORDER AND PAYMENT OF A CIVIL
PENALTY FOR VIOLATIONS OF § 9-140(a) & 9-359a GENERAL STATUTES**

This agreement by and between Toman A. Fayed of Glastonbury, Connecticut, hereinafter referred to as the Respondent, and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Section 9-7b-54 of Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Three absentee ballot applications for Brenda W. Fayed, Timothy J. Fayed and Toman A. Fayed were filed with the office of the Town Clerk of Glastonbury for the November 4, 2008 presidential election. The Town Clerk filed a statement with the Commission pursuant to Connecticut General Statutes §9-7b, because the applications appeared to be signed by the same person.
2. On or about September 30 and October 1, 2008 the Respondent assisted his wife, Brenda, and his son, Timothy, (who was away in college in Massachusetts) in the completion of their respective absentee ballot applications. The Respondent entered Brenda's and Timothy's name and address on the application, yet failed to sign the application as an assister.
3. Additionally, the Respondent signed his wife's and his son's names to their absentee ballot applications. The applications were filed with the Glastonbury Town Clerk on October 2, 2008.
4. Connecticut 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 application shall be *signed by the applicant* under penalties of false statement in absentee balloting ... [Emphasis added.]
5. Connecticut General Statutes, § 9-359a provides, in pertinent part:
 - (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.

6. The Respondent acknowledges that he assisted both his wife and his son on their absentee ballot applications by completing data fields, including name, birth date, address, and signature block with their consent. He did not co-sign the form as an assister or provide his name, residence address and telephone number on the application.
7. The application for an absentee ballot (Form ED-3) contains the following printed instructions above where the person rendering assistance to the applicant is to sign the application, print their name and provides their residence address and telephone number:

“Completed by any person who assists with completion of application.”

The signature block for the assister is directly under the signature block provided for each absentee ballot applicant who is required to sign the form under penalty of false statement.

8. The Secretary of the State and the Commission have interpreted the statutory words “*assists another in the completion of an application*” to mean filling out *any part of the form*, even the most directory information on the form, such as the date of the election. See File Nos. 2003-252, 2003-280, 2002-245, 99-225 and 99-263.
9. The Commission concludes that the Respondent failed to sign as an assister on the applications for his wife and son and print or type his name, residence address and telephone number on the application, in violation of Conn. Gen. Stats. §9-140(a).
10. Further, the Respondent signed the applications for his wife and son, though the application specifically provides, “*I declare, under penalties of false statement in absentee balloting, that the above statements are true and correct, and that I am the applicant named above.*”
11. The Commission concludes that Respondent violated Conn. Gen. Stats. §§9-359a and 9-140(a) by signing his wife and son’s names to their absentee ballot applications. The Respondent maintains that they authorized him to do so, but the Commission concludes that such purported authorization can not extend to a document signed under penalties of false statement.
12. The Commission has considered as a mitigating factor that the other electors are his family members.
13. 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. Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
14. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and if the Commission does not accept it, it is withdrawn by the Respondent

and may not be used as an admission in any subsequent hearing, if the same becomes necessary.

15. 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.

16. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

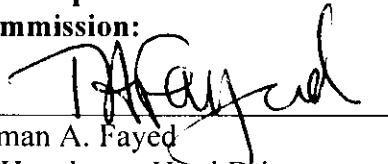
ORDER

IT IS HEREBY ORDERED that Respondent shall pay a civil penalty to the State Elections Enforcement Commission in the sum of two hundred dollars (\$200.00) on or before December 5, 2008.

IT IS FURTHER ORDERED that the Respondent shall henceforth comply with §§9-140(a) and 9-359a, General Statutes.

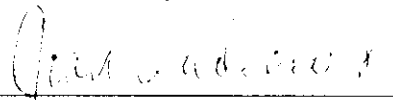
The Respondent:

Commission:


Toman A. Fayed
75 Hawthorne Head Drive
Glastonbury, CT 06033

For the State Elections Enforcement

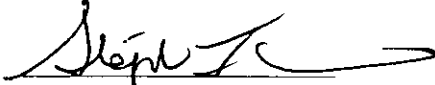
BY:


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

Dated: DEC. 1, 2008

Dated: 12/1/08

Adopted this 17th day of December of 2008 at Hartford, Connecticut.


Stephen F. Cashman, Chairman
By Order of the Commission